

**Human Rights and
Reconciliation
in the Post-Conflict
Multicultural
Society in Sri Lanka**



Edited By
Ådne Valen-Sendstad
Jeewaka Saman Kumara

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Preface

In 2016, when the University of Peradeniya and the University of Southeast Norway (USN) in 2016 started working on the proposal for a joint development project in higher education on the topic Human rights and reconciliation in a post conflict multicultural society, it was much needed at the end of a long period of civil conflict in Sri Lanka. Given the time and context, the topic was timely. The project was selected for funding by the Norwegian center for Internationalisation in Higher education (SIU) now HK-Dir.

The project is jointly conducted by the Postgraduate Institute of Humanities and Social Sciences of the University of Peradeniya and the Department of Culture, Religion and the Social Sciences of the University of Southeast Norway (USN) since 2017. The primary objective of the Project is to promote education, research and professional practice in the fields of human rights, reconciliation and inter-religious understanding in a post-conflict multicultural society.

Through the project, we have successfully established a master's degree program in Human rights and multiculturalism at the PGIHS, UoP. The program provided opportunities for student exchange, and over 40 students spent a semester or more at the USN in the well-established MSc program in Human rights and multiculturalism, with credit transfer. Further staff-exchanges gave opportunity for academic discussions and collaborative work. There has been a mutual exchange of ideas, learning opportunities, and for the staff to gain a deeper understanding that may lead to future collaborations.

This edited volume is one of the outcomes of the collaborative research of participants from both institutions, focusing on State, Politics and Human Rights in the Context of Post-conflict Sri Lanka. As with the project itself, the volume reflects a transdisciplinary approach to the topics of human rights and diversity. We extend our appreciation to the two editors, all contributors and reviewers bringing this volume to completion.

We acknowledge the funding from the Norwegian agency, which has made this project possible. We also extend our thanks to the PGIHS at UoP and the IKRS at USN for supporting the project, and colleagues at both universities who have supported the project in various capacities. These include academics who have contributed to the project with their expertise and knowledge, and administrative staff who have helped with organization and facilitating travel and meetings and more.

As a part of our project, we have met with and appreciated the input and information received from NGOS, researchers and the human rights commission. These included: WOMEN, Batticaloa, Nuwara Eliya, Plan international, and more. Our sincere thanks for their hospitality and willingness to share their thoughts and experiences.

Further, a special word of thanks is due to Deshabandu Sirisumana Godage (Chairman of the Godage International Publishers), his beloved wife and the staff of S. Godage & Brothers Publishers (PVT) Ltd, in Sri Lanka for the publishing work.

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Pahalawattage Don Premasiri is Emeritus Professor of Pali and Buddhist Studies, University of Peradeniya, Sri Lanka. He obtained a Ph.D. from the Department of Philosophy, University of Hawaii at Manoa in 1980 in Comparative Philosophy for the thesis titled “Moral Evaluation in Early Buddhism: From the Perspective of Western Philosophical Analysis.” Prof. Premasiri served in the Department of Pali and Buddhist Civilization for a period of 13 years from 1963-1976 after which he served the Department of Philosophy of the University of Peradeniya for 20 years from 1976 to 1996. In 1996, he assumed duties as the Cadre Chair in the Department of Pali and Buddhist Studies and served in that capacity until 2006, the year of his retirement. His main research interests are in the areas of Buddhist Philosophy, Buddhist Ethics and Buddhist Psychology. Prof. Premasiri has served as a Visiting Professor in reputed Universities in the USA, Singapore, Malaysia, India and in Norway. He has contributed nearly twenty-five articles to the Encyclopaedia of Buddhism and many research papers relating to Buddhist Ethics, Buddhist Philosophy, Buddhist Psychology and Comparative Philosophy to reputed journals.

Gamini Samaranayake

Gamini Samaranayake was a Professor of Political Science at the Dept. of Political Science at the University of Peradeniya, Sri Lanka. He joined the academic staff at the same Dept. in 1977 and obtained a Masters degree researching on the “Role of the Janatha Vimukthi Peramuna (JVP) in the Politics of Sri Lanka” in 1983. His PhD title was “Political Violence in Sri Lanka: A Comparative Analysis of the JVP and the LTTE from 1971 to 1987”. His PhD was submitted to the University of St. Andrews, Scotland in 1991. The crux of his research finding was that political violence in Sri Lanka is a dual conflict attributed to both ethnic and social milieu. Building on his argument on the nature of conflict in Sri Lanka, he conducted studies on various aspects of conflict and conflict resolution and has published in scholarly journals. He has served as the Vice Chancellor at the Rajarata University of Sri Lanka, the Chairman of the University Grants Commission (UGC) and as an Ambassador for Sri Lanka in the Philippines. Currently, he is engaged in Postgraduate teaching at the Institute of Humanities and Social Sciences at the University of Peradeniya.

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Introduction

Ådne Valen-Sendstad
Lena Lybæk
Jeewaka Saman Kumara

The partnership program “Human rights and reconciliation in a post-conflict multicultural society” (2017-2023) between the University of Peradeniya and the University of South-Eastern Norway is funded by the Norwegian Partnership Programme for Global Academic Cooperation (NORPART). The project was initiated in 2016. The topic and aims of the project were timely. At the time of writing the proposal, Sri Lanka was still going through “post-war recovery” after the violent end to the civil war in 2009. In 2016 the country was in the midst of inclusive efforts to develop a new constitution with the aims to consider the interests of all Sri Lankan groups, a promising development that was aborted in 2019. (Pushparajah & Balamayuran, 2022)

The NORPART funding scheme supports mainly international mobility projects and educational development activities between Norwegian Higher education institutions and partner institutions in the global south. The overriding objectives of the program is to increase internationalisation, enhance the relevance and quality in higher education programs, and boost international student and staff mobility. (DIKU, 2022) Connecting the post graduate institute of the humanities and social sciences at UoP and the staff connected with USN’s MSc program in Human rights and multiculturalism, the main efforts of the project were directed at staff and student mobility and establishing an MA in human rights and multiculturalism in Peradeniya. These activities have proven highly successful, impacting educational activities and content at both institutions, and the careers and individual lives of students and staff involved.

Several national and international events have posed challenges to implementing the project. In particular, the initiation of joint research efforts suffered as a result of university workers strikes in 2018, the Easter Sunday bombings 21 April 2019, and the subsequent two-year covid pandemic. These events all impacted the activities of the project, posed restrictions on mobility and threatened continuity. The present volume is a testimony to the dedication of the partners, and individual scholars, to the project, and contributes to knowledge of human rights and cultural diversity.

Given the different contexts in which the institutions live and work, both the topics we have chosen to engage with-human rights, multiculturalism and reconciliation, and the ideals of internationalisation in higher education, are contentious. Through the project, we have not attempted to negotiate and establish a common understanding of these. Rather, becoming exposed to various positions, reflections, and understandings in the course of the project activities, has contributed to a wider understanding of their complexity, both with regard to theoretical foundations, academic discourses and empirical situations. Also, international and national events in both Norway and Sri Lanka during the years of the project, have prompted critical engagement with theories and issues at its centre and a deepened understanding of how individuals, local communities and nations are affected by normative economic, social and political practices, provoking inquiries related to the study of human rights, multiculturalism and reconciliation.

Relating these processes to increased internationalisation and enhanced quality in education, one can say that the project has contributed to a renewed concretization and contextualization of the study of human rights and multiculturalism, and more inclusive curricula in our respective master programs. Faculty and student mobility has, despite a two-year gap due to local covid-19 lock-downs, and international travel restrictions, provided the possibility for studying and learning in an international community. In an age that praises digital platforms and online learning possibilities, it is significant that the simultaneous and co-locational encounter between individuals and groups have for some, been transformational, in particular with regard to their understanding of the other, and of past and present ethnic relations in Sri Lanka. (Cf. Kaalen, 2017)

The project has adopted a wide, cross-disciplinary understanding of multiculturalism, both in its descriptive and its normative content. This wide understanding is also evident in the various topics represented in the articles in this volume. Multiculturalism as a descriptive term, can be said to denote the presence and coexistence of various cultural, ethnic, religious or linguistic groups in a particular society or geographical region. In a more normative political sense, multiculturalism can be said to denote the policies, regulations and attitudes that accommodate the inclusion, integration and participation of various cultural, ethnic, religious or linguistic groups in a particular polity. Multiculturalism in this latter sense is concerned with difference and matters of diversity, (Modood) and how diversity is approached ethically, institutionally, and politically. It is in this latter sense that the contributions in this volume are understood. While multiculturalism in a political sense often is connected to western liberal democratic societies concerned with the accommodation of indigenous societies, religious minorities or diaspora communities (e.g. Taylor 1994; Kymlicka 1997), in our understanding, diversity is a central feature of any society. The question then, is how this diversity: ethnic, religious, or other, is approached in a given society,-either historically, politically, socially or ethically. Issues of conflict, marginalization and social justice (Young, 1990) is therefore relevant to the study of multiculturalism, including questions of race, disability, gender, children, and persons who identify within the LGBTQI umbrella.

Several issues and concepts are prevalent in the study of human rights, reconciliation and multiculturalism, dependent on historical and political situations and setting. Cultural heritage and identities are central concepts: what are the stories we tell about ourselves and of each other? How do our practices, convictions and histories, past and present wrongs, form our identities and self-understanding? How are those identities acknowledged, recognized and affirmed, socially or politically? Related to these are questions of representation and participation. How are persons belonging to a specific social group represented, in narratives about each other, in cultural products like art and media? How do social power relations and positions influence these representations? Who is given a voice, place and position to influence and act on their own behalf either in their own lives, or in matters of communal

or political concern? In the present volume, these questions and issues are addressed in the context of education, language policies, reconciliation, and sustainability and social justice. They concern women's and children's participation, and how persons with disabilities are viewed and given a place in society.

The theory and practice of reconciliation in deeply divided societies is a field of peacebuilding that has received serious attention from scholars and practitioners alike in recent decades because of the worldwide increase in the number of post-conflict settings where violence or antagonism continues to fester (Skaar 2013). Reconciliation was a part of the transitional justice debate. In the context of conflicts, the question of reconciliation arises from the occurrence of violence between communities which damages the relations between them, making future coexistence extremely difficult. In the post-conflict setting of Sri Lanka, there has been critical debate on the role that reconciliation can play in uniting the country. Since the end of the civil war in 2009, the Government of Sri Lanka has taken several steps to promote a discourse on reconciliation, the theory and practice of the reconciliation process including rehabilitation and reintegration programs. During the years between 2009 and 2022 Sri Lanka faced the same challenges, with some positive achievements, as in most other societies. Some authors of this edited volume have discussed this as a critical matter related to both reconciliations attempts and its main precondition known as the 'transitional justice' aspect.

In the current project, human rights are regarded as relevant instruments for reconciliation. In a political and moral reading of human rights, they entail recognition of rights for oneself as well as the rights of others. This is a core dimension in reconciliation in a society split by conflicts, and at the same time a huge challenge. Human rights are not fulfilled by signing international conventions. To transform human rights, for them to be realized for marginalized and minorities groups, is an ongoing process. Further, how the resources and opportunities are distributed among groups in a country is vital for peaceful coexistence.

Human rights are individual rights, but to be able to realize them it is also necessary to look at the structures of a society. Some of the chapters in

this book address the impact of social structures on societies, and how these relate to coexistence and justice. In order for reconciliation to take place, it is important to localize these dimensions.

