Second International Conference on
Tamil Nationhood and Genocide in Sri Lanka

Search for Justice and Post-war Rebuilding of Tamil Nation

Ottawa, May 5-6, 2018

Abstracts

Abstract of papers and posters presented at the conference arranged in
alphabetical order using first author's last name

Nirmanusan Balasundaram
Media and War: Failings and Performance in Sri Lanka

Sri Lanka until recently has been one of the most dangerous countries in the world for journalists. Prior to the final stages of the war in 2009, the then Government of Sri Lanka (GoSL) carried out a "shooting the messenger" operation with the intention of conducting a "war without witness". In this process, the GoSL labelled, threatened, abducted, tortured and killed journalists and media workers who deviated from government lines.

Amid challenges, Tamil journalists continued their reporting of human rights violations in the island. At one stage, the volatile atmosphere on the ground compelled them to adopt human rights based journalism. In parallel, the GoSL also targeted progressive Sinhala journalists who voiced for press freedom and against human rights violations. Many were forced to leave the country and live in exile, yet continuing their journalistic roles and responsibilities.

Since April 2004, 44 journalists and media workers have been either killed or disappeared in Sri Lanka. Among them are 37 Tamils, 5 Sinhalese and 2 Muslims. The armed conflict in the island came to a brutal end in May 2009. However, the ethnic conflict still continues, and Tamil and progressive Sinhala media workers persist with their journalism to advance the human rights situation in the island and end the culture of impunity, while also seeking justice for war affected victims and survivors and working towards achieving accountability for mass atrocities.

 However, this task still continues to be highly risky and riddled with challenges and obstacles. This paper focuses on the roles and responsibilities of the media in relation to war and human rights, as well as justice and accountability in Sri Lanka.

Francis A. Boyle
Boycott, Divestment, Sanctions (BDS) Campaign: Stopping GOSL Genocide Against the Tamils

The Sinhala-Buddhist Government of Sri Lanka (GOSL) has inflicted outright genocide against the Eelam Tamils in flagrant violation of the 1948 Genocide Convention to which it is a contracting party. For this reason the Eelam Tamils are entitled to an independent state of their own in order to protect themselves from annihilation by and as reparation for the genocide that has been inflicted upon them by the GOSL. Article I of the Genocide Convention requires all contracting parties "to prevent and to punish genocide." Toward achieving those objectives, the author respectfully recommends that the Eelam Tamils establish a Boycott, Divestment, and Sanctions (BDS) Campaign against the genocidal Sinhala-Buddhist GOSL in order "to prevent and to punish" the GOSL for its ongoing genocide against the Eelam Tamils. A previous worldwide BDS Campaign helped dismantle the genocidal/apartheid regime in South Africa. Launching a BDS Campaign against the genocidal/apartheid GOSL will do the exact same thing for the Tamils. Truth and justice are the side of Eelam Tamils!

R. Cheran
Transnational Imageries: Responsibility and Irresponsibility of Distance

In this paper I will discuss the ethical and political responsibility of transnational politics in the context of post genocide. Building on my earlier work on Diaspora Circulation(2004) Transnational social Institutional Networks(2007), and the notion of responsibility of distance,(2016) I will explore the possibilities of positive and multiple transnational practices.

Nagalingam Ethirveerasingam
Crisis in Tamil Medium Education in Sri Lanka – a Review

This paper is based on a comprehensive review of the education system in the Northern Province conducted in 2013/2014, and the author's experience as facilitator of the review and in the production of the report entitled 'Northern Education System Review – 2014'. The paper begins with an overview of the status of school education in Tamil in the North, East and Malaiyakam (hill country) and in context of education in Sri Lanka. It then outlines the education administration in the Northern and Eastern provinces, and highlights several shortcomings of the National Institute of Education (NIE) with which the author was associated since 2013. He was also associated in an invited consultant role of the National Education Commission (NEC), the education policymaking commission, following the 2014 review of the Northern Education System. He was also member of the Standing Committee on General Education of the NEC from 2016 – 2018.

The NIE supports education in the Sinhala, Tamil and English (Bilingual) Medium schools. There are 3,190 schools in Sri Lanka that offer Instruction in Tamil. The NIE carries a cadre of 220 permanent academic staff in the various disciplines related to the school system, of which 20 are Tamil-speaking and 200 are Sinhalese. There is no rational that it will take 10 times more Sinhalese to develop curricula and textbooks for schools in Sinhala than it would take Tamils to do the same Task in Tamil. There are no Tamils in its cadre of administrative staff. This staff ratio is reflective of NIE's policy of developing curricula, textbooks and teachers' guides for all subjects only in the Sinhala Language, and then translating these to Tamil Language – a practice associated with many errors and inadequate translation in textbooks. Historically, the NIE developed Sinhalese academic and administrative staff from Schools, the Ministry of Education and Universities since 1986, without offering the same opportunity to Tamil speaking scholars. The author raised the problem in 1995 with the then Director General of NIE without any success. Such suppression was institutionalized as the status quo. The academic decision making body of the NIE is the Academic Affairs Board, which has 11 members out of whom 10 are Sinhalese and only one Tamil. The Council of the NIE, which is responsible for all matters connected to NIE's responsibilities and objectives, is composed of 17 members who are all Sinhalese.

