

# **Politics of Truth: Memory, Transitional Justice and Victimhood in Sri Lanka**

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## **Abstract**

This thesis explores the contested nature of truth and memory in Sri Lanka's transitional justice debate. It engages in the case study of the Tamil political enterprise of memory creation. Implications political projects can have on transitional justice is thus examined using an explanatory research design and qualitative methods. Using Jacoby's theory of victimhood, it analyzes in detail how victimization of Tamils progressed into victimhood, thus shaping collective identity along political lines. Analyzing this narrative is important in search for appropriate mechanisms of transitional justice in the heavily polarized Sri Lankan society. The thesis argues that truth should be established objectively to the furthest possible extent by exploring a multitude of the existing narratives. It concludes that addressing the Tamil narrative is central to any meaningful process of transitional justice in Sri Lanka. The thesis also proposes a combination of mechanisms of retributive and restorative justice. It emphasizes on the timing factor of criminal justice: given the sensitivity of the situation, it cannot be the first mechanism to apply, but should not be delayed for too long either. Most importantly, the thesis calls for a societal reckoning with its criminal past by opening up one-sided ethno-national narratives.

**Keywords:** Truth, Memory, Transitional Justice, Sri Lanka, Tamil Narrative

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## List of Abbreviations

<b>CFA</b>	Ceasefire Agreement
<b>CPA</b>	Centre for Policy Alternatives
<b>FP</b>	Federal Party
<b>GoSL</b>	Government of Sri Lanka
<b>ICTJ</b>	International Center for Transitional Justice
<b>JHU</b>	Jathika Hela Urumaya (National Heritage Party)
<b>JVP</b>	Janatha Vimukthi Peramuna (People's Liberation Front)
<b>LLRC</b>	Lessons Learnt and Reconciliation Commission
<b>LTTE</b>	Liberation Tigers of Tamil Eelam
<b>NFZs</b>	No Fire Zones
<b>OISL</b>	OHCHR Investigation on Sri Lanka
<b>SLFP</b>	Sri Lanka Freedom Party
<b>SLMM</b>	Sri Lankan Monitoring Mission
<b>TNA</b>	Tamil National Alliance
<b>TULF</b>	Tamil United Liberation Front
<b>UNHRC</b>	United Nations Human Rights Council
<b>UNP</b>	United National Party

## Introduction

Sri Lanka is an island nation off the southern coast of the Indian sub-continent, emerging out of a three decades long corrosive conflict. Despite the end of armed hostilities in May 2009, the country is still grappling with difficult legacies of the prolonged conflict. Given the stakes, it is appropriate to apply the perspective of transitional justice when addressing the Sri Lankan process of coming to terms with the past. Specifically, at stake is the relationship between criminal justice, truth and democratic transition. In the aftermath of the armed conflict between the two principal ethnic groups in the country i.e. Sinhalese and Tamils, truth and justice appear as contested concepts. Their conflicting narratives about the past follow both from what they experienced during the conflict, and from their contemporary interpretations of the past. The persistence of such divisions hinders the process of democratic normalization of the country.

These narratives play an important role in the creation of collective memory both as a dominant social discourse and a political project (Goyet 2011). The concern with the latter is that it is geared more towards interpreting history as per political agendas rather than taking into account social reality (Goyet 2011). This political project is very influential in shaping collective consciousness, especially in contextualizing loss (perceived or otherwise) and determining the space for a sustainable solution.

Truth and memory are two contested concepts that both contradict and complement each other. It is therefore important to reflect on the two concepts in order to better understand their meaning and the role played by each in any transitional justice mechanism.

For the purpose of this thesis, truth is understood as an objective perception of reality, while memory is understood as a special type of knowledge possessed by individuals and groups

that mediates the past into the present and future. Thus the memory of the past may not necessarily correspond to what happened.

The Sri Lankan ethnic conflict is a product of ethnic tensions that date back to colonial rule. Factors leading up to an armed conflict came into play only after independence from British colonial rule in 1948 in the guise of calculated political moves against the minority Tamils by successive Sinhalese establishments (Tambiah 1986). Since the ending of armed hostilities in May 2009, the Tamil narrative of the conflict started dominating the media,<sup>1</sup> with next to no mention of the Sinhalese one.<sup>2</sup> These narratives are very much coloured by both the dominant perceptions of the respective group identities, and by the dominant reading of political goals of each group.

Since the outbreak of violent conflict, repeated cycles of belligerence and retribution have blurred the lines between victim and perpetrator (Jacoby 2015). Subsequently, the discourse of victimhood is incorporated into broader political campaigns, thus posing a challenge to distinguishing between actual victims and self-proclaimed victims, resulting in an all pervading political notion of victimhood (Jacoby 2015). The thesis explores the Tamil narrative of Sri Lanka's ethnic conflict in detail, specifically the political nature of it, by concentrating on the role played by Tamil politicians, an area that has not been extensively researched before especially in relation to transitional justice. It is also aware of the existence of a very powerful counter narrative, that of the Sinhalese. The Tamil narrative in fact came

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<sup>1</sup> Media plays an important role in the creation of memories and negotiation of identities. Therefore, media can be instrumental in either lessening or worsening violence/hatred. Once media comes to be dominated by a single narrative with next to no mention of the other, it has a telling impact on the public consumption of such accounts. Continuous portrayal of one side of a story thus becomes the truth to a wider audience that follows such media. Since media's outreach is wider, it is therefore important to present alternative accounts to such dominant narratives. These in turn will not only assist in a holistic understanding of the issue in question but will also assist in transitional justice processes where the information environment especially after the conclusion of a conflict is crucial in deciding appropriate mechanisms that best address the grievances of a particular society.

<sup>2</sup> Note that however, it is the Sinhalese narrative that is dominant in the ground. This thesis is only an attempt at exposing the Tamil narrative of self-perpetuated victimhood since media is dominated by accounts of the other.

into being as a counter narrative constructed on actual grievances, which later on blew out of proportion due to the emergence of the separatist war.

In any meaningful dialogue concerning transitional justice, both these narratives must be taken into account. However, the thesis focuses on the Tamil narrative as perpetuated by the Tamil political leadership. The Sinhala narrative, and critiques and endorsements of it, are by no standard scarce. This work, therefore, constitutes a novel contribution to the growing literature on memory creation in Sri Lanka, since self-perpetuated victimization of the Tamils has not been given much academic attention.

### Research Questions and Hypothesis

The thesis is a qualitative study of the empirically present memory that uses the Sri Lankan scenario as a case study. It explores one version of memory creation related to the ethnic conflict, specifically the narrative of the Tamil political elite in perpetuating a grievance-based victim identity in the Tamil community.

Key research question of the thesis is as follows: *How do political projects geared towards victimhood impact democratic normalization in Sri Lanka?* Towards this end, the following sub-questions will be further investigated:

- 1) Why have Tamils come to be identified as *the only* victims, despite the empirical fact of victimhood on the ‘other side’?
- 2) Why have Tamils come to be identified as *only the* victims, despite the empirical fact that they also perpetrated crimes?
- 3) What specific role was/is played by Tamil political leaders in perpetuating a victim-based identity for Tamils?
- 4) What impact does this victim-based identity of Tamils have on the transitional justice process of Sri Lanka? Is compromise possible?



5) Given the fact that legacies of victimhood will not disappear spontaneously, what kind of transitional justice mechanism better suits Sri Lanka?

The following will be used as an operational hypothesis: *political projects geared towards creating collective memories of victimhood, hinder transitional justice processes of a post-conflict society.*

The idea behind the hypothesis is that the past should be liberated from one sided ethno-nationalist politics of remembrance especially in protracted conflicts, so that a mechanism inclusive of all sides to a conflict can be introduced to redress grievances. Such an inclusive approach will be more viable in the long run since inclusiveness will ultimately help improve already strained ethnic relations by giving the idea that each party is equally important in overcoming past legacies. Transitional justice is important in this regard since it explores possible options of recognizing the suffering, trauma, and their importance in relation to each party involved, thus paving the way for a form of justice that is dignified, meaningful, and therefore sustainable.

### Research Design

This explanatory research study is conducted to investigate the reasons behind transitional justice processes being affected by politically propelled victimhood notions. The main research question as mentioned before is, *How do political projects geared towards victimhood, impact the transitional justice process in Sri Lanka?*

This is by and large a ‘why’ research question that explains reasons for the creation of a victimhood identity, and why such *political projects geared towards creating collective memories of victimhood, hinder transitional justice processes of a post-conflict society.* A historical analysis of the conflict is conducted to arrive at a conclusion regarding this question.

The methods of data collection include both secondary and primary sources. Books, journal articles, and internet resources, among other things are consulted as secondary material. Primary sources include speeches, resolutions, reports and interviews. The explanatory nature of the research warrants the selection of methods towards the collection of necessary evidence.

The evidence thus collected is analyzed following Jacoby's (2015) theory of victimhood, using the qualitative enterprise of theory testing. In accordance with theory testing, the study starts with the general (politicization of victimhood that makes it hard to distinguish between actual victims and self-proclaimed victims), and shifts to the particular (the Tamil narrative of the ethnic conflict in Sri Lanka). The goal is to explain how the actual victimization of Tamils was later transformed into a political notion of victimhood.

### Impact and Significance of the Research

The thesis investigates, in the form of a comprehensive qualitative study, the implications politically motivated projects on memory creation can have on transitional justice through the case study of Tamil politicians in Sri Lanka. This is a less researched area since most literature only concentrates on victimization of Tamils by the Sinhalese, and not the self-perpetuated victimization. This would therefore add to the body of literature on truth, memory and transitional justice in Sri Lanka, offering a novel perspective to the narratives of loss and victimhood. The exploration of the research is helpful in understanding the historical shaping of the 'truth' and its impact on transitional justice.

### Limitations

This research by no means is a comprehensive research on transitional justice in Sri Lanka. It rather focuses on only one among many narratives prevalent on the ethnic conflict – particularly the final phases of its military expression – of Sri Lanka. While it is deemed this

narrative to be more important for the analysis of the legitimacy, goals and reach of transitional justice in Sri Lanka, it by no means belittles the importance of other narratives. This in-depth exploration of the Tamil narrative, and how it figures in the identification of the appropriate discourse and mechanisms of transitional justice for Sri Lanka, is a necessary step in obtaining the larger picture.

### Structure of the thesis

The thesis progresses in four chapters. Chapter one provides the historical background to the study by introducing the history of Sri Lanka's ethnic relations starting from ethnic-superiority myth making to the colonial period, from post-colonial politics to the outbreak of the separatist war. Chapter two sets the conceptual background and introduces competing claims to truth in Sri Lanka. Chapter 3 focuses on the notion of victims as understood in transitional justice literature and introduces the main theoretical framework used in the explanation of the political nature of the creation of victimhood notions among Tamils. Chapter 4 is an exploration of suitable transitional justice mechanisms in the Sri Lankan context given the complexity in dealing with competing readings of the past.

## **Chapter 1**

### **The Conflict and its Historical Background**

Sri Lanka's three decades long armed conflict (1983- 2009), owes its origins to a political crisis that had engulfed the nation ever since independence from British colonial rule in 1948. While the political crisis was primarily based on ethnic politics and was a result of the failure of successive Sinhala dominated governments to cater to the needs/political aspirations of minority Tamils, the history of ethnic tensions date back to the country's colonial rule. For any reader interested in the country's ethnic conflict, it is therefore important to gain an understanding of the country's majority-minority relations against a historical backdrop that gave rise to the current tensions. The purpose of this chapter is to introduce Sri Lanka's history within a framework of ethnic relations so as to clearly comprehend the sources of the conflict. The chapter progresses in six sections. Section one shortly presents the demographics of Sri Lanka. Section two summarizes how contending national identities were articulated and consolidated in popular perception. Sections three and four discuss colonial rule and post-colonial politics that contributed towards creating rival ethnic identities. Section five explores in detail the reasons behind the rise of a separatist struggle thus laying the foundation for the main question the thesis grapples with i.e. contending narratives of ethnic identity. Section six gives a brief account of the Sri Lankan armed struggle in order to better understand the subsequent discussion of the thesis i.e. the Tamil idea of victimhood and the political ends it has evolved to serve.

#### **1.1. Demographics of Sri Lanka<sup>3</sup>**

Sri Lanka is an island nation with an area of 65400 km<sup>2</sup> in the Indian Ocean, located in close proximity to the Southern coast of India. This tropical island has a recorded history that dates

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<sup>3</sup> For more on Sri Lanka's population dynamics please visit 'Department of Census and Statistics-Sri Lanka' (2016).

back to 2500 years and has a vibrant and thriving culture that draws from many diverse cultures that came to the island as a result of numerous waves of migration mainly from India, the West and the Arab World. The country is home to many ethnic and religious groups and has almost all major religions in the world. As of 2013, Sri Lanka has a population of 20.48 million with a 0.8% annual population growth rate.