In the history of human rights, raising awareness about human wrongs has had a major focus. The progress made in the sphere of human rights through the last three centuries, is the result of reaction to oppression and suffering. On the one hand, human rights have become answers to oppressions. On the other hand, they have contributed to raising awareness about other oppressive structures, or groups that experiences sufferings. The progress of rights continues to develop understanding of other and new types of oppressions.

The first rights concerning only white men from the upper classes, have been applied to more and more groups of people. Slaves formed one of the first groups, followed by the working-class people, people of color, women, children, indigenous and disabled people. Human rights documents and conventions have multiplied, in order to be more inclusive and bring rights to new groups of people and bring new aspects of life into human rights. The first proposition of children's rights was adopted in 1924 by the League of Nations and named as the Geneva Declaration. Children were given protection and provided for, but they were not given a legal status or rights to participation. What started as a short list of five rights has become a full convention covering multiple aspects important for children and their status. The convention on the rights of the child in 1989 is an example on the progress of human rights. Children are granted a voice also in political issues, - a topic in one of the chapters in the current book. They have rights to be heard in matters that concern them both personally and politically.

The Rights movement took long steps forward in the 19th century, very much driven by interest groups like the abolitionist groups in USA from 1830-1870 that worked against slavery. This has continued and in modern times. NGOs have taken a leading role in the push for realization of human rights and for new rights, a topic discussed in the book in the context of Sri Lanka.

Education and questions related to language are important for reconciliation in a multi lingual country like Sri Lanka with Sinhala and Tamil.

The language issue has caused conflicts in Sri Lanka, and one of the chapters in the book addresses the language policy on the island. Language rights are not a strong feature in human rights. The issue has probably been sensitive for several countries in the UN system., Nevertheless, language rights are important for minorities, - in particular in a context of reconciliation. Another topic where human rights are not explicit, but very important for coexistence is what is taught in school about a country's history. How are the histories of minorities presented? Are textbooks dominated by the majority view of history? This is an issue dealt in the book.

Human rights need cultural acceptance, and in many contexts, approval and support from leaders of different religious groups to be truly integrated in a culture. This volume includes a chapter on human rights from a Buddhist perspective, an important aspect in the Sri Lankan context. Another chapter in this book problematizes local verses Universal Rights which is a long-debated topic and the chapter gives due weight to both Universal and Local Perspectives.

In the UN system, specific conventions have been developed to secure human rights for specific groups: women (1979) children (1989) and persons with disabilities (2006). We are pleased that all these groups have been given attention in the book. The situation in Sri Lanka is quite poor with regard to women's representation in political institutions. That is in the post-conflict Sri Lanka is of great importance. Women's voices are not given representation, where they can be heard, and their experiences are not properly represented. Children also struggle to be heard in vital matters for them, for example in the current climate crisis. Moreover, the rights of persons with disabilities have in Sri Lanka a long way to go before realization, - a vulnerable minority relevant in the context of this book. All the example of these are groups, the structural challenges become evident, challenges that human rights must address in order to achieve an inclusive coexistence. Access to new technology for communication with the authorities is a matter of democratic participation and in particular relevant for minority groups, discussed in the book.

The history of human rights is not a history of perfection. Human rights have not yet been fully achieved. They nevertheless contribute with norms,

inspiration and guidelines for engagement for a better world. The human rights movement is trying to catch up with vital questions for humanity. One of the current issues is the question of human impact on nature, climate change and how we deal with these challenges. These aspects are also discussed in this book.

The Book Project

The chapters in this book are written by academics who have been involved in the program. Each author or team enter the book from their academic competency and interest. The perspectives and topics are several and in different ways relevant. The initiatives have risen from below through the engagement of each participant. Together, as mentioned, the chapters cover several aspects of challenges for a more human rights friendly culture and politics in Sri Lanka. Through diverse contributions it becomes an interesting mix. Each contribution stands for the authors views and there are conflicting views and interesting tensions, a quality expected in an anthology of today.

Some of the contributions are written by established and experienced researchers and others are written by young researchers and others are written in cooperation between students and professors involved in the program, we are glad and proud to offer this opportunity for the young academics. This is in line with the intentions of the project.

Due to the significant events in Sri Lankan politics during the last few months it is important to mention, to be fair to the authors of the book, that the most of the chapters in the book were written before the uprising during the summer and autumn of 2022.

Implications of the Ethical Teachings of the Buddha for the Notion of Human Rights by P.D. Premasiri

Buddhism is the largest religion on Sri Lanka, that makes it very interesting to include a chapter on human rights from Buddhist perspectives. In the chapter P.D. Premasiri integrates human rights within the core of the Buddhist dharma and tradition. The author comments also on some concrete

human rights like the right to democracy. The author interprets democracy from how the Buddha gave guidelines for to community. There should not be one leader, but a community where the learned search to seek agreement, a kind of democracy. In the Judeo-Christian traditions the dignity is exclusively given to humans but from a Buddhist perspective this is too narrow. In Buddhism other species are also included in the matter of dignity.

Human Dignity and Nonhuman Actors by Ådne Valen-Sendstad

Human dignity has been and is in the human rights discourse a core value that is exclusively given to humans. But humans are surrounded and live by and with technology, these things have an impact and changes human lives. They are nonhuman actors. Further, the development on the planet during the last decades show more and more the impact of human activity with a climate crisis coming. Nature is another nonhuman actor, and it hits back. These nonhuman actors must be counted with and given moral value, one cannot continue to ignore their value and impact. The technologies human develops have often a great upside, but often also a great downside, that we see more and more clearly. The nonhuman actors must be calculated as they are not empty. In the chapter, the human dignity concept is taken into a theoretical, philosophical context where the traditional understating of the concept is challenged and given a broader meaning. This is important for sustainability and living conditions for future generations-for lives in dignity.

Conflict and Conflict Resolution in Sri Lanka: 1971-2020 by Gamini Samaranayake

Gamini Samaranayake has done a comparative analysis on two conflicts in Sri Lanka. The first is the phenomenon of youth unrest and social conflict in the south of the country and the second, the Tamil ethnicity based separatist conflict concentrated in the Northern and Eastern Provinces. The author does not relate the conflicts to religion, but to social and ethnic issues. The argument of the author is that the Sinhala majority subscribes to the concept of a unitary state and the Tamil minority to a federal state. The conflict in the south, based among the Sinhalese youth is a movement for a socialist state

instead of the existing capitalist state. These contradictions in determining a manifestation of the dual conflict arise from common structural causes. An economic development that is equitable and inclusive remains the only solution to the existing dual conflict, is argued in the chapter.

School Children, Teaching History and Ethnic Conflict: A Normative Examination of Textbooks in Sri Lanka by Upul Abeyrathne & Athula Withanawasam

Upul Abeyrathne and Athula Withanawasam analyse school text books in history from age 6 to 11. The teaching of history is important for nation building for the children's identities developed within a teaching program under governmental control. The authors do a critical analysis of the content in the history textbooks. In the context of Sri Lanka, they are interested in how different events in the history of Sri Lanka comes through, and they find that it is dominated by the majority perspectives and that the texts books ignore several important events like for instance the youth insurrections in the 70ties and 80ties. Those are relevant topics to be taken up in the teaching of history to build a broader room for identities and also for student coming from different minorities; "the themes of the history text books have failed to present a true description of the history of Sri Lanka and have not been able to create space for the students to critically reflect upon the present and the future drawing upon accurate accounts of the past". They are looking for a way to teach Sri Lankan history that can be of help for the minorities too. This is also a way to transform the history telling of the majority.

Vistas of Prosperity and Splendour? A Critical Analysis of Sri Lanka's Challenges Implementing SDG16 by Babriela Mezzanotti & Piyumani Panchali Ranasinghe

In the chapter the authors critically analyse the resent policies in Sri Lanka in particular two documents, the policy programs "Vision 2025" from 2015 and "Vistas of Prosperity and Splendour" from 2019. The analysis critically evaluates how the authorities in the country have followed up on SDG, in particular goal 16. The targets of SDG 16 steer three specific themes:

a) peace, premiering the promotion of peaceful and inclusive societies; b) justice, in terms of ensuring access to justice for all; and c) inclusion, in terms of creating accountable and inclusive institutions at all levels. The chapter is based on a critical discourse analysis. The study in particular finds that the key policy documents pioneered by the Rajapaksa regime in 2019 show omissions of the SDG 16 in the country. The ideological shift exhibited by the reforms made in the governance structures signal the authoritarian political model that had risen in Sri Lanka in the aftermath of the Rajapaksa government that came into power in 2019.

Walking the Tightrope: Sri Lankan Women's Rights NGOs between Universalism and Relativism by Hasini Lecamwasam & Sivakumar Navarathnam

In this study, the authors cooperate with NGOs to get information about women's rights in Sri Lanka. The post war situation raises several issues concerning the rights of women of a particular vulnerable group. Intersectionality gives a framework for understanding of women as a mixture of several identities and roles. Women's agency is defined through the combinations of identities, the "aim is to pay attention to structural realities that condition women's multiple understandings of their rights." The chapter deals with women's rights also in the context of the universal the local, in that sense, the study is also relevant in a global context. The women will have their universal rights, but at the same time they will keep identities from the cultures they are shaped by. For women the local traditions can be oppressive and marginalizing. Confronted by this situation women should have their universal rights, but still they will to preserve their identities, which will shape how they understand their rights.

Impediments to Political Participation and Representation of Women in Sri Lanka by Shobana Rajendran & Anoma Abhayaratne

The next chapter does also work with women related issue that is women's political participation. The horizon is the current situation in the world, South Asia and in particular Sri Lanka. The chapter shows several

statistics that document that women are underrepresented at both parliamentary and local governmental levels. The status in Sri Lanka for the participation of women in political institutions is still very low. This, despite that women have gained remarkable achievements in terms of literacy, education, health, quality of life and life expectancy. The Chapter reflects on several causes for this situation; there are political obstacles, socio-economical obstacles and Ideological and psychological hindrances. The major barriers for equal representation of women in Sri Lanka are the current political culture male domination and the lack of internal democracy within political parties. It is necessary to challenge these ideological and practical obstacles for women and claim politics as a domain where both men and women can equally participate. Women in the political field need to create a space where they can challenge the male-dominated structure within the party.

Role of E-Government in Public Services Delivery in Sri Lanka: A Review by OG Dayaratna-Banda & Nipuni Dissanayake

This chapter review and discusses the implementation of digital technologies in government, the contribution of e-government efficiency and the effectiveness of public services delivery. The existing empirical studies concerning advanced economies show that e-government has contributed to significantly improving public administration. However, there is a lack of studies that evaluate the implementation of e-government, its effects on the efficiency and effectiveness of public services delivery in Sri Lanka, and the prevailing institutional, social and cultural impediments to implementing e-government in Sri Lanka. The introduction of IT into the government's functions will not automatically impact the improvement of public services. It significantly depends on the public services orientation of the government and social structures so that governments should be mindful of citizens' interests, values and needs in designing public services delivery mechanisms. Digital technologies can contribute a space for communication between citizens and authorities, in particular for marginalized and minorities.

