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„Reconciliation without Truth? Truth without
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Lankan Reconciliation Process“

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"In Sri Lanka a well-told lie is worth a thousand facts" - Michael Ondaatje

Note from the Author

My journey to Sri Lanka began in September 2013 and lasted for about 4 months. Although I was driven by the deepest curiosity to understand the situation on the ground, I entered the stage as a blank slate. The contrast between written reports and articles and the direct experience of the current state of affairs made me soon realize that the answers I was looking for can neither be found in documents nor in individual experiences. It was rather the careful synthesis of literature review, media analysis, dialogues, interviews and observations on site that had to be put together like pieces of a puzzle, to hopefully create a more profound and complex picture of the Sri Lankan Dilemma.

This paper is the result of a genuine confrontation with many of the perspectives that are inherent in such a conflict, trying to transcend both the ethnic and ethical dualism to bring closer the truth that lies beyond partisanship, mutual blame assignments and bigotry, covering up the desire for harmony, prosperity and generosity which is comes naturally to most of the people. The realization that problems merely exist in isolation, the interconnectedness of various disciplines and emerging phenomena as well as the limited insight gained from single sources framed my very personal approach to an analysis of the Sri Lankan conflict. I felt the need to look beyond the law, social divisions, cultural meanings, subjective opinions and the various parties' strategies, realized the urgent need to de-construct ingrained narratives and to acknowledge the individual as well as the societal dimension of "truth", which both do not merely coexist but mutually nourish and reinforce each other. As the distinctions between causes and effects might become blurred, it is crucial to think against the mainstream, be creative and surprising, to emphatically re-frame the experiences and observations in such a way that an imagined and desired solution might actually take shape.

My research activities were accompanied by a sincere appreciation of the people and their customs, the outstanding beauty of the islands landscape and the vividness of the country's culture.

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1. THE SITUATION

1.1. Sri Lanka in 2014

1.1.1. Five Years After the War

More than 5 years have passed since May 2009, the final victory of the Sri Lankan government's armed forces over the LTTE, the militant Guerrilla-organisation of the Tamil minority, considered amongst the most lethal terror organizations in the world. (Jayatunge, 2014) The country was again reunited after 26 years of violent struggle for Tamil Eelam, the promised country and safe haven of the Tamil people. The end of the war finally brought "peace" to the country, a forced unification of the divided territory, where the LTTE was running a de-facto state with its own police, banks and court system. For the Sinhalese majority community, this victory represents the beginning of a new era without the ever-present fear of terrorist attacks and bringing hope for an economic upturn. The dramatic end of the war and the complete defeat the Tamils had to suffer created a new situation within Sri Lanka that has not been consolidated yet.

This marks the starting point of my analysis of the correlations between truth, justice and reconciliation, an analysis of the current strategies and ongoing attempts to reconcile the fractured relationships between the majority and the biggest minority in the country, aware that peace being much more than the absence of war and that Sri Lanka's post war evolution of politics has become seriously bogged down. The rule of law, a genuine process of reconciliation, accountability and truth seeking are at successively increasing risk from authoritarianism and intolerance. (Hottatuwa, 2014) After the end of the war, the Sri Lankan Government promised a swift process of reconciliation and accountability, a genuine effort to bridge the separation between the ethnic communities and enable freedom within a united Sri Lanka, as President Mahinda Rajapaksa and UN-

General Secretary Ban Ki Moon have announced in a shared statement on May 23rd, 2009. (Ministry Foreign Affaires, 2009) Instead of giving birth to a new era of freedom, Sri Lanka's post conflict politics is characterized by a growing climate of fear, eroding existing systems of law and order, restricting press freedom and damaging constitutional checks and balances crucial for a prevention of the abuse of power. (Faaiz, 2014)

Although the country is eager to present itself as a flawless democracy, international reports paint a different picture of the situation in the country. Political activists have been hindered from travelling to Geneva to report their issues to the Human Rights Council, journalists are being intimidated and public demonstrations have been prohibited. The Regime was further trying to limit the live-broadcasting of the BBC's Tamil speaking channel about the negotiations taking place in Geneva. Serious tensions between parts of the Sinhalese Buddhist clergy and other religious groups, mainly the Muslim Community, have also been reported by national and international media. (Carver, 2013)

The government is still very popular, although this popularity might have decreased in recent months, but the political opposition is not willing or able to challenge the government and offer any substantial alternative. The incumbent regime is still maintaining a high level of militarisation in the northern and eastern provinces and the anti-terror legislation still remains intact. The regime is gaining political benefits through its ongoing self-portrayal as the only and necessary defender against the LTTE, which they allege could regroup itself in the north at any time. (Saravanamuttu, 2014).

Five years after the war, Sri Lanka has still not made a full transition from a "post-war-society" to a "post-conflict-society". Although openly expressed violence is rather uncommon, the roots of the conflict that have given rise to the armed struggle have not been addressed as such. The political relationship between the government and the Tamil representatives still remains extremely polarised. The government's refusal to cooperate with the Human Rights Council in Geneva and the recent ban of many Tamil Diaspora Organizations and a few hundreds of individuals being accused of terrorism are a further indication of the prevailing consciousness and strategy of the government. The people in the north are very sceptical about the government's allegations, seeing them mainly as a

political attempt to justify the strong military presence. Prioritizing the military to counter a potential terrorist threat leads to the failure in finding a political solution with the Tamils, which would be the essential ingredient for establishing a true peace in Sri Lanka after the military victory. Despite international pressure for reconciliation, the government responds to any arising challenges on the ground only as it sees fit.(Perera J., 2014) There is the urgency that the regime invests all of the available resources to genuinely confront the Tamils to jointly seek a political settlement in terms of autonomy and self-governance. The need for a process of accountability addressing the serious allegations of war crimes and violations of international humanitarian law constitutes another major obstacle for the government to change its approach towards the Tamil community. Sri Lanka in 2014 is still struggling with the same problems as after the end of the war, without any serious progress being made so far. Reconciliation as a multi-factorial process is dependent on various interlocking components, in the context of Sri Lanka these can be described as the following:

Specifically related to the Tamil minority:

- Process of accountability and truth seeking into the last stages of the war
- Political settlement with the Tamils about a form of regional autonomy or self-governance
- End of the strong military presence in the north, sustainable economic development and basic human need satisfaction

Related to the Sri Lankan society as a whole:

- Re-establishing of the rule of law and the functioning of democracy and independent institutions
- Change of the political climate from a culturalist authoritarianism to a multicultural cosmopolitan self-understanding
- Freedom of the media and civil society, genuine cooperation with

international human rights bodies

This is just a short overview outlining the burning questions that are inherent to the Sri Lankan conflict. The complexity of the Sri Lankan situation lies in the interconnected nature between causes and symptoms, making it difficult to address one of these issues independently. What is required is an analysis of how these needs affect each other and determine the political reality in Sri Lanka five years after the end of the war. Neither international pressure from the former UN-High Commissioner on Human Rights, Navi Pillay, nor the resolutions regarding Sri Lanka passed by the Human Rights Council in 2012, 2013 and 2014 have produced any substantial positive change within the island. (Bateman & Innasimuttu, 2013) Human Rights Activist Ruki Fernando said in an Interview about the state of reconciliation in the beginning of 2014 very clearly that: *“We are now further away from reconciliation than in May 2009. There were a few positive steps the government has taken, but by and large what has not been done outweighs these. Therefore I am saying we are further away from national reconciliation. And the government is primarily responsible.”*(Interview with Fernando, 2014) The Situation in Sri Lanka is in a deadlock, maintaining the status quo instead of promoting a radical change of consciousness.

1.1.2. The State of Human Rights in 2014

Sri Lanka has been regularly criticized for its overall negative Human Rights Record. Although HRC - Resolutions have been passed against Sri Lanka in 2012, 2013 and 2014, the outlook regarding a substantial improvement of this situation is rather disappointing. The Sri Lankan government is not just ignoring the resolutions passed against the country, but further violating fundamental Human Rights enshrined in various international treaties that Sri Lanka has ratified. The Recommendations of the national “Lessons Learnt and Reconciliation Commission” LLRC, trying to address both the root causes of the conflict as well as consequences that have arisen out of the war, have not been

implemented yet. Further, Sri Lanka violates its own constitution by not fully implementing the 13th amendment that would partly devolve power from the central government to the established provincial councils and enable a certain extent of self-governance. The “Civil Society Collective” names several unresolved issues violating national and international law and treaties. The long list covers issues such as demilitarisation of the northern and eastern provinces, compensation for land acquisition and military occupation of land, the rehabilitation of ex-combatants, investigations into alleged gross human rights violations, the finding of a political solution for the Tamil people and serious engagement with the Special Procedures of the OHCHR.(Civil Society Collective, 2013). There is also ongoing concern about the increased attacks on Sri Lankan human rights defenders. Well known human rights activist Ruki Fernando was arbitrarily detained under the PTA¹ and taken into custody in March 2014. He was released a few days later after national and international protest, but nevertheless his freedoms remain strongly restricted; the court stop him from travelling abroad and speaking about his arrest, detention and the investigation, indicating that the government wants to portray human rights defenders as a threat, destabilising the country.(Forum Asia, 2014).

In a statement from July 2012, the Director of the Commission for Justice and Peace of the Diocese of Jaffna in the north of Sri Lanka pointed out the most burning issues that required address related to the Situation of the Tamil people in the north. He first referred to the changes that had already been realised in: the widening of streets, laying carpet roads, the construction of new bridges, banks, shopping complexes and hotel facilities. These measures give an appearance to the visitor that the north is developing rapidly. These perceptions are however misleading when it comes to the real benefits for the Tamil population. Many issues remain unsolved and are hindering progress in the relationship between the Tamil and Sinhalese communities, such as:

- Unsatisfactory conditions for many of the resettled people struggling

¹ Prevention of Terrorism Act

with their livelihood due to the prevailing military rule in the north, reports of burglaries, robberies, murders as routine events, carried out by masked individuals, belonging to armed-groups allegedly aligned to the government.

- Creeping “Buddhification” of the north, mainly along the main northern A-9; huge statues of the Buddha erected.
- Human rights activists and outspoken persons, criticising corruption and the abuse of power, threatened; no free functioning of the judiciary, intimidation and extraordinary transfers of judges; jobs and privileges given mainly to supporters of the government.
- Lack of a process of accountability for the huge number of civilian casualties during the final stages of the war.²(Mangalarajah, 2013)

The report of the Office of the United Nations High Commissioner for Human Rights on “*Advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka*” offers a good overview regarding the shortcomings of Sri Lankan compliance with national and international human rights law. Representatives from the OHCHR visited Sri Lanka in September 2012, meeting government officials working in the fields of economic development, defence and justice. The key findings as outlined in document A/HRC/22/38 can be summarized as following: there is an “*outstanding request*” to visit Sri Lanka by special procedures mandate holders, such as on minority issues³, an erosion of the rule of law and the administration of justice, a credible investigation of extra-judicial killings and enforced disappearances, a reform of detention policies, the upholding of the right to freedom of opinion and expression and the urgent demilitarisation of the north and east.(A/HRC/22/38)

In February 2014, the OHCHR submitted an updated version of its report to the

² Officially the operation was conducted as a “humanitarian rescue operation with a zero-civilian-casualty-policy”. The Bishop of Mannar Rev. Rayappu said in his testimony before the LLRC that about 146,000 people were still unaccounted for. (Mangalarajah, 2013)

Human Rights Council about the “*Promotion of reconciliation and accountability in Sri Lanka*”. The recommendations include a repeal of the Prevention of Terrorism Act and to undertake “*independent and credible criminal and forensic investigations with international assistance into all alleged violations of human rights and humanitarian law, including recently discovered mass graves*”.(A/HRC/25/23) Finally on March 26th, 2014, the Human Rights Council passed the resolution A/HRC/25/L.1/Rev.1. The resolution expresses deep concern about human rights violations and shortcomings in the fields mentioned above, referring to the ongoing intimidation of civil society members, sexual violence, enforced disappearances, torture, violations of the freedom of expression and association and extra judicial killings, as well as threats to judicial independence and the rule of law. It also calls on the Sri Lankan government to fulfil its public commitments, including the devolution of political power. The resolution points out the “*importance of a transitional justice mechanism incorporating the full range of judicial and non-judicial measures*”⁴, pointing out that a “*truth-seeking processes, such as truth and reconciliation commissions that investigate patterns of past human rights violations and their causes and consequences are important tools that can complement judicial processes and should be founded on broad national consultations with the inclusion of victims and civil society*”. It further “*calls upon the Government of Sri Lanka to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law*”⁵.” (A/HRC/25/L.1/Rev.1.)

What has been brought into focus through this resolution is primarily the government’s lack of commitment to reconciliation. The government is barely taking any constructive measures to address the criticism made by the UN resolution, instead increasingly mobilising the majority of the population through nationalistic sentiments against the external interference. The government is responding by accusing the west of a

(A/HRC/25/23)

⁴ “including individual prosecutions, reparations and truth-seeking to ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation”

⁵ “to hold accountable those responsible for such violations; to end continuing incidents of human rights violations and abuses in Sri Lanka; and to implement the

conspiracy driven by the US and the Tamil Diaspora, trying to achieve a regime change in Sri Lanka, portraying the Tamil Diaspora organizations as further supporting separatism and terrorism. (Bopage, 2014) Since the end of the armed conflict in 2009, the regime has failed to unite the fractured society; instead it has created further barriers to reconciliation and unity through various social, political and cultural interventions. (Bopage, 2014)

1.1.3. “Hybrid Peace”⁶

The end of the war did not bring an end to the ethnic conflict as such, but rather a “*Cold peace*”⁷ defined through the absence of armed struggles, secured through a disproportionately high military presence in the northern and eastern provinces and the exhaustion of the Tamil people following years of war. This relative absence of violence is accompanied by an increasing authoritarianism, expressed through the various allegations of human rights violations mentioned above. Together they constitute a state that might be called “hybrid peace”. As the Prevention of Terrorism Act is still in force, security forces have a broad power to arrest and detain individuals under the pretext of a threat to national security. These laws often get misused to silence critical voices and to generate a climate that is hostile towards dissent and any criticism of the government. The Sri Lankan political system and governance is structurally democratic, but is under strong influence of the ethnic division in the country. Political phenomenon such as patronage, the image of a strong leader and the romantic portrayal of the rural societies and village life are core components of the government’s attempt to emphasize and further establish Sinhalese Buddhism as the dominant culture in Sri Lanka. The expressed celebration of the victory against the LTTE promotes patriotism as the key ideology of the state. Under the surface of an externally displayed harmony and unity, the Sri Lankan society remains divided, while grievances of the minorities are confronted with ignorance or hostility.(Orjuela, 2012)

recommendations made in the reports of the Office of the High Commissioner” (A/HRC/25/23)

6 (Orjuela, 2012)

7 Dayan Jayatilaka

The Sri Lankan conflict has also a strong international dimension with serious implications for the peace process in the country. The perception and portrayal of the powers of the international community is divided between “friends” of Sri Lanka and the ones who foster separatism and publicly accuse the government of human rights abuses. There is also the noticeable trend that traditional global powers such as the US are losing their influence compared to emerging powers such as Brazil, India, South Africa and China. Many critics of the western influence are also pointing at the double standards of these countries in regard to the wars in Afghanistan, Iraq and Libya. In the Sri Lankan conflict, the tensions between the upholding of human rights and the international war against terrorism have become very obvious. (Orjuela, 2012)

This friction within Sri Lanka between attempts to reconcile domestic pressures from various stakeholders and the concerns of international organizations seem to fundamentally challenge the regime. The GoSL is in a serious dilemma, being criticized by international reports for the current situation in the country and its attempt to maintain power and control over this “hybrid peace” it has created. (Weerawardhana, 2011)

The Situation in regard to peace building and conflict transformation can be characterized by three main phenomena creating serious obstacles to moving forward towards a reconciled future. Firstly, a strong link between peace and state governance results in the strengthening of the regime and the president’s power and decreases the space for critical voices and civil society engagement, leading to an asymmetry of power and the dominance of the Sinhalese over the Tamils. The contrasts between the international and the domestic dimension becomes blurred, as many Sri Lankan NGOs are funded by western countries and are advocating more liberal approaches to peace and justice, which are being portrayed by the government as imperialist interferences. Secondly, there are questionable double-standards inherent to the foreign policy of countries like the US and the UK, which were supporting the war against terror in the first place but are now criticizing the Government’s strategy. (Orjuela, 2012) The interdependence of these phenomena will be subject to a further analysis of how a transformation of the Sri Lankan ethnic conflict balancing human rights and basic human needs might be achieved.

1.2. Approximation

1.2.1. Multi-Dimensional Nature of the Crisis

The Sri Lankan Conflict confronts us with a multiplicity of dilemmas. Not all of them are equally important, but many of them are in interconnected relationships with each other that have a significant effect on the nature and dynamic of the given conflict-lines. In a very broad sense, it is crucial to distinguish between the various levels in time and space as well as the internal and external dimensions of the actor's psyches, behaviours and argumentations, both in a collective and individual sense. They affect the perception and discussion about human rights and their potential significance how to play a constitutive role in Sri Lanka's future. This is a by far incomplete enumeration of contexts, underlying questions and background assumptions that are inherent to a successful assessment of the multidimensional nature of this conflict:

- The diversity of the various transitional justice mechanisms and their efficiency, the balancing between retributive and restorative elements of justice and their individual and societal dimension, how to deal with implications from international treaties within the political realities on the ground
- The normative limitations of legal provisions against the populist mobilization of unprivileged masses and the resulting tension between realist and maximalist positions among the parties
- universality of Human Rights and cultural/regional relativism, internationalism and liberalism versus nationalism and populism, a moralistic approach based on human rights and the rule of law versus acknowledging socio-political realities
- The different perceptions of justice on the micro and macro level of society,

the tension between identity, ethnicity, state power and institutions and their interaction

- The creation, distribution and perception of “truth”, the overall flow of information and opinion distribution among parts of society
- The right to self determination and its boundaries, the tension between legitimate and illegitimate claims based on basic human needs

To summarize the thoughts expressed above, the Sri Lankan Conflict is embedded in complex socio-political, historic-political and geopolitical contexts, diverse crucial background aspects of ethnicity, culture, the particular governance arrangements, political and civil institutions, dominant social roles and norms arising out of law and customs as well as its state of economical and social development. It is not my attempt to offer a satisfying answer to all the thoughts expressed above, as in many of these cases a definitive answer is hardly possible due these phenomena being particularly embedded and interconnected. My intention is to confront the reader with this broad horizon of contexts in order to avoid to drawing any hasty conclusions or easy solutions.

Dayan Jayatilleka⁸ lists in his new book “Long War, Cold Peace” 5 crucial issues that are in his opinion constituting the multi-dimensional nature of the Sri Lankan Crisis:

- “crisis of national unification” of the various different ethnic identities into an “overarching Sri Lankan macro identity”
- Inability of “the transition to a state that is neutral as between the constituent communities”
- crisis of public policy which is arising out of the war⁹
- party system and in particular the main opposition party
- Crisis of transition and transformation. (Gunatilleke, 2013)

⁸ former ambassador of the GoSL to Paris and to the HRC in Geneva and one of the most outspoken intellectuals of the country

⁹ The military as becoming the major stakeholder in the country

These observations indicate that reductionism, simplification and deadlocked convictions must be overcome in order to carefully approximate the potential truth beneath the surface of the symptoms defining the Sri Lankan conflict.

1.2.2. Conceptual Frameworks

When assessing the field of post war conflicts and distorted relationships between communities after violence and Human rights abuses, three major terms are predominant in the scholarly literature. These concepts are those of transitional justice, conflict transformation and reconciliation. All three terms, although having a distinct meaning, understanding and scope as well as an overlapping dimension, are often being used interchangeably by various authors and scholars, which has contributed to a watering down of their narrow meaning and leading to difficulties in terms of differentiation.

Over the last decades, an enormous amount of scholarly contributions emerged from various humanistic disciplines, from international law to political science, from discourse analysis to the metaphysics of truth and justice, from peace research over human rights to systemic conflict transformation. Most of these approaches are multidisciplinary approximations to complex questions arising out of the intersection of law, sociology, psychology and anthropology. Transitional justice and conflict transformation, although seen as distinct fields of research and practice, share a considerable overlap, mainly in their attempt to create a shared future of divided societies. Nevertheless, both are necessary ingredients for the framing of a sustainable future after conflict. (Kayser-Whande & Schell-Faucon, 2012, p.p.97)

1.2.2.1. Transitional Justice

Since the Nuremberg Trial after the end of the WWII. an extensive globalization of the phenomenon of transitional justice has taken place, ranging from the Balkans over Latin America to Southern and eastern Asia, trying to judicially resolve problems arising out of war and the shift from totalitarian to democratic regimes. Parallel to this process, there has

been the realization that transitional justice mechanisms, when applied in different contexts, often do not achieve the reconciliation, healing and justice that has been expected. Transitional justice is also a process which is very likely to be met by resistance, as it is characterized by blame, claims about responsibility and often includes criminal punishment, being framed as a struggle for human rights implementation and international intervention. Transitional Justice operates in the tension between the “*internationalized state*”,¹⁰ existing “*domestic constituencies*”¹¹ as well as the “*engagement of Diasporas*”¹². (Orjuela, 2013)

There are various instruments of dealing with the past, from international criminal tribunals over national prosecutions and community courts, the passing of amnesty laws, the involvement of land commissions and courts, going hand in hand with the release of political prisoners, disciplinary measures and reparations for the victims. Relatively recently, since the South African transformation from the Apartheid-regime towards a broad multicultural society, truth commissions became a very popular model in dealing with past atrocities. Grassroots reconciliation work is another highly important sphere to secure inner coherence of the transformative processes and the involvement of the broad civil society.

Nevertheless, transitional mechanisms such as judicial prosecutions of perpetrators might be very ambiguous in their nature. Although they break the culture of impunity, can prevent future human rights abuses and increase awareness of human rights and humanitarian law, they are however often limited in their impact on true reconciliation between the societies¹³. (Theissen, 2004, S.16)

10 state being subject to international political influence through foreign relations, the impact of international organizations and media broadcasting

11 social, political, economical situations, impact of religious groups, civil society organisations and media

12 Diasporas having a strong impact on the situation on the ground, distribution of money, knowledge, ideology, resources, ability to internationalise a conflict

13 dysfunctional justice system; procedural standards and legal representation can be insufficient; trials might provoke violent resistance of the defeated parts of society; prosecutions are often costly and time-consuming; trials may also give more public attention to perpetrators than to victims; people responsible for past atrocities might still enjoy high reputation; corruption of established judicial institutions (Theissen, 2004, S.16)

1.2.2.2. Conflict Transformation

“The peace-builder must have one foot in what is and one foot beyond what exists”, says John Paul Lederbach, for him conflict transformation¹⁴ being a field of permanent discussion, trying to further understand the nature of human relationships, including both face-to-face interactions as well as the way we structure our social, political, economical, and cultural relationships. Peace is seen as a “process-structure”, as a dynamic, adaptive, and changing phenomenon. Conflict transformation sees “*social conflict*” as permanently evolving, producing changes in the personal¹⁵, relational¹⁶, structural¹⁷ and cultural¹⁸ dimensions of human experience. (Kayser-Whande & Schell-Faucon, 2012) Conflicts have life-affirming and life-destroying aspects, forming the contradictions that emerge in society and manifest themselves in attitudes and behaviour. These conflicts may be eliminated by transcending the contradictions, by finding a compromise or a change of the conflict structure¹⁹. If governance and society are offering sufficient capacity, the political system is not too much politicized and the international environment is conducive, accommodation and forms of political confrontation become possible, which might promote a more legitimate decision-making, strengthen the community’s autonomous development and help to sustain civil politics, finally enabling a better satisfaction of basic human needs²⁰. The crucial point is that conflict transformation does not see conflict as a static set up of circumstances creating a problem that has to be resolved, but understands it rather as an integral part of society’s on-going evolution and development. These have to be transformed rather than resolved.

14 The idea of conflict transformation emerged in the work of European structural theory, the most influential contribution to date being that of John Paul Lederbach and Johann Galtung.

15 Reducing the destructive effects of social conflict

16 enhancing communication and understanding

17 creating structures that meet basic human needs and strengthen public participation

18 Identification and understanding of the cultural patterns that lead to violent expressions of the conflict

19 can be resolved through the shifting from an unbalanced to balanced relationships

20 “multi-track” interventions emphasize the building of peace constituencies at the grassroots level and across the parties at the civil society level, also forging peace alliances with business groups, the media and the military.

Debates about the relationship of peace research, transitional justice, human rights and conflict transformation have evolved to an understanding of the need of synergies and complementarities, mediating between the various dimensions of social conflict, such as the legal-judicial, the political, the economic, the socio-cultural and the religious, spiritual and the psychological sphere.(Kayser-Whande and Schell-Faucon, 2012, S.105) These questions of peace and justice are irrevocably interconnected and mutually reinforcing each other, making “Reconciliation” the key connecting point and intersection between transitional justice and conflict transformation. They are both concerned with the way people deal with post-conflict situations, human rights violations and violence. Reconciliation connects these issues with the human needs for acknowledgement and the final restoration of livelihoods and cross-ethnic relationships to repair the fractures within society and build better lives for the people.(Kayser-Whande & Schell-Faucon, 2012, p.101)

1.2.2.3. Systemic thinking

Systemic thinking²¹ embraces a broad spectrum of theories, principles, methods and techniques, all based upon the fact that the whole is more than the sum of its parts. It follows the premises that “*all statements have to be seen in the social context of the persons making them*” and that “*explanations for social phenomena are most often complex and of circular character.*” (Ropers, 2010, p.103). The main characteristics of “Systemic Thinking” are the identification of phenomena such as the network structures²², dynamic frames²³, mental models of perspective-dependency²⁴: and the “concentrating on human beings and their learning processes”²⁵. (Ropers, 2010, p.104)

21 Systemic thinking emerged from meta-theories such as complexity sciences or cybernetics, developing methodological approaches to understand and simulate the behaviour of complex systems over time. (Ropers, 2010, p.103).

22 identifying feedback loops, e.g. the solution to a problem for one party becomes the problem for the other one which leads to a reinforcement of the first problem

23 understanding that causes and effects in social systems do not follow a simple linear, are connected in a rather complex way (Ropers, 2010, pp.117–122)

24 Analytical models are a reduction of the reality, only a tool and not “the reality”. (Ropers, 2010, pp.117–122)

25 Focusing on individual and collective learning processes to understand and influence the system dynamics (Ropers, 2010, pp.117–122)

Applied to the field of Conflict transformation, a systemic approach helps to identify who the conflict parties are and what characterizes them and what the issue of the conflict is in terms of positions, interests, values and needs ,the history of the conflict and structural and contextual features that influence the conflict's dynamics.(Ropers, 2010, p.109) Systemic thinking is also very useful in recognizing and defining so-called “*archetypes*”, explaining certain patterns of behaviour which are re-occurring in a conflict. These patterns, typically perceived as “resistances”, are the forces preventing the actors from adapting their strategy and behaviour according to their proclaimed goals such as promoting peace, justice and reconciliation. The contribution of Systemic thinking is to help to make such dynamics of resistances more transparent and comprehensible. Some of these re-emerging patterns, especially in regard of the Sri Lankan conflict are “*Ethnic Outbidding*”²⁶, “*Mutual Disappointment*”²⁷, “*Avoidance of Core Issues*”²⁸, “*Dilemmas of Asymmetry*”²⁹ and “*Paradoxes of International Safety Nets*”³⁰. (Ropers, 2010, pp.117–122)

1.2.3. Roads to Reconciliation

Whole libraries have been filled with scholarly contributions about the nature of reconciliation, making it both a well researched issue as well as a confusing, vague and ambiguous term, allowing various contents and approaches being related to it. Nevertheless, reconciliation is usually referred to as being a process, a journey and a path, a long term and time-consuming process. Every conflict has its unique and individual aspects and characteristics concerning the challenges for reconciliation, but there are also general similarities that can be found in most of today's ethnic conflicts.

Reconciliation in Sri Lanka has various different requirements and challenges that have to be considered and balanced against each other; the 5th anniversary of the war

26 ethno-nationalistic sentiments to maintain power are being played off against a true commitment in the peace process(Ropers, 2010, pp.117–122)

27 environment characterized by mistrust and skepticism, often even hostility(Ropers, 2010, pp.117–122)

28 Difficulty to address the key issues immediately, the interaction between just two parties implies the general danger of a win-lose dynamic (Ropers, 2010, pp.117–122)

29 Asymmetric structure of the status of the parties, their powers, resources and means of warfare (Ropers, 2010, pp.117–122)

coming to an end offers an important opportunity to reflect upon why the conflict still continues to be unresolved under the surface of external “consolidation”. There are two ways of approaching the question of reconciliation: the one is about looking back at the history, the other is about thinking of the future. Both seem to be equally important to truly change the protracted situation in the country. (Hoolie, 2012) These reflections are pointing clearly towards the two-fold strategy that is crucial for a lasting reconciliation in Sri Lanka, one being a process of Justice dealing with past violence, the other a political solution of the questions arising out of the Tamil demand for self-determination, an issue directed towards the future. Additionally, a profound analysis and exploration of oneself and the other, an almost psychoanalytical analysis of the relationship between the two communities might also be a crucial component for achieving a state of society that truly deserves being called “reconciled”.

From a historical perspective, there is the crucial need to come to terms with the results of the 30 year long war, the allegations of war crimes committed by both sides of the conflict and the losses of property and displacements of big parts of the Tamil population. These unresolved issues led to the emergence of a culture that tolerates injustices, corruption and creates fear between the communities, leading to a growing intolerance of alternative ideas and visions. (Hoolie, 2012) Without a proper investigation of the past, the creation of a just and fair future for all communities is very unlikely. *“Do not allow the past to kill the future”* said Frank Chikane from his personal experience in South Africa, emphasizing that *“the political representatives need to realize that a lack of addressing the urgent calls for coming to terms with the past might expose the country to a very uncertain future.”* (Chikane, 2013)

The other crucial dimension of reconciliation is to approach the future. There is the need for a national policy of reconciliation, a vision for the future fostering a sense of togetherness. A vision has to contain a scenario for the political and societal developments necessary for bridging the gap between the Sinhalese and Tamil communities towards

30 Potential of international actors to influence developments in the country (Ropers, 2010, pp.117–122)

“inter-ethnic amity and national unity”. Such a vision works as a *“guiding light”* for the various stakeholders, ensuring that the process of reconciliation remains coherent. (Yusuf, 2013) This Vision has to include the practical question of how to politically address the needs of the Tamil people, how to enable equal political participation and avoid structural discrimination and economic marginalization. An understanding of all the layers and depths of the conflict, including an awareness of the entire spectrum of individual and collective experiences, their subjectivity and impartialities is crucial in order to initiate a deep process of questioning of oneself, the personal experience and the individual potential contribution. (Trishantha, 2014)

“It is crucial that that Tamils understand the Sinhalese and vice versa. Tamils think that the Sinhalese don’t want rights for Tamils, and the Sinhalese think that Tamils are the cause of all the problems. The Diaspora only mentions Sri Lanka as a Sinhalese state. You connect Sinhalese people to what the state does. That will make it difficult for the people in the north to differentiate these two”, says an experienced researcher and policy adviser about the relationship of the two communities. (Interview with Meenilankco, 2014)

The creation of a shared and inclusive Sri Lankan identity that unites all its peoples is another crucial aspect in moving the country forward to a durable solution. Being Sri Lankan should become a concept of identity that results from both ethnic identities inhabiting the island without giving up the unique individual particularities characterising the ethnic diversity of Sri Lanka. (Yusuf, 2013)

Besides the need to address the past, the future and the self, reconciliation is also very much dependent on a functioning of democracy as a meta-framework enabling all these processes to take place, ideally based on a mandate from the people concerned. Jeremy Sarkin expressed his experiences from South Africa, stating the most important factors for reconciliation being the creation of a national identity, the reduction of violence, the creation of stability through the delivery of justice and a political settlement, the

fostering of social harmony and economic growth and the promotion of the ethos of democracy, trust and belief in the system.³¹(Sarkin, 2013)

This brings us back to the question of who is responsible for reconciliation taking place. It is every individual in general and the government in particular who are responsible for designing the right strategies and maintaining the effort. This is the serious problem in Sri Lanka as the government is restrained in its efforts and the majority of the population does not push for reconciliation politically. Reconciliation can be most successful if the people from the street, the common man and the masses start demanding it. (Hoolie, 2012) A saying in Sri Lanka emphasizes that the responsibility for the current situation stretches across time, across whole generations with shared responsibilities: *“Our grandfathers created the conflict, our fathers fought the war, and finally it is us who have to resolve the conflict and reconcile.”*

The following sections of this contribution are dealing extensively with the various forces, contexts, visions and obstacles of reconciliation in Sri Lanka, trying to balance between applied and applicable mechanisms, human rights and justice, the basic needs of the people on the ground and the given social and political realities on the national and international level. Ultimately, Sarkin emphasizes, *“Reconciliation is about a journey. Sometimes the journey is backwards, sometimes people on the road throw stones, but these are challenges that a genuine Reconciliation process needs to overcome.”*(Sarkin, 2013)

1.3. Methodology

1.3.1. Preliminary Thoughts

My aim in this Master`s-thesis is threefold. Firstly I want to give a structural and systemic analysis of the Sri Lankan ethnic conflict, seeking to understand the complex

³¹ *“Reconciliation is the soil in which democracy takes roots. Democracy can thrive only if separate fractions have chosen to be governed in common, democracy requires that the disappointed accede to the will of the majority, which is possible only if the minority and the majority reconcile.”* (Sarkin, 2013)

patterns that shape the discussion about reconciliation within the country and on the international level. I want to deliver a map of the system of actors, driving forces, push and pull factors and collective and individual dimensions that co-create the tensions that seem so difficult to resolve.