The paper raises the question, "Is the NIE practicing an entrenched and institutionalized form of racism such that the National Ministry of Education and the National Education Commission consider the practice of suppressing Tamil Educators from becoming creators of curricula and textbooks creators as normal?". It concludes by challenging Tamil speaking educators and the Tamil population at large in and outside Sri Lanka to find ways to improve the education in Tamil schools, and by offering some recommendations for follow up action.

Gnani Gnanaeshan
Eelam Nation Building – An Integrated Framework for Development of Science and Technology

It has been observed by many stakeholders that the traditional homelands of Eelam Tamils have been left far behind in basic standard of living, human development indices and empowerment of citizens. Even though multiple factors have contributed to this state, the major factor is the continuation of the policy of systematic neglect practised by the Government of Sri Lanka (GOSL) even after the end of civil war. Another factor is the tragic end of the last phase of the war, which had also decimated the societal structure and proper functioning of the Tamil Nation thus demoralising the surviving technocrats, business leaders and administrators living both within and outside the country resulting in a limbo state.
In the period from 2009 to date, the major activities undertaken by the GOSL, global powers through International Non-Governmental Organizations (INGO) and small groups of Tamil diaspora in the North and East (NE) can be classified under the categories of relief, rehabilitation and rebuilding only. Even though these activities are very essential in the short and medium term, it can be argued that these activities per se would not lead to the empowerment and resurgence of the Tamil population.
In this presentation, we will endeavour to show the requirement, process and intended mechanism of an integrated framework for development in science and technology to rapidly advance and empower the Tamil population. Similar models/mechanisms employed successfully by other countries and/or communities, customisations needed to suit the models to specific condition of NE, and the Strength, Weakness, Threats and Opportunities (SWOT) of such a framework will also be discussed.

Anne Gaul
Whose History: Exploring the Elusiveness of a 'Sri Lankan' Past and Present in History Textbooks

Textbooks are a powerful tool in the socialisation process, shaping national values and attitudes of the younger generation. History in particular is a subject that provides an official account which 'tells us how we got to be who we are' (Cole 2013: 11). In Sri Lanka history is highly contested and this analysis of a set of recent history textbooks demonstrates that despite ambitious reforms since the 1990s they do not foster social cohesion and multiculturalism as envisioned by policy makers. Instead, their language and story-lines perpetuate Sinhalese-centric historical narratives that present disputed myths, symbols and heroes as official history. This paper discusses first how these narratives legitimise Sinhalese claims for sovereignty in a unitary state by constructing an exclusive, ethno-Sinhalese version of nationhood and emphasising the role of Buddhism. Second, we look at the marginalisation of minority communities through their representation, or better lack thereof, in the textbooks. Finally, the paper highlights how the historical narratives of the textbooks provide frames within which the end of the war can be constructed as a continuation of a Sinhalese-centric history.

Overall, this paper uses history textbooks to provide an inside into the myths and symbols of contemporary Sinhalese Buddhist nationalism and how these may be used to make sense of post-war realities.

Frances Harrison
Perpetrators, Deniers and Enablers: Torture in Sri Lanka

This essay examines the intersection of society's denial and violations of human rights in post-war Sri Lanka. It argues that after decades, torture has become so normalised in Sri Lankan society, both at the level of the individual perpetrator and institutionally, that it helps protect those responsible. Reform focuses on legislative and policy changes but dodges the issue of individual criminal responsibility with the result that known perpetrators flourish. The article places current denial of ongoing abductions and torture within a continuum of denial for the mass atrocities of the war, showing the consistent downplaying of ethnicity, refusal to examine the facts and tendency of the aggressors to portray themselves as victims.