Linguistic Concerns and Minorities in Public Administration: A Study with Special Focus on Empowering Linguistic Rights in Post-war Sri Lanka by Athambawa Sarjoon

Another difficult topic in the Sri Lanka context is the language policies with clear Sinhalese majority and equally clear minority with the Tamil speaking minority, due to the politicization of language policy it has become a powerful manifestation of the Sinhala-Tamil conflict and managed to occupy the centre-stage of Sri Lankan politics immediately after independence. The chapter present the stages and periods of language policies from independence up to our time, and show the many facets and difficulties the language issue have represents. Although the Tamil language is legally recognized as an official language to be used in administration of public affairs equal to Sinhala, responsible authorities have failed to implement the Tamil language provisions in the official language policy in public administration at both the central and local levels. The author argues for trilingualism, where all the students in school learn the minority as well as the majority language and the former colonial language-English.

Globalizing Human Rights: The Role of NGOs in Protecting and Promoting Human Rights in Sri Lanka by Saravanapanathan Baskaran & Ramesh Ramasamy

The study aims to provide better understanding of the work and the contribution given by NGOs in the field of human rights in Sri Lanka. Scholarly works on the topic have provided little attention to demonstrate the contribution rendered by NGOs and their impact on the human rights spheres. Thus, the present chapter aims to fulfill the lacuna in the existing literature by providing theoretical and empirical insights on the role of NGOs in Sri Lanka towards the creation of human rights culture and norms. The special perspectives that the chapter addresses is in particular the role the NGO's in promoting human rights in Sri Lanka. The authors do a thorough discussion of the different phases and challenges the NGO's have faced in Sri Lanka. The NGO has a prominent role to play, to put pressure on the government in order to create to more human rights friendly politics.

The Right to Participation: Reflections on Young People’s Participation in Climate Protests in the United Kingdom and Sri Lanka by Piyumani Panchali Ranasinghe & Ådne Valen-Sendstad

The chapter explores children’s rights to participation anchored in Article 12 of the UNCRC. The material examples for discussion are the school strikers in the United Kingdom (UK) and in Sri Lanka; the focus is on the ‘Stop Ecocide’ climate protest, which was held on the 19th of March 2021. Children have voices and they need spaces to communicate, express their opinions. Further they need an audience and have an impact or influence on the decisions taken. The importance of assuring a ‘space’ for young people to express views freely involves an obligation on the part of the State to facilitate the process of expressing views, irrespective of the medium in which young people express their views. One key consideration in such assurance is also ensuring that the space provided for the expression of views are free from any rebuke or reprisal. During the ‘Stop Ecocide’ climate protest, the adult decision-makers took immediate steps to remove the mural painted by children, who were expressing their sentiments against climate change through a visual medium. Participation in the form of protests is not only considered as an inherent right of young people, but also as a right that places a legally binding obligation on States to assure that legal and pedagogical barriers to participation are duly addressed.

Human Rights Status of Persons with Disabilities in Sri Lanka: Challenges and Opportunities by Jeewaka Saman Kumara

The fundamental questions that the chapter seeks to answer are: (01) What are the national and provincial level policies and institutional frameworks for enhancing the human rights status of persons with disabilities in Sri Lanka? (02) What are human rights challenges faced by persons with disabilities in Sri Lanka at the personal, familial, and societal levels with regard to their disability?, (03) Do the national policies of the Government of Sri Lanka help to foster positive attitudes about persons with disabilities’ capabilities and their roles in the community?, (04) What are the policy options before the Government of Sri Lanka that can be applied to overcome

some human rights-based issues faced by persons with disabilities? The study is based on a combination of interviews and statistical information. The author shows that there are significant challenges for people with different types of disabilities. The study reveals among several findings that persons with disabilities anticipate challenges in their ability to fulfill their future aspirations for employment in both the public and the private sector owing to a lack of awareness and sensitivity as well as apathy among prospective employers. When compared with right to education and right to health care, majority of them held a negative attitude towards the realization of some sensitive human rights such as sexuality, reproductivity, equality before the law and equal protection by the law and political participation.

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Contents

Preface		v-vi
List of Contributors		vii-xvi
Introduction		xvii-xxx
<i>Ådne Valen-Sendstad</i>		
<i>Lena Lybæk</i>		
<i>Jeewaka Saman Kumara</i>		
Chapter One	Implications of the Ethical Teachings of the Buddha for the Notion of Human Rights	01-17
	<i>P.D. Premasiri</i>	
Chapter Two	Human Dignity and Nonhuman Agents	18-44
	<i>Ådne Valen-Sendstad</i>	
Chapter Three	Conflict and Conflict Resolution in Sri Lanka: 1971-2020	45-73
	<i>Gamini Samaranayake</i>	
Chapter Four	School Children, Teaching History and Ethnic Conflict: A Normative Examination of Textbooks in Sri Lanka	74-104
	<i>Upul Abeyrathne & Athula Withanawasam</i>	
Chapter Five	Vistas of Prosperity and Splendour? A Critical Analysis of Sri Lanka's Challenges Implementing SDG16	105-135
	<i>Gabriela Mezzanotti & Piyumani Panchali Ranasinghe</i>	

Chapter Six	Walking the Tightrope: Sri Lankan Women's Rights NGOs between Universalism and Relativism	136-159
	<i>Hasini Lecamwasam & Sivakumar Navarathnam</i>	
Chapter Seven	Impediments to Political Participation and Representation of Women in Sri Lanka	160-196
	<i>Shobana Rajendran & Anoma Abhayaratne</i>	
Chapter Eight	Role of E-Government in Public Services Delivery in Sri Lanka: A Review	197-235
	<i>OG Dayaratna-Banda & Nipuni Dissanayake</i>	
Chapter Nine	Linguistic Concerns and Minorities in Public Administration: A Study with Special Focus on Empowering Linguistic Rights in Post-war Sri Lanka	236-259
	<i>Athambawa Sarjoon</i>	
Chapter Ten	Globalizing Human Rights: The Role of NGOs in Protecting and Promoting Human Rights in Sri Lanka	260-290
	<i>Saravanapananthan Baskaran & Ramesh Ramasamy</i>	
Chapter Eleven	The Right to Participation: Reflections on Young People's Participation in Climate Protests in the United Kingdom and Sri Lanka	291-307
	<i>Piyumani Panchali Ranasinghe & Adne Valen-Sendstad</i>	
Chapter Twelve	Human Rights Status of Persons with Disabilities in Sri Lanka: Challenges and Opportunities	308-344
	<i>Jeewaka Saman Kumara</i>	

Chapter 01

Implications of the Ethical Teachings of the Buddha for the Notion of Human Rights

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Introduction

The teachings of the Buddha are quite obviously characterized by a very rich ethical content. The Buddha's ethical teachings have been conveyed in a language consisting of Buddhist ethical terms for which we can find close parallels in modern Western languages as well. However, it has been observed that Buddhism is lacking in an ethical term that closely corresponds to the term 'right' used in the sense of a moral claim. One could reasonably describe the ultimate goal of Buddhism as the promotion of peace and happiness through the ethical transformation of the individual who is the primary unit of society so that it will also eventually have a positive effect on the peace and happiness of all humans. The fundamental problem of all humans is seen as the persisting experience of suffering (*dukkha*), which manifests both physically and psychologically. It is a system of thought that admits the continuity of individuated existence despite its denial of an indwelling permanent entity conceived as the *Ātman* or Soul, Buddhism deals with the problem of suffering as extending over repeated births in a cyclic process of existence of which no first beginning is conceivable.

The root causes of suffering, whether it is in the existential sense applicable to the present life, or to the possible lives in repeated births of the future as admitted in the Buddhist doctrine, are identified as greed (*lobha*),

hatred (*dosa*) and delusion (*moha*). The basis for the moral evaluation of human behaviour in Buddhism rests primarily on the tendency of certain states of mind and the behaviour causally springing from those states to incur suffering for the individual concerned as well as the society with which individuals interact, these three states of mind are designated as *akusalamūla*, the roots of whatever is unethical. They are also considered as the underlying causes of all unethical actions that find expression in the thinking processes as well as verbal and physical behaviour of humans. As long as these roots persist, they give rise to the suffering of the individual while at the same time the interactions resulting from the conduct of such individuals in the wider social context give rise to numerous social problems that produce suffering which in turn permeate into every level of social living.

We would not be concerned about human rights unless the violation of human rights, or the non-recognition of them involves the production of suffering for human beings. Concerns about human rights are raised due to the fact that immense human suffering has resulted at many points in the history of human kind from the behaviour of humans themselves in the form of the violation of the rights of their own fellow men.

When the issue of rights is considered from the standpoint of the teachings of the Buddha, one observation generally made is that there is no exact corresponding term in the Buddhist language that stands for rights in the sense of a claim by any individual or a group of individuals. The ethical use of the term right as opposed to wrong can reasonably be attributed to the Buddha's use of language, but it is only by implication that it is possible to engage in a discussion of the Buddha's perceptions on the notion of human rights in the sense in which it is used in contemporary moral discourse. This is one major reason why we have chosen to discuss in this paper, the implications of the Buddha's teachings for the notion of human rights instead of directly dealing with any identifiable Buddhist concept of human rights. In this enquiry, the principal source used will be the Suttapiṭaka of the Pali canon in consideration of the widely accepted view that it contains the most authentic collection of the Buddha's teachings.

Current Literature on Buddhism and Human Rights

Prof. K.N. Jayatilleke, in the fourth of a series of five lectures delivered in 1967, attributes to the Buddha a social contract theory of the origin of society and the state and expresses the opinion that it has implications for the doctrine of human rights (441-567). Prof. L.P.N. Perera in his work on *Buddhism and Human Rights* gives a detailed Buddhist commentary on the Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly on 10th December 1948 (145 pages). He attempts to show that each and every item of the UDHR is compatible with the ethical teachings of the Buddha. Damien Keown raises the question as to whether Buddhism contains a doctrine of human rights and gives a kind of qualified affirmative answer to it. He expresses the opinion that it is legitimate to speak of both “rights” and “human rights” in Buddhism, although it cannot be considered as a subject area on which traditional Buddhism seriously focused attention, and sets out to propose a conceptual and doctrinal basis for human rights in Buddhism (Keown, 1995: 27).

The Nature of Humans and the Sources of Human Dignity According to the Buddha’s Teaching

In the Western world, a special dignity came to be attached to the human being, particularly in terms of its dominant Judeo-Christian religious ideology. Humans are represented as a spark of the divine in original creation with the right conferred upon them by the Creator Himself to exercise dominance over the rest of creation, fauna and flora. Humans are believed to have been created in the image and likeness of God. The source of a doctrine of human dignity in Buddhism is quite different mainly due to the fact that Buddhism is a non-theistic religion. According to the Buddha’s teaching, humans are just one class of living beings among diverse forms of life spread over numerous planes of cosmic existence. They are merely a product of the evolutionary and cyclic process of the physical and biological universe. In the Aggañña Sutta of the Dīghanikāya, the Buddha rejects the claims to superiority of the Brahmin caste as asserted by Brahmins based on the supposition that the entire order of the universe including human society was a creation of Brahmā. He points

out that the caste divisions of society emerged under certain conventions established by humans themselves based on certain economic needs of the time classifying humans who were originally equal and by no means different by nature (*tesaṃ ñeva sattānaṃ anaññesaṃ sadisānaṃ ñeva no asadisānaṃ*) into different occupational groups (III. 93).

