



Sri Lankan civil society in the new Rajapaksa era: navigating the victor's peace.

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Introduction

The 2019 and 2020 presidential and parliamentary elections in Sri Lanka saw the return to power of the powerful Rajapaksa political family.¹ Civil society human rights activists braced themselves for a return to the militarised governance, reduced civic space and extremist Buddhist Sinhala-nationalism of the first Rajapaksa government (2005-15). That administration had overseen the defeat of the separatist Liberation Tigers of Tamil Eelam (LTTE), bringing the civil war to an end, in 2009. What is different this time around is that the family is also facing the COVID-19 pandemic and a deepening economic crisis that are compounding an already chaotic governance environment. The combination of regime change, governance issues and COVID-19 is creating significant challenges for civil society.

This paper draws on an analysis of documents and interviews to examine how civil society activists are negotiating these challenges.² It argues that it is necessary to contextualise the climate of increased repression within a longer historical timeframe. Specifically, that so little change has been possible since the end of the war — including during the Yahapalanaya (good governance) era, from 2015-2019 — is a reflection of the victor's peace. This is a peace in which elites from the war time era retain their power and in which the power asymmetries between the state and minority communities — bolstered by a strong Sinhalese nationalist discourse — remain in place.³

Understanding the extent and nature of the victor's peace discourse, and its political utility in the present, enables a deeper reflection on the challenges currently facing civil society human right activists and the difficulties of achieving substantive change in the near future.

1 Two brothers — Gotabaya and Mahinda Rajapaksa — hold the positions of President and Prime Minister respectively, while another brother, Chamal, and nephews Namal and Shashindra Rajapaksa, hold ministerial positions. Brother Basil Rajapaksa became minister of finance in July 2021.

2 All interviews were conducted via zoom in March and April 2021. The ethical aspects of this study were approved by the ANU Human Research Ethics Committee. Approval no: 2020/424.

3 See Hoglund, Kristine and Camilla Orjuela (2012). 'Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka', *Global Governance* 18 (1): 89-104, 93; Goodhand, Jonathan and Oliver Walton, 'The Tangled Politics of Postwar Justice in Sri Lanka' (2017), *Current History* 116, 130-135.

Section One charts how the new government has radically departed from the liberal peaceful rhetoric of the previous Yahapalanaya government. Emboldened by its large parliamentary majority, it has acted swiftly to militarise civilian structures, reduce space for civil dissent, and withdraw from international commitments to transitional justice to protect its 'war heroes.' These measures, given added justification by the COVID-19 pandemic, have been facilitated by the Yahapalanaya government's inability to act decisively on its reformist agenda. Section Two discusses the chilling effect of the climate of increased repression on CSOs, especially those with a human rights focus.

Section Three argues that the victor's peace has facilitated the rise of illiberal peacebuilding, a trend that withstood weak reform attempts during the Yahapalanaya era and is being further consolidated under the current government. Section Four considers the possibilities and limitations of international civil society advocacy on the issue of justice for war crimes in this context. Section Five considers how the return of the Rajapaksas to power might provide an opportunity for civil society and donors to reimagine the peacebuilding agenda, including the international justice campaign in which they have heavily invested since the end of the war.

Return of the Rajapaksas: militarised governance reinforced by COVID-19

In November 2019, Gotabaya Rajapaksa, former war Defence secretary and brother of former president Mahinda Rajapaksa, was elected as President. The election ended the so-called Yahapalanaya (good governance) coalition government led by President Siresena and Prime Minister Wickremasinghe (2015-2019.) It was soon followed by a massive win for the president's newly-created political party, the Sri Lanka Podujana Peramuna party (SLPP), in the August 2020 parliamentary elections. Led by Mahinda Rajapaksa, the SLPP secured 145 seats across the island, giving the government a powerful two thirds majority in parliament.

The election results spoke to a loss of public confidence in Yahapalanaya political leaders, and popular anxieties about security in the aftermath of the 2019 Easter Sunday bombings by Islamic terrorist groups. The Yahapalanaya government's failure to prevent the bombings, despite the availability of information that could have assisted in doing so, brought its internal divisions and governance ineffectiveness into sharp relief. Specifically, it revealed the existence of significant tensions between the President and Prime Minister, who came from very different political and social backgrounds.⁴ These tensions had already been exposed during the 2018 constitutional crisis, when President Sirisena had attempted to remove the prime minister and replace him with former president Mahinda Rajapaksa, a move that was determined by the Sri Lankan Supreme Court to be unconstitutional.

4 Goodhand and Walton, 'The Tangled Politics', 131

At a deeper level, the sweeping electoral victories of 2019 and 2020 laid bare the resentment that had been brewing amongst the majority Sinhala population with the Yahapalanaya government's liberal reformist agenda. The government had promised constitutional reform to prune the powers of the president and return Sri Lanka to a less Gaullist and more Westminster parliamentary democracy. It had also promised practical reform measures to enable the devolution of power to the provinces and districts, market liberalisation, and a re-engagement with the west.⁵ Finally, it had made an international commitment to addressing war-time human rights violations by co-sponsoring Resolution 30/1 at the UN Human Rights Council (UNHRC) in 2015. Through the Resolution the government promised to establish a suite of transitional justice mechanisms including a truth commission, an office for missing persons, an office for reparations and a hybrid war crimes tribunal that involved foreign judges.

To the great disappointment of civil society organisations and western governments, who had embraced the Yahapalanaya government's sweeping agenda for change, internal divisions and tensions meant that the coalition government was unable to follow through on many of its commitments.⁶ Constitutional reform did take place — notably, the government introduced the 19th Amendment which, by altering the balance of power between the executive presidency and the legislature, 'created a more balanced scheme of constitutional government.'⁷ There was also significant opening of space for the expression of dissenting opinions, allowing CSOs to successfully voice their dissent against problematic legislation.⁸ Yet, the state's massive surveillance system was not dismantled, nor was there a sizeable reduction in security forces in the Tamil-dominated Northern Province, with large tracts of land remaining occupied.⁹ Threats and intimidation against activists in the majority Tamil North and East provinces continued, albeit 'in lesser forms and methods' than under the first Rajapaksa regime.¹⁰ The government's response to the Easter Sunday attacks was also draconian. It relied heavily on the 1979 Prevention of Terrorism Act (PTA), which it had earlier committed to

5 Goodhand and Walton, 'The Tangled Politics', 131.

6 Haniffa, Farzana (2018). 'Reconciliation, accountability and international human rights in Sri Lanka', *LKI Policy Brief*, Lakshman Kadirgamar Institute of International Relations and Strategic Studies, Colombo, Sri Lanka.