In a second step, I want to extract the crucial elements that are framing the current debate about transitional justice, truth-seeking and accountability and how they interact with the need for a political solution for the Sri Lankan Tamils 5 years after the end of the war. The goal is to establish some sense of clarity in terms of legal, social and political dimensions that are often being confused and pitted against each other.

Finally I am going to elaborate the interlocking obstacles that are hindering a solution and trying to develop strategies that might transcend these obstructions to overcome the deadlock in the current process of reconciliation.

It is crucial to profoundly understand the conditions and structures of the problem we are talking about in Sri Lanka, otherwise the applied strategies of the various actors will be incomplete, narrow and contradictory, not leading to the expected results and fostering further polarization. We urgently need a careful assessment of the time-frame, space and subject-object-relationship defining the discussion about reconciliation in Sri Lanka. How to create the highest possible consistency between national and international strategies embedded in international legal frameworks and influenced by strategic interests of regional allies and the global community? In a society everything is fluid and interconnected. Dealing with one isolated question might satisfy the needs of a rigid methodology, but the result is most unlikely reflecting the current state of the given affairs in its full complexity. Therefore the question of finding a methodology that enables a scientific contribution that might be valid within various contexts and perspectives was of crucial importance for me.

1.3.2. Methodological Convergence

“We need a radical thinking, a multidimensional thinking, and an organisational or systemic thinking,” says the philosopher Edgar Morin. (Montouri, 2008) This seems to be especially true in the sphere of conflict transformation and reconciliation. The Sri Lankan Conflict can be viewed and analysed from various angles and perspectives, according to the specific lens determined by the scientific discipline one belongs to, being able to deliver scientific evidence regarding partial questions related to the underlying conflict. I am personally convinced that what is required is a synthesis of the various academic and methodological approaches to generate a multidisciplinary and holistic understanding of the highly interconnected problems that Sri Lanka is facing. Reductionist approaches might fail to consider other crucial factors that are determining the way the conflict emerged, how it is structurally constituted and the criteria that must be taken into account to design a realistic and promising transformative process towards sustainable peace³².

1.3.2.1. Integrative Conflict transformation (by Graf and Kramer)

This analytical approach used in this paper is strongly inspired by the methodological framework called *“Integrative conflict transformation”* developed by the peace-researchers Wilfried Graf and Gudrun Kramer. It further develops Galtung’s *“Transcend-Approach”*³³ by the application of Edgar Morin’s Theory of *“generalized complexity”*³⁴. (Graf, Kramer, and Nicolescou, p. 124)

This enables the development of a methodological framework for pluralist trans-disciplinary peace research, complex conflict analysis and interactive conflict transformation through the integration of systemic thinking, narrative understanding and

32 . This analysis also tries to reflect the recognition of the limitedness and relativity of knowledge, inherent to a postmodern concept of plural knowledge legitimized and objectified through interpreting individuals, communities and finally stakeholders, enabling contradicting positions to remain in a state of parallel existence. The discourses about truth, justice, reconciliation and political settlement are shaped by this diversity of perspectives, constructions and formations of knowledge and their specific life-worldly applications. (Neubert & Reich, 2002, p.p.3)

33 Emphasis on nonviolence, creativity, and empathy, facilitating outcomes where the conflict parties create a “new reality” in their relationships

34 based on the concept of “basic human needs” as the fundamental frame of reference

interactive constructivist³⁵ intervention. Based on this paradigm and the concept of basic human needs, Graf and Kramer developed their own unique trans-disciplinary approach through the combination of Systems (structures and organizations), culture (meanings), action (interaction and social change) and the psychological and inter-subjective dimension (*“the cultural inner lives and worlds of the actors”*). Systemic social structures exist within and between societies in which actors operate, influencing the behaviour of these actors. This can be understood as the *“outside world”*. Cultural and symbolic understanding represents the inside world of such individuals, groups and societies, their patterns of their thinking and understanding of particular meanings. This represents the psychology of the individuals and groups, their *“inner world”*. Finally there is interaction, the meeting point of the inner worlds of the actors with the outer world they are embedded in, shaping the behaviour of the actors and determining the level of their agency. (Graf, Kramer, and Nicolescou, S. 129)

This trans-disciplinary Meta framework thus connects the three key perspectives of *“realist systems theory,”³⁶ cultural hermeneutics³⁷, and interactional constructivism³⁸.”* The connection of these approaches is oriented towards a purpose of constructing new needs-based values, solutions and interactions. (Graf, Kramer, and Nicolescou, S. 131) Integrative conflict transformation also combines actor-oriented approaches (transforming strategies, actions), structure-oriented approaches (transforming goals and contradictions) and culture-oriented approaches (transforming values, attitudes, assumptions), enhancing integration, consensus, cooperation, mutual learning and creative collaboration, aiming for equality and symmetric power structures. (Graf, Kramer, and Nicolescou)

The advantage of such a multidisciplinary approach is that it is trying to solve the problem on a deeper level, through the combination of different lenses to look at partial aspects of reality and puts those into context. The background of history, the given political

³⁵ people create knowledge and meaning through the interaction between experiences and ideas

³⁶ structural analysis with the goal of transforming structural patterns of behaviour

³⁷ cultural analysis with the aim of transforming cultural patterns of meaning

³⁸ theory of action and interaction analysis, with the goal of transforming the behaviour, strategies and the means used by the actors

and social awareness, existing power relations, ideological and cultural assumptions and attitudes, individual and collective cultural identities as well as social, cultural and psychological needs enable this analysis to connect various dimensions of reality. This allows the identification of issues where the strategy to satisfy basic human needs of one group leads to the violation of human needs, human rights and human dignity of the other group. Based on this analysis one can design more creative solutions and better compromises for the future. (Kramer, Ernstbrunner, and Graf)

1.3.3. Synopsis of methodology

Following a trans-disciplinary and multi-paradigmatic approach, this methodology combines Systems, Actors and Discourses and views them separately as well as in their dependency and interaction.

A critical realist system theory helps to understand the broader societal systems and the “*inevitability of social conflicts*”, which revolve around the satisfaction of anthropological-existential basic needs of man and society.

I want to further analyze the present discourses about reconciliation through the application of a constructivist-discourse theory, a “*critical theory of the collective imaginary*”, to focus on the collective narratives of the conflict parties, their ideologies and cultural and religious meanings, to detect the different partial truths, the “amalgamation of basic needs with social interests and cultural myths” that are constituting the conflict.

Finally through a “*hermeneutic-interactionist theory of action*”, I want to analyse how the actors constitute their narratives and which new interactions can allow access to an alternative narrative that might transform the conflict - systems towards a long-lasting solution.

1.3.3.1. Material

The Material used in this analysis is based on the findings that I made during the 4 months I spent in Sri Lanka, completed by extensive online research and media review.

During my stay as an independent researcher at the Law faculty of Colombo, I studied national and international documents and reports, legal frameworks and various context-related literature and articles about society, culture and politics. I travelled the entire country and all the major cities, including the post-war areas of the north and east, I engaged in a critical discourse with academic researchers and scholars, politicians and activists, Diaspora members and internationals resulting in 17 interviews I conducted, thereof 14 in Sri Lanka, 2 in London and 1 in Vienna. The Interview-questions were based on the contradictions resulting from my critical confrontation with the available mainstream-material and local publications, observations and personal narratives, characterised by a constant development. The gathered material and findings have been structured according to my methodology and constitute the basis of my analysis, my interview-partners being quoted throughout the entire length of the text supporting the main arguments, expressing the various perspectives and perceptions of crucial issues and illustrating emerging contradictions.

1.3.3.2. Structure of this Paper:

1. In the first chapter, I was giving an overview about the current situation in Sri Lanka, the major challenges for reconciliation and an explanation of my methodology.
2. The second chapter will offer an analysis of the involved actors, their narratives and strategies, investigating the conflict structure as well as the underlying driving emotions of the actors.
3. The third chapter will then focus on the contexts of the conflict, the various implications arising out of the war, the international community, the legal background, the state of democracy as well as the socio-economic, political and cultural contexts.
4. In the 4th chapter, the aim is to compare the Human Rights framework and the ongoing violations with the concept of Basic Human needs, reviewing the goals of

the parties in the field of tension when confronted with these concepts and offering ways of possible solutions, creating visions that might harmonize these contradictory findings.

5. The 5th chapter is dedicated to the identification of major obstacles that might hinder the realization of the vision elaborated in chapter 4.
6. In the 6th and final chapter I will try to offer concrete steps for transformation, upholding human rights and the satisfaction of basic human needs, leading to the designing of a concrete action-plan with the aim to transcend the obstacles identified in chapter 5, ultimately enabling a shared and peaceful future for both communities.

1.4. Research Question

The research question of this paper is inspired by the observation that there is a lack of connecting and mediating approaches between the requirements of truth, justice and the need for a political solution of the ethnic conflict in Sri Lanka, acknowledging not just the inner, outer and interactive dimension of the conflict, but also the implications of the international human rights regime and its limitations within an ethnically and politically polarized society. I see the crucial importance in an analysis of what is the most realistic and possible path towards a final reconciliation in the given socio-political situation of the country. My research question therefore asks:

How to design, phrase and induce a right based transformational process in Sri Lanka that balances the needs for Truth, Justice, Reconciliation and political transformation in an ethnically inclusive way, satisfying the basic human needs of all actors?

The following framing thoughts make the diverse layers and intersections of the various aspects relevant for the answering of the research-question visible. The aim is not

do deliver an answer to all of these considerations as such, but to rather see them as a source of inspiration and reflection of my inquiry, aspects that have to be kept in mind in order to achieve an understanding of the relevant issues as complete as possible .

It is important to consider the short- and long-term effects of the HRC resolution A/HRC/25/L.1/Rev.1 calling for the establishment of an independent inquiry into alleged war crimes, what the possible effects of a non-compliance with the resolution are and how would it affects reconciliation on the ground. The resolution can also be seen as an encouragement to support the confrontations and contribute to a further escalation of the conflict due to its complete rejection by the Sri Lankan government.

It is further crucial to distinguish between legitimate and illegitimate concerns of both Singhalese and Tamils, trying to understand the real motives of the government's repressive policy, in order to be able to balance the concepts of human security, human dignity, human rights and basic human needs. The process of Reconciliation has to mediate between the Singhalese fears of separatism with the Tamil need to self-determination.

In order to bring justice to the Tamils, it is important to assess how to balance the need for accountability, retributive vs. restorative justice and "truth-seeking" and which side should start this process, the oppressor or the oppressed.

The Tamil Diaspora and International Community have the potential to support or damage the process in Sri Lanka. The image of "western-human-rights-imperialism" prevalent in Sri Lanka and the image of the Diaspora as a supporter of terrorism have to be changed in order to enable their full potential for enhancing reconciliation.

A rehabilitation of the concept of human rights in the Sri Lankan public perception is important to also include the Singhalese into the framework of human rights protection and implementation.

Further, ways have to be explored to generate an alternative discourse beyond the ingrained dualism of victims and perpetrators, trying to negotiate a new social contract that

could “*accommodate all the constitutive collectivities of the communities*”³⁹, to overcome the reproduction of politics of ethnic solitudes, shaped by stereotypes, inequalities, injustices and "war-end"-narratives. Strategies have to be found to effectively use Human Rights in the struggle for Justice, Peace and Reconciliation. HR as a normative concept needs to be utilized to address both Root causes of the conflict as well as to navigate through the protracted process of reconciliation, but has to mediate between the different understandings and interpretations of this concept in regard of universality and “culturalist particularism”.

Finally, it is crucial to find resources that can function as agents of transformation. Inter-religious cooperation might help to emphasize the values of consciousness, compassion, connectedness and creativity, catalyzing a transformative process of self and society to overcome the destructive fragmentation. “Language” might be particularly important in its ability to reframe, re-connect and modify the expression of individual and collective truth and transcend the disintegration and fragmentation of Sri Lankan society.

1.5. Hypothesis

- a) The conflict must first be understood as a process driven by collective needs and fears, rather than a product of rational calculation of objective national interests, rather as the symptom of the attempt to satisfy particular psychological needs like identity, security, autonomy, recognition, self-esteem and a sense of justice.
- b) The international strategy towards Sri Lanka in terms of pushing for accountability and reconciliation has to be designed in a more inclusive and culturally thoughtful way, being more sensitive when it comes to the legitimate concerns also of the Sinhalese people, trying to satisfy the basic human needs of all people in Sri Lanka without watering down the requirements of a process that is finally based on the rule of law, Truth-seeking and Justice.

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- c) What is needed is the creation of a strategy that enables the mediation between the different referential frames of the conflict parties, communicating between human rights, international law, the political and legal constitution, social norms, cultural myths, religious identities and future aspirations. The national process of transformation must be based on a political solution for the demands of the Tamil people in combination with a targeted process of accountability, transcending the dualism of peace as reconciliation and accountability as justice. As long as these are being played off against each other, there will be little chance for a solution.

→The prevailing dualism between peace and justice must be transcended by an overarching recognition of their interdependence, leading to a shared vision for a united and inclusive Sri Lanka. The strategy to realize this vision has to be carefully designed in the way it prioritizes the satisfaction of particular basic human needs of the actors in order to avoid a deadlock resulting out of a dogmatic stiffening of contradicting ideologies. While human rights and their full realization are indispensable for a durable solution, the concrete way and conscious successiveness of their implementation has to be designed according to the practical feasibility and basic need prioritization in the given socio-political scenario.

2. Conflict - History - Structure

2.1. Historical Consciousness

History plays a crucial role in any conflict around the world, so does it in Sri Lanka. An understanding of the historical developments and their implications for the present situation are necessary for any attempt to design strategies for the future. It is not the intent of this contribution to recapitulate the entire Sri Lankan history from ancient settlement through early colonialism up to post-independence violence and the armed struggle. Neither would such an abridgement of the Sri Lankan history be comprehensive enough nor would it be possible to provide a sufficient historical analysis within the limited space of this scientific contribution. I rather want to focus on how history in Sri Lanka is being created and distributed for political means and how myths and partial truths have become widely acknowledged principles of identity constitutive for the conflict. The interesting question is not so much which party has a better historical legitimacy for their individual claims, but rather how history functions as a tool for the enforcement of the own identity and ideology.

The origins of the two ethnicities, Sinhalese and Tamil, are a popular dispute among historians in Sri Lanka and abroad. Questions of initial colonization, founding myths about the Sinhalese King Vijaya and attempts to emphasize the genetic and cultural uniqueness of the Sinhalese led to the development of exclusive historical narratives of both ethnicities. These concepts of historical self-identity have a constitutive function in the creation of a historical consciousness determining how these two ethnicities imagine their claims for territory. (Dewasiri, 2012, p.p.1)

The ethnic conflict between the Sinhalese majority and the Tamil minority has its roots in the islands former colonial period under British administration, which privileged the Tamils over the Sinhalese population in terms of education and administration, preferring Tamil people in the transfer of sovereign tasks. In 1948, when the British handed

over power, the Tamils had positions and influence over many institutions within the country that was highly disproportionate to the actual size of the Tamil community. The Sinhalese, although having a solid majority within the country, feared the 60 Million Tamils in the southern part of India. The pathological Sinhalese fear of the huge number of Tamils in Tamil Nadu persisted until today, many observers calling the Sinhalese therefore a “*majority with a minority complex*”. This fear and sense of injustice led to a Sinhalese backlash after independence, the Sinhalese passing anti-Tamil laws and suppressing the Tamil culture and language. The ethnic differences of the communities were exacerbated by various religious, social and cultural practices, the pride of the ethnic identity of the one was perceived as a threat by the other. (Weerakoon, 2010)

The failure of a political solution for the disadvantaged Tamils and various ethnically motivated riots, the bloodiest being in July 1983, also called “*Black July*”, led to the emergence of a strong Tamil nationalism, the formation of the LTTE being a direct result of the disillusionment of the Tamils as equal citizens of the country, the response to the strong identity of the state perceived as a pure Sinhalese-nation and an answer to the acts of hostility the Tamils had to experience. This situation led to further cycles of political violence and counter violence, the responses of the state and the Tamil militants caused a further radicalization and alienation among the Sinhalese and the Tamils. (Bopage, 2013)

The conflict finally resulted in an armed struggle for Tamil independence, and the creation of Tamil Eelam, the promised land of the Tamil people in the north and east of the country. After 24 years of armed conflict, terrorist attacks and the failure of facilitated peace processes, the LTTE has been finally crushed through a massive military action with the single goal to defeat the LTTE totally and at any cost. Its undoubted success leads us directly into a new era of the conflict with unresolved questions of war crimes, crimes against humanity, enforced disappearances, hundreds of thousands of displaced people, ongoing intimidation and discrimination of the Tamil people and a deepening of authoritarian politics of the Sri Lankan state. The ultimate consequence of the Tamil struggle for independence has been the establishment of the strong and unprecedented

power of the Rajapakse-Regime within Sri Lanka and the emergence of new strategic partnerships with countries such as China, Russia and Iran. (Dewasiri, 2012)

Besides the coexistence of Sinhalese and Tamils in the country from time immemorial, it is important to be aware of the fact that Sinhalese and Tamils do not speak or understand each other's languages. Nevertheless, it would be wrong to assume that they went to war solely out of ethnic reasons. Sri Lanka also offers genuine examples of peaceful coexistence of the two communities. Apart from the riots of July 1983, the Sinhalese and Tamils intermingled with each other in the Sri Lankan South, many of them having very good cross-ethnic relationships despite their cultural and ethnic differences. (Alwis, 2013)

The main lesson learnt is that both state and non-state actors in Sri Lanka have used political violence against their enemy as well as the civilian population and communities. Both sides are responsible for the targeted silencing of opponents through assassinations and the threatening of political rivals with disappearances and torture. The political leaderships opportunistically used and continue to use ethnicity, language and religion as a pretext to establish and preserve their political and economical power. Although the conflict in Sri Lanka has widely been portrayed as an ethnic conflict, ethnicity and culture have also been used as a smokescreen, the root causes being in fact economic advantages and disadvantages based on unjust ethnic policies. (Bopage, 2013) At all crucial junctures of the post-independence history, both sides managed to contribute to a further division of the ethnicities, finally resulting in bloody violence. Both parties have rewritten their own history in a way that better suits their particular political purpose. (Hoolie, 2012) But historical consciousness is not purely related to the past and its interpretation. In post war Sri Lanka the concept of history and legitimacy has acquired new significance especially for the Sinhalese-Buddhists to justify their policy of Sinhalese-Nationalism against the Tamil Nationalists. (Dewasiri, 2012) After this short historical overview I want to analyze the actors of the conflict, their diverging narratives and their political strategies

2.2. The Actors

2.2.1. Who are the Actors?

The Sri Lankan conflict might be classified as a bipolar and asymmetric conflict. The main actors therein are the incumbent government of Sri Lanka represented through the UPFA and the Sri Lankan Tamils represented through the TNA, the Tamil national alliance. Despite that, various other actors have a more or less significant influence on the nature of the conflict. The relatively potent Tamil Diaspora that pushes very hard internationally for an investigation into war crimes, the international Community of the United Nations with its mechanisms for Human Rights monitoring and protection urging the need for a political solution and a process of accountability and truth-seeking, further the historically important role of India as a careful long-time supporter of Sri Lanka with its own strong Tamil minority and China as a new global player supporting the government financially through loans. Although being without much significance for the nature of the current conflict as such, one has to mention the minority of the Sri Lankan Muslims who, although mostly Tamil speaking, constitute the third major ethnicity in Sri Lanka.

After a short analysis of the major actors of the Sri Lankan Conflict, I want to analyze the diverging narratives of the two conflict parties that have a crucial importance for the entire post war developments, framing both the internal and mutual discussions between the actors. In a last step of this sub-chapter I am going to look at the strategies and behaviours of the actors that are expressing the conflict issue.

2.2.1.1. The Regime

The main actor in the Sri Lankan conflict is undoubtedly the GoSL, represented through Mahinda Rajapaksa, the 6th President in the history of the country. Mahinda Rajapaksa was elected president of Sri Lanka in 2005 and re-elected for a second term in 2010 after the triumphal victory over the LTTE. He is the current leader of the SLFP, the

Sri Lankan Freedom Party, which is the strongest force among various other parties forming the broad coalition of the United people's freedom Alliance (UPFA). The UPFA remains the strongest political alliance in Sri Lanka's post colonial politics, dominating the entire political sphere in Sri Lanka and strongly affecting the civil rights situation of the citizens. (Thiranagayama, 2014) The UPFA established an unprecedented political hegemony in Sri Lanka, politically synthesizing the "*Sinhalese-exclusiveness*" at the expense of minority rights and political devolution, emphasizing a strong unitary state, a strong leader and a strong central power. The regime is representing the needs and fears of the mostly rural and economically disadvantaged people driven by nationalist insecurities that are arising out of the newly united territory in the north and east.(Thiranagayama, 2014a) Equipped with a power and electoral mandate that is unique in the Sri Lankan history since independence, the regime is in the position to not only control most of what is going on in the state, but also to silence both its internal critical voices as well as the headwind coming from the weak opposition parties.⁴⁰

2.2.1.2. The Tamils

"The Tamils of today are the Tamils that Remained"- (Interview with Interview-partner K, 2014)

The Sri Lankan Tamil people are a section of the South Asian Tamil people and are native to the island since about 200 B.C. Currently there are about 2.270.000 Tamil people in Sri Lanka, constituting a minority of about 11% of the population. Since the beginning of the armed struggle for independence, hundreds of thousands of Sri Lankan Tamils who had the economic capabilities fled the country to the west, others moved further south towards the capital of Colombo. According to the UNGS's Panel of Experts report, at least about 40.000 Tamils have been killed during the final phase of the war. (PoE, 2011) Many of

40 . This prevailing political system in Sri Lanka might be characterized as "populist authoritarianism" combining cultural nationalism centred upon "*Sinhala language, indigenous imagery and Buddhism*" and the "*grievances and demands of the underprivileged directed against the privileged classes*"(Roberts, 2012)

those who remained in the north have nowhere to go, are the economically and socially disadvantaged people, many of them having suffered several displacements during their lifetime, being exhausted from the permanent struggle to maintain their existence. Until today, a lot of villages and fields are still occupied by the Sinhalese military which became an ever-present companion of the people in the north, their presence being seen as a further humiliation of the Tamil culture and dignity. Many villagers had to be resettled due to the expansive military occupying their fertile land and harbours, engaging in farming, fishing and even tourism which became a serious threat to the regional economies. As a consequence of the war, there are about 89.000 women headed households in the north, representing a ticking social time bomb, as those women and children are much more likely to end up in absolute poverty and experience economic and sexual exploitation. (Interview with Meenilankco, 2014) The Tamils of the North are completely powerless in terms of political influence, as the centralised power is in the hands of the Sinhalese-dominated government in Colombo, leaving barely any space for the proper functioning of the Provincial Councils in the North and East, established through the 13th constitutional amendment⁴¹. This openly displayed lack of reconciling attempts made even the few initially optimistic Tamils completely lose their confidence in the political representatives of the central government. (Saravanamuttu, 2014) The TNA, the Tamil National Alliance is the major political player in the north, who turned out to be the most acceptable representer of the Tamil people in Sri Lanka, being unavoidable in any negotiations about resettlement, rehabilitation, reconciliation and power sharing. Leading figures in the TNA are the veteran politician Sampanthan, an expert in electoral politics, and respected legal architect Sumanthiran, a political newcomer with experience in human rights issues, and the former Supreme Court judge and newly elected northern provincial council leader Wigneswaran⁴². (Perera, 2013)

41 Although provincial Elections have been held as a consequence of the foreign pressure exercised before Sri Lanka was leading the CHoGM (Commonwealth Heads of Government Meeting) in November 2013, little has been done so far to enable this soft form of power-sharing to actually work

42 respected even by members of the Regime as being reasonable and highly competent

2.2.1.3. The Tamil Diaspora

Since before the independence, small numbers of Tamils were already migrating to the UK. Even after independence and the passing of various anti-Tamil laws, migration was only possible for those who could afford it to travel or study abroad. Only after the ethnic violent excesses of 1983, where estimated 3000 Tamils have been killed by organized and incited mobs tolerated by the police and the government, the Tamil migration turned into a mass phenomenon. Most of the Tamils fled to Western Europe and the UK, Canada, Australia and New Zealand. The Tamil Diaspora has been forged together through these traumas around the Black July 1983, being highly politically organized, the sense of oppression and injustice strengthening the Tamil Nationalism and collective identity. The political activism of the Tamil Diaspora reached its peak during the final phase of the war in winter and spring 2009, where tens of thousands of Tamils were publicly protesting against the suffering of their people. The largest Tamil Diaspora group today can be found in Canada with around 400.000 members, the one in the UK counts about 300.000. (Nandakumar, 2011) Today the Tamil Diaspora, represented through various organizations and very well globally connected, is the strongest advocate for the necessity of an international investigation into allegations of war crimes and crimes against humanity. The Sinhalese Nationalists are arguing that the Diaspora lost all its credibility as they were the biggest financial supporters of the militant LTTE, making their strong advocacy for Human Rights highly implausible.

2.2.1.4. The International Community

It is difficult to characterize something so heterogeneous as the international community as an actor, but in terms of external political pressure and economic influence of states such as the US, the UK or India these forces can have a crucial impact on the ongoing process in Sri Lanka. The Human Rights Council in Geneva has passed three resolutions against Sri Lanka, emphasizing the need for a genuine process of reconciliation

through a mechanism of accountability and truth seeking, the last resolution from March 2014 even demanding an international inquiry into allegations of war crimes. The UN High Commissioner for Human Rights, Navanethem Pillay, said after a visit to Sri Lanka that she misses a convincing commitment of the leading representatives to substantially change their approach to human rights related issues.(Hogg, 2013) The international community, the UN human rights monitoring bodies and special procedures are being displayed by the GoSL as being part of an international conspiracy against the country and its sovereignty, applying unjust double standards despite their own war against terror in Afghanistan and Iraq. Nevertheless, the governmental representatives are aware of the fact that a further rising of the external pressure and an escalation of the strained international relations might have serious consequences for the country. (Kumar, 2013) India, a historical partner of Sri Lanka and the biggest political and economic player in the region, is following an ambiguous strategy in terms of exercising international pressure⁴³.

2.2.2. One Island, Two realities

“Whether war crimes happened in a large scale or not is irrelevant. What matters is to what side ones belongs in the conflict. People have started with the conclusion and worked backwards.”- (Ratnayake, 2013)

The reconciliation discourse in Sri Lanka is characterized by the existence of two highly contradicting narratives about the past. These narratives are determining the entire nature of the conflict and process of reconciliation, are versions of history, the truth of the one is a sheer lie, illusion and propaganda of the other, although the vast majority of people have not read the UN report, have not watched Callum MacCrae’s channel 4 documentaries and don’t really know what foreign media, experts and scholars write about these issues. (Ratnayake, 2013) The power of the narratives seems to go beyond reason; facts that don’t

43 Delhi is interested in a political solution in Sri Lanka and criticizes the country’s human rights record, also because of a strong Tamil minority in the own country, but at the same time fears that a too strong engagement in the international pressure against the reluctant regime might put its own questionable human rights situation in the Kashmir region into international focus.

fit into the own picture are being discredited as false or manipulated. The way that the reconciliation- discourse is being dominated by two mutually exclusive truths is visible at any stage of the post war process. These contradictions concern the question of legitimacy of the war as such, the existence of war crimes, the way to approach a process of post war accountability, how to design developmental and economic support up to the question of a lasting political solution for the Tamil community. The openly displayed enthusiasm of the Sinhalese community after the war and until today contrasts bitterly with the difficult situation of the many Tamils, and until today there is no consensual and bridging narrative in sight.

While the Tamils feel that they have suffered an unjust war with unjust methods, an ethnic genocide against their population and targeted attempt to decimate their physical and cultural existence, the Sinhalese are talking about a humanitarian intervention, necessary to liberate the Tamil people from the clutches of the LTTE-Terror and finally bringing peace to the country. None of these hardcore-narratives is leaving space for any mediating position and reflection about one's own responsibility and acknowledgement of the legitimacy of the positions and perceptions of the "Other". Both ethnic communities remain in a state of deep division and mistrust, are trapped in their own narrative of the past experiences of fear and suffering, guilt and injustice, being mutually nourished and confirmed through the existence of the contradicting narrative. The division within the international community leads to a further polarization, the "war-crime-campaign" of the Tamil Diaspora and the Western countries pushing for an independent international investigation, the opponents, like China, Russia, Cuba and Iran arguing for national sovereignty, the legitimate war against terror and the right to self-defence, emphasizing the principles of territorial integrity and non-interference.

"People think that defeating the LTTE was necessary and now everything is good; there is no public discussion about what happened at the end of the war. They say look at the Americans, at Hiroshima, at Iraq, and the LTTE also committed war-crimes and used the civilians as human shields, so there is no interest in a deconstruction of the victor - narrative." (Interview with Interview-partner E, 2014) says the executive director of an

influential NGO to display how most of the Sinhalese think and feel. For many in the South, there is still a very strong gratitude towards the incumbent regime for ending the war, powerful enough to “*varnish the systemic rot at the core of governance*”. (Hottatuwa, 2014)

The self-portrayal of the majority Sinhalese population as being both victor and victim at the same time is a crucial aspect of the entire post war identity in Sri Lanka. Because the Sinhalese present themselves as victims of the LTTE terror, victims of the international pressure and victims of global injustice they can maintain a defensive strategy in terms of accountability and reconciliation. (Schubert, 2013) The Sri Lankan representatives managed to achieve confusion or at least a blurring of the identities of victims and perpetrators, justifying a repressive political strategy and non-cooperation with international mechanisms. That’s the essence of the Sri Lankan dilemma: As both Sinhalese and Tamils see themselves as victims, each side is expecting the other to make the first step towards reconciliation. However, the question of legitimacy therefore is one of another kind.

2.2.3. Strategies of the Actors

The following paragraph tries to illustrate how the diverging narratives result in concrete actions of the two opposing main actors, both exclusively designed to strengthen and reinforce the own position and blame the other.

2.2.3.1. Sinhalese

The Regime’s intention is the maintenance of the status quo, not giving in to the Tamils in terms of truth, accountability or the devolution of power, basically denying the legitimacy of these main Tamil demands, building their defensive strategy on the claim that with the defeat of the LTTE all potential problems have been ultimately solved. The Regime keeps portraying Tamils that are demanding justice and a political solution of the ethnic conflict as LTTE-supporters demanding secession with the goal of an independent

Tamil Eelam. The Sinhalese priority is to maintain the political unity of the island at any cost, conducting media-campaigns against the Diaspora and the international community, blaming them of attempts to achieve a regime change in Sri Lanka. The regime is trying to stop the flow of information from the ground, dismissing the civil-society's counter-narrative as being fabricated and deficient in terms of hard facts.⁴⁴ Tamil Diaspora organizations have been banned in order to restrict the flow of funds to the north, east and especially to the TNA, trying to de-legitimize the potential international investigation as cooperating with pro-LTTE sources. (Weerawardhana, 2011)

The government is claiming its developmental progress in the northern and eastern provinces, but most of it is coming at high expenses of the local people. High Security Zones are still closed off to many locals who can't visit their former homes, farms and villages they had to leave behind. Additionally, the regime is portraying the successful implementation of the Northern Provincial Council elections as a functioning of the political system of power sharing with the regions. However, many observers see this rather as a feigning of good will towards the international community than a genuine attempt to strengthen the constitutional framework of regional autonomy.(Colombage, 2013) In terms of the implementation of the national reconciliation commission's recommendations, the government argues that most of these have already been implemented and for the rest it needs more time and resources to do so, claims that can easily be identified as factually wrong.(Peiris, 2014)

2.2.3.2. Tamils

The Sri Lankan Tamils are politically completely inferior to the regime, this imbalance of power characterizes the strategy of the Tamil community's struggle for recognition, peace and a life in dignity. The war crime campaign is the strongest tool for the

44 Dayan Jayatilaka, former ambassador of Sri Lanka to Geneva and Paris, accuses the regime of believing only into its own "*preoccupations, prejudices and preconception, in its false consciousness*", but sees the danger of a "*seismic shock*" that will follow an encounter with the external reality. (Jayatilaka, 2014)

powerless Tamils, as it triggers strong international support of the United Nation's Human Rights bodies, global NGOs and significant international players such as the US and the UK. The relatively powerful Tamil Diaspora, acting as a strong advocate of the Sri Lankan Tamils, feels strongly confirmed in their strategy to push for accountability as this seems to be what hurts the government the most. There are nevertheless critical voices against the "*exploitation*" of the war crime issues to strengthen international pressure to finally achieve political solution in the country. (Kumar, 2013) The Tamils are rejecting the government's approach of "*reconciliation through development*", claiming that a structural genocide is being conducted on their people. They argue that the streets in the north have mainly been build for an easier access of the Sinhalese to the northern areas to expand the market for their products, to further increase the inequality between the two ethnicities. In short, the government's strategy of reconciliation through development has been rejected by most of the Tamils as an inadequate response to violations of human rights and allegations of war crimes. The developmental activities of the regime are being seen as an attempt to colonize the north through the Sinhalese and to further suppress the Tamils and their culture. (Jayapalan, 2014) The Tamil's sole weapon able to challenge the government is the maintenance of the demand for truth and justice for the events during the war, further emphasizing that a "*structural Genocide*" is being committed through the post-war activities of the government. Although this strategy might have its disadvantages, mainly when it comes to the creation of a basis for discussion with the government, it seems to be the only real lever the Tamils currently posses, making it very unlikely that this strategy will be given up.