The cosmological teachings attributed to the Buddha maintain that there are living beings inhabiting certain realms of the universe that could be described as divine, who experience a predominance of bliss or happiness, while there also are those born into hellish realms where the experience is extremely woeful. Life in all these numerous planes of existence is considered to be impermanent. No living being including human and divine is believed to be possessed of an eternal Self or Soul. To be born as a human being is considered to be a rare opportunity although humans are considered as a species of beings who are destined to experience a mixture of happiness and unhappiness, pleasure and pain,. According to the Buddhist doctrine of survival after death in the cyclic process of existence, it is possible for a human being to regress into lower states at the end of one's human life. Depending upon the kind of character traits cultivated during one's human life time there is the possibility for one to rearise in a subhuman condition after death. In such an event, it becomes extremely difficult to re-emerge in the human condition. It is said that in the sphere of lower animals, there is no opportunity for ethical or equitable living but just living according to the law of the jungle, the stronger preying on the weaker creatures (Saṃyuttanikāya (S.N.) PTS Vol. V: 456).

The fundamental nature of a human being is said to be good. The human mind is compared to a piece of gold ore which is covered by the defilements of iron, copper, tin, lead and silver, but it can be cleansed so that its inherent lustre may shine forth (Aṅguttaranikāya II.16). It is due to the presence of defilements at different levels as gross, medium and subtle that human conduct produces harmful consequences in social interaction. The gross defilements produce misconduct through body, speech and mind (*kāya...vacī...manoduccaritam*). The medium defilements produce lustful, malicious and injurious thoughts (*kāma...vyāpāda...vihimsā vitakko*). The

subtle defilements produce thoughts of racial pride, national discrimination, and superiority complexes that lead to seeing other humans different from the group to which one belongs as unequal and inferior (*jāti...janapada...avaññattapaṭisaṃyutto vitakko*) (Samyuttanikāya (S.N.) PTS Vol. I: 454).

Although differences in the character traits of human beings may exist due to the diversity of factors that influence them, it is emphatically stated that birth as a human being affords the greatest opportunity to reach the most valuable attainments of sentient life such as the perfect worthiness in the human condition (*arahatta*) or full enlightenment (*sammāsambodhi*). A fully enlightened person who puts a final end to all manner of suffering along with the root causes of it, and teaches to the rest of humanity the way to end suffering after realizing it oneself, and is then considered to be the supreme being in the whole universe. Such a person is said to deserve the respect and veneration of all human and divine beings. There is no attainment which is superior to the destruction of what Buddhism sees as the evil or unwholesome traits of character which are referred to in its psychological language as unethical psychological influxes (*āsavā*), dormant unethical tendencies (*anusayā*), ethically defiling mental states (*kiḷesā*) and hindrances that conceal the inherent luminosity of the human mind (*nīvaraṇāni*).

As the Dhammapada says, life as a human is obtainable with difficulty, and far more difficult is it for someone to become a fully enlightened Buddha. (*Kicco Buddhānam uppādo*- Dhammapada Verse 182) Buddhist mythology transformed the highest divine beings in the pre-Buddhist Vedic pantheon into devotees of the Buddha who was a human being. Brahmā, traditionally conceived as the creator of the world and all forms of life in it, is depicted in canonical Buddhist mythical stories as lacking in depth of knowledge and understanding of a Buddha who is human. Brahmā Sahampati, traditionally believed to be the “Lord of Creation” respectfully invites the Buddha to teach to the world of men and gods what the Buddha discovered through the enlightenment he attained with self-effort. In Theragāthā Verses 628-629, the supreme deities Indra and Brahma are represented as worshipping at the feet of an enlightened disciple of the Buddha named Sunīta, who was before his entry into the Buddhist Order, a scavenger calling him a great person (*purisuttama*)

having superior understanding (*purisājañña*). Buddhism denies the existence of any divine or heavenly realm in which life is eternal. In the Itivuttaka, the Buddha is presented as saying that for the gods, at the time of their departure from their heavenly realms, obtaining a human life is considered as going into a good destiny (*manussattaṃ ...devānaṃ sugatigamana- saṅkhātāṃ-77*). According to early Buddhist teaching, Buddhas are born only in the world of humans.

The Buddha did not attribute the dignity of a human being to class, caste, colour or nationality, to which he/she belonged. In the Ambaṭṭha Sutta of the Dīghanikāya, he expressed his agreement with the statement that one who is endowed with knowledge and good conduct is the most dignified person (*Vijjācaraṇasampanno so seṭṭho devamānuse – I.99*). In the Esukāri Sutta of the Majjhimanikāya, addressing a Brahmin who was obsessed with a sense of caste superiority, the Buddha says that he does not consider caste, colour or wealth (*uccākulīnatā, uḷāraṇṇatā, uḷārabhogatā*) to be a reason for attributing dignity to a person, but that ethical development definitely is. (II.179). In the Vāsetṭha Sutta, of the Suttanipāta (Verse 14) he removed the discriminatory racial meaning attached to the term Brāhmaṇa during his time and insisted that a person's birth to a particular family line does not make one either dignified (*brāhmaṇa*) or undignified (*vasala*). Here the Buddha quite emphatically affirms the equality of humankind arguing that there are no adequate grounds among human beings as in other forms of biological nature to group them into different species (*Yathā etāsu jātīsu liṅgaṃ jātīmayam puthu - evaṃ natthi manussānaṃ liṅgaṃ jātīmayam puthu*). In the Vāsetṭha Sutta, countering the traditional claim of the Brahmins that inequality among humans was a product of the original cosmic process of creation, the Buddha points out that caste and class divisions in society depended on social conventions adopted in human history at different times and regions but not aspects of the order of nature itself. The Buddha is known to have rejected the Brahmanical concept of inequality among humans resorting to biological, anthropological, sociological, legal, moral, ethical and spiritual arguments (Jayatilleke, 1967: 72-73)

The Buddhist Notion of Dhamma and its relevance to the Notion of Human Rights

In elaborating the point previously made in the introductory section that there is no Buddhist term exactly corresponding to ‘right’ in the sense of a claim, it may be pointed out that many ethical terms corresponding to good, bad, ought, ought not, right, wrong, just, unjust, duty and obligation are found in Buddhist usage. From this terminological fact it cannot be concluded that Buddhism is devoid of a concept of rights in the modern sense of the term or that it shows no concern for human rights. At least implicitly, it has shown a high regard to, and exhibited a deep awareness of, what is understood today as human rights both in theory and practice in various situations involving social and interpersonal relations.

Freedom, equality and solidarity are considered as the pillars on which human rights rest. Freedom of thought, conscience and religion as well as opinion and expression are recognized under freedom. Equal protection against all forms of discrimination in the enjoyment of all human rights, including full equality of women and men are recognized under equality. The Universal Declaration of Human Rights has identified a wide variety of rights such as the right to life, liberty, security of person, equality before the law, privacy, marriage and protection of family life, social security, participation in government, work, protection against unemployment, rest and leisure, a minimum standard of living, and enjoyment of the arts. We need to see if these aspects definitive of human rights have in any way been addressed in Buddhist teachings in order to provide a plausible answer to the question as to whether there is recognition of human rights in Buddhism.

The Buddha’s teaching does not refer to these aspects using the language of rights but considers them under the Buddhist concept of *dhamma*. The term *dhamma* may be said to cover ethical notions such as right living, concern for justice, concern for rights, and fairness in one’s dealings with others. In whatever capacity or role, a person functions in society, if that person cares about the rights of others, such a person can be considered as *dhammiko*. The term *dhammiko* is usually rendered into English as “a righteous person”. A person who enjoys or possesses power or wealth, or whatever benefit

that satisfies a common and legitimate human interest, want or need, is said to enjoy it in accordance with *dhamma*, provided it is done in a righteous manner. The notion of rights can thus be said to be conceptually linked in Buddhism with the concept of righteousness. If any benefit is enjoyed by a person without moral justification, it is blameworthy and therefore *adhamma*, not a rightful enjoyment.

Buddhism identifies four types of unjust behaviour that tend to violate the norms of fairness and justice and become damaging to the rights of others. They are unjust actions performed on the basis of partisan bias (*chanda*), unjust action performed on the basis of hatred, animosity or resentment (*dosa*), unjust action performed due to fear of unpalatable consequences for oneself (*bhaya*) and unjust action performed due to the lack of proper understanding or due to a confused state of mind (*moha*). In Buddhist usage, they are referred to as *agati* meaning resorting to improper conduct.

Fulfilment of Duty as a Means of Taking Care of Rights

Emphasis in the Buddha's teaching has generally been on the performance of each person's duty or duties, depending on the position that a person occupies at a given time within the network of diverse social relationships. From the Buddhist perspective, the notion of duty is more fundamental than the notion of right. Rights are asserted mainly as claims. Buddhist philosophy does not admit the notion of a substantial soul and the idea of a metaphysical person, although as we have already pointed out, Buddhism attaches a sense of dignity to the fact that someone is human. The emphasis on individual claims could generate a heightened sense of the ego, resulting in animosity, hatred and conflict and produce behaviour damaging to the interests of other persons in the interest of one's own. From the Buddhist point of view, persons are not exclusive, autonomous and eternal entities but are conventionally individuated units subject to a network of dependent relationships. It is through mutual understanding and empathy that conflicts of interest among humans ought to be resolved. A heightened sense of ego and group identity usually leads to armed conflict and violence. There is the possibility of individuals or groups making demands based on rights while

totally ignoring their duties. This may be seen as an important reason why Buddhism has not paid much attention to the notion of rights as a claim.

Given the human condition, all human beings have legitimate needs. However, in a world deficient in infinite resources and consisting of persons with limited sympathies, human relationships can generally take an undesirable turn threatening the security of everyone concerned. Those who possess what they desire and need, do want to greedily protect their possessions, and being insatiate, attempt to acquire even more for themselves. Those who are deprived of those needs and possessions develop an envious attitude towards the former whether they have acquired them legitimately or not. This is one of the important considerations among others that necessitates the institution of a social morality in terms of the notion of rights as understood today, or the principles of *dhamma* as understood in traditional Buddhism.

The Buddhist view is that human rights are protected in a network of social relationships based on the recognition of mutual duties. The discourse of the Buddha known as *Sigālovāda Sutta* (discourse on the exhortation to Sigāla), in the *Dīghanikāya* (III.180ff.), speaks of several sectors of society bound by mutual duties in such a way that the correlativity of duty to right is given due recognition. These sectors include parents and children, teachers and pupils, husbands and wives, employers and employees, and lay people and those who devote themselves to a religious life and moral perfection. The nature of mutual relationships recommended in this instance can be illustrated by drawing attention to the relationship between employer and employees. The employer needs to be bound by duty to provide adequate wages and food for the employees in addition to giving them work in accordance with their ability, without overburdening them with work, and providing them with opportunity for leisure and periods of leave or vacation. The employees are bound by duty in turn to give the best benefit of one's skills performing the assigned functions in an orderly and efficient manner with a full sense of commitment.

Political, Economic and Legal Rights of the People

The teaching of the Buddha paid special attention to the economic and political rights of people emphasizing the duties of those responsible for safeguarding them. Buddhism emerged and flourished in a society within which the monarchical power of rulers had the tendency to deteriorate into extreme forms of autocratic and tyrannical rule. The Buddha pointed out that unless a ruler establishes an economic order which provides the conditions for decent living for all citizens within his territory, the people are likely to rise up in revolt against the ruler (Dīghanikāya I.135) He also enumerated in detail the duties of a just ruler (*dhammiko dhammarājā*) who is himself expected to be ruled by the rule of justice or righteousness (*dhamma*) highlighting among the ruler's duties, the necessity to eliminate poverty and large scale economic disparities within the state.

