Conflict Management Program
Field Trip Sri Lanka

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Preface

In January 2016, two professors and sixteen master's students from the Conflict Management program at the Johns Hopkins School of Advanced International Studies (SAIS) disembarked in Colombo for a study tour devoted to Sri Lanka's post-war transition, a trip generously supported by the Starr Foundation. This book is the product of that 10-day visit and the previous semester of reading and consultation with experts on Sri Lanka, as well as subsequent research and consultations. In Sri Lanka, the group met with government and international officials, opposition politicians, academics and think-tankers, business executives, religious leaders, media executives and journalists, displaced people, activists, national and international NGOs and civil society representatives as well as Sri Lankans in the streets in Colombo, Mannar, Jaffna and many places along the way.

The SAIS group was initially organized in six teams: security, rule of law, governance, economics, society and international relations. Each of those teams divided their subject into the chapters that follow, which attempt to review relevant historical developments, analyze the current situation and recommend ways forward addressed to specific actors both inside Sri Lanka and in the international community. Those recommendations are summed up in the concluding chapter.

Gratitude is due to all the many Sri Lankans and internationals who so generously shared their views and experience, often under Chatham House rules, which allow the SAIS group to use their ideas but not

to identify the individuals who expressed them. A particular shout out is due to Ranjith Cabral, chief executive of the Bandaranaike Centre for International Studies, which graciously hosted many meetings in Colombo. Nilshan Fonseka, a SAIS (Bologna) graduate, and his colleague Ruki Fernando provided invaluable assistance in arranging meetings in Sri Lanka and responded to dozens of requests in putting together a program that reflected the widest possible range of perspectives on a conflict that continues to pose difficult challenges.

Another special vote of thanks is to Sri Lankan Ambassador to the United States Prasad Kariyawasam and his Deputy Chief of Mission, Professor Gamini Keerawella, who were gracious and helpful with ideas, contacts and visas.

Needless to say, none of those named is in any way responsible for the views expressed here, which are those of the authors and editors alone.

Acronyms

ADB	Asian Development Bank
BBS	Bolu Bada Sena
BMICH	Bandaranaike Memorial International Conference Hall
CEPA	Comprehensive Economic Partnership Agreement
CPA	Center for Policy Alternatives
CPC	Colombo Port City
CSR	Corporate Social Responsibility
DCS	Department of Census and Statistics
ETCA	Economic and Technology Cooperation Agreement
EU	European Union
EXIM	Export-Import Bank (China)
FCPA	Foreign Corrupt Practices Act (US)
FDI	Foreign Direct Investment
GBV	Gender Based Violence
GDP	Gross Domestic Product
GoSL	Government of Sri Lanka
GSP Plus	Generalized Scheme of Preferences
HSZ	High Security Zone
IAF	Indian Air Force
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies

IMBL	International Maritime Boundary Line
IMF	International Monetary Fund
INR	Indian Rupees
IOR	Indian Ocean Region
IPKF	Indian Peace Keeping Forces
ISLFTA	Indo-Sri Lanka Free Trade Agreement
IUU	Illegal, Unreported, and Unregulated fishing
JHU	Jathika Hela Urumaya
JICA	Japan International Cooperation Agency
JNA	Joint Needs Assessment
JVP	Janatha Vimukthi Peramuna
LIBOR	London Interbank Offered Rate
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
MDA	Maritime Domain Awareness
MOD	Ministry of Defense
MOFCOM	Ministry of Commerce (China)
MoR	Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs
MoU	Memorandum of Understanding
NAM	Non-Alignment Movement
NFZ	No Fire Zone
NGO	Non-Governmental Organization
NHDA	National Housing Development Agency
NUG	National Unity Government
OCHA	Office for the Coordination of Humanitarian Affairs

ODA	Overseas Development Aid
OECD	Organization for Economic Co-operation and Development
PM	Prime Minister
PRC	Public Representations Committee
PTA	Prevention of Terrorism Act
SAARC	South Asian Association for Regional Cooperation
SAIS	School of Advanced International Studies
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLOC	Sea Lines of Communication
SLP	Sri Lanka Police
SLRC	Sri Lanka Red Cross
SOE	State-owned Enterprises
SSR	Security Sector Reform
TCSF	Tamil Civil Society Forum
TNA	Tamil National Alliance
TPC	Tamil People's Congress
TPC	Tamil People's Council
TRC	Truth and Reconciliation Commission
TULF	Tamil United Liberation Front
UN	United Nations
UN HABITAT	United Nations Human Settlements Program
UN HRC	United Nations Human Rights Council
UN OHCHR	Office of the United Nations High Commissioner for Human Rights
UNDP	United Nations Development Program

UNFGG	United National Front for Good Governance
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UNSG	United Nations Secretary General
UPFA	United People's Freedom Alliance
US	United States
WGEID	Working Group on Enforced or Involuntary Disappearance

Part I: Setting the Scene

Sri Lanka in Transition

Daniel Serwer

Sri Lanka, the "resplendent island," today is peaceful. Its government security forces defeated the insurgent Liberation Tigers of Tamil Eelam (LTTE) in May 2009 after an on-again off-again 26-year war. Standing on the tranquil beach near Mullaitivu looking out at the Indian Ocean today, it is difficult to picture the final battle in a declared "no fire zone," unless you rummage in the detritus at your feet and notice the shallow bunkers dug in the sand, the thousands of abandoned flip flops as well as a girl's sun-bleached but blood-stained dress. Today young boys scramble gleefully up coconut palms towering above a beach where thousands of civilians as well as the LTTE leadership died.

Sri Lanka's decades of rebellion and civil war touched virtually every one of its inhabitants, who now number more than 20 million, and every corner of its West Virginia-sized territory. The LTTE insurgency aimed to establish a separate Tamil state in the northern and eastern provinces of Sri Lanka, where most Sri Lankan Tamils live. The "Tigers" engaged in terrorism against the government of Sri Lanka from the beginning of the conflict and in the later stages became increasingly ferocious in using violence and intimidation against dissenters in their own community as well as against government forces and the non-Tamil population of the country. Inventors of the

suicide vest (with which one of its militants assassinated Indian Prime Minister Rajiv Gandhi in 1991), the LTTE wreaked havoc throughout Sri Lanka from 1983 to 2009, while establishing and governing its own self-declared state in the north and east from the mid-1990s until its defeat.

The Sri Lankan government was no less ferocious in repressing the rebellion and destroying the LTTE institutions, which constituted an autocratic but egalitarian parastate. The total number of deaths over the course of the war is uncertain, but likely amounts to well over 100,000.As many as 40,000 civilians were killed in the final stages of the war, including by army attacks on the LTTE in the government-announced "no fire zone" near Mullaitivu. The army blames these deaths on the LTTE use of civilians as human shields.

Tamils represent about 18 percent of the island's population, about a third of whom are made up of the so-called "Indian Tamils" who are relatively recent immigrants, some of whom are stateless. Jaffna is the most important Tamil-majority city in Sri Lanka, but Kilinochchi farther south was the LTTE's administrative center. The Indian state of Tamil Nadu lies only a few kilometers across Palk Strait from the Jaffna and Mannar peninsulas. India's population of 60 million Tamils dwarfs Sri Lanka's population of perhaps 3 million. The Sri Lankan Tamils include Hindus and Christians (mostly Catholics); Tamil-speaking Muslims generally identify themselves by religion, not language.

Three-quarters of Sri Lankans identify as Sinhalese, a mainly Buddhist language group claiming origins in northeastern India. Buddhism is the officially recognized state religion. Tamil and Sinhala

are mutually incomprehensible languages, the former Dravidian and the latter Indo-European. Both are official languages in Sri Lanka, though Tamil is far less common among police and government officials than Sinhala. The *lingua franca* of Sri Lanka is by default English, as Great Britain was the last colonial power before independence in 1948 (preceded by the Portuguese and Dutch, whose relatively few descendants are referred to as "Burghers"). English-speaking Tamils dominated the colonial administration under the British. After independence, the government adopted the "Sinhala Only Act" in 1956, which in many accounts became an initial impetus for the formation of the separatist movement among Tamil-speakers in the north and east. Today some Tamils speak Sinhalese, especially those who live outside the Tamil-majority provinces in the north and east, but relatively few Sinhalese speak Tamil.

Tamil grievances remain not far below the peaceful surface in today's Sri Lanka. Especially in the north and east, Tamils feel discriminated against. The overwhelmingly Sinhalese security forces—both police and military—rarely speak Tamil. Few, if any, have been held responsible for abuses during the war. Seven years after defeat of the LTTE, the military still deploys most of its troops in the north and east. While the army and navy have begun to return some land that they occupied in the concluding stages of the civil war, displacing many residents from their homes, the security forces still occupy large swaths there and have not published a plan for its return to its owners. This has left upwards of 40,000 people still displaced by the war, in addition to 100,000 refugees in India. Many people remain uncertain about whether they will ever

get their property back or be compensated for its use. Some sixteen thousand "disappeared" people are still unaccounted for. While reconstruction has erased most of the wartime physical destruction and restored infrastructure in much of the north and east, the economy there has lagged behind recovery in the rest of the country. The army and Sinhalese newcomers are thought to be benefitting unduly from the limited economic revival in the former LTTE areas, which are dotted with triumphalist monuments and Buddhist shrines celebrating the government's victory.

Ethnic grievances are far from the only problem in today's Sri Lanka. The country's judicial system is in shambles, subject to excessive political influence and unable to process criminal or civil cases expeditiously and independently; by most accounts, police are corrupt and/or ineffective. Violence against women, who are underrepresented at all levels of government, is on the rise, with no effective response from the police or the courts. Impunity is the rule rather than the exception. Former President Mahinda Rajapaksa, who led the successful military effort against the LTTE and refused to cooperate thereafter with the international community with regard to human rights abuses, concentrated political power and economic resources in the hands of a relatively few people, many of whom were his family members. He lost a January 2015 election to Maithripala Sirisena, a rival from within Rajapaksa's own Sri Lankan Freedom Party (SLFP). Sirisena's margin was due to Tamil, Muslim and other minority voters who expect him to respond to their grievances (and will presumably not vote for him again if he doesn't). Sinhalese voted for him mainly to protest rampant corruption, nepotism and

Rajapaksa's growing autocratic tendencies. Sirisena's stunning victory was confirmed in a parliamentary election in August 2015.

The current government is an awkward but so far stable political marriage of convenience of the part of the SLFP loyal to President Sirisena (including several holdovers from the previous government) with its main Sinhalese rival, the United National Party (UNP), led by Prime Minister Ranil Wickremesinghe. Consensus within the governing coalition is difficult to achieve. The government gets some external support from the Tamil National Alliance, which controls the largely powerless Northern Provincial Council. Expected to last at least another two years, the government has tried to move on a new trajectory domestically by reining in corruption and reversing Rajapaksa's concentration of power by restoring the independence of government commissions. Freedom of speech, the press and association have expanded dramatically. The atmosphere of fear that Rajapaksa cultivated has largely dissipated, though some reports of abuses by the security forces continue. The parliament, meeting as a constituent assembly, is beginning an effort to rewrite the constitution, with a view to eliminating the remaining vestiges of the "executive presidency" that Rajapaksa prized. It is also generally agreed that devolution of power to the regions is needed, though the form it will take is not yet clear. Tamils in the north and east would like acceptance of an autonomous Tamil homeland within the framework of Sri Lankan sovereignty, which at least for some Tamils would fulfill the still outstanding aspirations for "self-determination." Many may be willing to settle for some form of federalism, but most

Sinhalese oppose any significant weakening of the unitary Sri Lankan state.

Internationally, Sri Lanka has committed itself to implementing a UN Human Rights Council resolution aimed at accountability for war crimes and crimes against humanity during the LTTE rebellion, including an internationally assisted domestic "hybrid" legal process, a truth and reconciliation effort on which public consultations are now occurring, full accounting for missing people and compensation for those harmed during the war. None of this will be easy, as the security forces and former President Rajapaksa's allies will resist much of the government effort to make major changes to the current constitution as well as oppose foreign involvement in investigation of alleged war crimes committed by the Sri Lankan army. On the other hand, many civil society groups and Tamil leaders favor direct participation of foreign prosecutors and judges in this judicial process. Any new constitutional provisions will need to achieve a two-thirds majority in the constituent assembly and approval in a referendum. The government has recently established a Human Rights Commission to try to achieve greater accountability in the security forces and judicial process, but it is too new to evaluate its long-term impact.

Underlying many of Sri Lanka's problems is weak national identity. Sinhalese, Tamils and Muslims get along well enough in everyday life, but they lack institutional linkages and often live separate, parallel lives. Education is largely segregated by language, even when students attend the same schools. Politics is organized largely along linguistic and ethnic lines.

Each group strives for equality, but they try to achieve it more often separately than cooperatively. The end of the war and the more inclusive approach of the Sirisena/Wickremesinghe government provide an opportunity to forge a stronger common Sri Lankan identity, an approach that has served its Asian neighbors Malaysia and Singapore well. But there is little sign yet that Sri Lankans are moving in that direction.

Part of the problem in Sri Lanka is an overfull agenda. The current government has necessarily made a lot of promises both domestically and internationally. Its political, intellectual and technical capacity to deliver is limited. While it can (and does) look for assistance to its own capable civil society and to the international community, there is a real risk it will be overwhelmed and fall far short of expectations before the next election. The country's institutions are weak and fragile. Too many good causes may strain the system beyond what it can deliver.

Sri Lanka's difficult domestic and international political challenges are arising in a relatively favorable economic environment. Human development indicators in Sri Lanka are high for a developing country and growth has averaged above 6.5 percent since the end of the war. Inflation and unemployment are low. Rajapaksa's government spent a great deal of money on major projects, some of it to good effect. The election of Sirisena precipitated a reexamination of many of these, along with Sri Lanka's relationship with China, which had bankrolled the final phase of the war and much infrastructure spending in its aftermath. Sri Lanka in 2010 graduated to "middle income" status at the World Bank, reducing the

availability of low-interest financing. The regional economic environment has worsened since then, especially in the last year or so due to slowing growth in China and India.

The following chapters draw out some of the challenges and opportunities that Sri Lanka will face in the days and years ahead, as well as recommendations for policy choices that must be made both within the domestic political process and by Sri Lanka's friends in the international community. Each chapter will thus conclude with specific policy recommendations directed to the various institutions, both domestic and international, that will determine the outcome of the peace-building efforts in the aftermath of a brutal, deadly, and destructive civil war.

We start with understanding the foundations of the conflict, in which David Galbraith considers the divergent historical memories of the Sinhalese and Tamil communities. We then turn to the Post-Conflict Political Challenges, including Christina Ma on domestic politics, Dan Murphy on state-building and Stephanie Billingham on constitutional reform. Reconciliation and Justice require particular focus, including Grace West on war-time accountability, Tanvi Madhusudanan on religious leaders, Ceriel Gerrits on internally displaced people and land distribution, as well as Samantha Harper on youth and education. Building Security after War is always an important objective, here involving Patricia Morrissey on dealing with the legacy of the LTTE, Emily Ward on demilitarization and the role of the armed forces, and Alexandra Martin on police reform. Sri Lanka's economy is relatively healthy, but Sangyoung Yun reports on overcoming inter-ethnic economic

competition and Alexander Frank considers its role in peacebuilding. Sri Lanka is a small country with important connections to the UN and European Union described by Christiana Reichsthaler and even more important connections to China, reported on by Vincent Mingqi Zhu, and India, reported on by Sneha Thayil. Professor P. Terrence Hopmann concludes with an effort to summarize the key points.

The SAIS study group left Sri Lanka cautiously optimistic. Its people are determined to continue the transition away from war and towards a more prosperous, secure and just future, despite the difficulties. They merit international support. The current government is trying hard to meet its peoples' expectations and is cooperating actively with the international community in doing so. In a world buffeted by insurgency and civil war, failure of the transition in Sri Lanka would undermine confidence that peace is really possible. Success in Sri Lanka will encourage all those throughout the world who want to defeat terrorism, restore the rule of law and meet the legitimate aspirations of people of all faiths, languages, cultures and identities to live peacefully and productively in open societies.

Tracing and Transforming the Politics of Memory

David Galbraith

Collective identities and socially constructed historical narratives can become tools for mobilizing and protracting destructive conflict. History and myth are not as distinct from one another as many might think, especially when the question of origins is at stake. Public interpretation of the past and the present is highly political, particularly when it comes to the collective memory of what happened during the war in Sri Lanka.

The purpose of this chapter is to trace the broad contours of the more prominent—and also the more divisive—narratives about the collective identities of Sri Lankan groups and about the nature of the civil war that ended in 2009. The chapter seeks to explain some of the obstacles to reconciliation that arise from the politics of identity and official memory before transitioning to a discussion of remediation and the way ahead. Our analysis is thus divided into the following three sections: (1) narratives of nationhood, (2) narratives of war, and (3) recommendations for reframing. This third section will include overviews of important work in which some Sri Lankan organizations are already engaged, as well as policy recommendations for both top-down and bottom-up efforts to promote political unity and strengthen civil society.

Narratives of Nationhood

The most politically salient collective identities in Sri Lanka form along ethnic and religious lines. This is not to say that these identities are the *causes* of conflict—such an analysis would be myopic and impossible to prove. There are many factors at play, but ethnicity and religion have become contributing factors and lenses through which actors perceive dangers and opportunities. They also have become the framework for making claims regarding rightful access to political power and the legitimate purposes of the Sri Lankan state.

Fault lines between Sinhalese and Tamils continue to be the most important of the country's political struggles. Fears of marginalization persist and attempts to preserve or gain power are ongoing. Factions on both sides of the ethnic divide routinely invoke or subconsciously rely on specific historical narratives to advance the legitimacy of their nationalist agendas. The sections below briefly outline the most prominent of these narratives and their contributions to political impasse. They contain master narratives of ethnic nationalism and Sri Lanka's *raison d'être*. This is not a comprehensive listing of every narrative and position. The Tamil narratives are limited to those more broadly applicable to Sri Lankan Tamils, without the granularity that would account for the positions of Indian Tamils or of different religious groups among Sri Lankan Tamils. The narratives are overlapping and mutually reinforcing rather than as independent ideas.

Narratives of Sinhalese Nationalism
Destiny and Dharma—Bhumiputra, Sihadipa, and Dhammadipa

From India to Malaysia to Sri Lanka, the slogan "sons of the soil" (*bhumiputra*) has been used to express indigenous claims to territory and to supersede the territorial claims of other groups perceived to be later immigrants (Tambiah 1992, 86). The expressions *sihadipa* (island of the Sinhalese) and *dhammadipa* (island of the [Buddha's] dharma[1]) arise in Sri Lankan Buddhist literature and represent key concepts in Sinhalese nationalism.

The most prominent mytho-historical account of ancient Sri Lankan history is the *Mahavamsa*[2] (Great Chronicle), which tells the story of Sri Lanka from a Buddhist perspective. One of these stories is the account of Prince Vijaya, to whom most Sinhalese trace their lineage. Vijaya's arrival in Sri Lanka with seven hundred men coincided with the Buddha's death. After dying and passing into nirvana, the Buddha tells the god Indra that "In Lanka […] will my religion be established, therefore carefully protect [Vijaya] with his followers and Lanka" (VII:3-4) (Geiger and Bode 1912, 55). In the Sinhalese Buddhist perspective, this verse ties the religion of Buddhism to both the Sinhalese nation and to the purpose for Sri Lanka's existence: to be the *dhammadipa*. In this same story, another god (Vishnu) informs Vijaya upon his arrival that "there are no men here" (VII:7-8), a statement that some Sinhalese nationalists believe supports their claim to be the first settlers, despite the mythical status of the Vijaya tale (Geiger and Bode

[1] The Sanskrit word *dharma* is rendered *dhamma* in the Pali language of the Theravada canon. *Dipa* translates to island or territory.

[2] Compiled in the 5th century CE by Mahanama, the king of Anuradhapura.

1912, 55). According to Neil DeVotta (Wake Forest University), the Vijaya myth is taught to children in schools and has been invoked often enough in modern discourse "that most Sinhalese now accept it as indisputable history" (2004, 24-25; 2007, 7).

Other passages of the *Mahavamsa* tell the story of the warrior king, Dutugemunu (also Dutthagamani), who ruled Sri Lanka in the second century BCE. In the tradition of the text, Dutugemunu engages in a war with the *Damilas* (Tamils) of the Chola kingdom and overthrows their king, Elara. After defeating "unbelievers and men of evil life," Dutugemunu is prophesied to "bring glory to the doctrine of the Buddha in manifold ways" (XXV:109-112) (Geiger 1912, 3-4). Stories such as these create archetypes of strong, ideal Sinhalese leadership to which modern Sri Lankan leaders are occasionally compared by some of their supporters.

In the framework of Sinhalese nationalism, the guiding purpose of Sri Lanka is to be the sanctuary and heart of (Theravada) Buddhism. Perhaps the polemic author D. C. Vijayavardhana captured this sentiment best when he wrote in his 1953 publication, *The Revolt in the Temple*, that "[f]or more than two millennia the Sinhalese have been inspired by the ideal that they were a nation brought into being for the definite purpose of carrying the torch lit by the Buddha" (1953, 3). This notion of torch-bearing also contains the idea that Buddhism is under threat, both inside and outside Sri Lanka, and that its heritage on the island must be preserved at all costs. This conviction still reverberates throughout modern Sri Lankan politics—most vociferously in the politics of groups like the Jathika Hela Urumaya (National

Heritage Party) or the more radical Buddha Bala Sena (Buddhist Power Force). An expression of this narrative even found its way into the 1978 Sri Lankan Constitution, which states in Chapter II, Article 9 that "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, […]."[3] Even more divisive—though later amended— was the so called Sinhala Only Act (the Official Language Act No. 33) of 1956 that made Sinhala the only official language of Sri Lanka, erecting barriers for the vast numbers of Tamils who spoke little to no Sinhalese.

An Oppressed Regional Minority

The second definitive master narrative of Sinhalese nationalism is tied to Sri Lanka's more recent history of colonial occupation. Although parts of the island were colonized by the Portuguese and Dutch, leading to the suppression of Buddhism in those areas, British colonization ultimately went the farthest in marginalizing Sinhalese populations through policies of strategic discrimination, often favoring Tamils in posts in the colonial administration and academic institutions (DeVotta 2004, 27-29). After Sri Lanka gained independence from the British, Sinhalese leaders moved quickly to reverse the imbalance of power, ultimately leading to an imbalance in the opposite direction.

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[3] *Sasana* (Sanksrit and Pali) may be translated as "doctrine," "teaching," or "religion."

Institutionalized protections for Sinhalese and Buddhists after independence grew out of a collective memory of oppression, both real and perceived, and were designed to prevent Sinhalese from ever slipping back into political marginalization. The fear of oppression did not disappear in the decades after independence, and many politicians and public figures have reminded their supporters over the years of the need to ensure the continued survival of (Sinhalese) Buddhism. This message has occurred in tandem with the idea that the Sinhalese are in fact a minority in the larger regional context of the Indian subcontinent, counting the Dravidian Tamil populations on both sides of the watery divide between India and Sri Lanka. As one member of Parliament put it in 1962, "The problem of the Tamils is not a minority problem. The Sinhalese are the minority in Dravidastan. We are carrying on a struggle for national existence against the Dravidian majority" (Kearney 1973, 164). In 1967, the chief elder (*Mahanayake Thero*) of the *Ramanya Nikaya*[4] used hyperbole to express a growing fear among the Ceylonese *sangha*[5]: "If the Tamils get hold of this country, the Sinhalese will have to jump into the sea. It is essential, therefore, to safeguard our country, the nation, and the religion [...]" (Kodikara 1970, 103).

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[4] *Ramanaya Nikaya* is one of three orthodox Buddhist orders in Sri Lanka. The others are *Siam Nikaya* and *Amarapura Nikaya*.

[5] The *sangha* refers to the monastic community—the community of ordained *bhikkhu*s (monks). The *sangha* is distinct in the Theravada tradition from the broader Buddhist community as a whole (known as the *parisā* in the *Pali* canon) that includes laypersons.

Narratives of Tamil Nationalism

On the side of Tamil nationalist claims, there is arguably more variety given the multiple social cleavages that exist among Sri Lankans who speak the Tamil language. For example, Tamil-speaking Muslims (often referred to as Moors) generally consider themselves to hold an entirely different heritage and story of origins than their Dravidian neighbors. The history and political aspirations of Indian Tamils who immigrated to Sri Lanka as laborers for its tea plantations are also distinct from the more dominant narratives of Sri Lankan Tamils. Within the community of Sri Lankan Tamils, there are further social divisions by religion (e.g., Hindu and Christian) even after excluding Sri Lankan Muslims, and divisions of class and caste remain as well. In light of these separations, this section focuses on nationalist narratives that hold purchase among Sri Lankan Tamils more generally (excluding communities of immigrant laborers). These focus on claims of origin tied to indigenous Dravidian peoples (excluding Muslims) and aspirations for political autonomy, which eventually morphed into the demand for *Tamil Eelam.*

The Original Inhabitants, a Historical Majority

Unlike Sinhalese nationalism, Tamil nationalist claims in Sri Lanka have borrowed much less from religion. Some point to the speakers of Dravidian languages who have inhabited the Indian subcontinent from ancient times. Given Sri Lanka's proximity to the Indian mainland, some believe it probable that Tamils traversed the waters in between and settled the island, in addition to inhabiting southern India. The historian

A. L. Basham argued that "Dravidian infiltration into Ceylon must have been going on from the earliest historical times and probably before" (DeVotta 2004, 25). Other historians note references to the three early Dravidian Tamil dynasties (the Chola, the Pandya, and the Chera) that were found inscribed in the pillars of the Mauryan king, Ashoka, in the third century BCE. (Sastri 1935, 20) Sangam literature also contains references to rulers from these kingdoms (Tripathi 1967, 457; Sastri 1935, 3). Opponents, however, would cite the *Mahavamsa*'s account of King Pandukabhaya, ruling on the island from the city of Anuradhapura, as an example of an even older Buddhist presence (Geiger and Bode 1912, xlix and 24).

Some polemicists in the Tamil camp have gone even further by trying to subsume the Sinhalese identity within the category of ethnic Tamils. This claim asserts that the Sinhalese were originally Tamils who later came to speak Sinhala through the influence of Buddhism, developing from the Pali language as an Aryan dialect (Ponnambalam 1983, 20). This idea accounts for one Tamil senator's inflammatory claim that, "The Sinhalese man […] is really 90 percent a Tamil. Ethnically, culturally, historically and in every other way, we are all Tamil people with the only difference [being] that some are Tamil-speaking and some are Sinhalese-speaking" (DeVotta 2004, 25).

The emergence of Tamil nationalist claims has followed a different timeline than that of Sinhalese nationalists. Many see Tamil nationalism in the later 20th century as reactionary, developing as a response to political marginalization that stemmed from the resurgence of Sinhalese nationalism after Sri Lanka's

independence. In fact, Sri Lankan independence may be interpreted as a reversal of fortunes for Tamils, who were more prosperous during the period of British colonial rule. Following independence and increasing Sinhalese control of government, many Tamils came to view the predominantly Sinhalese military as an occupying force that mistreated their populations in the north and the east (DeVotta 2004, 127). Claims of grievance also include government-sponsored development projects carried out in the north that predominantly benefited Sinhalese, as well as initiatives by successive governments to resettle large numbers of Sinhalese into areas considered historic Tamil homeland (DeVotta 2004, 129). A sense of historical entitlement combined with experiences of political exclusion after the island's independence together gave birth to the modern project of *Tamil Eelam*.

Tamil Eelam

The idea of *eelam* begins with the conviction that there has always been a distinct geographical region of the island where Tamils have lived, and over which they should continue to have control. But there was not always an aspiration for a separate state. Sankaran Krishna identifies critical turning points in the narrative of Sri Lankan Tamil nationalism when the message transitioned from assimilation into the Sri Lankan state to an eventual push for an autonomous Tamil state. These turning points include the so-called "Sinhala Only Act" of 1956, the anti-Tamil riots of 1958, and "betrayals of the Bandaranaike-Chelvanayagam Pact" (Krishna 1999, 92). Throughout the 1970s, discriminatory policies on university

entrance exams and restrictive quotas for Tamil university students exacerbated perceptions of injustice. Cases of physical attacks by individuals or mobs sharpened the divide even further. By 1972, even the prominent Tamil parliamentarian Chelvanayakam gave up on the push for federalization and embraced the movement for Tamil separatism, arguing that it was the only way to protect basic Tamil rights and freedoms (DeVotta 2004, 137, 140). Later, the anti-Tamil riots and killings in 1983 galvanized these sentiments, ushering in a new paradigm of reciprocal violence that would surge for decades.

Born out of frustration with the inability to make headway within the Sri Lankan political system, the narrative of *eelam* thus came to stand on a foundation with two distinct pillars: the first was the conviction that Sri Lankan Tamils were a distinct nation with a legitimate historical claim to territory in the north and east; the second was the conviction that continued assimilation into a "unitary" system of government under a Sinhalese majority would be political suicide for Tamils and lead to their further oppression. The perception of failure to find any lasting political solutions to Tamil grievances created an environment that was ripe for the rise of the LTTE.

Narratives of War

The politics of memory—recounting what "really happened" and the nature of the actors involved—is a deeply sensitive topic. Fault lines emerge between official memory and conflicting alternative accounts by other actors. The act of memorializing past events—whether through museums, documentaries, statues, literature, or other media—can easily become

a highly political exercise and uncovers an even deeper issue beyond simply deconstructing conflicting accounts of the past: the issue of interpretation. Memorials and official narratives engage in interpretation and in story-telling, generating other broader stories (meta-narratives) or interpretive frames about the past. These frames create conflicting interpretations of the nature and purpose of the civil war and its dominant actors. For these reasons, the subject of memory is crucial to building political reconciliation and unity in a post-conflict environment. Prospects for lasting peace grow dimmer when the politics of memory are not addressed carefully.

The sections that follow trace the dominant war narratives propounded by opposite sides of the conflict. Similar to the previous section on nationalist narratives, there is a greater diversity of opinion on the Tamil side of the conflict. These sections will also offer examples of how these narratives are (or are not) reinforced in the public consciousness through memorials to war.

Sinhalese Narratives of the War
The Humanitarian Operation and the War on Terror
The most prominent narrative to have emerged from the Sinhalese majority government over the course of the conflict was the notion that the war was waged between national heroes (i.e., government soldiers) and terrorists. This narrative was not difficult to advance, given the LTTE's use of tactics such as suicide bombings and targeting civilians, which are commonly considered acts of terrorism by most countries. Probably no leader championed this

narrative more than former president Mahinda Rajapaksa. In a post 9/11 world, the international political climate worked in President Rajapaksa's favor as the U.S. campaign overseas focused on a "global war on terror." Rajapaksa was not the only head of state in the world to tap into this international current of anti-terrorism posturing. The Rajapaksa administration also adopted the vocabulary of international human rights discourse by casting his military operations—particularly the largest operations in 2009 to win the war—as "humanitarian operations." Whether these battles actually led to humanitarian outcomes is hotly contested.

In addition to appropriating the anti-terrorism framework, Rajapaksa (and other leaders before him) advanced a second story involving denial. The claim was not simply that Sri Lanka had a problem with terrorism but that Sri Lanka had *no ethnic problem* and only a terrorism problem. Although perhaps expedient for defeating the LTTE, this narrative is jarringly dissonant with the actual experience of Tamils and is also likely to exacerbate and prolong political divisions in the country rather than improve the prospects for a unified state. Such an outcome would serve no one on any side of the conflict, given the tendency of such divisions to eventually lead to the resurgence of violence.

Exemplifying the political nature of memory, the government has erected memorials in the north to underscore its victory that provocatively ensconce the cognitive frame of good versus evil. Formatting constraints preclude the inclusion of photos taken by this author of these memorials, but a discussion of their significance is useful. For example, in

Puthukkudiyiruppu, not far from battlefields where thousands of Tamils died, and next to a museum showcasing broken LTTE weaponry, towers a golden statue of a triumphant soldier with arms raised, wielding a rifle in one hand and the Sri Lankan flag in the other. The sign that accompanies this unreservedly exultant statue begins with the phrase, "The Golden Sun of the Peace of all the people Rose wiping out the darkness of the North & East." Characterizing the entire struggle of Tamil separatists simply as "darkness" fails to do justice to the nuances and grievances behind their cause. The descriptive paragraph also describes the "humanitarian operation" of Sri Lanka's "heroic soldiers" who died to "emancipate" the "mother land," and it ends with a reference to "His Excellency Mahinda Rajapaksa." The sign does not name the organization that the government fought, it merely uses the word "darkness." A similar approach is taken with other memorial plaques elsewhere in the north, such the one found at the Waddauakal Causeway in Mullaitivu, which references "ruthless terrorists," "innocent civilians," "brave soldiers," and the "humanitarian operation." The accuracy of these labels is not at issue, but rather to draw out their political significance.

The same theme is continued at the memorial commemorating the sacrificial death of Corporal Gamini Kularathne at the Elephant Pass. The plaque notably states in its dedication that government soldiers were "men of noble virtue," some of whom sacrificed their lives "to defend this land against *evil* and Liberate the Nation." The plaque also states that Kularathne is a "true hero *born on this soil*." These statements and others frame the conflict as a struggle

between good and evil, light and darkness, carried out by the true sons of the soil (*bhumiputra*).

Sinhalese government narratives of the war also emphasize the theme that LTTE leadership meant only suffering and terror for the civilians whom they claimed to protect. The destroyed water tower in Kilinochchi is a useful example. Before being forced out of Kilinochchi, their once *de facto* capital in the north, the LTTE reportedly toppled a water tower in the city. Rather than removing or rebuilding the tower, the government chose to leave it there as a monument to the destruction wrought by the LTTE with an accompanying plaque. A souvenir shop even popped up next to it to encourage war tourism. The plaque next to the water tower describes it as the ruined "fountain of life for the people of Kilinochchi" and as "a silent witness to the brutality of terrorism." It continues, "Yet, terrorists did not succeed in destroying our determination to secure freedom and peace. This is a monument to the futility of terror— and to the resilience of the human spirit. Terrorism shall never rise again in our great land. We are free."

The government's campaigns to glorify the deeds of the military during the war, particularly during the most controversial phase in 2009, have occurred in tandem with efforts to wipe out any traces of honor or valor on the opposing side. Smaller monuments to the sacrifices of LTTE soldiers and resistance leaders previously existed in the north, but the military has since destroyed these (although they still exist in photographs). One example is the destroyed monument in Nallur, Jaffna that commemorated LTTE political wing leader Rasaiah Parthipan (known as Lt. Col. Thileepan) for his hunger strike in 1987. He

fasted to death in protest of government policies in the north. Other provocative examples of erasing memory include the destruction of LTTE cemeteries and, apparently in at least one case, the construction of a military base on top of it (Mullaitivu).

Protecting National Heroes
Another predominant narrative is one that praises the virtue and nobility of government soldiers. In the current post-war discourse on transitional justice, the notion that Sri Lankans must "protect their national heroes" consistently arises whenever someone suggests that certain members of the armed forces should be subjected to investigations and or prosecutions for war crimes. The silent discourse of war memorials and the public discourse of politicians both promote a good versus evil or hero versus villain cognitive framing that buttresses the government's claim to have waged a just war using just means. A possible counter-narrative to this idea might be to suggest that accountability would actually bring honor to the military by disciplining the dishonorable and separating them from the heroic.

The "national heroes" argument has been applied at all levels, including in reference to former President Rajapaksa, who is celebrated for bringing about an end to the long war. Sinhalese laypersons in Colombo compare the former president to King Dutugemunu (Duttugamani) from the *Mahavamsa* (referenced previously in the section on Sinhalese nationalism). The emergence of this comparison with the legendary Buddhist king who defeated the Tamil king of the north is no accident. The Ministry of Defense reportedly stated at one time that, "It took 13

years for Dutugemunu to regain lost territory and establish total sovereignty over Sri Lanka. But it took less than three years for Mr. Rajapaksa to achieve the same goal" (Harrison 2013). The former president also once claimed that his "troops went to the battlefront carrying a gun in one hand, the Human Rights Charter in the other" (Fernando 2014, 72).

Tamil Narratives of War

There is no single, all-encompassing narrative about the civil war in the predominantly Tamil-speaking areas of the island. There are pro-LTTE narratives and anti-LTTE narratives, just as there were pro-war stances and anti-war stances among Tamil speakers. But whether pro– or anti–LTTE, a majority of Tamils share the view that the Sinhalese majority government committed crimes against their communities over the course of the war, particularly in their accounts of indiscriminate killings in 2009 that led to the deaths of tens of thousands of Tamil civilians (United Nations, 2011). This view clashes with the black-and-white depiction of heroes and terrorists that dominates official memory of the war. It also contests the claim that targeting non-combatants was a one-sided phenomenon during the conflict.

The predominant narrative advanced by Tamils who supported war seems to be that Tamils were forced to take up arms to protect themselves in the wake of physical attacks from Sinhalese and rampant ethnic discrimination. The war was framed by many as one of self-defense and of last resort. But conflicting narratives emerge when delving specifically into the role of the LTTE in leading, or usurping, the Tamil fight for independence.

The LTTE as Defenders and Liberators

LTTE leaders and their supporters cast the Tamils of Sri Lanka as victims of lethal oppression by Sinhalese nationalists and of a government that didn't provide for their basic needs. In interviews, LTTE's founder, Thiruvenkadam Velupillai Prabhakaran, borrowed from contemporary human rights discourse by framing the LTTE's fight as a defense against genocide, often citing the carnage of the 1983 riots as evidence (Mehta 2010, 189, 191). In this frame, the LTTE were to be their rescuers, and war was the only viable means of self-defense and the only viable road to political victory, given the historical failures of non-violent politics. Implicit in the LTTE's adoption of "unconventional" tactics such as urban bombings and suicide missions was the assumption that the LTTE could not compete with the government in a strictly conventional military fight. LTTE leaders and their supporters justified their lethal attacks on rival Tamil leaders and organizations by casting those actors as enemies of the Tamil cause. With the conviction that only a united front can achieve victory, LTTE viewed dissenting Tamil voices or communities as traitors.

Members from at least one of the organizations in the north with whom our team conducted interviews held the opinion that life for Tamil women was significantly better under LTTE leadership. In their recollection, fewer crimes such as rape or assault were committed against women because of the swift justice and effective rule of law administered by LTTE governors. They contrasted this situation with their present experience of frustration with the justice system and police force in the north, where crimes

against women are routinely ignored, corruption or red tape delays investigations, and victims are still forced to write their official statements for police reports in Sinhala rather than in Tamil.

The LTTE as Oppressors

The voices of Tamil and Muslim communities who opposed the LTTE's rule are diverse, but there is arguably a commonality in the viewpoint that the LTTE grew into a predatory regime that usurped the Tamil separatist struggle for its own violent purposes. These purposes involved political grievance (rather than opportunistic greed), but they were nevertheless ruthless in their pursuit of a monopoly on Tamil resistance. Accounts of the LTTE threatening and even killing those who did not support their cause—accounts that are undisputed by historians—are emblematic of this view of the organization. Of the minority groups that suffered under regional LTTE hegemony, Muslim communities appear to have fared the worst (Ismail and Lewer 2011, 128).

Recommendations for Reframing

The landscape of memory and political identity in Sri Lanka reveals where the sharpest lines of division lie. The long history of political competition in the country has expressed itself through the lens of ethnicity, with polarizing interpretations of the island's ancient and modern history and present national interest. If Sri Lankan government and community leaders are serious about creating a political environment in the country that will not foster continued hostilities and possible future violence, then a new paradigm for discussing Sri Lankan identity and memory of war

needs to arise. New approaches are required both at the policy level and between organizations at the community level to uncover common ground. Creating environments and institutions where receptive communication devoid of acrimony can occur between would-be rivals is likely the first step. However, significant reframing of the issues of contention will also be a hallmark of this process, including the construction of alternative narratives about the past.

To the Sri Lankan Government
- **Permit all sides to express their memory of war in the public sphere**. Some of Sri Lanka's monuments to government victory, and the narratives embedded in their silent discourse, are fiercely divisive, particularly when they are deliberately planted in the north. This effect is compounded by the apparent prohibition of memorials for the loss of life incurred on the Tamil side of the war (both civilian and combatant). An initial step to rectifying this imbalance is to recognize the value of permitting memorials on both sides. This does not mean a memorial glorifying the LTTE, but greater recognition of the suffering of civilians would possibly have a conciliatory effect, despite being politically contentious among Sinhalese nationalists. Government policy should also permit and encourage victims of war in the north to receive psychological counseling, particularly those still struggling with post-traumatic stress.
- **Reframe the purpose of war memorials to focus on lives lost.** The entire purpose of war

memorials could be reframed. Currently, they predominantly tell a story of triumphant victory by the government over "terrorism," "evil," and "darkness." A more constructive purpose for public memorials is to commemorate lives lost during the war (on either side). This frame would allow for the commemoration of soldiers who lost their lives (such as Corporal Kularathne)—with revisions to the most polemic vocabulary in monument inscriptions—while also allowing for the commemoration or mourning of victims of war in Tamil communities.

- **Continue to acknowledge legitimate Tamil grievances rather than spotlighting terrorism**. Current and future Sri Lankan administrations need to embrace the reality that there was not simply a terrorism problem, but that there were also substantial political grievances experienced individually and collectively by Tamil communities. This would include a recognition that the voices of Sinhalese nationalists and Buddhist extremists have contributed to the country's political problems rather than its solutions.

- **Identify justice and accountability as mechanisms for preserving the military's honor rather than as threats to "national heroes."** Some measure of transitional justice in proven cases of transgression will eventually be needed to help ensure a lasting peace. The current frame of protecting national heroes is not conducive to such a shift. An alternative way to view this process is as an act of preserving the credibility and

honor of the military, by disciplining wrongdoing and separating those accountable from others who should be honored for their courage and sacrifice.

- **Revise Chapter 11, Article 9 of the Sri Lankan Constitution to afford equal treatment to all religions.** On the legislative side, the constitutional reform process is extremely important. Any proposed revisions to this article of the constitution will certainly face a steep uphill battle. But such revisions are necessary to demonstrate that current legal loopholes for discrimination will not be cemented into the future legal architecture of the nation.

- **Abandon any deliberate efforts to increase the density of Buddhist shrines and Sinhalese demographics in the north.** The natural mixing of demographics throughout the country might be a positive development in the long run, but the intentional "Sinhalesation" of the north by proliferating military installations, Buddhist shrines, or resettlement efforts exacerbates ethnic relations rather than promoting reconciliation. Unity and diversity must not become mutually exclusive ideas.

To the Community Organizations and Civil Society

- **Foster constructive dialogue between historic rivals.** A useful example is that of the Sri Lankan chapter of the US-based organization Search for Common Ground.

They are working to build bridges of communication across communities that were historically divided by ethnicity and religion. Some of their less conventional initiatives include investment in pop culture, where there may be unique opportunities to influence the collective psychology of the nation. They have, for example, written and aired television soap operas and other programming that subtly (or perhaps not so subtly) provoke new discussion about the meaning of national Sri Lankan identity and expose individuals to the perspectives and memories of persons and communities with whom they would not normally have contact.

- **Deploy programs and services targeting psychological health.** The emphasis at the community level should be on creating space for individuals to remember their past and share these memories in environments that promote healing rather than hostility. Implementing programs for psychological counseling, particularly for victims of war who suffer post-traumatic stress, will be a crucial step for the future to aid communities recovering from the trauma of war.

To the Tamil Political Opposition Groups

- **Eschew rhetoric that implies support for a separate state.** Some politically engaged Sri Lankan Tamils are currently pushing for official recognition of a Tamil "nation."

Here there needs to be, at a minimum, a clearer reframing of the position so as to disentangle the concept of Tamil nationhood from historical demands for a separate state. For many Sinhalese audiences, it is nearly impossible to hear "Tamil nation" without imagining the baggage of separatist territorial claims. Furthermore, an uncompromising preference for the word "nation" in codifying the collective identity of Sri Lankan Tamils might prove an obstacle to the important ongoing effort to redefine Sri Lankan national identity.

Part II: Sri Lanka's Post-War Political Challenges

Domestic Political Challenges: Forging a Road Ahead through Divisions and Polarization

Christina Ma

After three decades of civil war and five years of uneasy peace in Sri Lanka, the 2015 elections ushered in drastic changes to the political landscape. Surprise candidate Maithripala Sirisena ousted incumbent president Mahinda Rajapaksa in January 2015 and the United National Party (UNP) took a majority of seats from the Sri Lanka Freedom Party (SLFP) in parliamentarian elections in August 2015. The new government has an unprecedented opportunity to reform governance and accountability as we well as undertake constitutional changes that would better harmonize Sri Lanka's ethnically diverse society.

The political sphere in Sri Lanka is wrought with tension, in-fighting, and cleavages. At the root of both the decades-long conflict and ongoing political divides is the need to find an appropriate institutional framework to protect the interests of all stakeholders in Sri Lanka's diverse society. Failure of political reform to protect the freedoms and rights of the Tamil and Muslim ethnic minorities risks the real possibility of a return to conflict in the future. That said, leaders also must be careful not to alienate the Sinhalese majority. The coalition government, which grudgingly unites the two main political parties, has the unenviable task of navigating the delicate balance between the reformists and traditionalists, all while

responding to domestic and international pressures. This chapter will examine the effects of the national elections in the past year, discuss the political challenges, and look ahead to the tough issues the government and political parties will grapple with in the near future.

Major Political Parties and Alliances
Sri Lanka has a presidential-parliamentary hybrid electoral system. The political scene is vibrant and boasts over twenty registered political parties. Sri Lanka's society is ethnically, linguistically, and religiously diverse: the population includes the Sinhalese ethnic majority (74%), Tamils (18%), and Tamil-speaking Muslims (7%).
The main parties are:
- *Sri Lanka Freedom Party (SLFP)* – the party led by former president Rajapaksa during the last stages of the civil war and now by current President Maithripala Sirisena. Traditionally center-left and aligned with the East, the Sinhalese SLFP heads the United People's Freedom Alliance (UPFA), the majority political alliance under Rajapaksa's regime.
- *United National Party (UNP)* – a Sinhalese center-right party that is more open to the West. Prime Minister Ranil Wickremesinghe is the leader of the UNP. The UNP led the United National Front for Good Governance (UNFGG) coalition, which was formed in opposition to the UPFA before the August 2015 parliamentary elections. The UNP and SLFP have historically been the two dominant political parties.

- *Tamil National Alliance (TNA)* – the main political representative of the interests of the Tamil minority and the predominant party in the Northern and Eastern Provinces. The TNA's main platform includes devolution of power to the provinces, post-war accountability, return of occupied lands, and demilitarization of the north. Recently the TNA has experienced in-fighting and discord, resulting in a more hardline faction breaking away to form the Tamil People's Council at the end of 2015. The Liberation Tamil Tigers of Eelam's (LTTE) war legacy as a militant separatist group still affects the treatment of Tamils. TNA members and Tamils were split between supporting and opposing the LTTE. Since the end of the war, the TNA has dropped its demands for an independent Tamil state.
- *Sri Lanka Muslim Congress (SLMC)* –the main political party representing the Tamil-speaking Muslim minority. Muslims were displaced by the LTTE during the war and also suffered discrimination at the hands of Sinhalese nationalists.
- *Jathika Hela Urumaya (JHU)* – a Sinhalese nationalist party made up of Buddhist monks. Small but vocal, it left the UPFA in 2015 to back Sirisena's candidacy.
- *Janatha Vimukthi Peramuna (JVP)* – a socialist Sinhalese nationalist party. Prior to entering politics, it led violent insurgencies in 1971 and 1987-1990 against the State.