The country has three major ethnic groups; Sinhalese constitute 74% of the population, Tamils make up roughly 15% of the population, and Muslims constitute 7.4% of the population. There is also a small minority of Burghers and Malays. With regard to the religious composition of the country, 70.19% of Sri Lankans are Theravada Buddhists, 12.6% are Hindus, 7.4% are Muslims, and 7% is Christians.

## **1.2. Exclusive National Identities: A Brief Genealogy**

Interpreting the past on the basis of ethnic tensions is today a very popular practice among both Sinhalese and Tamils. Perceptions of ethnic identities, based on self-assigned superiority, are used for political gains. While the ethnic conflict as it is today owes its origins to post-independence politics of the country, popular perceptions of ethnic identities draw from pseudo-mythical histories whose roots are found in the pre-colonial history of Sri Lanka.<sup>4</sup> However, scholarship suggests both groups to be a mixture of indigenous groups and South Indians.

Commenting on cultural self-perceptions of the major ethnic groups in the country, Kumari Jayawardena (1988, 138) states

All the major groups in Sri Lanka belong to a similar ethnic mix of migrants from various parts of India, especially South India, to which there have been Southeast Asian, Arab and European admixtures. In spite of this, each ethnic group today has a distinct identity with strongly held myths of origin; the Sinhala believe that they are

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<sup>4</sup> For more on Sinhala and Tamil exclusionary myths-making, see Gunawardana (1990), Perera (2001) and Ponnambalam (1982).

Aryans from Bengal, the Tamils claim pure Dravidian origin, and the Muslims aspire to descent from Arabs.

Any account concerning the origins of the ethnic conflict of Sri Lanka thus should probe into the emergence of such ethnic consciousness in a multiethnic society. It not only stands as an obstacle in the acceptance of the multiethnic nature of the society but also creates notions of supremacy among certain ethnic groups that in turn might instigate conflicts. In the case of Sri Lanka as Jayawardena (1988, 138) aptly points out "... emergence of consciousness among the majority community, the Sinhala, which defined the Sri Lanka society as Sinhala-Buddhist, ... impinged on the minorities in Sri Lanka to the extent that internal resolution of the problems become impossible."

According to the *Mahavamsa*,<sup>5</sup> the Sinhalese were successfully able to rule parts of Sri Lanka from about 5<sup>th</sup> century BC and had established their capital in the North Central Province of the country. The Sinhalese kingdoms continued to have both amicable and hostile ties with South India through marriage alliances and invasions. However, the frequent invasions were bloody and recorded as dark periods of Lankan history and therefore, South Indians were not viewed in a very much of a positive light by the majority Sinhalese. Such negativity continues to inform the popular Sinhalese consciousness even today.

Next, during the 12<sup>th</sup> and 13<sup>th</sup> centuries, the North Central part of the island was abandoned by the Sinhalese kings and they were seen moving further down in the country mainly due to invasions from South India. Along with such moves, there came an end to the Sinhalese kingdoms thus paving way for the establishment of a Tamil Kingdom in the Northern region of the country towards the end of the 13<sup>th</sup> century (Jayawardena 1988). This demographic reshaping plays an important role in the subsequent claim of a separate Tamil Homeland that lies at the heart of the ethnic conflict and armed struggle.

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<sup>5</sup> *Mahavamsa* is a non-canonical text written in Pali of the Kings of Sri Lanka. It was written in the 5<sup>th</sup> Century CE and is considered the single most important work of Lankan origin.

Apart from the ethnic factor, religion too informed this divide significantly, at least in the interpretation of ancient history where the Buddhist capital of the Sinhala Kingdom was viewed as being invaded by Hindu-Dravidian kings of South India. It should be noted, however, that this view is easily contested given the proven presence of many Tamil Buddhists in the island.<sup>6</sup>

### 1.3. Sri Lanka under Colonial Rule

The arrival of the Portuguese in 1505 marked the beginning of 443 years of colonial rule in Sri Lanka. The Portuguese colonization of the coastal areas was then followed by Dutch colonization in 1638 and subsequently the island fell under British rule in 1796.<sup>7</sup> In 1815, the entire country became a British colony. Colonialism played an important factor in the shaping of ethnic relations in general and ethnic tensions in particular. Policies executed by the British mainly for administrative convenience laid the foundation for contentious ethnic politics that continues to inform the country's political and social life to date. Opening up of the local economy, which had started under the Portuguese and Dutch, was cemented by the British, bringing with itself consolidation of ethnic identities. Local economies were used as a means of generating income and extracting resources for the consumption of colonial powers.<sup>8</sup> Economic policies of the colonizers, especially in the plantation sector, brought workers from South India to work in the coffee and tea plantations, thus exercising a

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<sup>6</sup> See Devananda (2011) for more on Tamil Buddhists in Sri Lanka.

<sup>7</sup> In 1796 it was only the coastal areas that came under British rule. However, in 1815 the entire island was colonized by the British following the signing of a treaty between the British officials and nobles of the Kandyan Kingdom thus making the entire country a colony for the first time. Prior to this the Portuguese and Dutch were only able to rule certain coastal areas.

<sup>8</sup> Though it is often believed that such policies were intentionally introduced to make clear divisions in the society so as to establish the rule of an outside power with much ease due to the artificially created internal divisions, some scholars assert these divisions were not created artificially but rather highlighted during colonial rule (See Tambiah (1986) and Jayawardena (1988)). Whether it was deliberate discrimination or not is not so much an issue of importance as that of these issues coming to dominate the ethnic consciousness that subsequently resulted in the conflict. Scholars however, agree on the point that ethnic consciousness that came to dominate the political life of the country is a manufacture of colonial politics (deliberate or otherwise).

tremendous impact on the country's demographic profile.<sup>9</sup> As a result, economic policies during the colonial rule effectively emphasized ethnic divisions among the population.

Such economic developments led to a deepening socio-economic gap among the regions. While the central and western areas enjoyed economic benefits, other parts suffered economic crises and paralysis, since colonizers were mostly interested in increasing their share of gains rather than looking into the wellbeing of the local population. This, coupled with the natural resource scarcity in Northern Sri Lanka, made the local Tamils seek employment opportunities in the state sector (white collar jobs). They were successful in securing state sector employment thanks to the sound English education they received as a result of Christian missionary activities in the Northern part of the country that resulted in setting up of many a school providing education in the English medium (Perera 2001). As for the Sinhalese, their upward economic mobility was constrained primarily because trade was dominated by the British, Indians and Muslims and state sector employment was growingly becoming competitive with more and more Tamils and Burghers joining it.

It may be surprising that these growing socio-economic divisions during the colonial rule had not led to the politicization of ethnic identities during that era. For instance, in 1910 Ponnambalam Ramanathan, a Tamil political leader was elected through limited franchise as the representative of the educated Ceylonese to the Legislative Council of Ceylon by a sweeping majority that included Sinhalese votes. The Sinhalese politicians preferred him to the Sinhala candidate whose origins offended their caste sensitivities. In 1931, when the Donoughmore Commission decided to abolish communal representation and grant universal adult franchise, this move was opposed by both Sinhalese and Tamil politicians who tried to

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<sup>9</sup> Introduction of estate plantations which became the backbone of the new economic order of colonial Ceylon (as Sri Lanka was then known) witnessed the emergence of a distinct class of Tamil estate workers in the social strata who migrated from southern India to sustain the estate system by providing the labour force that the locals refused to supply, against Sinhala farmers whose lands were confiscated to support the prosperous new crops that thrived with South Indian labour and who, therefore, were bitter towards the migrant Tamils from the start.



protect their class interests and prevent common masses entering positions of power in the long run, again indicating an absence of ethnically driven rifts. However, despite such opposition the Commission granted universal franchise.<sup>10</sup>

The noteworthy point here is that Sinhala-Tamil tensions up until independence had not taken a political character. It was only later, after independence, that Sinhalese political leaders found the franchise useful for majoritarian politics.

#### **1.4. Post-colonial Politics**

Sri Lanka gained independence in 1948. The post-independence politics of Sri Lanka presents an intriguing case of policy blunders committed on the part of Sinhalese leaders in a move to exploit the numerical advantage they had over Tamils for electoral gains that ultimately resulted in strained relations between the Sinhalese and Tamils.

After independence in 1948, Sri Lanka adopted the Westminster parliamentary model with special provisions for minority protection. However, the inherent weakness of democracy wherein numbers favour the majority populace was liberally exploited by the island's Sinhalese politicians, resulting in an ever widening rift between the majority Sinhalese and minority communities, particularly Tamils.

Discrimination against Tamils occurred in many a sphere including land, education, language and citizenship. Following is a brief summary of the post-independence discriminatory politics of Sri Lanka that resulted in the continuous alienation of minority Tamils that ultimately led up to an armed struggle spanning three decades.

Literature on post-independence discriminatory politics against minority Tamils at the hands of the Sinhalese is ample and this chapter attempts only to give a concise summary of that history in order to enable understanding of the context within which ideas of separatism

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<sup>10</sup> See Welhengama and Pillay (2014, 152-72).

emerged in Sri Lanka.<sup>11</sup> This section draws mainly from *The Ethnic Conflict in Sri Lanka: A Historical and Sociopolitical Outline*, a background paper done for the World Bank by Sasanka Perera (2001) that briefly yet aptly captures said discrimination along clearly defined thematic lines.

The first discriminatory blow against Tamils manifested itself in the form of deprivation of citizenship rights of a large bulk of upcountry Tamil estate workers. The Citizenship Act of 1948 by Prime Minister D.S. Senanayake's administration was originally a move to disenfranchise labourers so as to weaken the left which was posing a growing threat to the then ruling United National Party (UNP). However, since it concerned estate Tamil labourers of Indian origin who were of Tamil ethnicity, this was considered a calculated move against Tamils.

In 1948, at independence, the Tamils had 33% of the voting power in the legislature. Upon the disenfranchisement of the estate Tamils (in 1950), however, this proportion dropped to 20%. The Sinhalese obtained more than a 2/3 majority in the Parliament, making it impossible for the Tamils to exercise an effective opposition to Sinhalese policies affecting them. (Virginia Leary: *Ethnic Conflict and Violence in Sri Lanka - Report of a Mission to Sri Lanka on behalf of the International Commission of Jurists*, July/August 1981 as quoted in 'Plantation Tamils Deprived of Citizenship' 2016)

Next, the Official Language Act of 1956 issued during the government of Prime Minister Solomon Dias Bandaranaike, in effect made Sinhala the sole official language of Ceylon. Bandaranaike won the 1956 elections and his victory was considered a watershed event in Lankan politics. He formed a new party, the Sri Lanka Freedom Party (SLFP), and campaigned on a socialist platform, appealing to what he termed the 'Five Great Forces' of Sinhalese society (made up of the Buddhist clergy, apothecaries, teachers, farmers, and labourers). The move was calculated to mobilize the hitherto passive Sinhalese masses by

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<sup>11</sup> See Tambiah (1986; 1992), Jayawardena (1988), DeVotta (2004; 2005), Uyangoda (2007), Wriggins (1960), Ponnambalam (1982) and Kearney (1967).

creating a pan-Sinhalese identity to hopefully replace caste-based elitism<sup>12</sup> and play Sinhalese numbers to his advantage. Needless to say that the effect of the election promises he made towards this end, and the fulfilling of such promises later on were interpreted in essentially ethnic terms. Upon assuming office, thus, Bandaranaike replaced English with Sinhala as the country's official language. This change of the official language was aimed at compensating the Sinhala forces that brought him to power by removing the barrier to their access to state sector employment. But, the accompanying exclusion of Tamil elites from the state sector was to prove daunting for the future. This move immediately led to an employment crisis in which large numbers of Tamils lost their jobs in the state sector due to the newly established language barrier. If one looks at employment figures prior to and after the introduction of the policy, one can note a remarkable drop in Tamil employment figures in the prestigious Ceylon Civil Service.<sup>13</sup> While it should be accepted that the Sinhalese were disadvantaged previously due to language, Bandaranaike's move created a new issue which had far-reaching repercussions. Capturing the pre-introduction situation, the World Bank reports

By independence, Tamils accounted for over 30% of government services admissions, a share larger than their proportion in the general population – i.e., Sri Lankan and Indian Tamils have never totaled more than 25%. By 1956, it is estimated that Tamils constituted 50% of the clerical personnel of the railway, postal and customs services, 60% of all doctors, engineers and lawyers, and 40% of other labor forces. ('The Root Causes of the Ethnic Conflict in Sri Lanka' 2001, 3)

The post-introduction phase relates a dismal story of decreasing numbers of Tamil figures in state sector employment.