2.3. Focus

At this point in the structural analysis, I want to examine the crucial questions that arise after studying the actors and their strategies, namely what is the actual contradiction between the actors, what is the systemically reproducing conflict-relationship?

The contradiction seems to be the meeting of two objectives of the conflict parties that appear incompatible. The fulfilment of one means the annihilation of the other and vice versa. In the Sri Lankan Conflict, the contradiction lies in the realization of societal autonomy and cultural integrity expressed through the political phenomenon of nationalism, resulting into two diametrically opposed ethno-nationalist projects where both seemingly cannot be realized at the same time. These mutually exclusive ethno-nationalist projects have resulted in certain historical events, violent excesses and a political climate that now disables communication, negotiation and a shared vision for the future that includes, acknowledges and embraces the other.

The Sinhalese, after having experienced British colonial rule and perceived Tamil advantage, are mainly oriented towards the consolidation of a strong, culturalist Sinhalese nation. After the Tamil demands for equality resulted in violent backlashes from the Sinhalese and ultimately into an armed struggle led by the LTTE, the Sinhalese nationalistic project has yet not been completed fully, disabling a true transcendence towards a more inclusive identity that would tolerate and embrace a strong Tamil nationalism. The Tamils, feeling to be historically subjugated by the Sinhalese, are trying to realise their own ethno-nationalistic project; peacefully in the 50s and 60s and through violent means in the 80s and 90s until the final tragic end in May 2009, a trauma leading to a loss of self-empowerment and partial resignation among the concerned people.

Through the Sinhalese attempts to unite the country, the Tamils feel violated in their right to self-determination. Tamil attempts to realise this right are seen as secessionist acts by the Sinhalese government and population, promoting a unitary state with de facto no autonomy for the regions and minorities as such. The Tamils without having substantial political power are thus making use of the only issue the government is sensitive towards, the issue of allegations of war crimes and the international calls for truth and accountability. The government sees this as an onslaught on their newly achieved full sovereignty. Fearing consequences of an international investigation, the government needs to remain popular among the population, which it so far achieved through “*smear-campaigns*” against the international community and the demands of the Tamil people,

portraying them a threat to the unity and dignity of the Sinhalese state and culture, making the process of reconciliation to stuck before it even got properly started.

The systematically reproducing conflict relationship is the mutual denial and torpedoing of the ethno-nationalist project of the other, which in represents the basic contradiction that is inherent to most of the symptoms that externally characterize the conflict, become disassociated from the core problem and are being dealt with independently, often without any success.

2.4. Emotions

“Time and distance make it hard for people to feel their suffering. People have already picked their sides and argue backwards.” (Ratnayake, 2013)

In this last part of my analysis of the internal and external constitutive elements of the actors of the conflict, I want to shed some light on the emotional dimension of the people involved, as it strongly determines the perception of past phenomena and development of strategies and expectations for the future. It is therefore of great importance to examine the relationship of experienced historical trauma, the collective memory and the perception of injustice, the complex relationship of psychological and social, individual and collective dimensions of war and the experience of violence, trauma and identity. For true reconciliation, it is crucial that the actors reflect about their motives, particular reasons for acting and their deep-seated tendencies, fears and assumptions in a shared process of critical social- and self-reflection. This might enable them to uncover the patterns that connect collective trauma with collective identity and co-create the *“psycho-emotional matrix”* that forges the conflict structure. (Graf & Kramer, 2012)

2.4.1. Internal Motivations, Driving Emotions

It is a truism to say that all communities carry with them the burden of the past, being strongly interwoven with and partly determining the desired future. What is it really

that the Sinhalese and Tamils want, and why? It is good to first analyze the internal motivations of the actors and then to try to figure out what concrete goals both of the communities have in order to realize these emotional desires.

The driving force for the Sinhalese's project of national unification and cultural dominance might have its roots already in ancient times. Historically prioritizing safety and unity over other values such as liberty helped to create a national consciousness and identity that emerged into the famous phrase of "majority with minority complex". With the forced displacement from "*Rajarata*"⁴⁵ in the 13th century the Sinhalese settled for safety over liberty, mediocrity over excellence. By the 18th and 19th centuries the Sinhalese, after sustained exposure to the pressures of colonization, had developed a self-defensive mechanism. "This mechanism remains in full operation as we move into the 21st century", says Sajeeva Samaranayake, pointing towards the difficult relationship between the Sinhalese and their balance between personal liberty and the net of safety. Perceiving freedom as a radical and not conventional value, Sri Lankans are traditionally confining freedom within the boundaries of religion, society and politics.(Samaranayake, 2014) This inherent need to express one's own "*Sinhaleseness*" is being strongly defined in relation to the Tamils, portraying oneself as the victim of Tamil grievances.(Ismail, 2013)

For Tamils, the crucial motivation seems to be the full recognition as a people, to have the opportunity to live a life in dignity, to express their own culture, language, religion and customs within what they call their "*historical homeland*", the preloaded name therefore being Tamil Eelam. Having experienced serious cultural and economic oppression from the Sinhalese before the Eelam wars, the Tamils dream of finally being themselves within a land they can call theirs. Nirmanusan Balasundram, an outspoken member of the Tamil Diaspora, expresses the Tamil perception of the Sinhala Domination as a chauvinistic belief that the entire island belongs to Sinhalese Buddhists, seeing the Tamils as invaders and troublemakers, strengthening the Sinhalese attempt to "*annihilate the Tamils nation from the island*" (Balasundram, 2013) The end of the war did not bring a

45 representing the "*heart, soul and body*" of their ancient culture

relief of this fear, the Tamils being still perceived as an obstacle to the culturalist Sinhalese unitary-project. Equally to the Sinhalese, the Tamils also need the other as a constitutive factor of their own emotional background, the Tamil's claim to self-determination is also justifying itself almost solely based on Sinhalese majority oppression. (Ismail, 2013)

The paradox lies in the fact that although both are seeing the other as the biggest obstacle to the full realization of one's own potential, both ethno-nationalist projects urgently require the opposite party⁴⁶. (Ismail, 2013) These motivations and emotions ultimately lead to goals and visions that contain a solution that would potentially satisfy these own needs. For the Sinhalese they result in the desire for a unified strong centralist state with strong Buddhist impact, where culture, religion and politics are interwoven into a unique Sinhalese identity. The Tamils are craving for sovereignty or any other model of partial independence such as federalism, which would enable them to live in dignity, being recognized as equal citizens of Sri Lanka and as a Tamil Nation in the North and east of the island, their historical and traditional habituations.

2.4.2. Values, Attitudes, Assumptions

Closely related to emotions is the existence of particular values, attitudes and assumptions towards the other which characterise the conflict constellation. They developed during the complex history representing demands for parity, autonomy, federalism and separation and cannot be destroyed by using brutal state force. These values, attitudes and assumptions have emerged in the Context of life history, family history and the conflicts in the macro history of the two peoples. These deep-rooted issues fuel protracted violence until today, exemplifying the difference between ability and willingness in the contribution to reconciliation. This scientific contribution, determined by its multi-layered approach, does not offer the space to adequately deal with the significance of personal and collective memory, loss and trauma and its projection into bigger societal

⁴⁶ "In post-structuralist terms: the self is not discrete; rather, always already marked by the other". (Ismail, 2013)

expressions of policymaking. The Sri Lankan history is full of perceived and real injustices, stereotypes, and inequalities, these memories being part of each party's socially constructed understanding of the situation, shaped by "*culture and learning, discourse and belief*"⁴⁷. (Graf & Kramer, 2012) Sri Lanka offers a sheer endless amount of these narratives, showing how behind each statistical number appearing in any international report there is a real human destiny that deserves to be recognized. Literature, poetry and cinema are media that offer a good insight into the rich inner life of the Sri Lankan Society and show how difficult it is to draw a clear distinction between Sinhalese and Tamils, between victim and perpetrator, between societal alienation and individual acts of friendship, care and helpfulness. "*We have a problem of values! If we don't change these we will reproduce the same values again and again. To give political rights and to give is not a guarantee for a change to take place. We need leaders who can mobilize the people. But it is still the same value system we are reproducing. This is what we have to target.*" (Interview with Interview-partner K, 2014)

2.4.3. Traumas

Above I have dealt with the questions arising out of the emotional background that is characteristic to the conflict. In this last sub-chapter of the actor's analysis, I want to examine the "Traumas" that have a crucial importance in shaping the contours of the conflict. Understanding these traumas and their "*collectivized*" dimension gives also insight to an understanding of why particular goals and motives are so important for the actors. These traumas are usually experiences of violence, some of which remain unconscious, but in a complex way they interact and hinder a creative transformation of the conflict to take place. (Graf & Kramer, 2012)

The Sri Lankan history is full of events that had a traumatizing effect on both sides of the ethnic conflict, being it the Anti-Tamil Riots in the 50s, the tragic incidents of the

47 These unique individual and collective memories are creating the field of tension of "*not knowing, suspecting and knowing, remembering and forgetting.*" (Graf & Kramer, 2012)

Black July in 1983, the suicide bombing of the LTTE that imposed an enormous threat on the Sinhalese population, the multiple displacements many Tamils had to suffer during their lifetime, the various disappearances that occurred during the Sinhalese youth-insurrection in the south, during the fight against the LTTE or post war to silence political dissent as well as the uncounted individual traumas resulting from the final stages of the war.

These Traumas have manifested themselves in the minds and psyches of considerable parts of the society⁴⁸, leaving many members of both populations with emotional scars that contribute to the deepening of the division between the communities, having severely damaged the sensitive social fabric. These traumas have become part of the social experience and memory of big parts of the Sri Lankan society. The post war period is characterized through interpersonal violence, child abuse, rape, and alcohol and drug abuse. These individual and collective traumas have had a big impact on the domestic environments. (Jayatunge, 2014) These victims have to be taken into account when designing a strategy for the future of Sri Lanka, making the recovery of post-war trauma a crucial component for any future solution⁴⁹.

Being aware of the contentiousness of the following statement, it is trying to distil the essential problem of the Sri Lankan reconciliation process: *“Sri Lanka faces a crisis of transition and transformation. Those who maintain it was a just war fail to call for a just peace, a peace with justice for the Tamil community. The Tamils for their part have failed to make a clean break from their recent past of sympathy for secessionism. There is no post war discourse which combines a strong position in defence of the war with a strong drive for a sustainable peace on a new basis of a fairly re-drawn ethnic contract.”* (Interview with Jayatilleka, 2013a, p.p.34)

48 The list of traumatized war victims is alarmingly long, including ex-LTTE cadres, former child-soldiers, war widows and members of civil society organisations. (Jayatunge, 2014)

49 The importance of collective places for mourning and recovery, such as temples, mosques, churches and other places of worship cannot be overestimated. (RESEARCH DEPARTEMENT, 2013)

	Regime	Tamils	Diaspora	Int. Community
Motifs	maintain Sinhalese supremacy, avoidance of accountability	basic need satisfaction, self determination, equality as citizens	process of truth and justice, retribution for “unjust” suffering of the Tamil people	promotion of Human Rights and universal values
Goals	Unitary centralist state with Sinhalese cultural supremacy	recognition as a nation, independence, federalism or strong devolution of power	penal charges against war-criminals, international trial	War-crime accountability, implementation of LLRC, power sharing
Needs	defenders of Sinhala Buddhism, security, safety, unity	apology, recognition of their suffering, rehabilitation and restoration	justice for the 1983 massacres and the suppression of the Tamils, justice	compliance with UN-Human Rights mechanisms and procedures
Fears	fear of Tamils separatism, terrorism, revival of armed struggle for independence	further discrimination of the Tamils, ethnic genocide, human rights violations	further oppression of the Tamils in Sri Lanka, ignoring of their calls for justice	noncompliance with UN-resolution waters down normativity of UN-decisions
Strategies	denial of war crimes, blame of Tamils and Diaspora as LTTE supporters	using war crimes to push for a political solution in the country	pushing for sanctions against Sri Lanka, publicity of Tamil suffering	naming and shaming, international pressure, threatening with international isolation
Values	cultural self-expression, rural life, preservation of Theravada-Buddhism	equality, cultural identity, Hinduism, freedom within historical homelands	human rights, cultural independence of Tamil people	universality of human rights, accountability, truth and justice, internationalism, cosmopolitanism
Assump-tions	Tamils are the cause for the war, responsible for Terrorism and Separatism, Tamils as the source of all problems	Sinhalese as oppressors, war criminals, Sinhalese don't want to treat Tamils equally, want to suppress the Tamil culture	GoSL misuses the Tamil issue to maintain political dominance in Sri Lanka, populism on the expenses of Tamil rights	political game in Geneva between supporters and opponents of international interference
Traumas	Tamil favouritism through the British during colonialism	anti-Tamil riots, anti-Tamil legislation, pogroms, war crimes	1983 Black July, being forced into exile, hostility of GoSL	UN failure to protect civilians in 2009, non-compliance with UN-resolutions

3. CONTEXTS

After having reviewed the external manifestation of the unresolved conflict on the ground and the constellation and driving forces of the actors, the next section is dedicated to an analysis of the broad contextual framework that is embedding the conflict-scenario and co-creating many of the phenomena that fuel the protracted situation. I want to look at the impact of the war, the state - institutions, the path of development and the rules and codes and related cultural meanings that are characteristic for the Sri Lankan society. The focus is thereby on their relatedness and interaction, trying to give a complex picture of the various phenomena that facilitate the co-origination of discriminatory patterns in Sri Lanka. *“The Problems of the Sri Lankan society are the following: it is patriarchal, authoritarian, nationalist and non-secular.”*(Interview with Interview-partner A, 2013)

3.1. The Heritage of the War

The end of the war in May 2009 created the situation that represents the basis of my analysis. The war has the biggest impact on the entire nature of the discussion about reconciliation that is being led today, nationally and internationally. Dealing with the consequences of the war is far too often being confused with the finding of a durable political solution with the Tamil people, leading to an amalgamation of demands of different nature being played against each other. This issue of war crimes has been subject to many international reports ranging from Amnesty international (Amnesty International, 2009), the International Crisis Group (International Crisis Group, 2013), the Commission of Jurists (International Commission of Jurists, 2012), the International Crimes evidence project (International Crimes Evidence Project, 2014) to the Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka (PoE, 2011), being disparagingly called *“Darusman-report”* and categorically rejected by supporters of the

Regime. The end of the war gave rise to fully contradictory war-crime narratives on which the strategies of the actors are fundamentally built upon. *“All the allegations today are about certain methods. The government fought a legitimate war, with illegitimate methods. But on a very personal level I don’t agree, there should have been more negotiations.”* (Interview with Fernando, 2014)

3.1.1. War Crimes

“Yes, maybe there were a few incidents, but let us forget this war-crime nonsense”, said Rajiva Wijesinha, a strong supporter of the government at a conference about the potential impact of the Geneva-resolution 2014 against Sri Lanka (Wijesinha, 2014). *“At its best, even if war crimes were ‘nonsense’, if the victim is demanding justice and there are credible allegations, a government has to respond to it”,* responds a lecturer at the Human Rights faculty. (Interview with Interview-partner K, 2014) *“We know that these war crimes happened. We have evidence, the ICRC has evidence, the US has evidence because of their intelligence”,* says a member of an international governmental organization. (Interview with Interview-partner I, 2014) These quotations are symptomatic for the diverging narratives that characterise post-war Sri Lanka and this most highly sensitive issue. The attempt of the creation of bridging narratives, such as by the Marga Institute in their Seminars on *“Accountability, Restorative Justice and Reconciliation”* (Marga Institute, 2012) and *“Truth and Accountability: The Last Stages of the War in Sri Lanka”* (Marga Institute, 2011a), have not been able to transform the contradicting nature of this discussion. Their attempt was to de-construct the as unjust perceived “hard-core” criticisms of the UN and international NGOs, without completely rejecting them in the way the government does. *“A wise judge knows that in the imperfect domain of human knowledge there are many versions of the truth and steers himself conscientiously through all these versions, seeking the truth. The outcome of the Panel’s report falls far short of such wisdom.”* (Marga Institute, 2011, p.p.29) This is the way central claims and findings of the international reports are being watered down, re-contextualized, been put in relative terms

and denoted as incomplete, insufficient, biased and unbalanced. But even former supporters of the regime like Dayan Jayatilleka who was defending the government's strategy at the HRC in Geneva in 2009 challenges the narrative of the government: *"Yes there were incidents. The Lessons Learnt and Reconciliation Commission basically listed these. We see them as anomalies, but they have to be investigated. But even those cannot be acknowledged by the Sri Lankan government because of the absolute denial, this new neo-conservative strategy."*(Interview with Jayatilleka, 2014) Independently to the lack of consent about the last stages of the war and the legitimate discussion about the versions and qualities and nature of truth in a post-modern society, the crucial remaining point is the quality and credibility of one's claims in context of the existing evidence, reports, scientific evaluation of the material available as well as the overall climate of openness, self-reflection and truth-seeking. It is doubtful that the reports ranging from *"Amnesty International"* over the *"International Crisis Group"* to the *"UN-Secretary General's Panel of Experts Report on Accountability in Sri Lanka"* are the result of an international conspiracy against Sri Lanka, as the regime likes to portray it. Nevertheless, despite the credibility of these reports providing evidence of mass atrocities during the last stages of the war, such as the latest report called *"Island of Impunity"* (International Crimes Evidence Project, 2014), issued by the International Crimes Evidence Project, have to be seen critically in the context of political instrumentalisation, geo-policy and international power balance. Far away from assuming an international conspiracy, hypocritical efforts of many western governments trying to exploit the Sri Lankan issue politically and pressure Sri Lanka to *"drop its ties with China"*, who became the biggest supplier of military hardware and loans to the incumbent regime, seem to be evident in the eyes of many observers.(Wasantha, 2014)

3.1.2. Propaganda

A characteristic component of the war and its aftermath remains the phenomenon of ethnically biased media reporting by both sides. While reports in Sinhalese were referring

to soldiers as “martyrs” and portraying LTTE cadres as terrorists, Tamil speaking media glorified their “*heroes*” fighting for a separate state. Media editors around the world, not just in Sri Lanka, failed to ensure a balanced reporting of the events, the “*fog of the war*” leading to biased reports by both sides that further distanced the parties. Reporters who dared to challenge the mainstream narrative conducted by the government were silenced or pushed into exile, being branded as unpatriotic and a danger to the national security. The LTTE themselves orchestrated a highly sophisticated media-campaign to illustrate the suffering of the Tamil people and Human Rights violations conducted by the government, incidentally concealing their own acts of violence, terror and injustice to mobilize the members of the Tamil Diaspora in the UK, Australia and Canada. The Sri Lankan pro-government and pro-military media have dismissed the international allegations against the regime as being driven by separatist forces. The pro-Tamil counter-narrative has been made popular mainly by the controversial documentary “*No Fire Zone*” by Collin Mc Rae and his team at Channel 4. The film has been praised by human rights organizations and the Tamil Diaspora, but has been dismissed as pure fiction by the government. “*Fiction it is not, but certainly a construct*” is a description that most likely hits the spot, as authentic recordings have been mixed with footages in the traditional manner of LTTE-propaganda. Despite the legitimacy to challenge Collin McCrea’s documentary in regard of journalistic objectivity, it nevertheless gives a frightening insight into the tragic events of the war and the illegal actions of both government troop and the LTTE.(Manobuddhi et al., 2014) The government’s attempts to de-construct this narrative through pseudo-scientific books such as “*Corrupted Journalism*” (Engage Sri Lanka, 2013) are doomed to failure, due to the already established international opinion based on revealing books such as “*Still counting the Dead*” by Frances Harrison or “*The Cage*” by Gordon Weiss.⁵⁰

⁵⁰ The lack of objective facts about the last stages of the war was due to the expulsion of independent media from the war zone became the hostage of partisan media propaganda, leaving a lot of space for speculation and construction, dismissing the attempt to approximate the truth in an genuine effort. Despite this critique, western media have raised critical issues that have not been properly responded by the government, leaving an urgent need for clarification and further investigation.

3.1.3. “The Numbers Game⁵¹”

One of the most central questions arising out of the war is the number of casualties. One might expect that it must be possible to reach an approximate consensus about the definite number of the victims, but partisan politics and the counter-strategy of the government created a situation where most diverse figures are circulating in the public opinion.

The government's most conservative figures speak of 3000 victims, some of my more critical interview-partners estimated a number between 10.000 to 20.000, the Panel of experts report suggests a total death toll of 40.000, the internal review panel of the United Nations speaks of potentially 70.000 victims and sources of the Tamil Diaspora are saying that more than 146.000 people are unaccounted for. This stunning contradiction of the figures further nourishes the polarisation of the parties. But how is it possible that such divergent figures arise? *“The casualties, based on the government data from October 2008 show how many people were in this district and how many people came to this district, saying that 146.000 are not accountable, nobody knows where they are. We showed the government the documents; they had no question to ask. We don't know exactly how many died and how many were wounded. The government is not interested in the truth. It is a political game about who supports the ruling establishment”* (Interview with Rayappu, 2014)

Again pseudo-scientific publications of questionable origin such as *“Gordon Weiss, The Cage - the fabrications and distortions”* (Anonymous, 2011) and *“The Numbers Game - Politics of retributive justice”* (Independent Diaspora Analysis Group, 2013) are trying to challenge the high casualty figures spread by the UN and the Tamil Diaspora, using “scientific” methods to prove the international claims as being constructed and biased.

⁵¹ “Which approximation is credible and which is a strain on credibility? 300,000+ refugees and at least 40,000+ casualties as stated by the panel of experts report or 70,000 refugees announced by the government and about 8,000 casualties proclaimed by its apologists?” (Sivathasan, 2013)

“We don’t know which numbers are correct. Therefore we need an independent investigation. If we Sri Lankans want to be brothers and sisters, then we need to know every single victim by name” says Ruki Fernando, trying to explain why it is so difficult to find out the exact numbers. *“There is no independent process where people could give testimony. Sri Lankan names are very long and complicated. You might think that some are 2 different people. We don’t have a conducive environment in Sri Lanka. We can’t go to villages, to schools and ask who has been killed and go to churches and communities to give questionnaires. We can’t have that process because of the militarization, the threats. We need an international investigation that has the trust of the victims.”* (Interview with Fernando, 2014)

The census is not politically neutral, neither are activists collecting and evaluating data, but in looking at the bigger picture, taking into account the repeated attempts of the regime to twist facts and truth and spreading lies through public statements, figures from the government’s side have to be treated with serious caution.

3.2. The International Dimension

“Sri Lanka is under pressure because it didn’t do something immediately. It puts you in a defence. You are running from left to right” (Seegers, 2013)

Since the end of the war in 2009, Sri Lanka is virtually facing a constant pressure from the international community, mainly from the western countries led by the US. The main criticisms were targeting the lack of a justice mechanism after the alleged atrocities in the conduct of the last phase of the war, an insufficiency in a genuine effort of the government to achieve lasting reconciliation with the Tamil people as well as an overall decrease of various Human Rights indicators in the country.

In the course of the last five years, the headwind the government is facing from the international tribunal is getting successively stronger. While the pressure was slowly building up, expressed through the resolutions in 2009, 2012 and 2013, the recent

resolution passed in March 2014 led to a fundamental shift in quality. For the first time, the HRC is demanding an international investigation into allegations of war crimes between the end of the cease-fire in 2002 and the end of the war in 2009. The Sinhalese response to an international inquiry sounds the following: *“As Sri Lankans, our rejection of an international inquiry must be unconditional. Such an inquiry is so unfair, hypocritical and such an affront to our self-respect as a nation, that our opposition to it cannot be conditional.”* (Jayatilleka, 2014c) The next paragraphs want to analyze the impact of the 2014 resolution on the situation in Sri Lanka.

3.2.1. Sri Lankan Accountability

Sri Lanka is not a signatory state of the “Rome Statute” of the International Criminal Court; therefore its provisions cannot be applied here, although potential perpetrators could be prosecuted in countries other than their “country of origin”. Nevertheless, Sri Lanka can be held accountable under the provisions of the first, second, third and fourth Geneva Convention, bound by its Common Article 3⁵² Sri Lanka has further ratified the ICCPR and is therefore bound by its provisions⁵³. Further, the establishment of Ad Hoc Tribunals mandated by the Security Council to prosecute violations of international Humanitarian and Human Rights Law are possible under certain preconditions.⁵⁴ Nevertheless, the potential of legal provisions is limited by the possibility and practicability of their implementation. In international matters, state sovereignty still enjoys a high priority, framed by a strongly politicized environment with unequal players. The Sri Lankan situation is paradigmatic for the difficulties that arise out of the attempt to

52 It states that in the case of an armed conflict which is not of an international character and is occurring in the territory of a High Contracting Party, minimum provisions have to be applied to secure the life, health, safety and human treatment of civilians and combatants who have put down their arms. In this regard Article 48 of the 1st additional protocol becomes crucial, which states that the parties have at all times distinguish between the civilian population and combatants and between civilian objects and military objects.

53 Article 4 deals with the derogation of rights in emergency situations and states which rights are non-derogable at all, namely 6, 7, 11, 15, 16 and 18. It is highly questionable whether Sri Lanka complied with the requirements of such derogation.

54 . Chapter V - (Art. 24), Chapter VI (Art. 34), Chapter VII and or Chapter XV Article 99 of the Charter of the United Nations. This is however strongly dependent on the strategic alliances built within the United Nations or the Security Council, attempts to establish such a tribunal would currently be prohibited by the Veto of China or Russia. (One Text Initiative, 2011, p.10)

apply international norms to states that are unwilling to comply and are being backed by strong international powers. The recent resolution of the HRC against Sri Lanka in March 2014 shows the difficulty to turn a very clear claim into serious action.

3.2.2. Geneva 2014

One of the crucial questions among many intellectuals in Sri Lanka is whether strong international pressure, like expressed through the recent HRC resolution against Sri Lanka, does contribute to a solution within the country or the opposite. Many are convinced that international pressure is the only language the regime seems to understand when it comes to steps towards reconciliation with the Tamils, others say it is only strengthening the local population's support for the government, the international community being seen as unfair towards the regime that liberated the country from the clutches of terror.

"You had 3 resolutions on Sri Lanka, and what has changed? Has the human rights situation improved? The stronger the resolution is the better for the government. Three resolutions have not changed anything on the ground."(Interview with Meenilankco, 2014) said a policy adviser with long experience in the field of human rights and good governance. Also the leader of one of the biggest NGO's in Sri Lanka is critical about the current international approach: *"The international community's focus solely on accountability is disproportionate. They could have played a more significant role when they would have focused more on reconciliation. But there is no funding for that."* (Interview with Interview-partner D, 2014) Paikisothy Saravanamuttu, Executive Director of the CPA, a Colombo-based NGO, sees it differently: *"The only force capable of achieving any change is the international pressure, the other are economic variables. If the economy has problems, the support for the president starts eroding, that puts the government under pressure. If you have an inquiry under the United Nations, even if they never come to Sri Lanka, it is on the agenda of an international community, and that's what the government fears most!"* (Interview with Saravanamuttu, 2014)

It is relatively obvious that the incumbent regime is not going to comply with the resolution and is not going to allow any international investigative commission to visit Sri Lanka and this commission would therefore have to work with information that is available outside of the country. Nevertheless, such a control of information in the times of a highly interconnected world is very unlikely to be achieved. (Perera J., 2014a) The Human Rights Council as such is legally not capable of imposing sanctions on Sri Lanka, but individual countries might decide to do so, although there is not much likelihood for this to happen in the near future. The Security Council of the United Nations would have the ability to pass mandatory sanctions against the country, but the regime is aware of the fact that China and Russia would most likely veto such a decision. (Saravanamuttu, 2014b)

Dayan Jayatilleka expressed his personal concerns about potentially negative consequences of the resolution against Sri Lanka: *“There is another dynamic that is worrying: The war as such would not be seen a just war. It would be seen as an oppressive war. The impact of this resolution on the north-south dynamics might be very negative, triggering pressure from more radical forces from the Tamil Diaspora and Tamil Nadu. It would be seen as an encouragement to support the confrontation. Such a confrontation would be unwarranted, might trigger elements of conservative forces of the Sri Lankan society and open a window of vulnerability.”* (Interview with Jayatilleka, 2014b)

Other Authors are emphasizing the negative impact of such a resolution on the relationship between the government and the TNA and increasing tensions between the hardened attitude of the regime and the Tamil representatives. (Thangavelu, 2014)

After the successful vote for the resolution at the HRC in Geneva, the regime was trying to present the relative tight result as an “almost-success” for the government. This explanation seems to be missing an entirely different but illuminating perspective on the issue: Although 12 countries from the south abstained from voting for the resolution and with the US, they also abstained from voting with the Rajapaksa government against the resolution. (Saravanamuttu, 2014b) This is an important observation that indicates that the international climate towards Sri Lanka is changing. Many of these southern countries who abstained can be classified as “*friends*” of Sri Lanka, which indicates that their motives for

an abstention are related to the regime's approach towards accountability, reconciliation, human security and human rights, which are being perceived as insufficient. (Moonesinghe, 2014)

The Government is trying to portray the international pressure as an unjust attempt to finally achieve a regime change in Sri Lanka⁵⁵. The Tamils are being suspected to internationally push for accountability to achieve a political solution within the country. Many observers are convinced that the regime might survive this "ordeal" if it remained committed to devolve power to the Tamils. *"Details can be sorted out over a cup of tea."* (Kumar, 2014) If the regime would indicate that it is genuinely interested in finding a political solution about the Tamil autonomy, this would put the Tamils in a position where they could no longer *"pursue war-crimes and human rights accountability demands with single minded purposefulness."* Several Tamil nationalist intellectuals have expressed the issue as following: *"Well if there is a genuine political settlement, there is no point in harassing them with accountability issues, is there?"* (Kumar, 2014)

3.2.3. International paradoxes

It is an interesting question why the international community is so particularly interested in Sri Lanka, and why Sri Lanka is so appealing towards any genuine interaction with the United Nations Human Rights Regime. These questions confront us with the problems of double standards and human rights instrumentalization, the complex dimension of international power structures and lived reality and the opaque political logic of the HRC and international policy and diplomacy in general. This contribution can offer only a very short insight into these considerations.

A famous Sri Lankan Human Rights activist remembers a different relationship of the country to the international community a few decades ago: *"In the past Sri Lanka connected with the international processes, the Government sent delegations to New York*

55 This at least seems to be the long-term goal of the US-orchestrated strategy

and Geneva. Successive governments did not crash the international process. They saw Sri Lanka as a full member of the international community, but this government tells people that this is not Sri Lanka. But the ratified treaties are commitments of the state, not the government. The government sees itself as the state; it is this whole approach to authoritarianism. They don't accept constitutionalism, intrinsically don't see international obligations as binding". (Interview with Interview-partner J, 2014)

Sri Lanka has a long history of human rights violations that have not been met with adequate international response. There has been neither a credible and transparent investigation into incidents in the course of the Black July in 1983, nor into the events into the violence in the Sinhalese south between 1988 and 1989. Although during both incidents crimes against humanity and gross violations of fundamental rights occurred, the international community was at that time not pushing for national investigations or even international enquiries.(Weerawardhana, 2014) One can argue that the international system of human rights protection has evolved over the years, but the inconsistency of the international community in their responses to events of global injustice nourishes the opponents of an international involvement in Sri Lanka. Western Diaspora members are particularly critical about the UN and its relationship to Sri Lanka: *"The UN's engagement is Sri Lanka under Ban Ki Moon was a phenomenal disaster. He only came after the war, looked at the Refugee Camp with 300.000 people from the distance and went home. He should have talked to the people. The UN failed horribly, that's why they are so dedicated today."*(Interview with Sebastian, 2014)

Also a closer look at the behaviour of India might confirm that geo-strategic thinking has an important effect on the international actors and their voting patterns at the HRC in Geneva: *"The biggest problem India faces is that if there is an independent Investigation, the international focus is on south Asia, India's own human rights record would be questioned. India also wants to show its power and catch up with Russia in terms of international influence."* (Interview with Meenilankco, 2014) A lecturer at the university of Colombo comments on the discussion about human rights instrumentalisation at the international level in the following way: *"It is a battle in Geneva, China, Russia and Cuba*

against the US, but is the US more credible? When it comes to horse-trading, it is not human right that matter. Everything depends on if the US can convince the rest. Human Rights are a tool for those in power, but that does not mean that we don't have to fight for it" (Interview with Interview-partner K, 2014)

Within Sri Lanka, the human rights framework that should offer a protection against the concerns of corruption, the rising cost of living and the criminal impunity of those connected with political power is being translated as an international threat to the nation. The Sinhalese see the attempt of the international community to ensure accountability as a punishment of the Sri Lankan leaders for having successfully fought the war and liberated the country from the clutches of terrorism. (Interview with Interview-partner E, 2014)

3.3. LLRC

The following paragraph is dealing with the impact of the establishment of the national truth and reconciliation commission and its role in both the Sri Lankan Society and the international dimension. The LLRC, the "Lessons learnt and reconciliation commission" was created after UN-General Secretary Ban Ki Moon's visit to Sri Lanka shortly after the end of the war, an agreement with President Mahinda Rajapaksa to establish a national truth seeking commission to enquire the responsibility for the failure of the 2002 ceasefire and the following events up to the end of the war in May 2009. The hearings conducted in Colombo represented mainly army personnel and politicians, while in the north 90% of the testimonies were given by women who lost their family members in the war. *"Why Tamil women came before the LLRC was the promise to investigate what justice means for them. Most Sinhalese don't even know the stories that came out of these testimonies."*(Interview with Interview-partner K, 2014) The LLRC report has been made public in December 2011, outlining the atrocities of the LTTE, while it acquitted the military of responsibility for any substantial civilian casualties. (Orjuela, 2013, p. 11) *"The*

LLRC is very much in the tradition of Sri Lankan state reports of that kind, defending the armed forces' crackdown on the LTTE.” (Interview with Jayatilleka, 2014)

The LLRC is calling for further investigations into deaths and disappearances of civilians with a particular narrow mandate for these issues, and recommends a process of de-militarization of state institutions. While the report is relatively weak on the issue of accountability, it nevertheless suggests wide-ranging institutional reform and efforts to counter the structural discrimination of the Tamils and promote inter-ethnic reconciliation.(Orjuela, 2013, p. 11) *“On questions of Accountability the LLRC is arguing that the violations were random, not part of a policy. They ruled that they may not have been violations of IHL. Issues regarding Detainees and restitutions, they break it down on a very regional question. If you have been detained unlawfully, government should pay you compensation. This approach is not inadequate, they have to strike a balance, but they miss out the bigger picture. When it comes to language, national identity, there they look at the bigger structure. But in terms of accountability you have look beyond the LLRC.”* - (Interview with Interview-partner K, 2014) A professor of law explains this strategy of the LLRC Commission in the following way: *“The LLRC did not address war crimes because then they could not have delivered the other things. They put it in another way and went for the rest.”* (Interview with Interview-partner J, 2014)

The LLRC must be understood as a home-grown response to the international community pushing for process of truth and justice, which the government was strongly opposed to. This might also explain why the government is not enthusiastic about a fast implementation of the report's final recommendations. *“The LLRC was a result of internal pressure; it did not come from within. Although it is a government appointed commission, it does not believe in it.”* (Interview with Interview-partner D, 2014)

Most of the international NGOs like Amnesty International and Human Rights Watch rejected the LLRC due to its limited mandate, the insufficient witness protection and the appointment of former government employees as commissioners. It has been criticized that it had been the state itself who defined what constitutes the “truth”, at the same time silencing minority groups and human rights organizations. The report has also not been

disseminated into the wider public. “80% of the Tamils did not know what the LLRC is. And today still only the recommendations are available in Tamil, not the whole report.”(Interview with Meenilankco, 2014) One might get the impression that the LLRC had been seen as an opportunity of the regime to whitewash its responsibility for gross human rights violations, while pretending to comply with the international demands for an inquiry.