Opinions span a wide spectrum even within the same party. The *National Unity Government (NUG)* is the SLFP/UNP coalition government formed as the result of a hung Parliament following the 2015 general elections.

Presidential Elections January 2015

Mahinda Rajapaksa, who came to power in 2005, is credited with ending the civil war. Under his presidency, the military defeated the LTTE in 2009 and regained control of the country. Although Rajapaksa enjoyed widespread popularity among the Sinhalese community after the war, his increasingly autocratic practices led to growing public resentment. Allegations of human rights abuses and war crimes marred his administration. Domestic and international watchdogs criticized the government for oppressing media freedom, opposition, and dissent, as well as rampant corruption and cronyism. Rajapaksa radically expanded the power of the executive presidency through the passage of the 18th constitutional amendment, which abolished the two-term limit on the presidency and granted the executive the power to appoint judges, top officials, and police and military chiefs. The amendment alarmed many as a move to indefinitely extend Rajapaksa's rule over the country. Rajapaksa then called for early presidential elections two years ahead of schedule in November 2014, anticipating an easy win in early 2015 (Sim 2015). However, the unexpected challenge of Maithripala Sirisena for the presidency, at the head of a large opposition coalition, heralded a dramatic change in the political landscape.

Prior to November 2014, Sirisena had close ties with Rajapaksa as the General Secretary of the SLFP and Health Minister. Sirisena cited disillusionment with Rajapaksa's dictatorial behavior, rampant corruption, and a breakdown in law and order as his reasons for running against Rajapaksa (*BBC* 2015). Sirisena's Presidential Mandate promised constitutional reforms to limit executive power, reform of the electoral system, and restoration of independent oversight bodies (*Daily Mirror* 2015).The UNP, the main opposition party, headed a broad coalition that backed Sirisena's candidacy on a platform of good governance and democracy. Minority parties and dissenters from Rajapaksa's party, the SLFP, supported Sirisena as well.

The electorate rewarded Sirisena's platform with a narrow majority. Sirisena beat Rajapaksa by a vote of 51.28% to 47.58%. The Tamils and Muslims, who voted for Sirisena in large numbers, were partially credited with helping to swing the vote. Voter turnout was high, with over 70% of voters in Tamil-majority districts participating. Civil society organizations also played a key role in building support for Sirisena. Some have described the election results as a referendum against Rajapaksa rather than an endorsement of Sirisena (SAIS Group Meeting with CPA, 13 November 2015). The Sinhalese vote was vital as well; many thought Rajapaksa had weakened democracy in the country (Verité Research 2015).

The international community hailed the election results as a triumph of democracy. The people of Sri Lanka demonstrated their desire for change through democratic processes and a peaceful transition of

power. The year 2015 appeared to renew hope for the future.

Initial Successes and Failures

Sirisena appointed the Prime Minister and other Cabinet members from the then-minority UNP party to help execute a 100-day Agenda that included electoral reform, constitutional amendments, and an independent oversight commissions (Welikala 2015). The most visible positive change is increased societal openness. The government relaxed surveillance and intimidation of dissenters and journalists and discontinued military checkpoints in the north. Civil society and media can debate sensitive issues more openly. The pro-West government has also improved relations with many countries that had been strained under Rajapaksa's rule (International Crisis Group 2015).

The passage of the 19th Amendment in April 2015 received overwhelming support and fulfilled one of Sirisena's major electoral promises to scale back the powers of the executive presidency. The bill re-introduced a two-term limit on the President and restricted the President's power to dissolve the Parliament within four and a half years (Ramakrishnan April 2015). Not all draft provisions were adopted; the Supreme Court ruled that certain clauses of the 19th Amendment, which would have made the Prime Minister the Head of the Cabinet and empowered him to appoint Ministers, would "require the approval of the People at a Referendum" (*Colombo Telegraph* 2015, 17).

However, a tough battle over the 19th Amendment and subsequent electoral reform paved

the way for partisan in-fighting and political deadlocks. The administration conceded a number of ministerial positions to the SLFP in hopes of consolidating Sirisena's control over the SLFP, but the SLFP still blocked the establishment of a Constitutional Council and independent commissions at the time.

The government also fell short on reconciliation and governance efforts. Although the administration took steps to establish anti-corruption bodies and a Human Rights Commission, few senior members of the old government were indicted. Sirisena avoided enflaming the most politically sensitive ethnic and war-related issues (International Crisis Group 2015, 15). Tamils continued to feel repressed by the overwhelming military presence in the north and frustrated with the pace of land releases and transitional justice mechanisms.

General Elections August 2015

Many expressed concern that political fractures in the administration might pave the way for former president Rajapaksa to mount a comeback. These fears were nearly realized in July 2015 when the UPFA announced that it would nominate Rajapaksa as its prime minister should they win the general elections. The heightening political divisions posed a serious threat to the fledgling administration. President Sirisena acknowledged that he could not block Rajapaksa's parliamentary bid, to the displeasure of his supporters, since his alliance was still dominated by Rajapaksa loyalists (Bastians 2015).

The UNFGG immediately formed as an opposition group to the UPFA. The coalition

comprises sections of the UPFA, TNA, SLMC, JHU, and other political parties. It launched a campaign that included a five-point plan on growing the economy, fighting corruption, enshrining freedoms for all, investing in infrastructure and improving the education system.

Of the 225 parliamentary seats, the UNP captured 109 seats to the UPFA's 96. The remaining seats went to the TNA (16), the JVP (6), the Muslim Congress (1), and the Eelam People's Democratic Party (1). (Sri Lankan Department of Elections 2015) The UNP's decisive victory over the coalition led by the SLFP was a sign of confidence in the new administration and its mandate to restore good governance. It was a crushing blow to Rajapaksa's resurgence. Nevertheless, neither of the two leading parties won an absolute majority of seats. A National Unity Government (NUG) was formed in September 2015 comprising the United National Party (UNP) led by Prime Minister Ranil Wickremesinghe and the Sri Lanka Freedom Party (SLFP) led by President Maithripala Sirisena. Party leaders agreed upon the unity government for at least two years (Abesyngh and Perera 2016).

Political Developments since the August Elections
The election results signaled that the people of Sir Lanka want change. That said, the administration has an ambitious and crowded agenda but limited political and technical capacity. High expectations can lead to crushing disappointment if domestic and international stakeholders perceive that the government has not done enough or progress is too slow. Such disenchantment can be destabilizing. The danger of

relapsing into conflict after another generation is a real fear if political solutions do not address the grievances underlying the conflict.

Political Cleavages

In-fighting has arguably worsened since the elections. The Supreme Court ruling on the 19th Amendment kept the President as the Head of the Cabinet. The coalition government therefore has two centers of power: the President and the Prime Minister. The change has positive and negative consequences. On one hand, it requires policy makers to build consensus between the two main parties in Parliament, which lends more credibility to joint ventures. On the other hand, political deadlocks can cripple the ability of the Parliament to function effectively (Abesyngh and Perera 2016).

On some of the key issues, the administration must strike a balance between two polarized positions. For instance, Sinhalese nationalists prefer a strong central government and centralized police authority, whereas minorities prefer decentralization and devolution. The UNP is open to foreign investigators and judges, whereas the SLFP is vehemently opposed to foreigners impugning Sri Lanka's sovereignty. The presence of Rajapaska's loyalists in Parliament makes it difficult to investigate members of the old government or the military for war crimes.

The leaders have also contributed to political divisiveness. President Sirisena rejected participation of foreign judges in a special war crimes court in interviews with media outlets in late January 2016 (Ameen 2016). In contradiction, Prime Minister Wickremesinghe stated on February 13 that his

government did not rule out an international role in investigating allegations of war crimes by the military and LTTE (*Colombo Telegraph* 2016). Instead of exhausting valuable political capital to denounce each other's positions, the leadership should negotiate differences behind-the-scenes and present a united front in public.

The political cleavages at the national level are a reflection of the ethnic constituencies, which are deeply divided on many issues. A survey conducted in March 2015 revealed discrepancies in post-war perceptions by ethnic group. When asked whether there should be a judicial mechanism to look into accountability for the last stages of the war, less than half of the Sinhalese community (44.4%) agreed, while an overwhelming majority from the minority communities said yes (Tamil 83.9%, Muslim 61.7%). In addition, the majority of Sinhalese (57.8%) stated that the special courts should be an exclusively domestic mechanism, a stark contrast with minorities, who preferred either some or entirely international judges (Center for Policy Alternatives 2015).

Rajapaksa and his loyalists continue to play an influential role behind the scenes, which further undermines the unity of the government. The majority of Sinhalese voted for the SLFP in the parliamentary elections (SAIS Group Meeting with CSOs, 17 January 2016). Rajapaksa continues to openly speak and publish his opinions on political issues. His memorandum opposing the decentralization of the police force directly conflicts with the position of the Tamil parties (*Daily Mirror* 2016). Tamils consider the devolution of police powers as a past-due right

granted to the provinces through the 13th Amendment, but never properly implemented in practice.

Constitutional Reform

The government has prioritized constitutional reform in 2016. Many consider a new constitution the answer to promoting ethnic inclusivity and addressing the minorities' root grievances. A plan for a new constitution, released in January 2016, targeted democratic rights, fundamental rights and freedoms, national reconciliation, and responsible and accountable government (*Reuters* 2016). The Sri Lankan Human Rights Commission called for a Bill of Rights and a more independent judiciary (SAIS Group Meeting with Human Right Commission, 18 January 2016).

In addition to forming a fair and proportional electoral system, Sirisena promised to abolish the executive presidency at the end of his term. This action would convert the political system into a parliamentary one led by the Prime Minister. Although the Supreme Court has yet to rule, it is likely that such a change would be subject to a referendum along with the constitutional reforms.

In an unusual course of action, the Parliament voted to convert itself into a Constituent Assembly to deliberate constitutional changes. In practice, an expert and independent constitutional council is usually charged with constitutional drafting. One concern is that the major parties will unduly influence the constitutional draft in order to appeal to their own ethnic voter bases rather than consider the best outcome for all Sri Lankans. For example, due to objections by the SLFP and Sinhalese nationalists, the

Assembly removed language from the preamble that underscored the need for a Constitutional resolution to the Tamil question (Ramakrishnan 10 March 2016).

Former U.S. Ambassador Teresita Schaffer wrote in 1999 that any peace effort in Sri Lanka, "requires the negotiation of constitutional and other arrangements with the minorities, and the establishment and maintenance of a consensus on these same arrangements within the Sinhala community" (Schaffer 1999, 132). These tenets are still true today. Moving forward will require buy-in from all the ethnic constituencies. The outcome of a referendum depends on how well the parties' positions resonate with the public. If the NUG fell, neither coalition party would have enough support to overcome the two-thirds majority needed for constitutional reform. Minorities make up 25% of the population, a significant swing vote but not a majority. A constitutional referendum has the power to either validate or tear apart the coalition government.

Minority Parties in the Mix

While many Sinhalese consider the conflict over and want to move beyond the war's legacy, Tamils have a different attitude. The LTTE insurgency was born out of sense of injustice regarding the government's political marginalization and linguistic/religious discrimination towards Tamils. Tamil livelihoods in the north were most affected by the war, which created new grievances over the economic degradation and destruction in the north, missing persons, displacement, militarization and surveillance, and occupation of lands traditionally belonging to Tamils. As a result, a trust gap exists between the minorities

and the State. Tamils therefore have a major stake in participating in the constitutional reforms.

Tamils do not speak with one voice. The formation of a splinter group, the TPC (Tamil People's Council), indicates that the root grievances of the conflict have not been resolved. This split resulted from the defection of the Chief Minister of the Northern Province, who increasingly took up more hardline rhetoric after entering office. Tamil politicians still speak of "nation-hood" and "self-determination," whereas villagers in a resettled village desired basic infrastructure such as clean water and electricity (SAIS Group Meeting in Mannar and Jaffna, 15-16 January 2016). Perhaps most worrying is TPC insistence that the government simply accept its demands, without considering how to gain the partnership and support with Singhalese parties required for that to happen. The TNA and TPC should stop perpetuating the idea that the Tamil people are owed statehood. This point will not resonate with Sinhalese politicians or gain their sympathy on other issues. Both Tamil parties should stress the need for devolution, particularly financial autonomy and local law enforcement authority, as good governance that is beneficial for all provinces.

The competing Tamil political parties should also recognize that they are still aligned on several key issues and come together as a united force to advocate their shared positions on land return, devolution, security sector reform, and demilitarization. Disunity would hurt their ability to secure guarantees from majority parties, who have different interests to protect. As a unified and organized actor, they can galvanize the electorate through public education

campaigns and have a stronger bargaining position in the national parliament. Divisions weaken both Tamil parties and leave them vulnerable to exploitation.

The Muslim Congress represents the interests of the Muslim minority in Parliament. Although most Muslims speak Tamil, they identify as a separate ethnic and cultural group from the Tamils. Muslim leaders worry about rising anti-Muslim violence and vandalism. Another concern is the radicalization of disillusioned Muslim youth (Aneez and Srilal 2014). Muslims share many of the Tamils' post-war needs. Resettled Muslims need basic infrastructure in order to return to their livelihoods. Muslim minorities seek linguistic and religious protections. Muslim and Tamil political leaders should work together to lobby the government on shared issues.

International Context

The United Nations Human Rights Council (UNHRC) requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to launch an investigation into Sri Lanka on human rights violations and related crimes during the last stage of the war. The Rajapaksa-led government fiercely protested the investigation, but the new administration tried to build relations with OHCHR and other UN bodies. Based on the OHCHR report, a UN Resolution passed in Geneva in October 2015 encouraged Sri Lanka to adopt recommendations for reconciliation that included land releases, constitutional change, accounting for missing persons and disappearances, establishment of a judicial mechanism, and more (OHCHR 2015). The Government did not reject the UN Resolution, which was seen as a tacit agreement

by the administration to reforms. Civil society and minorities considered the government's co-sponsorship a victory (SAIS Group Meeting with Activists, 10 January 2016). However, it also meant that the government now had to juggle international pressures and deadlines along with domestic pressures, which were not always complementary.

Internal political cleavages negatively impact Sri Lanka's international credibility. Most of the international community, while pleased with better relations with the more open Sirisena administration, expresses skepticism about the pace of the government's UNHRC deliverables and frustration with the political in-fighting. They prefer to hold back from increasing foreign aid and investment until the Government has made more progress on human rights concerns (SAIS Group Meeting with International Delegations, 13 January 2016). The international community should be sensitive to the domestic pressures that may hinder the government's reforms. If they constrain the government into taking a path that is domestically unpopular and controversial, then they risk paralyzing the government's ability to carry out other reforms.

Other Factors
The military remains a powerful institution that enjoys influence and popularity amongst the Sinhalese as "war heroes." Although a military coup is highly unlikely given Sri Lanka's long democratic history, the government cannot ignore the military's influence on issues such as demilitarization and land releases. It would be a mistake to thrust too many unemployed soldiers back into society.

An ailing economy would exacerbate a crisis of confidence in the new government and lead to the failure of other political initiatives. In a survey in December 2015, Sinhalese respondents were found to be the most skeptical of the economic situation among the ethnic groups, with 35% stating that the economy had worsened since the new government was formed. Only 21% from the Sinhalese community believe that the general economic situation in the country improved, in contrast to 70% from the Muslim community and 60% from the Tamil community (Center for Policy Alternatives 2015). These results may reflect the perception of disproportionate investment in the north and east, inhabited by war-stricken Tamils and Muslims, in comparison to poor rural Sinhalese provinces in the south.

Avenues for Political Cooperation

The government cannot achieve all of its objectives at once. If it expends too much political capital on a sensitive subject, it risks becoming paralyzed on other issues. The ideal way for the administration to proceed is to increase its support and popularity through modest but concrete reforms that are favorable to all constituents, and to leverage that momentum to tackle more controversial issues. Crucially, the President and Prime Minister should stand united on sensitive issues and forge alliances with key stakeholders to increase the credibility of the Government's position.

The passage of a 19th Amendment that limited the power of the executive and renunciation of the executive presidency positively signaled to the populace that Sirisena was serious about upholding his electoral promises, setting him apart from Rajapaksa.

Sirisena should look for similar gains that would be popular with the public and help build momentum for other initiatives. The government can garner support through transparency and accountability, as well as open communication with the public. One potential avenue for cooperation is to consult with the provincial councils on a needs assessment for their residents. This would give ownership to local administrations and prevent the illusion of bias towards the north and east. Successful collaborations could also strengthen Sinhalese support for devolution.

Repeal of the Prevention of Terrorism Act (PTA) and Public Security Ordinance Act would also be positive. The Rajapaksa administration was criticized for misusing these laws to jail dissenters and activists. Although use of the PTA has been dramatically scaled back, the current government is still said to be arresting and torturing opponents (SAIS Group Meeting with Human Rights Commission, 18 January 2016). Human rights organizations note that over 200 people remain indefinitely detained under the PTA (Amnesty International 2016). Encouragingly, Foreign Minister Samaraweera told Parliament on March 8 that the government was in the process of repealing the PTA (Ramakrishnan 9 March 2016). Prioritizing repeal of the PTA would demonstrate commitment to the principle of responsible and accountable government.

Sri Lankans must grapple with tough reconciliation questions in order to put the legacy of the war truly behind them. Fortunately, a majority of the public surveyed in 2015 (80.6%) believe that the government should find solutions to address the root causes of the war (Center for Policy Alternatives

2015). The government should capitalize on this sentiment and engage in a sophisticated public diplomacy campaign to sell its policy decisions to stakeholders and the Sri Lankan public.

Recommendations

The coalition government has an extraordinary opportunity to address governance, accountability, justice, and reconciliation in post-war Sri Lanka. The government's commitment to constitutional reform and other reconciliation efforts is heartening. That said, it has a tough road ahead in the striking middle ground between polarized political positions on difficult reforms. The following recommendations emphasize political strategies for the government, the minority parties, and the international community to resolve difficult issues:

To the President and the Prime Minister

- **Publicly present a united front on sensitive reforms** and work out differences within the governing coalition using off-the-record meetings and negotiations. If the leaders hope to gain cross-party support for its initiatives, they themselves should first reach an understanding on a position and not exacerbate political divisions.
- **Prioritize the repeal or reform of the Prevention of Terrorism and Public Security Ordinance Acts.** Work with the coalition members to achieve joint victories that build momentum and confidence. The coalition should adhere to international and

civil society demands to uphold democratic practices and address reconciliation.

- **Work with the provincial councils to conduct a comprehensive needs assessment** that gives Sinhalese, Tamils, and Muslim a voice in deciding local priorities. Collaborative reconstruction efforts will help build trust between the state and regional provinces. Strengthening provincial administrations could also pave the way for responsible devolution of power.

- **Engage the Sinhalese public in a two-way consultative and educational campaign** on devolution and electoral reform to improve transparency and control how reforms are perceived. The government needs to establish strong communication channels and not allow hardliners to dominate the conversation.

To the Tamil National Alliance and Tamil People's Council

- **Act as a unified voice to gain greater bargaining strength.** Factional in-fighting weakens both parties' positions to the detriment of the constituency they claim to represent. If they cannot show solidarity with the party with whom their interests align the most, then it will be even more difficult to persuade the majority parties to listen to their positions.

- **Reframe the party positions for constitutional reforms**, especially power-sharing and devolution. The strategy should be to frame the reforms as benefitting all Sri

Lankans and protecting individual over group rights, rather than declaring these positions as rights owed to Tamils. Enflaming Sinhalese nationalists impedes support for devolution.

- **Reach out to the Muslim Congress** to work collaboratively on broad protections for minorities. Tamils and Muslims share many concerns and threats to their language, religion, and ethnic identity. They can be a stronger political force together than separately.

To the UN and the International Community

- **Be sensitive to the local context and the government's political constraints when demanding accountability to the Human Rights Commission resolution.** While it is important to pressure the government to meet the UNHRC recommendations, a forceful and inflexible position by the international community on polarized domestic issues, such as including foreign judges in the special court, will place the government in a difficult position and enflame the political opposition. The international community plays an important role in keeping accountability and judiciary reform at the forefront, as well as in providing expert and technical training and assistance, but it should recognize that only modest gains may be achieved in the immediate future. The UN should avoid being perceived as infringing upon Sri Lanka's sovereignty. The international community should make clear Sri Lanka's ownership of

the reconciliation process and engage with the political opposition as well as the administration on human rights.

Reforming Government Structure: Building a Stronger State to Ensure Lasting Peace

Daniel Murphy

The current Sri Lankan government has begun the process of constitutional reform. The process is fraught with controversy, particularly with regards to the issue of devolution. The tenuous coalition that makes up the current government may easily disintegrate if constitutional reform includes measures to transform Sri Lanka from a Unitary to a Federal state. In order to keep his coalition intact, President Sirisena should recognize the sensitivity of this issue and seek other means through which to devolve power to the provinces, short of constitutional reform. By implementing the 13th Amendment of 1987, Sirisena may find a politically viable strategy to grant greater autonomy to the regions and alleviate ethnic grievances while not alienating his political base. Through the 13th Amendment, Sirisena's government can satisfy the immediate concerns of the Tamil minority. The government should then use the constitutional reform process to build political consensus and make the sweeping changes necessary to promote good governance throughout the country.

Implementation of the 13th Amendment would empower the provincial governments by devolving powers such as policing, taxation and regional spending away from the central government. Such

policies should not only be enacted but also actively enforced, appeasing the Tamil community and promoting sustainable development throughout the country. Provincial devolution and constitutional reform are both necessary to ensuring lasting peace throughout Sri Lanka, but they must be separated and accomplished through different mechanisms in order to ensure the stability of the current government. This chapter will propose a novel mechanism for devolution and underscore the need for constitutional reform. It will insist that these goals should be achieved separately. The following chapter will explore the constitutional reform process more explicitly.

Historical Background

To understand the need for political devolution, one must first understand the political history of Sri Lanka. Prior to 1948 Sri Lanka, then Ceylon, was a colony of the United Kingdom. To support the colonial administration and ensure local alliances, the British heavily favored the Tamil minority for political posts, often at the expense of the Sinhalese majority (Coleman 2015). The British legacy transformed an ethno-religious divide into a political divide that continues to this day. This has had significant repercussions for national governance.

Upon achieving political independence in 1948, the political parties of Ceylon were almost immediately organized along ethnic lines. The Sinhalese majority began to consolidate its power and seek retribution for years of perceived disenfranchisement at the hands of the Tamil minority. In 1956, S.W.R.D. Bandaranaike was elected

president, running on a platform of assertive Sinhalese nationalism that fueled ethnic tensions. Bandaranaike introduced a "Sinhala Only Bill," which made Sinhalese the only official language of Ceylon and served to disenfranchise Tamil-speaking civil servants and institutionalize discrimination (Coleman 2015). Tamil elites viewed these actions as both a threat to their own status and to their ethnic community. Tamil politicians became more militant and from 1956 to the beginning of the war in 1983, violent anti-government insurgencies spread in the Tamil-controlled north and east (SAIS Group Meeting with Teresita Schaffer, November 2015).

Sensing the anger of the Tamil minority, the Sri Lankan government sought to respond and commenced an ambitious but ultimately confused and unsuccessful constitutional reform process in the 1970s. In 1978 the Sinhala-Only Bill was repealed and proportional representation was introduced (Blanc 2006). Unfortunately, "these changes were made in a largely non-consultative process" and were "not viewed as concessions by Tamil leaders" (Blanc 2006). Civil war in Sri Lanka arose from this breakdown of dialogue between the conflicting parties. It cemented a minority complex, led to conspiracy thinking and damaged chances for reconciliation. Moving forward, any effort for reform must be achieved through consultation as opposed to unilateral promulgation.

Actual abuses of Sinhalese power impeded any chances of ethno-political reconciliation. Simultaneous with half-hearted government inclusion programs, the central government also cracked down brutally on the Tamil youth movement for political

independence and instituted the Prevention of Terrorism Act (PTA) in 1979, which allowed for secret detentions for up to 18 months. The 1978 constitution created a strong executive president that gave rise to authoritarianism and governmental abuse not broken until 2015. This system and the injustices it engendered are often cited as significant grievances of the Tamil community (SAIS Group Meeting with Father Gerard January 2016).

Mahinda Rajapaksa was elected in 2005 by promising to defeat the LTTE insurgency. While Rajapaksa defeated the insurgency in 2009, by 2014 popular opinion had started to turn against the president. In November 2014, Rajapaksa called elections two years early in order to seek an unprecedented third term. The Sinhalese majority had grown tired of Rajapaksa's increasingly corrupt and authoritarian policies. Sensing this dissatisfaction, Rajapaksa's Health Minister, Maithripala Sirisena, ran against the incumbent. In a shocking upset, Sirisena prevailed and was sworn in as the president of Sri Lanka in January 2015 (*BBC*). Sirisena was only able to achieve this victory by appealing across ethnic and linguistic divides: the many Sinhalese voters disillusioned by Rajapaksa's abuses and the Muslim and Tamil parties, to which he promised a more conciliatory approach than Rajapaksa's. Sirisena's victory brought to power a coalition government, a patchwork of competing political parties organized along ethnic lines. Sirisena's political skills will be put to the test as he works to consolidate support within the uncomfortable marriage of necessity between political rivals.

Political Composition

Sri Lanka's two dominant political parties, both Sinhalese, are the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP). Since independence, one of these two parties has controlled the government. While much less powerful, in the January 2015 election the Tamil National Alliance (TNA) and the Sri Lankan Muslim Congress (SLMC) played a pivotal role in ousting Mahinda Rajapaksa in favor of Sirisena (*BBC* 2015). The election of Sirisena marked perhaps the first instance of significant inter-ethnic cooperation between the Sinhalese, Tamil, and Muslim parties as they united to oust a mutual opponent.

Within parliament, President Sirisena is the leader of the SLFP and Prime Minister Ranil Wickremesinghe is the leader of the UNP. In the parliamentary elections of August 2015 both parties led coalitions that failed to secure the majority necessary to form a government. The SLFP failed to gain a majority because the party had split into two factions following the presidential election, one loyal to Sirisena and one loyal to former President Rajapaksa. The SLFP Central Committee agreed to form a national government with the UNP and signed a Memorandum of Understanding (MoU) to work together for two years. The MoU may be extended beyond two years with the consent of the two parties (Singh 2015).

The MoU was unprecedented in Sri Lankan politics because it represents a commitment to reach across party lines to govern the country, but it also signals the fragility of Sirisena's power and suggests that he must appeal to all parties in order to achieve

essential government reforms such as devolution and constitutional reform. The coalition government faces two main threats. First, former President Rajapaksa still holds sway with a large number of SLFP MPs. Second is the two-year MoU expiration date. If the government falters during this time, it could jeopardize hopes of both devolution and constitutional reform.

Current State Structure

While Sri Lanka was founded under the Westminster system of parliamentary government, in 1978 the state structure was amended to a French style unitary state with a powerful president who serves as both the head of state and the head of parliament. It was argued that the Westminster system did not provide for the stability and continuity necessary to follow through with long term government policies (Blanc 2006). The timing was not coincidental, as in the late 1970s most economic development programs were centrally organized. The government sought also to enact economic liberalization measures that required long-term leadership stability (Gamage 2009). The president was granted sweeping powers including Head of State, Head of Government and Commander in Chief of the Armed Forces (Blanc 2006). Rajapaksa exploited his military power to operate with impunity during the civil war and commit criminal abuses against the Tamil community (UNHCR). After the war, Rajapaksa's abuses of power continued. The system established in 1978 failed to curb his nepotism, corruption and brutality, enlarging cleavages between the Tamil and Sinhalese communities (SAIS Group Meeting with Gehan Gunatilleke January 2016).

The 1978 constitution also reformed electoral procedures. Prior to 1978, parliament was elected by a first-past-the-post system. In this system, the party with the greatest number of votes forms the government. It was argued that this system was inefficient and overly adversarial, so Sri Lanka adopted a system of proportional representation. This current electoral system has failed to provide stability or efficiency, as neither party has been able to effectively control both the presidency and a significant majority in parliament. Proportional representation has led to deadlock within parliament, which the previous president exploited to implement authoritarian policies.

The constitution of 1978 also failed to build lasting peace and may have directly contributed to the deadly civil war. According to Siri Gamage, "the political changes were so drastic that the Tamil youths, already frustrated about the lack of power sharing, took up arms thinking that there was no room for ethnic accommodation in a real and material sense" (2009). Following the destructive civil war, this system continues to threaten the future of democracy in Sri Lanka.

Sirisena has indicated support for the parliament's initiative to rein in the power of the president (Samarasinghe 2015). In April 2015, parliament overwhelmingly approved the 19th amendment to the constitution to significantly curb the president's executive authority. The amendment reestablishes the independence of the police and the judiciary, limits the president's ability to suspend parliament and ensures a two-term limit for presidents (*Aljazeera* 2015). This amendment represents a

significant step towards reestablishing democracy in a state that prides itself as being the oldest democracy in Asia (SAIS Group Meeting with Ambassador Prasad Kariyawasam, October 2015).

More should be done to prevent a return to the damaging authoritarianism that played a role in causing and prolonging the destructive civil war. Many of these changes can best be achieved through the constitutional reform process, which is currently underway. Changes that limit the power of the president and adopt an electoral system that empowers the Tamil community are necessary to address some of the structural causes of violence in Sri Lanka. Due to the fragile nature of the coalition government, however, the constitutional reform process may fail to achieve these ambitious outcomes. Therefore, it is important to increase the possibility of successful devolution by removing it completely from the constitutional reform process and instituting it through other means.

The importance of devolution is firmly established by interviews with Tamil civil society leaders, who express serious concerns regarding Colombo's interference in governance of the Northern Province. Lack of responsibility for the development of their own community has had a detrimental impact on the daily lives of Tamil citizens and risks a return to violence unless rectified quickly. Tamil leaders specifically note the need to police their own communities, collect taxes and manage economic development. Grievances stemmed from both the lack of real power and the perception of constant government interference, in particular by the presidentially appointed provincial governor (SAIS

Group Meeting in Jaffna January 2016).   The devolution described by Tamil leaders already has a precedent framework within the current constitution, requiring only minor changes to the existing 13th Amendment.

The Unitary State and the Debate over Federalism
Sri Lanka is currently a highly-centralized, unitary state in which virtually all power emanates from Colombo. The country is divided into nine provinces. Each province has both a locally-elected provincial council and a governor appointed by the central government.   The provincial councils are largely symbolic. Despite being directly elected by the people of their region, provincial governments must defer to Colombo and the appointed governor on nearly all matters (Coleman 2015). The current structure does not help to build lasting peace on an island made up of multiple ethnic identities.   It creates governance inefficiencies and disenfranchises the periphery beyond Colombo, regardless of ethnicity.

    "In the Sri Lankan context, devolution means transferring political and administrative decision-making authority from central government to elected bodies at lower levels" (Sri Lanka Constitution). The difficulty lies in entrusting the provincial governments with power without inhibiting the smooth functioning of the state.   Buddhist-Sinhalese nationalist parties such as the JVP and the JHU have taken a hardline against any constitutional measures that might be viewed as appeasing the defeated Tamil minority or undermining the "unitary state."   As the debate between Unitarianism and Federalism intensifies within parliament, even the words "unitary" and

"federal" are highly polarizing simply because of the link they have to Sri Lanka's violent past—the LTTE sought the devolution of power to a federal state after it abandoned its calls for independence in 1987. Unitary is a "dirty word" to many in the north because it conjures up memories of past abuses by the central, Sinhalese-dominated government (SAIS Group Meeting with Dr. Paikiasothy Saravanamuttu, January 2016).

Due to political ideology, government dysfunction and petty rivalries between the UNP and the SLFP, "when in opposition, each major party has proven willing to disavow federal solutions which it proposed and supported while in power, simply to deny its opponents the ability to claim a major accomplishment" (Blanc 2006). Partisanship has thus far been the enemy of progress in Sri Lanka, making devolution through constitutional reform difficult. The patchwork composition of the coalition government will make devolution a sensitive subject.

The inability to provide for a reasonable level of power to provincial authorities has had dire consequences for northern and eastern development. The primary grievances of the provincial governments include:

1. Provincial powers are extremely limited and dependent on the central government. If for any reason the chief minister has a poor working relationship with the appointed governor, the prosperity of the entire region is threatened (SAIS Group Meetings in Jaffna January 2016).

2. Provincial councils are dependent on the central government for resources and, as a

result, typically under-resourced. Rajapaksa championed his claim that he did not play favorites when distributing funds to the provinces—he gave every administration the same amount of funds. Many have questioned the viability of this policy, especially considering the fact that the war took place in the northern and eastern provinces. These areas are in greatest need of funding for reconstruction (SAIS Group Meetings in Jaffna January 2016). Provincial councils have no strong protections in Colombo. There exist no constitutional guarantees or a second parliamentary chamber. Provincial councils fear that their concerns are peripheral because they lack a voice in the central government and are intentionally excluded from the decision making process.

Any solution should take into consideration these concerns. Reforms that address all of these concerns will be the strongest means by which to build long term peace by ensuring a degree of self-determination.

The 13th Amendment and its Incomplete Implementation

The 13th Amendment is a legacy of Indian involvement in the conflict. India originally became embroiled shortly after 1983. At this time Tamil insurgents, including LTTE leader Thiruvenkadam Velupillai Prabhakaran, began training and conducting operations from the Indian state of Tamil Nadu. The LTTE's presence in southern India signaled to the Sri Lankan government Indian support for the Tamil rebels. This tilted the balance in favor of the Tamil

insurgents and played a role in the Sri Lankan government's many abortive attempts to reach a negotiated settlement in the 1980s. In July 1987, India helped to broker a peace deal between the two parties.

The Indo-Sri Lankan Accord of July 1987 included concessions from Colombo such as the devolution of limited local autonomy to provincial governments. Such concessions were not conceived by Sri Lanka but imposed by India in an attempt to address the concerns of the Tamil community. This resulted in the ratification of the 13th Amendment, which includes the creation and election of provincial councils to serve 5-year terms with the powers of taxation, policing, rural development, education and health (Coleman 2015). In theory, the central government has the power of general oversight, exercised by presidentially-appointed provincial governors. In practice, the provincial governor has ultimate executive authority, and the actual legislative authority of the provincial councils is very limited.

When the LTTE violated the Indian-brokered ceasefire in 1989, the Indian Peacekeeping Force retreated from Sri Lanka. This signaled both a return to violence and the freedom of the Sri Lankan government to disregard the spirit of the 13th Amendment. The government implemented the Provincial Councils Act in 1987, vesting significant power with presidentially-appointed governors. The government's interpretation of the 13th Amendment sets up two parallel structures, one more democratic than the other, that have vastly different visions for the future of the provinces they serve. The government has used provincial governors to counter devolution, a key grievance today. The lack of proper

implementation of the 13th Amendment following the departure of India suggests that legislative reforms imposed by international mediators are prone to fail if they are not created with domestic approval. Thus, it is necessary that devolution in the future be the result of domestic consensus and not a thinly-veiled charade to please international mediators' calls for respect of group rights.

Both proponents and opponents of devolution are united in the belief that implementation of the 13th Amendment in 1987 was a disaster. While the amendment calls for greater local autonomy, it was improperly implemented because of a lack of political will on the part of the Sinhalese central government for actual devolution. To Tamil leaders in the Northern Province, the 13th Amendment's unfulfilled promises represent a more widespread trend in inter-ethnic relations, one in which the Sinhalese grant something with the right hand and swiftly take it back with the left (SAIS Group Meetings in Jaffna January 2016).

Today, there is a great deal of hope for the full and successful implementation of the 13th Amendment following the election of President Sirisena. In his first trip to India in January 2015, Foreign Minister Samaraweera stated that the new government is committed to implementation of the 13th Amendment, and in his first address to parliament Sirisena successfully framed the concept of devolution as a "national problem" and stated that entrusting powers to the provincial governments "would not be detrimental to the unitary status of the country" (Welikala 2015). Sirisena demonstrated an impressive level of political savvy, clearly aware of the

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importance of avoiding the dirty word "federalism" and framing governmental reforms as a national issue rather than as a project for the Tamil minority. Further, Sirisena has appointed experienced, moderate governors to both the Northern and Eastern Provinces, ending the Rajapaksa tradition of military governors.

To successfully devolve powers to the provinces, the president should seek only to implement the 13th Amendment. Given the intense emotions surrounding the principle of federalism, constitutional reform in this direction is likely to be stymied by Sinhalese nationalists opposing perceived concessions to the Tamil community. There is more political will for devolution that stops short of constitutional federalism, even within the anti-Tamil Sinhalese-Buddhist parties. "It is extremely encouraging that neither the JHU in Cabinet nor the JVP in the National Executive Council have objected to the implementation of the Thirteenth Amendment, as they might have done in the past" (Welikala 2015). The president should act now while the country's elites favor such modest reform.

Although initial attempts at devolution represented a "dramatic failure of the provincial council system" (Blanc 2006), they "can still allow for a surprising measure of autonomy and co-operation if implemented in a devolutionary spirit" (Welikala 2015). The following proposals are the technical means by which to change the Provincial Councils Act, not the 13th Amendment itself. The Provincial Councils Act is merely the statutory structure by which the 13th Amendment is implemented, and its failures have caused much discontent. These infringe in no way on the concept of a unitary state nor do they

require a constitutional amendment, instead only requiring the faithful execution of the constitution as it stands.

1. The Provincial Councils Act grants too much power to the governors. The constitution recognizes that certain powers should be held by the governors but does not enumerate them. These powers should be restricted to advising the provincial council, informing the council of the government's position on matters and ensuring that the provincial governors do not enact legislation inconsistent with national law. These powers should be limited because governors are not elected directly by the people of the province.

2. Part III of the Provincial Councils Act includes some of the greatest obstacles to devolution: the powers and functions of provincial finance are held by the governor. These powers should be transferred to the chief minister.

3. The functions and powers outlined in Part IV of the Provincial Councils Act, namely public services, should be transferred to the Provincial Council. These public services should extend the added provision of allowing provinces to raise a local police.

4. The Provincial Councils Act provides for presidential oversight over provincial procedures on financial matters. Since one of the primary concerns voiced during interviews in Sri Lanka was the lack of sufficient financial self-determination, this statute should be removed. The governor should

retain the right to advise in the process of budget creation.

5. The responsibility of the governor to allocate duties amongst ministers within the provincial council should be transferred instead to the chief minister of the province. This power of administration is minor, but removal of central government interference creates a perception of greater local autonomy.

Recommendations

In order to improve the governmental structure of the country and promote lasting peace that benefits all members of Sri Lankan society, the following recommendations are addressed primarily to the government of Sri Lanka.

To the Government of Sri Lanka

- **Separate the constitutional reform process from the process of devolution.** Constitutional reform is fraught with uncertainty, so it is important to devolve significant power away from the central government through reforming existing legislation. This carries less political risk and should make a tangible improvement in the lives of all citizens, particularly the disenfranchised Tamil community in the Northern and Eastern Provinces.

- **Fully implement the most generous interpretation of the 13th Amendment to strengthen provincial councils.** Achieve this through legislative as opposed to

constitutional reform. Provincial Councils should exercise the powers of policing, taxation, economic development, education and health as outlined in the 13th Amendment.

- **Embark upon measured constitutional reform that eliminates the excessive powers of the executive presidency and reforms the electoral system.** Recognize that this is a politically sensitive process and seek to achieve modest improvements.

- **Remove the statutory power of the provincial governors.** Continue the tradition of appointed governors but limit their role to an advisory capacity. This move from oversight to collaboration might serve to strengthen bonds between the Provincial and Central Governments while ensuring limited central government involvement and oversight.

- **Develop and implement a consultative process for constitutional reform which involves chief provincial ministers and civil society members.** Overcome the perception of inequality by engaging civil society in the 13th Amendment and constitutional reform process. Involve members of all regions to clarify the fact that devolution will benefit all Sri Lankans regardless of ethnicity. Simultaneously pursue an aggressive public information campaign informing citizens of the changes that will create a more democratic state.

- **Avoid overt international interference in the constitution building process to ensure**

buy in from the Sinhalese majority. Reforms that are viewed as created domestically have a greater chance of success.

Constitutional Reform: The Unfinished Business

Stephanie G. Billingham

> "The modern Sri Lankan state was created by a small group of local leaders, constitutional advisors and colonial officials, and this seems to have determined the path-dependency of the Sri Lankan tradition of constitutional change ever since."
> - *Dr. AsangaWelikala, 2015*

Constitutional reform is Sri Lanka's great, unfinished business since the end of its civil war in 2009. The war was fought over the constitution: the extent to which it would recognize the Sri Lankan Tamils right to self-determination. The end of the war created an opening for social and political reunification, with all groups war-weary and wanting to recover and move on. But President Rajapaksa mobilized the Sinhala majority with a populist, majoritarian, nationalist ideology to remain in office and solidify his and his family's influence in the executive branch. His populist stance was enough to maintain his position until the elections in late 2014/2015, when the public, frustrated with endemic corruption, nepotism, and his abuse of executive power, instead chose Maithripala Sirisena, a reformist rival from Rajapaksa's own Sri Lankan Freedom Party (SLFP) as President. Running on a reformist, anti-corruption agenda, calling for constitutional and electoral reform and an end to the executive Presidency, Sirisena formed a coalition

government with the United National Party (UNP) to ensure that he would have the two-thirds Parliamentary majority necessary to pass such reforms. This new coalition government, despite its strengthened mandate from another set of elections in August 2015, has yet to learn to grapple with the still strong Sinhalese nationalists, whose populist orientation has outlasted Rajapaksa's regime and poses the greatest challenge to Sirisena's promised reforms.

J. R. Jayawardena and the Constitution of 1978

The Constitution of 1978 was a great departure from Sri Lanka's two earlier constitutions. A hybrid of the British, American and French systems, according to its chief architect J. R. Jayawardena, it was intended to establish "a strong executive, seated in power for a fixed number of years, not subject to the whims and fancies of an elected legislature; not afraid to take correct but unpopular decisions because of censure from its parliamentary party" (Nanayakkara 2006, 431). This strong executive was intended to create and maintain decisive politics. Sri Lanka had formerly been governed by a Westminster-style parliament, dominated by two parties between which control of the legislature (and with it executive power) passed with nearly every election. The decision to enshrine the President with executive power was based on the assumption that it was the parliamentary structure of government that prevented it from taking decisive action on controversial and timely issues, and not the nature of the political parties and politicians themselves.

It was also thought that the executive branch needed to be more stable and elected directly through

the people, as opposed to being dependent on a parliamentary majority and thus vulnerable to intra-party disputes and competition. Consequently, the framers of the 1978 Constitution altered the structures of government in fundamental ways: they curbed the legislature's powers, distributing sovereignty between the Parliament, the President, and the judiciary; they changed the electoral system for parliament from first-past-the-post to proportional representation; and they determined that the President is elected directly by the citizenry, independent of Parliament, and thus with a separate executive mandate. At the time, J. R. Jayawardena thought that the executive presidency was "a very necessary requirement in a developing country faced with grave problems such as we [were] faced with" at the time (Nanayakkara 2006, 431).

Unfortunately, the executive presidency that was intended to provide stability, security and keep essential decisions safe from 'the whims and fancies of an elected legislature' has instead been abused to systematically erode Sri Lankan democratic culture and constitutional supremacy itself.

Executive Presidency

Under the 1978 Constitution, the President of Sri Lanka is the Head of State, the Head of Government, and the Commander in Chief of the Armed Forces. The President does not sit in parliament, as the Prime Minister does, and is not under an obligation to resign if the parliament does not hold him in confidence. Though the Constitution provides for a ministerial cabinet, none of its advice is binding on the President. The President chooses the members of the cabinet, who act as his delegates, whereas the Prime Minister

holds office only so long as he maintains the support of a parliamentary majority. Additionally, should there be legislation the President wishes to enact but which the parliament refuses to pass, the President then has the option to have it enacted through popular referendum, bypassing Parliament entirely. The two greatest limits on Presidential tenure or ability to enact policy are parliament's control over the allocation of funds and an impeachment procedure so cumbersome it is hard to imagine it being used. For a President to be removed under the 1978 Constitution requires acceptance of a notice of resolution of impeachment by two-thirds of the total members of Parliament; a Supreme Court enquiry and report; and subsequent order of removal passed by two-thirds of members of Parliament (Nanayakkara 2006, 432).

The serious risks of an executive presidency have become self-evident to Sri Lankans over the past thirty-eight years, particularly during the post-war regime of President Mahinda Rajapaksa. He abused power, leading to election of reform figure, Maithripala Sirisena. He ran on promises of political accountability, ending corruption, and abolishing the executive presidency through constitutional reform.

Proportional Representation
Until the passing of the 1978 Constitution, parliament was elected through the first-past-the-post system, under which the party that has the greatest number of votes forms the government. That system in Sri Lanka resulted in a predominantly two-party, confrontational contest. The government would switch from one party's control to the other, as each would alternatively celebrate landslide victories due to the

disproportionately large number of seats allocated to the winning political party. Stable and continuous governance was difficult under such a system, because as soon as the opposition became the government, more time was spent on retracting the previous party's policies than moving forward. Governance was stagnant and adversarial.

The introduction of proportional representation in the 1978 Constitution was intended to incentivize cooperation and bring continuity to Sri Lankan governance. The reality of elections under proportional representation has been criticized, as the new electoral system is alleged to have hampered the governmental efficiency and motivated creation of the executive presidency. Sri Lanka has been plagued by 'hung' parliaments, as no one party has proven popular enough to win a majority of seats. Governance has depended on political bargaining. Broad, unstable coalitions and fleeting alliances have resulted in controversial, though necessary, legislation being put aside. Even more problematically in a political system that has been long tainted by corruption and nepotism, the current electoral system has benefited smaller political parties that can now use their disproportionately increased influence for personal gain.

The question remains whether the weaknesses in parliament today are due to the system of proportional representation itself, or the political culture of corruption, nepotism, and self-aggrandizement that has dominated Sri Lankan politics for many decades.

Important Amendments

The   Thirteenth   Amendment,   Un-Implemented Devolution

The Thirteenth Amendment to the Constitution was introduced as part of the 1987 Indo-Sri Lanka accord under extraordinary pressure from the Indian government, and for that reason was never properly implemented. Intended to be a solution to the Tamil separatist movement, the Thirteenth Amendment devolved certain legislative, executive and judicial powers to the newly formed nine provinces, of which the Northern one was (and still is) almost exclusively comprised of ethnic Tamils. The amendment inserted Chapter XVIA, a new section, into the Constitution that *in principle* created certain powers under the national legislature, others under the provincial legislature, and some under the purview of both on which they would have to coordinate. It also created Provincial Councils for each province empowered to pass statutes on any issue listed as the responsibility of the provinces, as enumerated on the Provincial Councils List, or on matters on which the national and provincial legislatures have to cooperate, on the Concurrent List. *De jure*, the provincial governments are of equal standing with the national legislature on matters under their purview.

In practice, it has not worked out that way. Justified by the fact that the Thirteenth Amendment was "the product of intimidation tempered by expediency" (Nanayakkara 2006, 435) by the Indian government, the Sri Lankan government has failed to implement the amendment as intended and is fully supported by the Sinhalese majority in doing so. Though there are Provincial Councils, they were "politically stillborn," incapable of responding to

problems of governance on a day-to-day basis (Pattanaik 2014, 280). Control of land policy and the police have not been devolved to the provinces, and the Provincial Councils have no power of taxation, making them dependent on the central government for financing and resources (Shaunik 2013, 5).