While 30 percent of the Ceylon Administration Service, 50 percent of the clerical service, 60 percent of the engineers and doctors, 40 percent of the armed forces, and 40 percent of the labour force in 1956 ... By 1970, they had plummeted to 5 percent, 5 percent, 10 percent, 1 percent, and 5 percent respectively. (DeVotta 2006 as cited in Obriain 2012)

<sup>12</sup> His platform was considered Socialist due to its quest to undermine caste divisions and promote equality, at least within the Sinhalese collectivity.

<sup>13</sup> Private sector employment was still English dominated and so was not daunting for Tamils like the public sector. However, political patronage that came to dominate the employment sector naturally favoured Sinhalese since politicians were predominantly Sinhalese.

Towards the 1970s an education standardization policy was introduced which for the first time in Sri Lankan history communalized education. It required that the number of students who qualify for university entrance from each language should be proportionate to the number of students who sat for university entrance exam from that language (Perera 2001). This effectively meant that Tamils had to compete among themselves apart from competing with the Sinhalese and so had to score higher because of the obvious numerical disadvantage. Even though the policy was abandoned in 1977, during its short life span, it did much damage to the already strained ethnic relations.

Land was another pressing issue that lay at the heart of growing ethnic tensions.<sup>14</sup> Settling Sinhala farmers in the Northern and Eastern parts of the country as part of irrigation projects was considered a colonization project to deliberately change the demographics of those areas. This was thought to ensure subsequent electoral victories in Tamil strongholds with much ease.

Within a context of political manipulation and failed attempts at reconciliation at the political level,<sup>15</sup> an armed struggle thus started taking shape with disgruntled Tamil youth leading the battle against discrimination.

#### World Bank notes

A number of pacts had been formulated to define the modalities for devolution of power, including the Bandaranaike-Chelvanayagam Pact in July 1957 that offered a

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<sup>14</sup> While land was perceived as an issue by Tamils within a context of growing ethnic tensions, as many have observed, Tamils too had and continue to have very stringent land laws that make it exceedingly difficult for outsiders to purchase land in Jaffna which is considered the heart of the Tamil Homeland. Also settlement of Sinhala farmers in the dry zone of the country was a process that had begun even before independence and cannot essentially be called a deliberate colonization process as such. But within a context of increasing ethnic rivalry it came to be perceived as such. It was only since 1980s governments started to take into consideration Tamil concerns on ethnic composition of areas regarding resettlement schemes. Later on these resettled areas came to be known as border villages during the armed struggle and acted as buffer zones between Sinhala and Tamil dominated areas. For more see Perera (2001).

<sup>15</sup> There were numerous attempts made prior to the armed conflict, at a political level, to come to a settlement including the Bandaranaike–Chelvanayakam Pact of 1957 and Dudley–Chelvanayakam Pact of 1965. These however, did not see the light of the day due to ethnic mistrust and Sinhala opposition.

framework for regional devolution. But due to various political pressures, the provisions of the pact were never implemented. In 1965, the Dudley-Chelvanayagam Pact was formulated and agreed upon. But, yet again the provisions of this pact—quite similar to the earlier one—were annulled. The failure to implement these proposals led to Tamil demands for separation, instead of Federalism that they had been mostly seeking up to that point. ('The Root Causes of the Ethnic Conflict in Sri Lanka' 2001, 6)

The failure of democratic politics to arrive at a devolutionary solution that was sought in the form of federal settlements even before independence, and later on through numerous pacts, witnessed a change of the Tamil demand from a federal one to a separatist one in the 1970s.

### **1.5. Emergence of a Separatist Movement**

The loss of faith in democratic means was also encouraged by the increasing incidence of mob violence between the Sinhalese and Tamils that occurred in the years of 1957, 1977, 1978, and the most infamous and destructive one of 1983 (Gunasinghe 2004). These were mainly politically fuelled on the part of short-sighted Sinhalese politicians.

As a reaction to both the Sinhalese centre's inability to address the Tamil question and its deliberate fuelling of inter-ethnic hatred, in 1975 Tamil frustrations found militant expression with the creation of the Liberation Tigers of Tamil Eelam (LTTE). The LTTE's existence was first made known to the world through the assassination of Jaffna's mayor Alfred Durriappah in 1975. Gradually, the LTTE was able to impose itself as the sole guardian of Tamil people, squashing any moderate Tamil voice. This was mainly due to the frightening scale of violence the Sinhalese unleashed in response to the killing of the 13 soldiers by the LTTE in 1983. This act of state violence took place in July 1983, causing grave loss and damage to Tamil lives and property.<sup>16</sup> It went down in Sri Lankan history as 'Black July'. It

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<sup>16</sup> "Estimates of Tamil deaths vary from 387 (official figures) to 3,000 Tamils; 18,000 Tamil homes and 5,000 shops were destroyed. Over 100,000 Tamils fled to India." See '24 July 1983 :: Peace and Conflict Timeline (PACT)' (2016).

deserves to be noted that Sinhalese public participation in these atrocities was minimal and that many Sinhalese provided refuge for their Tamil friends or helped them flee the country.<sup>17</sup>

### **1.6. Sri Lanka's Separatist War**

The armed conflict between the Government of Sri Lanka (GoSL) and the LTTE lasted for nearly three decades making it one of the longest running civil wars in Asia (Bajoria 2009). The LTTE's demand was for a separate state for the Tamils in the country's North and East provinces that were considered the traditional Tamil homeland. Under the leadership of Velupillai Prabhakaran, the LTTE emerged as a callous terrorist front that was responsible for numerous assassinations of political leaders including Indian Premier Rajiv Gandhi. The atrocities committed by the LTTE are known well enough not to be repeated here. The war resulted in roughly 100000 deaths and severe loss of property coupled with complete destruction of infrastructure in the country's North and East. The LTTE was responsible for hundreds of suicide attacks carried from the 1980s to 2009 and was even described as the most successful terrorist organization in the world by the TIME magazine. During the period of the war, numerous actors attempted to facilitate negotiations with many ceasefire agreements being enacted. However, all these proved to be failures mainly due to the unyielding rigid nature of the LTTE that blocked space for negotiations. The ceasefire periods were used by the LTTE to strengthen their military capabilities and never in the history of its existence did it genuinely attempt at arriving at a political settlement. The LTTE's quest for a separate state thus became autonomous from its original purpose of addressing Tamil grievances and they inflicted pain upon their own community through conscription of child soldiers, abductions, assassinations of Tamil political leadership and

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<sup>17</sup> Literature on this mainly includes newspaper reports that record experiences of individual victims. See Jeyaraj (2010), 'Remembering Sri Lanka's Black July' (2016) and Suryanarayan (2003) for few such articles.

especially during the final phases of the war, allegedly using innocent Tamil civilians as human shields.

In May 2009 the LTTE was militarily defeated by the Sri Lankan security forces thus militarily bringing the issue to a closure. The ending of the war is marked with severe controversies involving humanitarian concerns and human rights violations by both parties, and has given rise to numerous concerns involving accountability, reconciliation and most importantly justice.

## **Chapter 2**

### **After the Conflict: Competing Readings of the Past**

The military defeat of the LTTE in May 2009 has not brought an end to the ethnic conflict. It was only capable of putting an end to overt manifestations of violence. As mentioned in the previous chapter, the ending of the conflict was marred by controversy on multiple fronts including but not limited to humanitarian concerns, rule of law, democratic momentum and most importantly competing narratives of the past. These narratives continue to haunt the collective psyche of the population, reducing severely the room for compromise and reconciliation. This chapter is primarily concerned with mapping such competing narratives with a view to give a better understanding of the post-conflict complexities the Sri Lankan society grapples with. It progresses in three sections. Section one offers a brief description of the aftermath of the conflict. Section two explores truth and memory within a conceptual framework of transitional justice. Section three elaborates on the competing narratives held by both Sinhalese and Tamils, so as to pave way for a more informed discussion on the principal focus of the thesis i.e. the Tamil political narrative.

#### **2.1. Aftermath of the Sri Lankan Armed Conflict**

The three decades long armed conflict between the GoSL and the LTTE witnessed many attempts at negotiations, all of which ultimately proved to be unsuccessful mainly due to the LTTE's inability to agree on a compromise acceptable to all parties. However, in 2002 a Norway brokered Ceasefire Agreement (CFA) came into effect between the LTTE and the GoSL. Peace talks did not yield any fruit and showed signs of failure in the following year. Nonetheless, due to the 2004 Indian Ocean Tsunami and the massive losses incurred by all parties to the conflict, the agreement however fragile it was, was upheld by both the LTTE and the GoSL. Since 2005, the LTTE once again attempted to provoke the GoSL in an attempt to make the latter violate the truce and launch an offensive, with a view to winning



the sympathy of the international community.<sup>18</sup> The Sri Lankan Monitoring Mission (SLMM) led by Norway reported over 4000 violations of the CFA that included targeted killings and other violence and intimidation against civilians between 1 February 2002 and 31 December 2006 ('Return to War: Human Rights Under Siege: II. Background' 2016). Most of it was committed by the LTTE.<sup>19</sup> In 2006 the GoSL launched a major military offensive that ended in 2009 with the final military defeat of the LTTE. The final phase of the war is blighted with controversy and many human rights organizations claim that it resulted in approximately 40000 deaths and over 280000 internally displaced persons.<sup>20</sup>

It is important to shed light on the changing political landscape of the country in order to understand the political dynamics that followed the ending of the war. In 2005, Ranil Wickramasinghe of the governing UNP lost the Presidential race to Mahinda Rajapaksa of SLFP who campaigned on an anti-LTTE platform, with the support of hardliner Sinhala nationalist groups (JVP, People's Liberation Front; JHU, National Heritage Party) (Bajoria 2009). The UNP was becoming increasingly unpopular due to its right-wing economic policies and its inability to curb the growing threat of the LTTE. With his electoral victory backed by nationalist elements, Mahinda Rajapaksa was able to launch an offensive in 2006 to uproot the LTTE.

Rajapaksa secured another sweeping electoral victory in 2010. The majority of his constituency comprised Sinhalese factions. The ending of the war soared his popularity to heights that was unparalleled by any other political rival. However, the political compromise that was expected to accompany the conclusion of military activities never saw the light of the day. Rajapaksa was becoming increasingly authoritarian. While his authoritarian

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<sup>18</sup> For a complete account of violence instigated by the LTTE during the ceasefire agreement between 2002-2005 see Høglund (2005). For violations committed by both parties see 'Return to War: Human Rights Under Siege: II. Background' (2016).

<sup>19</sup> *ibid.*

<sup>20</sup> See 'Crisis in Sri Lanka' (2016).

tendencies affected the entire society adversely, for minorities the situation was even more daunting. The culture of impunity, which was a salient feature of the Rajapaksa rule, coupled with violent mobs led by hardliner Buddhist monks, enforced disappearances, corruption and nepotism, all contributed to an increasingly violent attitude towards moderate Tamil demands for a political settlement.

Rajapaksa's electoral defeat at the January 2015 presidential elections bore testimony to the fact that minorities, particularly Tamils, were disappointed with the workings of his regime. Despite faring well in the South, he lost due to his poor performance in the North and East in particular, and in minority dominated areas in other parts of the country:

Mahinda Rajapaksa was defeated at the last presidential election primarily because of his policy on the national question. Of course, all the other issues raised by the opposition might have contributed to Maithripala Sirisena's electoral victory. He put the so-called state security over every other issue, particularly over human security. (Liyanage 2015)<sup>21</sup>

The Tamil community was left feeling continuously victimized. In the last stages of the war, they suffered heavy life and property losses. After the end of the war, no serious efforts were made to consider their grievances and re-integrate them to the democratic process. The regime was preoccupied with continuously valorising the military victory over Tamil sentiments by completely disregarding their losses and suffering. Celebration of Victory days, excessive glorification of the military, construction of Sinhala-Buddhist monuments in Tamil areas coupled with heavy militarization<sup>22</sup> of the country's Northern Province led to further frustration among the Tamil community. Such insensitive government actions, coupled with the culture of victimhood nourished on both sides, led to utter discontentment in

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<sup>21</sup> While a mono-causal explanation does not sufficiently capture the causes behind Rajapaksa's electoral defeat (which Liyanage himself has acknowledged) Liyanage's article summarizes the minority aspect of the defeat quite well. He points out clearly how Rajapaksa's inability to respond to the Tamil question affected voter turnout in the North and Eastern parts of the country. See Liyanage (2015).

<sup>22</sup> Militarization of the Northern Province in the immediate aftermath of the armed conflict is a contested issue. While Tamils continuously rejected this action as one taken to intimidate the Tamil community, GoSL considered this to be an important step from a security perspective.

the Tamil community. This included mistrust towards any bona-fide initiative of the government and Sinhala community.<sup>23</sup>

Rajapaksa's 2015 defeat thus not only marked the end of an era of authoritarianism but also the beginning of a dual transition of the country i.e. from war to peace, and from authoritarianism to democratic rule. This dual transition, however, will not be a meaningful transition unless the national question will be addressed in a manner satisfactory to all parties concerned so as to have a long lasting settlement. The core aim of this thesis - an analysis of the post-conflict politics of memory, the dominant Tamil discourse of victimhood, and possible mechanisms of reconciliation in Sri Lanka, necessitates setting a theoretical framework. Following sections summarize the relevant concepts of memory, truth, and transitional justice, and outline how they matter in the Sri Lankan context.