Dharsha Jegatheeswaran
Militarization in the North-East of Sri Lanka and Tamil National Identity

In the nine years since the war ended, the North-East of Sri Lanka has only grown increasingly militarized, while its Tamil population continues to be securitized; parallel processes that are used to reinforce and justify each other. This paper is an introductory exploration of the question of whether the militarization and securitization project, if it continues, will negatively impact Tamil political aspirations, particularly those that challenge the Sinhala state order in the form of self-determination and nationhood. This paper explores this question through the lens of social capital and oppression. The paper finds that militarization through its negative impact on intra-community networks, trust and cohesiveness has resulted in decreased 'bonding social capital' within the Tamil community, which could theoretically negatively impact the capacity for collective action and thereby Tamil nationalism. Similarly the paper finds that if the normalization of oppressive military structures continues, this could also theoretically have negative impacts on Tamil nationality identity by reducing awareness/understanding of one of the political processes that has always driven it forward. The paper concludes that the processes of militarization and securitization are creating in parallel: mobilization of fear; reduction of social bonding capital; and normalization/internalization of oppression. If these phenomena continue, there is a growing risk that Tamil political aspirations centred on self-determination and nationhood from the grassroots population will be dampened, though this paper does not find this conclusively or fatalistically, acknowledging that Tamil national identity is the result of complex and multi-faceted processes (as argued by Dr. Madurika Rasaratnam). Nonetheless, this paper points to a critical need for further rigorous analysis and research on the impact of militarization and securitization on Tamil national identity.

Ramu Manivannan
Genocide of Tamils and the Nature of Transitional Justice in Sri Lanka

Transitional Justice is broadly seen as resting on twin pillars: the pursuit of truth and the working of accountability mechanism. There are five basic conditions towards realization of transitional justice. First, revelation and acknowledgement of truth. Secondly, accountability of the perpetuators of the mass crimes and crimes against humanity. Thirdly, ground for reconciliation could be explored by establishing the conditions for addressing issues like reform of the institutions and assurance of the non-recurrence of what happened in the past. Fourthly, reform of institutions should be inclusive of the need for addressing justice for the victims. Lastly, reparation and compensation cannot be treated as monetary allowance or as part of so called rehabilitation of the victims without rights and scope for political resolution of the conflict. This paper evaluates the working of transitional justice in Sri Lanka after the end of civil war and armed conflict in Sri Lanka in May 2009 based on the basic premises outlined above. Given the ethnic identity and nature of political conflict, there are substantial concerns related to the functioning of democracy, legal and political institutions as well as the role of civil society. This paper also evaluates the role of international community and the international institutions as well as identifies the tensions between the globalized transitional justice process and the domestic conditions. This paper also recognizes, based on the lessons from Sri Lanka, the need for strengthening of national and international preventing mechanisms including the international coalition for the Responsibility to Protect (R2P).

Richard Mann
Debates over Genocide as a Definition: How the State manipulates Terms and Histories to perpetrate Genocide

This essay argues that the Sri Lankan government constructed definitions of Tamils as 'terrorists', 'separatists', and 'anti-national' in an attempt to disguise state violence against the Tamil minority community in Sri Lanka as anti-terrorist as opposed to state generated violence. This state-generated label, I argue, is designed to enforce majority Sinhalese control over the government in Sri Lanka and to allow the ruling elite to maintain power. This state-based violence is more, I argue, than a human rights violation, but better viewed as a Genocide. Such an argument raises the vexed question of how to define Genocide, and how do states manipulate definitions of terrorism to disguise their attempts to destroy minority groups. Hence, the essay also examines definitions of genocide and how better to understand the need to expand the definition of this term so that states cannot manipulate how they frame the destruction of minority groups within their nation-states as somehow justifiable acts.

Camilla Orjuela
Seeking justice from afar: the Tamil diaspora and transitional justice

This paper presents a research project which has focused on how the Tamil diaspora engages in the pursuit of truth, justice and remembrance in relation to war-atrocities in Sri Lanka. It looks at the opportunities that exist for groups in the diaspora to use transitional justice mechanisms and discourse to pursue Tamil rights. The study was carried out in North America and Europe 2015-2017, and involved interviews with key diaspora activists. The paper discusses Tamil efforts at pursuing justice in relation to

a broader context of an increased role for diasporas in transitional justice globally. The paper reflects on challenges and achievements and suggests some lessons that can be drawn for further activism.

Tasha Manoranjan and Laxana Paskaran
Gendered Genocide and Resistance: Sri Lanka's War against the Tamil Nation

This paper explores the gendered impact of Sri Lanka's conflict, and offers vignettes of women's motivations for joining resistance movements against Sri Lanka's genocide, including the Liberation Tigers of Tamil Eelam (LTTE), ongoing protests led by mothers of the disappeared and women-led protests against the military's occupation of their land. We explore the vast differences between Tamil women's lives with the LTTE, before its defeat in 2009, compared to women's lives today, under the thumb of their victor's abject military occupation. We use an anti-colonial, feminist lens to challenge western notions, understandings, and narrations of Tamil women's resistance and agency. We analyze Sri Lanka's attacks on Tamil women within the framework of genocide, concluding that Sri Lanka's war against Tamils is genocidal and gendered.