Upon the Tamil National Alliance's (TNA) landslide victory in the 2013 Northern Provincial elections, the TNA Chief Minister of the Northern Province C. V. Wigneshawaran said, "There has been no democratic institution for the Northern Province so far, so let us at least establish it under the thirteenth amendment. Thereafter, like Oliver Twist, we could ask for a little more" (Pattanaik 2014, 279). But the Thirteenth Amendment, contentious from its beginning, has grown increasingly politicized in both Tamil and Sinhalese communities since the government announced its agenda of constitutional reform and reopened the question of devolution. No longer has content to ask for 'a little more,' Chief Minister Wigneshawaran has now explicitly condemned the Thirteenth Amendment's implementation as entirely cosmetic. "What had been given by the right hand was taken away by the left hand" (SAIS Group Meeting with Chief Minister Wigneshawaran, January 2016). In February 2016 he declared his belief that India would intervene in Sri Lanka to assist the Tamils in seeking a political solution to the ongoing conflict, as it once had in 1987 with the Indo-Sri Lankan Accord. These remarks are inflammatory, as the Accord and following Amendment were, and still are, "viewed by important Sinhalese leaders as illustrations of India's hegemonic designs" (Shaunik 2013, 5). Many Sinhalese have

opposed the Provincial Councils' creation from the start for that reason, as well as arguing that the Councils duplicate the central governments' work, are rife with corruption, and waste national resources. More extremist nationalist groups such as the Jathika Hela Urumaya (JHU) and Janatha Vimuki Peramuna (JVP) have stated that the war should have ended any claims for greater autonomy, implying that "what [Tamils] lost through war cannot be gained through negotiation and nothing should be conceded" (Pattanaik 2014, 276).

The Thirteenth Amendment has also been used to argue against President Sirisena's constitutional reform process. Many minority group members fear that opening the constitution to near complete overhaul risks removing what protections there are for them currently, unimplemented though they may be. They instead posit that the government should immediately implement these measures, particularly the Thirteenth Amendment. The government's stance on the Thirteenth Amendment, and on devolution of power generally, does not seem favorable, as despite winning the election because of minority constituencies, Prime Minister Wickremesinghe has explicitly stated that Sri Lanka's unitary system of government will not be altered.

The Nineteenth, Dismantling the Executive Presidency?
The Nineteenth Amendment, passed on 28 April 2015, is the *pièce de résistance* of the new coalition government's promised one hundred day program of constitutional and governmental reforms. President Sirisena and Prime Minister Wickremesinghe's

'rainbow coalition' was elected in the wake of rising
dissatisfaction with the increasingly corrupt and
authoritarian Rajapaksa presidency, on the promise of
good governance and accountability. President
Sirisena prioritized dismantling Rajapaksa's executive
presidency as both essential in demonstrating his
commitment to election promises and the beginning of
a much longer and wider constitutional reform agenda.
The Nineteenth Amendments' drafting and passage
through Parliament throws into sharp relief the limits
on what President Sirisena can achieve given the
volatile political environment and still fractious
political parties.

Though originally intended to abolish the
executive presidency, the Nineteenth Amendment
reflects a practical, though disappointing, compromise
between the remaining Rajapaksa loyalists and
opponents in Parliament. The President remains the
head of state, head of the executive and of
government, and the commander-in-chief of the armed
forces. The amendment reduced the presidential term
from six years to five; restored the presidential two-
term limit; eliminated the presidential power to
unilaterally dissolve Parliament; and re-established the
independence of various governmental commissions
(Welikala 2015, 553-5). Though widely hoped that the
amendment would do more to dismantle the executive
presidency, the final text of the Nineteenth
Amendment reflects what was politically possible
considering the minority coalition government at the
time.

The amendment's drafting also highlighted that
constitutional change is elite-driven in Sri Lanka. Its
success "involved the accommodation and balancing

of competing group interests within parliament and government" that had been lacking, but "it nevertheless was an exercise in representative rather than participatory democracy" (Welikala 2015 559). There was no public consultation and no sharing of evolving amendment drafts. The transformative public conversation on the importance of good governance and democracy as well as public involvement on constitutional reform ended after the elections. There are indications that President Sirisena's government has learned from its failure to involve the public throughout the Nineteenth Amendment's drafting, as the government is currently facilitating public consultations on wider constitutional change.

Ongoing Constitutional Reforms

Following their success in passing the Nineteenth Amendment, in August 2015 the Sirisena-Wickremesinghe government called a parliamentary election, promising Sri Lankans further reforms if given a stronger mandate. Wickremesinghe's UNP won the most seats. Though it fell short of a parliamentary majority, the coalition of the UNP and President Sirisena's United People's Freedom Alliance (UPFA) won enough seats to constitute the two-thirds supermajority necessary to pass constitutional reforms, though some clauses would require a public referendum in addition to parliamentary approval.

On 9 January 2016, Prime Minister Wickremesinghe introduced a resolution proposing to convert Parliament into a Constituent Assembly in order to debate and draft Sri Lanka's fourth

constitution. The original resolution stated that this Constituent Assembly would be tasked with "deliberating on, and seeking the views and advice of the people, on a new Constitution for Sri Lanka, and preparing a draft of a Constitutional Bill" (Centre for Policy Alternatives 2016, 5). On 10 March 2016, the Parliament passed an amended version of Prime Minister Wickremesinghe's resolution.

Though the government's forward movement on constitutional reform is encouraging, the resolution is troubling in two respects. Forming the Constituent Assembly from the Parliament puts only elected officials in charge of drafting, deliberating, and deciding upon a new Constitution and makes the process vulnerable to lobbying and political pressure. In addition, minorities not concentrated in a particular territory could be at a severe disadvantage, as they do not comprise a constituency over which any politician is concerned.

Additionally, the draft preamble, which recommended providing a Constitutional resolution to Tamil political demands, was removed due to objections by the SLFP, the Joint Opposition and the Janatha Vimukthi Peramuna (JVP), Sri Lanka's Marxist—Leninist party (Ramakrishnan 2016). Jayampathy Wickramaratne, a Member of Parliament and source of Constitution-making technical support to the Prime Minister, has assured that the intention of the original preamble remains unchanged and that "everything would be on the table [for discussion]" (Ramakrishnan 2016). Removal of official recognition of the necessity of a political solution to Tamil grievances has shed some doubt on the

Assembly's willingness to grapple with those grievances.

In January, the Prime Minister created a twenty-member Public Representations Committee (PRC) to travel around the country and gather proposals for constitutional change from the general public. The PRC will discuss the proposals and write a report based on its findings with recommendations for constitutional reform, which will be made public and given to cabinet sub-committees (Prime Minister's Office 2016). Nothing has been said on whether or not the Constituent Assembly is bound to follow the PRCs recommendations, or what other impact the publics' proposals will have on the Assembly's constitutional debate.

Political Realities and Challenges

Sinhalese Buddhist Nationalism

Sinhalese Buddhist nationalism is the single greatest challenge facing the Sirisena-Wickremesinghe government's reform agenda, as also emphasized in Tanvi Madhusadanan's chapter herein. Sri Lankan Buddhists believe that Buddha declared on his deathbed that the religion would flourish on the island nation for the next five thousand years. Sinhalese people were then placed under special protection themselves, as that would protect Buddhism (Weiberg-Salzmann 2014, 289). What followed for centuries afterwards was a special contract between the state or ruler and the *sangha* (monastic community): the state would protect Buddhism, and was in turn guided and legitimized by Buddhist principles and the *sangha*. This relationship has carried over into the modern Sri Lankan state, as the *sangha* has sought to

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institutionalize the connection between state and clergy and create a special status for Buddhism in the country. In 1951, the All Ceylon Buddhist congress drafted a resolution to the Prime Minister declaring that, "the government is legally and morally bound to protect and maintain Buddhism and Buddhist institutions" and demanded the position of Buddhism be raised "to the paramount position of prestige which rightfully belongs to it" (Weiberg-Salzmann, 291). In 1956, a Buddhist Commission, in a report called "The Betrayal of Buddhism," demanded abolition of constitutional protection for minorities (Weiberg-Salzmann, 291). The government of the time obeyed and removed the article protecting minorities and went further in passing the Sinhala Only Bill, replacing English with Sinhala as Sri Lanka's official language. Buddhism and Sinhala-ness defined the Sri Lankan state from that point on (Weiberg-Salzmann, 292).

This trend continued in the 1978 Constitution's Article 9, which gives to Buddhism "the foremost place," and accordingly made it "the duty of the State to protect and foster the Buddha *Sasana* [religion]" (The Constitution of Sri Lanka 1978, 3). Sri Lanka was also declared a unitary state, as Buddhist and Sinhalese survival depended upon maintaining national unity around, and dedication to, Buddhism. One Tamil parliamentarian from the 1970s said of his parliament that it was "not a people's government, but a priest's government. [The *sangha*] give the orders and whether those orders are right or wrong we execute them" (Weiberg-Salzmann, 299). But though the *sangha* had significant influence over government, the monks abstained from direct political participation until the 1987 Indo-Sri Lankan Accord, which

introduced some devolution of powers into the Constitution. Many monks grew increasingly militant and formed Jathika Hela Urumaya, a Sinhalese-Buddhist nationalist party that holds seats in Parliament today. From their perspective, federalism of any kind would endanger the unitary state's protection of Buddhism. This intransigent view easily lends itself to extreme and violent rhetoric, given its existential edge. Organizations like the Bodu Bala Sena (BBS), an extremist Buddhist group, use this rhetoric to legitimize violence against religious minorities, including Christians and Muslims.

Fragmentation and the Tamil National Alliance (TNA)
In the Northern Province, there is increasing entrenchment of nationalist sentiment among Tamils, as constant surveillance, lack of economic opportunity, and militarization of the region are creating a negative atmosphere in stark contrast with the opening of public space in the South. Divisions are erupting both within the TNA, most notably between the Chief Minister of the North and the TNA, which currently holds a historically significant sixteen seats in Parliament. Many Northern Tamils allege, however, that those members are more concerned with maintaining their greater influence in Colombo than representing the interests of their constituencies. Concurrently, the Chief Minister of the Northern Province has undergone a reversal and quickly radicalized his position in regards to constitutional reform and his relationship with the government. As he has become increasingly critical of President Sirisena and more nationalistic in his rhetoric, his popularity has grown. His simultaneous radicalization and surge in

popularity indicates growing frustration among Tamils who, seven years after the war's end, have not yet had their grievances addressed. Backed by large-scale dissatisfaction with the TNA, the Chief Minister has formed an alternative political body called the Tamil People's Council (TPC).

This splintering of Tamil political representation will ultimately damage Tamil chances of inducing the government and Sinhalese Buddhist majority to recognize their grievances and accept some devolution of power as their right. The split between the TPC and TNA weakens the Tamil ability to negotiate. Neither has a coherent plan or negotiation strategy to induce the government to include devolution of land or police powers to the Provincial Councils. "[The government] must accept our demands" is a continuous refrain from every Tamil politician, TNA or TPC, but strategy to make them do so fails to follow.

The Muslim Community, an Unconsidered Minority
Sri Lanka's Muslim communities are often overlooked in national discourse. The majority of Muslims in Sri Lanka self-identify based on their religion, though most are Tamil-speaking. Before the war, Tamils and Muslims had strong relationships, shared religious temples, festivals, and even rituals. During the war those connections were strained, as Muslims did not fight in the conflict, and then relations snapped when the LTTE forcibly displaced thousands of Muslims from the north. Now in the northern provinces, Muslim and Tamil villagers live parallel to one another, but there is little communication or collaboration between them (SAIS Group Meetings, January 2016). As the government moves forward

slowly in releasing military-occupied land and helping return refugees to their homes, some Muslim communities are feeling as though Tamils' needs are prioritized over theirs, fomenting frustration and a sense of rivalry between the two minorities.

Despite this simmering tension, Muslim and Tamil communities suffer from similar grievances and share similar interests. The Centre for Policy Alternatives, a Colombo-based think-tank, conducted a nationwide opinion poll on constitutional reform in February 2016 to discover what citizens thought should be included or excluded from the Constitution. Though the percentages differed by a few points, Muslims and ethnic Tamils agreed on matters of religion, devolution, police powers, and electoral reform.

According to the survey, Muslims feel most strongly about freedom of religion. Almost sixty-three percent of Muslims were not at all in favor of keeping Article 9 in the Constitution, which includes the declaration that "Buddhism shall be given 'the foremost place' and that it is the duty of the state to protect and foster the Buddha Sasana," Even more, 65.8 percent, said they believed the Constitution should "protect the freedom of religion as a fundamental right" (Centre for Policy Alternatives, 2016, 12).

Though attacks on religious minorities have decreased under the new government, Muslims remain concerned about a new slogan being painted on the gates of their homes and businesses, the city walls, and printed on posters and stickers: *Sinha le*, meaning lion's blood and referring to the Sinhalese origin myth of being born from the union of a human princess and a lion (World Watch Monitor, 2016). Human rights

groups such as Amnesty International are concerned about "reports of new campaigns [like *Sinha le*] that may seek to sow hatred and incite discrimination, hostility, or even violence against minorities in Sri Lanka" (WorldWatch Monitor 2016).

Recommendations

Sri Lanka is still ethnically, religiously, and regionally divided. The ongoing constitutional reform process has the capacity, if it is carried out well, to bridge these divisions and address long-standing minority grievances. The following recommendations are primarily for the government. If the constitutional reform process is to succeed, the government has to take the initiative and lead the country.

To the Government of Sri Lanka

- **Conduct a rich, inclusive public consultation process paired with a vigorous public education campaign about constitutional issues.** To have legitimate support of the widely hoped-for reform, the public must feel that the constitution is truly theirs. The greatest weakness of the 1978 Constitutional development process was the elitist, non-consultative process that produced it. Concessions made to Tamils were not viewed as concessions and so had lesser impact than intended. For serious constitutional reforms to succeed the citizenry must have a greater understanding of the issues that are being debated. For example, widespread misconceptions and fear of

federalism are hindering the government from reaching a political agreement with the Tamil population. Essential issues such as devolution of power cannot be addressed without the cooperation of the general public, and long-term stability cannot be achieved without openly and honestly engaging with Tamil desires for self-determination of some kind.

- **Ensure Muslim communities are engaged in the consultation process.** There remains a great deal of tension in the north and east between Muslim and Tamil communities as well as Muslim and Sinhalese communities. Muslims were caught between the military and the LTTE during the war; in the ongoing constitutional reform process, the same thing should not happen again.

- **Include a Bill of Rights that protects human rights as laid out by the United Nations Declaration of Human Rights.** A robust Bill of Rights that protects *individual rights* (as opposed to group rights) could be more easily sold to the Sinhalese majority as equal protection for all Sri Lankan citizens. Though it may not explicitly lay out Tamil group rights, if properly implemented and enforced a Bill of Rights would address many grievances of Tamil civil society and Muslim citizens as well.

- **Make all religions equal under the Constitution.** Freedom of religion is a universal human right. Buddhism's heightened status creates inequalities between Sri Lanka's ethnic and religious groups, and the reasoning

behind its elevated position is used to justify discrimination and violence against minorities. Religious minorities are mistreated because of Buddhism's exalted position. A statement acknowledging Buddhism's historical significance to Sri Lankan history and culture would be an appropriate substitute for its current position.

- **Success lies in implementation and enforcement.** There are clauses of the current constitution that, if they had been properly enforced, might have had a mitigating effect on ethnic violence. Though Tamil is an official language, public signs throughout the country are not all in both languages. Many Tamils do not have access to government officials and representatives (from police to bureaucrats), even in the north, who speak or understand their language.

To the Tamil Political Representatives

- **Develop a negotiation strategy** for dealing with the government on constitutional issues; identify trade-offs that can be made to induce the government to accept and implement devolution of powers.
- **Reach out to the Sri Lanka Muslim Congress** to cooperate in negotiations for constitutional reform with the government and to begin facilitating improved Tamil-Muslim relations.

To the Civil Society Groups (of all ethnicities)

- **Develop public relations strategies** to engage Sri Lankans who live in other regions of the country to communicate relevant grievances and ideas for constitutional reform.
- **Cooperate with civil society groups** from other regions to share information, perspectives, and grievances. Take advantage of the more enabling, open space to publicly discuss possible reform agendas.

Part III: Reconciliation and Justice

Justice for All: Accountability in Post-War

Grace West

The 26-year civil war that ravaged the small island nation of Sri Lanka was one of the longest Asian intrastate conflicts in modern times. Brutal tactics were employed throughout the conflict, with intensity increasing especially during the last phase of the war from January to May 2009. Allegations of violations amounting to war crimes and crimes against humanity have followed both principal sides of the war—the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE)—since the war's end.

Significant attention has been paid to the question of Sri Lanka's transitional justice. An impassioned debate continues to be waged over the delivery of such justice, with much of the discussion circling around positional hard-bargaining over the international dimension in any prospective judicial mechanism to investigate and prosecute violations and abuses of human rights. The unique end to the conflict by total military victory brings about questions of how to balance retributive justice in a way that reconciles the considerably diverse and complex views of *all* victims—Tamil, Sinhalese, and Muslim.

The establishment of a judicial mechanism will be a lengthy and extensive process. The hopeful moment that came about from the Government of Sri Lanka's official sponsorship of international participation has withered in just over three months, and the fate of the judicial mechanism is tenuous. Thus other critical measures must also be taken in tandem in order to answer the essential question of accountability and

pursue holistic transitional justice. An imperative ingredient in the success of this endeavor is repairing the trust deficit among all parties.

Who Are The Victims?

Throughout Mahinda Rajapaksa's presidency, the government had one narrative: war crimes and crimes against humanity have not been committed by the government and its military forces. Yet in response to growing international pressure to allow a formal investigation, Rajapaksa appointed a Lessons Learnt and Reconciliation Commission (LLRC) in May 2010 to inquire into specific matters occurring between February 21, 2002—the operationalization date of the ceasefire agreement—and May 19, 2009. The LLRC was not explicitly tasked with investigating violations and abuses of human rights by either side, but instead to ascertain the "facts and circumstances which led to the failure of the ceasefire…and the sequence of events that followed thereafter," and "whether any person, group, or institution directly or indirectly bear responsibility," among other matters.

The LLRC report released in 2011has been criticized by the UN and civil society for neglecting to provide credible accountability for crimes committed and failing to meet international standards for impartiality. The Commission maintained that it is "satisfied that the military strategy that was adopted to secure the LTTE held areas was one that was carefully conceived, in which the protection of the civilian population was given the highest priority." The Commission acknowledged that civilians were caught in between the army and the LTTE in the No Fire

Zones," but contended that the "Army had never initiated attacks in the Safety Zones and return fire was in response to LTTE attacks" and refraining from doing so would have amounted to surrender. The Commission stated: "Security Forces were confronted with an unprecedented situation… and all 'feasible precautions' that were practicable in the circumstances had been taken."

The report of the UN Panel of Experts on Accountability in Sri Lanka, appointed by the UN Secretary-General on June 22, 2010, tells a very different story. In contrast to the Rajapaksa regime's narrative of a "humanitarian rescue operation" mission that caused zero civilian casualties, as many as 100,000 civilians are believed to have died during the conflict, with UN estimated 40,000 civilian deaths just in the final months of the war (Buncombe 2010). The key language in the report concludes that, "the Panel found credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law was committed both by the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity."

Allegations against the government include the large-scale and widespread shelling in the Vanni region by the Sri Lankan army during the final nine months of war, causing civilian deaths to those trapped and held hostage in the area by the LTTE. Further large-scale shelling was found to have occurred systematically in three No Fire Zones where civilians had been encouraged to gather. Shells fell on hospitals, the UN buildings, food distribution lines, and near the International Committee of the Red Cross medical

evacuation ships along the beaches, despite the government having knowledge of the effects from both its own military intelligence and notice given by the UN. The report claims that in these final stages of the war, most of the civilian casualties were caused by government shelling. Other violations committed by the government included intimidation tactics to silence the media and other critics through "white van" abductions and forced disappearances, extrajudicial executions and disappearances of suspected LTTE cadres, torture, and rape.

Against the government, the UN determined five specific credible allegations to be: "(1) killing of civilians through widespread shelling; (2) shelling of hospitals and humanitarian objects; (3) denial of humanitarian assistance; (4) human rights violations suffered by victims and survivors of the conflict, including both IDPs and suspected LTTE cadre; (5) human rights violations outside the conflict zone, including against the media and other critics of the Government."

The LTTE held civilians as hostages, using them as human shields at times and forcing them to dig trenches and other defense positions. This exposed civilians to excessive harm by distorting the distinction between them and LTTE combatants. The LTTE carried out a policy of forced conscription of adults, intensifying recruitment during the final phases. This included children as young as fourteen in combat roles. The LTTE also shot civilians point-blank in their attempts to escape the war zone and fired out from civilian and IDP camps, thus drawing government fire. The LTTE continued to utilize suicide attacks during the final stages outside of the

conflict zone against civilians. The UN determined six specific allegations against the LTTE regarding the final phases of war to be: "(1) using civilians as a human buffer; (2) killing civilians attempting to flee LTTE control; (3) using equipment in the proximity of civilians; (4) forced recruitment of children; (5) forced labor; (6) killing of civilians through suicide attacks."

The Current Outlook
A major challenge of Sri Lanka's accountability process is how to reconcile balanced retributive justice with the fact that nearly all of the LTTE leaders were killed, committed suicide, or "disappeared" after being taken prisoner, while many of the military and government leaders are alive. Just during the final phase of war between January and May 2009, more than 65 LTTE leaders were believed to have been killed.[6] Many more were captured and subsequently imprisoned, executed, or disappeared. Since posthumous trial is rarely practiced in modern jurisprudence, the appearance of one-sided justice with the burden falling on the State can arise. This plays a central role in much of the reluctance to pursue accountability.

Due to this dilemma, the idea that no uniform approach to accountability exists, but rather many, becomes key. Accountability must not just be about justice, but also about providing an outlet for otherwise sidelined grief and loss to be recognized and addressed. The value placed on a sense of closure or understanding may outrank imprisoning perpetrators

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[6] The South Asian Terrorism Portal records the death of 73 LTTE leaders between 2001 and 2008.

for some individuals. This is bound to differ drastically, as there are various views on the importance of telling others about grief, memorializing loss, knowing the identity of perpetrators, and prosecuting and punishing perpetrators based on personal experiences and preferences of victims. Thus truth, memory, and justice are equally influential. Sri Lanka should utilize all three elements effectively to accommodate the multiplicity of views and move past the status quo.

A Hopeful Resolution

The prospects for transitional justice improved in 2015—a game-changing year that began with the unexpected election of President Maithripala Sirisena, who ousted the increasingly authoritarian Mahinda Rajapaksa. Most notable was the government co-sponsorship of the UN Human Rights Council Resolution A/HRC/30/L.29 entitled "Promoting reconciliation, accountability and human rights in Sri Lanka." This government ownership of the principles adopted in the resolution, which provided a basis for an accountability framework, came two weeks after the release of a detailed UN human rights report. The government made several significant commitments that constituted a momentous shift in its attitude and dealing with post-war accountability. The resolution specified the establishment of (1) a commission for truth, justice, reconciliation, and non-recurrence; (2) an office of missing persons; (3) an office for reparations; and (4) a judicial mechanism.

Among these, the role of the international community in the judicial mechanism has roused the most controversy. The resolution welcomed the

government proposal for a special counsel investigation into the allegations of violations of human rights and international humanitarian law "as applicable." It affirms that for the Sri Lankan justice process to be credible, the judicial and prosecutorial institutions should be accorded independence and include "participation of…Commonwealth and other foreign judges, defense lawyers and authorized prosecutors and investigators." The UN's goal has been to have meaningful international participation in the judicial mechanism to the level of a hybrid court. However, the language in the resolution was left intentionally vague without any clear indication of the type and level of international involvement, instead leaving it up to Sri Lanka to decide for itself. Still, the adoption of the resolution put in motion political backlash against the UN, the international community, and the Sri Lankan government over this highly contentious issue of international participation.

The Sinhalese Case for a 'Sri Lankan' Solution

The majority of the Sinhalese community remains staunchly opposed to any international contribution to what they believe should be an exclusively Sri Lankan court, if there is to be a court at all. The death of the majority of the LTTE leadership gives way to the perception that the burden of prosecution in any war crimes court would be on military leaders. The charge of protecting the honor and reputation of the military holds strong for the Sinhalese majority. Many view the military as war heroes who did their duty to defeat terrorism. Thus to prosecute is to impugn the integrity of the entire military. This fear is enshrined even in the resolution itself in a passage indicating signers

recognize that "a credible accountability process for those most responsible for violations and abuses will safeguard the reputation of those, including within the military, who conducted themselves in an appropriate manner with honor and professionalism." While many Sinhalese would rather there not be any judicial mechanism, others are willing to support a purely domestic court that may shield military and government officials from prosecution.

Former President Rajapaksa encapsulated this view in an opinion article penned for the *Colombo Telegraph* nearly two weeks after the resolution was adopted. Rajapaksa categorized the resolution as being a threat bringing "great peril" to the State by relinquishing sovereignty, "persecuting" war heroes, and undermining the domestic criminal justice system. He further asserted that involving international personnel necessitates creating a new criminal justice system outside the existing one, and holds "that very suggestion to be an insult to our courts system, legal profession, Attorney General's Department and investigative bodies." Rajapaksa concluded his article with:

> These plans that are being made to persecute members of our armed forces cannot be implemented without amending the law. Parliament has the power to thwart all these plans being made to victimize our war heroes who sacrificed so much in the war against terror. I appeal to all Members of Parliament regardless of party affiliation, not to allow the passage of any legislation aimed at persecuting members of our armed forces. This is a matter that goes beyond politics and

is about our country, our nation, our sovereignty and our self-respect.

This call from the former president to block attempts to create a credible court carries much weight, even among Sinhalese who criticize his authoritarian tendencies. Nationalistic rhetoric is also used to mobilize the Sinhalese around the idea that allowing international collaboration will erode Sri Lankan sovereignty and ultimately divide the country.[7]

An additional obstacle to achieving buy-in from the Sinhalese lies in the fact that Tamils have been primarily labeled as the victims. The UN report indicates 11 core categories of violations by the government and the LTTE, with only two allegations that could potentially involve the Sinhalese as victims: the government's violations outside the conflict zone, including against the media and critics, and the LTTE's killing of civilians through suicide attacks. Not only have the Sinhalese suffered throughout the decades of war from systematic attacks by the LTTE, but they have also suffered from attacks by the State. Yet the UN allegation of government violations outside the conflict zone also focuses on Tamils as the victims. However justified, this removes any incentive for the Sinhalese to pursue transitional justice, underscored by the ever-present difficulty of separating war heroes from rights-abusers. A change in attitude will be necessary for to bring about genuine

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[7] A letter from "A Concerned Sri Lankan Citizen" to President Sirisena published on news and forum website Lankaweb argues that any court is a "trap" that the West and India will use to bring about a separate Eelam state, using the court's judgment and the Responsibility to Protect principle.

accountability. The great challenge is how to prompt this change when simply emphasizing that fairness in the prosecution and investigation of the LTTE is not enough, given the virtual absence of living LTTE leaders to prosecute.

The Tamil Case for a Hybrid Solution

On the other end of the spectrum lies the majority of the Tamil community that is ardently in favor of international involvement, initially campaigning for an entirely international tribunal. This position stems from lack of trust in the Sri Lankan judicial system, which is viewed as a broken institution devoid of the requisite independence and willingness to prosecute accused military and government officials. The Tamil narrative becomes hazy when it comes to the culpability of LTTE officials. Despite employing brutal tactics that violated human rights, LTTE leaders are still mostly viewed somewhere along a spectrum from nostalgia to indifference. Though many Tamils condemn the LTTE's methods, there are great differences in their understanding and opinions about prosecution of any surviving LTTE cadres not already imprisoned. One view represents a lack of understanding that any special court would also investigate allegations against the LTTE, and thus holds that an international court is necessary to prosecute State crimes only. The majoritarian view, however, is that international involvement is necessary to lend legitimacy to the court. Regardless of LTTE prosecution, many Tamils believe foreign participation is imperative to ensure just prosecution of the State's crimes.

The Muslim community, which has historically been sidelined in discussions on the judicial mechanism, has also favored international participation. However, the plight of the Muslims is little recognized. The LTTE forcibly expelled all Muslims from its territory in 1990, which could amount to a crime against humanity, most specifically of "deportation or forcible transfer of population" under the Rome Statute. The neglect of the Muslim experience indicates the need for inclusionary transitional justice across all groups, which must also be highlighted by the international community.

A Wavering UN Commitment

Just over one year after his election, and close to four months after the adoption of the UN resolution, President Sirisena announced his intention of blocking attempts to include the international community in the judicial mechanism. In a January 21, 2016 interview with the *BBC*, Sirisena stated that foreign personnel will not be involved in the investigation of war crimes allegations. He stated, "I will never agree to international involvement in this matter…This investigation should be internal and indigenous, without violating the laws of the country, and I believe in the judicial system and other relevant authorities in this regard" (Ameen 2016). Sirisena further elucidated his position in a January 29, 2016 interview with *Al Jazeera* when he rejected the claims made in the September 2015 OHCHR report, stating, "I must say very clearly there is (sic) no allegations regarding 'war crimes.' There were war crimes allegations during the early stages, but at the UN Human Rights Council in Geneva, mainly in the proposals presented in

September, there were no war crimes allegations against us, they contained allegations of human rights violations only." Sirisena maintained that as a member of the UN, Sri Lanka is committed to implementing "the main points and proposals," but will always do so "in accordance with the sovereignty of our country and in accordance with our Constitution." To this end, he said that Sri Lanka could use foreign technology in certain areas, but that "in terms of people, we definitely do not need outsiders," since the judiciary and other institutions, like the Criminal Investigation Department, is unbiased and independent (Abdel-Hamid 2016).

The President countered the idea that he was backtracking on his previous commitments by claiming there is no way of undertaking the task in an expedient manner with the present situation in the country. He added that the hope is to free the country from the allegations that have been made against it "in an honest way." When pressed, Sirisena shifted focus to the LTTE who "always acted against internationally accepted norms and international law which is followed in war." Sirisena held that there was no common advice or order by the government to commit destruction, and the forces "always acted in adherence to international law and according to the laws of the government…if offences have been committed by an individual, we will clearly take legal action… irrespective of who." Regarding willingness to prosecute top generals, senior political officials, or normal soldiers, Sirisena stated that decisions could not be reached until after investigations are carried out, in order not to target anyone before the investigation. The President seemed unfazed by

pressure to carry our transitional justice in a timely manner, declaring, "We must not be worried or in a hurry."

Adding to the confusion surrounding the government's commitment, Prime Minister Ranil Wickremesinghe challenged the President's sentiments in between his two interviews. Wickremesinghe stated in a *Channel 4* television interview that "we have not ruled [international involvement] out…We are standing by our commitments on the Geneva resolution" (Snow 2016). He later echoed Sirisena in saying the government would not allow an international probe but instead rely on local experts. "Myself, the President and the others in the government are of the same view," he said (Perera 2016). The current administration sees itself answerable mainly to the Sinhalese constituency, and not the Tamil and Muslim constituencies who elected it. The only way to secure domestic legitimacy in the eyes of the Sinhalese is to reject foreign involvement.

This wavering on the previous commitment presents the challenge of overcoming the vague language in the resolution itself that allows deviation from the intended purposes of the UN resolution. One such example is the line welcoming the government's proposal to investigate violations of human rights and international humanitarian law, *as applicable*. The applicability of international human rights and humanitarian law has been called into question by the no-probe camp. War crimes and crimes against humanity are not criminalized under the domestic Penal Code, and critics of the UN resolution argue that Sri Lanka does not have an obligation to prosecute certain crimes. Further, Sri Lanka is not a signatory of

the Rome Statute. This necessitates the reform of the Penal Code to affirm within domestic law the illegality of grave breaches of human rights, including war crimes and crimes against humanity.

The Process Underway

Presently, the government has appointed a task force of 11 members from civil society and two advisory panels to run public consultations to formulate an outline of an accountability mechanism. The government planned for consultations over the course of three months under a two-phase framework: a web-based process in all languages and a face-to-face consultation process that will focus on the military, disabled combatants, widows, and ex-child combatants. The task force will be assisted by Pablo de Greiff, a UN Special Rapporteur, who warned against having unrealistic expectations regarding the time frame. In his observations report, de Greiff stated, "There is no country that can accomplish all this is a short period of time. Sri Lanka has embarked on an ambitious process that should not be prepared, let alone implemented, in haste." The consultations are a critical component for accountability and thus must not be perceived as overly unhurried. They are essential to understanding what the people feel they need out of a justice process, and should also be used as a platform for educating the public on transitional justice and what exactly the UN resolution sets out to accomplish. This should be done in an unbiased manner to combat fears of lack of neutrality and misperceptions of an overreaching West infringing upon Sri Lankan sovereignty. The government's use of civil society representatives as task force members,

who are best positioned to bridge the trust gap, is a step in the right direction.

The State of the Judiciary

Decades of emergency rule have eroded the judicial system in Sri Lanka. In successive reports, the International Commission of Jurists has documented failure of the criminal justice system and inquiry commissions to satisfy the standards of independence, competency, impartiality, and resource autonomy necessary to end the current cycle of impunity (International Commission of Jurists). Progress has been made by Sirisena's government—notably the restoration of the Constitutional Council and ten independent commissions—but the work is far from complete. The judicial system is still poorly equipped to handle cases of gross violations of international humanitarian and human law, which requires specific capacity to deal with modes of liability such as giving orders, instigating, responsibility of superiors for actions of their subordinates, and joint criminal liability. Further, the Criminal Investigation Division of the police lacks adequate training in investigative methodology for cases at this level that require highly technical forensic evidentiary and investigative expertise.

It is against this backdrop that the UN has stressed the need for foreign involvement in the process, recommending a hybrid mechanism in its OHCHR investigatory reports and adopting language pointing in that direction in the HRC resolution. The mixed structure offers a middle ground—local ownership and understanding of the situation with international

standards, expertise, impartiality, and funding. International personnel can be phased out over time as domestic capacity is built, as the hybrid court facilitates the transfer of skills and respect of the rule of law to national authorities.

Changing the Narrative

A key message that must be conveyed to the Sri Lankan population is that a judicial mechanism that is credible in its independence, impartiality, integrity, and transparency to all sides is a requirement for a democratic society. This credibility hinges upon foreign involvement. While this is generally understood by the Tamils and Muslims, the Sinhalese must be reached with awareness campaigns. One suggestion is reframing the issue to address the culture of impunity *en masse* that has affected the nation, in order for Sri Lanka as a whole to move forward. In this context, impartial investigations are necessary to probe events perceived differently so a common understanding can develop. This should be portrayed as an issue of individual accountability for unlawful conduct rather than punishment for "heroism" or revenge. Public campaigns should also include clarifying the message that the reason the court might prosecute a higher ratio of government military to the LTTE is because many LTTE leaders have been killed.

In making the case for foreign involvement, the government and civil society should highlight that, while transitional justice will be uniquely Sri Lankan, international assistance is a benefit, not a burden. It must be seen as advantageous for Sri Lanka to welcome the participation of the international

community, in that it is a crucial step to propelling the nation onto the international stage with legitimacy. This can start with reframing the idea of a hybrid mechanism as a joint venture rather than a submissive one.

The Role of the International Community
Sirisena's unexpected election presented a unique window for engagement with a state whose bilateral relations with many countries around the world had become severely strained. Repairing diplomatic ties and realigning with the West and India has been an aim of the Sirisena administration. Thus international pressure can play a significant role. Even the cosmetic steps taken by Rajapaksa, like the LLRC, were in response to the firm international pressure that he vehemently worked to resist. The international community must not take the pressure off Colombo when it comes to accountability, or domestic dynamics will continue to overwhelm the government. President Sirisena would not have come to power without the votes of a large portion of the Tamil community, but the administration sees its survival as dependent on the Sinhalese. Though the recent democratic gains are significant, internal political divisions and implicated military and government leaders still in power have continued to overrun calls for impartial justice. The international community should emphasize that deepening ties cannot take place without genuine commitment to the accountability and justice processes laid out in the UN resolution.

Critical Non-Judicial Measures

The UN resolution emphasized the need to approach accountability more comprehensively than just the four aforementioned commitments. It should include greater institutional reform that would build confidence in State institutions, promote respect for the rule of law and international human rights law, ensure proper vetting of public officials and employees, establish independent oversight of the security system, and incorporate dialogue among stakeholders of all affected communities—regardless of age, gender, religion, ethnicity, and geography—in order to deliver justice, foster healing and reconciliation, and prevent reoccurrence of violence.

While setting up a judicial mechanism may take time, other more realizable aims should be addressed without delay. The government made further commitments in the resolution, including the criminalization of enforced disappearances and the signing and ratifying of the International Convention for the Protection of All Persons from Enforced Disappearance. An important step was the government's agreement to issue certificates of absence to the families of disappeared persons in order to provide temporary relief. One of the greatest grievances is that many people still have no news regarding their loved ones. Certificates of absence play a practical role in the lives of the families, allowing them to apply for compensation and receive pensions and land deeds, and creating a legal status for their loved ones (Perera 2015). Many families refuse to accept death certificates without proper documentation and evidence, and thus cannot claim the associated rights. However, simply issuing certificates and establishing offices mandated to investigate and

resolve disappearance will not be enough. It is crucial that the government ensure the proper operation and conduct of its offices. Outside technical assistance and training on running investigations—DNA collection, mass exhumations, lab expertise, etc.—are necessary to augment capacity. Aggregating existing records from both state institutions and private non-governmental sources, and providing access and transparency, are steps working towards productive results.

Prime Minister Wickremesinghe suggested in his *Channel 4* interview that the missing persons are "most probably dead." He affirmed that only 292 persons are currently in detention and that all detainees are known to the government. This statement caused distress among families of the disappeared who feel denied their "right to truth." The UN Working Group on Enforced or Involuntary Disappearances has stated that the number of cases before the group is the second highest in its database worldwide. At more than 12,000 cases, this still does not account for all missing persons. The government must make a concerted effort to properly account for the disappeared and provide redress.

Truth seeking, reparations, and memorialization are critical components of a holistic accountability approach. Various memory projects have been conducted by organizations that collect and document survivors' stories, among other mechanisms. Similarly, the government should officially undertake memorialization for all victims—Tamil, Sinhalese, and Muslims—starting with its inclusion in national consultations to hear how different communities desire to remember loss. State-sponsored actions can include

storytelling outreach, victim memorials (not war memorials), and commemorative events, as well as subsuming memorialization under truth and disappearances commissions. The renaming of "Victory Day" to "Remembrance Day" by Sirisena is one such positive measure.

Other necessary moves would be legislative measures, including repeal of the Prevention of Terrorism Act of 1978, which allows for broad powers to search and arrest suspects without warrant and detain them indefinitely without charge, and the amendment of the Penal Code. Without criminalizing war crimes and crimes against humanity in the criminal code, Sri Lanka cannot conduct domestic prosecutions. According to the Constitution, new statutes would not ordinarily apply retroactively, but Article 13(6) allows retroactive application for offenses that were criminal under customary international law when they were committed. Additionally, Sri Lanka should ratify the Rome Statute to signal a commitment to non-recurrence and ending impunity. The default position of the statute is that the International Criminal Court's jurisdiction would include only crimes committed after ratification, though the state could choose to accept jurisdiction retroactively. The ICC is intended to be complementary to national judicial systems, and will only prosecute a case if the state is unable or unwilling to do so itself.

Further responsibilities include returning land still in the hands of the military in a timely manner, launching victim assistance programs, strengthening the enforcement of the Assistance to and Protection of Victims of Crime and Witnesses Bill enacted by

Parliament in February 2015, releasing remaining political and security-related detainees, demilitarizing the North and East, and reforming the security sector.

Conclusion

Since President Sirisena's stunning January 2015 election, there has been an increase in cautious optimism regarding the future of the nation. Yet on the topic of transitional justice, whether optimism is warranted remains unclear. Following campaign promises of accountability and commitment to credible justice, Sirisena's administration has circled back not too far from the Rajapaksa regime's stance on international involvement in order to pacify the Sinhalese majority for his political survival. Sirisena's dismissal of war crimes allegations on the part of the military and his expression of full confidence in the existing justice system is also troubling. The judiciary still faces significant impediments. The lack of infrastructure and financial resources may pose a material problem, while lack of confidence, political will, human capital, and experience with international law pose an even greater problem of capacity. However, there is danger in placing all of the focus on criminal prosecutions. A comprehensive approach to transitional justice must include truth seeking, reparations, and guarantees of non-recurrence. There remains little hope for redress for the victims of alleged war criminals without the support of the Sri Lankan government. Exhibiting hesitation on accountability will further entrench divisions among the communities of the nation.

Recommendations

To the Government of Sri Lanka

- **Honor all of the commitments** made in Resolution A/HRC/30/L.29, including international involvement.
- **Develop and release a plan for transitional justice** beyond the national consultations to end the era of impunity and foster accountability.
- **Acknowledge the extent of all potential crimes** committed by the Sri Lankan armed forces, includingwar crimes and crimes against humanity, in order to recognize the suffering of all communities.
- **Enact reform of domestic law** to be in accordance with international human rights and humanitarian law in order to carry out trial and punishment of the most responsible perpetrators for their full range of crimes.
- **Repeal the Prevention of Terrorism Act of 1978,** which was meant to be a temporary provision, to end the legalization of unwarranted search and arrest and involuntary disappearances.
- **Commit to a project of memory** as part of accountability and reconciliation to also address the grievances of Sinhalese and Muslim victims of LTTE crimes.
- **Develop and implement a preservation plan for existing records and documentation**, held by both public and private institutions, relating to violations of human rights and international humanitarian law.
- **Work with civil society in public education campaigns** to inform the public of the merits

of credible accountability and to understand community preferences.

To the United Nations and International Community

- **Refrain from pursing a "wait and see" approach and continue calls for meaningful foreign participation** in any judicial mechanism regarding allegations of war crimes and crimes against humanity.
- **Emphasize the violations of human rights committed against the Sinhalese and Muslim communities.**
- **Prepare OHCHR training sessions** for Sri Lanka's domestic legal personnel to expand capacity and understanding of international humanitarian and human rights law involving war crimes and crimes against humanity.
- **Engage the support of Asian nations** to create regional buy-in for credible accountability.

The Role of Religious Leaders in the Reconciliation Process

Tanvi Madhusudanan

In a deeply religious society, the Sri Lankan clergy wields substantial power in influencing politicians, obtaining public support and determining the direction of the nation's policies. The ethnic divide between the Tamils and Sinhalese is colored by religious differences, as the former tend to be Hindu and the latter are overwhelmingly Buddhist. The situation is further complicated by the Christian community straddling both ethno-linguist groups and the Tamil-speaking Muslims, who make up the third Sinhalese ethnic community. In such a complex environment, it is necessary to examine the historical relationship between the religious and political establishments and the clergy's role in the conflict as well as the reconciliation process. Extremist and progressive Buddhist monks must be differentiated and the roles of other religious leaders, especially the Christian clergy who were heavily involved in the war efforts as negotiators and providers of humanitarian aid, should be analyzed. Finally, based on the unique role of Buddhist leaders in Sri Lanka, we put forth recommendations on how the regime should interact with these leaders and how religious leaders in general can contribute towards the reconciliation process and creation of a lasting peace.

Post-Independence Period

Although the colonial British policy of 'divide and rule' created economic disparities between the Tamil and Sinhalese communities leading to lingering resentment after independence, religious sentiments also played a key role in fomenting divisions. Since independence, Buddhist leaders have felt a compulsion to preserve what they consider the country's inherently Buddhist nature. Sri Lanka's Theravada school of Buddhism emphasizes religious orthodoxy and the role played by the external environment. A Buddhist revivalist movement based on the Sinhala epic, the 'Mahavamsa', which told of the valorous Buddhist kings who had fought to protect the island, arose in the late 19th century and acted as the foundation for later Buddhist politicization and nationalism (Gunatilleke 2015 35). This movement, known as 'Protestant Buddhism' was based on nationalist principles adapted from the 'Mahavamsa' and began to govern Sri Lankan Buddhism.

The political role of Buddhist monks derived from this movement includes the preservation of the Buddhist culture on the island. Within their ideological framework, the Sinhalese and Buddhist nature of Sri Lanka are intrinsically connected because of the island's unique role as the sole homeland of Sinhalese Buddhists. To these monks, the minority Tamil community could find solace in the Indian state of Tamil, but the Sinhalese had no other home. This narrative was used as the primary basis for the need to institute policies to uplift the Sinhalese, including the Sinhala Only Act and the enshrinement of Buddhism in in Article 9 of the Sri Lankan constitution promulgated in 1978 (Gunatilleke 2015 9). Furthermore, this narrative is inculcated within the

Sinhalese community from a young age in schools, where Sinhalese students are taught about the heroic deeds of Sinhalese rulers to preserve the sacred nature of the island. Tamil and Muslim students learn a different history based on their own community narratives (Gunatilleke 2015 36).

Buddhist monks were able to create a political space for themselves by self-identifying as the protectors of Buddhism in Sri Lanka. Once the island had the status of the world's only haven for Sinhalese Buddhists, these monks justified all their actions as necessary to protecting the sacredness of the nation and upholding its special role in the Sinhalese Buddhist consciousness. "Protestant" Buddhism allowed or even encouraged violence in the name of protecting the homeland, which would become the basis for nationalist monks' vociferous support for Sri Lankan military operations against Tamil separatists. Sinhalese politicians, who remained in power due to their status as the demographic majority, were also eager to obtain Buddhist monks' support for their policies and subscribed to Sinhalese nationalism in order to ensure electoral popularity. As in other nations with their own religious traditions, monks enjoyed a high level of esteem and respect from the local population. The physical separation between Tamils and Sinhalese, in the northern and southern parts of the island respectively, allowed for more extreme ideas to permeate the general populace as well.

Many nationalist monks demanded a continuing special status for Buddhism, occasionally by inciting fears of threats to Buddhist predominance. This narrative was used frequently in fomenting support for

the anti-LTTE and anti-Tamil military operations. To these monks, the partition of Sri Lanka was antithetical to the integrity of the Buddhist island. Using this narrative, nationalist monks were able to encourage government policies that angered and alienated the Tamil community. They advocated policies that impacted the daily life of Sri Lankans, including demanding that Hindu temple land be returned to Buddhists and rerouting entrances within common Hindu-Buddhist temples to ensure that Buddhist shrines were visited first (SAIS Group Meeting, 7 December 2015). These steps were often tacitly or explicitly supported by the government, eager to obtain populist support and be viewed as saviors of Buddhism alongside their religious colleagues. Despite the commonalities between Hinduism and Buddhism, these policies succeeded in creating divisions and exacerbating an "us vs. them" mentality between Hindu Tamils and Buddhist Sinhalese.

Buddhist identity in Sri Lanka is accompanied by an almost irrational fear of other communities dominating and encroaching upon the sacred Buddhist nature of the island. For many Buddhist extremists, the idea that Sri Lanka is the only homeland of Sinhalese Buddhists implies that members of other religions must acquiesce in a second class role and refrain from infringing on Buddhism's centrality in order to be allowed to live on the island. This narrative supported policies that favored the Sinhalese community to the detriment of Tamils and colored the nationalist anger at Tamil calls for secession or greater autonomy. A similar crisis may be brewing currently as these nationalists turn their ire on Muslims. Extremist

Buddhist organizations such as the Bodhu Bala Sena (BBS) have recently shifted their focus, making calls to boycott Muslim-owned stores and protesting against a proposed Halal certification system. The government response was either non-existent or even supportive during the conservative Rajapaksa regime. The more moderate Sirisena administration has appeared hesitant to draw the ire of a core base of support (SAIS Group Meeting, 14 January 2016).

One of the major events marking the radicalization of some Buddhist monks was the Indo-Sri Lankan Peace Accord of 1987, which introduced Amendment 13 to the Sri Lankan constitution, outlining greater devolution of power to the Tamil majority northern and eastern provinces (SAIS Group Meetings 10-19 January 2016). Buddhist nationalists were largely hostile to this policy and insisted that it would disrupt the integrity of the nation. Their stance, combined with the extremely unpopular Indian peacekeeping presence, dissuaded the Jayawardene government of the 1980s from implementing greater autonomy in the Tamil-majority provinces and prevented a possible resolution of the conflict at that time.