7 Gomez, Mario (2021). 'Prosecuting Religious Violence in Sri Lanka', in Li-Ann Thio and Jaclyn L. Neo, *Religious Offences in Common Law Asia: Colonial Legacies, Constitutional Rights and Contemporary Practice*, Hart Publishing.

8 This included a Voluntary Services Organisation (VSO) Act which, if passed, would have granted the NGO Secretariat powers to force NGOs to register, and to suspend or cancel their operations.

9 Akebo, Malin and Sunil Bastian, 'Beyond Liberal Peace in Sri Lanka: Victory, Politics and State Formation', *Journal of Peacebuilding and Development* (2021): 16 (1): 70-84, 77.

10 Guruparan, Kumaravadivel (2021). 'Sri Lanka's evasion of accountability tests the limits of the International Human Rights System'. *Briefing paper for Just Security*, New York University School of Law, 1 March 2021. [Sri Lanka's Evasion of Accountability Tests the Limits of the International Human Rights System — Just Security \(accessed 17 May 2021\)](#).

repeal, and adopted new emergency regulations.¹¹ These measures led to the arrest of around 1,800 Muslims, who could then be held without charge for up to 18 months with no right of appeal, and the curtailment of fair trial guarantees.¹²

The Yahapalanaya government was also unable to fulfil its transitional justice commitments. It engaged in delaying tactics and established ‘human rights half measures’ to paper over internal tensions and domestic political constraints.¹³ The government failed to establish the promised truth commission, and reneged on its promise to establish a hybrid tribunal on the basis that the country’s constitution could not allow foreign judges. The other anticipated transitional justice mechanisms, the Office for Missing Persons (OMP) and the Office for Reparations, either ‘arrived too late’ or ‘suffered from official lethargy and disregard.’¹⁴

As a result of the Yahapalanaya government’s inability to act decisively on its reformist agenda, space opened up for detractors to ‘control the discourse:’ the political opposition, dominated by the Rajapaksas.¹⁵ The opposition began to fan anxieties in the majority Sinhalese south of the country about the fracturing of the unitary state and the prosecution of ‘war heroes’, which had been heightened by talk of federalism in the north. These dynamics reinvigorated Sinhala-Buddhist nationalism and rebuilt the Rajapaksa’s support base, facilitating the sweeping electoral victory in the 2019 presidential election.¹⁶

The new Rajapaksa government immediately signalled a shift away from the liberal, reformist rhetoric of its Yahapalanaya predecessor. Emboldened by its mandate to deliver on promises of security, it incorporated former and serving military officials (some of whom are alleged to have committed human rights violations against civilians during the final phases of the war) into key civilian government positions.¹⁷ The civilian police and the registration of nongovernmental organisations were brought under

11 Fonseka, Bhavani, Ganeshathasan, Luwie and Asanga Welikala, ‘Sri Lanka: Pandemic-Catalyzed Democratic Backsliding’, in Victor V. Ramjraj (ed), *Covid-19 in Asia*, Oxford University Press (2021), 357; Amnesty International (2021) *Old Ghosts in New Garb: Sri Lanka’s Return to Fear*, 47.

12 Amnesty international ‘Old Ghosts’, 14.

13 Cronin-Furman, Kate (2020). ‘Human rights half measures: avoiding accountability in postwar Sri Lanka’, *World Politics* 72 (1): 121-163. 3

14 Guruparan, ‘Sri Lanka’s evasion.’

15 Ibid.

16 See McCargo, Duncan & Dishani Senaratne (2020). ‘Victor’s memory: Sri Lanka’s post-war memoryscape in comparative perspective’, *Conflict, Security & Development*, 20:1, 97-113, 101; Goodhand and Walton, ‘The Tangled Politics’, 132; Akebo and Bastian, ‘Beyond Liberal Peace’.

17 Fonseka, Bhavani, Ganeshathasan, Luwie and Asanga Welikala, ‘Sri Lanka: Pandemic-Catalyzed Democratic Backsliding’, in Victor V. Ramjraj (ed), *Covid-19 in Asia*, Oxford University Press (2021), 357.

the control of the Ministry of Defence.¹⁸ There was also an immediate hardening of the government's position in relation to ethnic minorities, evident in the issuing of a ministerial order in January 2020 stating that the national anthem would no longer be sung in both Sinhalese and Tamil, but only in Sinhalese.¹⁹ In another critical move, the government passed the 20th Amendment to the constitution in October 2020, which had the express intention of overriding the Yahapalanaya government's 19th Amendment. The 20th Amendment concentrates executive power once more with the President, reducing checks and balances and giving the President sole control over senior appointments to institutions including the judiciary and human rights commission.²⁰

The new government also formally withdrew from international commitments to addressing wartime human rights violations by announcing it would no longer co-sponsor Resolution 30/1 at the UNHRC. The new President promised, in his speech on 19 May 2020 (the date marking the 11th anniversary of the end of the war), a more active stance against 'international bodies and organisations' that repeatedly make 'baseless allegations' against Sri Lanka and its 'war heroes.'²¹ Acting on a previous pledge to 'release war heroes languishing in prison,' he also pardoned, in March 2020, former Staff Sergeant Sunil Ratnayake, who had been imprisoned in 2015 for the murder of eight Tamil civilians, including three children, in Mirusuvil in April 2000.²² This had been one of the rare human rights cases from the civil war that had ever resulted in a conviction.²³

These moves have been accompanied by a considerable crackdown on political dissent, as the government relies on existing laws and policies to suppress critical voices. This includes, ironically, the International Covenant on Civil and Political Rights (ICCPR) Act which is supposed to prohibit advocacy of hatred that constitutes 'incitement to discrimination, violence or hostility,' yet has been used against those using social media to express dissenting opinions. In one high profile case, Ramzy Razeek, a retired government official, was arrested under the ICCPR Act for a Facebook post that called for widespread protest about the government's policy of forced cremations of COVID-19 victims. He was detained for more than five months without charge.²⁴ The PTA has also

18 Wickramasinghe, Nira (2021). 'Sri Lanka in 2020: Return to Rajapaksa Regnum,' *Asian Survey* 61 (1): 211-216, 212.

19 Ibid.

20 Wickramasinghe, 'Sri Lanka in 2020', 215-6.

21 See <https://www.un.int/srilanka/news/full-text-speech-made-his-excellency-president-gotabaya-rajapaksa-national-ranaviru-day> (accessed 1 June 2021).

22 See International Commission of Jurists, <https://www.icj.org/sri-lanka-presidential-pardon-of-former-army-officer-for-killing-of-tamil-civilians-is-unacceptable/>.

23 See United Nations Office for the High Commissioner for Human Rights press briefing note, 27 March 2020. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25752&LangID=E#:~:text=Former%20Army%20sergeant%20Sunil%20Ratnayake,only%20Sgt%20Ratnayake%20was%20convicted> (accessed 9 June 2021.)