Sutha Nadarajah and David Rampton
From the Margins to the Centre: International Relations and the 'Return' of Nationalism

This paper engages with evolving social science and policy understandings of nationalism in the contemporary context. It explores the shift from the early post-Cold War period in which nationalism (along with identity politics more widely) was generally framed as an exceptional, instrumental, and reactive phenomenon, to the present environment in which the power of nationalism as a social force is now indisputable given its global prominence. In contrast to the Cold War era of 'national liberation' struggles, the post-Cold War tendency, informed in part by the liberal triumphalism that spurred a global transformative project, was to marginalise nationalism and nation-based politics as regressive and obsolescent in an age of globalisation and transnationalism. Nationalists and nationalist politics were thus deemed opposition to (liberal) progress itself. The problem with this orthodoxy is that it misread nationalist identity construction as tied, first, to an erroneous conception of the self-generated territorial state and antithetical to transnational and global dynamics, and thereafter to the instrumental action of elites re/producing nationalism as a cosmetic device to maintain domestic legitimacy (e.g. 'populism'). In contrast, this article argues that nationalist identities, (along with territoriality and statehood), emerge through a complex and shifting historical interaction and mutual co-constitution of multiple global, regional and local dynamics that produce a potent, wider and deeper social diffusion of nationalism that exceeds merely 'elite' or state action. The paper argues that while mainstream scholarship, including International Relations, and liberal policy frameworks have yet to revise their understanding of nationalist phenomena, the sheer scale and breadth of nationalist dynamics at work at numerous 'central' and 'peripheral' sites and the need to engage these, at least at a policy level, creates a significant challenge to these orthodox approaches, if not renders their framing of nationalism untenable. The paper draws on examples of nationalist dynamics, including, Scottish, Catalan and Tamil nationalisms as well as the emergent Rohingya insurgency in Myanmar, and, to argue there is an urgent need to develop a wider ethics of nationalist claims and counter-claims, within which Tamil demands for self-determination can and should be situated.

Matt Qvortrup
The Legality and Success of Independence Referendums

The paper outlines a legal and political theory of when independence referendums are permissible. Based on existing legal theory it is concluded that referendums are only legal when they are either directly directly allowed by the constitution or if the part of the country that espouses independence is barred from pursuing this goal through democratic means. It is proposed that Sixth Amendment to the Sir Lankan constitution thereby gives the Tamils in said island a right to hold a referendum. The paper also argues that independence referendums are most likely to be implemented when this in the interest of the three Western Powers on the UN Security council. While there is a statistically significant correlation between the support for independence (the yes-vote) and international recognition, this is much lower than the 100 per cent association between support of the three permanent Western Powers on the Security Council and international recognition. Countries may cite legal, democratic and philosophical principles but the statistical and historical facts suggest that these are of secondary importance when it comes to recognising states after independence referendums.

Mohan Ramakrishnan
Tamil Referendum: A Comparative Analysis

Nation-wide referendum, another potent mechanism available in the toolbox of participatory democracies, has become a method of choice by states and non-state actors to canvass and elucidate popular opinions, to resolve internal and external contradictions, and to mobilise the national and international support for causes of choice. Few examples of recent past are Scottish and Brexit referendums conducted by the United Kingdom, Catalonia referendum in Spain and the Kurdish referendums. Various global Tamil organizations have also put forward a proposal to conduct a referendum amongst the people living in, displaced from, and the emigree population originating from the North-East of Ceylon (Lanka) as a mechanism to resolve the Tamil national question.
In this presentation, we will look at the policy and practice of referendums in a historic manner, compare and contrast recent important referendums conducted globally in the recent past, and the lessons learnt from the same, evaluate the Tamil referendum in the current and emerging geo-political situations.

David Rampton
The Significance of Identity in War, Conflict and Violence: Sinhala Nationalism in Sri Lanka

In the post-Cold War and post-9/11 periods, mainstream social science perspectives have increasingly marginalised the role of ethnic and nationalist identity in dynamics of war, violence and conflict. In orthodox accounts, ethnic and nationalist discourses are frequently reduced to a merely localized, rational-instrumental role to facilitate mobilisation and recruitment of followers into state-driven and elite-led projects for ulterior aims and objectives in the form of the capture and accumulation of governmental and state power and material resources. The role of ethnic and nationalist identity is thereby rendered to a merely 'second-order' cosmetic, affective, ideational, 'particularist' narrative', understood as antithetical to the self-interested and rational motivations of rational state and elite actors as framed in dominant realist,