After the civil war ended with the Sri Lankan government's military victory over the LTTE in 2009, the reconciliation process needed to address remaining grievances. The Buddhist clergy, especially the extremist factions, is a potential spoiler to this process. In 2004, the Jathika Hela Urumaya (JHU) was created as a party for Buddhist monks to play a political role and influence Sri Lankan politics. The JHU supported the Rajapaksa regime's hardline response to the LTTE, as well as preferential treatment for Buddhists, even while also affirming the rights of other ethnic and

religious minorities. In 2012, however, some monks broke away from the JHU's moderate Buddhist nationalism to form the extremist Bodhu Bala Sena (BBS). The BBS has come to represent an especially virulent strand of Buddhist fundamentalism in Sri Lanka. The group has garnered support of working-class Sinhalese who were beginning to move to more diverse urban areas in the post-war period where employment was not ensured (Gunatilleke, 2015 42). Not only did the BBS political strategy require constant reinforcement of an 'us vs. them' rhetoric as the rationale for Sinhala poverty, it also elicited the support of the Rajapaksa regime as it was a surefire way to collect votes. The BBS was able to reinforce the conservative SLFP, which had held power under Rajapaksa for many years. The Sirisena regime has clamped down on religious extremism among Buddhist nationalists, including the high profile arrest of the head of the BBS, but it has also been cautious about addressing previous crimes or definitively denouncing Buddhist nationalist groups.

During the conflict, nationalist monks' belief in the supremacy of Buddhism in Sri Lanka was the basis for their rejection of a separate Tamil state or even a federalized political system that would have granted Tamils greater autonomy. This belief continues to shape Buddhist nationalist treatment of the 13[th]Amendment's devolution of power. To nationalist monks, Sri Lanka is the world's only haven for Sinhalese Buddhism and citizens of other religions. While other ethnic groups may freely speak their language and practice their religion, they nevertheless reside in the country as "guests." Hence, they cannot ask for any special status or space that excludes

Buddhism as that would infringe on Buddhist hegemony. Within this framework, many Buddhist nationalists are completely against any form of devolution of power on the grounds that it would create a separate area controlled by non-Buddhists (SAIS Group Meeting 18 January 2016).

Another issue where nationalist monks disagree with the reconciliation process is the prosecution of the military for war crimes. Many Sinhalese consider the military war heroes and protectors of Buddhism on the island, who vanquished the LTTE threat to their religion (SAIS Group Meeting 13 January 2016). Therefore, many monks are completely opposed to prosecuting the military for war crimes. They deny that these crimes could even have occurred and believe that the acts committed by the military were necessary in such a life or death encounter, when the island's sacred identity was threatened. Although the Sirisena regime has appeared to be more open to the idea of prosecution of war crimes, it is still beholden to the desires of the majority and cannot unilaterally promote an unpopular idea.

Related to the issue of war crimes is the method of prosecution. Within the UN resolution regarding the reconciliation process, there are guidelines on the inclusion of foreign legal expertise, but the language is not explicit on what this would entail. To many in the UN, this article requires that the Sri Lankan government must have international judges or prosecutors presiding over cases related to acts that are considered war crimes under international law. By contrast, many Sri Lankan political leaders even within the more progressive Sirisena government, are wary of allowing foreign influence into the Sri Lankan

judicial process. The Sinhalese majority has strongly opposed foreign influence since the disastrous Indian peacekeeping presence in the 1980s. Buddhist nationalists are particularly vociferous in their condemnation of external influence and what they consider infringement on Sri Lanka's national sovereignty. Tamils, however, are doubtful about the effectiveness of domestic courts and continue to call for international adjudication. The Sirisena regime has vacillated on the nature or even the possibility of foreign involvement. Recent government comments insist that there will be no foreign judges (SAIS Group Meeting 19 January 2016).

Hindus, Christians and Muslims

Minority religious groups have played an important role in the conflict and will continue to do so in the reconciliation process. Furthermore, religious and ethnic divisions have not necessarily abated post-conflict and may flare up again along different fault lines.

Unlike the Buddhist clergy, Hindu priests have largely avoided political mobilization for a number of reasons. The decentralized nature of Hinduism and emphasis on spiritual matters taking precedence over earthly issues dissuaded most priests from political involvement. Traditionally, Hindu clergy, even in neighboring India where Hinduism is the majority religion, abstain from politics, and Indian Hindu organizations are headed mainly by laymen. Similarly, Hindu priests in Sri Lanka have played a mostly passive role and allowed political leaders to be at the forefront in asserting Tamil identity and aspirations. Furthermore, Hinduism, due to its diffuse nature, has

much greater difficulty in unifying religious sentiments and utilizing religious leaders to establish social or political movements. Certain Hindu lay organizations, however, such as the All Ceylon Hindu Congress, exist in Sri Lanka to refute the policies and actions of Buddhist fundamentalists and encourage the Sri Lankan government to address Tamil grievances (Balachandran 2016).

The role of the Christian community is unique in Sri Lanka because it straddles both the Tamil and Sinhalese ethno-linguistic groups involved in the conflict. Due to their status as a group with a cross-communal bond and a rich religious history of political resistance, Sri Lankan Christians played a major role during the conflict in advocating for peace, providing humanitarian assistance and organizing cross-communal dialogues. Throughout our time in Sri Lanka, we met many Sri Lankan Christians from both the Tamil and Sinhalese community who had worked to establish a lasting peace but were disappointed by the government's slow progress in pursuing reconciliation and by the extent of influence of hardline nationalists (SAIS Group Meeting 15 January 2016).

Sobitha Thero: A Role Model for All?

Buddhist extremism is not the only available model for the Sinhalese community. Sobitha Thero, a highly respected and venerated monk from the Sinhalese Buddhist community, advocated social justice and championed inter-communal harmony. He used his stature and influence to vouch for peace, insisted that all religious groups should be equal, and he frequently denounced the actions of extremists within the

Buddhist leadership. He was also able to extend his role into politics; although he refrained from running for the office of president, he was instrumental in ending the Rajapaksa regime by calling attention to its numerous human rights abuses, corruption and authoritarianism. He supported Sirisena's campaign and played a major role in bringing him to power. As a highly venerated monk, Thero had great influence over the Sinhalese community and even ultra-nationalist monks refrained from openly protesting his policies. Unfortunately, Sobitha Thero passed away in 2015 at a time when his inclusive principles, commitment to reconciliation and ability to command the public's support and attention was still needed at a fragile point in the reconciliation process.

Conclusion

Decades of inter-communal ill will cannot be erased in mere months or years. It is important for majority and minority communities to work together to foster an environment of religious tolerance and inclusion in order to create a lasting peace. In Sri Lanka, as in South Asia as a whole, religion influences secular democratic politics. The government has a responsibility to curb religious extremism and restrain its own majoritarian tendencies. The conflict was protracted. The reconciliation process will be as well. With patience, tolerance and cooperation, Sri Lanka can heal and form a cohesive, united society.

Recommendations

The Sri Lankan government and the leaders of the various religious communities should work together to curb religious extremism, encourage cross-communal

dialogue and foster a sense of shared national identity and unity among all communities to create a lasting peace in Sri Lanka.

To the Sri Lankan Government

- **Address grievances and acquiesce to the reconciliation process agreed with the UN.** The Sri Lankan government needs to gain the trust of the Tamil population, reassure them that they are citizens of Sri Lankan society, and acknowledge past violence and discrimination. It is important that the government not succumb to Buddhist extremist demands, and instead attempt to follow the reconciliation process, as enshrined in UN Resolution that the government co-sponsored. Specifically, Buddhist nationalist leaders have been opposed to trying military personnel for war crimes and any sort of devolution of power, which are both key components of the peace process. It is vital that the government move forward with these processes without allowing nationalists to interfere and create greater resentment and cynicism among the Tamil population.
- **Strongly condemn religious extremism, especially from Buddhist fundamentalists, and show that it stands for inclusion and freedom of religion for all communities.** Although the Sirisena government has been more proactive in clamping down on Buddhist extremism, as seen in the arrest of the BBS leader in 2015, they have been leery of alienating their Sinhalese support base.

Although they may be protected under freedom of speech and expression, the government should still voice disapproval towards efforts meant to reinvigorate religious conflict, such as recent demonstrations against Muslim-owned shops and Halal certification.

- **Foster a common Sri Lankan identity without an ethnic and religious basis.** For the majority of its existence as an independent state, Sri Lankan identity has been connected to the majority, mainstream Sinhalese Buddhist identity while Tamils, Muslims and Christians have often been relegated to "other" status. The Sri Lankan government needs to appeal to all religious groups by creating a common Sri Lankan identity that can bridge religious, ethnic and linguistic differences and promote understanding among the communities. Many experts, in the Sri Lankan and other contexts, insist that shared social networks are the key to generating inter-group harmony (SAIS Group Meeting 19 January 2016). Efforts have been made by local organizations in Sri Lanka such as Search for Common Ground's project to hold meetings with Sinhalese and Tamil community members to add a personal level to the reconciliation process. At these meetings, individuals have had the opportunity to state and discuss their grievances and possible solutions. The government should encourage such endeavors and appeal to the Tamil and other minority communities,

eschewingmajoritarian politics that give in to Buddhist extremist demands.

- **Possible removal of Buddhism from the Sri Lankan constitution.** It is highly unlikely that the current administration has the political capital to remove the special status of Buddhism from the Sri Lankan constitution without facing a swift and angry response from Buddhist nationalists or the masses they command. If the government is able to adequately meet the current needs of the Tamil community including its right to equal treatment, this change may not even be necessary in the future. Removal, however, may also be important as a symbol of the equality of all religions within Sri Lanka. It would ease minority concerns regarding their status in the nation.

- **Stop preferences given to the Sinhalese majority.** The government has often turned a blind eye to Buddhist extremists' inflammatory comments or actions while condemning or punishing the minority for similar behavior. The government should adjudicate religious matters without bias, especially concerning sensitive matters such as land ownership for places of worship, inflammatory speech and legislation governing religious issues.

- **Symbolic recognition of other religious communities.** The government should continue to attend important religious events of minority communities, as when President Sirisena attended Hindu Pongal celebrations in

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Jaffna in January 2016. This reaffirms the administration's support of freedom of religious expression and respect towards minority communities as well as recognizing the importance of minorities in Sri Lankan society.

- **Formation of Inter-Religious Councils.** The government should create national and provincial councils with representatives of all religious communities to foster inter-communal communication and address grievances as they arise.

To the Buddhist Leadership

- **Encourage cross-cultural dialogue and cooperation.** Buddhist monks enjoy a special status and respect among the Sinhalese community. It is important that they wield this power wisely. Extremist organizations such as the JHU and BBS have been able to use their influence to incite violence and hatred against other communities while monks such as Sobitha Thero advocated a more peaceful approach aimed at reconciliation. The latter model should be followed by the current Buddhist leadership. This can include conducting talks with their counterparts from other communities and encouraging inclusiveness from their disciples. Most importantly, these leaders should refrain from using 'us vs. them' rhetoric or crafting an exclusionary identity that attacks minority groups.

- **Allow the reconciliation process to move forward without interference.** Nationalist Buddhist leaders have often attempted to derail certain aspects of the reconciliation process, especially regarding war crimes prosecution against the military, foreign presence in transitional justice processes and devolution of power to the minority provinces. They should desist from pursuing a hardline, conservative position on these issues and acquiesce to the UN Resolution as agreed upon by the Sri Lankan government. Furthermore, they should refrain from adopting zero-sum rhetoric, where any concession to the minority is synonymous with a loss of power for the majority. Rather, they should champion the cause of equal rights for minorities and peace in Sri Lanka, ideals that are embodied both in Buddhist religious thought and the Sri Lankan historical framework. By pursuing this policy, minority communities will be less likely to support secession, and thereby Buddhist monks will accomplish their main goal of a unified Sri Lanka.
- **Appropriately punish extremists within their own ranks.** Organizations such as the JHU and BBS often have hardline positions that occasionally lead to violence or tensions between communities. Although these groups do not necessarily represent the majority view of Buddhist monks, they are often the most vocal and prey on discontent among the majority population. It is important that other

Buddhist leaders condemn such individuals and groups and increase outreach to the Buddhist population to encourage values of inclusion and tolerance. By reducing the influence of extremist groups, the majority and minorities communities can foster closer relationships without suspicion or fear.

To the Leaders of Other Religious Communities

- **Mobilize their communities towards cross-cultural dialogue and cooperation.** Hindu and Christian leaders among the Tamil community should encourage conversation between communities. The Sri Lankan Christian clergy played a major role in advocating for peace throughout the conflict and can continue to encourage reconciliation during this period. Leaders from all communities can cooperate to create common spaces for conversation and cross-cultural understanding to promote a lasting peace.

- **Bridge differences within minority groups.** Relations between minority communities are a major problem in Sri Lanka. There is residual Muslim animosity towards Tamils because of eviction from the Eastern Province during the period of LTTE control. Tamils have historically felt resentful of Christian proselytizing in their communities (Matthews 2007). It is important for these inter-community differences to be resolved alongside the central conflict in order for there to be a unified Sri Lankan society.

- **Refrain from inflammatory language or criticism aimed at increasing tensions.** After decades of conflict, religious leaders among minorities have occasionally also used inflammatory language in denouncing the majority, often due to resentment at the perceived slow progress in reconciliation. Rather than creating greater divisions, it is important that these leaders work with Buddhist clergy to form a unified front advocating for speedy resolution of lingering grievances.

IDPs, Returnees and Durable Solutions

Ceriel Gerrits

Although the civil war between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) concluded more than six years ago, still 230,000 conflict-affected families lack proper housing, clean water or sustainable livelihoods (MoR 2015, 25). This paper aims to assess the scale and the need for 'durable solutions' for the conflict-affected internally displaced people (IDPs) and returnees. Many Sri Lanka observers have discussed IDP issues and raised various concerns, especially about the conditions and circumstances during displacement (United Nations Special Rapporteur on the Human Rights of IDPs, 2014). Those issues are beyond the scope of this paper, which will try to be more forward-looking by analyzing the current situation and challenges as well as making recommendations for future actions.

Past reports have focused extensively on the need for resettlement of remaining IDPs, at the expense of other durable solutions that have become more salient with time, e.g., housing and provision of livelihoods. I will use the Guiding Principles on Internal Displacement as a method of assessment (Brookings 2010), so the approach to the ongoing displacement challenges will, in essence, be a human rights-based approach. The data in this paper consist of information collected during the field trip as well as an extensive review of public information made available by,

among others, the Ministry of Resettlement, international donors and development agencies and academics. The framework used in this paper, i.e., the one built around the Guiding Principles, will be discussed first, followed by a discussion of the various elements of durable solutions and recommendations based on those.

The Guiding Principles on Internal Displacement and Durable Solutions

Although the humanitarian challenge of IDPs has been widely acknowledged for decades, it was only after increasing numbers of intra-state wars that the humanitarian needs of IDPs became too large for the international community to remain aloof (Cohen 2007, 16). Increased concerns about the protection of IDPs resulted in the appointment of Francis Deng as Representative of the United Nations Secretary General on IDPs in 1992 (Cohen, 20) as well as the publication of the Guiding Principles in 2001, after a lengthy but well-coordinated UN consultative process (Brookings 2010, 2). In 2005, the UN General Assembly (A/RES/62/153), The World Summit and the United Nations Human Rights Council unanimously endorsed the Guiding Principles.

Another major element of IDP protection is the Framework on Durable Solutions for Internally Displaced Persons (hereafter 'The Framework'). This document was produced by the Brookings Institution and the University of Bern, later approved by the Inter-Agency Standing Committee (IASC). It 'aims to provide clarity on the concept of durable solutions and provides general guidance on how to achieve it' (Brookings 2010, 2). The Framework is integrated in

Sri Lanka's *National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016* (GoSL 2011, 122) and, according to the government of Sri Lanka, is reflected in the Framework for Resettlement Policy (GoSL 2014, 10), although this document is still in a drafting process.

Before 2001, the concept of 'durable solutions' in the context of IDPs merely implied that IDPs would return to their place of origin, resettle elsewhere in the country or integrate in the community where they are currently staying. Principle 29.2 of the Guiding Principles expanded this notion of durable solutions by stating the following: 'Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation' (IASC 2004, 15)

This, as well as several other principles, resulted in the following, general criterion for durable solutions used in The Framework: "IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement" (Brookings 2010, 5). Durable solutions do not equate to mere resettlement of the IDPs. National authorities carry the primary responsibility to solve the IDPs' challenges resulting from displacement. (IASC 2004, 2).

The Framework also provides several specific benchmarks that can be used to determine if durable solutions have been achieved, or how far away from achieving these the government is (Brookings 2010, 27). This paper will examine the three benchmarks that relate to the most salient needs of current and resettled IDPs: effective and accessible mechanisms to restore of housing, land and property; adequate standard of living; and access to livelihoods and employment. These three topics, preceded by a short description of post-war displacement in Sri Lanka, will constitute the analytical part of this chapter.

Background

When the "Final War," the massive government offensive against the LTTE, ended in May 2009, between 250,000 to 300,000 civilians found themselves in government-run "welfare centers" (ICG 2010 1; Amnesty International 2009, 5) and over 800,000 persons in total were believed to be displaced (Klopp 2009, 2). By the end of 2012, the government was able to resettle, i.e., return to the place of origin or permanently relocate elsewhere in the country, around 760,000 IDPs (Beyani 2014, 5), although there is also evidence that some IDPs were merely unregistered as IDPs and thus labeled as "resettled" (Beyani, 10). The total number of registered IDPs fell to around 93,000 in 2012 (Beyani 6) and further decreased to between 44,000 and 73,700 in 2015 (MoR 2016, 7-8; IDMC 2015, 1), of which over 5,000 IDPs still reside in "welfare centers" (MoR 2016, 7).

The mass resettlement, however, was problematic as it lacked a connection to a comprehensive development policy. The government's "Development

Policy Framework 2010–2016" pays negligible attention to the need for durable solutions. Although the Ministry of Resettlement notes development issues of resettled population in its performance reviews, there is no official resettlement policy that acknowledges the importance of the link between development and durable solutions (IDMC 2015: 1).

Effective and Accessible Mechanism to Restore Land, Housing and Property

As restoring land and housing and other property can be a long and complicated process, it suffices, according to the Framework, to have at least those mechanisms in place that can ensure their restoration (Brookings 2010, 36). As possible indicators, The Framework lists the availability of such mechanisms as well as the percentage of housing and property claims that have been made and resolved (Brookings 2010, 38).

In the Northern and Eastern Provinces possession of land is important. Forty-one percent of the returnees rely on agriculture as their primary livelihood (OCHA 2015, 32). The release of land was the most important reason for IDPs to return, or be returned, to their place of origin. In fact, the government often categorized IDPs as returnees as soon as their land was released, even when they had not physically returned to it (Beyani 2014, 10). The creation of High Security Zones (HSZ) by security forces throughout the conflict-affected area constituted a major impediment for people to return to their land. Between 1990 and 2013, the government acquired between 32,000 to 40,000 acres of land as HSZs, of which 26,000 has since been released (Dissanayke 2014, 97). Estimates

place the amount of unreleased land in the Jaffna district to be between 6,152 (MoD 2015) and 6,381 acres (Tamil Civil Society Forum, 2016). There are no accurate data available for other districts in the North or the East, though the total amount of land to be released may still be considerable. For example, citizens from the communities in Moolikuttam and Silawathura, in the district of Mannar, claimed that government forces were occupying around 2,000 and 1,500 acres respectively of their land (SAIS Group Meetings, 13 January 2016). These communities are just two examples of continuing government occupation of land outside the Jaffna district. If the provided information is accurate, this almost certainly means that there is a substantial discrepancy between the facts on the ground and the data from the Ministry of Resettlement, which asserts that only 8,000 acres remain occupied in the Northern Province (MoR 2016, iv).

Moreover, return of the lion's share of the land has not abated public anger about the continued occupation. Land restitution is a major political issue in local politics (SAIS Group Meetings, 15 January 2016), since the displacement effect of the HSZ is thought to be vast. According to one estimate, up to 24,000 persons are displaced as a result of currently occupied land in Jaffna, and a total of 35,000 persons are displaced in the Northern and Eastern Provinces (SAIS Group Meeting, January 2016). Moreover, in light of the government's policy to unregister IDPs as soon as their land is released, regardless of whether or not they return at all, it is likely that the number of remaining IDPs is the result of continued occupation. The year-old Sirisena government has restarted

releasing land in the Northern Province, such as 700 acres in December 2015 (*The Hindu* 2015) and has signaled that this would be part of a larger effort to release land held by security forces (SAIS Group Meeting, January 2016). There is therefore a high likelihood that the number of IDPs will further decline in the next few years.

Moreover, the government is drafting a comprehensive policy that intends to resolve the land-release issue. The drafting process involves security forces (SAIS Group Meeting, 18 January 2016), local civil society organizations as well as current IDPs, and thereby appears to be conform to the Guiding Principles (Principle 28.2). If this drafting process succeeds—and a member of the Human Rights Commission of Sri Lanka was cautiously optimistic that it would—the policy will be the first legislation of its kind that is passed in parliament and a major improvement compared to previous government decisions regarding IDPs. Nonetheless, as the resorts and other property built in the HSZ by the military form a source of income, create employment for soldiers and represent relatively large investments for the military, the latter may have reasons to resist and delay the return of some of the HSZs.

The passage of time will make returning occupied land to previous owners in some cases impossible or unsatisfactory. Second and third generation refugees may not be aware of the exact demarcation of their parents' property (IDMC 2014, 7). Moreover, some IDP families have grown during their protracted displacement to an extent that their original land holdings will not offer them an adequate livelihood (IDMC 2014, 9). IDP families may also find their

lands and houses occupied by others after years of displacement. In order to prevent tensions among returnees, the government should make reasonable alternatives available in the form of land elsewhere, preferably nearby land ready for cultivation. Allocation of alternative lands should proceed according the IDP's needs. Serious doubts about the government's allocation of alternative land were raised during an interview with a village elder, who confided that in exchange for occupied land, each household was allocated 0.3 acres of land (SAIS Group Meeting, 13 January 2016). This amount is hardly enough for one person. The system of distributing equal amounts of land to families is also disadvantageous for larger families. There have been cases in which the return beyond first-generation Muslims to their land led to the resentment of nearby Tamil communities, who felt the returning Muslims were given preferential treatment (IDMC 2014, 9).

In order to achieve durable solutions, the government will also need to address housing issues, which appear to affect many more people than the ongoing IDP problem. A total of 137,000 additional housing units are needed to accommodate the resettled IDP population, according to the Ministry of Resettlement (2016, 11). Human rights activists have claimed that these numbers are likely understated, as many houses that the Sri Lankan or Indian government have built are not yet finished when assigned to IDPs. Furthermore, the previous regime understated housing data, and new data on these needs have not yet been collected (SAIS Group Meeting, January 2016). The housing needs have been a major cause of households taking up new debt (SAIS Group Meeting, Verité

Research, January 2016), something the 2014 Joint Needs Assessment (JNA) confirmed, as it found that only 62 percent of the returnees live in a finished house (OCHA 2015, 55) and that 7 percent of the returnees had to take additional loans to complete their housing (OCHA 2015, 57). Although serious doubts have been raised about the methodology of the JNA (IDMC 2015, 2), the World Bank confirms that the above average indebtedness in the Northern Province is mainly the result of IDPs who have taken on loans (2015, 112).

Communities have often been allotted insufficient housing, either because the families have grown during displacement or because fewer housing units have been rebuilt than lost. On two occasions during the SAIS field trip, resettled villagers indicated that the lack of housing was a major reason for a large proportion of the original population to move to urban areas, causing the community to fall apart (SAIS Group Meetings, 13 January 2016).

Adequate Standards Of Living
According to The Framework, adequate standards of living require that the following basic goods and services are available, accessible, acceptable and also adaptable: basic shelter and housing, essential food and potable water, essential medical services, sanitation and primary education (IASC 2010, 31&32).

With regards to food security, the JNA claims that 93 percent of the population in the Eastern and Northern Province had an acceptable Food Consumption Score, one measure of food security, but also reported a high number of households using

coping strategies, with 19 percent of the returnee households occasionally limiting the number of meals consumed per day, and 89 percent of the households needing to borrow food or money regularly (OCHA 2015, 47-48). As coping strategies indicate how households try to meet their food consumption needs (with the ideal situation being no application of coping strategies), these figures indicate that many returnee households experience great difficulty and are therefore vulnerable to economic and natural shocks. This is confirmed by the JNA (OCHA 2015, 36) and the World Food Program. The latter stresses the need to strengthen resilience in its interventions (2015, 4-6).

Information on the availability and accessibility of water, health and sanitation is scarce and needs to be collected in order for any strategy for durable solutions to be drafted. The only comprehensive, systematic evaluation of returnee's health is the JNA, with its aforementioned limitations. It still suggests that nine percent of the returnee households use unprotected sources to obtain water for drinking and cooking (OCHA 2015, 67), which exposes their members, especially in a climate like Sri Lanka's, to water-borne diseases. Moreover, field observations suggest that water provided by government agents through public water tanks can be very dirty and should be labeled as unpotable (SAIS Group Meeting, 13 January 2016). While the government has made health services available for this particular village relocated due to occupation of its land, the standards at these health services were very poor, to the extent that the villagers preferred to incur extra costs by going to the district's

hospital rather than using the local health facilities (SAIS Group Meeting, 13 January 2016).

Access to Livelihoods and Employment

The Framework suggests several possible indicators to measure this factor of durable solutions, such as a comparison of poverty levels between IDPs or returnees and the rest of the population, comparison of unemployment figures and comparing the types of employment activities (Brookings 2010, 35). Again, a great obstacle in the analysis of livelihoods of returnees was the lack of available and accurate data. The JNA is one of the few documents that measured some livelihood statistics for returnees, but it does not include exact information on pre-displacement salaries and employment, which would allow measurement of deterioration or improvement. Comparing 2013 data of the Department of Census and Statistics to the JNA suggests that salaries of returnees are drastically lower than national averages and medians. More than six percent of the returnees earned less than Rs.10,000 ($72 US) per month (OCHA 2015, xv), compared to national average and median income in rural areas of households of Rs.42,184 ($300 US) and Rs.28,921 ($206 US) respectively (Department of Census and Statistics 2013, 4). Oddly enough, the JNA did not provide a compiled average for returnee households earning more than Rs.25,000 ($180 US), though the inter-district range lay between five for Trincomalee and a mere one percent for Batticaloa (OCHA 2015, 29). This remarkable difference indicates that the returnee population lags far behind in terms of income compared to the rest of the rural population.

An obvious reason for this was that many returnees lost their productive assets during their displacement and that these assets have not been restored (Raheem 2013, 34). Field observations of a fishing community suggest that while the government, sometimes with the help of NGOs or donors, had tried to restore productive assets (in this case mostly boats and fishing equipment), its efforts failed to restore the assets to even a third of the pre-war situation (SAIS Group Meetings 13 & 17 January 2016). Only nine percent of the returnees are making a livelihood from fishing (OCHA, 2015, 32), but limited assets have certainly contributed to fishermen being one of the most vulnerable and poorest groups (Munas and Lokuge 2016, 297).

Farming, which employs around 20 percent of the returnees (OCHA 2015, 32), is also marked by several challenges. First of all, as Dayna Brown and Kathryn Mansfield (2009, 16) correctly note, second and third generation IDPs will have little knowledge about how to cultivate land and need to receive some training before they return to their land. Training was provided, though it did not include how to cultivate agricultural land (MoR 2016, 30). Moreover, the Department of Census and Statistics regards agricultural employment as the combined figure of households making their livelihoods through agriculture, fisheries and livestock, and puts this figure at 31 and 30 percent for the Northern and Eastern Province respectively (Department of Census and Statistics 2015, 16). Performing a similar calculation on the JNA figures results in 32 percent of the returnees making their livelihoods in agriculture (OCHA 2015, 32), showing a negligible difference with the average population.

Although agriculture is one of the least productive sectors of the Sri Lankan economy (World Bank 2015, 24), employment in this sector cannot explain the vast income differences between average population and the returnee population. Further research should look into the returnee employment in different sectors and their productivity vis-à-vis non-returnee laborers.

Conclusion

While the IDP population has decreased significantly in the post-war years, and is expected to decrease further next year, this does not imply that durable solutions are achieved. The Government of Sri Lanka's obligations under international law demand complete achievement of the durable goals as defined by the Guiding Principles. It is important to recognize the government's recent increased contributions towards durable solutions, especially in the areas of restoration and reconstruction of land, houses and productive assets. There is, however, still a long road ahead, as these contributions have not been sufficient to address all the needs of returnees resulting from their displacement. Current government policies and practices fall short of meeting the durable solutions criteria provided in the IASC Framework for at least three different areas of concern, i.e., restoration of land, housing and property, adequate living standards and access to livelihoods.

Without repair of the deplorable circumstances in housing, livelihoods and living standards of returnees and IDPs, the government risks jeopardizing the reconciliation process by creating new socio-economic grievances. Continued occupation of the HSZ has become a major political issue between local

politicians and the Colombo administration, illustrating the importance of land, housing and livelihood issues to the public.

While development policies should achieve more than durable solutions, and durable solutions comprise more than development, it is important to note that the challenges in the areas discussed in this chapter will be very hard to meet without being part of a more comprehensive development strategy. The returnee numbers and their needs are so substantial that they constitute a major influence on macro-indicators of development in the Northern and Western Provinces. One of the main current impediments to an effective development strategy is the lack of and access to information about the total number, the whereabouts and needs of IDPs and returnees. Reliable information, both qualitative as well as quantitative, will help the government draft better development strategies and also could attract new forms of development aid from donors.

Recommendations
To the Government of Sri Lanka (GoSL)

- **Resolve the ongoing land issues by releasing land occupied as HSZ and return this land to lawful owners**. The current drafting process of the land restitution policy stands out as an opportunity to take durable solutions into account. As a sign of the GoSL's respect for the plight of IDPs, the Colombo administration should soon complete the process and capitalize on the goodwill such completion will create among the population in the Northern and Eastern Provinces.

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- **Integrate durable solutions in a needs-based development strategy.** Long-term stability and reconciliation require a government that responds effectively to the housing, livelihood and living standard needs of its population. As regards returnees and IDPs, durable solutions should become part of a broad needs-based development strategy. A comprehensive survey of the needs of IDPs and returnees should be the first step towards such a strategy. The drafting process should be as consultative as the current drafting process to resolve the ongoing land issue.
- **Ensure long-term funding for this development strategy.** The scale and nature of the needs demand sustained funding for the development strategy to achieve its goals. Hence, the Ministry of Resettlement requires a substantially larger budget. The GoSL should also appeal to the international community to support this development strategy, using the survey results and the government's policy changes as indicators of renewed commitment to durable solutions.

To the International Community
- **Offer assistance to GoSL's efforts to conduct a comprehensive survey and to its drafting of a needs-based development strategy to achieve durable solutions.** The GoSL needs technical support for the conduct of the survey and the drafting of a development strategy in order to ensure that these two products meet internationally

accepted standards. Meeting international standards of conduct will allow for a stronger appeal of the GoSL to the international community for its development strategy.

Finished but Unresolved: Implications of the Ethnic Divide for the Youth of Today

Samantha Harper

In the Sri Lanka of today, a country seven years removed from a deadly civil war spanning three decades, violence may have subsided but the reminders have yet to wane. In the south, both Sinhala and Tamil languages are taught, offering the illusion that children are removed from the conflict and are bridging the gap to a united future. In the north, adherence to Tamil identity and the memory of a lost war that was initially waged in the name of minority rights work in tandem to keep past tensions brewing. The war has ended; the ethnic divide that ignited the warfare has not.

Education: Then and Now
The Initial Ethnic Cleavage
This section of the report focuses on education as a useful tool in the future development of a multi-cultural Sri Lankan identity. A brief recounting of major changes to the country's educational system will be delineated, but only in order to contextualize how the divisions in schooling have proven to be microcosmic to the divisions in society. This will serve in evincing how education must be rectified so as to minimize social divisions.

The Sinhalese majority and the Tamil minority alike trace their descent to India. Between the 9th and

12th centuries, both groups responded to external threats from Southern India by fortifying their own ethnic identities in their new surroundings (Wickrema and Colenso 2003, 4). This stricter adherence to cultural heritage, in turn, strengthened the divide between these two ethnic groups inhabiting the island.

The centuries of colonization that followed exacerbated the divide further. Under British rule—succeeding the Portuguese colonization and the Dutch colonization—the semi-European "Burghers" in the North of the country were granted favoritism. Due to the fact that the Northern Province was, for the most part, the residence of the Tamil community, Tamils had greater access to university education and were disproportionately hired by the British colonial administration. The division was furthered through a census process, in which anyone of mixed identity was obliged to identify as Sinhalese, Tamil, or Burgher (Scaliger 2015, 24). Each of these elements bolstered divisive, ethnic-based politics.

Once British colonialism was done away with in 1948, so, too, was English as the chief language of instruction in schools. Primary education was taught instead in either Sinhala or Tamil. Although removing English as the language of instruction signaled a triumphant break from colonial rule, it also exacerbated the Sinhalese-Tamil divide. It allowed each ethnic group to learn only their own native tongue, restoring ethnic pride in place of the national pride that independence from colonial rule should have emphasized. Eliminating a common language also minimized interaction between Sinhalese and Tamil youth, fostering alienation and mistrust.

When the Sinhalese majority government passed the "Sinhala Only Act" in 1956, Sinhala became the official language of Sri Lanka. This forced many Tamils in the government to resign and served as a form of political retribution for the favoritism the Tamils received under colonial rule. In Sri Lankan universities, "reverse affirmative action" was similarly invoked to compensate for the fact that the majority of students were Tamil. Under the "Policy of Standardization," all Tamil students were suddenly required to test higher in order to gain entrance to universities (Scaliger 2015, 24). This discrimination in national education policy helped create the national crisis that was to come.

Education Under the LTTE

The ethnic divide, intensified by linguistic, educational, and administrative elements, ignited the separatist movement for an independent Tamil state. In the 1990s through the temporary ceasefire in 2002, the northern and eastern provinces existed as a *de facto* state under LTTE rule. During this time, the LTTE forged institutions parallel to those existing in the south, including a Department of Education, which instructed students in the areas under its control in the theme of cultural citizenship (Sørensen 2008, 427). Instead of implementing an educational system grounded in Sri Lankan history and a Sri Lankan identity, the LTTE Department of Education emphasized a Tamil-centric social schema, complete with a Tamil national anthem and dismissal of any relationship to their Sinhalese co-inhabitants.

An excerpt from an LTTE-produced history textbook remarks:

The history textbooks by the Sri Lankan government that are taught in the schools are not based on true history, but have exaggerated the Sinhalese community, concealed the greatness of the Tamils and has been twisted in a manner to demean the Tamils… By teaching Tamil translations of Sinhala works, written by and for the Sinhalese, the Tamil students are taught Sinhalese history, which says that this Sinhala-Buddhist country is only for them and that their history is the history of Eelam. (Sørensen 2008, 426)

A cultural war in the classroom mimicked the physical war that raged between the north and the south. The LTTE replaced Sinhalese history books with those of Tamil origin, a complement to the separatist action they were taking in the combat zone. By fostering cultural segregation, the LTTE was also manufacturing an ideology under which children would be interested in forming allegiances and creating enemies. In the later phases of the war, this extended to these impressionable children taking up arms. In an effort to forge a state, the LTTE forged a separatist mindset so strong that it lingers in the northern and eastern provinces to this day.

The Role of Sri Lankan Education in the Future
As the war came to its conclusion, the LTTE stopped providing education for children in the north and in east of Sri Lanka, but the impact of this system of education in combination with the effects of the war on children in these provinces has not yet been rectified. This is the issue that the government of Sri Lanka must now address.

Today, children in Colombo—a predominantly Sinhalese city—receive lessons in the Tamil language, alongside lessons in English and Sinhala. These children are reportedly far enough removed from the "conflict years" not to feel any impact of the war in their lives (SAIS Group Meeting, 13 January 2016).

These feelings of congeniality are not echoed in the north. It may be possible for families in the south to view their children's educational instruction in both Sinhala and Tamil as evidence of a movement toward societal unification. For the families in the north displaced by the war, however, a lack of land, electricity, plumbing, and medicine serve as daily reminders that the war has deeply affected their lives. Social unification is not yet on the horizon.

Education can be utilized to bridge the ethnic divide, rather than aggravate it. Sri Lanka undertook large educational reforms in both 1972 and 1981 in order to improve the quality of education throughout the entire country. These reforms were remiss in their handling of multiculturalism, neglecting the necessity of addressing both Tamil and Sinhalese children who had different cultures and different histories. Only in 1990, when the National Education Commission was launched as the new policymaking body for education, did the "inter-relationship between education and social cohesion" emerge as something worth examining (Wickrema and Colenso 2003, 6).

Over the next decade, the goals set out by the commission began to embrace a multiethnic national identity, at least in theory. One such goal delineated by the commission suggests that the susceptible minds of youth should be discouraged from believing that any single ideology or approach "constitutes the sole

repository of truth" (Wickrema and Colenso 2003, 6). This concept was accompanied by other similar objectives, such as a curriculum that emphasizes a pluralistic national history and educators who model appreciation for all social groups. Unfortunately, these aims have not yet come to fruition, as textbooks continue to perpetuate stereotypes and nurture the ethnic divide, and no standardization of education yet exists between the north and the south (SAIS Group Meeting, 19 January 2016). Though some Sinhalese families may feel satisfied that children are receiving instruction in the Tamil language, this does not signify a movement towards the development of communication between youth. Sinhala is not reciprocally taught in the Tamil provinces. Formal education is still largely unreformed.

Education has been implemented as a divisive technique. It was the disparate numbers of Tamil and Sinhalese students entering university that played a role in galvanizing the separatist movement. It was the textbooks used by the LTTE that perpetuated a Tamil culture separate from that of a Sri Lankan national identity. If education can be used to divide two cultures, it can equally be used to unite them. The government of Sri Lanka has been inattentive in working towards a pluralistic education that accounts for students of varying ethnic identities – particularly in controversial topics such as religion, history, and social studies. If there is any hope for youth to be raised in a multicultural society, educational systems that promote stereotypes and offer divergent interpretations of history must reformed. The original goals set out by the 1990 National Education Commission should be revisited, adjusted, and

implemented. Working toward a unified future begins with uniform youth education.

The Impact of War on Youth and the Need for Rehabilitation
<u>LTTE Recruitment of Child Soldiers</u>
Standardized education alone is insufficient to address youth rehabilitation in a country that only recently emerged from violent warfare spanning the better part of three decades.

Despite the creation of a highly functional education system, LTTE rule did not foster a peaceful life for children in the north and in the east. It did the opposite, forcibly recruiting at least one child from each family into their services. When families in the LTTE provinces refused to comply with the voluntary release of a child to LTTE forces, children were abducted from school or their homes, and families lived in fear of violent retribution (UNICEF).

Occasionally, children joined the LTTE because of poverty, lack of alternatives, social pressure, or ideological conviction; however, the distinction between coercion and "choice" when it comes to children taking up arms is a fine line. This is particularly true in light of the fact that Tamil children were receiving a Tamil-centric, anti-Sinhalese education from LTTE instructors (Kimmel and Roby 2007). In the north today, Tamils emphasize that the LTTE did not recruit child soldiers until the final phase of the war (SAIS Group Meeting, 17 January 2016). That final phase, though, saw the recruitment of at least 7,000 child soldiers between the ages of 12 and 18 (UNICEF). International law prohibits the recruitment of children under the age of 15 for

participation in armed groups. Article 38(3) of the 1989 U.N. Convention on the Rights of the Child provides, "State Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces." Additionally, Article 8(2)(b)(xxvi) and (e)(vii) of the 1998 International Criminal Court Statute declare a war crime to be "conscripting or enlisting children under the age of fifteen years" into armed forces (International Criminal Court 2011). Young children have indisputably not undergone enough cognitive development for their decision to engage in warfare to be considered their own. Furthermore, the psychological damage that the grief, shock, and guilt of warfare does to children is so detrimental that it is internationally abhorred.

In the Northern Province, where the aspirations of the LTTE for "self-determination" are still shared and the physical and emotional harm from the military victory is devastatingly apparent, individuals are reluctant to discuss the recruitment of children. The children who were recruited by the LTTE often served in places such as the medical unit or as cooks and drivers. But not being in the direct line of combat does nothing to mitigate the legal, psychological, or social repercussions. In fact, according to the *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, "A child associated with an armed force or an armed group refers to any person below 18 years of age… It does not only refer to a child who is taking or has taken a direct part in hostilities" (UNICEF). Consequently, putting children into a warzone, whether as bystanders or active participants,

has severe psychosomatic implications for those children.

While the Tamil community justifiably seeks rights for itself, it is not in its interest to hide the fact that children were put in heinous situations. This horror must be addressed in order to fully rehabilitate these children into society to acknowledge past grievances and wounds in order to heal. An increase in community acceptance of former child soldiers and children traumatized by war is associated with a decrease in societal problems for children in post-conflict areas. If the youth of Sri Lanka are to be educated in a multiethnic society that works toward conjoining the ethnic divide that led to war, the psychological impact that war had on these children must be a top priority in rehabilitating them into society.

The Situation for Young Girls

The role of young girls in war-related experiences and the process for their rehabilitation into society is different from that of young boys for four reasons.

The first is that girls are at much greater risk of being direct victims of violence through sexual violation than young boys. Second, girls are frequently kidnapped and subsequently sexually trafficked. Third, as internally displaced persons, girls are forced to survive in an environment in which they are particularly vulnerable. Fourth, in cases where their family is lost to war, it is these girls who must rear children and provide a livelihood (Coomaraswamy 2009, 50). Due to these reasons, particular steps should be taken to reintegrate war-affected females. Special provisions are needed for girls who have been

exposed to sexual violence in order to maximize sensitivity and minimize any associated stigma.

In Sri Lanka, the narratives regarding the safety of women during the war decades versus that of today differ substantially. Cases of violence against women and young girls have increased in the north since the war, due mostly to the presence of military men. During the conflict under LTTE rule, women and young girls were safe to walk about the city streets by night (SAIS Group Meeting, 16 January 2016). The contrasting view is that safety for women was an illusion, created by the oppressive fear that everyone had of the LTTE. Nobody walked the streets at night and so women were not harassed, because everyone was living in a state of trepidation (SAIS Group Meeting, 15 January 2016).

In post-war Sri Lanka, women's activist groups work with NGOs to increase the number of cases of sexual violence against young girls that are reported, and to provide young girls with safe houses and psychosocial support (SAIS Group Meeting, 16 January 2016). These groups collaborate to advocate for women's rights and the elimination of stigma associated with sexual violence. Grassroots work of this sort is crucial for the immediate support that it provides to women and girls, and for the mobilization of trust among community members over time. More still needs to be done to acknowledge and respond to reports of sexual violence. The Sri Lankan legal system has been negligent in its duty to process cases of sexual violence, particularly involving young girls. Prior to the war, Sri Lanka had been known as a model of gender equality (SAIS Group Meeting, 12 January 2016). Rehabilitation of young girls traumatized by the

war is a vital objective in and of itself. Returning to a state of safety and equality for women, which the country prided itself upon before the war, would be an additional benefit.

Disarmament, Demobilization, and Reintegration

Reintegrating Sri Lankan youth who were affected by the war is a major challenge that the government, UN agencies, and NGOs must all tackle. The psychosocial approach can be distilled into two stages: the first is the "DDR Program," standing for the immediate *disarmament, demobilization*, and *reintegration* already undertaken for child soldiers. The second is the "Post-DDR Program" that focuses on long-term stability for former child soldiers and war-affected children alike.

One of the most successful routes toward recovery comes from education-related activities. Lessons in the classroom that reestablish routines, structure, and goals for the future reintegrate children who lived in uncertain, war-torn times into a functioning society (Sambasivamoorthy and Somasundaram2013, 13). Grassroots, community-based intervention aimed at the reduction of stigma and the enhancement of community acceptance has life-saving implications for war-affected youth.

There is an acute need for community-based programs that work to instill a sense of normality into children's lives after violent conflict. The key focus today should be on reconciliation and finding common ground for youth across all provinces. Organizations such as the Jaffna Social Action Center collaborate with the United Nations International Children's Emergency Fund (UNICEF) in order to better advance

children's rights through reconciliation programs. Through the promotion of collaborative projects, such as organic farming, youth are encouraged to mingle outside of their prescribed social milieu, and work together toward a common goal.

The Meaning of Membership and Belonging

The formidable challenges of multicultural education and post-war rehabilitation for children call into question the meaning of membership and belonging within a society that has been violently split over those very concepts.

The youth who lived through the war are split between those who are still children in need of standardized education and rehabilitation programs, and those who have now entered adulthood, but whose memories of the war still resonate. In a study on the psychological impact of disaster on youth in Sri Lanka, the authors note, "in the terminology we use in research, we keep talking about *re*habilitation and *re*integration, as if everything can be turned back into normal, as it was before the conflict broke out" (Miller and Rasco 2004, 824). Since the conflict began in the 1970s, the overwhelming majority of the population has no immediate knowledge of what "peace" was like before the civil war started. Sri Lanka prior to the war may have been less violent, but it was not a model of multicultural harmony. This makes the concept of a united Sri Lankan identity among youth that much more difficult to attain, and that much more significant for the future stability of the island.

The process in which Sri Lankan youth must engage in order to experience reconciliation and foster multicultural peaceful development entails removing

ethnic prejudices, acknowledging the past, and creating a common dialogue for the future. The best chance for success is by way of grassroots, regional NGOs that promote collaborative projects among Sri Lankan youth. It is in the capacity of teammates that individuals from different ethnic groups can begin to see one another as human beings rather than as "old enemies" (Kuman 1999, 5). The crucial endpoint of these processes is to prepare the youth in Sri Lanka for responsible citizenship, which is accomplished through empathy, awareness and acceptance of cultural differences as well as a vocabulary and an environment for discussing critical issues.

When children and adults alike are involved in a civic engagement curriculum, individuals are forced to look at their postwar community from a new perspective. By helping to create positive change in the local environment and contributing to the process of postwar recovery, youth develop a sense of civic responsibility and peace activism. They strengthen their own self-esteem, identity, and sense of pride in themselves, as well as develop a new network of friends that includes community role models (Kasumagic 2008, 385). Educational programs that extend outside of the classroom and into the community are of equal importance to those inside the classroom in restructuring society from deep ethnic divisions to multicultural harmony.

Conclusion and Recommendations
The youth of Sri Lanka are still experiencing the impacts of the war. As they are the future of the state, developing a shared Sri Lankan identity is of the utmost importance. This should be done through

educational reform, active psychological reintegration, and civic engagement programs.

To the Government of Sri Lanka

- **Implement standardized education across the country**, paying particular attention to the controversial subjects of history and religion in a way that properly and equally represents the Tamil and the Sinhalese communities. Furthermore the creation of textbooks should be a tandem project between Tamil and Sinhalese authors.
- **Create a National Education Commission for the post-war era**, under which a multicultural educational framework should be implemented. This commission should be responsible for training educators to teach in a multiethnic, multi-religious environment. Additionally, it should work to develop a curriculum that teaches the value of diversity and social harmony.
- **Investigate and prosecute reports of sexual violence.** It is impossible for Sri Lanka to become a stable state if it continues to dismiss violence against women and perpetuates abuse that is endemic to post-war contexts. Sri Lanka must move past its immediate post-war context into a new phase. Building a state on a foundation of diversity and tolerance is not limited to ethnicity; gender must be equally represented and protected as well.
- **Improve relations between the Sri Lankan army and police and the Tamil population.** Tamil children should not grow up with fear

of and resentment towards a disproportionately Sinhala-speaking police force in the Northern Province. Increasing the number of Tamil-speaking police officers will foster trust and begin to bridge the ethnic divide.