Equality before the law is one of the fundamental rights which Buddhism has affirmed in its view of the administration of justice within the state. Any allegation against a supposed offender, requires in the Buddhist view, the most careful investigation by state authorities, before the alleged offender is proved to be found guilty. In the Mahāparinibbāna Sutta, the Buddha speaks in high admiration of the Vajjian constitution pointing out that the Vajjian rulers had a just and fair system of governance, protective of the rights of the citizens. It is said that the Vajjians administered the country without changing rules arbitrarily keeping to consensually established procedures (Dīghanikāya II.74). Buddhaghosa, the renowned commentator of the Theravāda scriptures describes in detail the just judicial procedure which the Vajjian rulers followed in order to ensure the rights of an alleged criminal (Jayatilleke, 1967: 81-82). The Buddhist tradition also recognized the fact that criminal behaviour can be a product of social circumstances and conditions, and advocates a policy of dealing with such behaviour with understanding and sympathetic concern. Using a mythical story, the Buddha shows in the Kūṭadanta Sutta of the Dīghanikāya, how attempts at eliminating crime by resorting to corporal punishment imposed by the state are bound to fail (I.134). According to this story, the counsellor of the king who happened to be Gotama Buddha himself in a previous life, points out to the king that crime could be a consequence

of the people being deprived of the opportunity to satisfy their basic material needs. It is the duty of the state to establish an economic order under which there is sufficient employment for the people so that they can achieve a decent standard of living. Here too, we find that drawing attention to the duties of the state, Buddhist teachings intend to make implicit references to human rights.

Prof. K.N. Jayatilleke has drawn attention to an instance in the Buddhist Jātaka literature which highlights the idea that the common people have a right to even rise in rebellion against a king who does not subscribe to ethical principles in state governance (Jayatilleke, 1967: 83-84). The Bodhisatta (represented in this body of literature as Gotama Buddha in his previous lives) in this Jātaka story calls upon the people to revolt against the king making the people aware that when a ruler betrays the trust that people have placed on the state, they have a right to depose the king or overthrow the state.

Right of Humans to be Free from Subjection to Cruel Punishments

The human right to be free from subjection to cruel punishments even under circumstances in which the state has a justification to punish offenders against the law has been recognized in Buddhist teachings. In this respect, the teaching of the Buddha is in agreement with Articles 3 and 5 adopted in the UDHR of 1948. Buddhism has advocated a rational and humane approach to criminal behaviour. There are many stories in the Buddhist Jātaka literature giving expression to the Buddhist concern about the abuse of power vested in the kings who imposed cruel punishments. It is mentioned in one instance that the kings of the *Mahāsammata* tradition, as represented in the myth of the genesis in the Aggañña Sutta of the Dīghanikāya, did not resort to cruel corporal punishments such as cutting off of hands and feet and execution (*hattha-pāda-chedana-ghātana*), but subjected offenders only to lesser punishments like caning, warning and banishment (*tāḷana-garahana-pabbājana* –Jātaka IV.192).

The Buddha's compassionate attitude relating to punishment for criminal and offensive behaviour had influenced the ideas of the later Buddhist

philosopher named Nāgārjuna. His advice to rulers was to punish criminals with compassion, regarding them as worthy sons, without being moved by hatred or material gain. Such punishments should be imposed from a reformatory perspective and not from a retributive one. The king should attempt to reform even those who have committed terrible sins. Prisoners should be properly looked after during their period of imprisonment providing them with their basic needs, and among those needs are mentioned, barbers, baths, drinks, foods, medicines and garments. Nāgārjuna disapproves of the penalty of life imprisonment and exhorts the king against mutilation or execution of criminals although banishment as a penalty is approved (Jayatilleke, 1967: 70-71 and foot-notes 71-24 of p.71).

Democracy and Rights in the Saṅgha Order

The Buddha established an exclusive spiritual community called the Saṅgha, consisting of persons who renounced the pleasures of the layperson's life in order to attain speedy progress in the spiritual path. Although the predominant system of state administration during the time of the Buddha was monarchical, the Buddha opted to structure the spiritual community he established on the basis of democratic principles. The Buddha did not leave room for any single individual to exercise authority over the community after his demise, but established a consensual system of governance and administration which was democratically structured with the participation of virtuous, senior, learned and capable members of the community. All important matters affecting the community were expected to be determined at assemblies in which all rightful members of the community participated. The meetings were to be presided over by persons appointed on the basis of common consent of the community, and all major decisions affecting the community had to be subjected to open discussion. Before any act of the Saṅgha was passed, it was put before the assembly to seek the approval of the participants and the right to express one's free opinion on matters taken up for discussion was always guaranteed. Such acts were read three times before the community to ensure open discussion and free expression of the opinion of any participant in the proceedings, and adopted only after the fourth reading.

One of the most impressive features illustrated through the principles followed within the Saṅgha organization is that of freedom of speech or expression. Buddhism showed by example in the procedural rules laid down relating to the functioning of the Saṅgha, the importance of upholding and protecting the right of free speech and expression. No act within the Saṅgha was to be passed without allowing the full and free expression of the opinion of every rightful member of the community.

The Issue of Women's Rights

The time in which the Buddha lived was characterized by many limitations on the freedom of women. Buddhist sources themselves show that women were considered in the orthodox Brahmanical belief systems as being inferior to men. In the Somā Sutta of the Saṃyuttanikāya, the prevalent belief is presented through the mouth of the mythical Lord of Death referred to as Māra, who appears before the nun named Somā while she was meditating in the forest and attempts to dissuade her from her spiritual effort saying that women have only two-fingers length of insight and therefore cannot reach the attainments that sages are capable of attaining (*Yaṃ taṃ isīhi pattabbaṃ thānaṃ durabhisambhavaṃ - na taṃ dvaṅgulapaññāya sakkā pappotumitthiyā* (I.129) The nun Somā brushes Māra's objection aside saying that her being a woman is by no means a hindrance to her spiritual goal as long as she possesses insight and sees with penetrative insight the reality of things. Those who support feminist doctrine have raised some objections against Buddhism alleging that the Buddha did not recognize women on an equal footing with men. The Buddha had no hesitation in admitting that women, as much as men were equally capable of attaining the goal of Arahantship, the highest attainment attainable by any disciple in one's immediate life. It has to be admitted that the Buddha introduced extra regulations for women when he, after persuasion by Ven. Ananda decided to open the Saṅgha to female disciples despite his admission that they were equally capable of attaining the perfection of an Arahant. The notion has also developed in the Theravāda Buddhist tradition that women were incapable of attaining the enlightenment of a Buddha. Such notions on this aspect of the Buddha's teachings are considered by some commentators as a consequence of the patriarchal tradition of the time weighing heavily on Buddhist attitudes

on this matter. Some commentators consider on this aspect of the Buddha's teaching as a consequence of the patriarchal tradition of the time weighing heavily on the Buddhist attitudes on this matter (Gross, 1992). However, it is to the credit of the Buddhist tradition that the Buddha rejected a deep-rooted prejudice against feminine birth; The Buddha pointing out to King Kosala in the Saṃyuttanikāya who was saddened by the news of his Queen giving birth to a female child that a female may at times be better than a male (*Itthīpi hi ekacchīyā-seyyā posā janādhīpa*-I.86).

Right to Free Choice of Religious Belief

The Buddha evidently upheld the human right to pursue any religious faith of one's own conviction. He was not keen to make converts to his religion or ideology by forceful or foul means. Even when some persons expressed their willingness to become his devotees, he urged them to reconsider without rushing to any conclusive decision. As mentioned in the Upāli Sutta of the Majjhimanikāya, Upāli, a lay disciple of a rival teacher of the Buddha visited the latter on the instigation of his teacher, motivated by the desire to defeat the Buddha in a doctrinal debate. However, in the course of the conversation with the Buddha, Upāli became strongly inclined to accept the latter's teaching. He eventually requested the Buddha to accept him as a disciple. In this instance, the Buddha wanted Upāli to give further thought to the decision. When Upāli insisted that he was fully convinced about the truth of the Buddha's teaching, the Buddha advised him to continue his patronage to his former teacher even after his conversion to the Buddhist faith (I.379).

As stated in the Kālāma Sutta, the right of a person to critically examine the claims of even a respected teacher as himself was explicitly granted by the Buddha to all those who were impressed by his charismatic personality (Aṅguttaranikāya I.189). He even extended an open invitation to his disciples to thoroughly investigate him closely observing his verbal and physical behaviour for a sufficiently long period of time in order to find out whether he was a truly enlightened person (Majjhimanikāya I.318). He warned his disciples against being averse to criticism and being unduly elated in the face of praise of one's virtues by others (Dīghanikāya I.3). The right that a person

has to criticise the belief or ideology, the religion or the way of life of others appears to be clearly recognized by the Buddha in these instances.

Buddhist Affirmation of the Golden Rule Criterion of Morality and its Implications for Human Rights

In the Veḷudvāreyya Sutta of the Saṃyuttanikāya, we come across a Buddhist version of what is generally conceived as the Golden Rule of Morality in almost all major religious traditions of the world. In this Sutta, the Buddha teaches what he calls *attūpanāyika dhamma* which entails the setting up of a moral standard taking into account the rightful interests and needs of oneself (V.354). Recognizing the relevance of this passage to the principal theme of our discussion, it is fully quoted below:

Here a noble disciple reflects thus: I really am a person who likes to live and does not like to die. I desire happiness and dislike unhappiness. Suppose someone should deprive me of my life, being a person who likes to live and does not like to die, it would not be pleasing and delightful to me. Suppose I deprive another of that other person's life, (the life of a person) who likes to live and does not like to die, who desires happiness and dislikes unhappiness, it would not be pleasing and delightful to that other person as well. What is not pleasant and delightful to me is not pleasant and delightful to the other person too. How could I inflict upon another what is not pleasant and delightful to me? Having reflected in this manner one refrains from killing, and speaks in praise of refraining from killing, and encourages others too to refrain from killing.

The Buddha advised his noble lay disciples to extend the same kind of moral reasoning in order to practice restraint regarding other unethical actions such as stealing, adultery, false speech, malicious speech, harsh speech and vain or frivolous talk. This is clearly an instance in Buddhism in which what is generally conceived as the Golden Rule of Morality of not doing unto others what one does not want others to do unto oneself is enunciated.

Conclusion

In the above discussion we have pointed out that there is no Buddhist term that exactly corresponds to the English term 'right' when used in the sense of a claim. There is no doubt that this term can be used attaching to it an ethical value. The Judeo-Christian dogma that only human beings have eternal souls and hence only they are entitled to rights has to a large extent hindered the extension of the moral concern implicit in the notion of a right to sentient beings other than human. The Buddhist ethical term *dhamma* is much more inclusive and brings within its compass all sentient beings capable of feeling pleasure and pain contented and discontented, happy and miserable. Buddhism takes care of the moral value attributable to the notion of a right by delineating the boundaries of behaviour that is in accordance with *dhamma*. Behaviour in accordance with *dhamma* brings within its fold much more than the so-called concern with human rights and promotes a more comprehensive sense of human morality and ethics. The Buddha's teaching cannot agree with the Kantian principle that only humans could be treated as ends in themselves. From this however, it does not follow that Buddhism does not recognize the greater value of being human. In fact, we have seen in the above discussion that the Buddha's teaching attached greater value to human life than even to the life of the so called divine. The real worth of a human being consists primarily in the ability of a human being to ascend to the level of a sense of human understanding and morality that could culminate in deep insight into the nature of life, resulting in the expression of boundless compassion towards the entire sentient universe.