liberal-cosmopolitan and soft-constructivist accounts. Although it is not denied here that elites instrumentalise identity for political gain, what such orthodox perspectives consistently fail to acknowledge is the potent political significance of identity and the way that historically hegemonised identity assemblages (social orders) are pivotal to the recurrence of socially-circulated racial-ethnic, nationalist, and gender hierarchies that reproduce forms of subjugation across a range of areas including citizenship, access to a diverse range of public goods, our sense of being, belonging, status and recognition and the freedom to engage a range of collective and individual values, beliefs and practices. It also argues that the rendering of these dynamics as merely particularist in national or local terms is also problematic as these processes of social order building result from the complex global and local co-constitution of liberal-imperial and nationalist forces recurrent across the colonial and postcolonial periods. This paper focuses on the case of Sinhala Buddhist nationalism in Sri Lanka, alongside other comparative examples such as Burman Buddhist nationalism in Myanmar, to explore the central role of identity in the reproduction of hierarchies (manifest at wide social levels) that consistently reproduce forms of subjugation and resistance and, in turn, act as key engines of war and violent conflict. These cases indicate the potent and undeniable 'first order' significance of identity as it intersects with dynamics of inequality, oppression and resistance that defy simplistic division into the traditional dualist divisions of mainstream social science.

Visuvanathan Rudrakumaran
Tamils Political Destiny In Tamils' Hands: Call For Action

Following the French Revolution, in certain instances, referendums were used in lieu of conquest. During the inter-war period, referendums were also used with respect to nations/nationalists questions. Following the collapse of the Soviet Union, referendums have been proposed in various peace-settlements involving claims for self-determination. The Tamil Parliamentary leaders have also used referendums either as a statement of political aspiration and/or as a cause of action towards political resolution. In 1974, Mr. S.J.V. Chelvanayagam resigned his Parliamentary seat and called for a bi-election as a referendum on the issue of 1972 Sri Lanka Constitution. The major Tamil political party (TULF) stated that the 1977 general elections as a referendum for the establishment of an independent Tamil state. During the armed struggle which entails immense risks and sacrifices, the National Liberation Movement was perceived as the embodiment of the will of the people and was viewed as more authentic than referendum.
Following the Mullivaikal Genocide and the destruction of the defacto Tamil state, the Tamil Diaspora has been calling for a referendum to ascertain the will of the people. Emphasizing the importance of procedural due process, the proposed referendum is not just a "yes or no" vote but provides rooms for various political resolutions. It is also believed such an action will result in greater participation by all segments of the Tamil nation and add to the legitimacy of referendum.

Since the present call for the referendum is from the bottom to the top, it is emphasized that the Tamil nation should take the initiative. In this strategy, it is envisaged after demonstrating the will of the people that through referendum only the Tamil national question can be resolved. The Tamils will be in a better position to garner international support. It is emphasized that it is a process. Given the restrictive conditions back home, the Tamil Diaspora should take the initiative. In fact, in many instances when there are restrictive conditions in homelands, Movements emerged in the Diaspora communities for the political struggle. Given the political participation opportunities in Diaspora countries it is believed that mass mobilization is a doable endeavor.

Peter Schalk
Sinhala-Buddhist Ethnonationalism - Past and Present

Sinhala-Buddhist ethnonationalism is a political construction in defence of a projected unitary state. Such a state is centralized and sometimes culturally homogeneous. In Sri Lanka desired homogeneity is constituted by Sinhala-Buddhist ethnonationalism. In Sri Lanka the state's Sinhala-Buddhist homogeneity has never been a reality. As Sinhala-Buddhist ethnonationalism is part of a political program to achieve a unitary state, we can talk about political Buddhism. Political Buddhism in Sri Lanka has taken several forms in the past and present. There is not one unchanging Vamsic mindset. Political Buddhism of dynastic regimes during the pre-colonial period is different from the political Buddhism, which has developed during the colonial period by the Anagarika Dharmapala. This again is different from the kind of political Buddhism which was developed during the postcolonial period by Walpola Rahula in defense of the unitary state. Moreover, we have to see political Buddhism in a comparative perspective with other states' political Buddhism and subordinate the category political Buddhism under the category political religion, which opens a world-wide perspective on different religions' sacralisation of politics. What is remarkable in Sri Lanka is not the existence of a political religion, but that this is filtered through Sinhala-Buddhist culture and that it violates the Charter of Human Rights and the Word of the Buddha.