Nevertheless, the final recommendations of the LLRC exceeded the expectations of many local observers and civil society groups, which started to conduct awareness raising campaigns and to distribute simplified summaries of the key recommendations of the report, trying to promote reconciliation at the grass-root level. The final report of the LLRC is characterized by the maintenance of the status quo, as it fails in dealing with questions of accountability and a genuine truth telling comparable to the South African TRC. (Orjuela, 2013, p.12) The government of Sri Lanka is arguing that it has already implemented most of the LLRC’s recommendations. The credibility of these statements is questionable as highly contradicting percentages of already conducted implementations have been reported by various representatives of the government. (Groundviews, 2014) Due to the ongoing international pressure, expressed through the HRC resolutions in 2012 and 2013, the government established a National Action Plan for the implementation of the LLRC’s recommendations. This action plan itself has been seen as widely problematic, as it is leaving out many of the most important recommendations which have been perceived by the government as “troublesome”.(Peiris, 2014)

The Centre for Policy Alternatives criticised the national action plan for the selection of recommendations, the suggestion of wrong actions, a lack of clarity, confusing terminology, not addressing the most fundamental problems as well as open questions of monitoring and verification of implemented recommendations⁵⁶. (CPA, 2013)

⁵⁶ In a survey conducted by the NGO “The Social Architects” about the implementation of the LLRC recommendations in the North and East, the GoSL seems to have failed to realise most of the reforms outlined in the report. Issues related to enforced disappearances, arbitrary detentions and the rule of law, political rights, language policies, land-rights, compensation and demilitarisation, the GoSL falls relatively short of expectations.(The Social Architects, 2013)

The Government of Sri Lanka is trying to portray the LLRC as based on the principle of restorative justice, not punitive justice, drawing parallels to the South African TRC. But it is important to consider that restorative justice, in order to be legitimate, has to be offered by the victim and not the perpetrator himself. *“Mandela was clearly a victim of the crime. Can the same be said about Mahinda Rajapakse?”*(Ratnayake, 2013a)

3.4. Democracy and the Rule of law

The current developments of the Sri Lankan state can be described as rather hostile when it comes to the functioning of democracy and the rule of law, as many international reports including the report of the High Commissioner for human rights have observed. It is clear that the political climate, the nature of the democratic environment is crucial in determining the process of conflict transformation. The functioning of democracy is a vehicle for the political acknowledgement of multiculturalism and pluralism, of a multi-polar society, taking into account also the grievances of minority groups and offering space for political debate and channelling of political voices. *“You know, the Democratic Socialist Republic of Sri Lanka is a funny term. In fact Sri Lanka is neither democratic, socialist nor is it a republic,”* Says a social scientist and insists to stop to just blame the government and to draw such a clear distinction between the regime and the society, as *“The Government is not the opposite of the civil society, it reflects the society. Mahinda Rajapaksa is the symptom, not the cause of the problem”*.(Interview with Interview-partner A, 2013) In the following I want to shed some light at the interlocking nature of the downfall of the rule of law and the independence of state institutions that are co-creating the protracted situation on the island today.

3.4.1. Obedient Administration

The Sri Lankan Democracy used to be one of the liveliest in south Asia, characterized through fast changing governments and relatively stable and independently

functioning institutions. The war against the LTTE and the victory of the government forces led to a change in the political climate, having serious impact on the independence of state institutions, the invisible hand of the government infiltrating the police, the administration and the judiciary.

“We changed governments like that, from 100 seats to 8. The current problem is the combination of politicized institutions and the government, but also a deficit gap in the public service and the universities,” says a law professor and human rights activist. (Interview with Interview-partner J, 2014) *“If you look at the Sri Lankan state, the President became a superman thanks to the 18th amendment to the constitution. We have lost the institutions that had some independence, like the Judiciary or the police. Everything has become politicized. There is no place for you to go for justice. Even the Human Rights Commission has lost its credibility”.* (Interview with Meenilankco, 2014)

This trend has been observed by many local and international experts, who see this as a development facilitated through the victory over the LTTE, an expansion of the Sinhalese culturalist dimension into formerly independent spaces. This led to the creation of a climate where obedience is more acknowledged than critical reflection and autonomy. *“Most institutions are simply joining into a wider trend where they want to serve the state, obedience as an expression of being grateful, serving the executive president. They are not necessarily driven by bad motifs. The Government also made sure that institutions are headed by loyal people, not necessarily the ones who would deserve it.”* (Interview with Interview-partner K, 2014) This trend is also being facilitated through the structure of the Sri Lankan administration, the centralist nature of the state making it easier to silence dissent and the striving for regional administrative independence. *“The Sri Lankans have an enormous amount of ministries⁵⁷. This fragmentation suits the control-approach of the state, to satisfy the local population and make them obedient. That’s how centralism works in Sri Lanka.”* (Interview with Interview-partner I, 2014)

There exist various explanations of the ultimate cause of these developments, such

⁵⁷ Sri Lanka has currently about 68 Ministries, compared to Austria with 11 Ministries

as the highly criticized 1978 constitution⁵⁸. (Fernando, 2011, p.8) Others are less irritated about the constitutional provisions, but see the crucial problem elsewhere: *“It is a mindset that over years has created institutions that reflect the mindset. The structures can be changed, but there has to be the political will to do so. Today we have an institutional facilitation of authoritarianism. The presidency itself is not the problem. It is the mindset that gives rise to the institutions and gives them further legitimation.”* (Interview with Saravanamuttu, 2014)

This “mindset” obviously affected the whole system of the judiciary that is increasingly struggling with providing justice. The role of the supreme court of Sri Lanka and its theoretical potential to facilitate the transition from war to peace is far from being exhausted. Despite the constitutional provisions that would give the supreme court a clear mandate for defending the underlying values of a democratic society, the court seems to be degraded to an extended arm of the regime. A critical evaluation of the supreme court’s post war jurisprudence shows that the court has not asserted its authority and left many possibilities to enhance political reconciliation unexplored. (Samararatne, 2013) These alarming developments have been further confirmed through the impeachment of the chief justice in 2013, additionally undermining the independence and autonomy of the judiciary and sending a clear signal to the rest of the state’s administration that non-compliance with the regime’s policy has serious consequences.

3.4.2. The Human Rights Commission of Sri Lanka

“The Sri Lankan Human Rights commission is useless, they see themselves as a part of the government.” (Interview with Interview-partner A, 2013)

The National Human Rights Commission of Sri Lanka is meant to be the country’s independent institution to monitor and facilitate the implementation of Human Rights. The Commission has been downgraded by the International Coordinating Committee’s Sub

58 Providing a strong executive presidency, a twisted separation of power and strong authoritarian character embedded in the constitutional structure, combined with the 18th amendment enabling the president an unlimited amount of terms in office, Sri Lanka is being seen by several observers as a phantom democracy at best, a complete dictatorship at its worst. (Fernando, 2011, p. 8)

Committee on Accreditation from a status “A” to a status “B” organisation due to the lacking of compliance with the Paris Principles⁵⁹. This decision has been reconfirmed in 2009, as the Commission has not effectively addressed the Sub Committee⁶⁰’s concerns and recommendations. The 18th amendment of the constitution now guarantees unilateral appointments of the members of the commission by the President⁶¹. There also seem to be no adequate measures to guarantee the Commission’s independence and political objectivity, as the Commission has publicly declared its support for government policies and also defended Sri Lanka’s human rights record on a national and international level. It appears that the Human rights commission fears a direct confrontation with political and military institutions regarding serious human rights abuses, and there are also no accessible reports of the commission on issues such as enforced disappearances, illegal arrests, detentions and torture. (Gunasinghe, 2013) Balasingham Skanthakumar, a researcher who spent several years studying the Sri Lankan Human Rights Commission, gives several recommendations to improve the Commission’s independence and credibility⁶². (Skanthakumar, 2012, p.29) In its impact to seriously challenge the ongoing human rights decline in Sri Lanka, the Human Rights commission seems to be a politicized and “toothless” institution with a very limited contribution to a serious transformation of the status quo.

3.5. Socio-economic implications

In Sri Lanka, economy has multiple impacts on the structure of society, the nature of the conflict and the potential for its transformation. The Sri Lankan society can be

59 Criteria and responsibilities for national institutions monitoring human rights violations, securing independence, objectivity and effectiveness

60 requirement of accreditation as national human rights organisation to United Nations human Rights Council

61 . This questionable and highly politicised procedure does not offer any guarantees of transparency or the inclusion of civil society groups, constituting a direct contradiction to the “*principle of independence and plural representation including human rights defenders as required by the Paris Principles.*” (Gunasinghe, 2013)

62 Among these are the adoption of a clear, transparent and participatory process for the appointment of members based on merits and pluralism, a re-orientation of its internal culture and procedures to ensure that local human rights defenders are among its members, and that the commission pro-actively issues constructive and critical advice to the government, including current human rights trends, gross abuses and imminent violations instead of acting only on individual complaints. (Skanthakumar,

divided simplistically into two categories of people, the ones who have socio-economic power and the ones who don't.⁶³ Next to a newly emerged highly successful and economically potent upper-class maintaining a “western” lifestyle, benefiting from the regime's neo-liberal economic policy, vast amounts of the population are still remaining on the edges of poverty. This economic inequality manifests itself through widespread cronyism, oligarchy and corruption, further deepening the division between a minority that is maintaining an urban and cosmopolitan lifestyle and the “*grievances of the underprivileged masses*”. The Regime is portraying the country as an upcoming economic power, although many observers remain sceptical: “*I don't see an economic process like in other south east Asian states, such as Malaysia, possible in Sri Lanka, but that's what the government thinks is going to happen. But for the strong economic upturn we need more openness.*” (Interview with Interview-partner A, 2013)

The reasons for the difficult economic situation in the country must also be seen in the context of the war, which had a devastating effect on the economy, where vast amounts of money were spent on the war by state and non-state actors, including the Diaspora. The state is heavily indebted due to the “colossal military spending” and these investments seem to be continuing, as the recent military purchase agreements with Russia and China imply.⁶⁴ (Bopage, 2010) As the economic situation of the average Sri Lankan can be described as rather difficult, the situation of most of the Tamil people in the North and east is significantly worse. An economic upturn was the biggest promise of the government to the Tamil people, who were cut off from any economic development since the takeover of the LTTE in 1983. This promised economic development manifests itself unfortunately in infrastructural projects, usually not for the benefit of the local Tamil population. Development in Sri Lanka can be characterized as centralist and undemocratic, with a lack of social awareness and exclusion of significant parts of the population, often going hand in

2012, p.30)

63 As this is surely an oversimplification, it shows a clear division of the Sri Lankan society also along economic borders.

64 More than a third of the foreign exchanges are being earned by people working in domestics in the Middle East, and about the same percentage of the rural people lives in poverty in Sri Lanka today

hand with processes of relocation and land acquisition, making many poor people losing their homes, their businesses and livelihoods. Many infrastructural improvements have primarily been carried out by the military in a highly centralised manner, the poor being neither consulted nor intended as beneficiaries of these projects.⁶⁵(Marshall, 2014; McKenzie, 2014) Unfortunately a lack of sensitivity and long-term strategy is characteristic for most of the developmental projects in the country.⁶⁶

The Sri Lankan developmental projects that are being portrayed by the GoSL as positive examples of an post-war economic upturn usually failed to properly assess the *“social, cultural, economic and political fabric of the communities affected”* or to establish a broad process of participation and consultation that would be able to harmonize the developmental planning with the prevalent needs of the people, ensuring sensitivity to local and regional concerns. Many of the developmental activities are characterized by insufficient transparency, a lack of accountability mechanisms and no availability of relevant information. Many projects are designed in a way which is often not being people-centric, not primarily targeting the well-being and freedoms of all people. Economic Development in Sri Lanka has a lot of deficits when it comes to promoting dignity and equality and actively preventing those persons and communities from living in poverty. (Buthpitiya, 2013, p.p.16)

3.6. Cultural Meanings

“We must lift the veil of deception to see what we voluntarily cover up in the name of our identities.” - (Trishantha, 2014)

⁶⁵ As post-war reconciliation and reconstruction are tied together in the Sri Lankan scenario, the government is prioritising economic development programmes on the expenses of an open and plural society and political space.

⁶⁶ Eager attempt to transform the capital Colombo into a “world-class city”, as a “preferred destination for international business and tourism” as phrased by the Secretary of Defence and Urban Development. The dark side of the infrastructural development in Colombo is a lack of social awareness, many projects leading to land acquisition and the loss of communities, cultures and lifestyles.(Wijesiriwardena, 2014)

In a last step of this context-analysis I want to explore the significance of cultural meanings that shape the conflict and the discourse about peace and justice in Sri Lanka. The role of ethnicity and religion has crucial importance in its function as a dividing as well as unifying factor in society, creating strong cultural identities being nourished through the presumed heritage, forging strong narratives about the legitimacy of one's own political strategy, resulting into the "*Uninterrupted reproduction of politics of ethnic solitudes*" (Uyangoda, 2012), nourished through the ideological instrumentalisation of religion and history as justifications of violence.

3.6.1. Ethnicity and Religion

In Sri Lanka, the population's division along ethnic borders is also reflected through the affiliation to a religious communities. Except the Muslims and the Christians, most of the Sinhalese are Buddhist, while the Tamils belong overwhelmingly to the Hindu religion. In this sense, religion in Sri Lanka becomes an ethical notion. Although the conflict is not one of a religious nature, religion nevertheless constitutes a fundamental feature of identification, supporting the basic observance that in Sri Lanka "*ethnicity tends to overwrite most of the considerations.*" (Interview with Fernando, 2014)

According to a recent survey, Sri Lankans perceive their societies as turning more religious. Local religious leaders are being seen as highly influential; also religious education is becoming more and more important for a majority of Sri Lankan population⁶⁷. The Sinhalese dominance and affiliation of the religious component to the state has its implications also on the perceived religious freedom of the other communities, as other religious minorities are much more likely than Buddhists to perceive discrimination by the government. Another dividing issue that has gained new importance after the end of the war is the erection of various religious statues or places of worship in public places, which continues to be divisive between all religious groups. (Sabharwal and Chinn, 2012)

67 Buddhists see external influences on their religion negatively, what might be explained by the perception of Sri Lankan Buddhism as a cultural heritage that must be preserved from external impurity. (Sabharwal and Chinn, 2012)

“It is a unique ‘culture’, passed off as Buddhism, in Sri Lanka, for it is neither a religion nor a philosophy”, the “supreme” Sinhala race being seen as the “chosen” one to protect Buddhism for thousands of years.(Serasinghe, 2013) This reception of Buddhism in Sri Lanka is coincided with a holistic process of state transformation in around 300 B.C. that laid the foundation of the strong influence of the “Sangha”, the Buddhist clergy, over the Sri Lankan political system until today. Feudalism, caste and ancient privileges still prevail in the cultural consciousness of many people, making many observers urgently call for a Buddhist reformation to liberate Buddhism from its “worldly entanglements”.(Samaranayake, 2014a) As there is the need to re-enforce a true Buddhism beyond political considerations, many of the laity need to critically review the ongoing confusion between religious myths and historical facts. (Serasinghe, 2013)

Buddhist extremists⁶⁸ were able to target and attack both Buddhists and non-Buddhists with a relatively high level of impunity, making especially Christians and Muslims feel highly insecure and under threat from the most dominant Sri Lankan religion.(Faaiz, 2014) The distorted nature of Buddhism⁶⁹ in Sri Lanka that is gradually moving from silent contemplation to a political and commercial activism is being strongly criticized by many observers and civil society activists. *“An Angry monk, that is not a monk, this is totally unacceptable, he is not representing the Sangha, he is only wearing a robe. (...) But they are supported by powerful forces of the government.”* (Interview with Interview-partner D, 2014)

3.6.2. Heritage and Cultural Identity

Most historians admit that a lot of what is considered as a historical truth in Sri Lanka has indeed been shaped and filtered during the course of time; ambiguous facts have

⁶⁸ The political orientation of Buddhism in Sri Lanka led to the emergence of politically highly active monks, the regime's emphasis on Buddhist politics has turned many into *“violent political street fighters”* and decision makers in society, open for violent racist interventions, often backed or supported by the incumbent regime.(Perera, 2014b)

⁶⁹ Through changes in urban and middle class life, some monks even moved out of temples into luxury city “Ashrams” combining holy reputation with heavily market oriented rituals. In commercial centres in the provinces, monks even got into small time business to have a comfortable life and luxury in the temple. (Perera, 2014b)

been twisted and tuned into truths that form the basis of the common self-understanding and identity. What can be observed in Sri Lanka today is the “production of a hegemonic heritage discourse”, where the President’s romantic vision of the country works as a merger for the nation, the state and the people and promotes a love for the country that is based on a very particular and partial understanding of history and founding myths. The other minorities are being seen as “shadows”, without functioning as constitutive elements of a “common political culture”. (Wickramasinghe, 2012)

These myths that are creating the cultural, historical and religious heritage are so deeply ingrained into the collective consciousness of the people that modern research and the unbiased interpretation of historical or archaeological facts are unable to create a counter-narrative strong enough that it could defy the mainstream opinion. *“If you look at the Tamils, we are talking about 1000 BCE, they were already in Sri Lanka, and we have evidence for that. All the Sinhalese are genetically strongly related to the Tamils. These twists of history are deeply ingrained in the Sinhalese narrative about the prehistoric and ancient time. But the facts are in favour of the Tamils.”*(Interview with Sebastian, 2014) ⁷⁰

There exists still a strong authority of accounts of history that have drawn from chronicles, myths and “Jataka tales”, portraying heroes and gods as the motors of history. Ideas about heritage are being passed on to the broader public through teaching in schools and universities through textbooks where history, instead of being seen as a critical assessment of the past, has been superseded by a simplistic version of history that “conveys a flat, uncontested and unproblematic story of the past.”(Wickramasinghe, 2012) This consciousness vividly represented through the Rajapaksas and the incumbent government implicitly states the political opposition has anyway no significance since the interests of the majority are being pursued by the ruling establishment anyway. “Class politics, opposition politics and identity politics wither away and disappear in this symbiotic state-society-utopia.”(Wickramasinghe, 2012) Even the popular culture and cinematography

⁷⁰ Anton Sebastian is the author of the weighty book “*A complete illustrated history of Sri Lanka*” who also dealt extensively with the prehistoric occupation of the island.

became an expression of Sinhalese Buddhist nationalism and patriotism, supporting the “construction of a hegemonic memory in a masculine history.” In this sense, also the cinema’s potential as a tool of reconciliation dissolves completely. These films even further widen the gap between the communities instead of offering a platform to share and exchange grievances. They seem unable to encourage the involvement of a broader group of people representing both communities, failing to realise the objectives stipulated in the LLRC. (Karunanyake & Thiyagaraja, 2012)

The potential of inter-religious and inter-cultural dialogue might offer a substantial source for the finding of shared values and perspectives for the future. Nevertheless, these attempts have to be more serious and committed to break through the ethnic separation. *“Christians are the only religious community where both ethnicities are represented, but there are big differences in how they look at things. They claim to be guided by Christian values, but in fact the ethnic argument supersedes. In many fields ethnicity overwrites everything, even in the judiciary. Ethnicity has come to the forefront”.* (Interview with Fernando, 2014)

According to historian and anthropologist Michael Roberts, what is needed is a multi-faceted approach trying to dismantle the ingrained practices that are encouraging the Sinhala part of society to see itself as representing the whole of Sri Lanka and therefore legitimize domination. (Roberts, 2014) Dayan Jayatilleka puts it slightly differently when he says: *“It is about the dismantling of the Sinhala identity. It is dissolution almost in a cosmopolitan notion. I am talking about negotiating an arrangement between the Sinhalese and other identities. That we recognise that these are blocks that don’t go together yet.”* - (Interview with Jayatilleka, 2014) That has crucial implications for the discussion about reconciliation in Sri Lanka as such. *“Popular in public is that reconciliation is about common things, but I think we must talk about the differences primarily. We are indeed very different. Food, clothes, women’s makeup, architecture, funerals, parties, weddings, music, dance, language. We have to find a way how to integrate these differences and appreciate them both as being equally Sri Lankan.”* (Interview with Fernando, 2014) The problem seems to be that the Sinhalese way of live is seen as the Sri Lankan way of life,

leaving no space for the Tamils to be truly part of Sri Lanka. The goal of "reconciliation" would then ultimately be a transformation of identity that gradually opened up until it could respect and assimilate other identities, but without losing itself.

4. VISION - BASIC NEEDS - HUMAN RIGHTS

After having explored the structure of the conflict, the actors and the various contexts framing the reconciliation discourse in Sri Lanka, the 4th chapter will discuss the role of Human Rights as a normative framework, its relation, justification and legitimacy in regard of the existence of Basic Human needs and how these might be utilized to develop a realistic Vision for Sri Lanka's future.

The creation of a vision requires the combination of “empathy, distance, compassion and judgment”, based on an ethical and common frame of reference, being able to differentiate between possible legitimate and illegitimate goals and between right and bad compromises. The "group-specific" interests and values shaping the discourse are either legitimate or illegitimate, but usually negotiable. Behind these interests usually lie the suggested “Basic human needs” of the individual members of the ethnic groups, expressed and codified through the concept of human rights and human dignity, which are not only legitimate, but always authentic, indispensable and non-negotiable.

These universal basic human needs can be seen as the frame of reference for the development of visions that uphold Human Rights and distinguish between legitimate and illegitimate targets. With this concept one can combine understanding with criticism and creativity, using the goals and motivations of the parties to understand even the perpetrators, both their ego- centred motivations and group- centred interests and values, criticizing where they hurt the general basic human needs and dignity of the other. (Graf & Kramer, 2012)

4.1. Human Rights

“Some are genuinely interested in human rights, some are human rights careerists, some are living out of the miseries of those subjected to human rights violations, some fake

human rights who make a furore and cry against their oppression while at the same time are violating other people's human rights, some NGO's are serving the needs of imperialist countries in the name of human rights etc. You can meet all categories here."

(Interview with Interview-partner B, 2013)

In Sri Lanka, "Human Rights" are a very sensitive issue, being highly charged with emotions and the various ideological backgrounds of the two main ethnicities. Human Rights as a reference frame for policy, administration and reconciliation is being rejected by parts of the society whose mindsets are shaped by a strong Sinhalese-Buddhist-nationalism, seeing them as a political tool to generate pressure against the ones in power. That brings us to the question of how to operationalise human rights in a concrete socio-political context, where the practical implementation of human rights creates resistance on the part of forces that benefit from the status quo, as human rights implementation usually involves a transfer of power to the powerless. *"The whole thing is about an understanding of what human rights are. Not just war. Not just Tamils. It's about houses, health and justice. Human rights are being seen as a threat of identity and the nation. The Tamils also have a very bad experience; they feel abandoned by the international Community. The Tamils know that US and EU supported the war in the last stages."* (Interview with Fernando, 2014) *"The Government was successful in creating a climate that people and states that are making human rights-enquiries are supporting the LTTE. But without the support of these countries the LTTE could not have been defeated."* (Interview-partner H, 2014)

The implementation of human rights in general and in Sri Lanka in particular requires a sensitive approach, shaped by a holistic understanding of the concept of human rights, the connecting causes and symptoms, a multi-dimensional perception beyond legislation, policies, and public institutions. In the context of conflict transformation, the vertical application of human rights is necessary to emphasize the responsibility of the state towards its citizens and to provide citizens with a platform for demanding accountability. This implies the need to address structural concerns that shape the relationship between state and citizens, to develop "vertical capacity"-connections between the leadership at

different levels of society, helping them to recognize how their roles, capacities and contributions to conflict transformation are interdependent. The challenge thereby is to deal with Human Rights violations as symptoms while keeping in mind the larger, more structural conditions that give rise to the violations⁷¹. (Parlevliet, 2010)

This leads to the crucial question of how these symptoms can be tackled in a way that contributes to the desired long-term changes in the whole of society. *“The problem is that in Sri Lanka, since the Human rights based approach is not being understood, people can dismiss it as nonsense, and this has not been challenged yet, so it comes into the sub consciousness of the people. (...) To say the west should give up its call for accountability at all, that is not a way you can discuss it, you have to discuss that in terms of international obligations.”* (Interview with Interview-partner J, 2014)

4.1.1. Human Rights as a Functional Framework

The international discussion about Sri Lanka's human rights record and calls for truth and accountability since 2009 has been met by a nationalistic policy and counter-discourse based on the principle of state sovereignty, cultural relativism and “non-interference” in national matters, the west being accused of applying double standards and instrumentalising human rights to achieve a regime change in the country. *“Gotabaja⁷² said: ‘You call your parents by their first name; we worship our parents and our teachers. How dare you to tell us something about human rights?’ This is a sense of intrinsic cultural superiority, which automatically legitimizes the critique and resistance.”* (Interview with Jayatilleka, 2014), said Dayan Jayatilleka, stating that he agrees about the universal value and significance of human rights, but in the context of a strong national sovereignty⁷³.

⁷¹ This is also relevant because many rights-focused activities in conflict tend to be symptom-orientated (handling complaints of human rights violations, investigation of individual cases, monitoring abuses) and as such run the risk of disregarding underlying patterns. (Parlevliet, 2010)

⁷² Gotabaja Rajapaksa, brother of the president, current Secretary of the defence ministry, considered as the 2nd most powerful politician straight after the president

⁷³ *“I support the liberal realist perspective on external affairs. The Idea of uneven and combined development, emphasising the uneven nature of the global system's development. I think this is especially valid for the dimension of human rights, also in regard of the universality of human rights.”*

Nevertheless, such attempts to water down Sri Lanka's international obligations, whether intellectually grounded and elegant such as by the former ambassador or direct and uncouth such as the critique of the Defence-Minister's secretary seem to be the mainstream-opinion in Sri Lanka, shaping the policy of rejection of external interference. The regime seems to justify its strategy through the fight against terrorism and a strong neoconservative position that also played a dominant role in the foreign politics of many western states about a decade ago: *"There has been a strong Israeli push-back on HR, as well as from the US during the Bush administration. Anything goes in the fight against terrorism. These values are shared by the Sri Lankan state. That's the cutting edge. Therefore Gotabaja is so aggressive. There were in fact serious crimes. These were excesses rather than a policy. The neoconservative push-back was that even this has not been admitted."* (Interview with Jayatilleka, 2014)

That kind of explanation and justification is intolerable for most members of the Tamil Diaspora and many other members of the international community, demanding a process of truth-seeking and the deliverance of justice without delay and excuse. Again, Dayan Jayatilleka sees the problem in the relationship of "human rights" to the electoral mandate and national-democratic mechanisms of the country, saying that: *"Whatever we say about HR, what we value most is the functioning of democracy.(...) It was a war that was popular, not among the Tamils, but definitely among the Sinhalese. So the question is how you operationalise justice in such a setting, against the democratic will."* (Interview with Jayatilleka, 2014)

The regime sees the west as being selective in its commitment to human rights and plays it down as an "euro-centric" concept.(Ismail, 2013) This position might appear as being obsolete at least from an academic perspective in 2014, more than 20 years after Vienna 1993 where the universality and indivisibility of Human Rights have been emphasized, but it still has to be taken into consideration as a political fact as this mindset seems to dominate big parts of the Sri Lankan society and creates an environment and a

(Jayatilleka, 2014)

political reality that has to be dealt with in practical terms⁷⁴. Dayan Jayatilleka thinks this gap could be bridged in the following: *“The way out I see in practical and operational terms in the LLRC. You carry the consensus of the public with you. It will not be adequate for international critics and the Diaspora, but I think it can bring reconciliation and justice. In 15, maybe 20 years you will have a wide-ranging process of truth seeking, but that needs a new generation of people. You will need a different mood, a more open mindset. As long as there is the external pressure, this is difficult to happen.”* (Interview with Jayatilleka, 2014)

4.1.2. Rehabilitation of Human Rights

The partial rejection of human rights in Sri Lanka is not only expressed through members of the government, even the wider public appears to be highly critical about the concept as such. Once again it is the regime that has managed to translate any discussion about human rights as an attempt of the west to support the Tamils, even the Tamil Tigers and their secessionist activities instead of utilizing the concept to improve the lives and situation of the population. *“We have to talk about human rights as a very local concept, people don’t understand that. Those are universal values.”* (Interview with Interview-partner D, 2014) It seems necessary to explain the meaning of human rights beyond the Tamil question, to break up the linkage of human rights and the sensitive issues of ethnicity and allegations of war crimes. *“We have to start focusing on what is relevant for the people, like corruption, miss-governance, criminals not being punished, patronage; these are problems of the people in the south. These are the concerns of the Singhalese, that’s what rights have to be linked to beyond the Tamil question.”* (Interview with Interview-partner E, 2014) This is also true in the context of post war development and the regime’s strategy of “reconciliation through development”, where a lot of money is being pumped into

74 The National Peace Council is therefore calling for cultural relativism to not be misused to dismiss the universal validity of humanitarian values and human rights as cultural products of the West. (National Peace Council, 2014a)

questionable infrastructural projects financed through Chinese loans: *“For developing countries a human rights-based approach is intrinsic. After Vienna 1993 we are talking about the indivisibility of rights, that all generations are linked. The idea that low income people don’t want political and civil rights is wrong; the people on the ground are affected by a lack of freedom of speech or freedom of assembly. Development and rights are integrated; you cannot have economic growth that ignores rights.”* (Interview with Interview-partner J, 2014)

As long as Human Rights remain to be perceived as purely related to the Tamil question of war crimes accountability and the right to self-determination, it will be difficult to change the main-stream opinion of the Sinhalese towards more openness for a rights - based approach. So far, the regime’s strategy of re-colouring the international pressure as attempts to destabilize the country and support secessionist tendencies has been very successful, having become the winning formula of the regime to safeguard its mandate from the people. “The stronger the international pressure on accountability, the better for the government”, at least so far this has been the case in Sri Lanka since the end of the war.

4.2. Human Rights Violations suffered by the Tamils

“There are tens of thousands of war-widows (in the north) that have no income. Many of them are driven into prostitution, exploited by army personnel. Some became Muslims and became second wives. People used to go to Bangkok for sex holidays, now people go to the war affected areas for similar purposes. The Government must first fully implement the 13th amendment and provide compensation, it would get international support for it, but it does not seem to want it.” (Interview with Interview-partner H, 2014)

The Tamils in the north are still struggling to get back to normality after the war has ended. Unsolved problems concerning land rights, language Rights, the right to justice, the right to the truth and demands for restitution and compensation are characteristic for the situation in the northern and eastern province, followed by ongoing reports of rape and forced

prostitution, intimidation and harassment.