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Chapter 02

Human Dignity and Nonhuman Agents

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Introduction

Human dignity is a core value in today's political, legal, moral and human rights discourse. I will in this chapter critically examine how it is interpreted. Let us start by considering a current case from Sri Lanka.

After the 2019 election, one of the dramatic decisions taken by Gotabaya Rajapaksa, the now toppled Sri Lankan president, was to forbid the use of chemical fertilizers. This has had a significant or even dramatic impact on the island's harvests. One farmer comment:

"I cannot recall any time in the past when we had to struggle so much to get a decent harvest," said Seneviratne, a lean 65-year-old with a shock of silver hair, who has been farming since he was a child. "Last year, we got 60 bags from these two acres. But this time it was just 10," he added. (Jayasinghe & Ghoshal, 2022)

Productive and rich farming was in a short time reduced to just a small part of its potential production. The sudden ban on chemical fertilizers diminished productivity as the soil was not capable of adapting immediately. According to experts, the transition from chemical fertilizers should have been made more gradually; the abrupt prohibition had a disastrous effect on food production. Sri Lanka has bought fertilizers from India and China,

and my home country, Norway (Norway was a pioneer in developing and producing fertilizers-this it was one of Norway's first great modern industrial adventures). The sudden prohibition of fertilizers in Sri Lanka may have economical causes, but we also see the impact modern food production has on the environment. This chapter does not discuss the science of chemical fertilizers, this is not my competency. What I am interested in is to examine how they can serve as an example for what I want to discuss in this chapter. We see how human activity transforms the soil and the environment that human lives are based on. We could have discussed how other innovations (mobile phones, electricity, etc.) impact on how we act and understand our humanity, as well as how they impact on the planet. Human achievements are celebrated and used as a foundation for human dignity (Kateb, 2011). Dignity is commonly derived from the capacity of humans to form their lives. The literature that holds these views mainly ignores the complexities and downsides of human activity on the planet.

Research Question

The issue for discussion in this chapter is human dignity in the context of science and nature. The 'human' in human dignity theories is mainly understood in terms of human agency in acting on nature. What has become more and more clear is that this understanding of the human is not sustainable. Humans are not outside nature; they are agents of nature, part of nature, and nature is also an agent with an impact on humans. I will in the following reflect on two understandings of human dignity. One of these, that is both classical and modern, is articulated by Alan Gewirth. The notion of human dignity is here used to set humans in a position above other animals, in a position of planetary superiority. (Gewirth, 1992; Kant, 1797/2017). I will then draw upon Jacques Derrida, who opens up the concept, bringing in new elements and dimensions and making it more open and inclusive. Finally, I will set them in dialogue with Bruno Latour's theory, which questions modernity's understanding of, among other issues, the human agent, the split of fact and value, technology, and morality. Human dignity as a core concept in human rights has to address what are the basic issues and threats to the planet and humanity.

The example of the fertilizer challenges how we traditionally separate fields of enquiry. Human technology based on science has an impact on nature: on the one hand it increases food production and farmers' incomes, but on the other it harms the soil and water systems that flow close to land where fertilizers are used. The consequence is that there is too much nitrogen in the sea, and habitats and living conditions are changed and even threatened. Initial optimism and success turn out to be much more complex. The looming catastrophe is not nature herself this time, but nature's response to human intervention. The fertilizers' impact on vegetables and corn is not only a fact but also a matter of value. From science and industry, we hear that scientific facts have no moral value in themselves, they are only means. Value is related to questions about ends, how science is used. This split is problematic, and Latour is one of the thinkers who takes up this issue.

I will start with an introduction to the concept of human dignity and after that move to Latour's theory before concluding the chapter. I will argue that human dignity has to be reconsidered. Human dignity is not only a matter of human freedom and autonomy; it is also a matter of our relationship with nature and nonhuman agents.

Human Dignity

This concept is not very old, but has since the Universal Declaration of Human Rights (Moyn, 2014) been increasingly used in political, ethical (Donnelly, 2015) and legal (McCrudden, 2013) discourses, not least in those related to the making of modern constitutions (Dupré, 2015). The concept has been thoroughly discussed in recent decades, with several conflicting views (Beitz, 2013; Dworkin, 2011; Goodhart, 2018; Macklin, 2003; Margalit, 2011; Rosen, 2012; Waldron, 2012). I want to base my reflections on human dignity on two philosophers: Alan Gewirth and Jacques Derrida.

I have chosen Gewirth (Gewirth, 1996) because he is clear, influential and holds a view close to popular understandings of human dignity. It is, for him, important to provide a foundation for the idea of human dignity. His approach has similarities to those of other philosophers, such as Ronald

Dworkin (Dworkin, 2011) and James Griffin (Griffin, 2008). Gewirth arrives at his foundation through formal logic. He sums up his view:

“It is indeed true that the attribution of dignity to human beings is supervenient on the “natural fact” of their being actual, prospective, or potential purposive agents. This supervenience, however, is not contingent but, rather, logically necessary, by virtue of the necessary connection between (a) acting for a purpose, (b) regarding that purpose as worth achieving, (c) regarding oneself as worth sustaining or preserving, (d) regarding oneself as having worth or dignity, and (e) extending this judgment to all other purposive agents” (Gewirth, 1992: 27)

It is striking that he thinks that human dignity is based on a “natural fact”. This “fact” has a content and he wants to shed light on this. It is also interesting that he underlines that he is talking about dignity for human beings; other animals or nature are excluded from his notion of dignity. This human exceptionalism is implicit in his argument, and this is consistent with the discourse on dignity since antiquity (Cicero, 2008), long before human dignity became a concept. The human is in a special position, and Gewirth’s arguments lean on this assumption.

Gerwirth starts his argument from the notion of the human agent as a purposive agent, with intentions for her actions and plans for what she will do and achieve. The human agent has rational control over her purposes and can plan her future. The starting point for human dignity is this capacity to plan her life.

Secondly, these goals are worth achieving for the human and her life. Any plan that is made is not random but selected because it brings some qualities or beneficial goods into her life that she wants to have. She is able to set goals that give the life direction. Plans are not contingent but based on awareness and intentions as well as reason. Third, Gewirth argues that it is fair and natural that she wants to look after her wellbeing and care for herself; this means that she takes her life seriously and looks after herself.

Fourthly, she has self-perception. This is rooted in her self-worth, which she is aware of as the ground for action and planning.

Human dignity is grounded in these four steps. So far, the argument is based on the isolated human. However, in his fifth argument Gewirth claims that the logical last step is that the human has to transfer her own dignity to other humans because they will, like her, have the same need to arrange their lives, make plans for the future and act for their own purposes.

Human dignity is grounded in the human as a purposive agent. Human qualities fill human dignity with content. These capacities also separate humans from other animals and nature. There are several questions that can be raised. One of them is critical - one can maybe say that Gewirth's argument is based on a dignity that is already in the human in the way she acts out her plans and intentions, in a circular movement. Another critique is that Gewirth ignores or excludes the role of other humans and nonhuman agents in the development of self-respect and the ability to develop plans for the future. His argument is based on an isolated and anthropocentric human. A human is not so isolation what Gewirth calls fact is based on several exclusions, which will be a topic later.

Derrida

Derrida is not commonly associated with discussions of human dignity. However, although he does not dedicate a book or a chapter to this topic, he does analyse it in a number of texts (Derrida, 2002, 2005). The way Derrida frames his reflections on human dignity is very interesting and he brings in a different and wider framework for the understanding of the concept. Derrida's analysis operates with 2 sets of concepts. He refers to the incalculable and the calculable, and to the unconditional and the conditional. He also applies these concepts in his discussions of law and justice (Derrida, 1990), hospitality (Derrida, 2000), and forgiveness (Derrida, 2001).

When he analyses human dignity, Derrida refers to Kant and his famous formulation of dignity. His discussion is based on a deconstruction of Kant:

“whatever relates to general human inclinations and needs has a *market price*. Whatever, irrespective of any such need, is nonetheless in conformity with certain taste, that is, delight in the purposeless play of the powers of our mind, has an *aesthetic price*. But what constitutes the condition under which alone something can be an end in itself does not merely have a relative worth or price; rather, it has an inner worth, *dignity*. Now morality is the only condition under which a rational being can be an end in itself, because it is only through this that it is possible to be legislating member of the kingdom of ends. Thus morality, and humanity insofar as it is capable of morality, is the only thing that has dignity” (Kant, 2019: 48 section 435)

The first two prices relate to market and aesthetic values. Only the human being has a value in herself. But Kant’s notion of dignity, as we see in the quotation, is also rooted in rationality, the human capability for morality. Derrida comments on this: “Morality, and humanity so far as it is capable of morality, is the only thing which has dignity.” (Derrida, 2005: 133).

Derrida has an alternative reading of Kant; for him, human dignity is incalculable: “dignity ... is incalculable and thus transcends the marketplace at all costs” (Derrida, 2005: 133). For Derrida, incalculability means that the human is singular and unique, not equal to others, and not reducible. This uniqueness is a dimension of dignity-its incalculable, priceless value.

Derrida also comments on the paradox that human dignity is both universal and singular-each human being has an immediate value. Human beings have the same dignity but are at the same time different from each other. “The dignity of a reasonable being (the human person, for example, and this is, for Kant, the only example) is incalculable as an end in itself. It is at once universal and exceptional” (Derrida, 2005: 133). With the advent of the singular, something unique and special has arrived. This uniqueness is one side of the paradox. The other is that all human beings are given dignity. There is a mixture of uniqueness and equality, or sameness. The singular, unique, incalculable human being is historical and shaped in interaction with

historical circumstances and relations. Derrida relates dignity to singularity, to the immanent and concrete human; “Without the absolute singularity of the incalculable and the exceptional, no thing and no one, nothing other and thus nothing, arrives or happens” (Derrida, 2005: 148).

The first aspect of the dual concept is the incalculable; the other is the calculable. Kant’s concept of dignity refers to humans with moral capacity, to what human beings share. Derrida reads this as the calculable. The general is based on calculation, which is in a tension with the unique individual. To explain this more clearly, we can see how Derrida analyses justice. When the judge makes a decision, there is an expectation that the verdict will be right or just for the actual case. Justice is not reducible, it is in itself incalculable, an event, “an experience of the impossible”(Derrida, 1990: 947). The incalculable is related to the singularities of the case, its uniqueness. For justice to happen it has to respond to this singularity.

But at the same time, justice relies on laws. In a way, justice has to be operationalized in and through laws. For people to know what is legal and what is not, they need to have and know these laws. In this way, incalculable justice is transformed and reduced to the necessary calculations and laws. Justice is both incalculable and calculable. It is not reducible and at the same time it needs reductions, but law is not identical with justice. “Law is not justice. Law is the element of calculation, and it is just that there be law, but justice is incalculable, it requires us to calculate with the incalculable; and aporetic experiences are the experiences, as improbable as they are necessary, of justice, that is to say of moments in which the decision between just and unjust is never insured by a rule” (Derrida, 1990: 947). Derrida stresses the complexity and heterogeneity of the relation between justice as calculable and incalculable. “Justice can never be reduced to law, to calculative reason, to lawful distribution, to the norms and rules that condition law” (Derrida, 2005, p. 149). In Derrida’s ethics, decision has priority over norms, rules and laws.