- **Grant a formal amnesty to all former child soldiers** who were recruited by the LTTE. Children who participated in the war did not have the cognitive capabilities to make this decision for themselves.

To NGOs and Grassroots Organizations

- **Take special precautions when engaging with young girls** who are seeking aid following the war. Their individual cases may often require particular sensitivity and different care regarding sexual violation.
- **Address not only the physical needs of children, but also the psychological needs**, which are many in this post-conflict society. The promotion of children's mental health is one of the most important goals.
- **Work toward increasing community acceptance** of children who were involved in the conflict, and particularly young girls who were victims of sexual violence. An increase in community acceptance is associated with a decrease in problems for children in post-conflict areas.
- **Incorporate community-based environmental tasks**, such as farming. These allow youths from different ethnic groups to work together toward a common goal in an

effort to end ethnic mistrust, resentment, and disunion.

Part IV: Building Security after the War

The LTTE's Rise, Fall and Lasting Impact on Security

Patricia H. M. Morrissey

By the late 1980s, most of the organized Tamil armed groups pursuing political aspirations for "self-determination" had united under the banner of the Liberation Tigers of Tamil Eelam (LTTE). To many in the Tamil community of Sri Lanka and in the Tamil diaspora around the world, the LTTE were freedom fighters willing to die in their fight for political, economic and social equality for the Tamil minority population. To most Sinhalese and many in the international community, the LTTE became known as a vicious terrorist organization that would stop at nothing, including blowing up innocent civilians, to draw attention to their cause. The U.S. State Department placed the LTTE on its terror list in 1997. But the LTTE also developed the military capability to challenge Sri Lankan forces on what they considered their territory in the north of the island.

Sinhalese and Tamil leaders have battled for control of the island since ancient times, but a key political driver of the 26-year conflict that began in 1983 can be traced to the "Colebrooke Cameron Constitutional Reforms," introduced by the British in 1833. This "reform" merged the North and East Provinces of Ceylon, where the Tamil people had lived since 300 B.C., with the Sinhalese provinces in the rest of the island, and placed the provinces under

centralized British government rule. When the British pulled out of Ceylon after World War II, they left the Sinhalese majority in control of the whole of the newly independent island nation, renamed Sri Lanka in 1972.

This chapter will focus on the post-independence period, when Sinhalese took over key leadership roles in the government and many politicians adopted Sinhalese Buddhist nationalism, which promoted discrimination against the Tamil minority population and exploited the fears and resentments of Sinhalese voters for political gain. In 1956 the Sinhalese-led government passed the "Sinhala Only Act," which made Sinhala the only official language of the country, sparking riots in the Tamil community and a violent Sinhalese counter-reaction that resulted in many deaths, mostly of Tamils. In 1972, a new constitution reaffirmed Sinhala as the single official language of legislation, courts and administration, with some limited provision for the use of Tamil. But Buddhism was accorded a prominent place and earlier minority safeguards were omitted.

The dilemma facing the Tamil people in the wake of the "Sinhala Only Act" and the violence against Tamils that Sinhalese politicians stirred was eloquently and presciently articulated by Senator Somasunderam Nadesan, a Tamil member of the Sri Lankan Parliament, in 1957:

> … it is only after the Sinhalese leadership has rejected the minimum rights consistent with the dignity and self-respect of the Tamil people that the people as a whole will be justified in adopting other methods of resistance… In such an event, it will not be a struggle organised by the Federal Party but a

national struggle of the entire Tamil people. Such a struggle is bound to bring a lot of suffering to our people but that would not deter us if we are satisfied after long and patient negotiation that the Sinhalese leadership is not prepared to acknowledge even the barest human rights to which we are entitled. If there is such a denial then it will be necessary for the preservation of the soul of the people that they should struggle against tyranny, irrespective of consequences rather than submit or surrender (Senator S.NadesanQ.C., Sri Lanka Senate Hansard 26 June 1957)

Anti-Tamil political rhetoric by Sinhalese politicians incited hostility on the part of the Sinhalese community and fearful reactions across the Tamil population. This gradually escalated into further violence. Tamil political parties coalesced and formed the Tamil United Liberation Front (TULF) in 1976, which resolved to seek a separate Tamil "eelam" (the Tamil word for their territory on the island). While Tamil leaders continued to press the Sri Lanka government for a political agreement on an independent homeland, Tamil youth grew impatient with the lack of political progress and began organizing for armed struggle.

Tamil animosity towards the Singhalese-dominated government escalated further during violently suppressed protests in 1977, 1981 and 1983. In 1981, a Sinhalese mob went on a rampage in Jaffna from 31 May until 2 June, attacking the Tamil Newspaper *Uthayan* (meaning "The Rising Sun"), the main market area of Jaffna, and a member of Parliament from Jaffna. They destroyed the Jaffna

Public Library, which housed 95,000 volumes, including historic manuscripts of great cultural importance to the Tamil people. According to witnesses, uniformed Sinhalese police officers were involved in attacks that killed four people.

Tamil historians explain that after years of unsuccessful Tamil attempts to secure equal rights for their people through peaceful and democratic means, the only option left for them was to take up arms and fight for sovereignty on the territory that had historically belonged to the Tamil population. In 1972, Velupillai Prabhakaran founded the Tamil New Tigers, but changed the group's name to Liberation Tigers of Tamil Eelam (LTTE) in 1976. After years of officially-sanctioned discrimination and unsanctioned mob violence against Tamils, Prabhakaran and the LTTE gradually emerged as the most effective armed opposition in the 1980s.

The first recognized attack of the LTTE was on Sri Lankan Army soldiers stationed in Tamil territory on 23 July 1983. Thirteen soldiers were killed. This event triggered "Black July," an anti-Tamil pogrom that began in the capital city of Colombo the following night and spread like a wildfire across the country. For a week Sinhalese mobs went on a rampage against the Tamil population—burning, looting and killing between 400 and 3,000 people. During this period, it is estimated that 5,000 Tamil businesses and 8,000 Tamil homes were destroyed, and about 150,000 were left homeless. Thousands of Tamils left Sri Lanka. Many who stayed joined militant groups to fight the government. "Black July" was the match that lit the full fire of violent conflict between the Tamil and

Sinhalese people and marked a major turning point for the worse in post-colonial Sri Lanka.

The LTTE's targeting of Sri Lanka Army officers on what was the traditional Tamil homeland supports Tamil arguments that the Tigers were "freedom fighters" and not terrorists. How did they come to be seen by the world as a terrorist organization and not a minority group fighting for sovereignty over the land they had occupied for over two millennia? Over the course of 26 years the LTTE built a nation-state style military with the capability to protect what they considered to be their territory in hopes they would gain the respect afforded to independent nations. But the LTTE also continued to conduct suicide bombings that killed or injured hundreds of civilians. The escalation of violence between the government forces and LTTE prevented successful conflict resolution as the killing hardened both sides against compromise. Over time, the LTTE was so successful in building a military force and a *de facto* state that the Sri Lankan government was compelled either to give in to their independence demands or wipe them out.

The Rise of the LTTE

Early in the conflict the LTTE often used asymmetric "terrorist" tactics in an attempt to create fear among the Sinhalese military and population as well as to gain political leverage against the Sri Lankan government. LTTE became famous for its use of suicide bombers (it is credited with inventing the suicide vest), who were part of LTTE's guerrilla warfare branch, the "Black Tigers," and were responsible for the assassinations of 46 prominent Sri

Lankan political leaders as well as the Prime Minister of India, Rajiv Gandhi, in 1991. The LTTE had carried out about 220 suicide attacks by 2002.

Despite the LTTE's infamous use of suicide attackers to confront the more powerful Sri Lankan government, the LTTE's goal was to grow its poorly-armed guerrilla army into a conventional force that could provide security for an independent Tamil state. Prabhakaran established a hierarchical organization with military, political and intelligence branches. The military section had an Army, a Navy, an Air Force and a Special Operations unit (the Black Tigers). In 2005 LTTE forces were estimated at around 30,000. The intelligence branch had a network of informants that kept Prabhakaran informed of all comings and goings in Tamil territory. Prabhakaran also set about building a governmental infrastructure that provided education, banking, healthcare and its own TV station and newspapers.

The first phase of war between the Sinhalese-led Sri Lankan government and the LTTE lasted until July 1987 (referred to as "Eelam War I"). A ceasefire agreed to in July 1987 held until 1990. "Eelam War II" began in 1990 when the LTTE forced Sri Lankan police officers to lay down their arms and surrender with the promise that they would be flown back to the south. Instead the LTTE fighters took them to the jungle and shot at least 600 of them. The Sri Lankan government reacted by declaring a renewal of the war against the LTTE, leading to another five years of conflict before a new ceasefire was declared.

A ceasefire lasting 100 days began in early 1995, but war broke out again (Eelam War III, 1995-2002) when the LTTE Sea Tigers blew up two Sri Lankan

naval gun boats. This period saw the rise of the LTTE as a formidable military force, but it was also the period when major powers formally declared LTTE to be a "terrorist organization" after a decade of suicide attacks and bombings that killed or wounded government officials, members of the Sri Lankan military and police forces, and hundreds of innocent civilians. By the time of the 2002 cease-fire, the LTTE had set up its own government in Sri Lanka's northern and eastern provinces and had established a de *facto* line of administration between the Sri Lankan government-controlled territory and LTTE-controlled territory. According to a high ranking former official of the Rajapaksa government, after that procrastination became the LTTE's strategy because they had already achieved their number one goal—control of what they considered to be their territory. Despite the years of soul-wrenching violence, the LTTE and the government had still not reached what Zartman calls a "mutually hurting stalemate" (Zartman 2005), where both sides agree to negotiate because they believe that they have less to gain by fighting. In the case of the LTTE in the 2002-2005 period, they were not about to negotiate themselves out of the autonomy they had recently achieved. Stedman's description of spoilers as "leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it" (Stedman 1997, 5) seemed to hold true for the LTTE in the 2002-2005 period. Prabhakaran appeared in public as if he were a head of state to sign a ceasefire agreement with the government, but during four years of negotiations that followed, neither side could agree to a political

settlement that included autonomy for the Tamils. Confrontations between the Tigers and the government increased and assassinations resumed. A turning point for the LTTE was the defection of one of Prabhakaran's top lieutenants, known as "Colonel Karuna," who led a factional split within the Tamil armed movement and by 2006 had joined forces with the government against the LTTE.

LTTE Capabilities

How was this "terrorist" organization able to build a nation-state style military and a functioning society within the borders of a state with which it had been at war for twenty years? The LTTE relied heavily on imports from abroad to acquire and train the armed forces necessary to operate like a "legitimate" military, unlike a terrorist organization. The LTTE developed a sophisticated fundraising operation that relied on support from the Tamil diaspora, many of whom had fled after Black July but were still emotionally devoted to the cause of an independent Tamil homeland. Funds also came from criminal activities in which the LTTE was engaged, (e.g., extortion, drug smuggling, human trafficking) and from some Indian Tamils sympathetic to their cause. The LTTE also collected taxes from Tamils and engaged in sea-based commercial enterprises that they also used to move weapons. The LTTE used its funds to buy weapons illegally from mostly Southeast Asian arms suppliers.

Most of the LTTE's weapons arrived by sea. The Sri Lankan government's acquisition of larger and more sophisticated naval patrol boats tipped the balance and enabled the Sri Lankan Navy to shut down many of the LTTE's sea-based supply routes.

However, smaller LTTE boats continued to bring in small supplies of arms until the end of the war in 2009. The LTTE's naval force, the Sea Tigers, bought commercial boats and armed them with weapons. The Sea Tigers were able to challenge the Sri Lankan Navy's control of the seas in the northern and northeastern part of the island, but their activity declined with the restart of the war in 2006, most likely due to improvements to Sri Lankan naval capabilities. The photograph above depicts fast boats belonging to the LTTE Sea Tigers on display at the War Museum in January 2016.

The LTTE developed an air force using commercial planes modified to carry weapons. During 2007 they executed a few successful air strikes on Sri Lankan air bases, destroying government planes, but the government quickly procured new air defense systems to defend against future attacks.

An analysis of the arms trade with Sri Lanka during the 26 years of civil war shows that weapons

suppliers fed the escalating cycle of violence from both sides:

> The supply of arms to an environment with inner tensions can be crucial in lapsing it into armed conflict. Furthermore, arms races can play a key role in civil war by giving the state greater military capacity to repress minority groups and to eliminate rebel groups, thereby not needing to reach agreements or compromises in order to solve underlying causes of conflict. While improved access to arms for one of the warring parties can speed up the process of ending a war, it can also provoke and trigger response arms acquisition and escalate the conflict (Lindberg et al, 2011, p. 12)

The international arms trade not only fueled the violence, it continued through five attempts at ceasefires and negotiations, with no international community interference. The demand was fed by the LTTE's furious race to build a military that could gain the respect of the international community and support their desire for an independent homeland, while the Sri Lankan government continued to strive for a military that could crush the LTTE.

Negotiations

Between 1957 and 2006 there were five separate negotiations meant to stop the violence in Sri Lanka. The ceasefire agreement signed in February 2002 kicked off the fifth round with support from Sri Lankan President Chandrika Bandaranaike Kumaratunga and the new Prime Minister Ranil Wickremesinghe. The talks were led by Norway, but

also involved Japan, the European Union and the United States. Six rounds of direct negations between the LTTE and the government of Sri Lanka were held from September 2002 to March 2003. Talk of a possible federal solution led the LTTE to back down from its secessionist demands. The negotiations seemed to be making progress.

At this sensitive moment, the U.S. agreed to host a meeting in Washington to discuss the peace process and did not invite the LTTE because they were formally listed as a "terrorist organization." Responding, the LTTE suspended negotiations and refused to attend the follow-up donors' meeting in Tokyo, accusing the international community and the Sri Lanka government of not treating them as an equal party to the negotiations. After that the negotiations stalled for three years. Most believe a fragile peace held together because of the devastating distraction of the 2004 tsunami, during which 30,000 Sri Lankans died. By 2005 the politics within the Sri Lankan government had changed again, and President Rajapaksa had been elected on a platform of defeating the LTTE once and for all. By mid-2006 the island had tragically descended into violence again.

The Fall of the LTTE

Since independence in 1948, Sri Lanka had seen decades of riots, pogroms, suicide bombings, assassinations, military skirmishes, failed peace negotiations, and vicious brutality between ethnic groups. However, the people of Sri Lanka had not yet seen the worst of their recurring conflict. By the time President Mahinda Rajapaksa and his brother, Defense Minister Gotabhaya Rajapaksa, came to power, the

Sinhalese public was cheering them on to destroy the LTTE. In 2006 the country burst into another violent frenzy as the epic battle for the future of Sri Lanka began when the Air Force attacked LTTE training camps in the North in retaliation for LTTE cutting off the water supply to 15,000 villages in government-controlled areas. For the next 34 months the Sri Lanka military and the LTTE fought conventional military battles that included ground, naval and air forces. With the help of China, Israel, Ukraine and other outside powers the emboldened Sri Lankan government had been able to modernize and build military capacity that was difficult for the LTTE to defend against (Lindberg et al., 2011). The Navy was able to choke off sea deliveries of heavy weapons shipments to the LTTE.

The last few months of the war were the most terrifyingly memorable of the three-decades long conflict. The representatives of the United Nations were forced to leave the country towards the end of the conflict and were unable to prevent or bear witness to the horror that was to come. As the Sri Lankan military gradually encircled the LTTE fighters and their communities, they pushed them into a small territory on the northeastern side of the island where Tamil villagers at one time had a thriving fishing industry. Many innocent civilians became trapped on the battlefield and died a horrible death trying to escape through enemy lines or survive in camps on the strip of beach in and around Mullaitivu. Sometimes the Sri Lanka Army or Navy helped them escape, but sometimes they struck civilians as they targeted the LTTE leadership and fighters. The LTTE used Tamil civilians as human shields as their fighters hid among

them. The Sri Lankan Army claimed they couldn't tell combatant from civilian. They were ruthless in their pursuit of the LTTE leadership. It is estimated that over 300,000 civilians got caught up in the fighting during Eelam War IV and over 100,000 of them died.

After almost three years of war and months of relentless strikes against the LTTE, the Sri Lankan government declared victory after a May 18, 2009 battle that killed key LTTE leadership, including Prabhakaran. By the end most of the world was on the side of the government, but the Tamil diaspora admired the LTTE fighters for their devotion to the cause of independence. The LTTE believed its desired ends justified any means, but their record of suicide bombings, assassinations and killing of civilians gave it a reputation across the world as a violent terrorist organization unwilling to negotiate in earnest. Many in the Sinhalese community believe that it was the LTTE that committed most of the atrocities, including forcing Tamil civilians to join the violence against their will and using them as human shields in the last few months of the war. The Sri Lankan government felt fully justified in pursuing the LTTE leadership to its death, no matter what the cost to Tamil lives. They made sure that the final defeat was a humiliating one, as evidenced by numerous memorials to the Singhalese heroes of the war and continued Singhalese triumphalist rhetoric about the outcome of Eelam IV.

Since May 2009 the government has worked hard to convince the international community that they are committed to reconciliation with the Tamil people. Less than three months after the end of the war the victorious Sri Lankan government had developed a "National Action Plan for Reintegration of Ex-

Combatants," which was meant to "…safeguard the human rights of ex-combatants, including the responsibility to protect and assist them in accordance with the Constitution of the Democratic Socialist Republic of Sri Lanka and the State's international obligations" (National Framework Proposal for Reintegration, July 2009, 1). A 2011 report stated that 11,696 LTTE cadres had been "reintegrated" into Sri Lankan society thanks to the National Action Plan (Manoharan, 2011, 1). The definition of "reintegrated" is unclear. Most Tamil youth corralled into detention camps after the war were assumed to be affiliated with LTTE in some way, and those of fighting age were threatened and sometimes tortured in order to extract information on LTTE cadre who might still be at large (Harrison 2012). There were around 230 LTTE former fighters who were still in military-run "rehabilitation" programs in 2014, where they were subject to brutal and prolonged mistreatment. (Freedom House 2015). The Working Group on Enforced or Involuntary Disappearance (WGEID) reported 5,671 cases to the UN Human Rights Council, March 2012. Subsequently, the Sri Lankan government claimed that it was cooperating with the WGEID and that it had "successfully resolved many of the supposed disappearances" (UN HRC Report December 2012).

The government's self-assessments are not consistent with what we heard in interviews that we conducted across the north and east of the country. Fear of government retaliation for political dissent is pervasive. According to Frances Harrison, "Anyone [who was] LTTE that wasn't killed in 2009 is still being pursued" (Personal Interview, 7 March 2016).

She described the LTTE fighters and people who survived on the battlefield of the last few months of the war as traumatized, very angry and in many cases still suicidal. For many in the Tamil community the war is still going on in prisons around the country, where many of the suspected LTTE still languish. The depth of despair in the Tamil community about what happened during the war is palpable, and it must be addressed if personal and societal wounds are to be healed.

Lessons Learned
The LTTE's glorification of suicide attacks did not serve it well with the outside world, even if its supporters thought it was the only way they could achieve justice. UN and international leaders were well aware of the political causes of the conflict, which many saw as legitimate given official Singhalese policies of discrimination against the Tamils. After 9/11 it became difficult, however, for the international community to engage constructively with the Tamils. Before that, the UN, understanding the reality on the ground, might have intervened with peacekeeping forces to act as neutral arbiter and prevent war, had it been welcomed by both the government and the LTTE. The labeling of LTTE as a "terrorist organization" made that impossible.

Unresolved hostilities provide new opportunities for arms dealers to make profits that can add fuel to the conflict. International arms dealers, both licit and illicit, took advantage of instability in Sri Lanka, even during ceasefire periods. The ceasefire periods were used to acquire increasingly lethal weapons, which continued to escalate tensions and trigger another

round of conflict. The government was able to buy or accept gifts of arms legally, which eventually gave it the military capability to crush the LTTE. Once the government gained the superior military capability, the international community lost its leverage to encourage compromise on political demands that would address the underlying causes. It is too late to change the tragedy that has already occurred in Sri Lanka, but this lesson should not be forgotten. The international community should focus its energy on coming together to prevent shipments of weapons during ceasefire periods, while it mobilizes support for political agreement between the conflicting parties.

A central driver of the conflict and the reason for the emergence of the LTTE was official government discrimination against Tamils. Sinhalese bear responsibility for promoting or accepting a culture of intolerance. They may have been able to prevent decades of war if they had recognized that politicians were fueling their fears and ethnic prejudices deliberately for political gain. This is a dangerous but classic ploy. It will take years to undo the anti-Tamil prejudice.

The political aspirations of minority ethnic groups should never be ignored even if they do not control the levers of power. The failure to earnestly and tangibly address the grievances of the Tamil people created a cancer that metastasized into a powerful fighting force with many individuals willing to sacrifice their lives. The Sri Lankan military had greater numbers and firepower, but only after decades of death and heartbreak across the country were they able to kill the leadership of the LTTE. It remains to be seen if they actually killed the movement. Respectfully addressing

demands for equal rights under the law for all citizens is a fundamental requirement for long-term peace. Our interviews with Tamils in January 2016 revealed that their original grievances were still mostly unresolved. This issue is covered in other chapters, but is critical to prevent the re-emergence of an LTTE-like organization.

The Sri Lankan Army and Navy took over huge swaths of Tamil land during and after the war (see chapter by Emily Ward). We visited a village that was occupied by the Sri Lankan military and spoke with the villagers who were in temporary housing down the road. The villagers explained to us that the military allowed their kids to go to school in their historic village, but as of January 2016 they were still not able to return to their homes. This issue of land return is also covered in the chapter by Gerrits, but is critical to preventing the reemergence of insurgency.

Conclusion

The underlying causes of the conflict in Sri Lanka have not been resolved. The LTTE's use of suicide bombings and high-profile assassinations stamped the organization as a ruthless terrorist group, but its political objectives live on. Tamil citizens continue to yearn for the Tamil homeland that the LTTE fought to the death for, even if they don't support the terrorist tactics that they used. Sadly, the horrific violence of the war's conclusion may have even deepened the resentments that have existed in the Tamil community since 1956. For now the Tamil community seems resigned to the idea that their battle must be won through political means. (SAIS Group Meeting with *Uthayan* journalists, Jaffna, Sri Lanka, 15 January

2016). The current debates in Parliament about new forms of federal governance seemed to hold out the possibility of increased autonomy for the Tamil provinces going forward. Tamils hope that President Sirisena will keep his promise to lead political reform that will provide some autonomy for the Tamil people and social reconciliation to begin to heal the wounds of decades of ethnic warfare.

Recommendations

To the International Community

- **The UN Security Council should pass a resolution banning the provision of arms to either party in an intra-state conflict during a ceasefire.**

To the Government of Sri Lanka

- **Establish a job training program for former LTTE fighters that includes the opportunity to join the military or police forces.** Allowing Tamil youth to reintegrate into the security forces will give them shared responsibility for protecting all citizens of Sri Lanka and demonstrate the government's commitment to nondiscrimination and reconciliation.

- **Develop and promote a program of tolerance education across the country that will teach the next generation not to hate.** Years of violence and war have resulted in negative stereotypes between Tamil and Singhalese people. The government should establish a tolerance curriculum for Sinhalese and Tamil secondary school students to

increase awareness of their country's history, including an honest assessment of the mistakes that led to decades of war. The tolerance curriculum should cover the importance of accepting cultural differences and acknowledge all human beings' need for security. It should include a component that heightens awareness of political tactics used to exploit people's fears to help politicians get elected. The curriculum could be developed by a consortium of academics and civil society partners representing all religious and ethnic groups. Teacher training could be contracted out to international consultants who specialize in educational reform programs.

- **Demonstrate strong support for a transitional justice process that includes international observers.** The Tamil National Alliance should fight for international observers to be part of the reconciliation process. International observers can act as honest brokers in a country that has seen violence and corruption since it gained independence in 1948. Their presence will serve to enforce accountability on both sides by truthfully addressing war crimes and ongoing human rights abuses.

To the Parliament
- **Work with President Sirisena to make progress on the establishment of a system of government that allows the Tamil people to have reasonable political autonomy in their historic lands, while abiding by federal**

statutes that guarantee human rights and equal protection under the law. This will go a long way towards assuring the many Tamils, who still feel that their original political grievances have not been met, that real progress is being made to protect their rights to safety and security under a system of laws that gives them the same rights as Sinhalese citizens.

Demilitarization and the Shifting Role of the Armed Forces

Emily Ward

It has been seven years since the Sri Lankan government declared victory in its war against the insurgent LTTE: seven years since suicide bombings, white van abductions, and civilian deaths. The mass graves have been uncovered, a new government has been elected, and the truth and reconciliation process is being negotiated. And yet seven years after the end of the war, 300,000 military troops continue to patrol the small island nation with 14 of 19 divisions stationed in the contested territories in the north and east. They train, patrol, spy, garden, and run hotels—effectively squatting on lands seized from the local Tamil populations during the war as they branch out into the private sector. Travelling to Jaffna in the north, there is the sense that both sides are holding their breath: waiting for the other shoe to drop and violence to resume. Political discussions with Tamil groups reveal underlying commitment to the cause of self-determination, though the military branch of the Tamil movement for sovereignty has been destroyed.

In this context, such a high military presence is seen by the government as a necessary deterrent to a resurgence of the insurgent LTTE. Interactions between military personnel and local inhabitants in these regions are limited by language and generally contained to soldiers' excursions into town to sell

produce, find companionship, or "collect intelligence"—all of which provide a point for friction. There is a distinct lack of concrete planning or political will to prepare for demilitarization and the reintegration of the 300,000 troops who came of age at a time of war and whose sole marketable skill is knowledge of firearms. The economic and social impact of reintegrating such a large group back into the general populace needs to be addressed, even as the limitations of shifting troops towards maritime border protection or UN peacekeeping missions are recognized.

Prior to the outbreak of violence, the Sri Lankan military numbered only 10,000 soldiers in 1977. This number would grow rapidly to 120,000 by 2004 and plateau at 230,000 in 2009, when the government ultimately declared victory in its war against the LTTE. Seven years after the cessation of hostilities, the country has maintained a high degree of militarization with approximately 300,000 troops, including the 40,000 who serve as Civil Defense Forces in their home communities. Those opposing demilitarization play off fears of an LTTE resurgence to violence. According to Lakshman Peiris, who served as Foreign Minister during the latter part of Sri Lanka's civil war, it would be "deliberately obtuse to dismantle the system of security in this country" given that threats exist (SAIS Group Meeting with Lakshman Peiris, 18 January 2016). Moving forward, any plans or ideas for a staged de-militarization must necessarily be preceded by an understanding and acceptance of the end of the war. Preserving war-time readiness for such a large force for an indefinite length of time is unrealistic, for both pragmatic logistic and

inter-personal reasons. Having effectively fulfilled its role as a counter-insurgency force in 2009, it is past time for the military to re-define its role within Sri Lankan, especially with regards to its highly concentrated forces in the north. The continued presence of the military in the north is a point of friction that could spark a resumption of violence, rather than act as a deterrent to the resurgence of an armed Tamil insurgency. According to Father Jeya, a Catholic priest who founded the Tamil People's Council, "the guns are silent but the war has not ended" (SAIS Group Meeting with Tamil People's Council, 14 January 2016).

Military Reform: De-Proliferation, De-Concentration, and De-Mobilization

<u>De-Proliferation and The Army Economy</u>

Analysts at Verité, an economic think-tank in Colombo, classify the challenges of demilitarization as threefold: de-proliferation, de-concentration and, finally, de-militarization (SAIS Group Meeting, 18 January 2016). In their minds the de-proliferation of the army—or its departure from policing, intelligence, and private sector activities such as management of farms, hotels, shops, and restaurants—is the first necessary step in military reform as it aims to return the armed forces to their original mandate. Such activities were excused by the government as necessary during wartime because of the severe violence that led to a breakdown of society and economy in the North. According to former Foreign Minister Lakshman Peiris, the army was forced to run stores and retail businesses to meet market needs and stimulate economic functioning in war-torn regions. In this context, he contends that the army played a

"catalyst role in the transition to peace" during an "excruciatingly painful" time which would have proved "longer without the aid of the military" (SAIS Group Meeting with Lakshman Peiris, 18 January 2016). In the short-term, immediately following cessation of violence, the top-down, centralized coordination that allowed for military victory under the Rajapaksa administration also garnered success in promoting economic growth as the country transitioned away from its war-time footing. By not decreasing the size of the army, however, or providing enlisted troops with sufficient tasks or a new mission, the government has laid the groundwork for the continuance of this "army economy." Army hotels, restaurants, and farms act as a form of state-subsidized economic competition with locals, even as produce farmed on seized government lands floods local market places at excessively low prices (SAIS Group Meeting with Kodikara, 12 January 2016). Tamil villagers talk of overfishing and being invited to work as farmhands on lands they once owned before their seizure and occupation by the military (SAIS Group Meeting with Tamil Villagers, January 2016).

Disparate accounts assign between 3,200 and 7,000 acres to the army in the north, displacing some 35,000 people (SAIS Group Meeting with *Uthayan*, 15 January 2016). Such 'high security zones' were continuously expanded around potential targets throughout the war as insurgent combat capacity grew. Land resettlement has proven a contentious issue as thousands of internally displaced people camp out in temporary housing near their former homes and many more thousands wait in other countries and provinces for the chance to return. Since the end of the war, land

has been returned in bits and pieces to its original owners, but the substantial reduction in military checkpoints since 2014 has not been met by a concurrent or significant reduction in military presence. There exists no official map of military installations in the north, but driving through the countryside one is confronted by huge military bases every few miles whose modernity, upkeep, and continued presence implies long-term occupation.

De-Concentration and Military Occupation
With the disproportionate military presence in the north, Sri Lankan defense policy has effectively transitioned from wartime to occupation footing. The second component to Verité's recommendations is the need to adjust the significant imbalance that exists in military concentration that has placed over half of all troops—roughly 150,000—in the smaller, majority-Tamil regions in the north and east. Recommendations have been made by activists and local politicians to adjust postings to equilibrate numbers across Sri Lanka's regions, but such a move has received little attention because of the associated logistical and fiscal costs. In the north, there is one military officer to three laypersons; one in four individuals serves in the army (SAIS Group Meeting with Tamil People's Council, 14 January 2016). Roughly 95 percent of these soldiers subscribe to a different religion and culture, including a different language, than their new neighbors in the north. During the years of military buildup the composition of the armed forces underwent a significant demographic shift as recruitment from the Royal College was suspended and troops were increasingly

pulled from rural communities in the south who identified as Sinhalese and Buddhist. As the army shifts to family postings, many northern Tamils fear a government conspiracy to effect a far-reaching demographic change in the province (SAIS Group Meeting with Verité, 18 January 2016).

The re-designation of streets in the Sinhala language and the government-sponsored erection of Buddhist temples throughout the north only reinforces such concerns. Challenges near traditional bases occupied primarily by young men generate community fears for the 'virtue of Tamil women.' Accusations abound of rape and forced sexual favors. Food and supplies are trucked in from the south. There are separate hospitals and schools on base. Without a language in common, there is little interaction between government troops based in the north and the Tamil community, except when soldiers venture out to (under)sell produce in the local market, spy on local gatherings, or seek female companionship. These interactions have only served to exacerbate tensions.

Memories of the government's white van abductions, applied—legally or otherwise—under the Prevention of Terrorism Act as the army took on a policing role during the war, have made the populace wary of an army that views all Tamils as traitors and likely terrorists (SAIS Group Meeting with Tamil People's Council, 14 January 2016). Rumors in the north speak of more recent kidnappings and murders carried out by individuals taking advantage of the endemic fear inspired by white vans to ransom or kill enemies (SAIS Group Meeting with *Uthayan*, 15 January 2016). The veracity of such rumors is hard to prove, but the high level of suspicion and fear with

which the army and police are viewed in the north is a significant challenge to integration or even interaction, exacerbated by the lack of significant reform or troop reductions since the war. *Uthayan*, a much-lauded Tamil newspaper based in Jaffna, has itself fallen victim to numerous physical attacks in the past decade, which it alleges are directly related to the investigation and publication of articles critical of the military. Though no direct threats have been made in recent years, previous instances have not been seriously investigated as the military still holds significant sway in matters of policing. *Uthayan* also attempts to track the presence of army informants at local gatherings. The army is known to enlist locals and force former LTTE combatants to act as informants and spies to help measure and track support for, or interest in, an LTTE resurgence (SAIS Group Meeting, 15 January 2016). This has created a corrosive environment of distrust and suspicion within the community (SAIS Group Meeting with Human Rights Commission, 18 January 2016).

The Economics of De-Mobilization

Beyond fear of LTTE resurgence, demilitarization has proven politically unpopular for more pragmatic reasons. Military spending is still less than two percent of GDP, but the fiscal and social costs associated with demobilization are steep. The government would need to craft a plan for societal reintegration of former soldiers, allowing avenues towards gainful employment akin to the smaller counseling and vocational training programs that have allowed for limited re-integration of Tamil insurgents (SAIS Group Meeting with Human Rights

Commission, 18 January 2016). Private sector employers have indicated that any such re-training programs would need to account for the lack of "thought ownership," or independent thinking, resulting from years of following orders. The challenge would be to foster sufficient opportunities to "retire and absorb soldiers into the economy while preserving dignity" and preventing shifts to the criminal sector from those soldiers "trained in violence" (SAIS Group Meeting with Verité, 18 January 2016).

The military resists demobilization, though. Decades of war made the military the most powerful institution in the country, operating without accountability as it took over policing and espionage activities and became involved in the private sector (SAIS Group Meeting with Human Rights Commission, 18 January 2016). This "Shadow State" created a military culture assigning special perks to soldiers, such as access to new hospitals, hotels, and universities. Attractive pensions on top of these other societal perks have made demobilization an unappealing option for many, given the dearth of alternate employment opportunities (SAIS Group Meeting with Verité, 18 January 2016).This is especially true for soldiers from smaller communities. Military demographics influence this picture. The heavy recruitment from rural areas created an indirect welfare system as soldiers sent their earnings home to support their families. As a result, incomes in rural communities grew at a much faster rate than those in urban areas during the war, a trend that has reversed to an extent since peace and resettlement (SAIS Group Meeting with Verité, 18 January 2016). Any plans for

demobilization will need to recognize and mitigate these concerns.

Human Rights and the Military
The "Bad-Apple" Approach

"To the victor goes the spoils" and the power to shape the narrative of the conflict. Media presence and international involvement have mitigated this effect in Sri Lanka, but the government retains a great deal of influence over how the war will be interpreted in history. This is visible in the demolition of all LTTE cemeteries in favor of war memorials and monuments to the bravery of government troops. The narrative in the south is one of heroes and sacrifice in the face of "immoral terrorists" (SAIS Group Meeting with Weerakoon, 13 January 2016). As a result, there exists significant pushback against any attempts to investigate or prosecute human rights abuses by government troops. Few soldiers have been successfully prosecuted for rape and murder. The response in such cases is often one of anger at the justice system rather than the perpetrators. A "Save our Soldiers" social media campaign was born of one such case, reflecting the southern view that soldiers are "low-hanging fruit" whom the government unfairly targets. Within the government itself, politicians often delay justice processes in an effort to "protect the military heroes who saved us from terrorism" (SAIS Group Meeting with Gunatilake, 13 January 2016).

The government's decision to prosecute only a handful of individuals ignores growing evidence of greater systematic human rights abuses committed by the military. The question then becomes: is it realistic to expect the government of Sri Lanka, as the

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clear victor in this war, to punish its own troops for crimes committed in perpetrating the war? The "bad-apple" approach is seen as a stalling tactic by many who understand that, as the years pass, evidence and the will to prosecute will wane and the mantle will pass to family members to push for justice for crimes that the general population will have long forgotten. Advocates at the Human Rights Commission worry that the government will "choose a few emblematic cases that go not too high, but just high enough to appease the international community" (SAIS Group Meeting, 18 January 2016). Acceptance of the new United Nations Human Rights Council Resolution on Sri Lanka is seen by diplomats in Colombo as a significant positive step towards redress that could allow the government to conduct high profile investigations of military crimes to "restore honor to the armed forces."

This view seems overly optimistic, however, given pushback by individuals who view this as a "resolution *against* Sri Lanka," the acceptance of which would represent the country "reducing herself, voluntarily, to a type of colony" if it bows to the uninvited demands of foreign diplomats and politicians (SAIS Group Meeting with Lakshman Peiris, 18 January 2016). Moving forward, the Sri Lankan military will likely find its efforts to redefine its role stymied without appropriate redress of the accusations of human rights abuses. The strength of the military "Shadow State" in Sri Lanka has made the government especially reluctant to challenge the army with regards to human rights abuses or reorganization; more than one interviewee admitted to a creeping fear that the power of the coordinated

military outstrips that of the reluctant coalition attempting to govern from Colombo, opening the door to a potential coup. Sri Lanka has no tradition of military coups, but even allusion to such a scenario hints at concerns about the relative strength of government and military institutions.

Conclusion
<u>A New Role for the Military?</u>
The Sri Lankan military has not acted as a counter-insurgency force since 2009. Redefining the military's role as "protection of Sri Lanka's territorial integrity" does not serve the army, however, as the island nation is best protected from foreign incursion by a strong navy. This reality is reflected in recently expanded naval recruitment. Immediately following the war, the army was involved in reconstruction efforts for orphanages in the north, but such projects were few and far between (SAIS Group Meeting with *Uthayan*, 15 January 2016). This is the key reason the army economy (military involvement in the private sector) is still going strong. Army soldiers have no significant tasks or duties to occupy them, so they farm or fish or run cafes. The very real concerns about Indian fisherman exploiting Sri Lanka's natural resources and Chinese attempts to establish naval dominance in the Indian Ocean fall under the purview of the Navy. Even so, in Colombo the Urban Development Committee, nested under the Defense Ministry, has assigned city clean-up and maintenance to the Navy (SAIS Group Meeting with Kodikara, 12 January 2016).

The government should immediately begin mobilizing support for a substantial de-mobilization of

troops across the country, with specific regard paid to the issue of military bases in the north. The coalition government has been hesitant to address this issue head on because of concerns over political capital and feasibility.   For this reason, a phased plan for demilitarization will have to be crafted and communicated in a manner that addresses both the economic and security concerns of Sri Lanka. Shifting policing and espionage activities to the appropriate authorities protects citizens, while downsizing bases in the north and working to increase community engagement will help to reduce friction. Coordinated counseling and vocational training for demobilized government troops will prove a key component of any planned demilitarization. Demographics necessitate particular planning for the impact of demilitarization on rural communities in the south. Assigning idle soldiers to community development projects serves the entirety of the country, even as it provides a type of on-the-job vocational training.

Reassignment of troops to the UN as peacekeepers appears an ideal choice as it takes advantage of the skills and training that Sri Lankan soldiers already possess and represents a minimal fiscal outlay compared to the alternative of demobilization.   Participating in UN peacekeeping missions also boosts the small country's standing on the global stage. Scandals such as the rape accusations against peacekeepers in Haiti and in Africa make this a problematic option, however, as the United Nations is unlikely to accept troops tied to a record of human rights abuses.   Members of the international community who laud this option will be hard-pressed to create an actionable plan for lending troops to the

UN until judicial reform and the Human Rights Council make significant headway. A tangible plan for demobilization needs to be negotiated now, so as to allow for an end to northern occupation before further deterioration of relations. Sri Lanka's military, economy, justice system, and policing institutions all rely on such a plan.

Recommendations

To the Government of Sri Lanka

- **All military involvement in the private sector should cease immediately** and **all policing and espionage activities should be handed over to the proper national structures**.
- **Army bases in the north should be condensed and consolidated** to allow for maximum immediate land return as further demobilization is planned.
- **Army schools should be integrated** as much as possible **with local schools** to allow for better community relations and language and cultural sharing among youths.
- **Army hospitals should be opened to community access** as well.
- **Counseling and vocational training programs** should be created to support re-integration of former soldiers with special attention paid to fostering independent critical thinking skills.
- **Idle soldiers should be assigned to community development programs across the country.** This allows for better community relations with tangible positive

outcomes for regional development and hands-on vocational training for soldiers.

- **Any future recruitment should seek to incorporate the Tamil minority into Sri Lanka's armed forces**.
- **Some base supplies should be purchased from local communities**, not to overwhelm but to stimulate the local economy and reinforce connections.
- **More recently-recruited army soldiers far removed from the taint of human rights abuses should be prepared to transition to UN peacekeeping missions**. Negotiation will have to take place with the Human Rights Council and the United Nations in order to identify and approve of individuals for such a plan.
- **The government should work to communicate the necessity for demilitarization,** even as it begins negotiating a long term plan for staged demobilization.

Security Sector Reform of the Police Forces

Alexandra Martin

Developing effective, sustainable and democratic governance structures is essential in a postwar environment. Enacting Security Sector Reform (SSR) that tackles "structures, institutions, and personnel responsible for the management, provision and oversight of security in a country" (UN Secretary General, 2008) represents the only legitimate avenue to achieve this goal. The process must respect five basic principles, as described in the OECD SSR Handbook: "(1) local ownership with a basis in democratic norms, human rights, and the rule of law; (2) a whole-of-government approach involving both donor and host nation agencies as well as civil society; (3) a broad assessment of the full range of the security and justice-based needs of the population and the state; (4) the basic principles of good governance, including transparency and accountability; (5) enhancement of the human capacity required to ensure institutions, once reformed, continue to function in an effective and just manner."

Successful SSR requires a robust and simultaneous effort to address the 'justice triad' as a whole. This triad is composed of police, courts and prisons. The ministries of interior and justice represent the main sources of public legitimacy and become central pillars in building a solid and fair criminal justice system. Structural corruption "makes a

mockery of justice, slows economic development, and alienates populations from their governments" (Bayley and Perito 2011).

Regardless of how the final constitutional design will evolve and what level of devolution is agreed upon, the SSR efforts in Sri Lanka must be driven by a strong political commitment from all sides and concentrated to ensure legitimate, stable and democratic governance. Police SSR is one of the key components in this reconstruction process.

"Effective and legitimate policing is at the core of each democratic nation" (Bayley and Perito 2010). The main function performed by the police is to serve in order to protect the people. In a post-war context, the police forces are rarely fit or willing to provide a safe and secure environment for all (Bayley and Perito 2010). Similarly, in Sri Lanka the police is currently redefining its attributes and functions. It lacks popular support and legitimacy in the Northern and Eastern Provinces, where segments of the population see it as a military auxiliary. It also faces allegations of corruption, abuse, misconduct and war-related crimes.

Security Sector Reform of the Sri Lanka Police (SSR SLP)

The new Sri Lanka government has taken considerable steps to investigate and address the human rights violations and abuses left as legacy of the conflict. This opening up was reflected at the international level by the UN Human Rights Council Resolution A/HRC/30/L.29, which Sri Lanka co-sponsored, and the OHCHR Investigation Report on Sri Lanka A/HRC/30/CRP.2. The documents reflect the current domestic state of affairs and areas of intervention in

need of reform to ensure a fair and inclusive transitional justice process. They formed the benchmark for discussion with every single interlocutor or group we came across during the SAIS research study trip. In Colombo and in the Northern Province people, in particular the Tamils who see the international community as safeguarding these commitments, also acknowledge that they constitute the basis for any political or legal transformation.

High on the public agenda is the issue of SSR of the armed forces, coupled with the release of land in high security zones confiscated during the last stages of the war and shortly after 2009. The UNHRC resolution emphasizes the need for an effective SSR process in its broader sense, involving military, police and the judiciary. Paragraph 8 of the document is illustrative in this sense:

> Also encourages the Government of Sri Lanka to introduce effective security sector reforms as part of its transitional justice process, which will help to enhance the reputation and professionalism of the military and include ensuring that no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights violations or abuses or violations of international humanitarian law, including members of the security and intelligence units; and also to increase training and incentives focused on the promotion and protection of human rights of all Sri Lankans;

According to an official from the Ministry of Defense (MOD), some police reforms have already taken place. Today there are around 78,000 police

officers in comparison with 75,000 in 2009, though others suggested there might be as many as 81,000. The same MOD interlocutor said that around 400 police stations exist now in the country. They will increase to 600 in the near future due to an increase of policing activities transferred from the army. No information on the official website of the Sri Lankan Police is available with regards to these figures. Out of an average of 65,000 complaints annually, only 10-15% are resolved. The main government objective is to reorganize the forces and clarify the division of labor between military and police, in particular in the Northern Province where the military took over responsibilities during and in the aftermath of the conflict.

Until 2013, the Sri Lanka Police (SLP) was under the Ministry of Defense and Urban Development. It was transferred to the newly formed Ministry of Law and Order in the same year (OHCOHR). Overlap with the military still exists under the 'Emergency Regulations' procedure. The Secretary of Defense has the right to authorize arrests related to national security and counter-terrorism. Some of our interlocutors in Colombo and Jaffna claimed that police structures are still subordinated to the military. They also implied that cases filed against the military are not followed-up for this specific reason. This causes great distrust, in particular among Tamils in the North. "The regime has changed, but the system remains the same; how can we expect justice from them?"asks a Tamil nun who survived the bloodshed in 2009, reflecting a widespread feeling observed by the SAIS group after visiting the Northern Province. The Northern population, be they Hindu, Muslim or

Christian, feel excluded when it comes to justice, accountability for the war crimes and moving forward with the reconciliation process. The CPA Survey is relevant in this respect, showing that 40.1% of the Tamil community in the north and 30.1% of the Up-Country Tamil Community (mostly more recent immigrants from India brought in to work the plantations) did not trust the police as of June 2015, a number that has increased since previous surveys.

Sri Lanka Police and the Constitutional Design
The public consultations on constitutional changes are ongoing. The new design is yet to be finalized. Little is known at this point about the direction of the changes. The outlook for the police is dependent upon the final political agreement. The main debates revolve around the 13th and 19th Amendments of the Constitution and the devolution of power towards the regions. The Tamil community opposes a "unitary" government and urges it to become "multi-ethnic." Southern nationalists fiercely oppose this change, fearing it would lead to dissolution of the Sri Lanka state.

In a scenario of a decentralized power and extensive autonomy given to the regions, the structure of the police should reflect the regional ethnic distribution, based on local recruitment, capabilities, activities, regulations, procedures and budgeting. By embedding the 'local ownership' principle in this configuration, the police will increase its level of acceptance and legitimacy in the Tamil-speaking territory. In a more centralized scenario, the police will reflect less regional traits and characteristics and will continue to be seen as illegitimate by the inhabitants of the Northern and Eastern Provinces. In between these

two extremes, several other options can be considered in which certain rule of law and order prerogatives will be given to the regions, such as traffic police or criminal investigations. Units related to national security, counter-terrorism, intelligence or special task forces will likely remain embedded in the national Ministry of Law and Order.

A compromise will be difficult to broker, but only after Tamil autonomy is decided will the future structure of policing in Sri Lanka begin to become clear. Uncertainty creates distrust and anger among the Tamils, who don't feel that their agenda is prominent in the public debate. Some local leaders, such as those in Mannar Peninsula, claim that there is no room for compromise when it comes to autonomy for the North. There is an implicit level of readiness to use all the tools, including violence, to achieve this political objective.