## **2.2. Memory and Truth in the Context of Transitional Justice**

This section focuses on truth and memory in the context of transitional justice. Transitional justice is understood as “the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes” (Teitel 2003, 69). Depending on their nature, transitional justice mechanisms are either perpetrator- or victim-oriented. While the former includes retributive justice elements such as criminal trials, the latter focuses more on truth seeking and reparatory justice with compensations for victims.

The persistence and political relevance of the legacies of the past cannot be undermined in any discussion concerning transitional justice. For the purpose of this thesis, legacies are

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<sup>23</sup> For instance the rehabilitation programme launched by the government for ex-LTTE cadres, despite its many flaws, was commendable as an initiative taken to bring forth normalcy into the lives of these former combatants rather than punishing them. However, due to the government's unpopularity such actions too were viewed negatively by the Tamil community. For both compliments and critiques of the rehabilitation programme see ‘Sri Lanka News | Ministry of Defence, Public Security, Law & Order’ (2016), ‘Sri Lanka's Rehabilitation of the Liberation Tigers of Tamil Eelam: A Programme of Physical and Mental Pacification’ (2014) and Hettiarachchi (2013; 2015).

understood as elements of the past – actors, institutions, values, memories, attitudes - that in different ways remain present after the change of the regime. Despite efforts made at normalizing society, legacies of past abuses and injustices will not easily disappear, as they tend to stay in the minds of people, threatening democratic normalization.<sup>24</sup> Especially in polarized societies, these remnants of the past mean different things to different groups that until recently were engaged in conflict.

### **a) Memory**

Memory is a widely studied and theorized concept in the social sciences.<sup>25</sup> Many scholars have attempted to define the concept, types, and functions of memory. While there is no precise definition of the concept, it could be argued that memory in general means recollection of the past. It is therefore a construction of the past according to our perceptions. In some more detail, memory is a particular type of knowledge, which preserves and (re-) evaluates the past, and which is focused on the integration of thus mediated past into the present. Typically, the knowledge thus appropriated serves to explain and justify our lives, and to help us make decisions and undertake actions the relevance of which extends into our future.<sup>26</sup> Due to the changing nature of perceptions, memory too is not static and especially in the context of collective memory is largely determined by social interactions.

Pomian (2011) distinguishes between cognitive, emotional and existential types of memory. The dimensions are related to the past, present and future respectively. Cognitive dimension is the ‘faithful reproduction’ (Pomian 2011) of past events. The emotional dimension is the

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<sup>24</sup> If wrongdoers are not punished and victims not compensated, these legacies will come to haunt societies and threaten a relapse in to the old order. See Domingo (2012) for the complexities encountered in tailoring transitional justice mechanisms that could deal with past legacies and Teitel (2006) for a detailed account on the connection between transitional justice and post-war legacies.

<sup>25</sup> For a clearer understanding of the concept and detailed accounts of memory’s role in political change, reconciliation and transitional justice see Blustein (2008), Assmann and Shortt (2012), Norval (1998) and Bevernage (2012).

<sup>26</sup> “‘Memory’ labels a diverse set of cognitive capacities by which we retain information and reconstruct past experiences, usually for present purposes. Memory is one of the most important ways by which our histories animate our current actions and experiences.” - Sutton (2016).

revival of emotions born out of such events. On the existential dimension he says: “what differs remembered events from these that are being currently perceived or experienced in other ways is the fact that they are related to the subject that remembers them in a specific way” (Pomian2011). Due to this inherent subjective nature of memory, it not only changes from person to person, and group to group but also changes overtime. Also, despite being socially influenced, once created, memory has a telling impact on an individual.<sup>27</sup>

While memory can be both individual and collective, the thesis concentrates on the latter. Commenting on collective memory, Olick (2008, 7) drawing from Halbwachs, states that “studying memory is not a matter of reflecting on the properties of the subjective mind; rather, memory is a matter of how minds work together in society, how their operations are structured by social arrangements.” Halbwachs’ argument in this context is interesting. He argues that groups of people thus acquire their memories socially and that it is impossible for the group membership to “remember coherently outside their group context” (Halbwachs as quoted in Olick 2008, 7). This production at times helps in producing memories not directly experienced by the membership.<sup>28</sup>

Poole (2008), commenting on the relationship between memory, history and claims of the past, argues that apart from transmitting information from past to present, memory also serves the function of transmitting responsibilities. Therefore, the claims made about the past based on a particular memory, inform the “the present generation of its responsibilities to the past” (Poole, 2008, 149). But, group members not only have to carry the burden of shared responsibilities – they also become beneficiaries of the group-specific goods. This is the process of the formulation of shared identity:

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<sup>27</sup> This is essentially important since the impact collective memory has on individual agency is what ultimately helps memory sustain and garner support for group projects. Unless individually felt, such support cannot be generated.

<sup>28</sup> Take for instance the case of second generation Diaspora Tamils who are fiercely committed to the cause of Tamil Eelam despite not experiencing injustices first hand.

... accepting these responsibilities provides entry into a form of life that is richer, deeper and more interesting than its alternative. It is because I have the kind of consciousness that places me in the past and also in the future, that a certain range of emotions and commitments become possible; I can have deeper and more satisfying relations with others than is possible for a being who does not have that kind of consciousness. But a price for entry into this form of life is that one acquires the burden of the past, responsibilities that remain in the present. So too with collective identity and its associated memories. These provide the individual with access to emotions and powers that are not otherwise available. (Poole 2008, 162-3)

## **b) Truth**

Truth is typically thought to be as a representation of reality. However, it is also important to understand that a certain amount of subjectivity cannot be avoided in any form of truth since the knowledge we derive through observations is subject to judgment by our sensory faculties.

Sachs (2002) discusses four types of truth that can be important in the quest for transitional justice: microscopic truth, logical truth, experiential truth and dialogical truth. Microscopic truth is a more focused version of truth that excludes all variables except those which should be investigated thus narrowing down the focus while logical truth implies truth inferred logically by diverse mechanisms and processes. It is therefore, the end result of a logical inferential process. Experiential truth on the other hand is different from the above discussed types of truth and concerns in a way memory. Experiential truth is "... the understanding gained from being inside and part of a phenomenon" (Sachs 2002, 53). Since experiences differ from one person to another, the understanding too can differ. But the truth value lies in the objective realm of the experience in which only facts are taken into consideration rather than the subjectivities. For instance despite denial on the German side, the Holocaust in fact happened. The experiential truth here is the occurrence of the Holocaust, rather than its differing subjective and group- specific perceptions. Finally, dialogical truth refers to truth that emerges out of the communication among people. It provides space for conversation in which diverse narratives can be recognized and discussed. While disagreements are part and

parcel of life, a post-conflict dialogue would aim at reaching a minimum common understanding of what happened in the recent past. The claim is that without moderation that would bring competing narratives to a compromise, the society would remain bitterly divided, and peace and stability would remain highly volatile.

Truth is one of the four pillars of transitional justice and helps understand the underlying causes of serious human rights violations and is established as a right as per legal conventions. Under International Humanitarian Law, victims of past atrocities and abuses have a right to truth i.e. to know what happened, why it happened, and who the perpetrators of crimes were.<sup>29</sup> This right is an integral part of the remedial process. According to the International Center for Transitional Justice

... establishing the truth about what happened and who is responsible for serious crimes helps communities to understand the causes of past abuse and end it. Without accurate knowledge of past violations, it is difficult for a society to prevent them from happening again. The truth can assist in the healing process after traumatic events; restore personal dignity, often after years of stigmatization; and safeguard against impunity and public denial. Establishing truth can initiate a process of reconciliation, as denial and silence can increase mistrust and social polarization. ('Chapter 1. The Right to the Truth' 2013, 4)

Truth commission is the best-known non-judicial mechanism of truth seeking. Depending on the context, it can either complement criminal justice, or it can be established as an alternative to criminal justice. Hayner (2010, 20) outlines goals of a truth commission in the following manner:

... to discover, clarify, and formally acknowledge past abuses; to address the needs of victims; to "counter impunity" and advance individual accountability; to outline institutional responsibility and recommend reforms; and to promote reconciliation and reduce conflict over the past.

Truth commissions thus establish "social and historical contexts of violations" and help "establish moral or political responsibility" ('Truth Seeking: Elements of Creating an Effective Truth Commission' 2013, 10-11).

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<sup>29</sup> See e.g. 'Promotion and Protection of Human Rights. Study on the Right to the Truth' (2006).

### c) The Relationship between Memory, Truth and Transitional Justice

The above analysis outlines the main difference between truth and memory. Unlike memory, truth does not rely on interpretative values, attitudes, and the intergenerational transfer of shared meanings. It focuses on the questions of what happened, who did it, why and how, and what kind of consequences that action produced. However, in a post-conflict context, the two categories remain closely related. The impact of memory on truth is tremendous. Brants and Klep (2013) examine the relationship between history-telling, collective memory and victim-witness in the context of transitional justice. They state that if “the legal space that truth commissions offer for history-telling is more flexible and their report open to public debate, they may open up alternative public spaces and enable civil society to contest the master narrative”<sup>30</sup> (Brants and Klep 2013, 37). They observe that after mass atrocities both criminal justice and truth seeking revolve around collective memory. Criminal justice is focused on the truth about perpetrators’ actions, while truth commissions are largely focused on reconstructing the oppressed narrative of victims. Both mechanisms assist in the promotion of the “development of a collective memory” (Brants and Klep 2013, 37) by publicly establishing the truth. Brants and Klep (2013, 38) further state:

Transitional justice can be understood as a mediator between different collective memories. Moreover ... this mediator embodies the voice of (legal) authority. The version of past events that courts and truth commissions produce in their verdicts and reports is an authoritative claim of truth.

Since their concern is arguing for truth commissions, the paper is more tilted towards the merits of truth commissions. However, a noteworthy point is it reinforces the importance of victim-oriented paradigms of transitional justice (as a complementary mechanism) in the

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<sup>30</sup> This master narrative and contestations in that regard are important in the Sri Lankan context since the master narrative of the Sinhalese is what gave rise to the alternative narrative of the Tamils. Therefore, in any transitional justice mechanism proposed, both these narratives should be considered.



establishment of a shared moral memory (Brants and Klep 2013) that will serve as a reminder of past atrocities so as not to return to them.

### **2.3. Competing Narratives in Sri Lanka<sup>31</sup>**

In a world of competing narratives, i.e. collective memories that present the past in incompatible ways, truth is the first casualty. Confronted with a plethora of promoted memories, one finds it nearly impossible to distinguish truth from creation. As Grassie (2012) aptly puts in

We find ourselves in an entangled and sometimes toxic web of ideologies, religions, nationalisms and ethnicities. We generally resolve this cognitive dissonance by doubling-down on our own prejudices in opposition to those with whom we disagree. We tend to pathologize and demonize the other. We frame these conflicts as zero-sum and negative-sum competitions.

This holds true to the Sri Lankan conflict and the polarized mindset of the respective communities. The battle around what constitutes truth seems a never ending one with the two principal communities being involved in a mutual blame game and demonization. The Sinhalese feel victimized as a result of colonial rule and Tamils as a result of post-colonial politics. For the Sinhalese the special privileges enjoyed by educated Tamils in colonial times, particularly at the cost of what they perceived as their ‘chances’, was a cause for concern and a justification for the creation of an ethnic majoritarian democracy after independence. Sinhalese nationalism was justified with reference to injustices Sinhalese suffered at the hands of the colonial powers. For the Tamils, exclusion from sharing state power in post-colonial Sri Lanka and ultimately state sponsored pogroms against their community, were fuel for their hatred towards the Sinhalese. The prevalence of such legacies became the basis of the culture of self-victimization for both communities, leading also to the portrayal of the ‘other’ as the enemy.

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<sup>31</sup> The narratives presented are a generalization and over simplification and do not reflect the stances held by each community. These are a mere summary of the predominant narratives so as to give an understanding of the issue.

It can be established that these legacies are most often a matter of interpretation and the product of political manipulation, especially at the hands of politicians who try to emphasize and strengthen notions of victimhood to garner greater electoral support. In Sri Lanka, such differing interpretations of the legacies of conflict have given rise to a culture of impunity, mainly because the dominant attitude within each group is refusal to accept that their members committed any wrongs. This contestation makes it problematic for transitional justice mechanisms to satisfy all communities concerned. Therefore, a complete road map cannot be presented to overcome past abuses. What then is required is to strike a balance between these competing narratives, which would provide incentives for both sides to ‘open up’ their own perspective, and gradually come to realize that the ‘others’ suffered as well. This appears to be the only way to bring perpetrators before the law and to address injustices and redress grievances of victims. Transitional justice requires tactful dealing with these legacies so as to overcome closed narratives of each community and to address polarized group identities.