Harini Sivalingam
Memorializing and Documenting Tamil Genocide: Implications for Justice and Accountability

This paper will explore the importance of memorialization as a form of documenting mass atrocities by diaspora groups and the implications for justice and accountability for victims and survivors of state violence. While memorialization is a contested and political process that is largely shaped by those in power (Barsalou and Baxter, 2007), there are also spaces of resistance to dominant narratives of the state, in particular within diaspora communities. Diasporas are a living testament of mass atrocities and provide a strong and powerful counter narrative to efforts by state perpetrators to suppress memorialization and remembrance in official versions of histories (Haider, 2014). Such counter narratives not only challenge the official state narratives, but also mount a direct challenge to state power and authority (Graham and Howard, 2008). Using the example of the Tamil Genocide in Sri Lanka, this paper examines how the Government of Sri Lanka restricts memorialization by Tamil victims and survivors (Hyndman and Amarasingam, 2014) in an effort to impede the documentation of genocide and the impact of this technique of governance on justice and accountability. As is evident in the case of Sri Lanka, governing memorialization and restricting documentation are acts that suppress justice and accountability and control the juridical paths available to victims and survivors of genocide. However, at the same time, the global Tamil diaspora fills this void through their efforts to memorialize and document their trauma and lived experiences as victims and survivors of genocide in a variety of forms. This paper will examine and focus on two methods of memorialization within the Tamil diaspora: digital and artistic memorialization and public memorialization events.

R. Sri Ranjan
Failure of Sri Lanka to abide by the Universal Declaration of Human Rights

Ever since the Universal Declaration of Human Rights (UDHR) was proclaimed in 1948 to protect vulnerable people against genocide, its record has been checkered due to selective compliance by different countries. The UDHR was proclaimed with 30 Articles outlining the rights every person should enjoy as a human being irrespective of where they live. Even though these lofty ideals have been used to protect against the genocide of some vulnerable people, its enforcement has been selective because of the geopolitics exercised by some powerful nations.

This paper will enumerate the violations of every article in the UDHR, spanning seven decades, by successive Governments of Sri Lanka (GoSL) as it continues to annihilate Eelam Tamils as a people in the island. The protection afforded to every citizen of the world has been continuously denied to the Tamils. Recognition of these violations as part of a genocidal plan by successive GoSL to erase the Tamil identity in the island is necessary before a lasting solution can be found. Stability in this region will remain elusive until the Eelam Tamils can live
peacefully in a land free of military oppression in all aspects of their life.

Maung Zarni
Sri Lanka and Myanmar: A Tale of Two Buddhist Genocides

The two predominantly Theravada countries, Myanmar and Sri Lanka, are both former British colonies which inherited the deeply racialised States with repressive colonial-era laws. Over 70-years since independence, both countries are found to have committed multiple international crimes including war crimes, crimes against humanity and even genocide against their respective ethnic and religious minority populations. In the case of Myanmar Rohingya Muslim and Christian Kachins bear the brunt of the racist state's genocidal persecution and colonial policies respectively. In the case of Sri Lanka, the Eelam Tamils's collective aspirations for ethnic equality and autonomy have been crushed brutally in the civil war that ended in the late Spring of 2009.   This talk will take a comparative look at the two ethnocratic states, their ideological affinities, mutual support and cooperation in the way they have been dealing with minorities within their territories.   Additionally, it will look at the way in which important external players such as China, India, USA, UK and so on have enabled these repressive states in their internally colonial policies towards respective minorities of Eelam Tamils, Rohingya Muslims and Christian Kachins.

Extended Abstracts of Work in Progress
by
Early Stage Researchers

1.

Dharsha Jegatheeswaran & Mario Arulthas
Normalising the Abnormal – Militarisation in the North-East

Background: The Sri Lankan government co-sponsored UN Human Rights Council (HRC) Resolution 30/1 in October 2015 and renewed its commitments in HRC Resolution 34/1 in March 2017. A key commitment made in the HRC resolutions and a critical component of the conversation around transitional justice is meaningful security sector reform. Despite calls by numerous international bodies and repeated calls by Tamil politicians and communities, the Sri Lankan government has yet to undertake a comprehensive process to demilitarise areas in the North-East. As a result, the North-East remains under a military occupation that represses fundamental freedoms and contributes to ongoing ethnic conflict. The Sri Lankan military stands accused of atrocity crimes against the very population in which it is immersed. Tamils must live next door to—and, in some cases, work for—those who bombed, shelled and brutalised their families and communities, all with impunity. The military's presence facilitates land grabs and displacement and keeps families in ramshackle 'temporary' shelters as it utilises—and even profits from—privately owned Tamil land. This has a clear impact on livelihoods and economic growth in the region, as military-run businesses compete with private businesses on unequal terms. In fact, the military is one of the largest employers in Mullaitivu, ensuring a disturbing dependency of Tamil communities on the military for economic survival. The entrenchment of the military and security forces in Mullaitivu creates a pervasive and constant culture of fear and surveillance. It also further marginalises Tamil women.