24 Amnesty International 'Old Ghosts', 6; see also Fonseka *et al* 'Sri Lanka', 356.

been used extensively. For instance, prominent lawyer Hejaaz Hizbullah continues to be detained, without charge, for his alleged engagement with the perpetrators of the Easter Sunday attacks.²⁵ New regulations announced by the President on March 12, 2021 strengthen these powers by allowing the government to ‘refer people who have surrendered or have been arrested on suspicion of an offence’ under the PTA, or a more recent set of emergency regulations, to a ‘rehabilitation programme.’²⁶ This would allow people to be detained without trial for up to two years. The government has also increased its surveillance capacity by purchasing new Israeli-developed spyware, which allows access to smartphones’ microphones, cameras, messages, email and location data.²⁷

The COVID-19 public health emergency is intersecting with repressive measures in complex ways.

The COVID-19 public health emergency is intersecting with these repressive measures in complex ways. As is in other parts of Asia, COVID-19 has been used as a justification for measures to curtail freedom of speech and assembly, suppress dissent, and militarise civilian governance structures.²⁸ The government’s response to the ‘first wave’ of COVID-19 in March 2020, while swift and largely effective in curbing the spread of the virus, enabled the national security discourse to be conveniently twinned with a discourse of protecting public health. Army commander Shavendra Silva (alleged to have committed human rights

violations during the civil war) is in charge of the coronavirus task force, which is heavily militarised, and responsible for overseeing quarantine centres and contact tracing. The nation’s ‘war heroes’ have been reinvented as ‘health heroes’ who are saving the nation from the COVID pandemic.²⁹ Those who criticise the government’s COVID-19 response can be arrested and detained ‘under the guise of curbing the spread of misinformation.’ And while, until recently, government functions with large crowds continued unabated,

25 Hizbullah was arrested on 14 April 2020 under the PTA. In another case, Ahnaf Jazeem, a poet from Mannar, accused of writing poetry that incites violence, has been held without trial under the PTA since May 2020.

26 Emergency regulations no. 1 of 2019. See Amnesty International *Public Statement* 21 March 2021. <https://www.amnesty.org/download/Documents/ASA3738662021ENGLISH.pdf> (accessed 15 May 2021).

27 See ‘Government obtains “Pegasus” an Israeli spyware’, *Sri Lanka Mirror*, 27 March 2021. [Govt. obtains “Pegasus” an Israel spyware \(srilankamirror.com\) \(accessed 8 June 2021\)](https://www.srilankamirror.com/govt-obtains-pegasus-an-israel-spyware/).

28 Wickramasinghe, ‘Sri Lanka in 2020’, 213. For a discussion of Thailand and the Philippines see Auethavornpipat, Ruji, and Maria Tanyag. (2021). *Protests and Pandemics: Civil Society Mobilisation in Thailand and the Philippines during COVID-19*. Canberra: New Mandala. doi: [10.25911/2PB6-D319](https://doi.org/10.25911/2PB6-D319)

29 See ‘PM assures to protect war heroes’, *Daily FT* 19 May 2021. <http://www.ft.lk/news/PM-assures-to-protect-war-heroes/56-718032> (accessed 8 June 2021).

large gatherings such as protest marches have been prevented.³⁰

On the other hand, the pandemic may also be acting as a check on extreme forms of repression, especially in recent months. Since April 2021, the government has been dealing with a third, more dangerous wave of the virus as popular criticism of its poor management of the pandemic grows and the economic crisis deepens. In this context, political leaders may simply have other, more urgent, priorities than cracking down on dissent.

Heightened surveillance and monitoring of civil society organisations

CSO activists interviewed for this briefing paper – especially those working on human rights issues – noted several key differences between the Yahapalanaya government and the current government that inhibit possibilities for change. The first is that the SLPP's two thirds majority in parliament (a super-majority) makes it possible for the government to pass policies and legislation without requiring the support of minority parties. Second, the political opposition is fractured, ineffective and weak, which means the government's rhetoric and practices are rarely challenged, and there are few parliamentary allies with whom civil society actors can work. A third difference is that the passage of the 20th Amendment to the Constitution leaves CSO activists with few avenues for redress should their rights be violated. Key institutions, such as the national Human Rights Commission and the judiciary, have been re-politicised with appointments made directly by the president. Perhaps the most important difference is that space for dissent is rapidly closing. As one interviewee put it, 'now there is little respect, and indeed, an active targeting of voices of dissent.'³¹

The closing of space for dissent was reflected in the comments made by several interviewees about the marked increase in surveillance, intimidation, monitoring and harassment of civil society organisations since 2019. Interviewees noted that the offices of many CSOs are now receiving regular visits from the NGO Secretariat (located under the Ministry of Defence) and the state intelligence agencies (Criminal Investigation Department/CID and Terrorism Investigation Department/TID) to request details of staffing and the composition of governance boards, as well as financial and administrative records, especially details of donor funding and bank accounts.³² These

30 de Soysa, Minoli, 'Braving Harsh Repression: human rights defenders soldier on', *Groundviews* 25 February 2021. <https://groundviews.org/2021/02/25/braving-harsh-repression-human-rights-defenders-in-the-north-soldier-on/> (accessed 15 May 2021).

31 Interview 3, 10 April 2021

32 E.g., on 2 June 2020, the Director of the National NGO Secretariat announced that he had 'initiated investigations into NGOs with questionable funding sources and projects' and was conducting inquiries into NGOs 'believed to have circumvented due procedures and formalities in the registration process.' See: http://www.defence.lk/Article/view_article/1673 (accessed 15 May 2021).

practices, rationalised by government officials as necessary on the grounds of national security, transparency and the prevention of money laundering, are leading to fears that the authorities will accuse CSOs of accounting anomalies as a pretext to shutting their offices down or bringing criminal charges. The ad hoc nature of these practices is expected to become formalized when a new Voluntary Services Organisations' Act (VSO) comes into force, which aims to transform the NGO Secretariat into a 'monitoring body' empowered to conduct investigations and file cases against alleged NGO malpractice.³³ The endless bureaucratic requests of CSOs are also eating up a significant amount of time, preventing CSOs from doing their substantive work. As one activist commented, 'we are being exhausted through bureaucratic means.'³⁴

In the Tamil and Muslim-dominated North and East, where the militarisation of everyday life — a legacy of the civil war — is far more pervasive than in Colombo, the impact of the new government's repressive measures is heightened.³⁵ New temporary military checkpoints have been established in these areas, ostensibly to ensure people comply with COVID-19 restrictions. CSOs engaged in human rights work are more likely to be questioned or interrogated than those in Colombo. In some cases, organisations have been asked to shift their focus to 'practical' issues, such as livelihoods.³⁶ Public protests on a range of issues including justice for war crimes, greater regional autonomy and the return of land, and even commemorations of the dead, are more likely to be prevented or violently disrupted by the security forces than in Colombo. Young Tamil men in the North and East are also being regularly arrested under the PTA due to their suspected association with the LTTE.³⁷

CSOs engaged in human rights work are more likely to be questioned or interrogated than those in Colombo.