In Sri Lanka “... the two communities operate largely on very different foundational understandings about the conflict, its military phase, the importance of its end, etc.” (Senaratne 2016).<sup>32</sup> However, there are certain truths that all communities should acknowledge and come to terms with, in the name of reconciliation.<sup>33</sup> For instance, the fact that grave atrocities occurred during the last phase of the war and the LTTE is responsible for equally grave atrocities that were committed in the name of Tamils are some such objective truths that the Sri Lankan society should come to terms with.

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<sup>32</sup> Kalana Senaratne, Personal Communication, Email, 13 May 2016.

<sup>33</sup> Reconciliation is again a term with no precise definition. Put simply it could be considered as restoration of friendly relations. However, in polarized societies this is not an easy task since it entails legal, cultural, political and social restoration of good will. It involves healing, repairing and transforming. For reconciliation to be meaningful therefore, truth has to be known and acknowledged. This may later be followed either by punishment, forgiveness or both. See Hogg (2011) for a detailed report on Sri Lanka’s prospects for reconciliation.

As discussed previously, Sinhalese and Tamils have very different understandings of their respective ancient pasts, the colonial experience, post-colonial politics and the genesis of the war. These have heavily influenced their perceptions regarding the [il]legitimacy of the war fought in 2009. For the Sinhalese, it was a legitimate war fought by the GoSL since the LTTE was considered the main obstacle for any meaningful process of negotiation due to their staunch demand for a separate state. The ending of the war, thus, was of utmost importance to the Sinhalese: for three decades, the war had been preventing the country from progressing, and the country was engulfed by an all pervading fear for life and property. The Tamil narrative in this regard is quite the opposite: the war was a legitimate battle fought against the oppression of a disadvantaged minority, and the manner in which it concluded as well as the lack of inclination to pursue a political settlement are politically wrong and morally questionable at best.

In consequence, today's Sri Lanka is highly polarized, with the Tamils demanding accountability and the Sinhalese brushing it off. Tamils have numerous grievances related to the final phase of the war: government forces allegedly committing war crimes, heavy post-war militarization of the Northern Province, lack of interest of the regime to investigate disappearances, denial of the existence of ethnic grievances by equating the absence of war to peace, and -most of all -blaming the alleged war crimes only on the LTTE. For instance May 18, when the military defeat of the LTTE marked an official end to armed hostilities, is a day of victory for the Sinhalese and a day of mourning for the Tamils. The Tamil narrative will be explained in greater detail in the succeeding chapter.

For the Sinhalese, any resolution passed at United Nations Human Rights Council (UNHRC)<sup>34</sup> against the GoSL constitutes an international conspiracy fuelled by Diaspora

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<sup>34</sup> Three resolutions were passed against Sri Lanka in 2012 (A/HRC/RES/19/2), 2013 (A/HRC/RES/22/1) and 2014 (A/HRC/RES/25/1). The resolutions urged GoSL to implement Lessons Learnt and Reconciliation Commission's (LLRC) recommendations and to probe into human rights violations and alleged war crimes

Tamils to defame the hard fought war. Government media also heavily influence this attitude. For example, the government rehabilitation programme is dubbed very successful, but it has serious issues in terms of ensuring personal security of the rehabilitated and generating jobs for them. The Tamils accordingly have a favourable disposition towards the international human rights framework, albeit with reservations about its capacity to protect them.

Additionally, the Sinhalese consider economic development as adequate, and they appear quite insensitive to the political aspirations of the Tamil community. This insensitivity partly owes to the overwhelming Tamil presence in neighbouring India, a factor that makes the numerically much smaller Sinhalese very nervous. The result of all this thinking is that militarization is considered a non-negotiable prerequisite of national security.

These divisions are reflected in the election results of August 2015, where the Tamil dominated North and East almost unanimously voted for the Tamil National Alliance (TNA), and the South for major Sinhala parties.

As Senaratne (2016) points out

It is difficult to gauge the extent to which victimhood is 'real' and 'constructed'... victimhood arises from the knowledge of one being subject to some form of discrimination and injustice. Thus, there is more of the 'real' in those who directly experience some form of injustice, and less of the 'real' in those who have not experienced such injustice ... So the element of the 'real' and the 'constructed' would come in different dimensions in different people who claim victimhood ... victimhood is, like much else, a feeling; and to separate how much of that feeling is 'real' and how much is 'constructed' is impossible. It soon becomes something that defines and shapes you and your place in the world. Over time, it could even turn into an identity which you feel reluctant to abandon. And in conflicts, no one is not a victim; which is why in Sri Lanka, 'victimhood' is a feeling shared by all the main ethnic communities. It is only the source of that victimhood which may be different.

The prevalence of competing narratives and notions of victimhood in each community is thus not surprising. Such narratives form an intrinsic part of the transitional justice debate and

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committed during the final phases of the war in 2009. LLRC is a commission appointed by the ex- Sri Lankan president Mahinda Rajapaksa to look into abuses committed during Sri Lanka's three decades long war and to give recommendations to avoid a relapse of same. In 2015, with the change of regime UNHRC adopted a consensus resolution (A/HRC/RES/30/1) supported by the Sri Lankan establishment.

should be carefully negotiated. The succeeding chapters deal with the Tamil narrative in detail so as to understand the role played by it in memory creation and how it can be dealt with within a transitional justice framework.

## **Chapter 3**

### **Tamil Political Narrative: A Discourse of Victimhood**

Despite its heavy legal undertones, transitional justice encompasses much more than legality. In addition to identifying crimes and punishing wrongdoers, one among the core aims of post-conflict justice is to heal the wounds of the past. In any remedial process, victims occupy a central place. It is important to understand how victims come to be identified and what different types of victims can exist in a post-conflict situation. This chapter will firstly introduce who victims are and how victimhood is understood in transitional justice literature. Then it will discuss ‘A Theory of Victimhood’ by Tami Amanda Jacoby (2015) in an attempt to understand how victimhood as a form of collective identity based on perceived harm, affects cycles of belligerence and retribution. Jacoby’s analysis lays the foundation for a more informed discussion on the creation of a grievance-based victim identity of the Tamil community by the Tamil political leaders. The final section analyzes the Tamil political narrative of victimhood.

#### **3.1. Victims and Transitional Justice**

Transitional justice literature involves an array of victim theories. As Humphrey (2013, 267) points out

... implications of centering transitional justice on the victim have not been sufficiently theorized. The victim is a political, moral, legal and psychological construct in relation to a particular traumatic event. The body of the victim becomes the focus for the production of competing narratives about what happened, where it happened, who was involved and what wrong was done.

Victims, in transitional justice literature therefore, can mean many a thing: Ones who lost their lives at the hands of a repressive regime, those who lost property, those who underwent personal trauma as a result of losing loved ones and even those who lost opportunities. Each

of these categories requires at times similar and at times different strategies of healing. For some it is moral, for others it is political, psychological and so on.

Jon Elster (2004) provides an analytically robust framework to identify victims, coupled with the analysis of appropriate transitional justice mechanisms. He engages in a thorough analysis ranging from the reactions of victims to types of victims. According to him suffering typically elicits two reactions from victims: 1) a “desire to impose a corresponding suffering on the wrongdoer”, or 2) a desire “for the harm to be undone” Elster (2004, 166-7). While the former entails a punitive aspect, the latter focuses on reparation and compensation.

As for the types of victims, he identifies three distinct categories, based on the type of suffering they endured. He distinguishes material, personal and intangible suffering. While material refers to loss of real or personal property, personal means harm inflicted upon life or liberty. Intangible suffering in this case is loss of opportunities (Elster 2004). Each of these categories will be briefly explained in the subsequent section when discussing the post-conflict situation in Sri Lanka.

In Sri Lanka, all three types of victims are present with diverse demands for remedies. On the material front the loss is immense. While the infrastructure in the North and East provinces were severely damaged due to frequent warfare between the LTTE and GoSL, other parts of the country including the capital Colombo too suffered material damages due to LTTE terror attacks. In a detailed article on the impact the three decades long war had on the country’s economy, Asia Economic Institute mentions that economic growth was slow and the “infrastructure has been severely impacted by the war, as years of fighting have destroyed and neglected crucial parts of the country’s framework, which was further damaged by the 2004 tsunami” (‘Asia Economic Institute: Economic Impacts of Sri Lanka’s Civil War’ 2015). Material losses therefore included both national and personal assets, especially in the

North and East provinces and border villages.<sup>35</sup> These losses also include property confiscated by the government for the establishment of high security zones.

Victims that fall under the category of personal suffering comprise by far the largest group. The three decades long war claimed as many as 100000 lives between 1971 and 2009. The number of casualties of the final phase of the war is controversial with the UN reporting 40000<sup>36</sup> deaths while the GoSL reports 9000.<sup>37</sup> In terms of liberty, establishing high security zones and emergency laws resulted in the curtailing of liberty of individuals during the war. Also, after the ending of the war, the situation of the Northern Province was not conducive for the enjoyment of full liberty. This was mainly due to constant checkups conducted by the military, the presence of high security zones, occupation of many privately owned lands by the military, and the resultant general interruption of civilian life.

Members of all communities fell victim to the third category i.e. the loss of opportunities. With an economy performing not so well and majority of the country's budget spent on defence, it was only natural that opportunities were restricted. While Elster's emphasis is on individuals who fall victim to a particular regime's oppression whereby certain opportunities are "denied to all citizens ... a specific group or restricted to a privileged elite" (2004, 180), there was no discrimination that happened in Sri Lanka on the basis of ethnicity in the employment sector except for the military that was mostly Sinhalese. However, overall a massive number of opportunities were lost due to the war situation and as explained before individual members of all communities were affected by this. A detailed account on the economic costs of the conflict points to the loss of opportunities in terms of property damage and arrested upward social mobility, which resulted from the lack of access to economic merits and sometimes even a normal life (Kelegama 2010).

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<sup>35</sup> Border villages refer to villages that formed the border between combat and non-combat zones during the war.

<sup>36</sup> See 'Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka' (2011).

<sup>37</sup> See Haviland (2012).



### 3.2. A Theory of Victimhood

Tami Amanda Jacoby (2015) presents an interesting distinction between victimization and victimhood. Victimization is “an act of harm perpetrated against a person or group”, while victimhood is “a form of collective identity based on that harm” (Jacoby 2015, 511). She explicates five stages involved in the transition from victimization to victimhood. The stages are structural conduciveness, political consciousness, ideological concurrence, political mobilization and political recognition (Jacoby 2015).

Structural conduciveness refers to prevalence of context-specific conditions within which victimization occurs while political consciousness is the process of becoming aware of one’s situation within a structure so as to legitimately establish expectations (Jacoby 2015). Ideological concurrence is the act of identifying the harm perpetuated to one with a broader ideology and thereby identifying others who suffer the same fate. Political mobilization is attempts made at changing the status quo. Political recognition refers to the acknowledgment of the aggrieved party by a target audience.

In Sri Lanka, the alienation of Tamils from participation in the democratic process, followed by the refusal of the state to accommodate the resultant Tamil demands for greater autonomy, were the primary reasons behind the Tamil secessionist movement. These developments generated a ‘victim’ experience in the Tamil consciousness. This chapter concentrates on the remaining stages of the conflict that compounded such experience.

Commenting on diverse theories of victimhood, ranging from harm to legal recognition, the social construction of victimhood to the psychology of collective victimhood, inclusive to exclusive victimhood and victimhood as violence to victimhood as partisan politics, Jacoby finds such theories insufficient: they fail to explain how a certain group of people come to be identified as victims in the political process. While her theory does not aim at rejecting

genuine claims of victims, it rather looks at victimhood “as a mode of analysis” (Jacoby 2015, 513).