ACPR and PEARL are conducting research on the effect of militarisation in the Tamil areas of the island. We have published one report: **Normalising the Abnormal – The Militarisation of Mullaitivu** and are currently researching the presence of the military in the Kilinochchi district. ACPR has also produced a report on the impact on civilian activities by the military, titled: **Civil Security Department: The Deep Militarisation of the Vanni.**

The report on militarisation found that five of the seven regional commands of the Sri Lankan Army are based in the North-East alone. Three of those regional commands have a presence in the Mullaitivu District. There are nine brigades under the command of SFHQ–Mullaitivu and at least four more brigades are based in the District. Based on figures for Sri Lankan military unites from the OISL report, even at the lower end of the spectrum, a conservative estimate of the Sri Lankan Army's presence in Mullaitivu District is 60,000 personnel – 1 soldier for every 2 civilians – making it one of the most heavily militarised regions in the world. This presence is grossly disproportionate to the country as a whole - 25% of the Sri Lankan Army is deployed in a District comprising 0.6% of the Sri Lankan population

Going forward PEARL endeavours to conduct further research on the link between militarisation and colonisation, and the role of how the institutionalisation of Sinhala Buddhist nationalism enables the

military occupation. We will also look at how the state's Sinhala nation-building project directly impacts the Tamil people and attempts to dismantle the Tamil nation.

2.

Thusiyan Nandakumar

Digital technology and journalism – A tool for Tamil resistance

Background

Journalism has been a platform for different parties to put forward their own competing narratives on the island of Sri Lanka – whether in Sinhala nationalist dominated media which framed the conflict as a question of counter-terrorism or media aligned with Tamil nationalists which spoke of a majoritarian state perpetrating a genocide. The Sri Lankan state ensured outlets were carefully restricted, resorting to violent methods of suppression, whilst furthering its own narrative.

Yet, throughout the armed conflict, and even beyond its end in 2009 – Tamils have managed to find avenues to resist state barriers, with digital technology providing innovative tools.

<u>How has digital technology impacted resistance?</u>

The Internet and the rise of new media provided a major breakthrough. The Internet was adaptive, decentralised, easily encrypted and had low barriers to entry. The growth of email, led to the creation of mailing lists such as the *Tamil Circle*. Internet chat rooms and forums, alongside news clipping services, such as *TamilCanadian.com* provided new spaces*.*

Arming journalists on the ground with technology allowing linkage to the Internet even whilst on the move and lead to articles being published almost continuously, such as with *TamilNet*, whose correspondent in the final conflict zone, was equipped a variety of digital equipment. Mobile phone footage was also key in recording crucial news, at a time when media restrictions were stringent.

After the end of the armed conflict, the Tamil diaspora in particular continued to utilise digital technologies through various platforms. Messaging services allowed activists who may have never met in person, to network and share breaking developments. Chat applications which provide end-to-end encryption, have been mostly the messaging software of choice, as security continues to be paramount.

Social media was being used as a tool not just to project developments, but to launch campaign events themselves such as the 2013 protests across Tamil Nadu. A global platform has now been opened, on which news is now relayed and discussed. It has 'shifted from *TamilNet* to *Twitter*,' remarked a Tamil journalist.

Analysing the dynamic

Rapid innovations in technology that have become available not only allowed non-state actors to challenge the state's narrative, but expanded the arenas of contest into new realms where those advantages were could be neutralised.

Though the Sri Lankan state may have militarily defeated the Tamil resistance on the ground, digital media has opened new spaces and provided new tools for journalists who sought to resist state oppression. The Tamil assertion, that this was an ethnic conflict bore out of legitimate economic, political and cultural grievances as a result of a suppressive majoritarian state, continues to be broadcast globally.

Looking to the future

As Internet penetration grows the Sri Lankan state has shown it can block access to major Tamil sites. The recent anti-Muslin violence led by Sinhala Buddhist mobs for instance, led to the state blocking telephone access around the region and a social media ban across the island. Newspapers also reported that China's Military Intelligence Division allegedly employed to assist in blocking online content.

Despite this, Tamil online presence has continued to grow. Smartphones have become almost ubiquitous in the North-East, alongside the presence of various social media platforms. As more connectivity is built, Tamil resistance to the state has found new arenas in which to expand.

3.

Lorenzo Fiorito
International Investment Agreements as a Tool for Promoting Human-Rights Outcomes: Theory and Practice of a 'Shared-Interests' Approach to Lobbying UN Member States

- International investment agreements (IIAs)–more often known as bilateral investment treaties (BITs)–are legal documents that protect assets and investments. The value of the foreign direct investment (FDI) they protect can reach several billion dollars.

- Civil society can strategically harness the power of multinational corporations (MNCs) over states within the investment system, among other finance-based mechanisms. This risky balance depends on an intersection between the interests of civil society and those of the investor state representing the MNC, as the IIA defines those interests.