Compounding these impacts is the fact that CSOs in the North and the East have less access to information, fewer resources, and are smaller and less well-connected to international donors and high-profile lawyers (should they be arrested or detained) than their Colombo counterparts. They are also experiencing increased isolation due

33 See 'National Secretariat for NGOs to be Given Teeth', *The Morning.LK*. [National Secretariat for NGOs to be given teeth – The Morning – Sri Lanka News \(accessed 8 June 2021\)](#).

34 Interview 1, 7 April 2021.

35 For an analysis of the militarisation of Sri Lanka during the conflict see de Mel, Neloufer (2007). *Militarizing Sri Lanka: Popular Culture, Memory and Narrative in the Armed Conflict*, New Delhi, SAGE.

36 Interview 2, 6 April 2021

37 Interview 10, 24 April 2021. These arrests are occurring for reasons such as having a photo of a tiger in the background of a Facebook post or keeping LTTE songs on a flash drive. Those who receive money into their accounts from diaspora relatives for basic necessities are also being arrested for collecting money for 'terrorist' activities.' de Soysa, 'Braving Harsh Repression'.

to the restrictions imposed by military surveillance and COVID-19. There have been few visits from donors, foreign missions and Colombo-based CSOs to the North and East over the past year, allowing government and military repression of dissent to continue with limited external criticism. CSOs in these areas are also facing new restrictions with regards to receiving funding – some have been informed that they can no longer receive foreign donor funding or open bank accounts unless they register with the NGO Secretariat in Colombo, leaving them unable to pay staff salaries.³⁸ These challenges are likely to exacerbate pre-existing divisions amongst Sri Lankan civil society that cut across both ethnic and class lines. There are already perceptions amongst CSOs in the North and East that Colombo-based CSOs represent an educated, urban – and largely Sinhalese – elite who receive the lion’s share of donors funding and do not understand the on-the-ground realities they face. That situated and multilateral donors remain heavily Colombo centred and oriented towards an ‘English speaking elite’ further heightens these tensions.³⁹

In this environment, some activists have adapted their strategies and activities as a form of protection. There is a sense, as one activist put it, ‘that we can no longer rely on institutions such as the human rights commission or the judiciary.’⁴⁰ While Colombo-based activists generally perceive themselves as more protected than those in the North and the East, some spoke of how they had curtailed their participation in public protests or had disengaged from, or were self-censoring, their social media activity. In the North and East, some are opting to work in less visible ways, and on issues perceived be less controversial than war crimes accountability, including livelihoods and violence against women. Another strategy involves building alliances with local and district governments. The hope is that, by gaining government endorsement of meetings, training courses and other events, and inviting local officials to participate, these events are less likely to be shut down.

Despite the risks, resistance against government policies and measures continues, even in the North and the East. Especially significant was a protest march that took place in February 2021, which began in Pottuvil in the Ampara district and ended in Polikandy in Jaffna district (and became known as the P2P). Involving Muslim and Tamil communities from the North and East, the march highlighted ten human rights issues of relevance to these communities. These included truth and justice for families of those disappeared during the war, a key issue for many Tamil families, and the government’s policy of mandatory cremation of COVID-19 victims, a concern for many Muslims, for whom cremations are taboo.⁴¹ The coming together of Tamil and Muslim communities on a

38 Interview 1, 6 April 2021

39 Orjuela, Camilla (2005). ‘Dilemmas of Civil Society aid: Donors, NGOs and the quest for peace in Sri Lanka, *Peace and Democracy in South Asia* 1 (1), 1-12, 7.

40 Interview 2, 6 April 2021

41 Critics of the policy argued that it deprived Muslims of a fundamental religious right to bury their dead, and caused fear, anxiety, and distress amongst the Muslim community. The government finally changed its policy in March 2021 to allow for the burial of COVID-19 victims.

shared, visible platform of resistance in large numbers for the first time in many years was a notable feature of the march.⁴² Yet the costs of such activism are plain to see. Several organisers and participants in the march have subsequently been questioned by the police or CID, and have received court orders. They are accused not only of violating COVID-19 regulations but of helping to reactivate the LTTE.⁴³

The post-war victor's peace: facilitating illiberal peacebuilding

To understand why so little change has been possible since the end of the war, including during the Yahapalanaya era, it is necessary to reflect on the nature of the post-war peace. Because the war ended with a crushing victory by the government over the LTTE (rather than through a negotiated settlement or international intervention), it ushered in a victor's peace in which those who were in positions of power during the war remain powerful (and in fact have gained political capital), and the historically-grounded power asymmetries between the state and the Tamil minority remain in place.⁴⁴ The victor's peace represents a continuation of the conflict 'in a recalibrated form.' It enables the preservation of a militarised approach to governance, the centralisation of power, the cultivation of a political order 'premised on Sinhala majoritarianism' and the increased influence of extremist Sinhala Buddhist movements such as Bodu Bala Sena (BBS).⁴⁵ The discourse of victor's peace is now being exploited by the current Rajapaksa government.

The existence of a victor's peace is starkly apparent when it comes to the question of justice for wartime human rights violations. A widespread view amongst Sinhalese Buddhists is that 'the war had to be won at any cost' to protect Sri Lanka from the threat of internal terrorism and disintegration.⁴⁶ The official celebration of those military personnel who brought the war to the end as war heroes who, during the final phase of the war, were engaged in a 'humanitarian rescue operation' further precludes any attention to the

The victor's peace represents a continuation of the conflict 'in a recalibrated form.'

42 See Thiruvarangan, Mahendran (2021). 'The P2P march and beyond: reimagining resistance amidst ethnic polarization.' *The Morning.LK*, 24 February 2021. <https://www.themorning.lk/the-p2p-march-and-beyond-re-imagining-resistance-amidst-ethnic-polarisation/> accessed 16 May 2021.

43 Interview 2, 6 April 2021. See also de Soysa 'Braving Harsh Repression'

44 Høglund, Kristine and Orjuela, Camilla (2012). 'Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka', *Global Governance* 18 (1): 89-104, 90, 96.

45 Klem 2018, 'The Problem of Peace and the Meaning of Post-War', *Conflict, Security and Development* 18 (3), 233-255, 242, 246. See also Guruparan 'Sri Lanka's evasion'.