The five steps mentioned do not necessarily occur in linear progression. They can also occur concurrently. Commenting on structural conduciveness, Jacoby (2015, 519) argues that “while victimisation is more frequent in repressive states where violence occurs with impunity, victimhood is more common in democracies that allow grievance-based identities to emerge.” Despite the questionable nature of its majoritarian democratic tradition, in Sri Lanka, Tamils were able to create a grievance-based identity and engage in contentious politics even during the war period. Dissent, however repressed, was always present.<sup>38</sup>

Talking about the next step, i.e. political consciousness, Jacoby (2015, 520) quotes Meister and states “Once injured people experience harm, they face the choice between harnessing their grief as the politics of grievance or suppressing their grief as the politics of resentment.” In Sri Lanka, it was largely the former, as will be explained in the next section. Ideological concurrence is where memory comes into play. For individual victims to identify as a collective, it is important to engage in a discourse that tells a story of how they were systematically deprived of certain rights, and exposed to harm and injustice, due to a common element they share (ethnicity in the case of Sri Lanka). In such a context, political mobilization easily takes place since the ensuing political conflict between two clearly distinguishable groups adds legitimacy to one party’s grievance-based claims. Finally, political recognition occurs when the victims’ claims are recognized by a powerful audience. If the audience is the group on whose behalf the crimes were committed, there will be greater

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<sup>38</sup> Take for instance the case of TNA. Formed in 2001 as the LTTE’s proxy in the Sri Lankan parliament (according to popular belief), TNA has come a long way since then to become the principal opposition party of the parliament in 2015. Despite its initial tendency to support the LTTE (TNA acted as a LTTE proxy in the initial years perhaps due to the LTTE’s ruthless nature of silencing dissent), TNA was able to garner massive voter support in the island’s predominantly Tamil Northern province and now is heading the Northern Provincial Council. The point here is despite the majority believing it to be a LTTE proxy, TNA was able to function within a democratic framework (however flawed it was).

pressure for compensation, but less likelihood of it. In the case of Sri Lanka, it could be said that the audience is the international community with Tamil demands having more legitimacy while little is said about LTTE atrocities.

The following section analyzes the Tamil political narrative with a focus on how Tamils identified themselves as the exclusive victims, and what role Tamil political leaders played in the creation of that grievance-based identity.

### **3.3. An Analysis of the Tamil Narrative of Victimhood**

Victims are real and are in need of redress. Commenting on Tamil ideas of victimization

Senaratne (2016) states:

This context ... is shaped by three inter-related factors: a clear end to the military phase of the war (with one side being clearly defeated); that party/side being that of the Tamil people; much of the human suffering taking place in the areas wherein the war was fought (i.e. the North and East, which happen to be areas with a Tamil majority). This context naturally gives the impression that the victims are by and large the Tamils.

It is therefore clear that Tamils are/were the primary victims of the conflict. However, the thesis is concerned about the political nature of the construction of victimhood i.e. how politics come to reinforce ideas of victimization. It therefore looks at the Tamil narrative with a critical eye since much has been discussed about the Sinhalese enterprise.

Welhengama and Pillay (2014) make the claim that due to the prevalence of a plethora of hostile narratives in Sri Lanka, it is difficult to distinguish between history and propaganda. Such diverse narratives also make it hard to distinguish between the constructed and real nature of victimhood. As explained above, grave injustices were indeed committed over a prolonged period of time. Atrocities were perpetrated against Tamils in the forms of pro-Sinhalese legislation, political manipulation and state sponsored pogroms. Structural conduciveness that gave rise to the victim identity of Tamils is thus not a question.

The Sri Lankan conflict also entails an element of construction of victimhood. Politics had the most telling impact on inculcating a certain type of victimhood narrative in the Tamil community, which considered Tamils to be at a distinct disadvantage at the hands of an unreliable majority. These feelings were later consolidated by anti-Tamil pogroms in the country that led to the rise of separatism as an idea. If one looks at the Tamil political discourse since colonial rule despite the prominence occupied by class in political life, one can observe a subtle tendency towards demanding recognition of Tamils as an ethnic nation and devolution of power on the basis of ethnicity even before independence. This was hinted in the demands tabled at the Fifty-Fifty (Balanced Representation) Talks in 1939.<sup>39</sup> Developments in 1948, demands of the federal party in the 1960s,<sup>40</sup> rise of Tamil youth militancy in the 1970s<sup>41</sup> and passing of the Vadukkodai Resolution in 1976,<sup>42</sup> all marked the intensification of political consciousness among the Tamil polity with notions of victimhood gaining increasing currency. Vadukkodai Resolution is an important document that highlights historical injustices against the Tamil people and finally calls upon “the Tamil Nation in general and Tamil youth in particular to come forward to throw themselves fully into the sacred fight for freedom and to flinch not till the goal of a sovereign state of Tamil Eelam is reached” (‘Vadukkodai Resolution’ 1976). It thus marked the beginning of the era of

<sup>39</sup> ‘Fifty-Fifty Talks’ or demand for balanced representation (50% for Sinhalese and 50% for minorities) in the Ceylon Legislature was a call by the All Ceylon Tamil Congress leader G.G. Ponnambalam in 1939 before the Soulbury Commission. This demand was turned down by the Commissioners citing that any artificial attempt to convert a majority into a minority will result in failure (Report of the Soulbury Commission, London, 1945 as cited in Russell (1982) quoted in ‘November 1948 :: Peace and Conflict Timeline (PACT)’ (2016)).

<sup>40</sup> The Federal Party (FP) of Sri Lanka espoused federalism as a solution to the ethnic question but was flexible in their stance with ample space left for consideration of other power sharing options such as regional autonomy. However, Sinhalese politicians feared federalism may lay the foundation to a subsequent disintegration of the polity and thus did not entertain this demand. For more on these demands see Kearney (1967) and Navaratna-Bandara (2000).

<sup>41</sup> Under the United Front government in the early 1970s, Tamil youth began to mobilize as armed groups and during 1970-77 the political and military elements within the Tamil polity were seen to be related (Cheran 2009). Due to the inability of Tamil leaders to cut across caste differences prior to late 1970s, the Tamils were not seen as a unified social group. However, in the late 1970s the youth movements were able to garner greater support, contributing to the establishment of a sense of shared identity among Tamils.

<sup>42</sup> The Vadukkodai Resolution of 1976 was adopted by the Tamil United Liberation Front (TULF). It for the first time publicly declared the intention of creating a separate Tamil Eelam for the Tamil people in the country. See [http://www.satp.org/satporgtp/countries/shrilanka/document/papers/vadukkodai\\_resolution.htm](http://www.satp.org/satporgtp/countries/shrilanka/document/papers/vadukkodai_resolution.htm) for an English translation of the resolution.

separatist politics in the country. Even though the project was later hijacked by militant youth and blown out of proportion in their bloody quest for the creation of a separate state, this Resolution remains the single most important document that comprehensively articulated, and thus gave political expression to, victimhood ideas through the depiction of historical injustices thrown in the way of Tamil people.

Next, with the outbreak of the war, victimhood came to dominate the collective psyche of the Tamil population largely because Tamil areas were the ones affected by the war. With the outbreak of the war in 1983, the secessionist struggle of the Tamils garnered greater support and notions of victimhood became popular among the Tamil community. Sinhalese were largely responsible for the outbreak of the war with their infamous state-sponsored 1983 'Black July' riots which made large numbers of Tamils flee the country. This created the Tamil Diaspora that up until now largely supports the separatist cause mainly due to the bitter memories they have. Their ideas are transmitted to second generation Diaspora Tamils who despite not experiencing the injustices firsthand have shouldered the responsibility of carrying forward the Tamil Eelam ideology. Even though this is a generalization that does not capture the attitudes of the entire Diaspora, by and large this remains true. Added to this is the destruction caused by the war in the Northern and Eastern Provinces which apart from the casualties, also destroyed property and displaced especially Tamils in large numbers, further strengthening the ideas of victimhood (Jones 2015).

According to Jacoby (2015, 521), "In all political contexts, subjects mobilise on the basis of a combination of grievances and aspirations." In Sri Lanka, these grievances were continuously highlighted by the Tamil leadership, even when those were not essentially ethnic in nature. Later on, Sri Lanka witnessed an intertwining of Tamil political and military elements which set certain political aspirations for the Tamil people that promised them a breakaway from

their current plight of suffering at the hands of the Sinhalese.<sup>43</sup> Thus, political consciousness became prevalent as a result of a carefully manoeuvred political ploy.

Ideological concurrence or the process of individual victims identifying themselves primarily as members of a victimized collective thus started taking place within an extremely politicized backdrop. Their personal losses became connected to the larger picture of group identification. Jacoby (2015, 522) states

In every society, dominant (and peripheral) narratives serve to explain the phenomenon of harm and suffering. Individuals fit themselves into these stories by constructing parallels between their personal experiences and experiences of the group. Often these parallels are constructed on the victim's behalf. Either way, the incorporation of victim stories into collective identities is conducted for the purposes of mutual recognition and legitimisation. In situations of violent conflict, personal events that would be in other circumstances considered unfortunate but tolerable features of everyday life become subject to political mobilisation.

Political mobilization takes place when groups attempt to change the prevailing power balance either by democratic or violent methods. Along with mobilization arises the need for recognition and in the case of failed attempts at recognition between the warring factions, victims usually turn to third parties (Jacoby 2015). This is the case in Sri Lanka, as evidenced by the involvement most prominently of India and Norway to broker peace, or at least a ceasefire, between the GoSL and the LTTE, in which attempts the LTTE was recognized as the de facto voice of the Tamil people. In post-war Sri Lanka, this role of a third party is played by the international community and the UN with Tamils constantly seeking their assistance to redress their grievances.

Tamil politicians both during and after the war engaged in 'forging the past into the present' (Jacoby 2015) by referring especially to the violent episode of July 1983 and pro-Sinhalese legislation prior to the outbreak of the war.<sup>44</sup>

<sup>43</sup> See Richardson (2005) and Wickremesekera (2016).

<sup>44</sup> See 'Resolution: Sri Lanka's Genocide Against Tamils' (2015), 'R Sampanthan MP Speech in Canada November 2011' (2011) and 'Video: Sumanthiran's Full Speech On Black July' (2013) for few such instances.

Despite their victim consciousness spanning longer than the armed conflict, in post-war Sri Lanka, the most recent manifestation of the concerns of the Tamil community is the preoccupation with the final phase of the war. In the Executive summary of TNA's response to the LLRC,<sup>45</sup> these concerns are clearly spelt. These range from alleged violations of IHL amounting to war crimes and crimes against humanity committed during the final phases of the war,<sup>46</sup> to human rights violations of minorities, and specifically the Tamil community.<sup>47</sup> The Executive summary -while stating the TNA's support for issues related to reconciliation and devolution of power - emphasizes how these should not be mistaken for accountability measures further emphasizing the need for accountability. It concludes on the following note:

... the need for an accountability process that meets international standards while delivering on the right of victims to truth, justice and reparations (including guarantees of non-recurrence) is an urgent and important one. Given the government's failure to institute a process that meets these benchmarks, the TNA calls on the international community to institute measures that will advance accountability and encourage reconciliation in Sri Lanka in keeping with the recommendations of the UN Secretary General's Panel of Experts. ('Response to the Lessons Learnt and Reconciliation Commission Report- Tamil National Alliance' 2012, xi)

Many Tamils support an international inquiry into the alleged war crimes while the Sinhalese oppose it. In their response to LLRC's recommendations,<sup>48</sup> TNA underscores the relatively lower importance given to the victims' perspectives and states their lack of trust in the entire mechanism due to this. They question the Commission's ability to probe into the matter due to its alleged partiality towards government forces, and criticize it for its inability to probe

<sup>45</sup> See note 34.

<sup>46</sup> These allegations include deliberately underestimating civilian numbers in the Vanni in order to deprive them of food and medicine; deliberately or recklessly endangering the lives of civilians in No Fire Zones (NFZs); targeting civilian objects including hospitals; and executing or causing the disappearance of surrendees ('Response to the Lessons Learnt and Reconciliation Commission Report- Tamil National Alliance' 2012, iii).

<sup>47</sup> These include a number of human rights issues ranging from allegations concerning missing persons, disappearances and abductions, treatment of detainees, illegal armed groups, conscription of children, vulnerable groups, Internally Displaced Persons, the Muslim community in the North and East, the freedom of expression and the right to information, and the freedom of religion, association and movement ('Response to the Lessons Learnt and Reconciliation Commission Report- Tamil National Alliance' 2012, viii-ix).

<sup>48</sup> See 'Response to the Lessons Learnt and Reconciliation Commission Report- Tamil National Alliance' (2012).

into accountability issues. They keep reinforcing the victimhood narrative of the Tamils at the cost of portraying themselves as one-sided especially by extremist Sinhalese factions (Welikala 2012).

In a speech delivered in 2011, R. Sampanthan, leader of TNA, highlights victimhood notions by painting the Tamil struggle in painful terms and highlighting the other as an uncompromising opponent. He states:

... Tamils in the Northeast have been living as a majority in these areas for a long period of time and this fact must be respected. However, the present leaders of the country think otherwise. They think that there is only one solution to overcome this issue. That is that Tamil's identity should not be accepted ... Now, almost one million Tamils are living outside of Sri Lanka ... Same way, they think, if the rest of the Tamils in Sri Lanka can be sent out or if the peaceful co-existence in Sri Lanka can be denied, then their demands will disappear. That's why Sri Lankan government is accelerating its efforts to change the demography in Tamil's traditional lands ... After the war, they are not allowing the Tamils to resettle in their own lands. The majority community is being settled in the Tamils' lands through direct and indirect way ... It took 60 years for them to change the eastern province's ethnic composition. However, they think they can achieve their goal in the northern province in 15 to 20 years time. ('R Sampanthan MP Speech in Canada November 2011' 2011)

He concludes by asking for US and international support for the Tamil cause. While there have been attempts (although a few) made at reflecting on the Tamil community's follies,<sup>49</sup> the overarching picture as was explained above is aimed at creating an idea of victimhood. The powerful audience Tamils have is the international community which is also the result of powerful Diaspora activism.