The calculable dimension of dignity must be transformed to law, politics and ethics. Incalculable dignity will exceed the evaluation and calculation of what dignity means for politics, law and ethics. But without

it being transformed to the practical norms and principles, dignity is not operationalized. As I interpret him, Derrida understands dignity as a concept that needs to be filled with practical content: e.g., people have the right to vote in elections and have freedom of speech. However, on the other hand it is necessary to be sensitive and responsible for the singular—the uniqueness of the other: “How is one to relate this just incalculability of dignity to the indispensable calculation of law?” (Derrida, 2005:133). Derrida is at the same time within and outside of the Kantian understanding of dignity. Dignity, like justice, needs to be estimated and reflected upon and made into laws, norms and politics. It is based on what people can have in common, on general conditions and this will never fully correspond with the singular.

The other pair of concepts Derrida applies in his analysis of complex moral concepts is the unconditional/conditional. He employs these concepts in his discussion of dignity, but they are more strongly stressed in his discussion of hospitality. Derrida locates his notion of hospitality between two extremes. On the one hand, he argues for unconditional openness and welcome towards the guest, the foreigner, the refugee, and the asylum seeker. Hospitality, to deserve the name, must for Derrida mean openness without reservations. One should not even ask for the name or language of the guest. In this concept of hospitality there is a law of unconditional welcoming. From the moment one starts to ask questions and make restrictions, we do not have full hospitality.

Derrida addresses the possible consequences of offering unlimited open hospitality. He cites biblical stories, such as the tale of Lot (Genesis 19), who offered his daughters to the men threatening his guests, to show the devastating possibilities of unlimited hospitality and the death and destruction that may follow. Such limitless hospitality is impossible: “The unconditional law of hospitality needs the laws, it requires them. This demand is constitutive. It wouldn't be effectively unconditional, the law, if it didn't have to become effective, concrete, determined” (Derrida, 2000: 79).

There is a need for conditions to hospitality, a need for structure, norms, rights as well as laws to uphold hospitality. Limitless hospitality is threatening. This means that hospitality does not only require unconditional openness; it is also conditional, which means it must be regulated. There is,

thus, a need for regulations, norms and laws to protect hospitality. There are “two regimes of a law of hospitality: the unconditional or hyperbolic on the one hand, and the conditional and juridico-political, even the ethical, on the other”(Derrida, 2000, p. 135). In Derrida’s deconstruction, he leaves us with an unresolved tension. Between the two poles there is not a rational solution, although reason has to be used to “negotiate the nonnegotiable” (Derrida, 2002: 325)

Human dignity stands in this same heteronomy and tension. Dignity demands an immediate and unconditional respect for the priceless, unique and singular, but in a community, it must be protected by conditional calculations of what dignity means. Shershow comments:

“Dignity in its contemporary deployment must therefor encompass a whole spectrum of senses at once absolutely conditional and absolutely unconditional, inscribing in a single concept a strange relation of calculable and incalculable value and worth. This strange relation cannot be reduced to an opposition of ... neither dignity as something conditional nor dignity as the priceless value inherent in all human beings can finally be understood as the cause, source, or ground of the other” (Shershow, 2014: 34)

Derrida’s deconstruction takes us into an aporetic impasse. He points to the impossibility of justice, hospitality or dignity. These concepts’ demands are always present but, at the same time, they are contaminated. As Bennington says, “ethics, then, is ethical only to the extent that it is originally compromised or contaminated by the non-ethical”(Bennington, 2000: 72). This double bind is also to be found in Derrida’s constructions of the basic value of human dignity. Unconditional and incalculable dignity is impossible without its opposite aspects; the conditional and calculable.

This places the concept of dignity in a different context from that of Gewirth, who puts dignity on a pedestal and fills it with content based on an abstract humanity. Derrida brings the concept into history in a different way; he ends up with a heteronomic concept which increases responsibility and

a need for vigilance. There is no ready formula for how to act and respond to priceless human dignity; it must be filled with content, a content that will never fully do justice to the singular.

In the context of this chapter, it is interesting to see how Derrida relates to nonhuman agents. As we see in the case of Gewirth, the concept of dignity is exclusively human. Derrida also operates in a humanist framework but he problematises this on several occasions, not least in his book “The Animal That Therefore I Am”(Derrida, 2008).

In this work Derrida provides a deep analysis of the animal. He deconstructs the understanding of animals held by key philosophers like Descartes, Kant, Levinas, and Heidegger. He finds that all of them, in different ways, subsume animals as if they were one category-their species-differences and singularities are not recognized. One of the main reasons why the reputation of animals is so low is that they are regarded as unable to respond and use language, and lack the ability to reason. Derrida’s analysis opens for a renewal of our understanding of animals. Is it possible that they have more of the capacities than traditional philosophers recognize and ascribe to humans? Although I do not find that he really applies the concept of dignity to animals, in a way he does; he calls for a rethinking of how we perceive and deal with them. He does not support animals rights (Derrida & Roudinesco, 2004), but the animal within us humans and outside of us should be reevaluated. We should pay more respect for the conditions of animals, but not put them on the same levels as humans (Derrida & Roudinesco, 2004: 67). The title of his book signals that the animal comes first, we cannot do without it.

“I believe-and the stakes are becoming more and more urgent-that none of the conventionally accepted limits between the so-called human living being and the so-called animal one, none of the oppositions, none of the supposedly linear and indivisible boundaries, resist a rational deconstruction-whether we are talking about language, culture, social symbolic networks, technicity or work, even the relationship to death and to mourning, and even the prohibition against or avoidance of incest-so many "capacities" of

which the "animal" (a general singular noun!) is said so dogmatically to be bereft, impoverished. (Derrida, 2005: 151)

Although Derrida does not include animals in his concept of dignity, he raises their status and the obligations we have towards them. He goes further than Gewirth. But if we are looking for an even wider perspective—one raised by the climate crises and environmental issues—we find a gap in Derrida's philosophy. Even though Kirby calls Derrida's philosophy ecological (Kirby, 2018), I do not think this is truly the case. However, Derrida's concepts of 'calculable' and 'conditional' make it possible for wider perspectives to be included in the concept of dignity. It is worth considering Latour if we are looking to bring ecological aspects into the human dignity discourse.

Bruno Latour

Bruno Latour does not discuss human dignity in depth, except for a few comments that we will come back to later. His engagement has been to deconstruct modernity (Latour, 1993) and in particular the understanding of science. Latour widens perspectives and challenges the established borders between facts and values. I find him interesting because his approach broadens perspectives and opens new frames relevant for the understanding of human dignity. The dignity concept as understood in the dominant discourse, as represented by Gewirth, has an exclusively anthropocentric foundation. It posits a human exceptionalism that separates humans from animals and nature—the human is placed above nature. Where Derrida focuses on the conditional and calculable sides of human dignity, I find that Latour offers a deeper understanding of conditionality and what has to be calculated.

Latour: The Cave and the Two Houses

Latour uses the famous allegory by Plato about the cave to illustrate the problem he is dealing with and wants to transform. In this story the human condition is likened to living in chains in the darkness of the cave, only seeing shadows from life outside of the cave. The cave dwellers do not have knowledge about reality outside of the cave, reality is hidden to them. In Plato's story it is the philosopher who manages to release himself from the

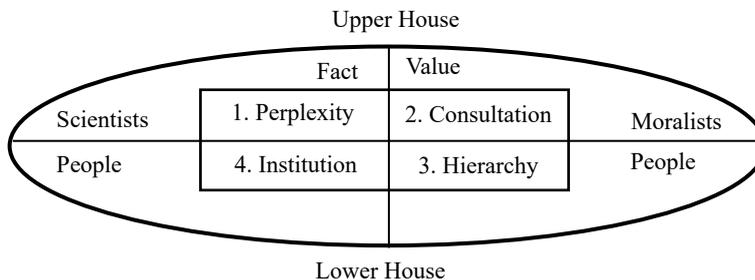
chains and move out to the world outside, the real world, and gain access to real knowledge. In Latour's interpretation of the story he does not only think that it is only the philosopher who is able to move in and out of the cave. In modernity, according to Latour, scientists have the same role as philosophers. When the scientist moves into his laboratory, he isolates himself from ordinary people and, like Plato's philosopher, he comes out and tells the truth about reality, which in itself is silent.

In the story there are two houses: one inside the cave where people are living, and one outside the cave. The outside one, which is silent, represents real things and true knowledge. The house inside the cave represents ignorance. Following Latour, this dichotomy is wrong; there is only one reality—"the laws of nature and those of humans have always coexisted" (Latour, 2004: 50). He asks how we can rearrange the two houses and integrate them so that the human and nature come together. I quote a longer text by Latour about the two houses and how they are related. He is often ironic, as we see here:

"In this Constitution dispensed by (political) epistemology, how are the powers in fact distributed? The first house brings together the totality of speaking humans, who find themselves with no power at all save that of being ignorant in common, or of agreeing by convention to create fictions devoid of any external reality. The second house is constituted exclusively of real objects that have the property of defining what exists but that lack the gift of speech. On the one hand, we have the chattering of fictions; on the other, the silence of reality. The subtlety of this organization rests entirely on the power given to those who can move back and forth between the houses. The small number of handpicked experts, for their part, presumably have the ability to speak (since they are humans), the ability to tell the truth (since they escape the social world, thanks to the asceticism of knowledge), and, finally, the ability to bring order to the assembly of humans by keeping its members quiet (since the experts can return to the lower house in order to reform the slaves who lie chained in the room). In short, these few elect, as

they themselves see it, are endowed with the most fabulous political capacity ever invented: They can make the mute world speak, tell the truth without being challenged, put an end to the interminable arguments through an incontestable form of authority that would stem from things themselves” (Latour, 2004: 14)

Latour keeps the allegory of the houses, calling them the upper and lower houses. However, he redefines them. The clear separation in Plato’s story is amended, and the people who inhabit the lower house are no longer without a voice or relevant opinions. The individuals who move out into the upper house are also redefined; they get access to information but are not as unpolluted as the philosophers in Plato’s story. In Latour’s story there is exchange and communication between the two houses, and both have something of importance to offer.



Fact and Values

In a core chapter of his book “Politics of Nature”(Latour, 2004) Latour presents his theory of facts and values. This also involves a transformation of the cave story. Latour is critical of the established understanding of the relation between facts and value, the understanding where facts are on the side of science and values on the side of morality and ends. He does not accept the established understanding of facts, in which they are presented as untouched and true. For Latour, facts are produced-“facts are fabricated” (Latour, 2004 : 95). Facts are traditionally presented as objective and descriptive of the real, of the outside of the cave (upper house). In Latour’s theory this is an illusion; facts are made. “No matter what term we choose later on to replace

‘fact’, it will have to highlight the process of fabrication” (Latour, 2004: 96). He establishes a distance between nature in itself and how we work with and communicate about nature. Nature is contextualized in different theories: “fact always remains meaningless as long as one does not know of what theory it is the example, the manifestation, the prototype, or the expression”(Latour, 2004: 96). Facts are not pure accounts of nature or reality-they must be seen in terms of the external and theoretical frameworks they are interpreted and analyzed in. Humans play an active role in constructing these understandings.