46 Guruparan, 'Sri Lanka's evasion'.

human costs of the war, including to the credible allegation that thousands of civilians were killed during its final phase.⁴⁷ And because victors are unlikely to voluntarily submit themselves to criminal investigations for wartime human rights violations, there is simply no political will, and limited popular domestic support, for trials. The transitional justice agenda is viewed as a form of ‘partiality towards Tamils’ rather than of relevance to all Sri Lankans.⁴⁸

Not surprisingly, the victor’s peace also undermines the cultivation of solidarity between marginalised and victimized ethnic minorities. Distrust between Muslims and Tamils is deep-seated, a legacy of the ethno-nationalist conflict and of experiences of colonisation. A virulent Sinhalese nationalist discourse has fostered a form of Tamil nationalism that is equally exclusive. While there have been some attempts to foster solidarity between Tamil and Muslim communities based on common experiences of violence and discrimination – notably the P2P – these have had limited impact. Many issues continue to divide these communities. The shared experience of Sinhalese and Tamil families of the disappeared has similarly not opened a space for solidarity and empathy. Instead, ‘advocacy on this issue is politicised along ethnic lines and configured as a politics of victimhood and blame.’⁴⁹

The victor’s peace has facilitated the rise of illiberal peacebuilding – justified by reference to an emergency need to protect the unitary state. The subject of detailed analysis elsewhere, illiberal peacebuilding can be understood, at its heart, as a process of post-war reconstruction that prioritises ‘regime security’ and the construction of a stable but non-egalitarian political order over accountability, human rights and social inclusion.⁵⁰ Far from being unique to Sri Lanka, illiberal peacebuilding is increasingly prevalent in other parts of South and South-East Asia.⁵¹

After withstanding weak efforts at reform during the Yahapalanaya era, illiberal peacebuilding is now being reasserted with renewed vigour. The new Rajapaksa regime, like the first Rajapaksa government, has turned to China for aid and infrastructure

47 Hoglund and Orjuela, ‘Hybrid Peace Governance’, 99; see also Kent, Lia (2020). ‘No Space for Memory? Monuments, memorials and the residues of the past in Sri Lanka’s North’, *Arena Quarterly*, 29 May 2020.

48 McCargo and Senaratne, ‘Victor’s memory’, 101.

49 Seoighe, Rachel (2016). ‘Discourses of victimization in Sri Lanka’s civil war: collective memory, legitimacy and agency’, *Social and Legal Studies* 25 (3): 355-380, 369. See also, D’Costa, Bina (2013). ‘Sri Lanka: the end of war and the continuation of struggle’, in Aspinall, Edward, Robin Jeffrey, and Anthony Regan, eds, *Diminishing Conflicts in Asia and the Pacific: Why Some Subside and Others Don’t*, Abingdon, Oxon: Routledge, 101-14, 102.

50 Smith, Claire Q, Lars Waldorf, Rajesh Venugopol and Gerard McCarthy (2020). ‘Illiberal peace-building in Asia: a comparative overview’, *Conflict, Security and Development* 20 (1): 1-14. See also Lewis, David (2020). ‘Sri Lanka’s Schmittian peace: sovereignty, enmity and illiberal order’, *Conflict, Security & Development*, 20 (1): 15-37, 17; de Olivera, Ricardo Soares (2011) ‘Illiberal Peacebuilding in Angola’, *The Journal of Modern African Studies* 49 (2): 287-314, 309.

51 Smith *et al*, ‘Illiberal peace-building’, 4.

After withstanding weak efforts at reform during the Yahapalanaya era, illiberal peacebuilding is now being reasserted with renewed vigour.

loans, which, while having their own economic conditions, are not directly attached to governance or reform demands.⁵² Political power has become centralised with a small group of individuals (in essence the Rajapaksas and their allies), and the ‘dividends’

of peace flow to this small group through patronage relationships. An emphasis on stability and order is evident in the ever-present, politically-fanned anxieties about terrorism. It is underpinned by a ‘non-pluralist’ vision of the nation that continually demarcates the boundaries of political community with reference to distinctions between ‘us’ and ‘them’, ‘friends’ and ‘enemies.’⁵³ This non-pluralist vision is further fuelled by Sinhala-Buddhist imaginings of a unitary state that are ‘frequently articulated as the reinvigoration of the lost glory of Buddhist kingdoms; of the ancient past through the reunification of the island as a Sinhala Buddhist state and society.’⁵⁴

The enemy discourse is often activated during times of crisis as means of generating political capital.⁵⁵ And while the LTTE was historically constructed as the immediate enemy, there is always the potential to widen this discourse to include other potential threats to the nation.⁵⁶ Since the almost total destruction of the LTTE at the end of the war, Muslims have replaced Tamils as the pre-eminent enemy, allowing the government to continue its ‘anti-terrorism’ agenda in a new guise. This has become especially evident in the aftermath of the 2019 Easter Sunday attacks, which fueled strong anti-Islamic sentiment fanned by political leaders, and leading, in addition to the arrests of Muslims for suspected involvement in terrorism, to attacks on Muslim shops and houses, and the boycotting of Muslim shops.⁵⁷

Western states and donors are often construed as neo-colonial enemies of state. Like many postcolonial states, Sri Lanka has a deep distrust of foreign intervention in internal affairs. This distrust deepened during the conflict, when political leaders accused donors and international NGOs involved in humanitarian work in the North and the East of colluding with or supporting the LTTE and of straying into areas well

52 Cronin-Furman, ‘Human Rights Half Measures’, 141.

53 Lewis, ‘Sri Lanka’s Schmittian peace’, 23.

54 Rampton, D., 2012. ‘A Game of Mirrors: Constitutionalism and Exceptionalism in a Context of Nationalist Hegemony’. In *The Sri Lanka Republic at 40: Reflections on Constitutional History, Theory, and Practice*, ed. A. Welikala. Centre for Policy Alternatives, Colombo, 365–40, 378.

55 Goodhand, Jonathan (2010). ‘Stabilising a victor’s peace? Humanitarian action and reconstruction in eastern Sri Lanka’, *Disasters* 34 (3): 342-367, 344.