It is therefore correct to conclude that Tamil political leaders have been engaged in a project aimed at inculcating victimhood notions in the Tamil community at the cost of a sound self-critique. While the violence of the Tamil nationalist movement headed by the LTTE, and the failure of the Tamil leadership to acknowledge certain atrocities committed in their name

<sup>49</sup> In the report compiled by the TNA in response to the LLRC they state that holding those accountable from the Tamil side for committing crimes in their name, is necessary. Furthermore, TNA's leader R. Sampanthan in 2015 stated that it will lead and guide Tamils towards a critical self-examination of the wrongs they have committed (See Salter 2015) and welcomed the UN Resolution thus hinting TNA's willingness to follow a moderate path.



both created an extremely negative picture of the Tamils in the Sinhalese mindset, it by no means implies that the Tamils did not suffer. The aim of the chapter was to explore in detail the political calculations underpinning the Tamil narrative.

As Lecamwasam (2015, 58) observes:

The prolonged violence – executed by both the Tamil militants and state forces – also functioned to create and sustain stereotypes about the ethnic other in the minds of Sinhalese as well as Tamils. Orjuela (2004) notes how the stereotype of a ‘suffering Tamil’ in the Tamil consciousness and the counter-stereotype of a ‘so-called suffering Tamil’ in the Sinhalese consciousness have arisen as a result of the armed conflict.

## **Chapter 4**

### **Tamil Narrative and Transitional Justice**

The ending of Sri Lanka's armed conflict brought to the fore a plethora of concerns related to accountability and reconciliation. The country is considered a failed test of transitional justice with neither perpetrators of alleged crimes being punished nor the victims being compensated. The two principal parties to the conflict are seen unable to reach a settlement. This chapter explores why Sri Lanka needs transitional justice and under what circumstances transitional justice mechanisms can succeed in the country. It will first introduce the need for transitional justice and then discuss what its appropriate mechanisms could be. It will take into account the relevance of competing narratives and the importance of incorporating them in investigating the truth related to the conflict so as to come to terms with the past and move forward.

#### **4.1. Why Transitional Justice**

Transitional Justice or the "legal and administrative process carried out after a political transition, for the purpose of addressing the wrongdoings of the previous regime" (Elster 2003, 1) requires the new regime to "decide what counts as wrongdoings and how to sanction the wrongdoers, and also to decide what counts as suffering caused by these wrongdoings and how to compensate the victims" (Elster 2003, 1). According to the International Center for Transitional Justice (ICTJ) "Transitional justice is... an approach to achieving justice in times of transition from conflict and/or state repression. By trying to achieve accountability and redressing victims, transitional justice provides recognition of the rights of victims, promotes civic trust and strengthens the democratic rule of law" (ICTJ 2011). Transitional justice policy can involve the use of different mechanisms: criminal prosecutions, lustration, reparations, truth seeking, and various institutional reforms (ICTJ 2011).

Criminal prosecutions aim to punish the perpetrators of crimes. One standard consequence of a protracted violent conflict is a large number of agents involved in crimes. Crimes are typically the result of coordinated effort of many individuals, groups, and organizations, from direct perpetrators to military and political leadership. Not all of them can be prosecuted, and this is why criminal justice involves a difficult problem of selecting those who will be brought to the court (Mendez 1997). But, even if selectivity in criminal justice is done in a legitimate way, more remains to be done. This is due to two broad considerations. First, responsibility goes beyond legally defined guilt: many contributed to wrongdoing in a manner that is not captured by criminal law. Second, the suffering of victims and harm they endured cannot be fully addressed by prosecution. This is why in most post-conflict situations transitional justice requires using additional mechanisms. The choice of such mechanisms depends on the character of conflict, the types of harm and suffering, and the character of the post-conflict situation. This question will be dealt with in the next section. Here the mechanisms will only be shortly identified.

Lustration refers to a form of institutional purging whereby officials of the regime that perpetrated crimes are held accountable for past misdeeds (David 2011). Reparations are initiatives undertaken by governments to compensate victims. These include both material and symbolic aspects with material being provided in the form of money or services, while symbolic compensation constitutes of special commemorative events/days for the acknowledgement of suffering caused due to the repression of the regime in question (Vandeginste 2003). The most important mechanism of truth seeking is truth commissions. These bodies aim to investigate and report human rights abuses and causes underlying such abuses. Their goal is to both understand a situation and make available the truth to society at large so as not to repeat past mistakes (Hayner 2010). Institutional reforms form a core

element of structural adjustments aimed at dismantling unjust institutions, or purging democratic institutions from those responsible for crimes.

If different mechanisms are used in concert, we talk about a holistic approach to transitional justice. Today, it is accepted that this combination of mechanisms is essential for a transition to democracy, especially when dealing with the complexities of a post-conflict society.

After two decades of practice, experience suggests that to be effective transitional justice should include several measures that complement one another. For no single measure is as effective on its own as when combined with the others. Without any truth-telling or reparation efforts, for example, punishing a small number of perpetrators can be viewed as a form of political revenge. Truth-telling, in isolation from efforts to punish abusers and to make institutional reforms, can be viewed as nothing more than words. Reparations that are not linked to prosecutions or truth-telling may be perceived as “blood money”—an attempt to buy the silence or acquiescence of victims. Similarly, reforming institutions without any attempt to satisfy victims’ legitimate expectations of justice, truth and reparation is not only ineffective from the standpoint of accountability, but unlikely to succeed in its own terms. (‘What is Transitional Justice?’ 2009)

Transitional justice thus serves the important function of addressing a history of abuses by redressing injustice done, establishing the rule of law and commitment to justice, helping lessen mistrust between divisive groups, and providing the framework for a stable democratic future free of conflicts.

#### **4.2. Sri Lanka: Choosing Appropriate Mechanisms of Transitional Justice**

For societies emerging out of violent conflicts, coming to terms with the aftermath of mass violence and genocide poses an array of complex issues including but not limited to justice, reconciliation and institutional reforms. These processes are inherently political and especially in the case of internal conflicts, are handicapped by conflicting interests of the parties involved. Especially after ethnic internal conflicts, irrespective of what ethnic group one belongs to, people on both sides may feel they have been wronged. In such post-conflict societies, a culture of denial regarding abusive state actions often continues to shape the everyday lives of citizens. Peace and justice thus become complicated ends to achieve, with

the society's refusal to confront reality. However, victims of state violence expect some sort of redress for the past crimes committed and constantly live with the hope that past wrongs will be acknowledged and punished, for emotional closure as well as the need to avoid the repetition of same.

Transitional justice mechanisms addressing acts of mass violence committed during internal conflicts should therefore be aimed at unearthing multiple truths, ensuring the dignity of victims, striking a delicate balance between all parties involved, ensuring the stability of the newly established democracy and most importantly bringing forth truth and justice for the victims (Bloomfield 2003). Accountability mechanisms designed to meet these ends must be holistic and should be well coordinated. The plurality of available mechanisms and actors must be taken into account so as to come forth with the best possible mechanism that incorporates ground realities and tackles the complexities the situation involves.

While it may be easier to decide on these mechanisms for cases that witness a profound political transition, in certain internal conflicts it is otherwise. In such cases, accountability mechanisms should be designed with caution so as to both bring justice to victims and to ensure long term peace. A mix of approaches is especially needed for two types of cases where a transition to democracy happens either after an internal conflict or while the conflict is still going on. The first type is when a democratic change happens while the majority sentiment is against the implementation of transitional justice mechanisms, and there is a culture of denial owing to ethnic/religious/sectarian affiliations of the populace (Budak 2015). The second type is when a transition occurs while the conflict is still going on and therefore democracy is not properly established even though certain democratic principles are being adhered to (Budak 2015). More often in such cases one notices a transition more to non-violence than to democracy, and such cases are characterized by the lack of substantive democracy and therefore can be termed a 'conflicted democracy' (Budak 2015).

Sri Lanka falls under the second category. Despite the ending of armed hostilities, the ethnic conflict is still on. Mistrust, hatred and denial of crimes committed in the name of one's own ethnicity, all of which characterized the conflict, are still intact. Many actors, including the United Nations, GoSL, TNA, Diaspora and civil society organizations made recommendations for a robust transitional justice mechanism in Sri Lanka.<sup>50</sup> Details of these will not be elaborated on in this thesis. Their recommendations range from prosecutions to truth seeking mechanisms and from institutional reforms to reparations, thus once again signalling the need for a comprehensive framework to deal with Sri Lanka's violent past.

The competing narratives held by the Sinhalese and Tamils regarding the ending of the war have come to dominate the transitional justice discourse of Sri Lanka. While the predominant Tamil demand is for accountability related to an array of issues regarding the final phase of the war, Sinhalese voices demand a transitional justice framework based on truth seeking and restorative justice.<sup>51</sup> Their argument is that the armed forces cannot and should not be punished for any action they took to rid the country of terrorism.

GoSL's track record with regards to its commitment to transitional justice has witnessed numerous shifts which are essentially connected to regime changes in the island. There was a culture of impunity during President Mahinda Rajapaksa's decade long rule (2005-2015), which resulted in a complete stall of the transitional justice process of the country. A very notable obstacle to transitional justice was the regime's unwillingness to establish independent commissions of inquiry due to the possible risk of antagonizing the Sinhalese masses who did not want the issue of war crimes probed. However, due to mounting international pressure, a locally appointed commission, Lessons Learnt and Reconciliation

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<sup>50</sup> See 'Report of The Commission of Inquiry on Lessons Learnt and Reconciliation' (2011), 'Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka' (2011), 'Response to the Lessons Learnt and Reconciliation Commission Report- Tamil National Alliance' (2012) and 'Transitional Justice in Sri Lanka and Ways Forward' (2015).

<sup>51</sup> See Peiris (2010).

Commission (LLRC)<sup>52</sup> was established in May 2010 by the government. Its members included renowned legal personalities and other bureaucrats, and it was mandated to “draw lessons, and make recommendations based on an analysis of the course of the conflict and its causes with a view to redressing grievance” (Wickramasinghe 2011). The extent to which these recommendations have been implemented remains a hugely contentious issue.

Centre for Policy Alternatives (CPA), a local NGO that has been working towards establishing and maintaining rule of law in the country, in one of its most recent reports notes the repercussions this culture of impunity created by the Rajapaksa regime has for transitional justice. Among other things it attaches special importance to the regime’s inability to implement recommendations of the LLRC.

The failure to fully implement the recommendations of the commission... resulted in a missed opportunity to thoroughly and independently investigate alleged violations of IHRL and IHL and to address issues of truth and justice sought by victims, affected communities and Sri Lankan Civil Society organizations ... (UNHRC) was also unable to secure the cooperation of the Rajapaksa government to establish an independent international investigation. Without a credible investigation into accountability for crimes committed by all sides at the end of the civil war, an understanding of the nature of the violations has not been achieved and as a result the possibility of recurrent conflict remained in January 2015 when President Maithripala Sirisena took office as Sri Lanka’s sixth executive president. (‘Transitional Justice in Sri Lanka and Ways Forward’ 2015, 7)

Apart from the failure of the LLRC, the report also points out the failure of criminal justice, a factor that has contributed towards growing mistrust of Tamil politicians in particular and

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<sup>52</sup> LLRC was setup as an alternative domestic mechanism to an international investigation and was a body of independent experts drawn from the bureaucracy and the legal fraternity. It was criticized by many since there was no balanced representation of sides to the conflict and the alleged impartiality of certain members of the Commission to the government (See ‘When Will They Get Justice? Failures of Sri Lanka’s Lessons Learnt and Reconciliation Commission’ 2011). The Commission was tasked with inquiring into matters related to the ethnic conflict between 21/2/2002 (signing of the CFA) and 19/5/2009 (ending of the war) (See ‘Report of The Commission of Inquiry on Lessons Learnt and Reconciliation’ 2011). In its report it presented a detailed analysis of the root causes of the conflict, atrocities committed by the LTTE and made recommendations related to good governance and reconciliation. However, it was criticized for its alleged biases with regard to the issue of the final phases of the war where the Commission was accused of being ‘vague’ and silent on the government’s conduct ( See ‘Release of the Lessons Learnt and Reconciliation Commission (LLRC) Report’ 2012).

Tamils in general towards the Sinhalese establishment. Therefore, if these alleged crimes are not investigated prospects for reconciliation will be dim.