Police Forces and Transitional Justice, Accountability and Civilian Oversight

The Transitional Justice Mechanisms indicated in the UNHRC resolution should provide the legal framework to prosecute both the armed forces and the police involved in war-related crimes. The military side of the investigation of high profile crimes is moving forward, but at a much slower pace than expected by some parts of the population. Public sentiment in Colombo and surroundings is growing over the need to reappraise the role of military in the country for its contribution to national security, a sentiment which extends to police officers. The current context is still unclear about the way past crimes will be brought to the courts and who will prosecute them.

The SLP has two important challenges to overcome: corruption and accountability. One way to define corruption is the, "abuse of authority for private gain […], a fundamental cause of intrastate conflict, providing a focal point for many social groups' grievances against governments" (Spector 2011). Corruption becomes an existential threat where knowledge and tools to confine it are nonexistent or perceived as such. The Tamils in the Northern Sri Lanka expressed the fear that their identity would be at risk if the police corruption is not addressed (SAIS Group Meeting with Tamil Communities, January 2016).

An MOD official claimed that 'the police are in much worse shape' than the military. Units report to multiple chains of command, making the decision process unclear and less unified. The troops lack discipline, commit abuses and breach standard operating procedures. The SLP was in high state of alert for national security reasons until the elections in January 2015. Consequently, forces were trained and equipped at military standards, ready to deploy for combat purposes on short notice. Their combat readiness status has been gradually downgraded. A shift from an 'occupation force' to 'ordinary police' (Sri Lanka MOD Official) is ongoing, but it is yet to be finalized. The aim is to achieve a fully demilitarized structure and re-professionalize it for policing activities.

People do report cases of torture and abuse, disappearances and human rights violations by the police, but most of them lack the means to advance their complaints for prosecution. The cases reported to the Human Rights Commission (HRC) do not

necessarily conclude with positive outcomes because the commission has no legal capability to pursue the allegations in courts. Without such means, the HRC needs to resist political interference from high level officials and police commanders, who try to discredit the work of the office (SAIS Group Meeting, HRC Commissioner, January 2016).

In terms of accountability and civilian oversight, the situation has improved since 2013 when the Ministry of Law and Order was created and the command and control transferred from the military to civilian oversight. However, it appears that a number of reforms are still needed. Internal integrity-monitoring and oversight mechanisms, prosecution of crimes committed by police officers, transparency and public access to information, upward and downward accountability and tactical training for the recruits incorporating contemporary human rights standards are all lacking. These elements are universal for any police force in a democratic society and should not depend on the constitutional design of a country.

Police Forces in the Northern Province

The main complaints heard by the SAIS group during the visit to the North are related to the lack of legitimacy and acceptance of the police forces by ordinary people. Over 90% of the officers across the country (including the Northern Province) are Sinhalese and speak only Sinhala in the Tamil-speaking regions. This creates not only a high level of distrust and inter-ethnic division, but also technical impediments to reporting crimes and abuses. The SAIS group met several people in Jaffna, Mannar and Putumattalan who expressed concerns with regard to

their inability to report allegations to the police given the language barrier. A second major source of distrust is the level of police abuses and human rights violations. There is a severe trust gap between law enforcement officers and the local communities. The level of acceptance of the police is very low and they are seen as the 'enemy.' Use of former LTTE cadres as informants within their own communities has aggravated this sentiment. According to several women in Jaffna, police officers get into peoples' houses to request information without any prior approval or notification. A lot of other abuses, including gender based violence (GBV), rapes and threats are common. The women emphasized also the slow police response to their complaints, making the gathering of evidence difficult and prosecution unlikely.

A campaign to recruit Tamil women for police service was attempted in an effort to engage closely with the Tamils, to minimize the language problem, and to gain access to traditionally closed ethnic or religious communities. The number of recruits, however, was low because either the women did not have the courage to join, knowing about abuses, or the families and communities at large forbade them from enrolling, because doing so is seen as an ethnic betrayal.

The ethnic breakdown and representation is at the core of law enforcement and public order reforms on the Tamil agenda. The hopes of the community depend on the future constitutional architecture, in particular a greater degree of regional autonomy. Yet, the Tamils appear to have no clear strategy to advance these needs and interests. In addition, Tamil political

infighting weakens their negotiation leverage and diminishes their chances to engage constructively in a solid and inclusive participatory process in which the Tamils' grievances are addressed. The feeling of insecurity that exists among the minority communities in Sri Lanka underscores the importance of ensuring that the law applies effectively and impartially, and enjoys popular support (Call 2007). The state-building efforts, in particular with respect to the police, will be severely disrupted if salient issues such as political representation, past injustice and ethnic violence are not given enough attention.

Conclusion

Despite a rather pessimistic picture of the Sri Lanka police, tremendous progress has been made in only six years since the end of the war. The 2015 peaceful political transition signaled domestically and internationally the positive track the country has embraced. The ongoing consultations with regards to a new, amended constitution indicate that a successful power sharing arrangement, in which a middle ground solution that involves some devolution to the regions, will emerge. Managing the expectations of so many stakeholders is tedious and sensitive, but across the board there seems to be genuine political will to create a Sri Lanka that is home for the majority and the minorities alike. Many elements should be embedded in this new Sri Lanka, which must take into account diverse, sometimes opposing views. What the final result will look like remains unknown. But having a safe and secure environment, in which the rule of law

prevails and the governance structures are transparent and solid, remains the key to success. The police should play a definitive role in this process.

Recommendations

To the President and the Prime Minister

- **Ensure full transparency and ethnic inclusion in the public consultations on security sector reform**. The Tamil and Muslim communities must feel that their needs and interests are reflected in the ongoing public debate and the final political settlement.
- **Insist on Security Sector Reform from the top.** SSR should be simultaneous and robust, driven by strong political commitment. The judiciary, the military and the police must undergo reforms that make them far more transparent, accountable, and coordinated.
- **Create an inclusive political framework that addresses the grievances that led to conflict**. A long-lasting political settlement must take into consideration the fears and insecurities experienced by the people in the North and East. The claims for autonomy and devolution of the Tamil people must be reflected in the new constitutional design, including reform of the security sector.
- **Cultivate the public and think strategically**. Better communicate the ongoing government reforms and efforts in order to gain broad public sympathy

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and support. Commit to goals that are measurable and credible. Ensure transparency of the decision making process.

To the Police Commanders

- **Hold unit supervisors responsible for the actions of their subordinates**. Change police culture by creating mechanisms for merit promotion and sanctions for abuse and human right violations.
- **Implement a transparent vetting mechanism for the troops**. Officers should pass background checks that eliminate any suspicion of involvement in war-related crimes.
- **Eliminate any barriers at the community level**. Language represents an impediment in reporting and investigating cases. Begin a massive recruitment campaign of Tamils (men and women) in the Northern and Eastern Provinces to reflect the regional ethnic distribution and remove language barriers. Ensure that Sinhalese police officers assigned to Tamil majority regions speak Tamil.
- **Restructure the chain of command** and unify the decision making process. Create effective internal integrity-monitoring mechanisms.
- **Create training programs** for the police personnel in accordance with the human rights and criminal law standards.

To the Tamil Community

- **Advance a unified political agenda.** Political infighting diminishes the capacity of the Tamil community to advance goals and objectives in a unified fashion.
- **Define clear objectives of the 'Autonomy' agenda** with regards to security and law enforcement sectors.

To the Civil Society Organizations and Media

- **Report accurately about the unfolding events.** Do not harm or expose people and communities through information campaigns. Be impartial and coherent when reporting about the government reforms and politically salient issues.
- **Create independent instruments for public accountability.** Promote transparency, integrity and accountability through creative and easy-to-use instruments and tools. In order to remain credible, do not follow any political agenda.
- **Run training and capacity-building programs in vulnerable communities.**

To the International Community

- **Provide financial aid, assistance and training to sustain the Security Sector Reform in Sri Lanka.**

- **Put in place mechanisms for financial oversight**. Ensure that money is allocated for the agreed purposes.
- **Be alert** and identify in a timely way sources of discontent, radicalization, fragility and conflict. Leverage preventive diplomacy tools in interactions with Sri Lankan authorities.

Part V: Economic Development

Overcoming Inter-Ethnic Economic Competition

Sangyoung Yun

Sri Lankan people are proud to show their identities, whether it be ethnicity, religion or language. Tuk-Tuks, three-wheeled local taxis, speeding on the road are often heavily decorated with images of Buddha, Christ or even "I love America." In line with this salient display of different identities, much literature defines the Sri Lankan War as an identity conflict provoked by irreconcilable factors, such as religion and language. However, this does not draw a complete picture. The post-independence prioritizing of the Sinhala language and Buddhism over other languages and religions set the country on the road to war by displacing the Tamil people from their previous colonial predominance. This is also what the ongoing reconciliation discussion is based on in post-conflict Sri Lanka today. It would be a huge mistake if the post-war transition goes without delving into economic competition as a driving force for the war.

Sri Lanka is a small island. Its inhabitants have always had to share its limited resources. One important way of looking at the Sri Lankan War is that grievances intensified and even exploded when the subtle balance of sharing economic resources between different ethnic groups was disturbed. Economic issues are important and only well-crafted economic policy can gain support across the divided island. To

that end, this paper will examine the socio-economic dimensions of the Sri Lankan conflict throughout its history, current issues surrounding inequality, focusing particularly on the war-affected north and east, and the potential of affirmative actions towards the weak in the society. Finally, recommendations to the Sri Lankan government and international community will be provided.

A Long History of Competition and Conflict for Economic Gains

It was the European colonial powers who crystalized some of the major divisions in Sri Lanka. The Portuguese, Dutch and English colonialists brought new people, religions, languages and socio-economic systems to Sri Lanka, disturbing and displacing pre-existing ones. The colonial rules were not always effective across the island. Sinhalese people still maintained their Kandy Kingdom (1469-1815), but the presence of colonial powers was influential enough to change the way of life in Sri Lanka. A phenomenal change happened to the identity of people who formerly spoke Sinhala and believed in Buddhism. Converts, especially among the upper classes, began to speak Portuguese and were baptized Roman Catholics. This conversion was mostly voluntary rather than forced because the converts could enjoy tax exemptions and preferential treatment from the colonial power (Wickramasinghe 2014, 23-24).

Another important change was the introduction of the plantation economy, which was tied to the influx of mostly Tamil migrant workers from southern India. Simultaneously, the economy was monetarized, thereby making people sensitive to economic gains, in

contrast to their old subsistence economy. Sri Lankans opposed and clashed with the colonialists, but the reasons were often economic rather than political or religious. For instance, the Indian Moors of Muslim faith were considered direct competitors by Low Country Sinhalese retail traders. The anti-Moor feelings led to the 1915 Sinhala-Muslim Riots (Wickramasinghe, 124). Even when people took up arms against a colonial power, economic grievances preceded other kinds of grievances. Dutch rule, for example, faced an armed rebellion from cinnamon peelers in 1757, when the peelers could not produce the desired amount of crops. Some took refuge in the sanctuary-like Kandy Kingdom. However, the peelers returned to work after they were pardoned for the low produce by the colonial power without raising questions about the Dutch occupation itself. This highlights the economic grievance as a *casus belli* in Sri Lanka (Wickramasinghe, 20).

During British rule, anti-migrant feelings became pronounced, particularly when the Sri Lankan economy was hit hard by the Great Depression in 1930-32. Sri Lanka was at the mercy of the world market because of its heavy dependence on a few exports including tea, rubber, and coconut by-products, and its next-to-nothing bargaining power (Wickramasinghe, 139). This still remains true for Sri Lanka today. It is dependent on similar exports while facing headwinds from the inclement global economy. For example, the issue of granting voting rights to migrants, such as Malayalee workers, natives of India's southwestern state of Kerala, caused a backlash and incited hostile acts from working classes in the competition (Wickramasinghe, 127). Malayalee

workers were considered unmatchable in the economic competition since their low living standard only required minimal wages (Wickramasinghe, 137). Tamil workers from Tamil Nadu, India, were no less menacing to Sinhalese locals. Although Tamils usually held jobs considered "despicable" from Sinhalese people's perspective, they ended up "monopolizing" certain positions in urban employment, and thus were portrayed as unfair competitors by Sinhalese (Wickramasinghe, 138). In this regard, the chairman of the Labour Party, Mr. Gunawardene, stated in 1938: "We have 200,000 unemployed in Ceylon out of a population of 6 million yet there are over 900,000 Chinese and Indian immigrants who work for lower wages" (Wickramasignhe, 144). That foreign workers displace locals was a reasonable concern because non-Sinhalese merchants covered almost every external trade of Sri Lanka, if not main plantation crops.

Preceding independence in 1948, the constitution became the battleground for different ethnic groups. The Donoughmore Constitution in 1931, among others, reflected the British effort to give universal suffrage—one person, one vote—as a way to address ethnic cleavages. Despite the good intentions, however, the constitution effectively eliminated the communal electorates, which had served as a safety net for minorities. This in turn allowed for the political dominance of the ethnic majority in the following years (Wickramasinghe, 149). Ethnic minority groups aired grievances over state favoritism towards Sinhalese people, who benefitted from the favorable distribution of public revenue, including irrigation works and medical infrastructure (Wickramasinghe, 155). The next constitution, the Soulbury Constitution

in 1948, made a little progress by reflecting the concerns of the ethnic minority groups, but it was a limited effort. The state was not supposed to be identified with a certain ethnic group, or to provide special opportunities for underprivileged groups (Wickramasinghe, 169). Affirmative action, a useful instrument to give the marginalized in society, immigrants and minorities, a leg up was ironically used in favor of the ethnic majority Sinhalese people who nursed a minority complex against Indian migrants (Wickramasinghe, 191).

The opening of the economy in 1977 turned the tables for the ethnic groups. With foreign capital and companies coming in, Tamils fared well compared to Sinhalese. Tamils were mostly literate in English and received good science educations at schools in Jaffna. Tamils dominated positions in science-based facilities until the early 1970s (Wickramasinghe, 292). Tamils could take advantage of their business connections with Indians on the mainland. In contrast, Sinhalese had difficulties moving beyond the pre-reform economic ground with an ethnic label that they capitalized on. According to Senaratne (as cited in Wickramasinghe, 299), the rivalry between the two communities was emphasized, polarized and materialized with the outbreak of hate-filled incidents; Tamil shops and the Colombo-Jaffna train were burned in 1983.

At the same time, the advent of economic liberalization meant the demise of welfare, which became more targeted and selective than universal. Before the neoliberal reform, there were efforts to level the playing field in Sri Lanka with welfare measures. In 1927, for example, minimum wage

legislation was enacted to give special treatment to Indian labors working for the profitable plantation sector. Similarly, at the height of the Depression, a Poor Law was introduced in 1939 to provide state assistance to the poor population, but it was not implemented. Free education is guaranteed as a fundamental right, first recommended in the Kannangara Report of 1943, from kindergarten to university. Benevolent as that may sound, the Janatha Vimukthi Peramuna (JVP) and Tamil insurrections erupted from the 1970s, when education could not be translated into social mobility and educational entitlements were unequally distributed (Wickramasinghe, 321-322). All in all, although it is debatable to what extent the state is responsible, the liberal transition with foreign aid and private investment did not successfully fill the void left by the state, thus worsening inequality (Wickramasinghe, 330).

The severe economic competition also largely disregarded humanitarian needs, and was often used as a fig leaf to cover political competition, and vice versa. For example, aid to the tsunami-affected north and east in 2005 faced opposition from monks, who believed that the area held by the Liberation Tigers of Tamil Eelam (LTTE) was undeserving of humanitarian aid. Former President Rajapaksa, strongly opposed to the LTTE, uncharacteristically encouraged the Tamil diaspora to invest in the post-war country. But it would be a more accurate way of reading his policy to say that he co-opted Tamil politicians by advocating for equality for Tamils in order to get them to shelve the idea of creating special provisions for the Tamil regions, such as devolution

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(Wickramasinghe, 374). The strategy of the United People's Freedom Alliance (UPFA) government was to emphasize development and economic gains in lieu of political benefits (Wickramasinghe, 404). This either/or mindset partly explains why the ongoing discussion on political reconciliation—especially regarding federalism—does not leave much room for economic reconciliation. If history is any guide, Sri Lanka should recognize the significance of inter-ethnic economic competition and make sure the current discussion on constitutional reforms includes not only the matters of political competition but also the economic dimension.

Economic Justice in War-Affected Areas

People in the north and east, the most war-affected areas in Sri Lanka, are dependent on agriculture and fishing as the primary sources of income and consumption. Seven years after the war ended in 2009, however, the military still occupies land and coastal regions that belong to local farmers and fishermen, preventing them from fully recovering from the brunt of the war. To add insult to injury, the military bases are often turned into well-guarded farms. Their produce is sold in local markets at a low price, crowding out local farmers and fishermen. The military even operates hotels and restaurants on these lands. People in the local Tamil *Uthayan* Newspaper (meaning "Rising Sun") reported to us that slivers of land, approximately five percent, have been released to civilians, but the military-held area is still sizable—7,000 acres of private land in Jaffna and 20,000 acres in the north—and their presence is heavily felt (SAIS Group Meeting with *Uthayan* Tamil Newspaper, 15

January 2016). SAIS interviewees in the North concurred that speedy and immediate release of land was the top priority.

Post-war development in the war-affected areas proved short of people's high expectations. The United Nations Development Programme (UNDP) in Sri Lanka, whose work is focused on the development of the local economy, said that most people in the north and east are concerned about livelihoods and often resort to day labor. Also, regarding the widespread belief that microfinance could create an economic breakthrough, UNDP underlined that big banks are present in Jaffna, but the provision of microfinance is limited because the banks are not willing to take risks (SAIS Group Meeting with UNDP in Sri Lanka, 11 January 2016). Dr. Nishan De Mel, executive director of Verité Research, had a similar view on the overemphasis on microfinance. He also pointed out the imperfect housing reconstruction projects in the Northern and Eastern Provinces from 2012 to 2015, which ironically left people indebted (SAIS Group Meeting, 18 January 2016). Funded by the Government of India, the project was implemented by four agencies including UN-Habitat, International Federation of Red Cross and Red Crescent Societies (IFRC) in partnership with Sri Lanka Red Cross (SLRC), the National Housing Development Agency (NHDA), and Habitat for Humanity Sri Lanka. From the outset, the Indian Housing Project raised concerns over harmonizing global agencies, such as UNDP, Sarvodaya and Muslim Aid, which were already involved in building houses (Patranobis 2011). Eventually, the delays and lack of funding made

returnees rely on private loans to fill the funding gap, indebting the dispossessed (IRIN 2013).

Governmental efforts to reconstruct the war-affected areas have thus far focused on connectivity, such as the newly reconstructed and relatively modern Colombo-Jaffna road. The sometimes bumpy road is now "okay" for hours-long travel. However, the Uthayan people suggested that the connectivity is of no use to Jaffna, where a couple of chemical and cement factories provided thousands of jobs before the war but where no factories remain. Simply building roads seemed to be contrary to what people in Jaffna called "the very urgent need for resources." Regarding Foreign Direct Investment (FDI), they believed in the financial power of the Tamil diaspora, but worried that the diaspora is reluctant to invest because of the government in the south (SAIS Group Meeting with *Uthayan* Tamil Newspaper, 15 January 2016). The roads are more likely to be used for Sinhalese middlemen who control markets in the north and deliver northern produce to the south. The involvement of middlemen cut down on the returns for northern harvesters who lack means of distribution (SAIS Group Meeting with Jaffna Social Action Center, 16 January 2016).

These grievances were echoed by C.V. Wigneswaran, Chief Minister for the Northern Province. He underlined that the North gets only cosmetic benefits from the central government and in the meantime southern fishermen are allowed to do illegal fishing in the North, wreaking havoc on a resource already being exploited illegally by Indian fishermen. The North is under-represented in the Task Force Team for Japanese finance or the central

monetary commission that deals with foreign currency and taxes, which is partly because the North lacks qualified human capital.[8] The slow process of the governmental bureaucracy often makes impatient contractors leave the North. According to the Chief Minister of the Northern Province, despite the dire needs in Jaffna, the current president insists there is no distinction among provinces. Specifically, Jaffna asked for 8,000 million rupees for emergent needs, but only 1,000 million rupees were provided. Still, there is a possibility of inter-ethnic co-existence, as was the case under British rule. Suggesting that Sinhalese people should think that the revival of the northern economy is beneficial to the central government, the Chief Minister proposed some win-win ideas. For instance, northern communal groups of workers can provide labor to the food or garments industrial units from the south (SAIS Group Meeting, 16 January 2016).

Cargills Ceylon, a food company, is worth noting as the forerunner of the inter-ethnic cooperation in the private sector. Cargills now has 290 outlets across the

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[8]This can also put assistance resources for target beneficiaries at the risk of diversion. For instance, the UNDP Country Programme 2013-2017, while reinforcing UNDP's cooperation with the Sri Lankan government and its Treasury, specifies the conditions of cash transfer and reimbursement based on the evidence of activities on the ground. For example, UNDP obligates the government to spend cash transfer "for the purpose of activities as agreed in the Annual Work Plan only." To that end, UNDP emphasizes the role of a monitoring and evaluation framework that oversees the results of UNDP-supported projects (Country Programme Action Plan Between the Democratic Socialist Republic of Sri Lanka and the United Nations Development Programme 2013-2017).

island and contributes to the local economy in the north and east by employing local people, especially female breadwinners. In Jaffna alone, Cargills employs more than 300 workers, which affects the livelihoods of 5,000 people indirectly. As a giant player in agriculture and dairy, Cargills aims to lower the cost of living and disparity in the region, while enhancing youth skills and productivity. Among others, Cargills operates processing centers and collection centers at regional nodes like Kilinochchi, thus creating a value chain that gives more to farmers than middlemen. Having recently set up a regional bank to enable farmers to save money for the future, Cargills set an excellent example. However, there are gaps that a private company cannot fill alone; Cargills does not treat fishery, the second biggest source of income, and faces structural challenges including from youth labor disinterested in the agriculture sectors (SAIS Group Meeting, 19 January 2016).

Thorny Issues of Ethnic Accommodation in Economy

Economic situations are likely to be challenging in the near term. With the slowdown in the global economy, export-led, import-dependent Sri Lanka stays vulnerable. Sri Lanka now faces increasing trade deficits, foreign debts—including low interest rate concessionary loans—and upward pressure on the Sri Lankan rupee. The lack of government revenue and declining ODA bodes ill for the Sri Lankan macro environment (see B. Alexander Frank's chapter in this volume). Even during our stay in Colombo, there was

news about the rising cost of bread and butter. The only good news recently delivered concerned the ongoing talks between Sri Lanka and the European Union about re-granting the Generalized Scheme of Preferences (GSP) Plus status to Sri Lanka, which will offer a trade concession for Sri Lankan exports entering Europe.

Despite the inauspicious circumstances, efforts should be made to help ex-combatants reintegrate into the society and war-devastated locals to stand on their own feet. Accommodation of certain ethnic groups— i.e., Tamils and Muslims—in the north and east is a reasonable course of action for the Sri Lankan government to consider. But this is easier said than done. Sri Lankan history shows that any "special" treatment, especially sidelining the majority Sinhalese people, is hardly acceptable. To this end, it is important to consider how different ethnicities in the economic competition perceive one another; perceptions then should be molded towards harmonious co-existence and belief in mutual economic gains.

A recent survey encapsulates the concerns about different perceptions of the economy among different ethnic groups in Sri Lanka. The survey shows that 31.3% of Sri Lankans think the economy under President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe has improved, while 30.3% responded that the economy became worse. More important difference comes from the ethnic breakdown of the response. The Sinhalese community was the most skeptical about the economic situation. This is in stark contrast to the other three ethnic groups who believe the economic situation got better—Muslim

(70.6%), Up Country Tamil (62.1%) and Tamil (58.1%) community (CPA 2015, 10). Similar results came from the question about the level of satisfaction with development initiatives of the current regime. Another finding of the survey is that Sri Lankans put "reduction in the cost of living," "addressing unemployment" and "creating better education facilities" higher on the government's to-do list than combating corruption, reconciliation, justice, and war non-recurrence (CPA 2015, 11). This is telling evidence that the current transition process is not answering the real demands of people while investing a lot in non-economic issues.

Most importantly, the survey captures diverging opinions on prioritizing resource allocation to the conflict affected areas. 60.2% of Tamils agreed but 40.4% of Sinhalese thought the idea is not desirable. Overall, 37.5% of Sri Lankans agreed with the prioritization of the north and east. This number is down from previous years—2013 (61.1%) and 2014 (46.3%)—and is certainly an alarming call to accommodative actions (CPA 2015, 16). Still, it is noteworthy that the survey question assumes zero-sum inter-ethnic competition: "The Government should give priority to allocating resources towards rebuilding the conflict affected areas, *even if this means that less money is spent in the rest of the country* [emphasis added]." This suggests that future affirmative actions should be coupled with a strong message that these are not at the expense of the rest of communities but will ultimately pay off for the entire country.

That said, affirmative action is not easy. It is similar to a double-edged sword that has to be wielded with a great amount of care and deftness. For example,

Dr. Nishan de Mel suggests that a region-based distinction, targeting the north and east in a blanket way, would not be effective, considering that even some pockets in the Western Province, the economic engine of the country, are poor. Likewise, Dr. Nagaraj at the Collective for Economic Democratization emphasized the importance of a broad, complex and cautious approach factoring in all the lines of discrimination along the lines of caste, gender, religion, language as well as ethnicity (SAIS Group Meeting with Verité Research, 18 January 2016). Therefore, acknowledging the need and effect of accommodative actions in bringing economic justice and future to the war-torn communities, the fine granularity of the complex dynamics in Sri Lankan economy should be taken into consideration. Otherwise, Sri Lanka could repeat its history of fierce economic competition.

Conclusion

Submitting the draft resolution to the UN Human Rights Council, Sri Lankan Prime Minister pointed to South Africa's Truth and Reconciliation Commission (TRC) as a model to emulate. The South African peace process is worth studying, but it—with obvious pitfalls in addressing economic justice—should be taken with a grain of salt. According to Dr. Nagaraj, South Africa is now paying for having sidestepped economic justice; income and wage inequalities increased, placing many black South Africans in difficult socio-economic conditions. He also draws a parallel with India's formal transition to a constitutional republic, which traded social and economic equality for political equality (Nagaraj 2014). The same mistake of turning

a blind eye towards the war affected areas with a slew of economic problems—low wages, informal sector, gender inequalities, and even indebtedness—can, at its worst, cause another war in Sri Lanka. As Gamage (2009) points out, it would be another serious mistake if we disregard the unequivocal problems with politics as a part of the *casus belli*. Looking at the current development of national dialogue, however, we cannot emphasize enough that the discussion on politics and identities should be in tandem with the discussion on the economy, in which we should "explore the applicability of alternative development paradigms for the north and the south by stakeholders at all levels, be it state, private sector, non-governmental organizations or the grassroots, community-level organizations" (Gamage 2009, 260).

Sri Lanka is small but still resourceful. Now it looks up to Singapore as a role model, but Sri Lanka has the potential to do a better job with abundant resources. The Sri Lankan government and people have gained momentum after the election of President Sirisena with international support; Sri Lanka can leap forward to make the island peaceful and prosperous.

Recommendations

The following policy recommendations are specifically tailored to address the most affected by the war.

<u>To the Sri Lanka Government</u>

- **Add an economic dimension to the ongoing Constitution reform process.** Political power-sharing has been being heavily discussed, but this should not overshadow

discussions on economic issues. Despite the fact that reaching a consensus would be more difficult with more issues to reconcile, the government should take the initiative to bring economic issues to the table. Then the government should seek out a framework that is broad enough to cover the whole island, but delicate enough to factor in every line of discrimination in the country.

- **Send messages to the public with a degree of concern for the under-privileged.** People from the war-torn north and east voted for the coalition government with high hopes for solving their needs. If their hopes are disappointed, grievances will grow. The government should garner nationwide sympathy and assure the mutual growth of all ethnic groups with affirmative action towards the war-affected communities.

- **Put the agenda of economic justice into practice before the public loses trust.** The new coalition government created a good atmosphere to make real change. Now it is high time for the government, for a given period of two years, to prove that it said what it meant. Land release remains unresolved for a long time, but this will be certainly a good starter.

- **Promote and facilitate private sector investments in the north and east.**Cargills Ceylon is a fantastic example and there is no question that more companies can create businesses in war-affected areas with the help from the government. This may be a more

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effective way for the government to maneuver, since private companies can reach out to every corner of the country.

To the International Community / NGOs

- **Foreign assistance resources should be delivered all the way to war-affected areas.** Funds from abroad, although they are earmarked for target areas, may end up siphoned into government coffers, money which is to be used at the government's discretion thereafter, and not accountable to the funders. The international community should be dexterous in giving aid, and both specific conditions and monitoring the use of aid should be attached to the foreign assistance resources. The example of UNDP's robust monitoring of cash flow is worth highlighting.
- **Numerous NGOs as well as the international community should work in alignment with one another.** They should make a concerted effort with a clear division of labor to get things done. Individual work is often deficient in resources and may destabilize the situation further despite good intentions. A resounding example is a housing project which ironically ended up making people indebted because the project was not able to cover the whole cost and people had to seek private loans to get their houses. From UN agencies down to the Jaffna Social Action Centre, formed by UNHCR, there are organizations on the ground that can play the

role of hubs at every level to de-conflict, streamline and reinforce ground works.

The Economy and Stable Peace

B. Alexander Frank

This chapter will focus on questions that relate economic prosperity with long lasting stable peace. Specifically, it will address the economic stability of post-conflict Sri Lanka; issues of development rates and dispersion of wealth along lines of ethnic identity versus geography, and possible cleavages that might occur from unequal distribution caused by the centralized, majority-led, fiscal structure of Sri Lanka's economy. I will address the perception versus reality of relative rates of economic development across the country as a whole and provide suggestions that could address ways to prevent economic situations in the country from undermining stable peace.

The 1995 supplement to Boutros Boutros-Ghali's seminal *An Agenda for Peace* introduced the linkages between peace-building and conflict prevention and highlighted the need for focus on the economic environment's capacity to support sustainable peace. "Demilitarization, the control of small arms, institutional reform, improved police and judicial systems, the monitoring of human rights, electoral reform and social and economic development can be as valuable in preventing conflict as in healing the wounds after conflict has occurred" (Boutros-Ghali 1995). In 2004 a joint forum of the International Peace Academy and the War-torn Societies Project (WSP International), expanding on these thoughts, continued to describe economic reconstruction and reforms as a fundamental component for "speedy

recovery and rehabilitation" (Tschirgi 2004, 10).
Thus, a fundamental understanding of the economic
structure and its health in Sri Lanka needs to be taken
into account to access efforts at peacetime diplomacy
and risks to the country's relatively recent stable
peace.

Economic Inequity and Social Cleavage
One of the original fractures between Tamil and
Sinhalese Sri Lankans' was the perception of inequity
in economic opportunities.   In this context the
"Sinhala only" movement can be seen as a response to
both perceived unequal economic gains by the Tamil
minority after liberalization of the economy in the
1970s and a remnant of colonial favoritism by the
British.   The resulting rise of the Tamil Elam
movement, and the still simmering desire for an
independencewithin Sri Lanka, in broad terms, is the
response (Abeyratne 2004).

Given that the current international approach to
peace-building is grounded in the concepts of liberal
peace (Tschirgi 2004) and that the liberal peace thesis
views political and economic liberalization as effective
antidotes to violent conflicts, the historical perception
of economic inequality that has played into Sri
Lanka's civil war is of great significance. The
continuing perception of unequal distribution of
government investment or post-war priority of
economic development could create a significant
vulnerability for stable peace.

There is a growing body of literature that focuses
on the impact on stable peace of redevelopment
investment in post-conflict regions. Collier develops a
model of post-warsuccess in which focused investment
and prioritization of social-focused programs take

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precedence over larger macro-economic issues. "The results suggest that social policy is relatively more important and macroeconomic policy is relatively less important in post-conflict situations than in normal situations" (Collier and Hoeffler 2004). Connie Peck notes that, "many groups who have suffered economic discrimination also want to have their physical needs better met and want access to greater economic opportunity" (Peck 1998). Azar (1990) underlines that investment and development should take into consideration both urban and rural poor as well as ethnic make-up.
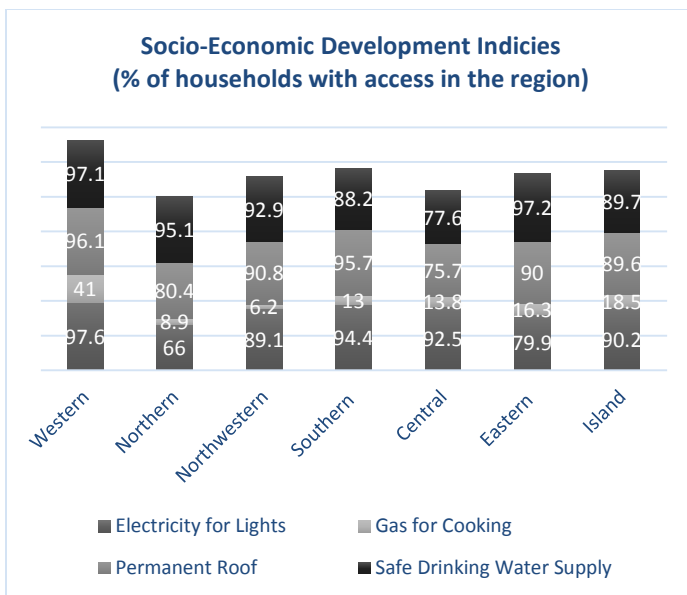
As our group travelled from the main port and institutional city of Colombo to the northern city of Jaffna, there were notable differences. A rapid change in levels of industrialization, road infrastructure, and housing capacity was clear as we moved from the Western Province where Colombo is located, through the Northwest to the Northern Province. Our group met with two communities during our trip to Jaffna. Each group had a number of grievances, primarily associated with displacement from their land. Other specific issues related to the lack of access to medical care, potable water supplies and education facilities in both communities. Most important however, was the perception in each community that these injustices were at least partially a result of their identity either as Tamils, or as Tamil-speaking Muslims.[9]

Tamil and Tamil-speaking Muslim populations are heavily concentrated in the Northern and Eastern

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[9]"Tamil-speaking Muslim" is the term that the Muslim population used to identify itself in our groups interactions. In census data the Muslim group does not appear but instead is referred to as "Sri Lankan Moor."

Provinces. According to 2012 census data, 94% of the Northern Province population is Tamil, and 3% is Muslim. The Eastern Province is more evenly distributed with approximately 40% Tamil, 37% Muslim and 23% Sinhalese. The Central, Northwestern, Western and Southern provinces are primarily Sinhalese. The chart below shows four factors that can loosely be used as a basic proxy for access to basic necessities. It includes access to potable water, electricity, a permanent dwelling roof, and whether food is prepared using gas versus other sources which included firewood and kerosene.

It is immediately clear from the chart that the Northern Province has the lowest levels of access. This is not surprising given the legacy of the war. What is somewhat less apparent is whether the Northern Province has truly experienced the degree of economic discrimination perceived by its residents relative to other regions. If the discrimination were as strong as the perception, then one would expect to see significant differences in the development indices between the regions, especially given the legacy of the recent conflict.

Socio-Economic Development Indicies
(% of households with access in the region)

Region	Electricity for Lights	Gas for Cooking	Permanent Roof	Safe Drinking Water Supply
Western	97.6	41	96.1	97.1
Northern	66	8.9	80.4	95.1
Northwestern	89.1	6.2	90.8	92.9
Southern	94.4	13	95.7	88.2
Central	92.5	13.8	75.7	77.6
Eastern	79.9	16.3	90	97.2
Island	90.2	18.5	89.6	89.7

Source: Sri Lanka Central Bank Published 2015, data as of 2013

Though differences certainly do exist, it is difficult from the data to see significant difference between poorer regions of primarily Tamil and Tamil-speaking Muslim populations and poorer regions of majority Sinhalese. The Southern Province has a total access level significantly higher than the North; this is primarily attributed to the difference in housing quality, not surprising given the absence of war, but notably the South has much lower access to potable drinking water. When comparing the majority Tamil Northern Province to the majority Sinhalese Central Province, the case for economic discrimination based purely on ethnic background also becomes less striking. Both the Central Province and the Northern Province fall well below the island average for permanent structures, and the Central Province's

access to potable water is the worst in the island. While these measures are not a comprehensive proxy of distribution of resources, the picture raises questions about the legitimacy of the perception that skewed distribution is purely a matter of ethnicity.

It is important to note as well that the general disparity between urban and rural regions remains high in Sri Lanka. Sri Lanka has maintained an overall GINI coefficient for household income near .49 since the end of the conflict (Sri Lanka Central Bank Statistics 2013). This signals a relatively high income disparity across the country. Much of this seems attributable to the difference in rural and urban incomes. The median monthly rural family income in 2013 was Rp 29,376, while the urban dwellers enjoyed Rp 42,267 and the median for the island was Rp 30,814 (Sri Lanka Central Bank Statistics 2013). Thus part of the differences in economic access is clearly linked to broader measures of urban versus rural populations.

However, the fact that economic divergences are not necessarily due to abject ethnic discrimination does not mean that there are not both structural and political reasons that could undermine development in regional trajectories. Arusha Cooray argues in his research, "that political institutions and ethnic fragmentation are inextricably interwoven. Political competition can therefore undermine the provision of public goods in an ethnically divided society" (Cooray 2014). His research on Sri Lanka suggests that there are several factors at play in the unequal development trajectories in Tamil areas.

Using longitudinal panel data to assess access to health care, education, basic needs such as potable

water and housing, and built infrastructure, Cooray's research constructs two index proxies that determine the variables' relationship to political and ethnic fractionalization in Sri Lanka. Cooray finds that both ethnic fractionalization and political fractionalization have a "significant" negative impact on the provision of public goods. Moreover, he finds that, "The interaction of ELF [ethnic fractionalization index] with the POLFRAC [political fractionalization index] has a negative impact on the same public goods suggesting that political fractionalization acts to increase the negative effects of ethnic fractionalization (Cooray 2014, 658)." This could lead to greater divergence in the future and exacerbate the perception of economic discrimination.

Some of the political and ethnic fractionalization effects seemed clear as our group met with C.V. Vigneswaran, the Chief Minister for the Tamil-majority Northern Province, which includes Jaffna. One challenge he noted was the inability for his local government to obtain a "sub-statute" from the parliament which would allow for discretion in funding and allocation decisions of locally collected revenue. The current public finance structure is entirely centralized, with both decision making as well as funding and allocation centralized. This creates challenges both for public expenditure planning as well as FDI. The Northern Province does not have the capability to negotiate directly with foreign entities with interest in the region. This arrangement complicates long-term project planning and negotiations that might otherwise support a reallocation of funds for public goods to the region.

There may be some justification of the central government's decision to maintain this structure. Roahan Gunaratana (2003, 202) details in a case study how historically a significant source of revenue for the LTTE came externally from the Tamil diaspora. In a separate report, the International Peace Academy stated in its 'lessons learned' in Sri Lanka, "Host government efforts to curtail financial flows that support rebels face severe legal and political problems, as it is difficult to discern which funds genuinely support humanitarian goals at home and which support militant campaigns, particularly if—as was the case with the LTTE—migrant communities and their organizations are systematically penetrated by rebel sympathizers" (Ballentine and Nitzschke, 2003).

However, as noted by Collier, Peck and other academics, the importance of socially focused development is paramount to supporting a long-lasting peace. Real structural issues feed already strong feelings of injustice. A more efficient method of economic distribution could support growth toward socio-economic equality among provinces and build trust, reducing ethnic and political fractionalization. From many interactions, our observation is these efforts would likely build trust and support, rather than hinder, post-war reconstruction and long serving stable peace.

The Long Way Forward

There is a relatively small body of literature describing the impacts of macro-economic decisions by governments on stable peace. The most referenced (Collier and Heffler 2004) and (Adam, Collier and Davies 2008) describe the likely structures of

government spending and exchange rates as a government shifts from war to peace-time reconstruction. Collier focuses on a model for stable exchange rates as the economy shifts from *seigniorage*, or capital generated from issuance of currency, towards socio-economic development, where the government is faced with the trade-off between exchange rate stability and inflationary pressures. Collier and Adams report that, given the pressures faced by post conflict governments, significant aid can be used to stabilize the macro-economy and accomplish "monetary reconstruction." However little research links this stability to long-lasting peace. Castillo notes that post-conflict governments and especially central banks will face "…more restricted policy choices and with a high degree of polarization that makes consensus more difficult to achieve." She advocates flexible policy formulation as well as strong reporting and communication from central governments (del Castillo 2008, 287).

The Sri Lankan government's actions over the past five years have followed a model roughly suggested by both Collier and Heffler, and del Castillo, accepting large amounts of official development assistance (ODA) for reconstruction of infrastructure in conjunction with socially focused spending in the immediate aftermath of the conflict. This has led to rapid GDP growth; however, as ODA decreases, the government must find ways to generate income or risk exchange rate instability and inflationary pressures.

Despite the relatively incomplete research to indicate a linkage between macro stability and long-serving peace, there are specific areas where a causal

relationship might seem intuitive, specifically in the Sri Lankan context. As our group met with various civil society and business leaders in the conflict-affected regions it was apparent from many commentators that the expectation for the central government to provide jobs as well as services was common. It was noted specifically that a number of factories that used to provide jobs had been shut during the conflict and remained closed, even though in the minds of many the conflict period has since passed.

In addition, many noted that military-run companies and farms were crowding out local business because of unfair price structures and subsidized production. These businesses create distortions in the markets that are traditionally relied on by Tamils to generate income, rob the government of much needed tax revenue and remain a constant reminder in the perception of many of the economic inequity faced by Tamil and Tamil-speaking Muslim populations.

While many of these issues do not fall in the traditional realm of macro-economic focus, they can be thought of as second order effects of the macro environment. While the central bank's primary role is to create a stable investment environment by maintaining a reasonably low inflation rate, fiscally responsible policy needs to be implemented in chorus to bolster it, which can then lead to lasting growth, job creation and finally stable tax revenue. "The fiscal framework for supporting post-conflict economic reconstruction will consist of a budget and public expenditure management structure (the treasury); appropriate revenue policies and revenue

administration" (del Castillo 2008, 285). Recent analysis by Verité Research questions whether Sri Lanka is maintaining a fiscally responsible position:

Decline in government revenue challenges fiscal consolidation.

> The main macroeconomic weakness that has persisted in the last five years is the steady decline in government revenue as a share of GDP. Government revenues have been short of meeting even recurrent expenditures. This makes fiscal consolidation a challenge. The populist election commitments made in 2015 (e.g., increasing public sector wages and pension payments) have placed further pressure on recurrent expenditure as well as the deficit.

As seen in the two charts below, both government revenue as a percentage of GPD, as well as the component of it that is made up of ODA, is showing a steep decline. This shortfall could leave the government in a precarious situation, as noted in the Verité analysis. Unable to cover its expenditures, it may have to draw back on public financing, leaving many in post-conflict regions with less support than expected. This could inflame tensions and pose a threat to stable peace.

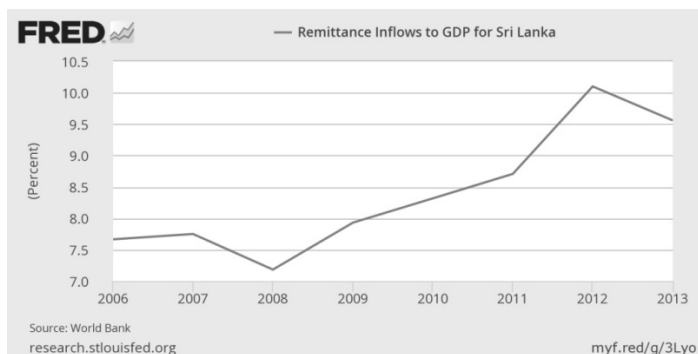**Government revenue to GDP (%)**

Net ODA
(Millions, $)
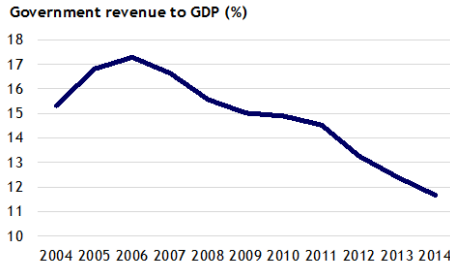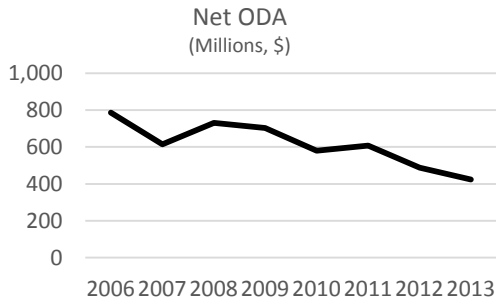
Lack of revenue and declining ODA could also make traditional macro-economic problems more severe as well. To continue to support unsustainable government spending Sri Lanka could continue to rely on central bank issuance. While continued expansion of the money supply to pay for development will drive down the exchange rate, which could be good for exports, it will simultaneously make new borrowing more expensive because of both rising interest rates for Rupee-denominated bonds as well as increased cost for foreign denominated bonds. In addition, this will exacerbate the trade deficit and create inflationary pressures, some of which we have already seen in

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2016 as the central bank raised base rates in an effort to stem inflation caused by macro-imbalances.

A final layer of complexity is Sri Lanka's dependence on remittances as a source of foreign capital. Remittances increased rapidly from 2008 to 2012, when they peaked at approximately 10% of GDP. However, since then it appears remittances have declined, in both real terms and relative to GDP (Trading Economics).[10] Remittances form a strong component of economic stability, especially in developing countries. "The availability of remittances undoubtedly has a significant effect on the private disposable income of local inhabitants experiencing the negative fallout from internal conflict or natural disaster (Sanjeewanie). However, recent work on developing country remittance structures has exposed possible Dutch Disease effects, specifically providing the opportunity to delay fiscal adjustment (Barajas 2016). Given the risks fiscal instability could pose, this development adds another layer of complication for the Sri Lankan Government.

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[10]More recent data show an absolute decline; however, it can be difficult to judge the reliability of very recently sourced data. The chart is based on audited World Bank data from 2014/15.

FRED 〰 ── Remittance Inflows to GDP for Sri Lanka

Source: World Bank

research.stlouisfed.org   myf.red/g/3Lyo

The multiple layers of interaction pose two problems. The first is inherent volatility in the economy. It is clear that in Tamil areas there is an expectation that the government should create jobs and wealth, both of which become more difficult in a volatile economic environment as investment is driven away, while currency fluctuations and inflation have outsized impacts on the poor. The second, is likely more pernicious. Poor management of expectations and lack of accurate communication can create fissures in society, especially among those who perceive poor growth to be a result of ethnic discrimination. In the case of Sri Lanka, I contend that this lack of effective communication is the single greatest economic threat to stable peace.

Del Castillo goes a long way to prescribing effective measures of communication: "Governments will need to make an effort at communication to explain in plain language the policies [to] the population at large of the expected medium-and long-term benefits of the proposed policies, as well as the short-term costs that these may imply. Unless people understand this, they will have unrealistic expectations of what peace will bring" (del Castillo

2008, 280). During our meetings with clergy and political figures in the northern city of Mannar, it was clear expectations of the long- and short-term benefits of development had not been communicated effectively. When we noted that obvious infrastructure improvements in the area had been completed, one interlocutor responded that there had not yet been any effect. This response, implying that those improvements had not brought about any positive change, demonstrated the lack of communication by the government to explain time frames for expected benefits from investment.

Throughout our time in the North this feeling that economic development spoils were either unfairly allocated or were not performing as expected, combined with the expectation for the government to provide jobs and social benefits, belied the actual macro-economic conditions the government is facing. The probability that these communication issues are attributed to ethnic cleavages seems high, coupled with real macro-economic uncertainty that Sri Lanka is facing. Intuitively, this is an area of concern where one might reasonably expect tension to continue to simmer, challenging the continuation of a stable peace.