56 Lewis, ‘Sri Lanka’s Schmittian peace’, 23.

57 Klem, Bart. ‘Sri Lanka in 2019: the return of the Rajapaksas’, *Asian Survey* 60 (1), 207-212, 209; Gomez, ‘Prosecuting Religious Violence’.

beyond their mandates.⁵⁸ In the current era, this distrust continues. Donors and foreign NGOs (particularly those with a strong advocacy and rights focus), have limited political leverage, with the non-renewal of visas acting as a powerful reminder of the kinds of activities that should be avoided.⁵⁹ Compounding this distrust are the contradictions expressed by international agencies in relation to their own purported liberal peacebuilding agendas, particularly when it comes to the issue of counterterrorism. It is not difficult for Sri Lankan political leaders to point out that while condemning the government's conduct in the separatist conflict and promoting negotiations with the LTTE, western states supported the so-called 'war on terror' in other parts of the world, including Iraq and Afghanistan.⁶⁰ They also provided tacit support to Sri Lankan leaders during the war, for instance by supplying weapons, intelligence on LTTE movements and continuing support for military training.⁶¹ These contradictions – which are expressed in new ways in the post-war era – add fuel to the Sri Lankan government's argument that western donors and NGOs are self-interested actors promoting double standards. They further erode the credibility of the liberal peacebuilding agenda.⁶²

The anti-foreigner discourse puts domestic CSOs in a difficult position; they, too, can easily slide into the enemy category. Historically, the relationship between civil society and the state has often been tense, and political entrepreneurs have frequently presented domestic NGOs as corrupt and suspicious entities that need to be brought under state control. On the one hand, international donors have provided both much-needed resources and a degree of protection to domestic CSOs. On the other hand, these relationships enable CSOs to be construed as neo-colonial allies of the west, who

58 Goodhand, 'Stabilising a victor's peace', 344, 353.

59 Since the change of government, several international NGO personnel have not had their visas renewed and have been forced to leave the country.

60 Hoglund and Orjeula, 'Hybrid Peace Governance', 94.

61 The United Kingdom supplied weapons while the U.S. supported military training and provided key intelligence during the last phase of the war, especially on LTTE arms movements. See Nadarajah, Suthaharan (2018) 'The Tamil Proscriptions: Identities, Legitimacies, and Situated Practices', *Terrorism and Political Violence*, 30 (2): 278-297, 285; Hoglund and Orjeula, 'Hybrid Peace Governance', 95.

62 In the post-war period, pressure from the Financial Actions Taskforce, an intergovernmental body focused on preventing money laundering and terrorism, influenced the development of a draft Voluntary Services Organisations (VSO) Act during the Yahapalanaya era which, if passed, would have granted the NGO Secretariat powers to force NGOs to register, and to suspend or cancel their operations. Interview 11, 4 May 2021. The Australian government's Border Force continues to supply surveillance equipment to the Sri Lankan police and navy to use in a 'wide range of activities' including countering people smuggling. See SBS news, 29 April 2021. <https://www.sbs.com.au/news/tamils-in-australia-condemn-border-force-s-gifting-of-surveillance-drones-to-sri-lankan-authorities>

serve outside rather than domestic interests.⁶³ Human rights activists are viewed with particular suspicion: branded as ‘opportunists, traitors, anti-Sinhalese operatives and parasites’ who undermine the integrity of the nation-state and its war heroes.⁶⁴

Engaging with international human rights fora: a catch 22 for activists



The victor’s peace creates difficulties for Sri Lankan civil society human rights activists working to pursue ‘justice’ for crimes committed during the war. In a context where the possibility of pursuing domestic criminal prosecutions is remote, as is referral of the Sri Lanka case to the International Criminal Court, the UNHRC has become a focal point for civil society advocacy.⁶⁵ Many activists engaged intensively with the March 2021 UNHRC session in Geneva, as they did with the 2015 session (when the Yahapalanaya government committed to the suite of transitional justice mechanisms). They provided input into a report by UN High Commissioner for Human Rights Michelle Bachelet that delivered a scathing assessment of the failure of successive Sri Lankan governments to deliver on their commitments to transitional justice.⁶⁶ Their advocacy helped ensure

63 Orjuela, Camilla, ‘Countering Buddhist radicalisation: emerging peace movements in Myanmar and Sri Lanka’, *Third World Quarterly* 41 (1): 133-150, 144; Høglund and Orjuela, ‘Hybrid Peace Governance’, 96; Devotta, Neil (2005), ‘Civil Society and Non-Governmental Organisations in Sri Lanka: Peacemakers or Parasites’, *Civil Wars* 7 (2): 171-182.

64 Devotta, ‘Civil Society and Non-Governmental Organizations’, 176-177.

65 Sri Lanka is not party to the Rome Statute, which means the only avenue for ICC prosecution is through a UN Security Council referral of the situation to the Court.

66 See ‘Landmark resolution promotes justice’, *Human Rights Watch*, March 25, 2021. <https://www.hrw.org/news/2021/03/25/sri-lanka-landmark-un-resolution-promotes-justice> (accessed 8 June 2021).

that a new resolution on Sri Lanka was passed.⁶⁷ The resolution gives more teeth to the OHCHR to collect, analyse and preserve evidence of international crimes committed in Sri Lanka for use in future prosecutions; mandates enhanced international monitoring and scrutiny of the human rights situation; and promises support to Member States to conduct judicial proceedings in their own jurisdictions.⁶⁸

At the same time, Sri Lankan activists remain open-eyed about the limits of the UN system. Their decision to engage with the UNHRC and other UN human rights mechanisms (for instance the special procedures of the Human Rights Council) may speak more to ‘an unequivocal expression of the lack of faith in any domestic means of seeking justice’ than it does to a faith in the international legal regime.⁶⁹ Importantly, this engagement is driven not only by elite, formalised CSOs but also by families of those disappeared during the conflict, many of whom now feel that they have reached the end of the line when it comes to domestic possibilities to pursue justice and obtain knowledge about the fate and whereabouts of their loved ones. As one respondent put it:

We know the UN won’t magically fix everything. On the other hand, domestic mechanisms have not achieved anything for families of the disappeared. Some have been engaging since the 1990s with different mechanisms and processes set up by the government. They have patiently waited in long lines in the sun. Governments are not interested in listening. All of this is so taxing on families physically.⁷⁰

Activist engagement with the UN human rights system needs also to be understood as a strategic move by those who recognize that international pressure on the state can sometimes act as a check on the most extreme forms of power and, in some circumstances, bring about limited redress. That the March 2021 UNHRC session had some effect is evident in the Sri Lankan government’s decision to change its policy regarding the cremation of COVID-19 victims just prior to the session.⁷¹ Some now hope that the new UNHRC resolution might prompt the European Union to withdraw trade concessions for Sri Lanka under its Generalised Scheme of Preferences (which slashes trade tariffs for low-and-middle-income countries based on human rights, labour rights, protection of the environment and good governance).⁷² Finally, it is important to recognise that many activists are as critical of the UN as they are of their own state.

67 Resolution 46/1 was passed on 23 March with 22 votes in favour, 11 against and 14 abstentions. Advocacy around the resolution was led by members of a ‘core group’ led by Canada, Germany, Malawi, Montenegro, North Macedonia, and the United Kingdom.

68 See United Nations General Assembly (A.HRC/46/L.1/Rev.1), 16 March 2021. <https://undocs.org/A/HRC/46/L.1/Rev.1> (accessed 8 June 2021).