The regime change in 2015 that owed largely to rampant corruption and a questionable situation of law and order in the country, saw the election of a new President, Maithripala Sirisena, in January, and a new coalition government comprising elements of most of the major political parties (including Rajapaksa's SLFP) in August. The new government looks more favourable from a transitional justice point of view since it has pledged its commitment to further reconciliation and accountability. In particular, it has promised to pursue accountability through a domestic process "within the country's legal framework" ('UNFGG, UPFA, JVP & TNA Manifestos: Parliamentary Elections 2015' 2015, 6). Further, the new government's emphasis is on domestic mechanisms (which remain vague and unspecific) that might not question or undermine the sovereignty of the country, and as such it is committed to finding out the 'truth'<sup>53</sup> without compromising reconciliation. No Sri Lankan government would risk the displeasure of the Sinhalese voter base. The majority of Sinhalese strongly oppose criminal justice, claiming that it would be used against the Sri Lankan armed forces that are considered heroes by them.<sup>54</sup>

The TNA, on the other hand, is toning down its hardline stance in terms of transitional justice. The UN 'OHCHR Investigation on Sri Lanka' (OISL) released a report<sup>55</sup> in September 2015 and this was given a guarded welcome by the TNA citing it as the 'best possible' consensual outcome. The report has both restorative and retributive justice elements and the TNA in an unprecedented move declared that it would encourage Tamils to do some

<sup>53</sup> See 'Everyone Agrees That We Should Find out the Truth – Ranil' (2015).

<sup>54</sup> See DeVotta (2016) and 'Sinhala Opposition to Accountability for Tamil Suffering' (2011).

<sup>55</sup> See <http://tinyurl.com/hah83cw> for the full report.



soul-searching regarding their own wrongdoings and crimes committed in their name.<sup>56</sup> “In their own way both pronouncements were firsts for the Tamil community, opening up new possibilities of inter-ethnic dialogue” (Salter 2015).

As explored in the previous chapters, the grievance based identity of Tamils does have an impact on inculcating mistrust and furthering the ethnic divide. However, this identity did not emerge in a vacuum. It was initially a reaction to the Sinhalese master narrative. But later on it displayed extremist tendencies to the point that there was no acknowledgment of the suffering of others. The important question is what impact has this had on the transitional justice process? Given the fact that legacies will not spontaneously disappear, what type of transitional justice mechanism better suits Sri Lanka?

Within a context of lingering legacies, transitional justice mechanisms should be tactfully negotiated as the long-term aim of any such mechanism is preventing societies from relapsing into violence. Accountability for mass crimes can never be ‘overemphasized’. There cannot be democratic transition without addressing the question of accountability. However, if it is addressed in the immediate aftermath of the conflict where political and military leaders held in high regard are tried, chances are high that society might relapse to violence. What then should be done? Does this mean criminal justice is not a viable option?

The best way to handle such a situation would be to start off with restorative justice mechanisms including especially Truth Commissions. Here, the truth of all victims, victors (if there are any) and perpetrators would be recorded and publicly presented. The ultimate aim of this body would be to arrive at a shared truth. This truth would then form the basis for administration of all needed requirements and forms of justice.<sup>57</sup> If these diverse narratives

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<sup>56</sup> See Jeyaraj (2015) for a detailed analysis of the UN report that exposed the LTTE’s brutality against Tamil civilians and Sampanthan’s change of stance regarding the Tamil narrative that dominates the transitional justice discourse of Sri Lanka.

<sup>57</sup> This includes reparations for all communities including Sinhalese, Muslims and Tamils. For the atrocities committed by government forces, Tamils should be given reparations and for atrocities committed by the LTTE

are not entertained, Sri Lanka will always remain a contested case with no proper justice administered. Postponing justice carries with itself the danger of the truth being distorted or even vanishing (since Sri Lanka does not have the truth properly documented and has a history of failed commissions of inquiry and unpublished reports) with the passage of time.

Once truth is established, what then should be done about it? Establishing the truth alone will not suffice for transitional justice to be meaningful. Given the sensitivity of the Sri Lankan situation, it would be desirable to have an open and inclusive process of truth seeking, which would result in the acceptance of legally binding instructions about how to proceed with the legacies of crime. It should be noted here that a society's moral inclination to seek redress of grievances in this way is also instrumental for the success of such an endeavour.

As Dimitrijevic (2006) points out

... moral responsibility is understood as a special type of relationship among the members of the group in whose name the crime was committed. Its principal point should not be condemnation, ascription of guilt, paving the way for official apologies, nor even reconciliation. It should instead be understood as the reconstruction of the motivational patterns of behaviour that in the recent past led to a massive violation of human rights and universal moral values. The evil past must be subject to moral reflection by all individuals belonging to the nation, because this past was decisively stamped by moral corruption, by the loss of the capacity to distinguish between good and evil.

A change of the collective mindset is pivotal to the success of any transitional justice mechanism since the polarized mindsets of the communities and the resultant political game geared towards electoral victories<sup>58</sup> has, and continues to be, the main obstacle in the path to reconciliation in Sri Lanka.

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in the name of Tamils, Sinhalese and Muslims should be given reparations. However, the question remains as to who will do this. If this is not possible maybe a truth seeking mechanism coupled with the inculcation of a culture of forgiveness can be implemented. Ideas for such a culture can be drawn from all Sinhala, Tamil and Muslim traditions.

<sup>58</sup> The previous government in 2010 General Elections received 60.33% and a 2/3 majority in the parliament, and opposed inquiries into war crimes stating none occurred. Their victory was a clear indication of the overwhelming support the Sinhalese electorate gives to any party that supports the ending of the war. The then opposition is currently in power. It supported GoSL's conduct of the war and opposed any form of international inquiry into war crimes, much to the displeasure of the Tamils. TNA on the other hand enjoyed sweeping

The idea in exposing the political calculations of the Tamil narrative was to add to the literature on dialogical truth (Sachs 2002) related to Sri Lanka since much has not been done on the Tamil narrative. The Tamil experience in all its forms, is important for any informed discussion on the Sri Lankan issue since Tamils form the largest group of victims in the conflict. While it is difficult to grasp to what extent their notions of victimhood are constructed or real, what is important to understand is there are actual grievances that need to be addressed. Same goes for other communities.

As a next step, after the establishment of truth, criminal justice can be carried out because it is of utmost importance to bring perpetrators to justice. It not only sends out a warning to those who intend committing similar crimes in future but also is a reflection of a group's morality in general. As Dimitrijevic (2006) notes:

It is our duty to address the victims and their community. In doing so, we publicly admit and accept a fact which we privately know very well: that the killing was carried out in our name... Once the innocent people were killed, the lie expressed in my name ceased to be a mere lie: it has become a fact ... In short, a powerful reason for joint responsibility of all members of the group consists in the insight that the victims, even if they are not prone to collectivizing guilt, keep reminding us of the link between our collective identity and the crime.

It is therefore, clear that since most victims do not “remember coherently outside their group context” (Halbawachs as quoted in Olick 2008, 7), establishing societal responsibility especially in the case of protracted conflicts, is essential in order to fight notions of superiority or grievances that gave rise to mass atrocities.

Subotic (2011, 160-1) aptly summarises the crucial need for societal responsibility:

... if individualizing guilt becomes successful, it offers individuals a way out, an opportunity to project the responsibility to a few select individuals and deny their own culpability for massive crimes that were committed in their name. This is how ‘myths of collective innocence’ are created and perpetuated ... It is only through a

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victories in the Tamil dominated North and East provinces on an electoral platform that advocated for accountability. These electoral victories show to what extent the Sri Lankan society is polarized especially on the war issue. These are products of both actual tragic circumstances and many years of political manoeuvring.

societal reckoning with the criminal past that the hateful ideologies that led to atrocity could be delegitimized and neutralized.

As was explained in the thesis, one-sided ethno-nationalist claims geared towards creating notions of victimhood do in fact make the application of transitional justice problematic with groups holding on to their uncompromising stances. However, if tactfully negotiated, these will lead the way to a collective shared truth that will ultimately result in societal responsibility for mass atrocities.

However, in answer to the question as to whether Tamil notions of victimhood are problematic to transitional justice, the discussion makes clear that rather than problematic, those are central to any debate on transitional justice since they are the main victims of the war. For the Sinhalese transitional justice is problematic because it challenges the way in which they view the war, especially its final phase. It costs them the luxury of thinking of the war as a heroic endeavour to rid the country of terrorism, one that contained – for the Greater Good – certain morally questionable elements. In Senaratne's (2016) words "continuous reinforcement of victimhood in the Tamil consciousness is only a secondary factor which complicates this already complicated picture."

## Conclusion

This thesis has explored the impact of political projects geared towards victimhood on the transitional justice process in Sri Lanka. The focus has been on the Tamil narrative of victimhood. The core finding of the analysis is that political projects that create collective memories of victimhood are the core obstacle for the processes of transitional justice in a post-conflict society.

The nature of justice in transitional justice literature is essentially contested. Groups advocate either for retributive justice or restorative justice or both, thus giving rise to diverse perspectives. Due to such conflicting views, it is hard for a post-conflict society to reach an agreement on the most appropriate transitional justice mechanisms that would address the concerns and grievances of the parties to the conflict.

These diverse perspectives have been in the focus of the thesis, which has probed deeper into the memory creation enterprise of Tamils. While acknowledging the prevalence of the dominant counter narrative of the Sinhalese, the thesis has closely examined the political nature of victimhood prevalent among the Tamil community. Within this framework, the core question has concerned the historical shaping of the ‘truth’ and its impact on transitional justice. This ‘Tamil perspective’ is a fairly unexplored area of scholarship, and shedding light on it presents a potential contribution of the thesis.

Chapter one has described Sri Lanka’s history of ethnic strife, which is a result of the discriminatory politics executed by the Sinhalese establishment. It has aimed at providing answers to the two research sub-questions: 1. Why have Tamils come to be identified as the only victims, despite the empirical fact of the victimhood on the ‘other side’? 2. Why have Tamils come to be identified as only the victims, despite the empirical fact they also perpetrated crimes? It has made clear that there is an empirical foundation to the

identification of Tamils as the primary victims since most of the losses to both life and property were suffered by them.

Chapter two has been largely informed by the concepts of truth, memory and transitional justice employed in the thesis. It has discussed how competing narratives in Sri Lanka can be situated within this framework. In doing so, it has provided the reader with the perspective on the contested nature of the Tamil narrative of victimhood. Tamils are not the only victims, given the experience of victimhood and presence of victimhood ideas in the Sinhalese community. However, the one-sided nature of the Tamil narrative by and large prevents them from acknowledging the suffering of the ‘other’, contributing towards their self-identification as the only victims. The thesis has argued that treating Tamils as only the victims is not justified, since despite little attention paid to the crimes committed in their name by the Tamil community, Sinhalese as well as many international bodies recognize them as perpetrators as well.

Chapter three has set the main theoretical framework of the thesis i.e. the creation of a grievance-based identity by Tamil politicians. Using a theory of victimhood developed by Jacoby, it has explored in five stages how notions of victimhood came to dominate the collective Tamil self-perception, and concluded that victimhood was a preferable choice for Tamils since it was initially based on actual harm (physical or mental) inflicted on them. This also explained how such political creations result in uncompromising stances, thus creating a mentality of victim-rivalry in the group, and how over-identification with political structures yield unsatisfactory results in terms of transitional justice because groups refuse to give up their stances.

Chapter 4 has assessed the impact that the competing notions of victimhood have on transitional justice, and the choice of its mechanisms. It has largely followed the transitional justice debate in Sri Lanka, and emphasized the need for both retributive and restorative

justice mechanisms. Unlike most other scholarship, the thesis has emphasized the importance of timing in relation to the sustainability of transitional justice mechanisms: while criminal justice is needed, its application should be delayed, given the sensitivity of the situation. Furthermore, it calls for societal responsibility of guilt whereby both Sinhalese and Tamils assume responsibility for the criminal past.

The research has proven the hypothesis: one-sided narratives of different groups hinder transitional justice processes by making compromise difficult. However, being more than hindrances that have to be removed, these narratives are central to democratic normalization since their opening up is the only way for meaningful reconciliation.

The concentration of the thesis was on one of the most reductive forms of narratives whereby Sinhala and Tamil narratives were clubbed into two larger mutually exclusive groups. However, this was only to examine the impact these overarching narratives have on transitional justice. It is by no means a belittling of the multitude of smaller narratives within these two larger categories. In conclusion it can be said that domination of any form of narrative should be tactfully negotiated so as to deconstruct one-sided ethno-nationalist politics of remembrance and attain durable peace and justice.

Possible future research can be done regarding the Muslim narrative, an affected yet marginal voice in Sri Lanka's transitional justice literature. Also ethnographic and field research could be conducted in order to map the human/personal experience of such narratives, which will present a more intricate understanding of the human experience.

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