4.2.1. Structural Genocide and the Right to Self-determination

There is the successive attempt to damage the homogeneity of the Tamil territories, the continuity of the Tamil homeland, a form of intra-national colonialism, “continued wave of genocidal attacks”, a strategy of land-grabbing that’s “intention is to achieve a change of the demographic structure of the former Tamil areas⁷⁵, leading to an irreparable damage of the Tamil culture and identity”. The military has also gained increasing control of administrative decisions in the North and East. This includes the distribution and use of land and administrative and developmental decisions as well as imposing restrictions on humanitarian, developmental and psychiatric social work. (Balasundram, 2013)

The severity of the expression “Genocide” has to be taken into account, but many Tamils and especially Diaspora members see the government’s strategy being mainly focused on the undermining of the Tamil culture, identity and political structures, to override the Tamils politically, economically and culturally. By many Tamils it is being seen as an attempt to eradicate any vision of a Tamil Eelam, a Tamil Homeland which became the synonym for the Sri Lankan Tamil’s dream of a life in freedom and dignity. The Bishop of Mannar, Joseph Rayappu, gave me the following sobering description of the current situation during an interview in January 2014: *“They are now continuing with the structural genocide of the Tamil people, changing the demography here. We are not even allowed to celebrate and mourn our dead people. The army is watching every one. They are watching our church service, that is no freedom. They are robbing our country, fishing and farming. Young people have no hope in the future. The only way is to get out of here, and the ones who get out never come back. It is a strategy of structural and silent genocide. The situation here is impossible for the Tamil people to live. We had our king, we were living*

75 The total landmass of Sri Lanka covers 65,619 sq km, where the Tamils inhabited 18,880 sq km of land in the north and east, but after the end of the war, the Sri Lankan Armed Forces comprised entirely of Sinhalese, around 85,000-86,000 soldiers, are occupying more than 7,000 sq km of this land (Balasundram, 2013)

here, and no Buddhist people were here. We want it back. That is ours.” (Interview with Rayappu, 2014)

Diluting the Tamil population removes the fundamental principle of the Tamil struggle for a separate nation, the right to self determination. Confiscation of land for the purpose of “Archaeology” or “forest protection” and the resettlement of entire villages due to the interest of the armed forces are just a few symptoms of the creeping Sinhalese colonization of the north. Asking the Bishop about a potentially acceptable political solution, he insists on a federal model: *“That means power sharing. We are a nation, a people. That’s our right to self-determination”* (Interview with Rayappu, 2014)

While pretending to conduct economic and infrastructural development, the Sri Lanka state is coordinating a process of militarization, land alienation and colonization, imposing the unitary administrative system of the centralist state over the Tamil homeland and disabling true rehabilitation, development and reconciliation⁷⁶. (Jayapalan, 2014)

4.2.2. Right to the truth

“The Problem is that for most Sinhalese the Tamils who disappeared were terrorists.”(Interview with Meenilankco, 2014)

According to the 2012 report of the International Committee of the Red Cross, 16,090 people were missing in Sri Lanka, but those are only the cases where families have requested the ICRC’s help, many others are not documented. Most victims did arise from the three-decades of war, making Tamils the vast majority of the disappeared persons, although a considerable amount of the disappeared might also belong to the Sinhalese, who were targeted during the JVP⁷⁷-insurrections in the south in the 80s and 90s. A considerable number of the recently disappeared were said to have surrendered to the army as the war ended, but then vanished. (Haviland, 2014) Without providing any official structures for

⁷⁶ Ironically, development is used as a substitute for democracy, empowerment and justice, having the opposite effect on the right to self-determination, as the decision-makers remain the Sinhalese and extra-local decision-makers such as foreign investors in Colombo. (Jayapalan, 2014)

⁷⁷ Marxist youth movement

recourse, many families were left behind to cope with their grief and pursue justice for their disappeared family members and themselves. Family members of the disappeared were also prevented from attending non-violent demonstrations in Colombo and Jaffna during the visits of UN High Commissioner for Human Rights, Navanethem Pillay in August 2013 and the British Prime Minister David Cameron in November 2013 during his attendance at CHOGM.

The families of these victims are not only affected by the disappearance itself, but also by the refusal of the state and its aligned agencies to assist in locating and providing information regarding the disappeared individual, leading to an abandoning of their pursuit of justice due to the fear of a reprisal by the State. The sole right to justice seems to be a victim of the already mentioned institutional shortcomings of the judiciary. The “lethargic and lackadaisical attitude of the judiciary”, delays in the hearings and frequent postponements of cases and transfer applications made by the respondent’s lawyers are other significant failings of the domestic judicial system, individuals who were named as being potential perpetrators in front of the Commissions of Inquiry were never called to speak before any of the Commissions to give their testimony⁷⁸. The government has also not stated any guarantee of non- recurrence, which could easily be provided by a complete disarmament of paramilitary groups linked to the security forces, the repeal of the Prevention of Terrorism Act and the removal of senior officials implicated in serious Human Rights violations in the past.(Watchdog, 2014)

4.3. Basic Human needs

“The north needs basic development rather than transitional justice” (Interview with Interview-partner A, 2013)

⁷⁸ An important realization is that behind each of these abstract numbers, there is an actual person who went missing, with the entire narrative of suffering and loss. Public demonstrations for providing information about the whereabouts are no conspiracy against the government, the protesters demanding truth and justice being driven by the “most primordial of human sentiments, which is the commitment of family members to one another.” (Perera, 2013)

In terms of conflict transformation, the concept of basic human needs as the ultimate justification for the existence of Human Rights might represent a useful frame of reference, as this concept is much less politicised and allows a discussion focused on needs and requirements without triggering the defence mechanism of the Sinhalese. These basic human needs represent core human values such as survival, well being, freedom and identity. This allows us an assessment of the legitimacy of the Tamil grievances in a very un-politicized manner.

In a first step it is useful to define what these basic needs are that the Tamils are struggling to satisfy. *“For the Tamil people living in the Northeast of the island, the apparent concern is the ability to retain a dignified life; now and into the future.”*(Balasundram, 2013) Following the discussion about Sri Lanka on an international level, issues of Truth and justice seem to be dominating the discourse. When one travels to the north and speaks to the people, the situation seems to be slightly different: *“What do the people want? If it comes down, they say: we want a house, we want food, we want a job, and we want a better life”* (Interview with Interview-partner B, 2013) says a human rights activist with long experience at the grass-roots level. *“Everybody is happy that the war is over. Please let us live. People want more job opportunities, a socio economic improvement. People want some kind of political autonomy in terms of socio economic uplifting. They don’t care about development by building roads, that brings Sinhalese from the south in buses and Lorries to compete with the local economies. In Kilinochi or Mullaitivu, they want free fishing.”*(Interview with Meenilankco, 2014) Asked about the relationship with the demands for accountability and justice for the allegations of war crimes, he replies: *“This justice is not a priority. Having their normal livelihood is fundamental. But getting these basic liberties and livelihoods is connected to justice, because the state has to accept you as a citizen, which has not happened so far.”* He tells me a story about a man whose displacement started 5 years ago, all his belongings fitting into a small shopping bag. After several years in a displacement-camp, he returns to his

house which is destroyed, with the same little shopping bag. *“He wants his house, his livelihood, that’s his justice”*. (Meenilankco, 2014) Without any attempt to dilute the needs for an investigation as expressed by the Tamil Diaspora, it seems that the people on the ground have different priorities that are more urgent for them than the deliverance of justice in a classical notion. *“All the people I have spoken to in the north on the question of accountability, have made the point to me that it is not about Mahinda or Gotabaya Rajapaksa being seen in front a tribunal, it is about acknowledgement.”* (Interview with Saravanamuttu, 2014) In this regard acknowledgement seems to have a crucial importance for the Tamils. *“Forget the war crimes. What has been done was unfair to people. One has to acknowledge, Say it was wrong.”* (Interview with Interview-partner O, 2014) This lack of basic need satisfaction leads political actors to make use of what they are actually capable of. As the Tamils are lacking most of the resources, both in economic and political terms, claiming human rights violations is one of the few remaining agencies. *“Human Rights have been instrumentalised to get a political settlement. But you need acknowledgement and truth; accountability can come later, like in many Latin American states. The Tamils aren’t equal citizens of this country as long as there is no acknowledgment of what has happened. You are basically asking them to forget, and they can’t.”* (Interview with Saravanamuttu, 2014)

For the Sinhalese majority, the question of basic need satisfaction is one of a completely different nature. Being traumatized through the years of war and the terror of the Tamil Tigers, their basic need relevant for this conflict might be primarily seen in the maintenance of their collective cultural and social identity as well as geographical and national unity of the country, which gives rise to most of the anti-Tamil sentiments within the Sinhalese population.

The following question is how to develop a strategy that would satisfy the basic needs of both actors, at the same time taking into account the political realities on the ground as well as the normative concepts of Human Rights and Human Dignity, to design a shared future for both ethnicities.

4.4. Vision

“Do we have a shared vision of Sri Lanka? We think our way back from there to design what has to be done.” - (du Toit, 2013)

In this last part of the 4th section I want to explore which possible solutions could serve the basic human needs of the Tamils and Sinhalese, identifying win-win outcomes and seeking thoroughbred compromises or cooperative solutions that recognise the basic needs of the other. This vision, if it wants to offer lasting and deep solutions, requires the transformation at various levels of society, especially of social structures, cultural identity and collective emotions. Approaching this vision will require an improvement of the quality of social interaction between the ethnic groups and ultimately a gradual change of the cultural identity itself.

A vision that would offer a satisfaction to the basic needs of the Tamils must focus on all the crucial pillars, including economic, cultural, social, political and judicial dimensions. A vision for the economic aspect must deal with fundamental issues such as the restoration of normal livelihoods, providing housing and food and jobs. This socio-economic up-lifting must enable the Tamils to autonomously deal with their own resources such as free fishing and farming. The Vision for the cultural dimension must entail measures that enable the Tamils a life in “dignity”, to considerate their cultural specificities as language, religion and customs. It must provide them the opportunity to collectively mourn and express their grief in an undisturbed manner. In the social sphere solutions have to be found to deal with the thousands of war widows, former LTTE-combatants, victims of war-trauma and consequences of displacement and sexual violence, providing psychological support and strengthening the social cohesion of the Tamil community.

In a political sense, this vision has to be aimed at providing a political solution for the underlying conflict, delivering some sort of political autonomy for the Tamil people. Prompt demilitarization of the north and east combined with the implementation of a model that enables self-governance of the Tamils are of crucial importance to make the Tamils

“equal citizens” of the country. Finally, the probably most sensitive issue, the Sinhalese have to accommodate some sort of justice for the Tamils. Apart from the specific shape of such a justice model, whether it is an international investigation, a local mechanism with international facilitation or a national model based on the concept of the South African TRC, what is of fundamental importance for the Tamils is a public acknowledgement of the Tamil suffering, the break with the ultimate denial and unconditional stripping off (away?) of any responsibility from the incumbent regime. On the other hand, this vision has to also include and satisfy the basic human needs of the Sinhalese. These are primarily the maintenance of their collective cultural and social identity as being Sinhalese-Buddhists as well as the geographical and national unity of the country, which leads to the suppression of the Tamil grievances as part of the own nationalistic project.

The ultimate question is therefore how these two ethno-nationalistic concepts can be realized in a peaceful way. That would lead to a transcendence of the own culturalist nationalism towards a broader “self-identity” that could embrace the other ethnicities under a common identity as being Sri Lankan, resulting in a multicultural concept of Sri Lanka that appreciates its cultural diversity beyond today’s prevailing consciousness of “ethnic solitudes”.

4.5. Transformed Goals

The crucial point is to find goals that are compatible with the basic needs of the actors. Despite a national action plan on reconciliation and the calls for an international investigation from the international tribunal, what would have the biggest impact on the entire process of reconciliation would be a political solution of power sharing between the Tamils and the Sinhalese. All the other basic needs of the Tamils could then be satisfied within this framework, could partially become a task of the own administration, ownership of parts of the reconciliation process would change the entire structure of responsibilities

and demands, finally breaking through the protracted logic of subject and object, victim and perpetrator.

It is not about impunity for the Sinhalese in order to gain a political settlement, as these two can hardly be balanced against each other and arise from different ontological spheres, but about pursuing what has the biggest immediate impact on the lives and situation of the Tamils on the ground. The most urgent question is not justice, although equally important, but a certain normality in life. As long as the north remains a militarised colony of the victorious army, this normal life is actually not possible, and no international investigation into the allegations of war crimes will change that. As happened in many Latin American states, justice has been done after a phase of political re-consolidation, a phase that enables a war-shaped mentality to dissolve into a consciousness carried by responsibility and amicability, enabling the emergence of open spaces for civil society activism and the creation of counter-discourses. As long as the weapon of “justice and accountability” remains, the war mentality will likely continue to be constitutive for the reconciliation debate in Sri Lanka. It is not a question of “peace” or “justice”, but rather one of finding realistic and appropriate strategies in the given socio-political circumstances, taking into account the most urgent needs of the people and the necessarily hierarchical structure of their anthropological basic human needs.

The former goal of total secessionism, resulting in both the dream of Tamil Eelam on the one hand and the Sinhalese attempt to culturally and economically suppress and annihilate the Tamils in order to confirm their project of a centralist, politically and geographically homogeneous nation have to be abandoned in favour of a realistic, relativistic and cosmopolitan vision that offers space for both nationalisms to peacefully coexist. As Michael Robert puts it, *“these specialists should be ready to (a) think outside the box and go beyond the 13th amendment in the constitutional reforms; and to (b) insert some measures of asymmetrical devolution within these plans.”* (Roberts, 2009) Saravanamuttu, describing the thirteenth amendment as a flawed, incomplete and inadequate document, further concludes: *“A political settlement has to go beyond that.”* (Interview with Saravanamuttu, 2014) I will deal with the question of asymmetry in the

following chapter, but it should be said that the current constitutional provision in its symmetrical structure can hardly be satisfactory for the Tamils as it lacks any kind of acknowledgement of them as a people, negating any form of expression of their right to self-determination.

The prevailing emotional climate of mistrust and suspicion between the communities has to be replaced by a feeling of togetherness and hope in the future. Creating a sense of inter-dependence between all communities is crucial if minority communities are to feel a connection to the newly-rebuilt nation, fostering independence and self-sufficiency in the individuals and communities concerned. This vision and new direction for the future has to be carried by the government, civil society, religious leaders, the business community, the media and other stakeholders to guarantee an overall transformation of the Sri Lankan politics. (Yusuf, 2013) That requires, in further consequence, a reformation and transformation of the categories of identity so that *“hyphenated categories of self-identity”* can take root. (Roberts, 2009)

The concrete steps that need to be taken to ultimately achieve this goal will be dealt with in the last chapter, providing an action-plan as to how these interdependent issues of basic need satisfaction, holistic vision, and political solution and need for justice can be balanced against each other and approached systematically in the given environment. Beforehand, there will be an analysis of the obstacles that hinder the prompt realization of this Vision. As these interconnected obstacles are being produced by the prevailing political and economical systems and elites in Sri Lanka, an assessment of these barriers is crucial for the development of transformational strategies.

5. Obstacles

The two crucial and interconnected issues of providing justice for the Tamils and the finding of a political solution are the corner-stones of the Sri Lankan process of reconciliation (Senaratne, 2014). 5 years have passed where none of these urgent issues have been tackled in a satisfactory manner and looking at the current political climate in Sri Lanka doesn't allow much optimism concerning future developments. In this penultimate chapter I am going to analyze the various obstacles that are hindering a transformation towards the realization of a holistic and just vision that would satisfy the needs of both communities. Entrenched mindsets on both sides are creating a climate of suspicion, being exploited by populist politicians aided by an obedient administration, while the space for civil society activism and free journalism seems to get further restricted by the incumbent regime. The need for truth and justice is being played against the attempts to find a political solution, resulting into a "political game" whose main victims are the Tamils in the north and east. But also the academics, activists and intellectuals of the country are suffering under the increasing pressure the regime exercises on formerly independent state institutions and media. In the end, the whole country and its economy are being affected by the ongoing conflict, so that almost every single citizen of Sri Lanka including the Sinhalese working class is carrying the consequences.

5.1. Accountability⁷⁹

The international calls for accountability on allegations of war crimes and breaches of humanitarian law have a double-edged impact on the ground. On the one hand, justice is crucial to overcome the division within the society, to break the culture of impunity and

⁷⁹ "Accountability" means the answer-ability of any person for his or her mindful action, being the crucial differentiation from the principle of "The Rule of Law".

move on towards a shared future. (International Commission of Jurists, 2012) Nevertheless, if justice becomes a political lever, it might push the government into a defensive position, which might result in opposing results on the ground, further deepening the division between the parties. Sri Lanka undoubtedly needs a total transformation of its entire system of judicial accountability, not just in the post war context. The justice system, being described as partly dysfunctional by many observers, is a result of the political culture in Sri Lanka, which has emerged during the course of the ethnic conflict. It is the polarization and the war-mentality that disables the successful implementation of a justice mechanism, and it is the lack of justice that leads to the foreign international pressure. This pressure gives rise to a diversity of political phenomena resulting in increasing nationalistic and authoritarian politics of the incumbent regime, further deepening the division between the two communities and even creating the danger of a backslide into the violent past. The concept of transitional justice offers various mechanisms to provide justice, ranging from international investigations and tribunals over national processes with international assistance, truth and reconciliation commissions up to very regional forms of truth finding in community based trials. In Sri Lanka, the calls for justice are coming from the ethnic minority of the Tamils, the Diaspora and the international community, but not from the majority within the country. The ultimate victory of the government troops over the LTTE and the lack of a negotiated settlement are making it difficult to implement any sort of accountability mechanism, as the majority of the voters is opposed to such a process. The LLRC as a result of international pressure tried to deliver justice, but failed according to the international mainstream opinion. Although it elaborated relatively useful recommendations to bring the ethnic communities together, it failed in the two most central issues of transitional justice: uncovering the truth and providing accountability of responsible perpetrators. Both communities still carry with them the burden of the past, and only a genuine seeking for truth and accountability in a cathartic sense might finally lead to a liberation from the past, enabling true reconciliation.

which relates to the functioning of an institutional system.(Senanyake, 2013)

5.1.1. Truth

“There has to be a looking into what happened in the past. That does not have to include punishment, but truth-seeking is absolutely essential.” (Interview with Fernando, 2014)

Truth has become the winged word in any discussion about reconciliation, becoming even more popular after the popularity and “success”⁸⁰ of the South African TRC. On the one hand truth-finding is a crucial element in any attempt of dealing with the past, but such a complex context as the Sri Lankan might offer many traps, ranging from a definition of truth to the entirety of truth in a qualitative and quantitative sense to the ways of establishing the truth and the potential benefits thereof, in order to avoid a miscarriage of justice. Establishing the whole truth is certainly necessary, but it requires honesty and integrity to avoid that partial truths and partial lies become dominant in this process. (Rohini, 2014)

The right to the truth⁸¹ as a legal concept at the national and international level relates to the obligation of the state to provide information to victims or their families about the circumstances around serious violations of human rights. Having emerged mainly in Latin America as a response to the common enforced disappearances, this concept has been developed further into a societal dimension, giving whole societies the right to know the truth about what happened. (Naqvi, 2006) This would entitle the Sri Lankans to demand a process of truth-finding and accountability, but the majority of the population does not seem to be demanding it. Providing a mechanism that enabled survivors and families of both communities to find justice would certainly enhance genuine reconciliation, but for

⁸⁰ Although the South African TRC is seen as one of the most successful Transitional Justice examples in the world, there is a considerable amount of constructive criticism about what the TRC did not manage to deliver and how the South African society remains further divided, especially in a socio-economic terms.

⁸¹ As such, it is an inalienable and autonomous right, recognised in several international treaties as well as by national and international jurisprudence and numerous resolutions of intergovernmental bodies. The societal dimension gives the entire society the right to know the truth about past events, as well as the circumstances and the reasons for which gross human rights violations have been committed. (E/CN.4/2006/91)

that the government has first of all express a willingness to be accountable. (Tissainayagam, 2013)

Enforced disappearances which used to have a long tradition in Sri Lanka during the fight against the LTTE and the JVP-insurrections in the south could have provided a starting-point for truth-seeking, as both communities became victims of this human rights violation. Unfortunately, it seems unlikely that victims of both communities unite themselves against state oppression, as the ethnic division in the collective consciousness appears to go even deeper. *“There was a psyche created around 2007 that it is o.k. to disappear a few people for our safety, which makes it difficult to advocate for truth. The International pressure has created an insecure feeling within the government. So they portray the internationals as being targeting us in name of truth for winning the war and saving our people.”*(Interview with Meenilankco, 2014)

That brings us to the question of how to merge the need for accountability with the reality of the ground situation, something that the international community should also be asking itself, as there is such a strong public opposition against accountability mechanisms. Many people would feel that they are being punished for what they believe was the greatest success of post-independence Sri Lanka.(Moorthy, 2013) Truth is not a popular issue in Sri Lanka. A brief look at the South African TRC shows us the difficulty and ambiguity of defining and conceptualizing truth. Forensic truth⁸² is what is most urgently required in Sri Lanka, in order to have at least clarity about some of the contentious issues and numbers, but Wilson shows us how this concept of truth has to be dealt with in a careful manner, being aware of its many overlapping layers (Wilson, 2001, p.36). The LLRC did not seem to have dealt with these questions adequately, leaving the need for truth-seeking unsatisfied. *“If you look at LLRC, they just wanted some figures, some statistics, some information; they did not want to have the truth. The women gave all the details, but the*

82 The TRC differentiates “factual” or “forensic truth” including individual incidents, causes and patterns of violations(exact casualty numbers, date and location of particular incidents, command responsibility, etc.), further the “personal or narrative truth” which refers to the individual truths of victims and perpetrators and their oral tradition and story-telling. “Social truth” is manifested through interaction, discussion and debate and acknowledges the importance of transparency, participation and affirms the dignity of human beings, finally leading to the “healing” and “restorative truth” that aims to repair the damage done in the past and prevent further

commission just wanted to hear the story. Through that they were doing reconciliation. The LLRC made clear it is about learning a lesson, not about truth.”(Interview with Meenilankco, 2014) Most of the Sri Lankan experts and activists in the field of Human Rights and good governance are very sceptical that this government will be at any point willing or able to deliver this truth by themselves. *“We are insisting on an international investigation. The perpetrator is the government. We know we can’t trust them to come out with truth. We want an independent inquiry, the LLRC failed to deliver this. We want truth, this is the crucial factor. Now it is like asking the perpetrator to be the judge; truth for the sake of common good. We don’t want to punish anyone. My purpose is not punishment but a fundamental element of reconciliation is that the truth is accepted by the party. Acknowledgement”* (Interview with Rayappu, 2014) says the Bishop in Mannar, further adding that: *“No list of all the disappeared people has been published until today, no official recounting of the thousands of dead has taken place.”* (Interview with Rayappu, 2014) In the meantime, instead of genuinely engaging in a process of truth-finding, the Sri Lankan government is spending large amounts of money to change its international image: *“There is a whole machinery of public relation agencies in Europe and the US being paid for ironing the Sri Lankan image from genocide to palm-trees, so much effort is being put into creating a different image.”* (Interview with Interview-partner I, 2014)

5.1.2. Course of justice

“Both the LTTE and the Government did terrible things, who was worse doesn’t matter, but the fact is that the one party got punished, got extra-judicially killed, received the maximum punishment, and the other party was not punished at all.” (Interview with Fernando, 2014)

How to operationalise justice in the Sri Lankan Scenario? The theoretical options are various but the situation on the ground is sobering considering the practicability and

recurrences in the future, restoring the dignity of victims by acknowledging their pain. (Wilson, 2001, p.36)

applicability of these scenarios. Sri Lanka under the incumbent regime is certainly not going to cooperate with the International Investigation set up by the UN, risking economic and political consequences including isolation from the powerful “Western bloc” of countries, which might even result in bilateral sanctions. These countries constitute Sri Lanka’s main source of exports, the economic consequences of such potential sanctions might deepen the polarisation in Sri Lanka even further. The national peace council urges the necessity to come up with a modified resolution where both the UN and the government can be partners of a domestic investigation process which would be credible in the eyes of the UN and all the other Sri Lankan stakeholders.(National Peace Council, 2014) In terms of the national and international polarization caused by the recent resolution calling for an international inquiry, many voices would prefer a national model of investigation, ideally linked with a political solution: “*(The issue of war crimes) has to be tackled early, profoundly, and rationally. These questions should be dealt with in a national independent inquiry, maybe with some international cooperation, support and supervision. The Sri Lankan state has already done that. It can be nationally led, but have a regional character as well.*” (Interview with Jayatilleka, 2014) Others are much more sceptical about how such an internal inquiry might be able to function within the current hostile climate shaped by a culture of impunity. “*A soldier cannot say in front of an inquiry that he killed x,y,z, because this person is gonna lose its life. They would open the Pandora's Box. What is the chain of command? You can't move in terms of true reconciliation if you don't tackle these questions.*”(Interview with Saravanamuttu, 2014)

Some observers see the credibility of a national process as theoretically possible, but unlikely at the current moment: “*If they could convince the South with vision and statesmanship, they would give the 13th amendment. Then they could go to Geneva and they would probably have an internal system that is credible.*” (Interview with Interview-partner J, 2014) The government is currently acting in a way that makes it appear incapable of providing a form of justice that would be acceptable for the Tamil community, as the following statement shows: “*A Mass grave in Mannar has been exhumed by the police, that is not acceptable. The community must be concerned. Therefore the Tamils want an*

international involvement and need the Sinhalese majority for it. We need an inquiry, but crucial is to make it an event where both sides come together.”(Interview with Interview-partner K, 2014) Dayan Jayatilleka is arguing for a so called “smart pressure”, where instead of pursuing a general criminalization of the entire war, specific events with a high polarizing effect should be taken as an entry point to potential further investigations: *“Focus i.e. on Prabhakaran⁸³’s little Son, how it was done in Ecuador, it was about the killing of the nuns, that opened up all the other that followed. You can’t start in the chaos of the war. But nobody can stand up and defend the killing of a kid. It is about a clever strategy, not a populist claim targeting everything, you need one good and human story; one good story, not 40.000. That’s the illusion that you can suddenly design a mechanism that gives answers to all the questions. And you need a trust, which could link up with a national solidarity.”* (Interview with Jayatilleka, 2014) A few hundred kilometres further north, this issue is being seen very differently. According to the bishop of Mannar, it is impossible for the Tamils to trust a national investigation, as the regime is not able to provide the most basic level of impartiality and witness-protection. *“There have been mass massacres here, we know the people who committed that, but nothing happened. We have seen it with our own eyes. We saw the burnt patients, hit by chemical bombs. The evidence is there, but no witness protection in that country. Nobody will come to the commission and tell, that would be suicide, in the evening the person disappears. People who have submitted the evidences to the LLRC they were intimidated later, they are punishing the witness.”* (Interview with Rayappu, 2014) In its report “20 years of make believe - Sri Lanka’s commissions of inquiry”, Amnesty International is painting a rather bleak picture of the Sri Lankan capability of a national and credible accountability process⁸⁴. (Amnesty International, p.47) The regime is also under pressure from conservative forces from within, making it almost impossible for the liberal forces within the incumbent government

⁸³ Leader of the LTTE, killed on 18th May 2009

⁸⁴ stating that former commissions have not performed successfully in this regard, the formal justice system being in tatters, UN agencies having been obstructed as well as Sri Lankan human rights defenders been threatened and killed. (Amnesty International, p.47)

to promote more cooperative and sensitive solutions: *“It is difficult for the Sinhala leadership to change their course, they would be immediately attacked (from the conservative forces within).”* (Interview with Interview-partner H, 2014)

This dilemma of the difficulty to actually deliver justice through the implementation of a credible mechanism led to the idea of the establishment of a Truth and reconciliation commission based on the model of the South African TRC, perhaps under a South African facilitation. (Peiris, 2014a) Some observers think that South Africa would be more acceptable to the Sri Lankan government as a third party than most probably any other country which has been involved in Sri Lanka’s conflict until today. Further, South Africa’s role of *“providing assistance”* would be an *“exceedingly minimalist”* one. (Uyangoda, 2012a) This idea received a lot of approval as well as criticism, many fearing it being a way for the government to gain time from the international community or as (t) it’s best an attempt for assisted *“white-washing”*. Nirmanusan Balasundram⁸⁵ sees serious challenges to provide accountability within a national process in a successful way: Denial of mass atrocities, command responsibility, combating impunity, victor’s justice, ongoing structural genocide, Sinhalese Buddhist chauvinism and lack of serious political will are the challenges that would hinder a successful accountability process within the country. He concludes that a TRC is nothing more than another *“time-buying strategy”*. (Balasundram, 2014) *“The problem is the lack of understanding what the TRC is, how it happened, and that some people think you can just take something and apply it somewhere else.”* (Interview with Interview-partner K, 2014) Anyway, even a TRC conducted in the most supportive environment, equipped with sufficient funding is not a guarantee to provide lasting reconciliation⁸⁶. On a conference about reconciliation in Sri Lanka, Du Toit from South Africa emphasised that a TRC *“is not a silver bullet, as it is only as good as the context that operates it, and that the majority of commissions failed to deliver truth and finally reconciliation.”* (Du Toit, 2013) Even with the best intentions of the Sri Lankan

⁸⁵ member of the Tamil Diaspora pushed into exile during the course of the war

⁸⁶ Wilson reminds us that those truth commissions which have been successful are rather those which have abandoned the “trappings of law”, concentrating more on “truth-finding” and being designed more as a history project rather than a court of law. (Wilson, 2001)

government, there are still many open questions about how many perpetrators would make full confessions and how many would be willing to push their colleagues and friends who may be unwilling to confess? The same has to be asked about the victims, how many would dare to go public, expressing their accusations? (Nesiah, 2014) The TRC might be an attractive model for some members of the Sri Lankan regime, as amnesty-provisions are often a central part of it, but it is important to consider that “*You can’t give yourself amnesty*” (Seegers, 2013), making it clear that amnesty can be only given by the victim, not the perpetrator. Many experts think anyway that a genuine truth commission will be possible only after a fundamental transformation of the nature of the whole Sri Lankan state, which is currently not visible.