69 Guruparan, ‘Sri Lanka’s Evasion’.

70 Interview 5, 30 March 2021

71 Interview 13, 24 May 2021

72 <https://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/>

Their advocacy for international justice acts as a subtle reminder to the UN of its failure to protect civilians in the final phase of the war and its responsibility for securing post-conflict justice.⁷³

Civil society activists are only too aware that in a domestic context where they are already viewed with suspicion, the passage of the new UNHRC resolution may place them in a Catch-22 situation. On the one hand, it will keep Sri Lanka on the agenda of the UNHRC for a few more years, contributing to a sense that the international community has not forgotten about war-related human rights abuses, and possibly providing a check on some of the worst excesses of state violence. On the other hand, there is a very real chance that those activists who supported the resolution will experience intensified surveillance and intimidation. The resolution is likely to reinvigorate the Sinhala Buddhist nationalist discourse, adding fuel to the argument

The UNHCR resolution is likely to reinvigorate the Sinhala Buddhist nationalist discourse, adding fuel to the argument that CSOs are collaborating with western agendas to undermine Sri Lanka's sovereignty and national security.

that CSOs are collaborating with western agendas to undermine Sri Lanka's sovereignty and national security. It also provides an opportunity, as previous UN reports and resolutions have done, for Sri Lankan political leaders to build a common front against the UN and, generally, to tap into patriotic, nationalist sentiments that could be useful in shoring up the government's support base.⁷⁴

There are signs this is already happening. The resolution has been widely reported in the media as an attack on national honour by a bullying UNHRC 'who acts on behalf of major western nations to steer small nations to serving the geo-political interests of the West.' Foreign Minister Dinesh Gunawardena argued that it was 'supported by Western powers who want to dominate the global south.'⁷⁵ The UNHRC has

been portrayed as 'a hypocritical organisation, which accuses small nations like Sri Lanka and Myanmar of war crimes but ignores much bigger war crimes perpetrated

73 Specifically, the UN had failed to protect civilians, succumbed to government intimidation, prioritized humanitarian access over protected needs and had left the war-torn areas 'precisely when their aid and monitoring capacities were most needed.' Seoighe, Rachel, 'Discourses of Victimisation', 372; see also Guruparan, 'Sri Lanka's evasion'.

74 Høglund and Orjuela, 'Hybrid Peace Governance', 100.

75 See 'Sri Lanka slams western countries for resolution at UNHRC', *Xinhuanet*, 18 May 2021, http://www.xinhuanet.com/english/2021-03/24/c_139832752.htm (accessed 18 May 2021).

by the U.S. and its NATO allies.⁷⁶ These reports have diverted attention from the substantive human rights issues at stake.⁷⁷

Reimagining the peacebuilding agenda: suggestions for CSOs and donors

Over the next five years there is likely to be a significant curtailing of the space for civil society human rights activists. Given the intensification of illiberal state practices, as one activist put it, ‘the most we can hope for is that we are still standing in five years’ time.’⁷⁸ Compounding these challenges are the difficulties faced by the society as a whole as it recovers from the devastating social and economic impact of the COVID-19, and faces a deepening economic crisis. While the government’s initial response may have been effective in curbing the spread of the virus, the limitations of a militarised approach – in which public health expertise is pushed to the margins – are becoming increasingly apparent in the context of the recent, more dangerous ‘third wave.’ Rather than taking decisive action, the government is displaying an increasingly erratic, chaotic and unpredictable governance style, and is pursuing priorities antithetical to pandemic control (for instance a poorly thought-through revival of the tourist sector.) Its reluctance to take effective action is increasingly perceived as prioritising the economic interests of a few over the public health of citizens.⁷⁹ As the political leadership begins to lose popular support, the enemy discourse may be once again reactivated to regain political capital.⁸⁰

Despite these challenges, the return of the Rajapaksas to power, and the government’s roll-back of its Geneva commitments, may offer a timely opportunity for CSOs and the donor community to reflect on the possibilities, limits and contradictions of the liberal peacebuilding agenda, including the international campaign for justice for war time

76 Seneviratne, Kalinga, ‘Challenging the UNHRC partiality’, *Daily News*, 22 March 2021, <http://dailynews.lk/2021/03/22/features/244625/challenging-unhrc-partiality> (accessed 18 May 2021)

77 Sri Lanka’s main political opposition has done little to promote a debate on these substantive issues. Instead, it has focused on how the government has failed to manage its its foreign relations. See ‘SJB Stance on UNHRC Resolution on Sri Lanka’, *SJB media release*, 23 March 2021 (on file with author).

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79 ‘Interview 2, 6 April 2021’

80 See for example: Gunasekara, Tisaranee, ‘Power, Profit and the Rajapaksa Cluster’, *Daily FT*, 5 May 2021, <http://www.ft.lk/columns/Power-profit-and-the-Rajapaksa-Cluster/4-717309> (accessed 9 June 2021) and ‘Between an ego fearful of failure and an impending human catastrophe’, *Daily Mirror*, 12 May 2021 <http://www.dailymirror.lk/opinion/Between-an-Ego-fearful-of-failure-and-an-impending-human-catastrophe/172-211775> (accessed 9 June 2021).

human rights violations that is a key part of it. As is abundantly clear, this campaign has had unforeseen illiberal effects by inducing hard-line Sinhala Buddhism reactions. The pursuit of internationally-sponsored transitional justice mechanisms is also perceived by many as remote from the concerns of ordinary Sri Lankans.⁸¹ While not suggesting that the international campaign for war-crimes prosecutions should be abandoned, some scholars and activists are beginning to reflect on how this campaign might become part of a reimagined peacebuilding agenda that more readily resonates with the broader population.

This reimagining might involve several interrelated aspects. First, it might involve broadening understandings of ‘justice’ beyond a focus on prosecutions for wartime human rights violations to encompass the urgent past and present injustices experienced by a range of marginalised communities. In other words, how might the justice campaign be shifted from being part of a battleground between different ethnic communities to becoming part of a call for liberation from a long-term cycle of violence and discrimination that has impacted on diverse communities?⁸²

Broadening understandings of justice will require examining a wider range of issues facing Tamil communities in the North and the East than the lack of prosecutions. For instance, it will require examining the return of lands taken during the war, ongoing surveillance of former LTTE members, the takeover of Hindu temples for the building of Buddhist stupas, the return of land occupied by the security forces, violence against women, and the ability of people to mourn and remember their dead.⁸³ It will also require addressing Sinhalese communities’ experiences of the violence of the state (including that which occurred during the state’s violent suppression of the JVP uprisings in the 1980s), and that of Muslims who were violently expelled from the North by Tamils in 1990s and continue to experience discrimination. How might the ongoing injustices experienced by Indian Tamils (also known as ‘plantation Tamils’ or Hill country Tamils) who work in tea plantations also be taken into account? Despite being

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81 Haniffa, ‘Reconciliation, accountability..’