- In Sri Lanka, where the rule of law is tenuous, countries such as the US and China partly depend on the local judiciary to settle investment disputes. Yet Sri Lanka's judiciary is notoriously politically biased.

- Investors relying on Sri Lanka's judicial system are taking an extreme risk. The biased judiciary also poses a risk for political prisoners, who are often held without charge under the Prevention of Terrorism Act (PTA).

- Most, if not all, of Sri Lanka's BITs contain compensation clauses for investments that are damaged or lost due to armed conflict, civil strife, and riots—like those directed against Muslims in Kandy this year. However, these clauses calculate compensation based on equal treatment with other states' investors.

- If Sri Lanka hosts investments that are lost in such situations, in almost every case they can avoid compensating a particular investor by refusing to compensate anyone who lost assets. Investors are taking an extreme risk in this situation. Such riots, civil strife, and armed conflict also threaten the lives, safety, and property of target populations such as Tamils and Tamil-speaking Muslims.

- The system of international investment arbitration has been increasingly criticized in recent years. Corporations have equal standing with states in investment tribunals, and these tribunals are also accused of secretive proceedings with no democratic accountability.

- However, this is a harsh reality of how our world actually functions. The investment system has a dramatically more effective track record of altering state behaviour than the UN Human Rights Council does. Arbitral awards can often be enforced by seizing an offending state's or investor's assets around the world.

- This presents Tamil human-rights advocates with an opportunity. We propose a strategic partnership with the governments and corporations that stand to lose FDI assets and investments, due to Sri Lanka's structural political instability and its politically tainted judiciary.

Such governments and non-state actors have vested financial interests that overlap and coincide with our human-rights claims. Their backing is essential to the functioning of a UN-supervised referendum and establishing an international criminal tribunal.

Their FDI interests, and the legal apparatus that protects those interests, provide them with a structural incentive to invoke the Responsibility to Protect under international law. It is under this doctrine that Tamils can call on the UN Security Council and the General Assembly to help achieve our goals.

- There is precedent for this sort of action. The United States intervened on behalf of South Sudan's secession after 22 years of war. It also called the actions of the North Sudanese government against the people of Darfur a "genocide". This was because South Sudan found oil reserves on its territory.

4.

Sowjeya Joseph
Calling for a Security Council Intervention by Invoking the Responsibility to Protect (R2P): On-going application of R2P from the final stages of armed conflict (2009) until now

- UN Resolution 63/308 defines R2P in Paragraphs 138-139 of the 2005 World Summit Outcome Document. Paragraph 139 gives the "international community, through the United Nations...the

responsibility to use appropriate diplomatic, humanitarian and other peaceful means...to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity."

- Asking that the Security Council and General Assembly intervene in favour of Tamils is, essentially, invoking the Responsibility to Protect (R2P). The General Assembly unanimously passed Resolution 63/308 committing itself to R2P in September, 2009 - just four months after Sri Lanka militarily destroyed the de facto state of Tamil Eelam. Sri Lanka arguably committed war crimes, crimes against humanity, ethnic cleansing, and genocide in the process.

- The Montevideo Convention, recognized as customary international law, states:

"The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts." Tamil Eelam had these rights. When Sri Lanka broke the Ceasefire Agreement in 2006, it arguably committed the crime of aggression.

- Sri Lanka claims the territory of Tamil Eelam as its own, and calls Tamils "citizens". The Sri Lankan Constitution states in Chapter 1 Nr. 3 that "Sovereignty is in the People". However, it is not clear who "the People" should be, as more than one "People" lives in Sri Lanka. To clarify, Chapter 2 specifies that "Buddhism should be given the foremost place and it shall be the duty of the state to protect and foster Buddha Sasana". In reverse conclusion it means that the Sri Lankan state considers the Sinhala people as its primary "People". The Constitution thus leaves Tamils and other target peoples without protection.

- When a State is "manifestly failing" to protect its own populations from these crimes, then the international community has a responsibility to intervene collectively in a timely manner. R2P imposes three responsibilities on the international community in these cases:

  1. the responsibility to prevent
  2. the responsibility to react
  3. the responsibility to rebuild, especially after a military invasion.

- The international community has already failed to 'prevent' Sri Lanka's military destruction of the de facto state of Tamil Eelam, and its associated crimes. A referendum would arguably lay the peaceful and democratic foundations for stability and security in the region, and thus 'prevent' future crimes by removing the root causes of conflict.

- Any appeal to the General Assembly and the Security Council could still rely on the 'responsibility to rebuild' the de facto state of Tamil Eelam.

- An international criminal tribunal would 'react to' crimes that have been committed and are ongoing.