Another crucial aspect that has to be taken into account when talking about potential mechanisms to deliver justice is the importance of timing. Demands for justice in the given socio-political environment are mainly strengthening the incumbent regime, as the majority of voters get reminded of the victory over the LTTE, which increases the sympathy for the government and the president, finally enforcing the existing patterns that are generating the current problems. Therefore, even Sri Lankans who are highly critical of the current state of affairs in Sri Lanka argue that a priority must be to ensure the security and welfare of Tamil war-survivors as well as Sinhalese human rights defenders and journalists, saying that at present the focus must primarily be on fighting current violations of human rights and promoting reconciliation at the grassroots level. (Rohini, 2014)

5.2. Sinhalese Nationalism - Chauvinist supremacy

The political phenomenon of nationalism can be observed all over the world, often being related to experiences of victim-hood, oppression and collective suffering under a foreign rule. In Sri Lanka, after the end of the British colonialism, nationalism turned into a concept shaping most of the current political consciousness of the majority population,

having turned into the central unifying element of collective identity among the Sri Lankans. The basic idea of this ethno-nationalism is that Sri Lanka is a Sinhalese-Buddhist country. This Sinhalese nationalism can only be understood in its inherent relation to Tamil nationalism, tensions and open conflict between these two projects having shaped most of Sri Lanka's post-colonial history. This nationalism is also linked to the subconscious denial of many Sinhalese that Sri Lanka is a multi-ethnic country, majoritarian mindsets being shaped by a culturalist affirmation of Sinhaleanness, grounded on myths about being the chosen people to preserve Buddhism in Sri Lanka for another 5000 years. This mindset represents one of the most central obstacles to a profound transformation of the Sri Lankan dilemma of peace, justice and identity. *"The political parties are making capital out of the ethnic issue. It is suicidal for their party-programs to approach the Tamil issue, but this is a multi-racial, multi- ethnic, multi-lingual, multi-religious and multi-cultural country."* (Interview with Rayappu, 2014) That is something many Sinhalese struggle to realise. Combined with the feeling of unjust suffering under Tamil extremism, many Sinhalese are highly receptive when it comes to anti-Tamil chauvinistic sentiments: *"You have to understand the psyche behind the regime and why they don't want to address the minority issue: They think that the Sinhalese people suffered. The Tamils have waged a war against the state; we have lost 30 years of development. How can minorities question the legitimacy of the majority? We are not the ones who have to ask sorry. The Tamils have because otherwise we would be a much more developed country."* (Interview with Meenilankco, 2014) This ideology results in a political agenda which is being created through the consciousness of *"powerless, hopeless and terrified masses"*, giving them some sense of self-worth in being Sinhala Buddhists, leading to the manifestation of a governmental model which could be called *"Populist Authoritarianism"* and has strong implications on the possible political solution of the conflict, the issue of power sharing. (Roberts, 2012)

5.2.1. Populist Authoritarianism

Post-independence politics and political parties in Sri Lanka have strongly been shaped by its internal oligarchic structures and a top-down mode of operation. Additionally, dynastic threads and the concept of “*democratic centralism*” have created a political climate that Michael Roberts calls “populist Authoritarianism”. The ruling party SLFP having the absolute majority in parliament has become the ideological expression of the Sinhalese Buddhist heritage, its political rhetoric being shaped by strong nationalism, xenophobia and the repeated bashing of western states, institutions and values. This “*plebiscitarian dictatorship*” characterized by its “*mass appeal and mass support*” has created a climate of polarization between two categories of being Sri Lankan, namely being patriotic or being un-patriotic. This cultural nationalism centred upon the Sinhalese language, “*indigenous imaginary*” and Buddhism sees the president as the “*reincarnated king*”, the embodiment of concentrated power and legitimised authority, vested with an aura of “sacredness”. (Roberts, 2012) In this political atmosphere, democratic and moderate considerations about the balancing of power become very difficult. This Rajapaksa Regime, although not being a formal dictatorship due to the repeated confirmation through elections, is nevertheless a “*fascist type authoritarian rule based on Aryan Sinhala Chauvinism*”.(Vickramabahu, 2013)

The 1978 constitution enables the impunity of the executive president, the logical consequence being authoritarianism, which is deeply embedded in the constitutional structure of Sri Lanka. The passing of the 18th amendment finally led to a shift from a “phantom democracy” to complete “dictatorship”, as Basil Fernando observes. (Fernando, 2011) With no term limit at all, the Sri Lankan executive presidency has become one of the strongest if not the strongest presidential system in the world that is operating upon a democratic constitution. (Wickramaratne, 2014) This “*Rajapaksa Hegemonic project*” in its present form is very unlikely to make political progress in terms of truth-seeking, justice or devolving political power to the Tamils .“*The regime portrays moderates as the extremists. And through the lack of political reaction you might turn the moderates into*

extremists.” (Interview with Saravanamuttu, 2014) Favouritism and strategic staffing of the public administration and diplomatic corps made personal relationships to the ruling establishment more important than intellectual and professional excellence, successively lowering the quality of national and international decision-making⁸⁷. The lack of appreciation of an open and cosmopolitan mindset that would challenge the chauvinistic hegemony of the Rajapaksa clan-dynasty has its consequences in an increasing international isolation of the Sri Lankan Government. (Thiranagayama, 2014a) Within the country, the President remains unchallenged. *“The Government is now much more powerful than it was after the war. Through Obedience and centralised power they can exercise control down to the little officer. The real power in Sri Lanka have those whose last name starts with an R.”* (Interview with Interview-partner I, 2014) Some observers are optimistic that the president, although mainly responsible for the current situation in Sri Lanka, can also be a possible solution: *“Mahinda Rajapaksa can change, he was a human rights lawyer, he was fighting dictatorship, he went to Geneva, talking about the disappeared. He has changed now, but it is not impossible that he changes again.”* (Interview with Fernando, 2014) Others are more sceptical and refer to the system the president has created in order to accumulate power that makes it now difficult for him to change his approach: *“I don't know whether Rajapaksa wants to die in power, but he has the potential to bring a change! He is a good politician. He started playing the game and played it very well. He bought everybody from the opposition. It is not a parliament, it is a supermarket, and every parliamentarian has a price-tag. Rajapaksa is trapped in the system he created. And these instabilities have led to corruption, and he cannot control them. The system of dependence has grown too big. And what happens if he dies tomorrow, there would be chaos in this country!”* (Interview with Interview-partner O, 2014)

Along with the populist authoritarianism go the political phenomena of militarism and triumphalism influencing post-war Sri Lanka. *“The Military infiltrated the civil society.*

87 “State institutions are not anonymous entities. Instead, they are structures filled with life and meaning by the people within, who were and are faced with choices everyday that shape the institution, its legitimacy and image as well as its capacities to do good or harm” (Parlevliet, 2010)

They are affecting the whole policy that is being made, military today has the primacy in politics, and military interests are always given the highest priority.” (Fernando, 2014)

Along with Militarism, the prevalent Triumphalism of many Sinhalese is being seen as one of the major obstacles to reconciliation: *“Reconciliation cannot be on the basis of Triumphalism after the war. You cannot have reconciliation and sustainable peace without recognising the Tamils. A triumphal victor cannot solve long term problems. There must be a coming together, we have to negotiate.”* (Interview with Interview-partner J, 2014) This negotiation and coming together would require a particular open mindset, especially of the elites and educated parts of the society, but even there, the government seems to have found a strategy to counter the development of cosmopolitan mindsets: *“There is a strong Militarisation of the students through the established leadership training of undergraduates, which is mandatory. Officially it should reduce ragging⁸⁸, but it is indoctrination in national history and Sinhalese self-understanding. It’s very smart, it killed any desire for independence within the youth. It snuffed out the space for independent universities”* (Interview with Interview-partner K, 2014) It seems to be characteristic for many post-war societies that the army becomes a major stakeholder during the war, remaining an obstacle for genuine transformation back into a purely civil administration. *“What helps is to have some form of military absorption of former fighters. Often the military gets heavily involved in post - conflict reconstructions, one great corrupting influence. Post conflict security forces have a bit of an identity crisis. What do we do now? Peacekeeping!”* (Seegers, 2013)

Many of my interview-partners seem to have abandoned most of their hope in a speedy change of prevailing paradigms ruling Sri Lanka, but some remained slightly optimistic that after the next round of elections, the government might change its strategy towards the Tamils: *“The only hope is that after the next round of the elections, that the Government realises that this path is a dead end. The Government has a winning formula*

88 Initiation rituals where students from older semesters obstruct the newcomers; Sri Lanka is considered a country where ragging constitutes a major obstacle for young students

of creating fear of the LTTE to generate the Sinhalese votes, but this is a sure way of keeping the problem, so after elections they have 3 to 4 years to solve the problem, because there is no need for Sinhalese nationalism. They had the hope that Tamil will be agreeable on development without devolution, maybe this time they will try a different strategy.” (Interview with Interview-partner E, 2014) A government official at the ministry for national languages sees potential for a change of strategy after the next parliamentary elections: *“The International pressure is justified, but it has to meet the conditions off real-politics, which needs another mandate including inner-ethnic reconciliation as well as the uplift of the Human rights situation. The first mandate was for war, the second mandate was for Development.”* (Interview with Thilkasiri, 2014)

The Asian Human Rights Commission sums up the symptoms of the current political climate in Sri Lanka, stating that there is a growing uncertainty about the functioning of public institutions, an ongoing undermining of the independence of the judiciary and the emergence of the *“all-powerful propaganda machinery”* of the state. The consequences of these developments being the spreading carelessness in the machinery of administration, high levels of corruption, rising intolerance between the communities and the insecurity of the entire Sri Lankan population.(AHRC, 2013)

5.2.2. Power sharing

“A: What problems do the Tamils have? They travel with us in the same bus and we share the same tea pot. B: That is exactly the problem. You are prepared to share the tea pot but not state power.” (Wickramaratne, 2014)

The issue of power sharing is a crucial point in the whole discussion about reconciliation, a successful solution having the potential to solve the root cause of the ethnic conflict as well as to slacken the tensions in the post-war environment. *“Devolution is going to be a fundamental part of the solution of the problem in this country. Before the British and Portuguese came, we were a divided country, the British made us together as one country. Devolution and distribution of power seem to be one way how to coexist.*

Otherwise a separate state is inevitable.” (Interview with Interview-partner O, 2014) A political solution for the Tamil grievances is also the only strategy that might decrease the pressure on the issue of accountability issues. Nevertheless, a political solution of the question of Tamil autonomy, despite being *“the national question”*, looks rather improbable at the current moment. (Senaratne, 2014) Uyangoda, a political scientist, observes three crucial elements characterising the current discussion: Firstly, the incumbent government thinks that devolution was a project related to the specific conditions during the LTTE’s insurgency, the devolution of political power being seen as the only alternative to secession. After having militarily defeated the LTTE, the regime thinks that the fundamental political conditions that made devolution relevant became obsolete. Secondly, the TNA’s self-understanding as representing the defeated is in stark contrast to the government’s pride as the victor, making meetings and joint approaches to possible solutions highly difficult. Thirdly, the government and the TNA are both caught in a feeling of *“moral superiority, zero-sum thinking and hard bargaining”*, seeming to be playing a political game rather than engaging in serious political negotiations. (Uyangoda, 2012a)

The most contentious point is the 13th amendment (13A) to the 1978 Constitution of Sri Lanka, which has been passed in the course of the Indo-Lanka Accord signed in 1987. The aim was to devolve parts of the central power to the provinces through the creation of provincial councils; it also made Sinhalese and Tamil the official languages of the country. Nevertheless the 13th amendment has not yet been fully implemented, as the two most crucial issues of land- and police-powers have not been devolved. (Waduge, 2014) *“Land and police powers are not devolved at all, it is not even minimum implementation, it is zero implementation.”* (Interview with Interview-partner H, 2014) Conservative and nationalistic positions see the 13th amendment as already going too far in terms of regional autonomy, others see it as being an insufficient document anyway, stating that even in case of a full implementation of all its provisions and no political obstruction from the central government it is an inadequate document to deal with the Tamil grievances. One point of criticism is that the system of provincial councils applies to the entire island. This was a political strategy to not confer special status on the North and East,

so that devolution did not become a target of majoritarian resentments, instead of that giving it greater acceptability among the Sinhalese population. (Jayatilleka, 2013) *“So that it does not look like privileging the Tamils they made the provincial councils symmetrical, everywhere in the whole country, although there was no real interest in the Sinhalese areas.”* (Interview with Interview-partner O, 2014)

As the 13A has been drafted, it was considered a good approach to accommodate Tamil aspirations, to enable the cohabitation of a multi ethnic and multi religious population. The insofar just partial implementation has its reasons in the lack of political will, a hostile attitude of important political leaders and high profile officials working in the Administration and Defence. There is a strong anti-devolution lobby, constantly referring that a full implementation would enhance separatism and be a threat to national security and the unitary status of the country. (Moonesinghe, 2014a) *“They need the fear for having a large army and navy presence in north and east. They need a separatist struggle.”* (Interview with Interview-partner H, 2014) Nevertheless, not many in Sri Lanka are fully convinced that a separatist struggle can be ruled out. *“The opposition cannot speak with certainty that the Tamils don’t want to separate the country. The blacks in the US asked for being treated like the whites, but they did not ask for separation.”* (Interview with Interview-partner E, 2014)

Certain observers see the implementation of the 13th amendment as the only possible solution for the current problem: *“The 13th amendment is the minimum. They must start implementing it even for the rest of the country. People are not asking for it because they have been told it is a bad thing.”* (Interview with Interview-partner E, 2014) The government also fears that devolving power might have an effect on the issue of accountability as well: *“The 13A is the initial basis for negotiation. Give them money and power, at the end of the day, they might have a local process of accountability; they may set up a commission to look into war crimes. So devolution may open door to a local process of accountability. The government does not want that either.”* (Interview with Interview-partner J, 2014) Others are rather sceptical whether the constitutional amendment is a good starting point for negotiations. *“13A did not work from the beginning, so it’s dangerous.”*

(Interview with Interview-partner K, 2014) The Tamils in the North see the 13th amendment even more critically. Asked about the potential of the 13th amendment for a lasting solution, Bishop Rayappu insists that: *“There is no 13th amendment, it doesn’t exist. The way it was given by the Indo-Lankan accord, they ripped off the flesh, only the bones are left. They have no power to rule.”* (Rayappu, 2014) Further questioned if that would change in case of police and land-powers would be given, the Bishop replied that: *“Our aspiration is the recognition of the Tamil people as a nation. Not as country, but as a nationality, internal self-determination. This is the base for any power sharing.”* (Interview with Rayappu, 2014) Saravanamuttu from the CPA calls the 13th Amendment a *“flawed, incomplete and inadequate document”* and says that a political settlement has to go beyond the 13th amendment, the so called 13plus. (Saravanamuttu, 2014) The Tamil leader Sumanthiran sees the basic problem in the lack of political participation and self-determination, a political solution having to address the root cause of the conflict, which is full and equal access to powers of governance as an expression of *“full and inclusive citizenship”*⁸⁹. (Sumanthiran, 2011) Devanesan Nesiah is offering a mediating position that might lead out of the current trap. As a discussion about whether the 13th amendment is too much or too little devolution is unlikely to be fruitful, it is necessary to implement the 13A as it is. Although this might upset some members of the Diaspora as well as hardliners within the regime, it could bridge the protracted discussion about 13+ and 13- and enable to focus on other issues such as justice for war victims. (Nesiah, 2014a)

The current government is using the 13th amendment as a political lever against the Tamils pushing for accountability. *“In fact every discussion since 1987 was how far we go beyond the 13th amendment. Whilst the TNA would push for accountability locally, the Diaspora did it internationally. The push for accountability was a tool to fight for a political solution. The TNA as a political actor was looking for a political solution; the war crime accountability question was used to achieve this.”* (Interview with Saravanamuttu,

⁸⁹ He gives examples of effective power sharing in plural societies, such as Basque, Belgium, Kashmir, Northern Ireland, Palestine, Quebec and Scotland. He says that what the Tamils want is to have a say in their own political destiny, which is impossible with the current model of “pseudo-devolution”. (Sumanthiran, 2011)

2014) Even if the 13th amendment would function as intentioned by its historical designers, many Sri Lankan observers think that the long-term question of a fundamental constitutional reform is nevertheless inevitable. (Roberts, 2012) *“Most important thing is a change of constitution, if we pass that barrier most other things can start to change.”*(Interview with Thilkasiri, 2014)

5.3. Tamil Nationalism

Apart from the Sinhalese chauvinism discussed in the previous chapter, it is also necessary to look at the chauvinist forces within the TNA, in Tamil Nadu and in the Sri Lankan Tamil Diaspora across the world. (DeVotta, 2007) A lot has been reported so far about the state as the main perpetrator and the Tamils as the victims of the ethnic conflict, but it is crucial to critically assess the phenomenon of Tamil nationalism and Tamil victimization to properly understand the polarity between these two nationalistic projects, the resulting political strategies and some fundamental misunderstandings inherent to this relationship. Although many human rights organizations and the United Nations High Commissioner on Human rights have reported about serious ongoing Human Rights violations in the North and East, one has to be careful and distinguish between politically motivated actions and the political strategy of gaining international publicity. A human rights activist in Jaffna told me that *“Some of the human rights violations that have been reported in the north are not politically motivated are just randomly put into context, and some are also wrong.”* (Interview with Interview-partner B, 2013)

The adopted strategy of “Genocide” makes it difficult for the Tamils to have a discussion about how the LTTE and the Tamil-LTTE relationship contributed to the catastrophe. Painting the picture in the current black and white fashion makes it also harder for the Sinhalese to question their own responsibility for the committed atrocities. There is a crucial need for a genuine process of self-reflection within the Tamil community as well, but this is currently being postponed due to the government’s activities of land-grabbing,

human rights violations and denial of the Tamil equality as citizens. The government wants the Tamils to question their own past, but being in the position of the defeated, they would first require at least some expression of good will from the incumbent regime. (Oakford, 2013) *“We need to have all the unity we can have to face the government. If we start to engage in self-critical reflection about ourselves, we damage the unity we need and weaken ourselves. That’s what the government wants anyway, us being weak. That weakness would then be exploited by the government. The other one is the self-perception of being the victim. Let’s make them the first step. Yes the time must come to question the Tamil- LTTE - relationship, but this time is not now.”* (Interview with Saravanamuttu, 2014) Also the Governments strategy of justifying its oppressive approach towards the Tamils with referring to the LTTE-committed atrocities and the Tamil- LTTE relationship stands on shaky ground: *“What the government struggles to realise is the fact that as a democratically elected representation of its people it cannot apply the same standards to a Terror organization as are binding for itself, using it as a justification of its own Human Rights violations.”* says Saravanamuttu and adds: *“One cannot compare the government and the LTTE, and one also cannot compare the government and the TNA. We are all complaining about the government, that is normal, but the government is complaining about a political party, which is absurd. It is the ideology of victimization. What do you want from another victim?”* (Interview with Saravanamuttu, 2014) *“They want to make the LTTE a stakeholder like a state, but then you make them a state. It’s like comparing a crime of a 5 year old and 22 year old. You cannot apply the same standards. If you treat the LTTE as a government of a state, than the whole theory of the just war collapses.”* (Interview with Interview-partner O, 2014) These obvious misconceptions of the regime cannot hide some Tamil dilemmas about the past and the present that are also responsible for co-creating the current situation and further weaken the Tamils. *“There is a general caste problem in the north, which is totally undemocratic! The TNA leaders are all from the higher caste. The politicians tell the people that first we need nationalism, then we will solve the caste - problem.”* (Interview with Interview-partner B, 2013) The problem is that parts of the Tamil leadership are also making political capital out of the Tamil situation,

instead of initiating a process of reflection about the bloody history of the LTTE, leading to the escalation of the conflict. Considerable parts of the Tamils and the Diaspora are still trying to whitewashing the atrocities of the LTTE. Such a process of genuine self-reflection might enable the Sinhalese also to question their own responsibility and “*oppressive majoritarianism*” and move the discussion on a next level, where mutual allegations can be replaced by a shared and constructive engagement.(Ismail, 2013) Michael Roberts sees also a need to question how the “*LTTE-propaganda-machine*” took global advantage of the “*liberal currents of thinking*” that portrayed the Tamils as the sole victims of an oppressive majority, the west as well as many human rights organizations having fallen into this trap created by the LTTE, being “*deaf, dumb and blind*” when it comes to see the escalation of the conflict in a more differentiated way, seeing through the LTTE’s strategy of demonstrating a humanitarian disaster with clear acts of aggression against their own population. (Roberts, 2013)

The whole escalation since the 80s might also be seen as a development based on a fundamental misunderstanding that has prevailed until today and needs to be de-constructed in order to enable a liberated discussion and negotiations: “*Separation was first expressed 50 years ago, every politician who stood for that got badly defeated. Then only for strategic reasons they adopted secession in 1979, but it was not really for separation, I knew all the leaders, nobody wanted separation. They thought the government would give them extended regional autonomy, but the Government decided to clash the Tamil people further. It was a bad political strategy, it was foolish*” (Interview with Interview-partner H, 2014) “*I don’t think that majority of Tamil people wanted true separation. They liked the LTTE attacking or beating up the government because they felt oppressed, that doesn’t mean that they want to be ruled by LTTE. I don’t think that LTTE had ever a majority support within the Tamils in Sri Lanka.*”(Interview with Interview-partner H, 2014) Due to the limited space it is not possible to conduct a detailed analysis of the post war discourse among the Sri Lankan Tamils and the Tamil Diaspora and their own nationalistic sentiments, but it is important to recognize also that the Tamils would benefit from a process of internal self-reflection. Although open questions of accountability and power

sharing may be credible obstacles to a genuine process, active steps in the form of a Tamil self-inquiry might put the government under pressure to act, as it would undermine the legitimacy of the regime's strategy. *"The Diaspora is playing a bigger role now and will play an even bigger role in future. The first generation Diaspora that came in the 80s, for them the LTTE propaganda was working, that was their market, that is how they got money. But this new generation has grown in the west, they are not violent, they grew up with the concept of human rights. They are legitimate citizens of these countries, asking legitimate questions about HR. The Diaspora is changing from LTTE supporters to upholders of universal values."* (Interview with Interview-partner O, 2014)

5.4. Lack of plurality

The current Sri Lankan political climate is characterized through a hierarchical leadership, passive acceptance of the status quo and a culture of silence, rumours and mistrust. These factors are limiting the civic space and fuel government suspicion of independent journalism, rights-based activism and mobilization of grass-roots populations. The following chapter will focus on three phenomena that are hindering a positive transformation within the country, rather cementing the status quo for the benefiter of (those benefitting from) the existing situation.

5.4.1. Press freedom:

The UN Human Rights Council repeatedly expressed its serious concern about violations of the right to freedom of expression and the ongoing intimidation of journalists in Sri Lanka. Even the LLRC contested it was deeply disturbed by attacks on journalists, media institutions and even the killing of journalists, expressing the urgent need for

investigations.⁹⁰(Fernando, 2013) The freedom of expression organization “Article 19” recently stated that media diversity and press freedom were highly under threat in Sri Lanka and that persons close to the president seem to be buying critical newspapers in order to be able to silence them.⁹¹(McKenzie, 2014) *“Press freedom has been substantially eroded in the last few years, and the Sinhalese press is totally with the hardliners.”* (Interview with Interview-partner H, 2014)

The difficulties liberal and dialectical journalism is facing in Sri Lanka is also related to the lack of public interest in diverging opinions that would be seriously challenging the government and the president. *“The Sinhala journalists are part of the larger society; their minds are being shaped by the larger discourse. The journalists themselves are polarised, and they are co-opted through fear and benefits. Most people also don’t like reading opinion pieces justifying Tamil positions, their orientation is nationalistic. There is no market for opinions that are radically different from the prevailing orthodoxy, defeating the tigers was necessary, at any cost, and that leaders should not be punished, devolution is bad and that Tamils are getting development anyway.”*(Interview with Interview-partner E, 2014) It would be necessary that the mainstream Sinhalese media adopts a more differentiated coverage of sensitive issues, such as human rights and the post conflict reconciliation process. *“Make the stories of the victims available for the people, within Sinhalese newspapers. Show them the relevance of human rights-claims in their daily lives. This is still considered as welfare policy. There is a gap of what Sinhalese newspaper and Tamil paper write.”* (Interview with Interview-partner K, 2014) The media is being polarized, threatened and instrumentalized, but it often seems as if it would just fulfil the demands of the masses, who barely express their desire for counter-narratives and critical reflections. Big parts of the population appear gullible to the state reporting, not substantially questioning the reliability of the provided information,

90 According to the reporters without borders press freedom index of “countries under surveillance”, Sri Lanka is ranked 162nd out of 179 countries and the committee to protect journalists is listing Sri Lanka as the fourth worst country in terms of impunity.(Fernando, 2013)

91 Many critical web-pages, such as “Colombo Telegraph” run by exiled journalists, has frequently been the target of Sri Lankan censorship, the page being repeatedly blocked and instructions were given to Internet providers to block pages with critical content, ongoing intimidation of journalists led to a widespread self-censorship.

especially in political terms. *“The political awareness between local communities is very low. National television - what is said is considered as true, state television never lies.”* (Interview with Meenilankco, 2014)

5.4.2. Civil society activism

Related to the issue of press freedom is also civil society activism, which is suffering the same kind of oppression and hostility from the authorities. To publicly engage in demonstrations, mobilization or awareness-raising, simply the free expression of these democratic rights is being perceived as a threat by the government. There is a culture of criminalizing dissent, protests and activism, the police arguing that the protesters were *“obstructing public order, creating public nuisance and posing probable threats to public property.”* (Hemachandra, 2014) The ones who are still engaging in civil society activism have to be extremely careful to be tolerated by the government, making their activities a balancing act. *“We don’t want to change the politics. We don’t want the regime to think we are their enemy, which would mean that we can’t do our work properly anymore. We are using soft language, words like Healing, to address the important issues. If you provoke threat to the government, you can’t continue in your work. Therefore you have to be very careful.”* (Interview with Interview-partner E, 2014)

Sunila Abeysekera sees a high level of fear and apathy among the civil society members. A climate where the majority thinks that nothing will happen or change anyway because the government is strong enough to control the parliament and the administration. Many potential activists decide that it’s probably better to rather be silent. The generation shaped by the war and terror seems to have a political understanding that is thankful about the government’s victory over the LTTE and therefore not pushing for an open civic space. Radical transformations of this mindset are therefore rather unrealistic within the following few years. (Deshaprija, 2013) As a researcher and long-term civil society activist told me

(McKenzie, 2014)

frustratingly: *“Civil society failed in Sri Lanka. A good judgment of a court is much stronger than 100 workshops we conducted on the weekends.”* (Interview with Interview-partner A, 2013) Sadly, such a pioneering judgment has yet to come, leaving Sri Lanka without any serious internal support for human rights activism or liberal political engagement. *“We are not an active civil society, we are silent observers. The Civil society has not connected with these agendas. Less and less people are willing to engage in NGOs. You don’t have a leader who would do all the networking.”*(Interview with Interview-partner J, 2014) Also others share the view that it is not solely the pressure from the regime that keeps the civil society silent, but that there are also other factors leading to a passive society in relation to civil and political issues. *“Sri Lankan people are religious, they can be easily satisfied. People don’t expect major things to happen from a government. The people are conditioned to tolerate quite a big amount of interference. At the civil society level there is no trust, no willingness to work together.”* (Interview with Meenilankco, 2014) *“It has to come top down; there is no way of a bottom up approach. Something like the Arab spring, don’t even dare to think that this is going to happen, it is about the mentality, Look into the history, there was no independence movement in Sri Lanka. Leave out big politics; the people are not even challenging their own local regional governments. The strengthening of institutions cannot come from bottom up. Look at the political elites, their mindsets and way of thinking is very different from the population.”* (Interview with Meenilankco, 2014)

5.4.3. Unipolarity and failure of diplomacy

In spite of the lack of civic space and media freedom, the regime still remains highly popular among the Sinhalese, which is hard to explain solely by the post-war-thankfulness and emphasis on Sinhalese-Buddhist nationalism. The regime imprisoned the opposition’s presidential candidate Sarath Fonseka after he challenged the president, conducted an impeachment of the chief justice, further increased the presidents executive

power through the passing of the 18th amendment, raised electricity rates by about 40%, created a dangerous environment for independent media, threatened minority religious communities and militarized civilian society. It further decreased the freedom of the academia and struggles with the implementation of the majority of the LLRC recommendations, while still being able to achieve around 60% of the votes. The problem lies in the absence of the main opposition party being unable to challenge the government and offer a real alternative to the voters, acting more like a party supporting the incumbent government than a real opposition. (Peiris, 2013)

Asked about how this unipolarity could have emerged and how it might be overcome, Dayan Jayatilleka explains how the system is supposed to work: *“You need 50.1 % for electing the president. The Sinhalese are divided in a two major party system. If the system works normally, you cannot win solely on the Sinhalese Buddhist votes, you have to go for the votes of the minorities⁹². What I see now is not a dictatorship; it is authoritarianism by default, because you have an extended unipolar moment within the Sri Lankan system. If you can change that, than even Mahinda Rajapaksa would have to, in order to be re-elected, be more sensitive to Tamil aspirations. If the downward spiral continues and the UNP goes down around 20%, than you have a structural crisis of democracy because of the absence of a two party system. But if you have a UNP that is electorally competitive, you might have a very interesting outcome.”*(Interview with Jayatilleka, 2014) The absence of a dominant Sri Lankan counter-discourse increases the polarity between nationalistic sentiments and the international interference. *“Normally the alternative discourse should come from the opposition, but we have no leadership that would offer an alternative discourse, the civil society is all fractured and the opposition has no common voice”*(Interview with Interview-partner J, 2014) Currently, the UNP is seen as not able, not willing or not interested in becoming a serious political player again.

92 Due to the “implosion” of the opposition party UNP, the Sri Lankan political scenario can be described as increasingly unipolar. This lack of political bipolarity has its roots in a weak UNP which is being seen as “pro-Western” and not competitive enough, which allows elections to be won by the ruling SLFP almost purely on the basis of Sinhalese votes. Some observers see therein the reason for a lack of political negotiation between the government and Tamil representatives, causing further alienation between the communities. (IFRI, 2012)

“Provision 99 of the constitution allows parliamentarians to cross over, it undermines the parliament. Prominent leaders of the UNP have been bought by the regime.” (Interview with Interview-partner K, 2014) These considerations show us that a change in Sri Lanka could potentially come from within if constructive voices would challenge the hegemonic project of the Rajapaksas instead of being internally divided on key issues such as devolution of power to the Tamil community. (Thiranagayama, 2014a) *“The most ideal option is the change of regime, but where are the leaders that could come? There are no personalities ready to take over. Rajapaksa is so smart, he disintegrated the whole opposition, he bought everybody.”* (Interview with Sebastian, 2014)

High levels of politicization of the foreign and public service have been achieved through the appointment of regime - and party supporters and individuals without sufficient experience in diplomacy have been appointed to key positions. Diplomatic relationships are increasingly being handled by ordinary public servants or retired army generals, leading to a mixing of internal politics with international relations. the regime is conducting a mis-information campaign portraying the Diaspora, the west, NGOs, the United Nations and the Human Rights Council as enemies, while actively creating a public opinion of community and religious disharmony and portraying human rights as a threat to the nation.(Welijamuna, 2014) Being aware of this serious erosion of the public and foreign administration and its inescapable consequences for the Sri Lankan state, Dayan Jayatilleka suggests to turn the searchlight internal. He sees a lack of political think tanks, personalities who seem to be cloning themselves and a monolingual political climate where rationality and logic seem to be further disappearing. *“We are trapped in the psychological dimension of narrow nationalism; the current mindset doesn’t like intellectuals. The west is going for regime change and we are doing everything to reconfirm that his regime should go.”*(Interview with Jayatilleka, 2014b)

5.4.5. Backslide into the past

The post war developments have not shown any substantial attempt to solve the ethnic conflict; many steps the regime has made have rather contributed to a polarization between the Singhalese, the Tamils and the international community. *“The atmosphere is becoming more and more hysterical. Look at the newspapers, especially Sinhalese language. It is about the country being divided, the Tamils are once again considered as a threat to the country. The language from during the war has come back.”*(Interview with Interview-partner E, 2014) Some see the lack of post-war reconciliation already having its effects on the rebuilding of resistant structures among the northern Tamils: *“The unemployed youth is easily vulnerable for actions against the government: There is still ground that can be reached through separatist voices. Normal societal violence is increasing, gangs, thefts, small scale crime, alcohol, drugs, all that distorts the social harmony.”* (Interview with Interview-partner D, 2014) The crucial question seems to be whether the regime finds a way how to genuinely negotiate with the Tamils for a political solution: *“If they force the TNA into a political wilderness, than you might have demonstrations in the north, the government inserting the army, the Singhalese attacking more mosques and churches.”*(Interview with Saravanamuttu, 2014) This might lead to a radicalization of the people in the north and to unexpected developments. *“It is time travel; they just turned the clock backwards. Structures will build up again in the background, and resistance will become visible, sooner or later. It might take 30 years, but it is inevitable. The oppression cannot be maintained without heavy military pressure. And at some point you cannot keep it, it will cost immense resources. And in the meantime we all suffer.”* (Interview with Interview-partner O, 2014)

6. Framing a Shared Future

In this last chapter I want to find strategies that could de-construct the identified obstacles and design an action-plan that enables a gradual implementation of measures that target basic need satisfaction and contribute towards the realization of a lasting concept for both Sri Lankan communities. The question here is how to balance the need for justice and accountability with a political solution of the conflict in the given socio-political situation of post war Sri Lanka, which would enhance a true transformation of the protracted conflict shaped by collective delusion, extremism and political hegemony. In this regard it is important to recognize personal, relational and structural resources that would help to transcend the current scenario of mutual recriminations strengthen the moderate forces among the involved actors and finally result in an environment conducive for reflection, creativity and transformation. The guiding principles for a long-lasting solution, such as the re-distribution of political power, the restoration of cross-ethnic mutual trust and cooperation and the acceptance of the multi-ethnic dimension of Sri Lanka have to be accompanied with a basic need satisfaction of the Tamils in the north, allowing the political culture to move beyond the prevailing ethnic dualism, to open up spaces for civil society engagement, human rights activism and a national process of accountability carried by a consensus of the majority of the Sri Lankans.

6.1. Integrating basic needs compatible goals

It is crucial to identify goals or potential solutions that would integrate the basic needs of the actors, be in compliance with international Human Rights standards and are realistic within the current political reality in Sri Lanka and the international stage.

The Internal right to self determination of the Tamil minority in the north has to ultimately result in a form of self-governance that is not perceived as an act of secession by

the Sinhalese people, but nevertheless delivers a level of autonomy that is substantial enough that it recognizes the Tamils as a people, ideally in form of asymmetrical devolution or a confederative principle. Accountability for alleged war crimes, currently the most prominent topic on the international agenda, has to be decoupled from the task of finding a political solution of the conflict. As long as accountability remains within the ownership of the Tamil Diaspora and the international community and is being used as a political lever, it will most likely hinder any constructive steps towards reconciliation and normalization.

This requires the understanding of the majority society in Sri Lanka that impunity is not just related to war and the Tamil issue but also to the functioning of the state and its institutions as such. Accountability is not to punish the Sinhalese for having defeated the LTTE but a form of empowerment of the nation's citizens in relation to the state, the leadership and its institutions. This requires the change from this fundamental critique of the defeat of the LTTE towards one that is pursuing concrete goals that the Sinhalese majority can also relate to. This re-framing of the discourse away from a overall rejection of any Sinhalese grievances towards a mutual recognition of responsibility might help to overcome mistrust and suspicion at least between the moderate forces of the two communities and lead to a self-directed designing of future political processes, which might finally result in the successive transformation of the ethnic identity towards an overarching Sri Lankan identity. The approach must be directed to empower the moderate forces and weaken the extremists.

For this change to be able to happen, interactive, creative and strategic approaches have to be found that offer alternatives to the current dilemmas. The political unipolarity, as identified in the previous chapter, has to be changed to a bipolar or ideally multi-polar political environment, allowing alternative discourses to emerge and get political recognition, this being the crucial precondition for defeating the Rajapaksa regime electorally, which is again a precondition for any process of accountability to be supported by the majority of the Sri Lankans. Therein lays the crucial dimension of the crystallization-point of accountability. Transitional justice approaches see accountability as

indispensable on the road to reconciliation, but these approaches often lack the necessary differentiation between normative implication, political strategy and methods of implementation. Without an inner-political Sri Lankan consent about the need for an accountability process, foreign international pushing into this direction will be perceived as a threat to the unity and dignity of the country and trigger nationalistic and reactionary sentiments also among considerable parts of the moderate forces who would otherwise be conducive to a solution that acknowledges the grievances of the Tamils. The international strategy in its current form disables the Sri Lankan society's ability to open up, will hinder a process of mutual self-reflection and further widen the gap between grass root levels of society and the top down approach of the regime. In this regard, it is crucial to find a language that is understandable for the Sinhalese masses, to emphasize issues that also the Sinhalese can relate to. Without a Sinhalese ownership of the post-war scenario, the current protracted dilemma can hardly be resolved.