82 See Keenan, Alan. ‘Mullaivayakal and the meaning of justice 12 bitter years on’, *Groundviews*, 18 May 2021. <https://groundviews.org/2021/05/18/mullaivayakal-and-the-meaning-of-justice-12-bitter-years-on/> (accessed 8 June 2021)

83 Interview 6, 30 April 2021

among the poorest and most disadvantaged communities in Sri Lanka, their concerns are rarely considered in current discussions of justice and peacebuilding.⁸⁴ Some interviewees believed that productive possibilities could emerge from bringing different marginalized communities together to reflect on the diverse ways in which they have been affected by state violence and discrimination. At the same time, they remain open-eyed about the limits of fostering inter-ethnic solidarity in a polarised political context where the political category of victimhood has historically been used to bolster divergent and conflicting claims.⁸⁵

A second dimension of reimagining the peacebuilding agenda might involve paying more attention to the structural dimensions of justice and injustice. As Haniffa argues, conversations are urgently needed about how institutions and political systems in Sri Lanka create the 'structural conditions for abuses of power, anti-minority sentiment, and the continuation of the politics of ethnic incitement,' and how, in turn they might be transformed. These systems and institutions bear the historical imprint of colonialism and Sinhala nationalism as a state ideology. They have been further degraded due to decades of political violence, preventing the emergence of an inclusive social contract, and potentially creating the conditions for future conflict.⁸⁶ How might conversations be facilitated between different ethnic groups, networks and geographic regions on the implications of recent government moves to centralise power, crackdown on dissenting voices, erode the independence of the courts and the Human Rights Commission, and revitalise a politics of patronage?

Any reimagining of the peacebuilding agenda will require both donors and civil society to reflect on the power imbalances and inequalities that pervade their own relationships, which contribute to inequalities within domestic civil society. The question of who gets to define the peacebuilding agenda, and whose voice is heard, is critical. It cannot be denied that international donors have had a considerable influence on Sri Lankan civil society. This has contributed to the outward-looking 'Geneva' focus of justice advocacy and undermined the domestic legitimacy of Sri Lankan CSOs. The tendency of donors to gravitate towards – and fund – Colombo-based CSOs also perpetuates the pre-existing power imbalances and inequalities that mark the sector. That Colombo-based CSOs are more proficient in English, have higher levels of education and close links with donors, means that they tend to become gatekeepers to funding for groups in other parts of the country and set the agenda regarding the issues deemed important, to the exclusion of other voices.⁸⁷

84 Members of this community are partly descended from workers sent from South India to Sri Lanka in the 19th and 20th centuries to work in tea, coffee and rubber plantations.

85 Seoighe, 'Discourses of Victimisation', 369-70; D'Costa, 'Sri Lanka', 102.

86 Haniffa, 'Reconciliation, accountability...'

87 A further complicating factor is that significant funding is provided by Tamil diaspora groups for groups in the North. Some of these groups, like CSOs in Colombo, presume to speak 'on behalf' of victims.

Donors must also recognise that, while they may have power in their relationships with civil society, they have limited political leverage with current political leaders and have historically been viewed with suspicion. There is a need for donors to pay greater attention to how their programs intersect with domestic politics, and how political elites interpret, respond to, and potentially mobilise against liberal peacebuilding and rights discourses to suit their own agendas.⁸⁸ This will require a deeper engagement with debates and conversations in the Sinhalese press and social media, which can be strikingly different from those in the English language media. In the immediate term, it will require being alert to the potential backlash against and delegitimisation of Sri Lankan civil society activists closely associated with the international justice campaign. Governments who encouraged civil society to engage with this process should be prepared, for instance, to monitor and speak out against abuses that may now be committed against them due to this engagement.⁸⁹ They should also look for discreet ways to offer support and protection to CSOs' gathering war crimes evidence in line with the recommendations of the recent UNHRC session.⁹⁰

Over the longer term, there are several practical ways in which donors could support Sri Lankan civil society. First, they could support activists' efforts to reflect on, and reimagine, the peacebuilding agenda, and broaden the participants in those conversations. They could also help to amplify the voices of smaller civil society groups who traditionally receive limited media coverage and help find avenues for these groups to speak for themselves. Supporting activists to promote conversations and build networks amongst different ethnic communities and across different geographic regions, and to 'link up' up issues traditionally treated as unconnected, is also critical. This will require donors to move beyond a 'silo mentality' in which issues such as livelihoods, human rights or the environment tend to be treated as compartmentalised sectors, rather than as interlinked. A more open and flexible funding process may also be needed to enable less established groups in areas far from Colombo to apply for smaller amounts of money.⁹¹ Importantly, this support needs to be offered with a long-term time horizon in mind, and with a commitment to investing in long-term relationships. If the period of 2015–2019 has shown us anything it is that solidarity, structural change and inter-ethnic reconciliation are unlikely to emerge within the timeframe of a two-or-three-year project funding cycle.

At a time when the restrictions posed by COVID-19 and increased government surveillance of CSOs is leading to heightened anxiety amongst activists and a sense

88 Goodhand, 'Stabilising a Victor's Peace', 360-61.

89 Tamil MP, C.V. Wigneswarn makes this point in a twitter post. He argues that while evidence gathering is taking place over the next 2 years the government will commit serious human rights violations against the Tamil people. He argues that those states who voted in favour of the resolution should take responsibility for the safety of the people (Twitter post, 23 March 2021).

90 Interview 13, 24 May 2021.

91 Orjuela, 'Dilemmas of Civil Society Aid', 10.

Donors could help to create safe spaces for civil society groups to come together and, when COVID-restrictions permit, undertake regular visits to the North and the East, which may help to keep a check on more extreme forms of surveillance and abuse.

of isolation amongst those in the North and East, expressions of international solidarity are also essential. Donors could help to create safe spaces for civil society groups to come together and, when COVID-restrictions permit, undertake regular visits to the North and the East, which may help to keep a check on more extreme forms of surveillance and abuse. At the same time, donors should be mindful that they are easily perceived by political elites as biased towards minorities in the North and East. Visits to, and ongoing engagement with, Sinhalese communities in the South is also needed.

Ultimately, the return of the Rajapaksa family to power provides an important lesson on the need to take a long-term

perspective on peacebuilding, democratisation and justice in Sri Lanka. It also highlights the limits of, and contradictions within, the liberal peacebuilding project. The Yahapalanaya regime might have seen a relaxing of some of the more extreme forms of surveillance and militarisation of the previous government, but donors and civil society actors were perhaps too quick to assume that regime change would lead to substantive, transformative change. Given the victor's peace, and the militarisation of civilian governance due to the COVID-19 pandemic, we are likely to see the further entrenchment of illiberal peacebuilding, at least in the short term.



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