Conclusion

Sri Lanka has done extremely well economically for the past five years. GDP growth has ranked among the top in developing Asia (WB, IMF Sri Lanka Central Bank), inflation has remained relatively stable and unemployment low. A recent election has seen broad social support as well as cautious optimism from the international community. Over the past five years significant redevelopment has been completed, and

most recently new roads have been re-opened, allowing goods and people to flow into the northern areas.

There are still risks. During the SAIS visit, a simmering resentment seemed to be present in a number of communities and there appeared to be a lack of a coherent notion of national identity. Sri Lankans on the whole seemed to identify themselves not as Sri Lankans but rather as Tamil, Muslim or Sinhalese. The economy, for the most part does not see it this way. While still poorer, poor Tamil areas are not necessarily poorer than lower income Sinhalese areas, and the Muslim community has certainly not yet caught up with wealthy urban areas. Sri Lanka as a whole has a large income divide between urban and rural areas that seems to be exacerbating perceptions of economic injustice. These perceptions could create resistance by Tamil and Muslim groups to continued support for the tough political decisions that must be made in working toward continued development, especially as the broader economy adjusts to a global slowdown. Furthermore, the changing macroeconomic balances due to the transition from war to a stable middle-income economy, continue.

Recommendations
This paper proposes three policy suggestions:

<u>To the government</u>
- **More decision making regarding the disbursement of public funds must be disseminated to the provincial level.** The risk that centralized funding creates is

twofold. First, the knowledge gap of how to allocate funds most efficiently and effectively poses a problem of waste as well as mismanagement. Second, accountability for economic progress must be held by provincial governments to create incentives for local innovation and progress. If the central government continues to maintain tight control, it creates a difficult situation for local officials who hold significant accountability but are not given power to effect change. Further, it perpetuates the perception of economic bias that could undermine stable peace.

- **Improve its communication of economic goals and project realistic expectations for the economy.** While maintaining fiscal responsibility and a strong, stable, macroeconomic growth trajectory is the duty of all national governments, the Sri Lankan Government faces the additional challenge that economic development is perceived to favor the Sinhalese majority. This puts the relatively recent stable peace at risk. To mitigate misperceptions, the Sri Lankan government should begin to issue clear, understandable goals and growth expectations regionally. Moreover, these clear and simple statements need to be issued in both Sinhala and Tamil in order to provide a clear picture to the entire Sri Lankan population.

- **Withdraw from consumer markets.** Though the macro economic impact is likely small, the government owned businesses in the Northern

Province create both a distortion to properly functioning markets, which reduces badly needed government revenue, as well as a continued obstruction of reconciliation between Tamil and Sinhalese populations.

Sri Lanka is a country with a great deal of potential. It has a high level of education, a highly skilled workforce, and sits in a strategically beneficial geographic location to support growth in trade. To capitalize on this potential, it will be important to prevent past societal cleavages from undermining a successful future.

Part VI: International Engagement

Role of the United Nations and European Union

Christiana Reichsthaler

The United Nations

During the Final Stages of the War

In September 2008, the international staff of the UN withdrew from the war zone after the Sri Lankan government warned that it could no longer guarantee their safety. As a result, the civilian Tamil population and also some local UN staff who were not allowed to leave by the LTTE, were left without protection or witness. The UN left the area despite appeals from the local population, which feared that, without the UN presence, many atrocities would occur.

Meanwhile in the capital Colombo, many senior staff members did not perceive the prevention of killing of civilians as their responsibility. Neither did the United Nations headquarters in New York. In addition, many senior staff members in Colombo lacked political expertise and experience in armed conflicts and human rights. Nor were they given sufficient political support from headquarters to deal with the challenge. This was due mainly to the immense pressure from the Sri Lankan government and its control of visas to sanction staff critical of the state. Meanwhile, the UN Security Council was unable to authorize any action, primarily due to the threat of a Chinese veto. Consequently, the United Nations chose

not to speak out against the government, which was responsible for a majority of the deaths (Doucet 2012).

Aftermath

In May 2009, shortly after the end of the war, United Nations Secretary General (UNSG) Ban Ki Moon visited Sri Lanka. During his visit he stressed the importance of accountability on both sides, and the Sri Lankan government agreed to take measures to address grievances. Following the UNSG's visit, a panel of experts was established to advise him on how to address accountability and to take into consideration allegations of violations, mainly in the final stages of the war. However, the panel had no power to investigate; it could only try to assess the credibility of allegations. Further, when the panel attempted to visit Sri Lanka, the government denied access. The experts only had meetings with representatives of the Sri Lankan government in New York or through letters and information exchange. Consequently, the panel had to rely on the credibility of over 4000 submissions from more than 2300 persons. Although the UN assured confidentiality, many victims were discouraged by threats from the government, which opposed the investigation, not only diplomatically but also with protests against the UN in the streets of Colombo.

The panel of experts found a different version from the Sri Lankan government's account of what happened in the final stages of the war. First, it concluded that the Sri Lankan government was responsible for an estimated 40,000 civilian deaths.

Further, the panel found many issues related to media freedom and dissent, as well as concerns with domestic institutions, including the police, local courts and the military. The panel in particular accused the government of killing civilians through shelling, including targeting hospitals and humanitarian projects, denial of humanitarian assistance, human rights violations against both IDPs and LTTE suspects, as well as against journalists and critics of the government. Besides Sri Lankan government violations, the panel accused the LTTE of using civilians as human shields, killing civilians attempting to flee LTTE controlled territory, killing civilians through suicide attacks, using military equipment near civilians, and forced recruitment of children and labor.

The Sri Lankan government criticized and rejected the panel report, which was also sent to the UN High Commissioner for Human Rights (OHCHR) and the president of the UN Human Rights Commission (UNHRC). In addition to the panel report, the United Nations conducted an evaluation of its own performance and admitted it failed to protect civilians in the final stages of the war.

In a March 2014 Geneva resolution, the UNHRC asked OHCHR to investigate alleged human rights violations and abuses by both parties during the war period, from 2002 to 2009. Once again the Sri Lankan government strongly opposed the investigation and also threatened and intimidated people giving testimony or support. However, several survivors and victims' families came forward and gave testimony. When a new government was elected in January 2015, authorities still did not cooperate with the investigation, but they tried to build relations with the

OHCHR and other UN offices; even though it did not encourage citizens to cooperate, it did not threaten them for doing so. The findings of the OHCHR report published in September 2015 indicated systematic occurrence of horrific crimes, killings, disappearances, arbitrary arrests, torture, sexual violence, forcible child recruitment and denial of food and medicine. The OHCHR report was the basis of the resolution by the UNHRC, which the Sri Lankan government has also accepted (Human Rights Council 2015).

Current projects

Currently various organizations of the United Nations are working on projects in Sri Lanka in post-war assistance to improve the livelihoods of the people and enhance economic development:

UN Resident Coordinator's Office

The UN Resident Coordinator is responsible to coordinate all operational activities of the United Nations in Sri Lanka. Additionally, he is the senior official and the representative of the UN Secretary-General. Therefore, he is responsible for operational and management coordination as well as for advocacy. His job is to ensure that all 15 specialized agencies that are resident in Sri Lanka create better opportunities for the poor, the most vulnerable, and the younger generation. In addition, the United Nations is working together with the current government as well as international financial institutions such the IMF or World Bank and local NGOs and Sri Lanka's civil society.

UNDP

After the end of the civil war, UNDP was mainly responsible for assisting early recovery of conflict-affected areas and therefore directly delivered aid to communities in danger. Since then UNDP has been assisting government efforts at the national and local levels to operate properly and to deliver better services. By focusing on empowerment and social inclusion, UNDP is working on socio-economic recovery and development, social inclusion, strengthening enforcement of law, improved access to rule of law and justice, local democratic governance, human rights and parliamentary support. The program ensures the strengthening of governance capacities at district, divisional and provincial levels and also ensures that those gains are institutionalized. UNDP also concentrates on environmental sustainability and disaster resilience by supporting ecosystem-based natural resource management, clean energy, climate change adaption and mitigation and disaster risk reduction. Some projects of UNDP focus on certain regions in Sri Lanka, as for example the Northern Livelihood Development Project, which aims to support conflict affected communities in Jaffna, Killinochchi and Mullaitivu to become self-sufficient. In cooperation with the European Union, the District Development Program aims at assisting Sri Lanka to make a transition from post-war assistance to reconstruction and development. The program, funded by the European Union and partially implemented by UNDP, is focusing on youth entrepreneurship by facilitating access to start-up capital, business mentoring and internship opportunities. Additionally, the program aims to improve sustainable livelihoods

by improving infrastructures and the capacities of local producers involved in dairy, food processing, agriculture and fisheries (UNDP Sri Lanka 2016).

UN HABITAT

The United Nations Human Settlement Program (UN HABITAT) is responsible for providing socially and environmentally sustainable human settlements. Its main focus is rebuilding houses and basic services and infrastructure in Sri Lanka. One current project is focusing on the sustainable resettlement through the improvement of the learning environment in Mannar district. During the conflict many people in Mannar district were displaced and were later resettled near their places of origin. As part of the post-conflict reconstruction, UN HABITAT is responsible for the construction of school buildings and supporting facilities to ensure children from marginalized societies a better future through education. Another project is focusing on the improvement of living conditions of returnees in the north and east of Sri Lanka, which were devastated during the war. The project therefore aims at providing refugees and displaced people with permanent housing (UN HABITAT Sri Lanka 2016).

UNHCR

UNHCR in Sri Lanka is not only responsible for refugees but also for internally displaced people. After years of advocacy, in 2003 UNHCR helped 19,000 Tamils to gain Sri Lankan citizenship after the government passed a law granting citizenship to people of Indian origin. Further, UNHCR immediately

responded to the needs of people displaced by the tsunami in 2004.

As a result of the civil war, many people, especially in the north and east of the country, have been displaced internally. Some of them are living in temporary camps while others are staying with friends or relatives. Even though the war ended 7 years ago, many of these internally displaced people cannot go home since the Sri Lankan army or navy is still occupying their lands. In Sri Lanka, land is often connected to identity, and therefore people are reluctant to resettle elsewhere in the country. People living in Mullikulam village and Silavathurai, both located in the Northern Provinces, have been fighting for years to regain their land currently occupied by the navy. The lucky ones who are able to return home are provided with housing and basic household items by the UN, as well as by international non-governmental organizations and national governmental agencies.

UNHCR is also responsible to assist the voluntary return of Sri Lankan refugees from other countries such as India. They assist refugees with their legal documentation and provide them some financial support for their travel expenses. On their arrival, UNHCR facilitates some support to assist the returnees in settling down. Since 2010, 2,054 refugees have decided to return to Sri Lanka after living in refugee camps in Tamil Nadu and in Malaysia. In addition, more than 2,700 refugees who returned on their own have approached UNHCR for assistance. The biggest issue for returning refugees is the difficulty to reclaim their land, but they also need help in restarting their livelihoods. As of 2010, more than 70,000 Sri Lankan refugees were still living in refugee

camps in Tamil Nadu and more than 146,000 Sri Lankans were registered as refugees in 64 countries. Over the years, refugees have been returning steadily in small but increasing numbers. UNHCR has helped more than 7,000 Sri Lankan Tamil refugees to return home from India and get settled in their homes (UNHCR Sri Lanka 2015).

Conclusion

The relationship between the United Nations and the people of Sri Lanka is complicated. For the United Nations, both the LTTE and the Sri Lankan military are suspected of being responsible for committing war crimes and human rights violations during the 26-year civil war. A UN resolution calls for investigating all alleged war crimes and holding trials in special courts overseen by international judges. However, many Sinhalese oppose foreign involvement. Supporters of former president Mahinda Rajapaksa believe the UN resolution is aiming to punish the military. Although, the current government, led by President Maithripala Sirisena, has supported the adoption of the resolution and is more willing to engage with the United Nations, after the official visit by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, the President has stated that foreign participation is not necessary for an impartial inquiry into the war (*Reuters* 2016).

European Union

Since the establishment of the European Commission's Humanitarian Aid and Civil Protection Department in Sri Lanka in 1994, the EU, which is the biggest donor, has provided over 587 million Euros in aid to victims of natural disasters and conflict. A

variety of projects are currently carried out across a wide range of sectors and regions. The EU projects mainly focus on support for reconciliation and post-disaster reconstruction, education, health and governance. Some of those projects focus on reconstruction of tsunami-affected areas, especially in the Eastern Province of Sri Lanka. Moreover, aid is not only provided to civilians affected by the conflict in Sri Lanka, but also to Sri Lankan refugees living in shelters in the Indian state of Tamil Nadu.

Projects

After the civil war ended, the European Union sent a delegation in May 2009 to discuss their concerns about the current humanitarian crisis and human rights situation in Sri Lanka. The EU was especially worried about the high number of civilian casualties and the deteriorating humanitarian situation in the northern parts of the country. It was also concerned about the conditions in holding centers for Internally Displaced People and noted the importance of the Sri Lankan government providing humanitarian access to affected civilians.

Since the end of the war, the European Union has been mainly supporting economic development. Programs focus on rehabilitation and post-disaster reconstruction, education, health and governance.

One of the current projects carried out by the EU focuses on governance, democracy, human rights as well as support for economic development and institutional reform. The aim is to address the issue of violence against women and children in Sri Lanka through a collaborative effort between the state and civil society actors. Additionally, the EU is helping

vulnerable communities in the Northern and Eastern provinces to develop new livelihoods. Many of those projects focus on socio-economic development to build a better future for conflict-affected communities and among internally displaced people and returnees. Many resettled communities as well as IDPs need access to counseling and legal assistance as well as access to health care.

Another project sponsored by the European Union focuses on trade and regional integration by enhancing the performance of the Sri Lankan export sector. The project promotes sustainable production in the food and hotel industry and the availability of services to poor communities. In order to make Sri Lanka more competitive, the EU also sponsors several projects to enhance infrastructure, communications and transport throughout the island (Delegation of the European Union to Sri Lanka and the Maldives 2016).

2015 Parliamentary Elections
Following an invitation from the Sri Lankan government, the EU deployed an Election Observation Mission to Sri Lanka, which was responsible of monitoring and observing the Parliamentary Elections on 17 August 2015. The mission comprised more than 80 observers from EU member states, plus Switzerland and Norway, led by Mr. Christian Preda, Member of the European Parliament. Their mandate was to observe the elections without interfering in the electoral process and to contribute to transparency while respecting local laws and regulations. The observers were deployed throughout Sri Lanka to follow the electoral process and to meet with government representatives and electoral officials,

candidates and political parties, civil society and media representatives.

The Election Observation Mission concluded that the 17 August parliamentary elections were well administered and offered voters a fair choice among a broad range of political candidates. The observers described the campaign rules as overly restrictive, but the elections were still the most peaceful, transparent and efficiently conducted ones in recent history. Overall the Election Day was peaceful despite some minor incidents. Polling and counting procedures were assessed as overwhelmingly positive.

Following the elections, the Election Observation Mission recommended that Sri Lanka should:

- develop campaign finance rules and the identify allowed and forbidden sources of financing,
- enhance transparency, establish rules for the publication of decisions,
- increase the representation of women in politics and in leadership positions in the public sector, and
- establish an independent broadcasting regulator (European Union Election Observation Mission, 2015).

Conclusion

During the last few months of the war, both the LTTE, which was labeled by the European Union as a terrorist organization after 2006, and the Sri Lankan government were accused of being responsible for huge civilian casualties, leading to widespread condemnation by the international community. The European Union did not pass any resolution against

the Sri Lankan government during the three decades of civil war. After the war the foreign ministers of the European Union called for an independent inquiry into alleged war crimes committed by both sides. While the LTTE was preventing civilians from leaving the area where they were fighting the government forces, the Sri Lankan military was accused of deliberately shelling the no-fire zones where thousands of people were trapped.

Following the end of the war and an extensive investigation by the European Commission, which identified significant shortcomings in respect of Sri Lanka's implementation of several human rights conventions, EU member states decided to withdraw preferential tariff benefits, which are part of a special incentive arrangement for sustainable development and good governance, known as GSP Plus. The suspension is only temporary since the goal of the EU is to use GSP Plus to convince the Sri Lankan government to undertake improvements regarding the human rights situation. However, Sri Lanka has still enjoyed certain preferential access to the EU market for its key export items such as clothing. At 36%, the European Union is Sri Lanka's largest export destination, with textiles and clothing accounting for more than half of the country's export value.

Since the new government came to power in January 2015, the situation is improving slowly but steadily. While improvements of human rights are slow on the side of the government, the EU has also not been very fast in reacting to the changes in policies of the new government. So far several high level meetings have been held between the EU and the Sri Lankan government. While the government still

refuses to allow the EU to investigate its alleged human rights violations, there have been several attempts made to reinstate the GSP Plus since it would enhance Sri Lanka's economic development (European Commission Trade 2016).

Recommendations

The main responsibility lies with the government in Sri Lanka to ensure reconciliation between the Tamils and the Singhalese. In order to do so, it is important to create a single Sri Lankan identity and deal with remaining Tamil and Muslim grievances. One way is to establish a system of inter-ethnic education, where the identity and language of each group is learned and acknowledged, creating mutual acceptance and understanding. Although the Sri Lankan government and the military have released a certain amount of land in recent years, many Tamils and Muslims still live in temporary shelters because their land is still occupied.

Tamil-populated areas still experience lower economic growth. The government in Colombo should pursue gradual integration of those areas through strengthening economic ties. The European Union, the biggest donor in Sri Lanka, should aim to reinstate the GSP Plus agreement soon since it would enhance trade relations and the overall economic situation of the country.

The EU as well as the UN should encourage the Sri Lankan government to improve the human rights situation in the country.

To the Sri Lankan Government
- **Promote a single Sri Lankan national identity, especially through education.**

- **Further integrate the Northern and Eastern Provinces when it comes to economic and social services as well as infrastructure.**
- **Ensure return of as much occupied land as possible.**
- **Cooperate fully with UN investigations into alleged war crimes.**

To the United Nations and the European Union
- **Support inter-ethnic education by providing school facilities and educating teachers.**
- **Provide sanitary facilities for those living in temporary shelters and assist as many people as possible in reclaiming their land.**
- **Encourage creation of the human rights and governance conditions that will allow the EU to restore GSP Plus to Sri Lanka as soon as possible.**

Chinese Money and Peace

Vincent Mingqi Zhu

Introduction: Two Narratives

In Sri Lanka it is difficult to miss the Chinese presence. China funded and built the 26-kilometer airport expressway that takes visitors from the Bandaranaike Airport to downtown Colombo, perhaps the best road in Sri Lanka. Safety warnings in Chinese are everywhere in the capital's biggest ongoing construction site, the Colombo Port City project. Across the street from the Chinese Embassy is the China-donated Bandaranaike Memorial International Conference Hall (BMICH), a conference compound that stands out in a city that is still quite modest in terms of public buildings.

To go to the North, travelers have to take the China-funded A9 highway. In Galle, the southern port city, local tuc-tuc drivers try to impress Chinese visitors with their Mandarin skills. Incoming Chinese tourists provide an exciting opportunity for the local jewelry stores, many of which already have signs in Chinese. Besides good Chinese restaurants, another favorite talking point for the Chinese diplomats in Colombo is that building coal power plants helps the country. China has significantly improved Sri Lanka's electricity supply and lowered the price for everyone. Following this logic, China certainly seems to be a force of good in the Sri Lankan National Reconciliation Process after its 26-year civil war.

Or is it? Interviews and interactions with Sri Lankan scholars, politicians, activists as well as local

residents suggest another side to the story. The process of Chinese companies winning government contracts was often not transparent to the public. Chinese money is corrupting Sri Lankan politics and eroding government accountability. In the Northern Province, local leaders refused to acknowledge the immediate benefits of the China-funded infrastructure and were more concerned with the demographics of the labor force—either Chinese laborers squeezing out Sri Lankans or, even more contentiously, Sinhalese taking Tamil jobs. The same politicians warned against the danger of a Chinese debt crisis while others cast suspicion on China for shielding the former Rajapaksa administration from international allegations of human rights violations. This narrative suggests that the Chinese investment in Sri Lanka is problematic.

A reader with common sense and trained instincts will quickly arrive at the conclusion that there was probably *some* truth to both sides of the argument. But that conclusion will be a generalization of the highest form. In this chapter I offer a nuanced analysis of China's fluid role in Sri Lanka's post-war national reconciliation process. Following the analysis I will also offer policy recommendations to the governments of both Sri Lanka and China.

Literature Review: Does Economic Growth Help?
Despite the fact that economists rarely agree with each other, it is safe to assume a positive correlation between Foreign Direct Investment (FDI) and economic growth (Thilakaweera 2012). But does economic growth help conflict management? According to Esman, there are three schools in this debate (Montville 1991, 480-483). One school asserts

that economic growth improves conflict management, because economic expansion makes a positive-sum game possible. In the long-run, all groups will benefit from the growth, while disparities are typically short-run phenomena and can be contained. Collier's research supports this school of thought by listing "slow growth" and "low average income" as primary causes for conflicts (Crocker et al. 2006, 197-217).

The second school argues the opposite: economic growth aggravates ethnic conflict. Esman himself is within this camp (Esman 1997, 9-10). He argues that many ethnic conflicts arise from competition over the distribution of growth. Moreover, growth raises expectations and discontent, sharpening the resentment of the relatively disadvantaged.

The third school of thought suggests that economic growth is irrelevant, or at least secondary in causation. Many ethnic groups are willing to sacrifice economic interest for other gains. Underpinning this behavior is the motivation of the leading elites, who expect to be better off in an independent, even if poorer, country (Muscat 2002, 119-120).

A reconciliation of the above arguments could be found in Zartman and Deng's "complex pattern of causation." Studying conflicts in Africa, Zartman and Deng cite social division, religious cleavages, regional imbalances, unemployment and political repression as the main internal factors for conflicts. Further, they argue that these factors often have different relative weights and configurations in each case (Deng and Zartman, 1991, p.25-41). It is true that the relative weight of the economic factor varies, but it is also true that it can be rather significant in many cases. More importantly, in cases where the economic factor plays

a role, it is easy to see that the distributional effects outweigh the growth bonus, i.e., a rich country with severe inequality is more likely to have ethnic conflicts than a poor country with better equality, *ceteris paribus*. This point will be central in evaluating China's economic relations with Sri Lanka.

China and Sri Lanka Before 2005
Officially named the Democratic Socialist Republic, Sri Lanka's historic ties with China have been strong, albeit uneventful. The island country was among the first to recognize the People's Republic of China after the Chinese Civil War. The 1952 Rubber-Rice Pact provided crucial support to China's Korean War efforts. Sri Lanka's decision to stay neutral (defying pressure from India) during the 1962 China-India military clash was appreciated by Beijing (Kodikara 2008, 25). Both countries also worked closely in the United Nations as members of the Non-Alignment Movement (NAM).

Despite the long-running friendship, Sino-Lanka relations were never a priority for either country, partly due to a lack of common interests. Only in 1986 did the Chinese head of state pay the first state visit to Colombo, almost 30 years after the two countries had established diplomatic relations (*Xinhua* 2014).

2005-2015: Sri Lanka Turned East
Romance began to sparkle in 2005 when the Chinese Premier Wen Jiabao visited Colombo and signed a communiqué that upgraded the bilateral relationship. President Kumaratunga reciprocated by visiting Beijing in the same year, signing landmark agreements covering multiple areas of cooperation.

President Mahindra Rajapaksa visited China almost every year after taking office in 2005 (Bastians and Harris 2014). Bilateral relations were further upgraded to a "strategic cooperative partnership" (*Xinhua* 2014) which, according to the Chinese foreign policy lexicon, lifted Sri Lanka to the same level as India (Zhou 2013). Gotabaya Rajapaksa, Secretary of Defense and President Rajapaksa's brother, also visited China at least three times (TamilNet 2010; *Lankasri News* 2012; *Xinhua* 2014).

During the same period, the Sri Lankan government increasingly came under pressure from the West (U.S., Canada, European Union) for its alleged human rights violations and war crimes during the final stage of the war against the Liberation Tigers of Tamil Eelam (LTTE). Turning to China, a long-time friend with great potential, became a rational choice for the Rajapaksa administration. Sri Lanka's isolation amplified China's relative importance.

**China's Arms Sales to Sri Lanka: Overrated**
During the Sri Lankan civil war years (1983-2009), China's arms sales to the country only became relatively significant after 2005 (with the exception of 1991, see Figure 1). In other words, China stood out in the Rajapaksa era partly due to the fact that all the others had left. Figure 2 shows that the total value of foreign arms sales to Sri Lanka was actually decreasing during the same period, while the Chinese portion was increasing. The causation between the Chinese arms sales and Rajapaksa's victory over LTTE is thus unclear.

Figure 1. Top Four Arms Exporters to Sri Lanka (Million $)

Figure 2. Total Value of Arms Sales to Sri Lanka (Million $)
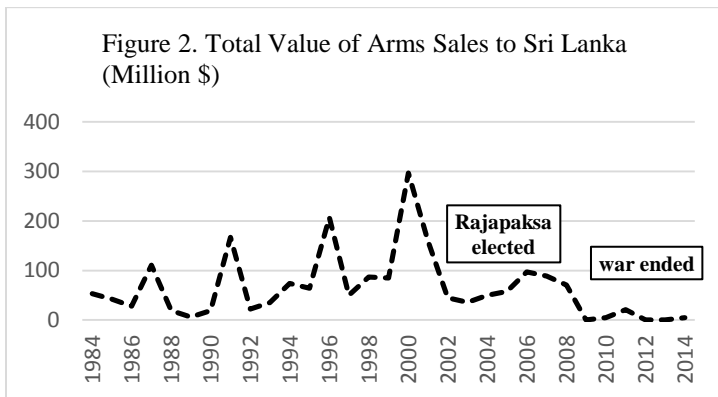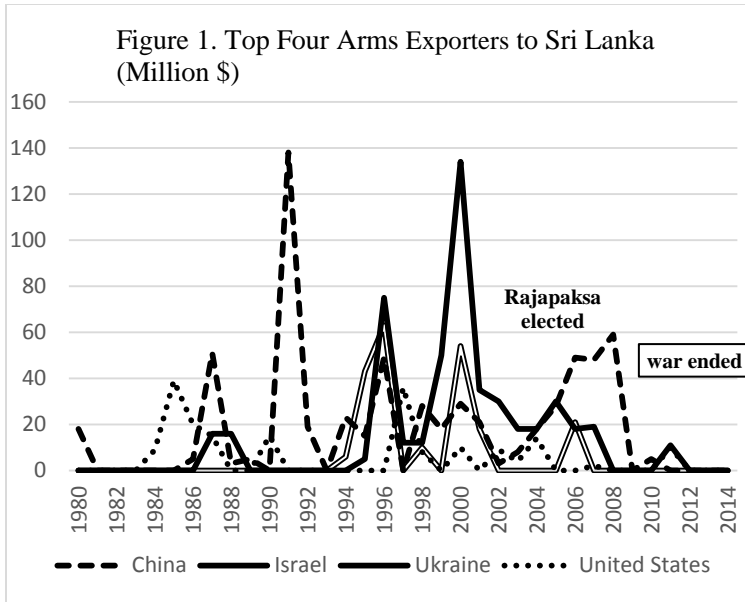
Source: Stockholm International Peace Research Institute, 2016

Rise of Chinese Investments in Sri Lanka

On the economic front, however, China actively took the opportunity (provided by the lack of international competition) to move into the Sri Lankan market. China quickly became the biggest source of FDI for Sri Lanka (Abeysinghe and Perera 2016). There are several distinguishing features of the Chinese investment. First, it was overwhelmingly focused on infrastructure and energy (over 80%).Second, it was entirely financed and implemented by Chinese state-owned enterprises (SOEs).Third, it was located (over 70%) either in the Colombo area or the south, where the population is overwhelmingly Sinhalese. The projects in the north and east mostly consist of road constructions.
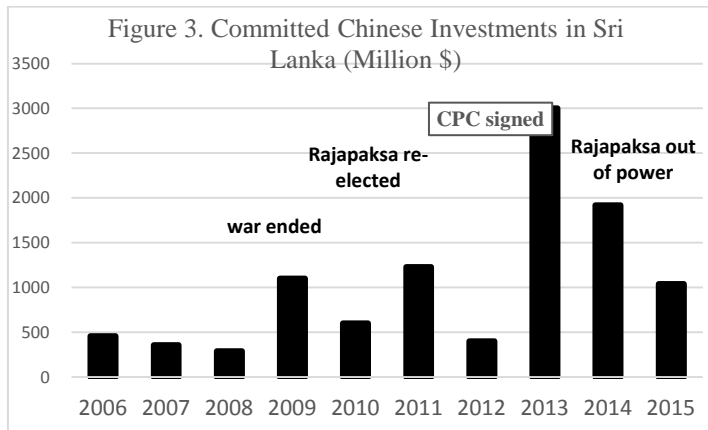
Sources: The American Enterprise Institute and The Heritage Foundation, 2016

Investments with Chinese Characteristics

Unlike most Western countries, China's overseas investments are often without explicit political conditions, especially those based on human rights and

political reform. This unique "condition-free" characteristic is rooted in China's "non-interference" foreign policy principle. In Sri Lanka's case, China also shared the goal of fighting terrorism and separatism, which was a domestic priority. Yet this non-conditionality is a double-edged sword. On the one hand, it did offer crucial external support to a war-torn country at a time when no one else was there; on the other hand, it also emboldened the Rajapaksa administration to ignore international norms on upholding human rights and preventing war crimes.

Under normal conditions, it is one thing to invest in Sri Lanka as a country and quite another to invest in Rajapaksa. However, in the context of centralized, majoritarian Sri Lankan politics, China had little option in differentiating the state from the ruling (Sinhalese) interest group. Like it or not, Chinese investments were inevitably tied to the Rajapaksa administration. The best example was the suspension (and later conditional resumption) of the $1.4 billion Colombo Port City (CPC) project—the largest Chinese investment in Sri Lanka and a key link in China's One Belt One Road initiative (figure 5 & 6). The CPC project was agreed upon during Rajapaksa's term. But as soon as he was out of power, the new administration suspended the project for "not having proper permits and approvals" (Aneez 2015), which was more of political score-settling than sincere concern over due process.
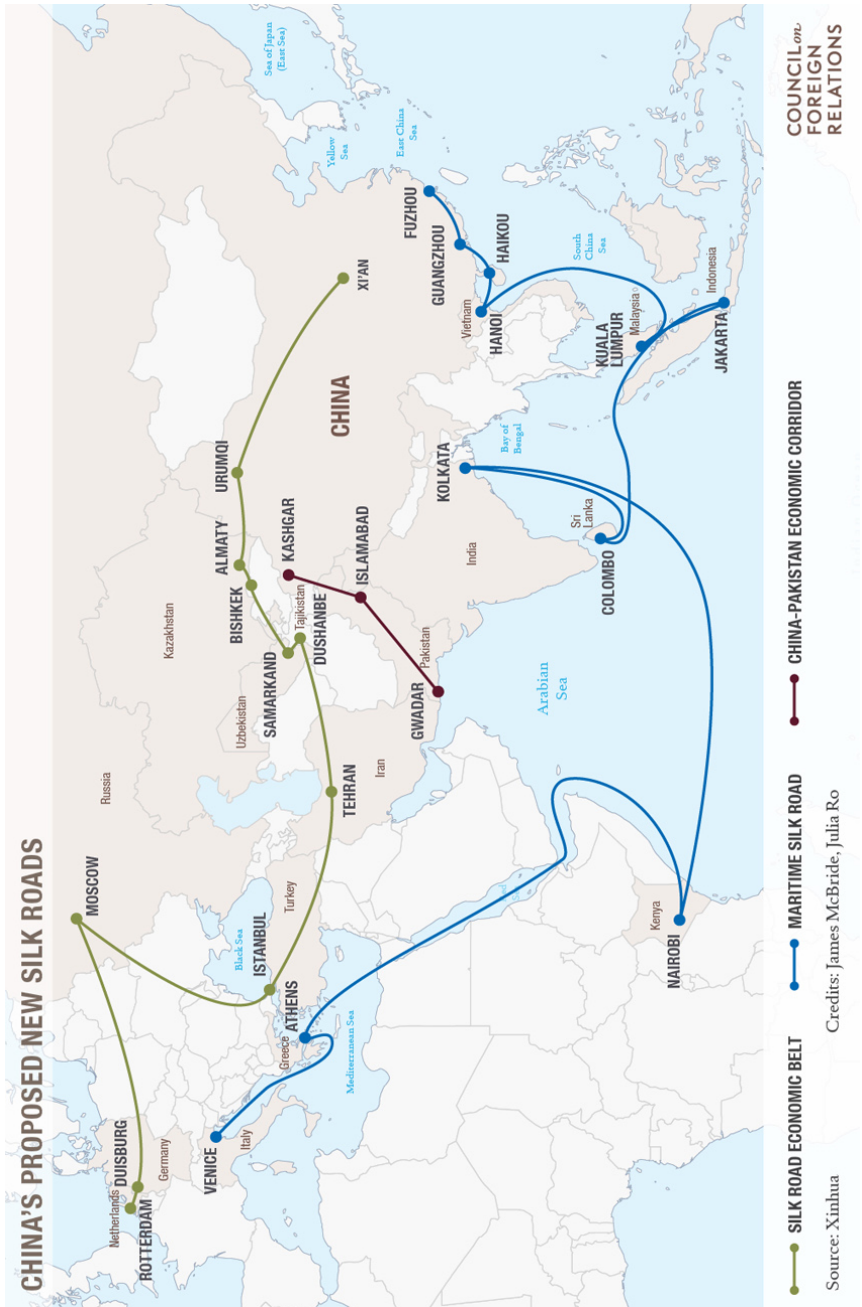
Figure 4: The $1.4 Billion Colombo Port City (Rendering)

Source: Xinhua 2016

Figure 5: Sri Lanka in the One Belt One Road
Sources: Council on Foreign Relations and Xinhua,

2015

Figure 6: Colombo Port City Project Suspended

Photo credit: Vincent Mingqi Zhu, 25 January 2016

Chinese Money: Development or Investment?

A textbook solution to development planning in a post-conflict country with ethnic tension would be to allocate resources among different ethnic communities in order to contain the negative distributional effects (Montville, 1990, p. 483-484). For example, investing in more job-creating projects in the north and east would alleviate tensions between the Sinhalese and Tamils over the allocation of external funds. In order to implement this, China would have had to either persuade or strong-arm the Rajapaksa administration to allocate more resources to the Tamil community, which was not impossible given that China was the only donor available. The fundamental question is whether these Chinese programs were *investments* (seeking profits) or *development aid* (with other objectives such as peace and equality).

While the Western countries run Overseas Development Aid (ODA) programs (e.g., USAID) parallel to their commercial investment programs, China has no separate ODA program. Instead, the

Chinese Ministry of Commerce (MOFCOM), whose mandate is to promote business and trade, leads both foreign aid and commercial investments overseas (Cheng et al, 2012). The line is often blurry. It is common to find a Chinese SOE doing altruist aid work and conducting profit-seeking activities at the same time. Despite the business outfit, many SOEs enjoy the same political status as government ministries and these SOE executives, who are capable business people in many cases, directly report to the central government and therefore have the double mandate of profit-seeking and policy-conducting. Conflict of interest is inevitable. In a typical Chinese way of reconciling contradictory objectives, the official rhetoric that "SOEs are purely business entities" is both true and false. It is false in the sense that at the macro level the SOEs closely follow the marching order of the state. Yet at the micro level, the SOEs are still run by business people who care about their balance sheets. So whenever there is a gap in state guidance, the CEOs have incentives to follow market logic.

There is exactly such a gap in Sri Lanka. Interviews with Chinese officials in Sri Lanka suggested that the dominant view was that economic growth was the best remedy for conflict, and China was helping Sri Lanka grow out of its problems. Anecdotally, more than one of the interviewees referred to the Chinese saying "if you want to be rich, build a road first" (要想富,先修路), citing China's own experience growing out of poverty (Interviews with Chinese officials, 2016). There was little awareness of the regional imbalance and distributional effects resulting from Chinese investments. The

Chinese officials dismissed criticisms as partisan attacks. Moreover, the ongoing industrial reforms at home (capacity cutting, de-leveraging and de-stocking) further motivate the Chinese SOEs to export excessive industrial capacities to other developing countries, which is often associated with the unintended consequence of trade frictions (*The Economist*, 2016).

Ignoring inter-community equity can aggravate ethnic resentment and exacerbate the underlying grievance. Most Chinese projects consisted of infrastructure located either in Colombo or the South (with the exception of one drinking water facility and several road projects in the north and east). Tamils often refused to acknowledge the benefits of these Chinese projects. The dominant perception was that these programs would benefit the Sinhalese more than the Tamils. Prominent early Chinese projects included the Rajapaksa International Airport and the Rajapaksa Port—both named after President Rajapaksa and both located in his home constituency in the south. The independence-leaning Tamils are also concerned that the China-built roads would help the government military force "occupy" the North and bring in more Sinhalese—if not Chinese—to dilute the Tamil population.

The Looming Shadow of Corruption

More problematic was the looming shadow of corruption in the bidding and reviewing process of the public projects. One interviewee who used to sit on a government oversight board revealed that he was once offered a 6% kickback in exchange for greenlighting a Chinese investment program, while the "market rate"

of bribery was up to 30%. "Chinese money is corrupting Sri Lankan politics!" he claimed (SAIS group Meeting, January 2016). Despite the absence of any formal prosecution against the ex-President himself at the time of this writing, ongoing investigations are linking Rajapaksa with some Chinese investment programs that he personally authorized (*Reuters* 2015). Many Sinhalese voted against Rajapaksa in the last election, not because of his toughness towards the Tamil rebels, but because of his perceived corruption (SAIS group Meeting, January 2016). Left unattended, corruption will erode the government's legitimacy and endanger the national reconciliation process.

In spite of the anti-corruption campaign at home, China still lacks the legal ground to fight corruption overseas. Compared with the U.S. Foreign Corrupt Practices Act (FCPA), Chinese legislation in this area is non-existent. Meanwhile, as the infamous Sam Pa case suggested, Chinese overseas investments are anything but corruption-free.[11]

Why Are Chinese Loans So Expensive?

Another salient issue is debt. Economists warn against a headwind in Sri Lanka's debt management while the press is already calling it a crisis (Chowdhury 2015). High level of debts and low foreign reserves have already weakened the Sri Lankan currency. Crisis or

[11]Sam Pa (Chinese: 徐京□), a Hong Kong businessman, brokered several lucrative energy/natural resources deals for Chinese SOEs in Angola, Zimbabwe, North Korea and Venezuela. He was arrested in Beijing in 2015, reportedly in connection with a major anti-corruption investigation involving SINOPEC, a Chinese state-owned oil giant. See Burgis et al. 2014.

not, the Sri Lankan government is financially constrained. Part of the reason is the rising debt-servicing costs of the Chinese loans.

The rates of early Chinese loans reflected the risk premium of investing in Sri Lanka during and shortly after the civil war. China had big bargaining power in negotiating the loan terms because it was the only lender available. When the quota of Chinese preferential loans was exhausted, Colombo had no choice but to turn to Chinese commercial loans, which drove up the average cost of borrowing (*Xinhua* 2015). There was also incompetent financial decision-making in the Sri Lankan government. In 2008, when the London Interbank Offered Rate (LIBOR) began to slide because of the financial crisis, the Sri Lankan government had two interest options in receiving a $300 million Chinese commercial loan: one was a floating rate slightly above LIBOR and the other was a fixed annual rate of 6.3%. Instead of realizing that the LIBOR rate was going down (which would make the floating rate option more favorable), the Sri Lankan government, with President Rajapaksa taking the portfolio of the Finance Minister, chose the fixed rate option, which in hindsight quadrupled Sri Lanka's interest payment on this $300 million loan (Bandara 2015).

Cheap Credits Are Not Enough

Most of the Chinese projects are financed by preferential loans provided by Chinese institutional banks chartered to provide financial support to China's overseas activities. The Export-Import Bank of China (China EXIM Bank) was the largest lender to Sri Lanka and provided over $6 billion, 77% of which

were preferential loans with an average annual interest rate of 2% (*Xinhua* 2015). It seemed to be a fair offer. But most of the loans were signed after 2008, when international benchmark rates dipped. So 2% was not an especially low rate. In recent years, the Japan International Cooperation Agency (JICA) offered much more competitive loans, as illustrated in Figure 5.

Figure 8. Chinese loan vs. Japanese loan

Loan Provider	China EXIM	JICA
Sector	Transport	Energy
Project Name	Colombo Outer Hwy	National Power Grid
Commitment Year	2014	2015
Amount (million USD)	494	2000
Annual Interest Rate	2.25%	0.30%
Maturity (years)	25+5*	40

*25 years payment and 5 years grace period
Sources: China Aid Data, Sri Lanka President's Media Division

The new Sri Lankan government since 2015 has been diversifying its international outreach efforts and bringing in more donors. While Sri Lanka now stands to land loans with better terms, it cannot ignore the importance of domestic fiscal reform. In regional comparison, Sri Lanka has one of the highest debt-to-GDP ratios and the lowest revenue-to-GDP ratio (Abeysinghe and Perera 2016). To make it worse, the new government ballooned the fiscal budget with last-minute revisions offering handouts and windfall subsidies instead of raising revenues. Policy inconsistency dampened market confidence while public deficits further drove up the debt-servicing costs of the government, obstructing any meaningful

discussion of power devolution and fiscal autonomy between the central government and the Tamil community.

Recommendations

To the Sri Lankan Government

- **De-concentrate foreign investments and pay attention to the distributive effects of economic growth.** Consulting with the Tamil community, Colombo should allocate more job-generating projects to the North and East.

- **Restore government accountability by introducing international best practices in the public project bidding process. Honor contracts and agreements, but also strengthen public oversight in future business dealings.** A transparent, corruption-free government procurement and contract awarding process will not only restore international investors' confidence, but will also promote a fair and healthy business environment for the domestic businesses.

- **Improve policy consistency and fiscal discipline.** International experiences in Scotland (UK) and Catalonia (Spain) suggest that poor central government fiscal performance serves as a catalyst for separatism. General conflict management theories also indicate that higher government revenue helps prevent conflicts. Given that many Tamil demands concern fiscal autonomy and public funds allocation, fiscal prudence will not only allow Colombo to consolidate its balance sheet, but also to consolidate peace.

- **Avoid excessive and irresponsible election-driven government spending and aim at raising revenues.** It is important for the government to communicate its fiscal and financial policies to the public in order to establish reasonable market expectations.
- **Solicit technical assistance from other countries/international organizations in financial governance and budget management.**
- **Diversify sources of external funding.** Once the government has established policy credibility, it will be easier to bring in more foreign investors with competitive offerings.

To the Chinese Government
- **Fill the legal gaps in prosecuting foreign corruption.** Any anti-corruption promises will not be credible until they have a solid legal ground.
- **De-concentrate investment programs in Sri Lanka. Allocate more programs to the north and east, in consultation with the Tamil community.**
- **Diversify political outreach in Sri Lanka.** It was financially risky and politically unwise to tie all the Chinese funding to the Rajapaksa circle. China should also establish communication channels with parties on both ends of the political spectrum.
- **Offer technical assistance in budget management and fiscal governance to the Sri Lankan government.** Strengthening the

fiscal stability of Sri Lanka also lowers costs to Chinese investors.

- **Consider running a parallel development program, independent from the business entities, to promote general human development and social welfare of the host country in a non profit-seeking way.** That would not only be welfare-promoting for Sri Lanka, but would also improve China's image among the Sri Lankan public.
- **Improve Corporate Social Responsibility (CSR) performance of Chinese businesses.** Chinese companies should be guided not only to focus on the investment returns, but also to be responsible for the social, cultural and environmental impact of their local operations.
- **Raise cultural awareness and ethnic sensitivity in business practices.** Whenever possible, Sri Lankan employees in Chinese companies should also reflect local ethnic demographics.

India's Role Post-2015

Sneha Thayil

Historical Background

India and Sri Lanka have historically enjoyed strong cultural and economic ties, due to geographic proximity, the large Tamil population in Sri Lanka, and shared maritime trade routes dating back to antiquity. In modern history, both countries shared colonial masters, and the Sri Lankan economy absorbed the influx of migrant labor from their closest neighbor, brought to work the now world-famous tea plantations. In more recent post-independence history, relations between the two countries have suffered due to the Sri Lankan civil war.

The Tamil population in India has strong ties to and concern regarding the treatment of Tamils in Sri Lanka, thus inevitably involving India in the conflict by providing resources for the Sri Lankan Tamil population, allegedly training and supplying insurgents, and accepting 100,000 of the refugees who have fled Sri Lanka to date. In 1987, India for the first time intervened directly through Operation Poomalai, carried out by the Indian Air Force (IAF). Indian fighter jets dropped supplies in Jaffna, foiling the Sri Lankan government's attempt to retake the besieged area. After this Indian government intervention, the Sri Lankan government engaged in bilateral peace talks. The agreement covered a wide range of issues; devolution of power from Colombo to the provinces (the 13th Amendment); official status for the Tamil

language; disarmament of the Tamil insurgents; cessation of anti-insurgent operations by Sri Lankan forces in the North; withdrawal of Sri Lankan troops to their barracks, an end of Indian support for the Tamil separatist movement; Indian recognition of the unity of Sri Lanka; and the deployment of the Indian Peace Keeping Forces (IPKF) in Sri Lanka to aid in the implementation of the accord. The peace accord could not be implemented successfully, and relations were to quickly sour.

The initial mandate of the IPKF was to monitor and aid in the disarmament of the Tamil insurgents, ensuring that the peace was maintained. Although most of the insurgent groups acted in accordance with the agreement, the LTTE refused to lay down its arms. IPKF attempts to forcibly disarm the LTTE resulted in full scale battles between the two forces, with casualties on both sides and considerable human rights violations blamed on the IPKF. Once Indian Prime Minister Rajiv Gandhi lost the parliamentary elections, his successor called for the withdrawal of troops and the end of active intervention. By March 1990, all Indian armed forces had left Sri Lanka. The 32 months of active Indian intervention left a legacy: the deaths of 1200 Indian soldiers and over 5000 Sri Lankans, as well as an expenditure of over INR 10.3 billion in operations. Support for any further direct involvement by India was considerably diminished when an LTTE suicide bomber assassinated former Indian Prime Minister Rajiv Gandhi in 1991. The assassination so scarred India's views on intervention that a few years later the country formed the Gujral foreign policy doctrine, based on nonintervention and sovereignty. In the year following the assassination, India declared the

LTTE a terrorist organization, but continued to resist any calls for involvement, leaving the civil war entirely in Sri Lanka's hands.

India passively supported the failed peace processes of the 1990s, acting as a consultant to Norway behind the scenes, but refrained from any direct involvement, taking a "hands off" approach. This strategy changed, however, by the first decade of the 2000s. Regarding economic ties, a bilateral free trade agreement came into effect that resulted in immense growth in trade throughout the decade. India makes up 14% of Sri Lanka's imports, while being its fifth largest export destination, absorbing 3.6% of Sri Lanka's exports. The increased economic engagement and concern about China's growing involvement led to military and defense cooperation, as Sri Lanka became the single largest recipient of Indian military training. From a hands-off approach, India evolved to demonstrate tacit support for President Mahinda Rajapaksa's approach to the conflict. Through the provision of military equipment, a crackdown on LTTE support networks in India, naval intelligence pooling, and coordinated naval operations, India aided the Sri Lankan government under Rajapaksa in defeating the LTTE (Destradi 2010). India's incremental involvement was not enough to overcome the longstanding cooperation between the Rajapaksa regime and Beijing. It is only since the January 2015 election, under the new government, that Indian Prime Minister Narendra Modi was able to make successful overtures towards Sri Lanka, and the relationship is ripening once again.