6.2. Political transformation

To achieve a political transformation in Sri Lanka, away from the unipolar hegemonic project of the Rajapaksas, it is crucial to focus on the Sinhalese as the decisive political factor. As such it can be assumed that this Sinhalese Buddhist electorate is neither a unified and monolithic entity, but a highly diverse entity both in class, caste and cultural terms. Romantic nationalism about Buddhism, rural village life and the defeat of the LTTE might convince some of the Sinhalese voters, but at the end of the day it is about the so-called "*bread and butter issues*" that are affecting the daily lives of the people. In that sense, to break up the logic of the Sinhalese-defence mechanisms that result from the fundamental critique coming from the Diaspora and international sphere, it is necessary to construct a political and moral discourse around the key issues of economic, political, environmental and civic rights and freedoms and these being understood by the Sinhalese masses. The Sri Lankan oppositional parties have to find a language that is able to address

the loss of rights and freedoms due to the Rajapaksa government. This would require a sensitive strategy that widens the discourse about civil rights and freedoms to include also the Sinhalese masses at the grass-root level, facilitated by the use of simple language that is understood also by the average citizen. Without a strong opposition in the parliament, a counter-discourse is very unlikely to emerge. The opposition parties must relate to questions regarding the sustainability of the neo-liberal economic system introduced by the Rajapaksas, challenging issues such as the costs of living, the successive erosion of free education and health facilities, the increasing level of corruption, insufficient incomes of the average population, environmental issues and the freedom of the media. Accountability has to be tackled in a way that it is understood as a fundamental principle of governance rather than an instrument for the Tamils to threaten the Sinhalese. In this regard it is essential to understand the logic of the Sri Lankan governance and implement measures that move away from the Sinhalese-Tamil binaries. (Gamage, 2014) To counter these political phenomena of oligarchy, “*theocratic proto-fascism*” and cultural and nationalistic hegemony, being the main tools of the incumbent regime to remain in power and gain political capital out of the unresolved ethnic issue and the international pressure, Dayan Jayatilleka gives several suggestions on how to resolve the current political unipolarity. He recommends a re-structuring and re-balancing of the entire opposition-spectrum at parliament. This could be achieved through a rebuilding of the political centre and the re-opening of the middle path in mainstream Sri Lankan politics, built around a “*rejection of the familial succession introduced by the Rajapaksas.*” He further recommends a strengthening of the leftist JVP as the only rational, secular progressive, anti-racist, anti-religious extremist ideology with contact to the masses. This should be linked with a strategy to detach the moderate forces of the ruling party from the family-dominated regime at the parliamentary election. Finally, this strategy should result in the building of the “*broadest possible multi-party united front led by the biggest Opposition party the UNP*” under a new leadership, emphasizing a pluralist national democratic ideology. (Jayatilleka, 2014e)

It is necessary to accommodate the principles of democracy, non-discrimination and non-domination, forging a new “social contract” between the communities, a “*multi-stakeholder-partnership*” that recognizes the special needs of the communities. This new (Post-war) - Social Contract must be based on a rejection of terrorism and separatism, the complete elimination of discrimination by the full implementation of the “*UN Durban Declaration and Programme of Action against Racism, Racial Intolerance, Xenophobia and Related Forms of Intolerance*” and a new relationship between the communities of Sri Lanka within a framework of regional autonomy for the Tamils. This has to happen in form of a “clever” political strategy that acknowledges the fact that 85% of the Sri Lankan population currently reject an external inquiry into human rights violations. (Jayatilleka, 2014d) The international strategy has therefore to be designed in a way that does not immediately trigger a pathological, extreme reaction from the collective Sinhalese psyche. This understanding of the real-political functioning and the political culture beyond the pure constitutional framework is the ultimate precondition to be able to navigate through the complex system of interdependent causes and symptoms. As Asanga Welikala argues, Institutional reforms on its own will achieve very little as long as they can be successfully portrayed by populist forces as being directed against the dominant Sinhalese. A political solution has to come from within the state, not being imposed from the outside. Reformism has to be re-integrated into the common political consciousness, and that has to happen through the “*democratic proceduralism of electoral politics*”, mainly in the Sinhalese south. The distinction between legal and political constitution⁹³ is also contributing to the current dilemma. Welikala argues for the need to understand that the most pressing challenge for reforms lies not necessarily in amending the legal constitution, but in the changing of the political constitution that is responsible for the malfunction of the legal constitution. Additionally, a process of self-critical reflection must also take place within the Tamil community, to realize the totally unrealistic ambitions of any future

93 Political constitution in a Schmidtian sense means the customs and functioning of the politics beyond the implications of legal texts and the written constitution, often being more powerful and more difficult to amend and transform

secessionism. The Tamil grievance of a recognition as a Nation cannot be demanded as a starting point, but must be seen as the ultimate goal that has to be reached through the building of mutual trust between the moderate forces of both communities. Liberals in the Sri Lankan civil society organizations have often associated themselves with the international intervention on war crimes, which is unfortunately not an issue that enables reformists to win elections and in further consequence politically realize their demands. (Welikala, 2014)

6.3. Re-framing the Discourses

The government as well as the state as such, in the current socio-political reality, *“cannot be expected to address the issue of accountability in a meaningful way any time in the near future.”* (Senaratne, 2014) One can then move on to further considerations about how this inability of the state can be transcended. What is needed is a change in the dominant discourse about the war and its purpose, its consequences, its victors and losers. Civil society leaders need to properly explain the meaning of such threatening words such as “accountability” or “Self-determination” to the Sinhalese people, the Tamil leaders in return need to explain the motivations behind the “traditional habitation concept”, to discharge the language of its polarizing character. A political solution to the ethnic problem is also the only way how to minimize the pressure on the issue of accountability. This requires a language that recognizes the equality of the Tamil people and communicates it well to the Sinhalese majority, carefully avoiding a translation of this “equality” automatically into a confederative principle and their right to self-determination without being understood as secessionism. As Kalana Senaratne argues, it would also be helpful for the Tamil community to understand that May 2009 was definitely not the ideal opportunity to address the question of Tamil autonomy as such. Nevertheless, as the 13th amendment is being rejected by the Tamil community, it is most probably not a model that represents a proper political solution for the Tamils. As a symmetrical devolutionary mechanism to the

entire country, the 13A is negating the “*specificity of the Tamil problem*”, making the 13th Amendment not the solution, “*but a part of the problem*”, which makes it absolutely necessary to think beyond the present constitutional framework in terms of a lasting solution. (Senaratne, 2014) This solution has nevertheless to be found in the given political reality on the ground. Although the TNA is expecting the Sri Lankan government to take the first steps on the path of reconciliation, there is a considerable amount the Tamils can do on their own to gain a better moral position to demand actions from the regime. The Northern Provincial council should forge reconciliation with the minority communities in the north, namely with the Sinhalese and Muslims that became victims of the LTTE’s struggle for liberation. As the Tamils are demanding equality on the national level, they should also grant the same level of parity to the minorities living in the northern territory. Further, the constitution of a Northern Truth and Reconciliation Commission of the Northern Provincial Council could investigate i.e. the massacre in Anuradhapura in 1989, the expulsion of the Muslims from the Jaffna Peninsula in 1991 or the killing of several moderate Tamil intellectuals. (Saravanthan, 2013) Although it may sound harsh to demand these steps from a self-perceived victim, if the Tamil community is demanding an international investigation into the loss of civilian lives during the last stages of the war, it would also necessary for the Tamils to investigate such killings conducted in the North by the LTTE. The Tamil community could be leading by example, making use of all the available political resources and implement language parity to the Sinhalese in the North. The same is true for issues regarding private property, where the TNA is demanding forcibly occupied houses by the Sri Lankan Army, while political parties of the TNA are also occupying private property in several districts of the north. The Tamils should further tackle the serious problem of discrimination, dispossession, and exclusion of large number of Tamils living in the north due to caste division. The Northern Provincial council could also implement affirmative policies to improve the situation of marginalised parts of the Tamil population. “*The caste division of Tamil society cannot be swept under the carpet like the Rajapaksa regime is trying to do to the ethnic minorities in the country.*” (Saravanthan, 2013)

6.4. Agents of Transformation

“The hope is the people of the country, but these people are being misled, the government keeps them in a state of ignorance” (Interview with Rayappu, 2014)

In the Sri Lankan protracted conflict, it is crucial to identify space that is conducive for metamorphosis of the current dysfunctional system, to find individuals, organizations and initiatives with new visions, values and consciousness and creative thinking that are able to transcend the obstacles and transform the chronic crises. It is necessary to find players who can catalyze sustainable transformative processes within and between individuals and organizations, who can overcome the destructive fragmentation with creativity, integration and dynamic balance. They must facilitate the emergence of a space where moderate forces can create and discuss visions and solutions without ideological bias to strengthen the ones who stand promote unity and diversity. *“Both sides have extremists, but the majority wants to live together.”* (Interview with Thilkasiri, 2014), Those who could advocate a pragmatic and rights-based vision for Sri Lanka within the Sinhalese community have to enter the stage of public discussion in order to enable a societal discourse about the future of Sri Lanka. *“There is a lot of dialogue, even within the government; many people are questioning the status quo, which is being sustained only by the personality of the president, representing the Sinhalese nation.”* (Interview with Interview-partner D, 2014)

There are several valuable resources available that could facilitate such a transformation in Sri Lanka. The overall strong religiosity of the people⁹⁴, the special role of the Catholic Church in Sri Lanka and the role of the Tamil Diaspora could be utilized to achieve a change in the nature of the Sri Lankan discourse and help to import new ideas and resources to the country. The Catholic Church as having members of both ethnic communities could play a significant role as a mediating body in the healing process. Being

⁹⁴ Sri Lanka is considered as one of the most religious countries in the world

the only religion that is shared across the Tamils and Sinhalese, the Catholic Church is in an ideal “*mediatory position*” to enable a dialogue between the North, East and South of Sri Lanka. (Ranawana, 2014)

The Tamil Diaspora is another resource that has not been utilized in its full potential to support transformation and reconciliation in Sri Lanka. The Tamil Diaspora has been blamed by many Sinhalese as being a chauvinist organization supporting terrorism and separatism, but the Diaspora is in itself undergoing a process of deep transformation, enabling a more moderate and balanced discourse to emerge. The next years will show whether the Diaspora will be able to play a significant role in reconciliation beyond the war-crime advocacy and pushing for an international investigation. Being equipped with economic resources and potentially more liberal mindsets from the west, the Diaspora could strongly advocate a multicultural approach within the Sri Lankan politics, one that has the ability to confront radical Tamil and Sinhalese discourses and advertise a unified vision for Sri Lanka. Such policies could begin to produce a more tolerant society that values cultural differences rather than producing a conflict based on those differences. The Diaspora, instead of purely focusing on the accountability issue, could pressure the government to adopt non-ethnic human rights-based reforms for an equal distribution of resources to all the ethnic communities in Sri Lanka. The Tamil Diaspora in its ability to “*internationalize the conflict*” could advocate international pressure against Sri Lanka that is designed in an ethnically more neutral way. As a potentially powerful donor, the Diaspora could also bring a considerable economic value to the country. Nevertheless, in order to play a significant role within Sri Lanka and not just on the international tribunal, the Tamil Diaspora would have to adopt a more conciliatory tone towards the Sri Lankan state and the majority of the Sinhalese population. (Prater, 2012) The Sri Lankan government and the northern provincial council should in return try to attract resources from the Tamil Diaspora, to mobilize investment for very specific projects or the development of a geographical area which the contributing Tamils have an emotional tie towards. This kind of ownership and specific responsibility would be able to uplift the Sri Lankan Tamils in their developmental agenda. (Saravanthan, 2013)

6.5. Unified Resistance - Sri Lankan Spring?

People from all affected communities who have suffered or are suffering from the government's post-war policies should forge a broad coalition with a shared commitment for human rights and rule of law in an ethnically neutral way. Not just the Tamils in the North, but also human rights defenders and journalists, successively discriminated Muslims and Christians as well as workers and fishing communities have been victims of state-violence. Except for a small minority, the vast majority of Sri Lanka's citizens seriously suffer from the downfall of democracy and the independence of the judiciary, the mismanagement of economy through cronyism and corruption and the successive international isolation. Civil society actors should therefore engage in common actions mainly targetting issues that affect all of the communities. *"Clearly the Sinhalese public is far less majoritarian supremacist than their rulers want/need them to be. (...) people are open to logic, reason and ordinary kindness, a people capable of drawing closer together on the basis of common problems, shared interests and human sympathy."* (Rohini, 2014) Bridging these divides is absolutely necessary to defeat the regime electorally, which is again the precondition for a process of accountability and a constitutional reform. (Rohini, 2014) Helpful would also be the creation of a united civil society forum that would bring the various fragmented civil society organizations together and mediate between the existing positions on accountability, power sharing and institutional reform. The utilization of synergies, the better public visibility and a lively discourse among the civil society players would strengthen their position and role in Sri Lanka and could create a starting point for a counter-discourse based on shared values. Such a civil society block could exercise patronage for various activists, journalists and human rights defenders and in further consequence turn into a movement for a holistic vision for and transformation of Sri Lanka, acting as a think tank that would contribute realistic and balanced political proposals and directly affect the Sri Lankan political landscape.

Another tool for transformation can be seen in the existence of small newspapers, blogs and websites characterized the courage to report on sensitive issues even in a climate that has become hostile for critical journalism. These websites and blogs running from within Sri Lanka have become important platforms to publish opinions that mainstream media refuse to promote. (Fernando, 2013) It will certainly take some time until such efforts will have a lasting effect on the ground, but it is important to realize that a genuine transformation can only come from within the country and has to be carried out by the Sri Lankan people who made their own realizations about the concerning issues. External international pressure can be no substitute for such an internal process, and facilitation is possible only through a strategy that connects the moderate forces of both communities instead of further polarizing the society along ethnic borders.

6.6. Reconciliation

In this final chapter, I want to finally outline a transformative and integral approach to the Sri Lankan dilemma, one that is capable of facilitating the creation and realization of a holistic vision of post - war Sri Lanka. At the same time, this approach has to be able to mediate between the given political realities, the emotions of the involved actors, the approaches of transitional justice, the international human rights framework, the basic needs of the individuals and communities on the ground, the rigidity of the current prevailing socio-political system and the fluidity and creativity that can emerge between people genuinely committed to a vision beyond conceptual limitations. This strategy has to also find a way how to navigate through the field of tension between accountability and political autonomy. It is important to pursue a strategy that can work with the currently available resources, defuses the confrontation and targets the moderate forces among the establishment who are conducive for reasonable and just solutions for all Sri Lankans. One of my interview-partners makes the following relatively simple proposal for what would be a good first step in terms of de-escalation: *“Let the northern provincial council work. Take*

the military governor out, put a civilian in. Everybody would see it; the internationals would see the sign of good will. That would make a huge difference; it would enable also a shift of mindset within the Tamil community. Then they could defend themselves in Geneva on a completely different level.” (Interview with Interview-partner O, 2014)

I am convinced that I managed to give a satisfying answer to my research question about “how to design, phrase and induce a rights based transformational process in Sri Lanka that balances the needs for Truth, Justice, Reconciliation and political transformation in an ethnically inclusive way, satisfying the basic human needs of all actors”

I think I managed to confirm my research-hypothesis, stating that “the prevailing dualism between peace and justice must be transcended by an overarching recognition of their interdependence, leading to a shared vision for a united and inclusive Sri Lanka. The strategy to realize this vision has to be carefully designed in the way it prioritizes the satisfaction of particular basic human needs of the actors in order to avoid a deadlock resulting out of a dogmatic stiffening of contradicting ideologies. While human rights and their full realization are indispensable for a durable solution, the concrete way and conscious successiveness of their implementation has to be design according to the practical feasibility and basic need prioritization in the given socio-political scenario.”

The following are my concluding observations, building upon my previous considerations about the interlocking nature of peace, justice and basic need satisfaction:

1) A change of the Sri Lankan dilemma has to be achieved from within the country, not forced upon by external players. Although international facilitation is beneficial if properly designed and orchestrated, it can have a damaging effect on national developments as well.

2) Approaches to reconciliation have to acknowledge the current socio-political situation and climate within Sri Lanka and be designed according to that political reality. It is not about surrendering to the government; on the contrary it is about formulating

demands in a way that makes it difficult for the current political establishment to gain political capital out of it.

3) Ultimate goals of a conflict party have to be formulated carefully during the reconciliation process; they cannot always be used successfully to initiate a process of change. In real-politics the moment of proposition of a political idea can decide its success or failure.

4) The international community should exercise pressure on the Sri Lankan state on the basis of its human rights record, but this should be done in an ethnically neutral way, also emphasizing issues that are relevant for the Sinhalese parts of the society to re-gain the Sinhalese ownership of the Human Rights agenda and avoid the trap of translating Human Rights as being purely “Tamil Rights”.

5) Even if the ultimate solution to the current conflict has to be fundamental constitutional reform, these discussions have to be led in a way which also acknowledges the Sinhalese grievances. As this reform can only be initiated after a fundamental change of the political landscape, civil society and the opposition have to act carefully in order to avoid the Sinhalese slipping back into reactionary patterns of populist nationalistic consciousness, maintaining the destructive system of political unipolarity.

6) A process of accountability and truth-finding is crucial for the Sri Lankan conflict to be resolved, nevertheless if this process wants to have a cathartic function within the society and bring the communities together instead of tearing them apart, it has to be carried by the consensus of the Sri Lankan population as such. In the current situation, the pushing for accountability results either in a fundamental rejection by the Sinhalese majority or into attempts of a white-washing process conducted by the government. Both approaches are a hindrance for genuine reconciliation. Accountability is crucial and so is truth, but this cannot be forced against the current democratic will of the population.

Conducting an international inquiry against the will of the majority of Sri Lankans is very likely to be rejected even by moderate forces within society. Therefore, a strategy based on the successful satisfaction of basic human needs would enable to prioritize the implementation of certain human rights compared to others. This would enable the design of a strategy that uses human rights in an unencumbered way, also including the “*bread and butter*” issues of the Sinhalese.

7) National and international pressure has to be concentrated upon issues that bind the government itself and relate to its particular ownership. That puts the LLRC recommendations into focus. Although having been rejected by many international organizations as insufficient due to its lack of accountability measures, it nevertheless gives numerous useful recommendations that would substantially transform the cross-ethnic relationships. The same energy and effort that has been exercised on the issues of accountability should be redirected on the rigorous and swift implementation of the LLRC recommendations. Within this framework, substantial pressure can be exercised as there is far less danger to trigger the Sinhalese defence mechanism which in the end is responsible for the protracted situation of today. Initiatives such as the “Shadow action plan” designed by the Social Architects pushing for a revision of the governmental LLRC-action plan are highly useful. Such approaches are calling for a more “*detailed, collaborative and consensus-oriented*” way of implementation, advocating devolution of power and sustainable economic development, following the principle of “*Do no Harm*” and adherence to international standards of Human Rights, human security and human dignity. (The Social Architects, 2012) The implementation of the LLRC recommendations should be accompanied by an effective coordinating mechanism, a follow up of the conducted implementations and a feedback-mechanism to secure a high level of visibility and transparency between the various stakeholders. It is also crucial to involve those affected by the decisions to generate ownership and sustainability of the conducted implementation. (Yusuf, 2013)

8) The Northern Provincial Council and the TNA should make use of all the available resources to implement measures in terms of equality which they are demanding from the central government, in order to put the regime under pressure to act. An inner-Tamil process of confrontation with the own past, the internal radicalisation and the LTTE-relationship would lead by example. If properly communicated, such a process could change the Sri Lankan mainstream-position of the absolute denial of a confrontation with the own past into a phase of reflection about one-self and the Other, which might open up space for a process of accountability led by national consensus within a couple of years.

9) The focus should be the promotion of issues which all Sri Lankans can relate to, such as corruption, devolution of political power, promotion of good governance, transparency and the rule of law, poverty reduction and sustainability of development and the participation of grass-roots in decision-making. Stronger “*Public-private partnerships*”, the strengthening of “*citizen-consultation mechanisms*” and more responsiveness to the demands of grass-root-communities would be a great contribution to a more just and balanced Sri Lankan society. (Yusuf, 2013)

10) There also has to be a discussion about the question of identity and its relation to patriotism and nationalism. Sri Lanka is not just dominated by the Sinhalese majority and a Tamil minority. This requires a genuine public discussion of what a particular ethnic identity means for oneself and how it relates to an overarching “*Sri Lankan Identity*”. As Michael Roberts puts it, the patriotic identity “Sri Lankan” should be built on a confederative principle recognizing the existence of various communities as well as three nations. “*While these three nations being the Sinhalese, the Tamils and the Muslims, the communities are the Malays, Burghers, indigenous Vāddās, Colombo Chetties, Borahs, Sindhis, Parsees and Memons.*” The creation of identity cards and driving licences that would acknowledge this diversity could contribute to the establishment of a Sri Lankan identity that includes instead of excludes all other communities. One could then declare oneself as being “*Vādda Lankan, Sinhalese Lankan, Burgher Lankan, Borah Lankan,*

Sindhi Lankan, Tamil Lankan, Parsee Lankan, Malay Lankan, Colombo-Chetty Lankan or Samkara Lankan (mixed descent).” The ultimate goal is to transform these categories of self-identity into an overarching Sri Lankan identity. (Roberts, 2009)

6.7. Transformed Action Plan

In this last table, I want to provide suggestions for strategies that could help to achieve the long term solutions, transcending the current binary logic of reinforcing existing patterns of ethnic division.

TRANSFORMED ACTION PLAN	Short Term Strategy	Long Term Solutions
Sinhalese:	Restoration of the competitiveness of a multi-polar political system; Focusing on human rights issues such as rule of law, independence of the judiciary, freedom of expression, enforced disappearances; combating high levels of corruption and cronyism; swift and rigorous implementation of LLRC- recommendations	Finding a political settlement with the Tamils that acknowledges their right to self-determination; Opening up of Sinhalese identity to an overarching Sri Lankan identity, acknowledging multi-cultural and multi-ethnic nature of the islands population; Constitutional reform that empowers the parliament, taking back of the 18th constitutional amendment
Sri Lankan Tamils:	Focus on basic human need satisfaction of the Tamils in the North and East, restoration of livelihoods, economic self-empowerment, basic development (housing, fresh-water supply, war-widows); Exercising pressure on the implementation of the LLRC recommendations and information about whereabouts of the missing persons; Implementation of all non-discriminatory measures in regard of the Sinhalese within the existing legal framework of regional autonomy to put the GoSL morally under pressure to act; Cooperation with Diaspora groups to enhance the flow of resources and know-how, sustainable developmental projects that empower the people	Federal model of Sri Lanka with regional autonomy for the Sri Lankan Tamils in the North and East with strong minority protection for the Sinhalese and Muslims living in these areas, or a model of strong devolution of political power, enabling an effective form of power-sharing and the realisation of the internal right to self determination; Regional commission of inquiry or participation in a national investigation with international facilitation about the war; Recognition of the Tamils as being part of the overarching identity of being “Sri Lankan”; Inner-Tamil discourse about LTTE-relationship, caste-problems and the unrealistic demand of secessionism
Tamil Diaspora:	Shifting of the main focus from accountability to basic need satisfaction, cooperation on a very regional level, ownership of projects through modern technology (internet, monitoring);	Transcending the current fundamental opposition towards the Sri Lankan regime to have better channels of communication and cooperation with the political representatives in Colombo, to utilise

	Inner-Diaspora discourse about LTTE-relationship, reappraisal of support of terrorism and secessionism; Focus on individual and well documented cases of accountability to initiate a successive process of accountability; Identification and bundling of moderate forces within the Diaspora, to create a stronger opposition against the more extremist forces	synergies in regard of resources for regional development and social and economic empowerment; Diaspora utilising their international visibility and political resources for demanding accountability in an ethnically inclusive way, so that a transitional justice mechanism finally brings the communities together instead of tearing them apart
Int. Community:	International pressure and international resolutions directed towards a rigorous implementation of the LLRC-recommendations and the security and protection of human rights defenders; Focus on particular highly-sensitive cases of war-crimes that might open the door for a broader accountability-process with the consensus of the majority of the population; Seeking to establish a better communication with the Sinhalese majority population to avoid being instrumentalised by the government as being purely pro-Tamil; Threaten the incumbent regime with economic sanctions related to issues where the average Sri Lankan can relate to, i.e. disappearances, torture, miss-governance, corruption, cronyism and judiciary	Facilitating a national process of investigation into war crimes or conducting an international inquiry into war crimes supported by a broader Sri Lankan consensus; Becoming a “partner” of the Sri Lankan state rather than its enemy, to strengthen the agency of the international community to influence developments on the ground; Offering Sri Lanka a way how to potentially become a full and respected member of the international community which is at the same time acceptable for the Sinhalese majority; Ideally an unbiased and equal application of international human rights law beyond the logic of international power structures;
Civil Society:	Strengthening of the Sri Lankan civil society organisations through cooperation and mutual trust, ideally in a shared civil society forum, think tank or umbrella organisation to utilise synergies and strengthen public visibility and influence on politics, administration; Intra- and inter-religious dialogue between Buddhists, Hindus, Christians and Muslims	Stronger interconnections between the rural society and civil society organisations, an opening up of the Sri Lankan society, people becoming more demanding, questioning current policies and socio-economic developments, an ownership of the Sri Lankan population for the socio-political developments within the country, opening up of public space to enhance freedom of expression and assembly, “Sri Lankan spring”

7. Bibliography

- AHRC (2013) SRI LANKA: A short report on the features of the increasing authoritarianism. *Asian Human Rights Commission* [Internet]. Available from: <<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-167-2013>> [Accessed 30 September 2013].
- Alfonso Montouri (2008) Foreword-Edgar Morin's path of complexity.
- Alwis, H. (2013) The perpetual conflict: Part 1. *Groundviews*. Available from: <<http://groundviews.org/2013/07/24/the-perpetual-conflict/>> [Accessed 24 April 2014].
- Amnesty International (2009) Sri Lanka: Twenty years of make-believe. Sri Lanka's Commissions of Inquiry. *Amnesty International* [Internet]. Available from: <<http://amnesty.org/en/library/info/ASA37/005/2009/en>> [Accessed 23 April 2014].
- Anonymous, A. (2011) www.slnewsonline.net/PB_20110709_Gordon_Weiss_Cage-the_fabrications_and_distortions.pdf [Internet]. Available from: <http://www.slnewsonline.net/PB_20110709_Gordon_Weiss_Cage-%20the_fabrications_and_distortions.pdf> [Accessed 10 January 2014].
- Balasundram, N. (2014) Is South Africa's Model Of TRC A Trap Or Trajectory For Sri Lanka? ~ The Struggle for Justice [Internet]. Available from: <<http://www.nirmanusan.blogspot.co.at/2014/03/is-south-africas-model-of-trc-trap-or.html>> [Accessed 23 April 2014].
- Balasundram, N. (2013) Sri Lanka: The intentions behind the land grabbing process [Internet]. Available from: <<http://www.jdslanka.org/index.php/2012-01-30-09-31-17/politics-a-economy/314-sri-lanka-the-intentions-behind-the-land-grabbing-process>> [Accessed 20 March 2014].
- Bateman, G. & Innasimuttu, R. (2013) A look at the human rights situation in Sri Lanka. *Asian Correspondent* [Internet]. Available from: <<http://asiancorrespondent.com/113670/a-look-at-the-human-rights-situation-in-sri-lanka/>> [Accessed 8 October 2013].
- Bopage, L. (2014) Is reconciliation achievable without separation in Sri Lanka? *Groundviews*. Available from: <<http://groundviews.org/2014/05/01/is-reconciliation-achievable-without-separation-in-sri-lanka/>> [Accessed 6 May 2014].

- Bopage, L. (2013) Political Violence in Sri Lanka. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/08/18/political-violence-in-sri-lanka/>> [Accessed 5 November 2013].
- Bopage, L. (2010) Post-War Sri Lanka: Way Forward or More of the Same? *Groundviews*. Available from: <<http://groundviews.org/2010/05/23/post-war-sri-lanka-way-forward-or-more-of-the-same/>> [Accessed 20 May 2014].
- Buthpitiya, V. (2013) www.lawandsocietytrust.org/PDF/resource/srilanka_post_war.pdf [Internet]. Available from: <http://www.lawandsocietytrust.org/PDF/resource/srilanka_post_war.pdf> [Accessed 24 March 2014].
- Carver, F. (2013) Sri Lanka blocks BBC reports as UN condemns anti-Tamil violence. *Asian Correspondent* [Internet]. Available from: <<http://asiancorrespondent.com/102874/sri-lanka-blocks-bbc-reports-as-un-condemns-anti-tamil-violence/>> [Accessed 8 October 2013].
- Chikane, F. (2013) A Joint Seminar on ‘South Africa - Sri Lanka Joint Dialogue on Post Conflict Reconciliation’ Organized by the Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS) in collaboration with The High Commission of the Republic of South Africa in Sri Lanka and the In Transformation Initiative.
- Civil Society Collective (2013) Civil Society Collective [Internet]. Available from: <<http://www.scribd.com/doc/127776803/Civil-Society-Collective>> [Accessed 23 April 2014].
- Colombage, D. (2013) A Reconciliation Slipping Away. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/09/26/a-reconciliation-slipping-away/>> [Accessed 3 October 2013].
- CPA (2013) An Opinion Survey on the LLRC Report. *Centre for Policy Alternatives* [Internet]. Available from: <<http://www.cpalanka.org/an-opinion-survey-on-the-llrc-report/>> [Accessed 23 April 2014].
- Deshaprija, S. (2013) ‘Building the base’: An interview with Sunila Abeysekara about post-war Sri Lanka. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/02/14/building-the-base-an-interview-with-sunila-abeysekara-about-post-war-sri-lanka/>> [Accessed 8 January 2014].
- DeVotta, N. (2007) *Sinhalese Buddhist Nationalist Ideology*.

- Dewasiri, N.R. (2012) 'History' after the War: Historical Consciousness in the Collective Sinhala-Buddhist Psyche in Post-War Sri Lanka by Dr. Nirmal Ranjith Dewasiri. [Internet]. Available from: <<http://www.scribd.com/doc/163129146/%E2%80%99History%E2%80%99-after-the-War-Historical-Consciousness-in-the-CollectiveSinhala-Buddhist-Psyche-in-Post-War-Sri-Lanka-by-Dr-Nirmal-Ranjith-Dewasiri>> [Accessed 23 April 2014].
- Du Toit, F. (2013) A Joint Seminar on 'South Africa - Sri Lanka Joint Dialogue on Post Conflict Reconciliation' Organized by the Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS) in collaboration with The High Commission of the Republic of South Africa in Sri Lanka and the In Transformation Initiative.
- Engage Sri Lanka (2013) *Corrupted Journalism - Channel 4 and Sri Lanka*.
- Faaiz, A.M. (2014) Rescuing Patriotism from the Extremists. *Groundviews*. Available from: <<http://groundviews.org/2014/04/09/rescuing-patriotism-from-the-extremists/>> [Accessed 9 April 2014].
- Fernando, B. (2011) Gyges Ring -- The 1978 Constitution of Sri Lanka — Asian Human Rights Commission [Internet]. Available from: <<http://www.humanrights.asia/resources/books/AHRC-PUB-002-2011/GygesRingSL.pdf/view>> [Accessed 1 October 2013].
- Fernando, R. (2013) Analysis: The assault on freedom of expression in Sri Lanka. *Asian Correspondent* [Internet]. Available from: <<http://asiancorrespondent.com/107014/analysis-the-assault-on-freedom-of-expression-in-sri-lanka/>> [Accessed 8 October 2013].
- Forum Asia (2014) Sri Lanka: UN Resolution a Significant Step towards Truth, Accountability and Justice «FORUM-ASIA [Internet]. Available from: <<http://www.forum-asia.org/?p=16858>> [Accessed 22 April 2014].
- Gamage, S. (2014) A systems approach based on a rights framework for the governance of Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2014/05/10/a-systems-approach-based-on-a-rights-framework-for-the-governance-of-sri-lanka/>> [Accessed 12 May 2014].
- Graf, W., Kramer, G. & Nicolescu, A. Complexity Thinking and Basic Human Needs: Towards a Meta-Framework for Interactive Conflict Transformation. *Wilfried Graf - Academia.edu* [Internet]. Available from: <https://www.academia.edu/5135486/Complexity_Thinking_and_Basic_Human_N>

eeds_Towards_a_Meta-Framework_for_Interactive_Conflict_Transformation>
[Accessed 24 April 2014].

Graf, W. & Kramer, G. (2012) Vom Kompromiss zur Versöhnung? Zwischenbericht zu einem Projekt.

Groiundviews (2014) Picking numbers from thin air: The government's lies around reconciliation. *Groundviews*. Available from:
<<http://groundviews.org/2014/05/22/picking-numbers-from-thin-air-the-governments-lies-around-reconciliation/>> [Accessed 27 May 2014].

Gunasinghe, M. (2013) www.lawandsocietytrust.org/PDF/resource/marionette_state.pdf [Internet]. Available from:
<http://www.lawandsocietytrust.org/PDF/resource/marionette_state.pdf> [Accessed 24 March 2014].

Gunatilleke, G. (2013) Long War, Cold Peace: Revaluation Of The Past And Reconciliation. *Colombo Telegraph* [Internet]. Available from:
<<https://www.colombotelegraph.com/index.php/long-war-cold-peace-revaluation-of-the-past-and-reconciliation/>> [Accessed 15 January 2014].

Haviland, C. (2014) The hunt for the missing. *Groundviews*. Available from:
<<http://groundviews.org/2014/05/12/the-hunt-for-the-missing/>> [Accessed 12 May 2014].

Hemachandra, L. (2014) We The 'Criminal'. *Colombo Telegraph*. Available from:
<<https://www.colombotelegraph.com/index.php/we-the-criminal/>> [Accessed 31 March 2014].

Hogg, C.L. (2013) Commonwealth Delegates in Sri Lanka Must Not Ignore Human Rights. *Chatham House: Independent thinking on international affairs* [Internet]. Available from:
<http://www.chathamhouse.org/media/comment/view/195559?dm_i=1TYB,1ZEXJ,BIUU0G,74RAG,1> [Accessed 15 November 2013].

Hoolie, E. (2012) Reconciliation in Sri Lanka: What? Why? How? *Groundviews* [Internet]. Available from: <<http://groundviews.org/2012/05/30/reconciliation-in-sri-lanka-what-why-how/>> [Accessed 11 November 2013].

Hottatuwa, S. (2014) Launch of Special Edition: The end of war in Sri Lanka, five years on. *Groundviews*. Available from: <<http://groundviews.org/2014/04/30/launch-of-special-edition-the-end-of-war-in-sri-lanka-five-years-on/>> [Accessed 6 May 2014].

IFRI (2012) Sri Lanka Guardian: Roads to Reconciliation [Internet]. Available from: <<http://www.srilankaguardian.org/2012/03/roads-to-reconciliation.html>> [Accessed 24 April 2014].

Independent Diaspora Analysis Group (2013) the Numbers Game [Internet]. Available from: <<http://www.satp.org/satporgtp/countries/shrilanka/document/TheNG.pdf>> [Accessed 26 March 2014].

International Commission of Jurists (2012) ICJ - full report accountability and impunity Sri Lanka [Internet]. Available from: <<http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/01/ICJ-Srilanka-Report.pdf>> [Accessed 1 October 2013].

International Crimes Evidence Project (2014) New evidence of war crimes in Sri Lankan civil war. *Public Interest Advocacy Centre* [Internet]. Available from: <<http://www.piac.asn.au/news/2014/02/new-evidence-war-crimes-sri-lankan-civil-war>> [Accessed 24 April 2014].

Interview with Interview-partner A, Social Scientist, 10.10.2013, Colombo

Interview with Interview-partner B, Grass-roots Activist, 4.11.2013, Jaffna

Interview with Interview-partner C, Rukshan Fernando, Human rights Activist, 9.1.2014, Colombo

Interview with Interview-partner D, Executive Director of NGO, 13.1.2014, Colombo

Interview with Interview-partner E, Executive Director of NGO, 16.1.2014, Colombo

Interview with Interview-partner F, Theiventran Meenilankco, T., Researcher and Policy Advisor, 17.1.2014, Colombo

Interview with Interview-partner G, G.D.V. Thilkasiri, Ministry of National Languages and Social Integration, 17.1.2014, Colombo

Interview with Interview-partner H, former Public Administration Officer, 20.1.2014, Colombo

Interview with Interview-partner I, Employee of International Organisation, 22.1.2014, Colombo

Interview with Interview-partner J, Emeritus Professor of Law, 23.1.2014, Colombo

- Interview with Interview-partner K, Legal Researcher, 24.1.2014, Colombo
- Interview with Interview-partner L, Dayan Jayatilleka, former Ambassador of the GoSL to Paris and Geneva, 27.1.2014, Colombo
- Interview with Interview-partner M, Joseph Rayappu, Bishop of Mannar, 28.1.2014, Mannar
- Interview with Interview-partner N, Paikiasothy Saravanamuttu, Executive Director of the Center for Policy Alternatives, 29.1.2014, Colombo
- Interview with Interview-partner O, Senior Lecturer at Eastern University, 30.1.2014, Colombo
- Interview with interview-partner P, Anton Sebastian, Historian, 22.2.2014, London
- Ismail, Q. (2013) Not By Ourselves Alone: A Critique of (Tamil) Self-Determination. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/10/07/not-by-ourselves-alone-a-critique-of-tamil-self-determination/>> [Accessed 7 October 2013].
- Jayapalan, A. (2014) Development in Sri Lanka and the structural Genocide of the Eelam Tamils [Internet]. Available from: <<http://www.jdslanka.org/index.php/2012-01-30-09-31-17/reflections/450-development-in-sri-lanka-and-the-structural-genocide-on-the-eelam-tamils>> [Accessed 2 June 2014].
- Jayatilleka, D. Public discussion on Geneva 2009, 2012 and 2014, 22.1.2014, OPA Auditorium Colombo
- Jayatilleka, D. (2014c) After The Vote In Geneva. *Colombo Telegraph*. Available from: <<https://www.colombotelegraph.com/index.php/after-the-vote-in-geneva/>> [Accessed 27 March 2014].
- Jayatilleka, D. (2014d) Plato's cave in the Indian ocean: Elite failure in Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2014/04/30/platos-cave-in-the-indian-ocean-elite-failure-in-sri-lanka/>> [Accessed 6 May 2014].
- Jayatilleka, D. (2014e) Theocratic fascism in Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2014/04/24/theocratic-fascism-in-sri-lanka/>> [Accessed 29 April 2014].
- Jayatilleka, D. (2013) Chief Minister Wigneswaran alleges genocide, calls for plebiscite | *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/12/15/chief->

- minister-wigneswaran-alleges-genocide-calls-for-plebiscite/> [Accessed 17 December 2013].
- Jayatilleka, D. (2013a) *Long war, cold peace*. Vijitha Yapa.
- Jayatunge, R.M. (2014) Combat Trauma And Post War Sri Lanka. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/combata-trauma-and-post-war-sri-lanka/>> [Accessed 16 January 2014].
- Karunanyake, D. & Thiyagaraja, W. (2012) Sri Lankan Post-War Cinema and Reconciliation. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2012/03/12/sri-lankan-post-war-cinema-and-reconciliation/>> [Accessed 11 November 2013].
- Kayser-Whande, U. & Schell-Faucon, S. (2012) Transitional Justice and Conflict Transformation in Conversation. *Politorbis* Nr. 50.
- Kramer, Ernstbrunner & Graf (2012) The Dimension of Culture in Violent Conflict.
- Kumar, D. (2013) Building On The NPC And CHOGM: Successes Defang The Chauvinists For Keeps!. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/building-on-the-npc-and-chogm-successes-defang-the-chauvinists-for-keeps/>> [Accessed 17 November 2013].
- Kumar, D. (2014) Political settlement or regime change! *Groundviews*. Available from: <<http://groundviews.org/2014/05/06/political-settlement-or-regime-change/>> [Accessed 6 May 2014].
- Mangalarajah, S.V.B. (2013) To Catholic Bishops' Conference of Sri Lanka [Internet]. Available from: <<http://www.scribd.com/doc/120435972/To-Catholic-Bishops-Conference-of-Sri-Lanka>> [Accessed 23 April 2014].
- Manobuddhi, R., Ranawa, A. & Ranawana, K. (2014) Sri Lanka's media, five years after the end of war. *Groundviews*. Available from: <<http://groundviews.org/2014/05/13/sri-lankas-media-five-years-after-the-end-of-war/>> [Accessed 13 May 2014].
- Marga Institute (2011a) *Truth And Accountability: The Last Stages Of The War In Sri Lanka*.
- Marga Institute (2011) www.margasrilanka.org/Darusman-Seminar-Report.pdf [Internet]. Available from: <<http://www.margasrilanka.org/Darusman-Seminar%20Report.pdf>> [Accessed 15 January 2014].

- Marga Institute (2012) Issuu - Marga seminar on the implementation of the llrc report 9 Feb 2012 - Sri Lanka by Liberal Party Sri Lanka [Internet]. Available from: <http://issuu.com/lpsl/docs/marga_seminar_on_the_implementation> [Accessed 15 January 2014].
- Marshall, E.L. (2014) Colombo's changing cityscape. *Groundviews*. Available from: <<http://groundviews.org/2014/04/18/colombos-changing-cityscape/>> [Accessed 22 April 2014].
- McKenzie, A.B. (2014) International Press Institute Urges UN To Ensure Interference With Colombo Telegraph Ends. *Colombo Telegraph*. Available from: <<https://www.colombotelegraph.com/index.php/international-press-institute-urges-un-to-ensure-interference-with-colombo-telegraph-ends/>> [Accessed 27 March 2014].
- Ministry Foreign Affairs (2009) Joint statement by the government of SL and the UN secretary general at the conclusion of un secretary-general's visit to SL, 23rd may 2009 [Internet]. Available from: <http://www.defence.lk/new.asp?fname=20090524_02> [Accessed 20 May 2014].
- Moonesinghe, G. (2014) UNHRC Resolution: To be reviewed with objectivity. *Groundviews*. Available from: <<http://groundviews.org/2014/04/04/unhrc-resolution-to-be-reviewed-with-objectivity/>> [Accessed 7 April 2014].
- Moonesinghe, G. (2014a) Attitudinal change necessary to give momentum to the Provincial councils. *Groundviews*. Available from: <<http://groundviews.org/2014/05/15/attitudinal-change-necessary-to-give-momentum-to-the-provincial-councils/>> [Accessed 15 May 2014].
- Moorthy, S. (2013) 'Accountability Issues' And 'Transitional Justice'. *The Sunday Leader* [Internet]. Available from: <<http://www.thesundayleader.lk/2013/02/24/accountability-issues-and-transitional-justice/>> [Accessed 9 October 2013].
- Nandakumar, T. (2011) www.berghof-peacesupport.org/publications/SL_Diaspora_Papers_Nandakumar.pdf [Internet]. Available from: <http://www.berghof-peacesupport.org/publications/SL_Diaspora_Papers_Nandakumar.pdf> [Accessed 8 October 2013].
- Naqvi, J. (2006) The right to the truth in international law: fact or fiction? [Internet]. Available from:

<<http://www.icrc.org/eng/resources/documents/article/review/review-862-p245.htm>> [Accessed 24 April 2014].

National Peace Council (2014) Consider joint inquiry instead of international inquiry.

National Peace Council (2014a) Work towards mutually acceptable resolution to avoid further polarization.

Nesiah, D. (2014) On forgiving and forgetting. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/02/20/on-forgiving-and-forgetting/>> [Accessed 22 February 2014].

Nesiah, D. (2014a) The National and International Significance of the 13th Amendment. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/03/07/the-national-and-international-significance-of-the-13th-amendment/>> [Accessed 10 March 2014].

Neubert, S. & Reich, K. (2002) Towards a constructivist theory of discourse: rethinking the boundaries of discourse philosophy.

Oakford, S. (2013) Genocide Replaces Separatism in Tamil Diaspora Vocabulary - Inter Press Service [Internet]. Available from: <<http://www.ipsnews.net/2013/10/genocide-replaces-separatism-in-tamil-diaspora-vocabulary/>> [Accessed 6 March 2014].

One Text Initiative (2011) sri lanka int. law framework [Internet]. Available from: <http://www.onetext.org/wp-content/uploads/2013/03/01_April-2011.pdf> [Accessed 8 November 2013].

Orjuela, C. (2013) Friction and the pursuit of justice in post-war Sri Lanka - Peacebuilding - Volume 1, Issue 3 [Internet]. Available from: <http://www.tandfonline.com/doi/abs/10.1080/21647259.2013.813171#.U1j8xfl_sRA> [Accessed 24 April 2014].

Orjuela, C. (2012) Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka [Internet]. Available from: <<http://gup.ub.gu.se/publication/155791-hybrid-peace-governance-and-illiberal-peacebuilding-in-sri-lanka>> [Accessed 24 April 2014].

PoE (2011) *Report of the Secretary-general's panel of experts on accountability in Sri Lanka*. Available from: <http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf>.

- Parlevliet, M. (2010) *www.berghof-handbook.net/documents/publications/parlevliet_handbookII.pdf* [Internet]. Available from: <http://www.berghof-handbook.net/documents/publications/parlevliet_handbookII.pdf> [Accessed 1 November 2013].
- Peiris, H. (2014) Defending non-implementation of the LLRC in Geneva. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/02/21/defending-non-implementation-of-the-llrc-in-geneva/>> [Accessed 22 February 2014].
- Peiris, H. (2014a) A South African effort at promoting reconciliation. *Groundviews*. Available from: <<http://groundviews.org/2014/05/09/a-south-african-effort-at-promoting-reconciliation/>> [Accessed 12 May 2014].
- Peiris, H. (2013) The UNP and the opposition political landscape. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/09/30/the-unp-and-the-opposition-political-landscape/>> [Accessed 7 October 2013].
- Perera, J. (2013) The search for loved ones is the most primordial of human sentiments not a conspiracy against the government « LANKA Standard. Available from: <<http://www.lankastandard.com/2013/05/the-search-for-loved-ones-is-the-most-primordial-of-human-sentiments-not-a-conspiracy-against-the-government/>> [Accessed 26 March 2014].
- Perera, J. (2014) Learning Together From Geneva Mistakes. *Colombo Telegraph*. Available from: <<https://www.colombotelegraph.com/index.php/learning-together-from-geneva-mistakes/>> [Accessed 24 March 2014].
- Perera, J. (2014a) Why international pressure has become necessary for Sri Lanka - ANN [Internet]. Available from: <<http://www.asianewsnet.net/news-56339.html>> [Accessed 22 January 2014].
- Perera, K. (2013) Post CHOGM – Has TNA Chosen A Wrong Set Menu ?. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/post-chogm-has-tna-chosen-a-wrong-set-menu/>> [Accessed 18 November 2013].
- Perera, K. (2014) Buddhists challenged to respect their religion. *Groundviews*. Available from: <<http://groundviews.org/2014/03/12/buddhists-challenged-to-respect-their-religion/>> [Accessed 19 March 2014].
- Prater, D. (2012) The Transitional Justice Function Of Multicultural Policies In Sri Lanka. *Colombo Telegraph* [Internet]. Available from:

<<https://www.colombotelegraph.com/index.php/the-transitional-justice-function-of-multicultural-policies-in-sri-lanka/comment-page-1/>> [Accessed 9 October 2013].

Ranawana, A. (2014) De Pilo Pendet: Reconciliation and the Catholic Church's Role in Post-War Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2014/05/14/de-pilo-pendet-reconciliation-and-the-catholic-churchs-role-in-post-war-sri-lanka/>> [Accessed 15 May 2014].

Ratnayake, S. (2013) Time and Distance. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/12/07/time-and-distance/>> [Accessed 2 January 2014].

Ratnayake, S. (2013a) Sovereignty vs. the Right to Life. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/11/18/sovereignty-vs-the-right-to-life/>> [Accessed 19 November 2013].

Research Departement (2013) www.onetext.org/wp-content/uploads/2013/06/Research-on-the-Nexus-between-the-Post-War-Trauma-and-Increased-Violence-in-Sri-Lanka.pdf [Internet]. Available from: <<http://www.onetext.org/wp-content/uploads/2013/06/Research-on-the-Nexus-between-the-Post-War-Trauma-and-Increased-Violence-in-Sri-Lanka.pdf>> [Accessed 8 November 2013].

Roberts, M. (2014) Ideological Cancers within the Sinhala Universe: Roadblocks in the Path of Reconciliation. *Groundviews*. Available from: <<http://groundviews.org/2014/05/10/ideological-cancers-within-the-sinhala-universe-roadblocks-in-the-path-of-reconciliation/>> [Accessed 12 May 2014].

Roberts, M. (2012) Populism And Sinhala-Kingship In The Rajapaksa Regime's Political Pitch. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/populism-and-sinhala-kingship-in-the-rajapaksa-regimes-political-pitch/>> [Accessed 11 January 2014].

Roberts, M. (2009) SOME PILLARS FOR LANKA'S FUTURE. *Sacrificial Devotion Virulent Politics* [Internet]. Available from: <http://sacrificialdevotionnetwork.wordpress.com/2009/06/03/some_pillars_for_lankas_future/> [Accessed 11 January 2014].

Roberts, M. (2013) The fog of war in Sri Lanka. *TransConflict*. Available from: <<http://www.transconflict.com/2013/12/fog-war-sri-lanka-182/>> [Accessed 26 March 2014].

- Rohini, H. (2014) Truth, Accountability and Reconciliation in Post-War Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2014/05/13/truth-accountability-and-reconciliation-in-post-war-sri-lanka/>> [Accessed 13 May 2014].
- Ropers, N. (2010) *A Systemic Approach: Reflections on Sri Lanka*.
- Sabharwal, G. & Chinn, L. (2012) New Survey Sri Lanka Examines Ethno-Religious Relationships. *In Asia*. Available from: <<http://asiafoundation.org/in-asia/2012/07/11/new-survey-in-post-war-sri-lanka-examines-ethno-religious-relationships/>> [Accessed 24 April 2014].
- Samaranayake, S. (2014) Sinhalese and their fear of freedom. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/01/31/sinhalese-and-their-fear-of-freedom/>> [Accessed 22 February 2014].
- Samaranayake, S. (2014a) Reception of Buddhism in Lanka: An entanglement with worldly sovereignty?. *Groundviews* [Internet]. Available from: <http://groundviews.org/2014/02/10/reception-of-buddhism-in-lanka-an-entanglement-with-worldly-sovereignty/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+groundviewssl+%28groundviews%29> [Accessed 10 February 2014].
- Samararatne, D. (2013) A Provisional Evaluation of the Contribution of the Supreme Court to Political Reconciliation in Post-War Sri Lanka (May 2009-August 2012). Available from: <<http://de.scribd.com/doc/145740658/A-Provisional-Evaluation-of-the-Contribution-of-the-Supreme-Court-to-Political-Reconciliation-in-Post-War-Sri-Lanka-May-2009-August-2012>> [Accessed 2 October 2013].
- Saravanamuttu, P. (2014b) Sri Lanka: Post-Geneva, Post-Provincial Council Elections. *Groundviews*. Available from: <<http://groundviews.org/2014/04/07/sri-lanka-post-geneva-post-provincial-council-elections/>> [Accessed 8 April 2014].
- Saravanthan, M. (2013) A Northern Path to Reconciliation in Sri Lanka. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2013/10/21/a-northern-path-to-reconciliation-in-sri-lanka/>> [Accessed 21 October 2013].
- Sarkin, J. (2013) A Joint Seminar on ‘South Africa - Sri Lanka Joint Dialogue on Post Conflict Reconciliation’ Organized by the Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS) in collaboration with The High Commission of the Republic of South Africa in Sri Lanka and the In Transformation Initiative.

- Schubert, A. (2013) An analysis of Sri Lanka's post-war reconciliation discourse-Andi Schubert [Internet]. Available from: <<http://www.scribd.com/doc/146648416/An-analysis-of-Sri-Lanka-s-post-war-reconciliation-discourse-Andi-Schubert>> [Accessed 23 April 2014].
- Seegers, A. (2013) A Joint Seminar on 'South Africa - Sri Lanka Joint Dialogue on Post Conflict Reconciliation' Organized by the Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS) in collaboration with The High Commission of the Republic of South Africa in Sri Lanka and the In Transformation Initiative.
- Senanyake, H. (2013) Accountability, President Mahinda Rajapaksa And The Lord Buddha. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/accountability-president-rajapaksa-and-the-lord-buddha/>> [Accessed 13 May 2014].
- Senaratne, K. (2014) The Search for a Political Solution Five Years after the War. *Groundviews*. Available from: <<http://groundviews.org/2014/05/11/the-search-for-a-political-solution-five-years-after-the-war/>> [Accessed 12 May 2014].
- Serasinghe, S. (2013) Mahavamsa- An Insult To The Buddha!. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/mahavamsa-an-insult-to-the-buddha/>> [Accessed 16 January 2014].
- Sivathasan, S. (2013) Numbers Game: Politics Of Restorative Justice. *Colombo Telegraph*. Available from: <<https://www.colombotelegraph.com/index.php/numbers-game-politics-of-restorative-justice/>> [Accessed 26 March 2014].
- Skanthakumar, B. (2012) *'Embedded in the state, the human rights commission of Sri Lanka*. Bangkok. Available from: <<http://www.lawandsocietytrust.org/PDF/2012%20ANNI%20Report%20on%20Sri%20Lanka%20Embedded%20in%20the%20State%2023%20July%202012.pdf>>.
- Sumanthiran, M.A. (2011) transCurrents: A lasting political solution through power sharing [Internet]. Available from: <http://transcurrents.com/tc/2011/04/a_lasting_political_solution_t.html> [Accessed 22 April 2014].
- Thangavelu, V. (2014) Like It Or Not Sri Lanka Faces Investigation. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/like-it-or-not-sri-lanka-faces-investigation/>> [Accessed 23 April 2014].

- Theissen, G. (2004) www.berghof-handbook.net/documents/publications/theissen_handbook.pdf [Internet]. Available from: http://www.berghof-handbook.net/documents/publications/theissen_handbook.pdf [Accessed 5 November 2013].
- The Social Architects (2013) The Numbers Never Lie: A Comprehensive Assessment of Sri Lanka's LLRC Progress. *Groundviews* [Internet]. Available from: <http://groundviews.org/2013/03/14/the-numbers-never-lie-a-comprehensive-assessment-of-sri-lankas-llrc-progress/> [Accessed 2 January 2014].
- The Social Architects (2012) Giving reconciliation in Sri Lanka a better chance: A Shadow Action Plan for the LLRC. *Groundviews* [Internet]. Available from: <http://groundviews.org/2012/12/23/giving-reconciliation-in-sri-lanka-a-better-chance-a-shadow-action-plan-for-the-llrc/> [Accessed 24 April 2014].
- Thiranagayama, D. (2014) Political Character of the UPFA Regime: Is Democracy Safe? *Groundviews*. Available from: <http://groundviews.org/2010/10/08/political-character-of-the-upfa-regime-is-democracy-safe/> [Accessed 28 May 2014].
- Thiranagayama, D. (2014a) Re-visiting the Rajapaksa Hegemonic Project. *Groundviews*. Available from: <http://groundviews.org/2014/05/09/re-visiting-the-rajapaksa-hegemonic-project/> [Accessed 12 May 2014].
- Tissainayagam, J.S. (2013) Sri Lanka: The time for an international investigation is now. *Asian Correspondent* [Internet]. Available from: <http://asiancorrespondent.com/116154/sri-lanka-chogm-investigation/> [Accessed 11 January 2014].
- Du Toit, F. (2013) A Joint Seminar on 'South Africa - Sri Lanka Joint Dialogue on Post Conflict Reconciliation' Organized by the Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS) in collaboration with The High Commission of the Republic of South Africa in Sri Lanka and the In Transformation Initiative.
- Trishantha, N. (2014) Lifting the veil to reconciliation. *Groundviews*. Available from: <http://groundviews.org/2014/05/13/lifting-the-veil-to-reconciliation/> [Accessed 13 May 2014].
- UN Human Rights Council, *Promoting reconciliation and accountability in Sri Lanka : Report of the Office of the United Nations High Commissioner for Human Rights*, 24 February 2014, A/HRC/25/23, available at: <http://www.refworld.org/docid/53103ed24.html> [accessed 22 July 2014]

UN Human rights Council, *Promoting reconciliation, accountability and human rights in Sri Lanka*; 26 March 2014, A/HRC/25/L.1/Rev.1., available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/25/L.1/Rev.1 [accessed 22 July 2014]

UN Human Rights Council, *Promoting reconciliation and accountability in Sri Lanka : Report of the Office of the United Nations High Commissioner for Human Rights*, 24 February 2014, A/HRC/25/23, available at: <http://www.refworld.org/docid/53103ed24.html> [accessed 21 July 2014]

UN Human Rights Council, *Report of the Office of the United Nations High Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka*, 11 February 2013, A/HRC/22/38, available at: <http://www.refworld.org/docid/512759372.html> [accessed 22 July 2014]

UN Commission on Human Rights, *Study on the Right to the Truth, Report of the Office of the United Nations High Commissioner for Human Rights*, 8 February 2006, E/CN.4/2006/91, available at: <http://www.refworld.org/docid/46822b6c2.html> [accessed 22 July 2014]

Uyangoda, J. (2012) *Healing the wounds: Renuiulding Sri Lanka after the war*. D. Herath & K. Tudor Silva eds. Colombo and Kandy, ICES International Centre for Ethnic Studies.

Uyangoda, J. (2012a) South Africa's Role? [Internet]. Available from: <http://www.dailymirror.lk/opinion/172-opinion/21642-south-africas-role.html> [Accessed 23 April 2014].

Vickramabahu, K. (2013) Rajapaksa Regime is not a Formal Dictatorship but a Fascist Type Authoritarian Rule Based on Arya Sinhala Chauvinism «dbsjeyaraj.com [Internet]. Available from: <http://dbsjeyaraj.com/dbsj/archives/25563> [Accessed 10 January 2014].

Waduge, S.D. (2014) LankaWeb – Sri Lanka: Who says 13th amendment is NOT IMPLEMENTED? Available from: <http://www.lankaweb.com/news/items/2014/06/04/sri-lanka-who-says-13th-amendment-is-not-implemented/> [Accessed 1 July 2014].

Wasantha, R. (2014) New report documents Sri Lankan military's killing of surrendering LTTE leaders - World Socialist Web Site [Internet]. Available from:

<<http://www.wsws.org/en/articles/2014/03/04/sril-m04.html>> [Accessed 6 March 2014].

WATCHDOG (2014) Enforced Disappearances in Sri Lanka: 2006-2013. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/01/09/enforced-disappearances-in-sri-lanka-2006-2013/>> [Accessed 10 January 2014].

Weerakoon, P. (2010) WINNING THE INVISIBLE CONFLICT: Is Sri Lanka headed for sustainable peace?. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2010/05/27/3471/>> [Accessed 17 January 2014].

Weerawardhana, C. (2014) Problems of success? Post-war Sri Lanka's international challenges. *Groundviews*. Available from: <<http://groundviews.org/2014/05/11/problems-of-success-post-war-sri-lankas-international-challenges/>> [Accessed 12 May 2014].

Weerawardhana, C. (2011) The Darusman Report: Reflections on the real challenges ahead for Sri Lanka. *Groundviews*. Available from: <<http://groundviews.org/2011/04/25/the-darusman-report-reflections-on-the-real-challenges-ahead-for-sri-lanka/>> [Accessed 21 May 2014].

Welijamuna, J.C. (2014) Why the Government of Sri Lanka fails internationally. *Groundviews* [Internet]. Available from: <<http://groundviews.org/2014/02/25/why-the-government-of-sri-lanka-fails-internationally/>> [Accessed 25 February 2014].

Welikala, A. (2014) Overcoming the post-war malaise: why Sri Lanka needs a reform-ministry and what it should do. *Groundviews*. Available from: <<http://groundviews.org/2014/05/27/overcoming-the-post-war-malaise-why-sri-lanka-needs-a-reform-ministry-and-what-it-should-do/>> [Accessed 28 May 2014].

Wickramaratne, J. (2014) The National Question: All about State Power. *Groundviews*. Available from: <<http://groundviews.org/2014/04/26/the-national-question-all-about-state-power/>> [Accessed 28 April 2014].

Wickramasinghe, N. (2012) Producing the Present: History as Heritage in Post-War Patriotic Sri Lanka.

Wijesinha, R. (2014) Public discussion on Geneva 2009, 2012 and 2014.

Wijesiriwardena, S. (2014) Keep Off the Grass. *Groundviews*. Available from: <<http://groundviews.org/2014/05/08/keep-off-the-grass/>> [Accessed 13 May 2014].

Wilson, R.A. (2001) *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State*. New York, Cambridge University Press.

Yusuf, S. (2013) Reconciliation And The Need Of The Hour. *Colombo Telegraph* [Internet]. Available from: <<https://www.colombotelegraph.com/index.php/reconciliation-and-the-need-of-the-hour/>> [Accessed 11 November 2013].

Abstract

5 years after end of the war, Sri Lankan Society is still struggling with the consequences of the 25 years of armed conflict. Despite the establishment of a national Reconciliation Commission and several resolutions of the UN - Human Rights Council, serious concerns about ongoing Human Rights violations and deficits in minority protection are being reported. The national reconciliation discourse is still stuck in the repetition of stereotypical narratives along the borders of ethnic and political identity, disabling the possibility of true communication between the conflicting parties. National and international approaches to finding a solution to the protracted conflict are based on versions of history, on partial truths embodied within their particular socio - cultural and political systems, also being under the influence of global political power relations. The respective interpretations of the history are based on prefabricated conclusions, from which the argumentation of each parties' position is worked backwards to create inner consistency with the opinions shared by their ethnic group. These positions seem to be un-negotiable for both sides of the conflict. Irrespective of the existence of both international and national reports about the last stages of the war, open questions about core issues (facts) have not been answered in a way that both sides can agree upon.

It is crucial to investigate how this system-logic of the constant reappearance and reaffirmation of subjective identity based on collective needs and fears might be transcended. Political actors are following the rules of power and democratic systems tend to legitimize majority perceptions to create political realities which have the imminent tendency to reproduce themselves. It is therefore important to discover forces which are able to transform the impact of collective memory and its influence on the re-occurrence of reactionary patterns of thinking and behaviour. The relationship between the needs for Peace and Justice, Economic Development and Accountability, Acknowledgement and Forgiveness are creating the field of tensions where the Self and the Other have to encounter, are framing this search for a truly integrative approach to reconciliation that

wants to ultimately satisfy the basic human needs of all Sri Lankans.

The aim of this contribution is to read between the lines of international and national reports, political statements and public narratives, trying to analyze why it is so difficult to reach a consensual understanding of the past, the present and the need for future developments. In search of a balanced and sensitive approach that would enable a fair process of reconditioning of the Sinhalese and Tamil mindsets beyond political instrumentalization, this paper is trying to find a strategy to balance the needs for truth, justice, accountability, Human Rights and a political solution of power sharing within the current political reality on Sri Lanka. The international Human Rights regime and resolutions of international Human Rights bodies seem to have to be more carefully contextualized within the process of their formulation and implementation to truly unfold their potential normative function within a divided and polarised country that is still carrying the burden of the past.

Abstract Deutsch

5 Jahren nach dem Ende des Krieges kämpft Sri Lanka immer noch mit den Folgen des 25-jährigen Konfliktes zwischen den Regierungstruppen und den tamilischen Separatisten LTTE. Trotz der Einrichtung einer nationalen Versöhnungskommission und mehreren Resolutionen des UN - Menschenrechtsrates gibt es anhaltende Berichte über Menschenrechtsverletzungen und Defizite im Bereich des Minderheitenschutzes. Der nationale Versöhnungsdiskurs ist geprägt von Stereotypen entlang den Grenzen von ethnischer und politischer Identität, welche eine echte Kommunikation zwischen den Konfliktparteien verhindern. Nationale und internationale Ansätze zur Lösung des Konflikts berufen sich auf einseitige Versionen der Geschichte, Teilwahrheiten werden gemäß den kulturellen und politischen Machtverhältnissen gegeneinander ausgespielt und Schlussfolgerungen gemäß der jeweiligen Erwartungshaltung gezogen, die eigene Position scheint dabei nicht verhandelbar zu sein. Unabhängig von der Existenz von einer Vielzahl nationaler und internationaler Berichte über die letzte Phase des Krieges gibt es noch immer offene Fragen zu Kern-Aspekten und Fakten, welche die Bevölkerung von Sri Lanka weiterhin spalten.

Es stellt sich die Frage, wie diese System-Logik der Reproduktion der gegebenen Konflikt-Struktur auf der Grundlage von Bedürfnissen, Ängsten und Identitäten überwunden werden kann. Das kollektive Gedächtnis der Akteure sowie die Tendenz demokratischer Systeme, politische Machtverhältnisse zu reproduzieren, führt zur Notwendigkeit Kräfte zu identifizieren, welche in der Lage sind reaktionäre Denk- und Verhaltensmuster zu ändern.

Die Beziehung zwischen den Grundbedürfnissen von Frieden und Gerechtigkeit, wirtschaftlicher Entwicklung und Verantwortung für Nachhaltigkeit, Anerkennung des beiderseitigen Leidens und letztlich gegenseitige Vergebung schaffen das Spannungsfeld, wo sich letztlich das Selbst und der Andere begegnen auf der Suche nach einem

integrativen Ansatz zur Versöhnung, der den Grundbedürfnissen aller Bewohner Sri Lankas gerecht wird.,

Das Ziel dieses Beitrags ist es, zwischen internationalen und nationalen Berichten, politischen Aussagen und öffentliche Stellungnahmen zu vermitteln und zu analysieren, warum es so schwierig ist ein einvernehmliches Verständnis der Vergangenheit und der Gegenwart zu bilden sowie eine gemeinsame zukünftige Entwicklung zu gestalten. Darauf folgt die Suche nach einer ausgewogenen und sensiblen Herangehensweise, die einen fairen Prozess der Aufarbeitung der singhalesischen und tamilischen Denkweisen jenseits politischer Instrumentalisierung ermöglicht. Der Fokus liegt dabei auf der Entwicklung einer Strategie, welche die Bedürfnisse nach Wahrheit, Gerechtigkeit, Verantwortung, Menschenrechtsschutz und einem politischem Gleichgewicht durch Machtteilung widerspiegelt. Das internationale Menschenrechtsregime und internationale Menschenrechtsorgane sollten deshalb vorsichtiger und bedachter in der Formulierung und Umsetzung ihrer Beschlüsse sein, um ihr volles normatives Potenzial zu entfalten und letztlich eine Transformation der geteilten und polarisierten Gesellschaft Sri Lankas zu ermöglichen.