Current Relationship

Since the advent of the new government and the end of Rajapaksa's increasingly authoritarian regime, India was given an easy opening to warm relations, as the country was reacting against the corruption of the Rajapaksa regime and all who were closely associated with it, including Beijing. Corrupt Chinese investments created a political environment conducive to Modi's overtures of cooperation. In his much-publicized March 2015 visit, Modi also garnered political goodwill by embracing "Buddhism Diplomacy" and paying respect to Buddhist holy sites, while also visiting Jaffna in a show of support for the Tamil community, maintaining a delicate balancing act (Pethiyagoda 2015). In his speeches he called for an inclusive future in Sri Lanka and implementation of the 13[th]Amendment. After conversation with Prime Minister Modi, Northern Province Chief Minister and Tamil National Alliance (TNA) leader C. V. Wigneswaran spoke optimistically about innovative measures for further devolution of power beyond the 13[th]Amendment, referring to India as an "elder brother" and best suited as guarantor of devolution. Conversely, Modi cautioned against impatience and encouraged the Sri Lankan Tamils to have faith in the current government.

Numerous bilateral agreements were reached during Modi's visit. One of the most significant is on civilian nuclear co-operation, which envisages an "exchange of knowledge and expertise, sharing of resources, capacity building and training of personnel in peaceful uses of nuclear energy" (Ramachandran 2015). Other agreements addressed agricultural cooperation, an expansion of defense and security cooperation, a customs pact, a credit line for $300

million, visa-on-arrival for Sri Lankan passport holders, and a $1.5 billion currency swap for currency stabilization. In Jaffna, India has constructed 27,000 houses with another 20,000 promised. Modi also lent his support to Trincomalee becoming a petroleum hub, a project to be managed by government-run corporations of both countries (Chatterji 2015). Both governments are also working towards the signing of the Comprehensive Economic Partnership Agreement (CEPA) by mid-2016, a particularly contentious issue in Sri Lanka, as some Sri Lankans opine that these agreements overly benefit India.

As it stands, the current relationship between Sri Lanka and India reflects the bipolarity that characterized their past ties. India has simultaneously wanted Sri Lankan Tamils to have more rights and powers through greater autonomy, but also would not tolerate any degree of devolution beyond the federal model, due to concern for possible spillover effects that secession would have on India's messy democracy. India was outspoken regarding the need to improve the humanitarian situation during the military offensives that defeated the LTTE, yet did little politically to ensure Sri Lankan government concern for the Tamil civilian population. India supports the Sri Lankan government's desire for a wholly domestic judicial mechanism for the investigation of war crimes, but has yet to demonstrate faith in the justice of such a mechanism by taking similar responsibility for the carnage wrought by the IPKF. India wants Sri Lanka to swing away from China and pivot further towards India, yet is unable to match China's level of investment or capital mobilization. India wants to cooperate with Sri Lanka in building a strong maritime

security apparatus as part of the greater Indian Ocean security strategy, yet is unable to resolve the ongoing fishing disputes between Tamil fishermen and the Sri Lankan fishermen, nor prevent abrasive interactions of those populations with the Sri Lankan Coast Guard and Navy. India has had a volatile history of letting the Government of Tamil Nadu lead its foreign policy regarding Sri Lanka, and must now reconcile this historical and cultural tendency with its wider national security and economic interests.

A consolidation of purposes and a focused approach is required from India in order to overcome a confusing history of relations. Sri Lanka too cannot avoid her closest neighbor. For all the growth of China's influence, it remains in Sri Lanka's best interests to cultivate the relationship with India as well, at a minimum in order to attain a level of economic engagement that supports mutual commitment to sustainable peace in Sri Lanka.

Challenges of the Future
Strategic
On a global scale, a significant future challenge for Sri Lanka is balancing its position between India and China. Both China and India have a vested interest in improving the existing security measures and economic order, but they compete for supremacy in these improvements. Of most concern to Sri Lanka is the issue of maritime security. India and China share a common interest in keeping sea lanes of communication (SLOCs) open, but each will oppose any attempt by the other to control the waters through which the SLOCs pass (Menon 2016). There are two concrete issues Sri Lanka must face with India; the

extent of Sri Lankan involvement in India's Indian Ocean security apparatus; and the question of the Palk Strait.

Maritime security concerns in the Indian Ocean include piracy and armed robbery at sea, trafficking of illicit narcotics, weapons, and people, maritime terrorism, and illegal, unreported, and unregulated fishing (IUU). Historically, the largest presence is in the Indian Ocean Region (IOR) has been the U.S. navy, as well as British, French, and EU for Gulf of Aden and Horn of Africa patrols. After post-recession budget cuts, IOR country navies and coast guards augmented their capacities as the Western naval presence diminished. Today, India has one of the largest navies in the world, and by far the largest of the IOR countries. India's heavy dependence on oil imports by sea (89% of requirements), the need for secure sea lines of communication (SLOCs) and concern about China's strengthening ties in the region, the String of Pearls and Far Defense, have all encouraged the growth and increased capacity of the Indian navy (Michel and Sticklor 2012).

Sri Lanka's role in the India's Maritime Security Strategy is primarily one of naval cooperation. Thus far, India and Sri Lanka are engaging through a number of different initiatives. The Sri Lankan Coast Guard has joined its Indian and Maldivian counterparts in their annual exercises since 2012. In the previous year, the same trifecta launched a maritime security trilateral cooperation initiative, agreeing upon a roadmap for cooperation in training, capacity building of maritime forces, and joint activities to strengthen maritime security. The Indian Navy and Coast Guard hold biannual International

Maritime Boundary Line (IMBL) meetings with the Sri Lanka Navy and Coast Guard, in order to facilitate mutual understanding and cooperation. At the forefront of global hydrographic expertise, the Indian Navy has been actively pursuing hydrographic cooperation with several countries, including Sri Lanka, offering hydrographic assistance to strengthen bilateral relations and increase maritime domain awareness (MDA) (Ministry of Defense Integrated Headquarter 2016).

While these collaborations may engender good feelings between each country's naval forces, public sentiment is quite the opposite, due to the ongoing fishing disputes between their coasts. Congruent with the Law of the Seas Convention, both countries established their EEZ's with a Maritime Boundary Agreement in 1974, which is in effect to date. The waters on the Sri Lanka side of the Palk Bay and Palk Strait were declared internal waters, over which there is no right of innocent passage for vessels of other States. The Indian side of the Palk Bay waters were left too shallow for easy navigation and port access for Indian vessels. Therefore, special accommodation was made for Indian vessels to continue to traverse Sri Lankan waters, as they had done historically. This accommodation became Article 6 of the agreement, which ambiguously states, "The Vessels of Sri Lanka and India shall enjoy in each other's waters, such rights as they have traditionally enjoyed therein" (Perera 2014). Some interpret Article 6 to justify Indian fishermen encroaching into Sri Lankan waters. However, the Exchange of Letters between the Foreign Secretaries of India and Sri Lanka at the time definitively states that both nations exercise sovereign

rights over the living and non-living resources in their respective Zones, fishing without express permission is prohibited (Perera 2014), and that Article 6 was written solely to permit ease of passage for Indian vessels.

The depletion of fish stocks off the coast of Tamil Nadu due to overfishing has caused Indian fishermen to stray farther from the coastline and venture into Sri Lankan waters, engaging in IUU. The decades of war, while taking a toll on the human population in Sri Lanka, allowed the fish stock to remain healthy due to the interrupted livelihoods of fishermen living in the conflict zones in the northern provinces. Sri Lankans get more than half of their animal protein in their diet from fish (Michel and Sticklor 2012). Particularly in the north, fishing is the livelihood of the majority of inhabitants. All Sri Lankans have equal fishing access to all Sri Lankan waters, with any traditional claim of local control or management authority over fishing areas long disbanded. However, this system threatens to become unsustainable with the depredations made by commercial fishing, particularly by Tamil Nadu fishermen who use high powered trawlers that are banned in Sri Lanka.

Tamil Nadu should preserve their citizens' rights to subsistence and commercial fishing, but should also prevent further stock depletion and encroachment into Sri Lankan waters. Fish species must be placed under catch share and catch limit policies to ensure sustainable fishing and improve market prices for the catch. "Fishermen would be allocated shares based on their catch history (the average amount of fish in pounds they landed each year) of the scientifically determined amount of fish allowed for catch each year

(the catch limit). Fishermen could then fish within their shares, or quota, all year long, giving them the flexibility they needed to run their businesses" (Pooley 2013). This method has proven effective elsewhere. Among other examples, in the Gulf of Mexico, fishermen have seen a 60% increase in the amount of fish they are permitted to catch, and a 25% increase in the price of their catch in the market, under 5 years of catch share management (Pooley 2013). By increasing the amount of fish available for subsistence fishers, Tamil Nadu can ensure their fishermen once again can rely on the Indian coast, without crossing into Sri Lankan waters. With the demand for protein set to increase by 74% in the next 30 years around the world ("Financing Fisheries"), the investment in sustainable fishing will pay off in the long term, and fishermen on both coasts will be able to enjoy a higher standard of living as their income rises.

The second strategic issue between India and Sri Lanka is that of the Palk Strait. The Palk Strait is the narrow strip of sea between Mannar District of the Northern Province of Sri Lanka and the coast of Tamil Nadu, India. The strait is very shallow, with many low islands and reef shoals, making it impossible to navigate for large vessels. The dense coral reefs support one of the most biodiverse marine environments in the world, and a historically thriving fishing industry off both coasts. The islands and shoals form a chain connecting the two coasts known as "Ram Setu" or "Adam's Bridge," which holds great cultural significance for Hindus as it is believed to be the bridge created by Hanuman to help Ram rescue Sita, in the epic poem *Ramayana*. At various points in time, there have been numerous plans from both India

and Sri Lanka to create a bridge to connect the coast, or create a canal which would allow passage for container vessels.

A decade ago, during his first stint at Prime Minister of Sri Lanka, Ranil Wickremesinghe first proposed building a "Hanuman Bridge" to connect both coasts. India received the proposal indifferently, as officials were more focused on the Sethusamudram Ship Channel Project, which would enable containers to pass through the strait after massive dredging (India Environment Portal 2014). The project was stopped at 40% completion by order of the Supreme Court of India due to agitation by both environmental and religious groups, and remains on hold to date. Most recently, after discussion with again Prime Minister Wickremesinghe, Indian Road and Transport Minister Nitin Gadkari submitted a different proposal to the Asian Development Bank for a $5.19 billion road project to connect the two countries via sea bridge/underwater tunnel, which would also allow ships through. In the proposal, both countries would construct a 22 km stretch between Talaimannar in Sri Lanka and Dhanushkodi in India (Bhavthankar 2015). However, the idea has evoked considerable negative backlash from the Sinhalese Sri Lankan community, who have voiced a range of concerns: the threat of annexation by India, hostile Indians infiltrating into Sri Lanka, the establishment of an Indian Army base too close to the border, illegal migration, reduced border security, and increased transmission of diseases (Balachandran 2015). If India wishes for greater connectivity, she must first convince the Sri Lankan public that these steps are indeed in their interest. Confidence-building measures are advised.

Economic

As Sri Lanka's largest trading partner, India is the largest source of imports from Sri Lanka and the third largest destination for Sri Lankan exports. Indian visitors are the largest group, at 27% of total tourist arrivals. India is among the top five sources of FDI in Sri Lanka. Trade between Sri Lanka and India has grown rapidly since the Indo-Sri Lanka Free Trade Agreement (ISLFTA) in March 2000. The value of bilateral trade increased from US$ 658 million in 2000 to exceed US$ 4.5 billion in 2014. An evaluation of the ISFTA conducted by the Asian Development Bank (ADB), found room for improvement in the agreement regarding tariffs and duty free, non-tariff barriers applied by India on Sri Lankan products, greater harmonization in trade facilitation, possibilities in most favored nation treatment for mutual investment flows, and significant untapped potential in the services sector. The ADB recommends that Sri Lanka expedite negotiations, as India's recent FTAs with ASEAN, Japan and Korea in line with her 'Look East' policy mean that Sri Lanka is losing "first mover" advantage to the Indian market (Mukherji and Iyengar 2013).

Both governments are also working towards the signing of the Comprehensive Economic Partnership Agreement (CEPA) by mid-2016, despite strong opposition from businesses in the south of Sri Lanka. Prime Minister Wickremesinghe is committed to signing an agreement, calling those who oppose it 'traitors.' (*Tamil Guardian* 2015). Alongside the CEPA is the Economic and Technology Cooperation Agreement (ETCA), which both governments also

hope to finalize by mid-2016. Though the ETCA is more specific, covering only investment and services, it too is facing opposition from trade unions and reservations from tourism industry leaders (*Tamil Guardian* 2015). Further concerns of Sri Lankans are a swamped labor market and high unemployment, the potential for violence that could occur with high youth unemployment, and destruction of Sri Lankan entrepreneurship by big Indian businesses. India and Sri Lanka must address the fears of the public and the Sri Lankan business environment, prove that the agreements would indeed be beneficial to both, and overcome negative public sentiment regarding a deepening of economic ties between them in order to move forward successfully.

Political

India has expressed support for Sri Lanka's reconciliation and development policies, but is in a sensitive position in terms of its ability to pressure the Sri Lankan government politically. Years of the 'hands-off' approach from Delhi has allowed Chennai to set the stage for political engagement between India and Sri Lanka, primarily based on a strong Tamil political discourse, which Modi must reclaim if he would like India to engage more broadly with Sri Lankan affairs. However, Prime Minister Modi's less-than-spotless track record during his tenure as Chief Minister of Gujarat, and the IPKF's history in Sri Lanka, mean the current Indian government lacks moral high ground and may find it difficult to pressure the Sri Lankan government to follow through on its promises to its minorities. The Sri Lankan government will also struggle to diversify ties to India given the

prevalent Indo-phobic rhetoric in Sri Lanka. Thus, in order to advance political engagement, both countries must engage in confidence-building measures to assure all stakeholders that the sovereignty of Sri Lanka will be respected if India chooses to actively support the government in its political endeavors.

Recommendations

The following recommendations for policy choices regarding the future of India-Sri Lanka relations are organized by the three main actors involved; the Government of the State of Tamil Nadu, the Government of India, and the Government of Sri Lanka. These recommendations are made to support the continued development of a strong relationship between the two countries, as demonstrated by their recent actions and existing foreign policy towards each other.

To the Government of Tamil Nadu

The Government of Tamil Nadu should confine itself primarily to work towards resolving the fishing disputes between India and Sri Lanka. The following measures should be taken:

- **Set catch limits for each species of fish for commercial fisheries.**
- **Create a catch share management system under the Ministry of Fisheries to supervise sustainable fishing.**
- **Conduct a mass public awareness and education campaign to teach fishermen how to operate within a catch share management system.**

- **Ban high-powered trawlers and offer replacements for current owners.**

To the Government of India
- **Ensure adherence of the fishing industry to maritime law through coordinated patrols between the Sri Lankan and Indian Coast guards.**
- **Establish a Joint Commission of Enquiry into the environmental impact of proposed infrastructural developments in the Palk Straits, with researchers from both countries conducting investigations and appraisals.**
- **Channel resources into resettling Sri Lankan refugees currently in India who wish to return, providing support across the complete continuum of resettlement.**
- **Organize workshops in Sri Lanka to raise awareness amongst Sri Lankan exporters/officials regarding Indian standards and regulations.**
- **Invest in maritime infrastructure for greater integration and long term economic rewards (Samaranayake).**
- **Encourage lively academic discourse within the Tamil political community, by hosting conferences, sharing intellectuals, and jointly commissioning research and political scholarship, to encourage a breadth of perspectives from the Tamil community to ensure that the moderates are not drowned out by the more radical**

voices that still exist across the political spectrum.

To the Government of Sri Lanka

- **Reconstruct the pier at Thalaimannar to permit vessels to dock**
- **Resume commercial ferry services between India and Sri Lanka to support existing investments in the tourism industry.**
- **Leverage collaboration with China in the port city project and special economic zone in order to resolve fishing disputes with India.**
- **Invest in mental health and psychosocial support services for Sri Lankans, inviting health professionals from India and around the world to participate.**
- **Restructure recruitment for the Sri Lankan Armed Forces to ensure that while the army continues to reduce in size, the navy can expand by absorbing the losses.**
- **Make it established practice to confiscate high powered trawlers found in Sri Lankan waters.**

Conclusion

P. Terrence Hopmann

Sri Lanka experienced a devastating civil war off and on between 1983 and 2009, pitting the Liberation Tigers of Tamil Eelam (LTTE) against the Government of Sri Lanka. The war ended in May 2009 with a decisive victory by the Government that left the LTTE army destroyed, its leaders and a large portion of its fighters dead. But the conflict in Sri Lanka did not begin in 1983 nor did it end in 2009, and the legacy of that conflict is far from resolved in 2016. The continued need to address the underlying drivers of that conflict became the focus of a trip by 16 SAIS MA students and two faculty members to Sri Lanka in January 2016, and the preceding report details each student's conclusions about many of the vital issues that we explored during that trip, along with recommendations for actions that may begin to address the legacy of this deadly conflict. This concluding chapter seeks to summarize some of the major findings reported above and to propose some of the major policy requirements for establishing stable, durable peace in Sri Lanka for the long term.[12]

The roots of the conflict in Sri Lanka can be traced back to the politization of historical memory, based on conflicting narratives of origin between the majority Sinhalese community and the minority Tamil and Muslim communities. As David Galbraith describes,

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[12] While summarizing the findings presented in each of the preceding chapters, the views expressed in this conclusion are, unless indicated otherwise, solely those of the author.

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both communities draw on narratives of the origin of their "nations" more than two millennia ago. For the Sinhalese, these narratives are founded in Buddhism, which has provided a base for both cultural and spiritual identity, subsequently providing the foundation for the Sri Lankan state after it achieved independence from the United Kingdom in 1948. As Tanvi Madhusudanan points out, many Buddhist monks have encouraged linking together the identity of Buddhism and the Sri Lankan state to the exclusion from political life of followers of other religious traditions. By contrast, Tamils have based their identity in part upon Hinduism (though the Tamil community also includes a Catholic Christian minority). Their identity also derives in part from their relationship to the large Tamil community across the Palk Strait and to the Tamil language and its Dravidian origins. The linguistic divide was widened by the passage in 1956 of the Official Language Act, which made Sinhala the only official language of Sri Lanka and thereby marginalized most Tamil-speakers. Even though it was later repealed, this act had a lasting, divisive effect on Tamil perceptions of marginalization in the Sri Lankan state and thus encouraged efforts to achieve independence by the Tamil-majority regions in the north and east of the island. These different narratives continue to provide the foundation for both Sinhalese and Tamil education, as Samantha Harper notes, reinforcing down to the present day the different identities of the two largest communities in Sri Lanka and impeding the development of any significant sense of a shared national identity. None of this is to say that the conflict in Sri Lanka can be defined simply along ethno-

national lines, as divisions in Sri Lanka historically have also been created by differences of socio-economic class or caste, a reflection of the Indian cultural heritage throughout the island, all of which have combined with religion, language and ethnicity to create multidimensional cleavages.

As David Galbraith also observes, in modern times these divergent narratives of origin and identity have carried over into conflicting images of the Sri Lanka civil war. To the Sinhalese, their national army, composed mostly of Sinhalese soldiers, is heroic for their perseverance in the long struggle and for their ultimate victory against the Tamils, whom they widely characterize as "terrorists." By contrast, the Tamil community continues to see the LTTE, in spite of disapproval of many of their tactics, as a legitimate revolutionary army that sought to achieve independence for Tamil Eelam from the oppressive domination by the Sinhalese, Buddhist majority. In short, the fighting may be over, but the polarized memories of the distant past and of the legacy of the more recent war have not been significantly attenuated since the end of fighting.

These divergent narratives continued to exert a significant influence on the political process that was enfolding at the time of our trip to Sri Lanka in early 2016. For more than five years after the end of fighting, Sri Lanka continued to be governed by President Mahinda Rajapaksa and his administration with the strong support of the majority Sinhalese population and much of the Buddhist clergy, as the government that had achieved victory over the LTTE and brought peace to Sri Lanka. However, as a result of concerns among many Sinhalese about the

increased authoritarianism of the Rajapaksa regime, dominated by his family, and with growing signs of corruption, in January 2015 the opposition won a surprise victory, also with the support of the Tamil communities. President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe have begun to introduce significant reforms that seek to overcome some of the divisions of the past and to create a more unified Sri Lankan polity. However, as Christina Ma writes, the narrowness of the political victory and the complex coalition that the opposition had to assemble in order to govern, including some officials of the previous regime holding major cabinet posts, has made the government cautious about moving too fast to make changes in the political structure that might better respond to Tamil grievances.

One major priority has been to revise the governmental structure, which gives pre-eminence to a powerful executive, under which former President Rajapaksa created an oligarchic system of governance that began to resemble a "tyranny of the majority," to borrow de Tocqueville's classic characterization of American politics in the early 19th century. As Daniel Murphy argues, reform of this centralized power structure is required in order to create a stronger, more unified nation-state in which minority views may be expressed and represented in the governance of the state. The recent 19th Amendment to the Constitution seeks to limit the powers of the presidency without going too far in weakening the central authority of the executive, but it remains a subject of much debate in Sri Lanka.

At the time of our visit, Sri Lanka was engaged in a broad debate about constitutional reform designed to

respond to some of the problems created by the post-independence government structure that continue to exacerbate inter-ethnic relations. As explained by Stephanie Billingham, the Sri Lanka constitution has undergone numerous changes since 1948, but some of those changes have not been fully implemented and other features need to be re-examined. Of particular importance is the 13th Amendment adopted in 1987, which was intended to extend greater executive, legislative, and judicial powers to the nine provinces, including the Northern and Eastern Provinces where a majority of Tamils and Tamil-speaking Muslims reside. Daniel Murphy argues that the implementation of this amendment was disastrous, however, due to the failure of the Sinhalese majority government to support any actual devolution of power away from central authorities in the capital, Colombo. As a result, this reinforced the Tamil narrative that the Sinhalese majority would never grant significant political authority to the minority communities, thereby justifying their struggle for independence.

What became clear during our visit is that some measure of devolution of authority to the provincial or local level is essential to respond to one of the primary grievances that has fueled conflict and violence in the recent past. Although efforts to create a "federal" state have been widely denounced by Sinhalese politicians as a threat to the "unitary" Sri Lankan state, some transfer of authority on issues such as education, cultural affairs, and economic activity away from Colombo is necessary in order to assure adequate representation for minority communities that constitute majorities in particular regions. Our meetings with regional officials and civil society in

Jaffna made clear that there is widespread support throughout the region for a significant devolution of power. Reluctantly, Tamil leaders acknowledge that the LTTE goal of independence cannot be achieved, and even deep autonomy remains at best a distant goal, but they insist that some level of self-determination for the Tamil community is an absolute necessity if peace is to be sustained and strengthened in the years ahead. In the end, this will not weaken the state but will in fact make it stronger and more cohesive. This could be accomplished either as Daniel Murphy argues by much fuller implementation of the existing 13^{thr} Amendment or through a constitutional reform process as discussed by Stephanie Billingham, but peace cannot be consolidated in Sri Lanka so long as governance is dominated by the Sinhalese, Buddhist majority in the south at the expense of national, ethnic, religious and linguistic minorities throughout the country.

Perhaps the most vexing issue faced by Sri Lanka at the time of our visit, however, is the question of how to promote transitional justice mechanisms and to establish truth and accountability about what happened in the war. As Grace West observes, this issue has been brought to the forefront by the UN Human Rights Council's (UNHRC) resolution calling for an investigation, with international participation, on promoting "reconciliation, accountability, and human rights" in Sri Lanka. A 2010 report of a UN Panel of Experts on Accountability in Sri Lanka found that as many as 100,000 civilians had died in the course of the civil war, including an estimated 40,000 in the final stage of the war from January through May 2009. The panel found that violations of international

humanitarian law and laws of war were committed by both the Government and the LTTE rebels that might amount to war crimes and crimes against humanity. This report was resoundingly rejected by the Rajapaksa regime, which denied any culpability on the part of the Sri Lanka government or its armed forces. Therefore, it came as a surprise when the Sirisena government co-sponsored the UNHRC resolution in 2015 calling for an international process for truth and justice, setting off a firestorm in Sri Lanka. As our group stood on the beautiful beaches of Mullaitivu, in a "no fire zone" declared by the government in the last days of the war that was supposed to provide safety for civilians, and as we observed the scraps of clothing of thousands of civilians who had been killed there by fire from both sides, we could not avoid the deep feeling that justice still needs to be served for the many innocent people who were slaughtered on those beaches and nearby lagoons in the final days of the war.[13]

Even though the allegations of war crimes and crimes against humanity apply to both the Government and the LTTE, a serious problem arises because virtually all of the Tamil Tiger leaders and senior combatants died in the last days of fighting or subsequently "disappeared" (and are likely dead), or were imprisoned, or fled abroad.[14] Therefore, accountability for crimes committed by those still alive will fall almost entirely on living political and

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[13] For an extensive analysis of the destructiveness of the final weeks of the war and of the numerous violations on all sides of the laws of war and commission of crimes against humanity, see Weiss (2012).

[14] See the accounts by many Tamil survivors who are currently living abroad in Harrison (2012).

military leaders, who in many cases still hold positions of authority, and in virtually all cases are regarded as national heroes by the Sinhalese majority. Therefore, as Grace West points out, there has been a significant backlash against the Sirisena government for its support of the UNHRC resolution, and it appears to be retreating to a less intrusive process that would exclude international participation in the accountability process. Instead, any inquiry is likely to focus on a "few bad apples" in the Sri Lankan armed forces rather than a thorough investigation of accountability of high ranking officers and political leaders, as noted by Emily Ward. However, Grace West argues that such a process would likely lack legitimacy in the eyes of many in the international community. Therefore, at least a "hybrid" solution proposed by some Sri Lankan political leaders, including significant international participation, is required in order for the accountability process to be viewed as legitimate by the international community and for post-war Sri Lanka to be viewed as a responsible member of the international community that respects the rule of law and human rights.

Another issue that needs to be addressed in order to assure justice for the victims of the conflict concerns the large number of internally displaced persons (IDPs) and refugees living abroad who have not been able to return to their homes since the end of the war. Many of the IDPs are living in temporary housing, and as Ceriel Gerrits reports well more than 200,000 families still lack proper housing, access to basic necessities such as clean water, or sustainable means to earn a living, falling well below international standards in all categories for providing durable

solutions for displaced peoples. Many others are living abroad, mostly in India, and are unable to return home due to lack of housing and jobs. Altogether the Sri Lankan government estimates that about 137,000 additional housing units are needed to accommodate displaced persons. To a large extent the inability of displaced persons in the north and east to return to their original homes is because large portions of the land have been taken over by the Army and Navy to create bases that are widely distributed throughout those regions. While the government contends that these bases are necessary to prevent the re-occurrence of violence in the north and east, Emily Ward argues that this is far in excess of what the military forces need to maintain security, given that the LTTE has been effectively destroyed and the Tamil community has no means to obtain the kinds of weapons that would be required for any significant return to violence. Furthermore, the Army and Navy have frequently built resort hotels on their bases, engaged in farming and fishing, and they sell their produce in the market in competition with local people, vastly distorting local markets in the north.

All of this is building resentment with the displaced peoples whose historic lands have been taken away, who are living in temporary housing on lands generally not suitable for farming or other means of livelihood. In at least one community we visited there is only one fishing boat for every six families, severely limiting the residents' ability to engage in fishing, their traditional source of livelihood. Although the government has begun to return some land to the original inhabitants, this is taking place far too slowly and is producing increased resentment

against the government in Colombo. Driving through the northern region and encountering military bases every few kilometers, one cannot avoid the impression that one is in a militarily occupied territory rather than a social democratic state. As Emily Ward stresses, the Sri Lanka army needs to make a significant transition from an anti-rebel army fighting its own citizens, and from an army of occupation, to a traditional army; the navy especially needs to adapt to its primary role of defending Sri Lanka against threats to its security from abroad. Many political leaders recognize the need for such a change, but reorienting a military establishment that pursued a different role for so many decades, and emerged from the civil war triumphant, is a long-term task that is only beginning to take shape.

All of this is justified by the government as a necessary response to the legacy of the LTTE and its long-term struggle to create an independent state of Tamil Eelam in the northern and eastern regions of Sri Lanka, as described by Patricia Morrissey. As she reports, although the goals for independence received considerable support internationally and within the Tamil community at large in Sri Lanka, the violent means employed by the "Tigers" caused them to be classified as a terrorist organization by many governments around the world and to be reviled throughout the Sinhalese community within Sri Lanka. The absolute military defeat of the LTTE in 2009 eliminated any hope that the Tamil community could achieve independence or even deep autonomy within Sri Lanka through force. Nevertheless, the goal of self-determination remains very much alive among Tamils, even though most survivors now denounce the cruel means employed by the LTTE, many of which

were directed at fellow Tamils as well as against the government and the Sinhalese people. Not the least of the LTTE war crimes was the forceful recruitment of child soldiers as they found themselves trapped in an increasingly desperate situation late in the war. Those who survived, but who participated in the fighting against their will, need special attention in order to be reintegrated into the social fabric of their communities; especially important is providing psychological counseling for those young men and women who, a decade ago, were forced to participate in one of the most brutal wars that the world has witnessed in modern times. Also, as Patricia Morrissey emphasizes, the government of Sri Lanka needs to distinguish between the legitimate grievances expressed by the Tamil community that contributed to the onset of the war, and the savage tactics often employed by the LTTE, which ultimately gave previous governments an excuse for their unwillingness to address the real grievances of the Tamil people.

Although the leaders of the LTTE are now dead and thus cannot be brought to justice, the truth of their violations of human rights and humanitarian law needs to be told and acknowledged by all Tamils so that the tragic consequences of the LTTE struggle will not be repeated in the future. At the same time, the current government urgently needs to address forthrightly the legitimate grievances of the Tamil community that have so far not been adequately redressed.

In addition to reform of the armed forces, Sri Lanka needs to engage immediately in the reform of its police force and judicial institutions, as detailed by Maria-Alexandra Martin. Until 2013 the Sri Lanka

police were administratively part of the Ministry of Defense and Urban Development; even though they have subsequently been transferred to a Ministry of Law and Order, their relationship to the military remains too close. Furthermore, the national police force leaves no room for regional or local law enforcement, which among other things accounts for the large percentage of police in the Northern and Eastern Provinces who do not speak Tamil, the prevailing language of the local population. There are frequent charges of police corruption, of violence against women by members of the police, of slow response time to major crimes (especially crimes against women), of the failure to protect human rights of the accused, and of torture of detainees by police. All of these factors, acknowledged explicitly by the recently created national Human Rights Commission, have produced considerable distrust of the police by the minority communities of Tamils and Tamil-speaking Muslims. In order to establish stable peace in Sri Lanka, extensive reform of the police forces will be required, including greater citizen oversight, devolution of authority to regional and local police forces, training of police in non-discriminatory law enforcement, recruitment of women and ethnic minorities into the police force, assuring that police are fluent in the languages of the communities they serve, and creating a culture of respect for proper police behavior in all aspects of their professional careers.

Issues of economic development also contribute to competition for scarce economic resources in Sri Lanka. However, in spite of a significant level of economic inequality in Sri Lanka, B. Alexander Frank

notes that the lines of conflict generally did not coincide with rich versus poor, as both the Sinhalese and Tamil communities include significant pockets of poverty. As Sangyoung Yun argues in his chapter, the British colonial regime generally favored the Tamil community in terms of education, administrative jobs, and business positions. However, following independence there was a general *renversement* of roles, with the Sinhalese majority government frequently giving economic advantage to members of their own community, reducing Tamil access to higher education, and in other ways privileging the Sinhalese community. After the war these differences have been reinforced by the destruction brought on by the extended fighting, by the loss of land and jobs by Tamils, and by the breakdown of local markets, giving an advantage in post-war economic development to the occupying army, as noted previously. This has resulted in pockets of extreme poverty throughout the northern and eastern regions.

Foreign assistance and some investment have begun to arrive in the war ravaged regions, and several major infrastructure projects, especially road construction, have taken place in the north, but these fall well short of what is required to make up for the damages created by almost three decades of war. B. Alexander Frank and Sangyoung Yun both emphasize the importance of overall economic development throughout the country in order to reduce tensions created by the perceived competition between north and south for investment and assistance. B. Alexander Frank also notes that part of the problem stems from the lack of a transparent process for the disbursement of development assistance, making each community

perceive that the other is getting the larger share of aid and investment. Therefore, not only greater economic development funds are needed, but also more complete information is required to reduce the perceptions held in each community that they are locked in a zero-sum competition with the other for economic development assistance and investment.

The Sri Lanka conflict is also framed within an international context and influenced by external parties. The United Nations has played an extensive and important role in post-war Sri Lanka. As Christiana Reichsthaler indicates, its various agencies—including UNHCR, UNICEF, UN-Habitat, UNDP—have all assisted Sri Lanka to rebuild after the devastation created by the long civil war. Unfortunately for Sri Lanka, however, other priorities have intervened, especially due to the conflict in Syria, that have required many UN agencies, most notably UNHCR, to redirect many of its resources elsewhere before many of the post conflict needs of Sri Lanka have been fulfilled. The most controversial aspect of the UN role within Sri Lanka concerns the 2015 report of the Office of the High Commissioner for Human Rights (OHCHR), which published an assessment of human rights violations, systematic attacks on civilians, torture, arbitrary arrests, disappearances, sexual violence, and attacks on international aid workers and their facilities. This has created international demands for a thorough set of hearings, with significant international participation, to identify and hold responsible those who allegedly committed crimes against humanity; these demands are also broadly supported by many of the civil society organizations that we met in Colombo, Mannar, and

Jaffna. As noted previously, however, the government has taken a cautious approach to these allegations, evidently pressured by the political opposition and by the armed forces that wish to keep these issues out of the international spotlight insofar as possible. The danger is that this will make any serious accountability for war crimes difficult to achieve, even though justice for the victims of the conflict appears to be a necessary prerequisite for any serious effort to promote reconciliation.

The European Union, as Christiana Reichsthaler notes, has played a less central political role in post-conflict Sri Lanka and has focused most of its efforts on support for good governance and economic development. In support of the former task, the EU provided an election monitoring mission for the August 2015 parliamentary election, which largely confirmed and reinforced the change in government initiated by the January 2015 presidential election. It has also joined with several other international agencies and NGOs in providing economic development assistance to the war-affected regions.

Throughout the civil war and in the five years after its termination, the United States played a largely passive role in Sri Lanka. The one exception was an offer by the United States to host a negotiation session in Washington in early 2003, during a ceasefire in the conflict, when agreement to end the two decade long civil war seemed to be near. However, as Patricia Morrissey describes, the U.S. refused to invite any representatives of the LTTE to Washington, having declared them to be a "terrorist" organization. Needless to say, a negotiation in which one of the two warring parties was not invited was a complete non-

starter, and the reaction by the LTTE leadership to their exclusion may have contributed to the eventual breakdown of the negotiations and the resumption of the final and most destructive stage of the civil war from 2006 to 2009. Having kept at arms' length, however, during the final phase of the war and into the first five years after the end of fighting in 2009, the United States welcomed the new government elected in 2015. One high ranking official of the former Rajapaksa government even argued that the U.S. had actively, but secretly supported the opposition in a deliberate effort to defeat the previous government, though we could find no evidence to support that allegation. What is clear, however, is that the U.S. has substantially enhanced its diplomatic representation in Sri Lanka following the change of government, and USAID has also significantly enlarged its development assistance, including especially providing assistance for demining in the areas where extensive land mines had been deployed in the closing phase of the war.

Another significant external role in Sri Lanka has been played by China. During the final years of the civil war, China continues to sell arms to the Sri Lankan military forces. Prior to that time, the Sri Lanka army was mostly supplied by other countries including Russia, Ukraine, and Israel. Since the war, China, which had close ties with the Rajapaksa government, including several state visits in each direction by the leaders of the two countries, has become a major source of economic aid and investment to Sri Lanka, as Vincent Mingqi Zhu details in his chapter. This has included extensive investment in infrastructure, especially highways, airports and port facilities. Since the change of

government in early 2015, however, Sri Lanka has sought to diversify foreign investment and to reduce its reliance on Chinese aid and loans, apparently believing that Sri Lanka had become excessively dependent on China. At the same time, Vincent Mingqi Zhu argues that China also needs to modify its aid and foreign investments to focus more on the distributional effects of aid, with special attention to the Tamil regions in the north and east, while also becoming less closely tied to the Rajapaksa circle. He also argues that China needs to separate its business investments more clearly from its aid programs, so that the latter can focus more directly on promoting economic growth and social welfare throughout the country.

Finally, India, as Sri Lanka's closest neighbor and as the region from which most of its people originally came from, still has a special role to play in peacebuilding in Sri Lanka. This is especially the case for the Tamil peoples of southern India who have close ties of ethnicity and culture with the Tamil populations of northern Sri Lanka, as well as more recent Tamil immigrants living in the highlands in central Sri Lanka who were brought in to work the tea plantations during the British colonial period. As Sneha Thayil shows in her chapter, the relationship between India and Sri Lanka has been rather ambivalent in modern times, undergoing several significant shifts. In the late 1980s, India assisted the Tamils and then pressured the Sri Lankan government to accept a ceasefire agreement and to adopt the 13th Amendment on devolution of authority, discussed above, while still supporting the territorial integrity of the Sri Lankan state. To support the ceasefire, they

sent a peacekeeping force to the island, which was subsequently attacked by the LTTE, causing India to shy away from further support of the Tamil "Tigers" and from an active engagement in the civil conflict. With the end of the war in 2009, wariness about the developing relationship between the Rajapaksa government and China, their regional strategic rival, limited India's role mostly to providing aid for the reconstruction of northern Sri Lanka, especially the construction of housing for IDPs. Although relationships have warmed since the change of government in 2015, they are still troubled by a dispute over fishing rights between the Indian state of Tamil Nadu and northern Sri Lanka, which has further complicated the situation for Sri Lankan Tamils to earn a livelihood from fishing in waters where they have traditionally fished. But the need for cooperation remains paramount, especially to resettle some 100,000 Tamil refugees now living in India.

In conclusion, the SAIS group returned from Sri Lanka cautiously optimistic about the future, but very much aware of the many challenges that Sri Lanka has to face to build peace and reconciliation in the years ahead. The underlying drivers of the violent conflict, especially the divergent narratives of identity, have long historical antecedents that were in many ways accentuated by the war. Even though the fighting came to a bloody end in 2009, many of these grievances and animosities remain very much alive and demand to be addressed at the core of the peacebuilding process. These include the need to devolve authority in areas where local and regional governance matters, while preserving the fundamental unity of the Sri Lankan state. It requires changes in

the legal system, in political behavior, and in education that allow for a diversity of religious and political beliefs to flourish. Sri Lankans need to recognize that there are many layers to individual and group identity, and therefore that an identity with and loyalty to a Sri Lankan state can co-exist with separate regional, linguistic, cultural, and religious identities. As Tanvi Madhusudanan writes, many of these values were promoted by a prominent and influential Buddhist monk, Sobitha Thero, who unfortunately died in 2015, removing a prominent voice from the Buddhist community on behalf of social justice and inter-communal harmony. His central message, however, needs to be heard and internalized throughout Sri Lanka, namely that individual human rights and the rights of persons belonging to minorities need to be enshrined as a necessary component of any peaceful nation, allowing democracy to flourish without at the same time imposing a "tyranny of the majority" on an unwilling minority.

These principles must be integrated not only in a revised constitution, but in the security institutions including the military forces and the police, in judicial institutions, in economic policies that confront the existing disparities in economic development that remain pervasive throughout the island, and in acknowledging the truth about the legacy of the war in all of its dimensions. In short, postwar reconciliation remains a distant, but not impossible goal, but it will also require overcoming many serious obstacles. In the final analysis, it is only by creating a political system in which it is evident to all segments of society that all benefit by working together in a spirit of mutual tolerance and cooperation that the true

potential for Sri Lanka can be achieved. After so many years of conflict and destruction, all of the people of Sri Lanka deserve a better future, and they possess all of the qualities necessary to achieve that goal if they can only accept the truth that tolerance diversity can become a primary source of national unity rather than divisiveness. In this effort, all relevant members of the international community have a stake in supporting Sri Lanka as it embarks on its efforts to put the violence of the past behind and to build a prosperous and peaceful future.

List of Interviews

Washington DC, Briefings

- **Ambassador Prasad Kariyawasam**, Sri Lankan Ambassador to the United States, Embassy of Sri Lanka (Embassy of Sri Lanka, 23 October 2015)
- **Ambassador Teresita Schafer**, former U.S. Ambassador to Sri Lanka (1992-1995), (SAIS, 9 November 2015)
- **Center for Policy Alternatives**, **Sanjana Hattotuwa and Iromi Perera**, (SAIS, 13 November 2015)
- **Dr. Sinisa Vukovic**, SAIS Professor of Conflict Management (SAIS, 2 December 2015)
- **Vasu Mohan**, Regional Director of Europe and Asia, IFES (SAIS, 7 December 2015)
- **Dr. Gamini Keerawalla**, Deputy Chief of Mission, Embassy of Sri Lanka to the United States (SAIS, 9 December 2015)

Itinerary
Conflict Management Field Trip to Sri Lanka, 10-19 January 2016

Colombo – 10-13 January and 18-19 January 2016
Sunday 10 January
- Introductory briefing by Nilshan Fonseka (SAIS BO '13) and Ruki Fernando

Monday 11 January

- INFLORM, Human Rights Documentation Centre at Bandaranaike Centre for International Studies
- UN Office in Sri Lanka:
  - UN Resident Coordinator's Office: Muradi Mohideen, Coordination Officer
  - UNHCR: Igor Ivancic, Senior Protection Officer
  - UN Habitat, Aziza Usoof, Monitoring and Reporting Manager
  - UNDP: Amanthi Wickramasinghe, Governance for Empowerment and Social Inclusion
- UN Commission for Human Rights
  - Juan Fernandez-Jardon, Senior Human Rights Advisor
  - Nehama Jayewardene, National Human Rights Officer
  - Gita Sabharwal, Reconciliation and Development Advisor

Tuesday 12 January
- Chulani Kodikara, Senior Researcher at the International Centre for Ethnic Studies: Reconciliation and Transitional Justice, Bandaranaike Centre for International Studies:
- Meeting at the US Embassy
- Meeting at Residency of the Swiss Embassy with representatives of international delegations in Sri Lanka
  - Organizer: Davide Vignati, First Secretary, Embassy of Switzerland
  - Jennifer Hart, Embassy of Canada

- ➢ Tania Perera, Communications Officer, European Union
- ➢ Dahini Mahan, Political Officer, Embassy of Germany
- ➢ Mariko Yamamoto, Political Officer, Embassy of Japan
- ➢ Mahendra Ratnaweera, Political Officer, Embassy of the Netherlands
- ➢ VidyaPerera, Political Officer, Embassy of Norway
- ➢ Ambassador Victor Chiujdea, Embassy of Romania
- ➢ Kanishka Ratnapriya, Political Officer, Embassy of Switzerland
- Reception at the US Embassy Residence, hosted by Ambassador Keshap and DCM Andrew Mann with Fulbright students and staff in Sri Lanka

Wednesday 13 January
Bandaranaike Centre for International Studies (BCIS)
- Dr. Ranjith Cabral, Chairman of the Board & Director
- Dr. MihiriSenanayake, Research Coordinator
- Nilanthan Niruthan, Public Relations
- Ms. Menik Wakkumbura, Sri Lanka Institute of Development Administration
- Ms. Pushpi Weerakoon, Director Alternative Dispute Resolution Institute
- Ms. Bhavani Fonseka, Senior Researcher, Centre for Policy Alternatives
- Mr. Gehan Gunatilleke, human rights lawyer and Research Director, Verité Research

- Mr. Jayasuriya Chrishantha Weliamuna, human rights lawyer and Executive Director, Transparency International Sri Lanka

Mannar, Jaffna 14-17 January 2016

Thursday 14 January: Colombo to Mannar

- Visit Mullikulam village and Catholic Church inside Naval Base
- Meet with community of Catholic Tamils living in temporary housing while displaced from Mullikulam
- Meet with Tamil-speaking Muslim IDP community in Silavathurai.
- Father Gerard, OMI, Director, OMI Retreat House

Friday 15 January: Mannar to Jaffna

- Meeting with *Uthayan* (Tamil) Newspaper publisher, editor, and staff:
- E. Saravanapavan, TNA, Member of Parliament, Jaffna District
- Tamil Civil Society Forum
  - ➢ Rev. Fr. Elil Rajendram, SJ
  - ➢ Rev. Fr. M.V.E. Ravichandran

Saturday 16 January: Jaffna

- Women's Action Network
- C.V. Wigneswaran, Chief Minister for the Northern Province
- Visit to Naliur Kandaswamy Kovil (Hindu Temple)
- Jaffna Social Action Center

- Nadarajah Sukirtharaj, Coordinator

<u>Sunday 17 January: Jaffna to Colombo</u>
- Visit Elephant Pass and memorial for Sri Lanka "hero"
- Visit Killinochchi (declared capital of "Tamil Eelam," de facto LTTE "state")
- Visit Puthukudiyiriuppu ("PTK") and the "no fire zone" – site of the final fighting in 2009
- Visit Mullaitivu and the Vattuvahal Bridge – point of escape from "the cage"
- Stop in Vavuniya, site of intense fighting during the civil war.

Colombo 18-19 January
<u>Monday 18 January: Colombo</u>
- Meeting with faculty and graduate students of international relations and conflict resolution at the University of Colombo.
  - ➤ Dr. Nirmal Wijegoonawardena, Head of the Department of History
  - ➤ Nirmal Ranjith Dewasiri
  - ➤ Dr. M.T.M. Mahees
  - ➤ Neshan Gunasekera, attorney
- Meeting at Sri Lanka Human Rights Commission (split group)
  - ➤ Ambika Satkunanathan, Commissioner of Human Rights
- Meeting at the Embassy of China (split group)
  - ➤ Mr. Xinli Qui, Chief, Political Section
  - ➤ Mr. Yuanyuan Zhang, Third Secretary, Economic and Business Department
  - ➤ Mr. Rentao Zhu, Third Secretary, Political Section

- Meeting at Verité Research (economic research firm)
  - Dr. Nishan de Mel, Executive Director and Head of Research, Verité Research
- Vijay Kumar Nagaraj, Centre for Poverty Analysis,
- Meeting with Prof. Gamini Lakshman Peiris, Minister of External Affairs under President Rajapaksa (2010-15), chief government negotiator with the LTTE (2002-04), and Minister of Justice (1994-2001)

Tuesday 19 January Colombo
- Dr. Harsha de Silva, Deputy Minister of Foreign Affairs Ministry of External Affairs
- Cargills Ceylon, World Trade Centre
  - Mr. Ranjit Page, CEO
  - Mr. Talal Maruzook, Manager, Corporate Planning
  - Ms. Maheshi Anandasiri
- Nawaz Mohammed, Country Director, Search for Common Ground
- Discussion of Land Resettlement, Reconciliation and Transitional Justice at the Bandaranaike Centre
  - Mr. Balachandran Gowthaman, director of Democracy, Governance, and Human Rights project, US AID-funded
  - Mr. Mirak Raheem, consultant to the Ministry of Resettlement
  - Dr. Paikiasothy Saravanamuttu, Executive Director, Centre for Policy Alternatives and Secretary of the Consultation Task Force

- Meeting with Asanka Magedaragamage, Coordinating Secretary, Ministry of Defense

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