A similar view emerges from his research on science and scientists. When they go into their laboratories they work with aspects of reality, but their production and the projects they run are not nature in itself, but a manipulation of nature. Humans play a significant role in arriving at scientific results or developing products, such as fertilizers. Latour’s point is that scientists are not transparent and honest about their own role in these processes. The road to a final result is often full of failed experiments and the use of different instruments. What comes out of the laboratory is the result of a process in which human creativity and engagement have played a significant part. However, results are often presented as objective and neutral. It is not science as such that is criticized by Latour. What he criticizes is the hiding of human involvement and contribution to the scientific process, as well as the concealment of the moral aspects and responsibilities involved in arriving at results. We commonly hear that there are no bad products, only bad uses that they are put to. Latour does not agree, you cannot split the two.

In his polemical book “On the Modern Cult of the Factish” (Latour, 2010), Latour again attacks modernity’s arrogance and the belief that it is better and different from previous or other cultures. Modernity accuses other, older cultures of fetishism, of endowing nature with qualities that come from humans, without any evidence; “The word ‘fact’ seems to point to external reality, the word ‘fetish’ seems to designate the foolish beliefs of a subject. . . ., both conceal the intense work of construction that allows for both the truth of facts and the truth of minds” (Latour, 2010: 21). Latour also argues that modern facts-the ‘factish’-are produced from and by humans. They are similar to fetishes. While we accept that fetishes are not there objectively and are given

their properties by humans, the same can be said about modernity's facts or scientific productions. They are also produced and given meaning by humans. What are presented as facts of nature are our own facts: "The factish can ... be defined ... as that which allows one to pass from fabrication to reality; as that which gives an autonomy we do not possess to beings that do not possess it either, but that by this very token give it to us. The factish is a fact-maker, a talk-maker" (Latour, 2010: 35).

Latour's concept of 'factish' describes processes and their products. He argues that there are similarities to the constructions of fetishes. Both activities are a mix of the human and nature. Matter and substances-such as fertilizer, smartphones, petrol, electricity-do not become objects of importance without the human contribution, facts that has been naturalized but fabrication.

Latour's model (see above) of the two houses has two axes. The horizontal one lies between "reality" and "the social or cultural". The vertical one lies between "reality" and "the moral". In the upper house he operates with two concepts, the first of which is "perplexity". This shows his sense of irony; the perplexity is due to the surprising number of facts-his point is that there are more facts than those that are presented, so it is important to include all relevant facts A fact does not come alone, there are many facts within and around it. If we again use the example of the fertilizers, there are more facts about them than chemical formulae and the way to produce them. The implications and consequences of using them are also factual information, and these supplementary and long-term effects are often left out of the equation.

The second concept we find in the upper house is "consultation"; it lies on the moral side of the vertical axis. This concept refers to the values and norms that are involved in relation to the product and its use. The third step is "hierarchy", which also lies on the moral side of the model. This involves the prioritization of different values. This is a task for the people, the lower house. The final step is the "institutionalization" of the results of the process.

Latour's model describes the steps in a process, and not its moral content. The model has clear weaknesses. Latour argues that in the last stage of institutionalization the end results have to be fixed and should not be re-

opened. That means that the facts and the hierarchy of values in a case are set for all time. However, this is not a solution. There will in time come more facts relevant to cases and new and different moral concerns may also arise. The model is rigid on this point; Latour attempts to avoid relativism, but he ends up on the opposite side. Derrida, with his ethical model of contrasting the impossibilities on both ends of the spectrum, opens for reflection and space, as well as any decisions that may be needed. Latour attempts to close these possibilities. However, in my view he reduces moral responsibility, a responsibility that should not be reduced and hierarchized into fixed priorities. The main moral aspects of Derrida's model, with the incalculable and unique singular on one side and the calculable and conditional on the other, cannot be reduced to a formula. Latour has a very different mission to Derrida. His agenda is to bring fact and value into an intertwined relation. Latour disagrees with modernity's attempt to distinguish facts and values, and this is a stance I agree with; values and facts should not be separated.

“By accepting the value-fact distinction, moralists agree to seek their own legitimacy very far from the scene of the facts, in another land, that of the universal or formal foundations of ethics. In so doing, they risk abandoning all “objective morality,” whereas we, on the contrary, must connect the question of the common world to the question of the common good” (Latour, 2004: 98)

Latour places himself in a context of moral theory that is close to consequentialism. We live in a common world and there is a common good. “The more one distinguishes between facts and values, the more one ends up with the bad common world” (Latour, 2004: 99). The common world and common good are guiding principles. “Whereas the moral question of the common good was separated from the physical and epistemological question of the common world, we maintain, on the contrary, that these questions must be brought together so that the question of the good common world, of the best of possible worlds, of the cosmos, can be raised again from scratch” (Latour, 2004: 93).

To return to our example of the fertilizers, their development is not only a job for the laboratory. Fertilizers have an impact on the environment—they increase food production but new facts show different and more complex impacts, such as the transformation of the soil and the environment, and rivers and waters. We find both positive and negative facts—moral dimensions or challenges are present in the opportunities and the use of the product.

“We can define morality as uncertainty about the proper relation between means and ends, extending Kant’s famous definition of the obligation “not to treat human beings simply as means but always also as ends”—provided that we extend it to nonhumans as well, something that Kantianism, in a typically modernist move, specifically wanted to avoid. Ecological crises, as we have interpreted them, present themselves as generalized revolts of the means: no entity—whale, river, climate, earthworm, tree, calf, cow, pig, brood—agrees any longer to be treated “simply as a means” but insists on being treated “always also as an end.” This in no way entails extending human morality to the natural world, or projecting the law extravagantly onto “mere brute beings,” or taking into account the rights of objects “for themselves”; it is rather the simple consequence of the disappearance of the notion of external nature. There is no longer any space set aside where we can unload simple means in view of ends that have been defined once and for all without proper procedure” (Latour, 2004: 155).

The Actor and the Anthropocene

Latour’s Actor-Network theory expands the concept of actors. He uses an allegory to show what he means. A supermarket is organized with shelves and organized in rows. Goods are put high or low on the shelves, the chocolate just before the cashier, and so on. His point is that the way the supermarket is organized has an impact on how we operate and use the place. The practical layout of the supermarket is an actor. His point is that “anything that does modify a state of affairs by making a difference is an actor” (Latour,

2007: 71). The equipment and organizing of the supermarket is in this way an actor, it modifies how we act. In the first part of the discussion of Latour, I was engaged with the role of the human in science; in this section I want to take up Latour's engagement with nonhuman actors.

Latour considers the instruments and tools scientists use in their experiments. These instruments are vital for coming to results and access to tools defines possible outcomes. One example would be the instruments used in developing theories about astronomy. This means that objects, or what Latour calls nonhumans, are actors, as long as they have an influence on the activity or action. A hammer does not by itself have an impact, but it can have a significant impact in efficiently driving nails into wood. And boiling water will not be the same without a kettle, etc. In Latour's words, human and nonhuman are "fused together" (Latour, 2007: 91). The nonhuman tools become actors. To understand society, Latour argues that the instruments and tools must be given a role because they significantly define how we live and how we act. We need the nonhuman; "without the nonhuman, humans would not last a minute" (Latour, 2004: 91). To understand society, nonhuman actors must be included in our calculations and have a place in our theories.

The actors in Latour's theory are technology or instruments, things that have an impact on agency. But we cannot ignore nature: "Nature has unexpectedly taken on that of the active subject! Such is the frightening meaning of global warming"(Latour, 2014: 12). We are living in the epoch of the Anthropocene

"The point of living in the epoch of the Anthropocene is that all agents share the same shape-changing destiny, a destiny that cannot be followed, documented, told, and represented by using any of the older traits associated with subjectivity or objectivity. Far from trying to "reconcile" or "combine" nature and society, the task, the crucial political task is on contrary to distribute agency as far and in as differentiated a way as possible" (Latour, 2014: 15)

The Anthropocene is defined as the epoch in which the human has a major impact on nature, such an impact that the human meets himself everywhere: a CO₂ level of 415 ppm in the atmosphere in September 2022, due to human caused emissions (the sustainability goal was 399ppm); plastic in the oceans; a reduction of insects and lifeforms, down 69% since measurements began in 1970 (Almond, Grooten, Juffe Bignoli, & Petersen, 2022). This process has been labelled the sixth extinction, one caused by the human activity that has taken away the life conditions of animals, insects and living organisms. “Human action is visible everywhere” (Latour, 2014: 5). Humans meet themselves when they do research or engage with nature.

This leaves us with new challenges. We are now very far from a human dignity discourse that has focused on human capacities and human exceptionalism. Now we understand that this exclusive focus on the moral standing of the human has been a part of the reasoning that has caused the problem of the Anthropocene.

“Everyone knows the simplified version that human morality, all too human, has given to this principle: ‘do not ever treat human beings simply as means, but always as ends as well’. Kant, of course, applied it to human beings alone, and not to the hammer, to oaks or to radioactive uranium atoms. Having reactivated the fable of homo faber, he really imagined human beings in command, putting its categories to work on a raw material without rights. Two hundred years later, such a position appears to us ... indefensible” (Latour, 2002: 256).

Latour does not directly discuss the concept of dignity. However, in an article on morality and technology (Latour, 2002) he applies the concept six times. The task he sets up for himself in this text is to relocalize the relation between morality and technology in a similar way to the fact-value, fetish-factish combinations. Human lives are intertwined with technology, which is in diverse ways integrated in human life. Technology defines the options or the possibilities for how human lives are lived. “Without technologies, human beings would not be as they are” (Latour, 2002: 252). This means that

it is wrong to separate morality and technology. For example, many people live with glasses; they are vital for those who need them. One cannot reflect on human morality without bringing in the technology that is integrated in human lives (Baxi, 2007). For Latour, this means that morality also has to include different actors. “Morality, of course, like science or technology, is an heterogeneous institution constituted from a multiplicity of events, which depends at the same time on all modes of existence-and in part,..., on the arrangement of technical apparatuses, but equally on a good many other forms of organization” (Latour, 2002: 254).

Latour argues that technical objects do not “have an obvious moral dignity in themselves” (Latour, 2002: 254), but are part of basic ontology, the technology and I add nature or the ecological systems are inseparable from human dignity. We should change our understanding – if we “grasp morality as well as technology in its ontological dignity instead of relating them, as usual, solely to what is human, we may see that their relation is not at all that of means to end”. (Latour, 2002: 257). The dignity of the human is interrelated to the dignity of technology, animals, ecological systems and, in short, the surroundings we live in.

I have employed Latour’s actor network theory to challenge the established understandings of the concept of dignity. Latour’s perspectives broaden and give a wider content to the concept; not only human lives have dignity, but humans are integrated in nature and in technology and one cannot separate these from the human. Life in dignity means respect for both the human and the environment that the human is living in and with.

Conclusion

In this chapter I have discussed the concept of human dignity in three stages. First of all, I introduced an unusual topic for a chapter on dignity-fertilizers, important for modern food production, but with a problematic impact on the soil, water and the environment and a mixture of benefits and threats. My intention with bringing in this topic was to problematize the concept of dignity. One of my inspirations has been the post-humanist challenge (Barad, 2007; Haraway, 2008): “For me it is impossible, both

intellectually and ethically, to disengage the positive elements of Humanism from their problematic counterparts: individualism breeds egotism and self-centredness; self-determination can turn to arrogance and domination; and the science is not free from its own dogmatic tendencies” (Braidotti, 2013: 30).

Braidotti’s comments are relevant for several of the dominant interpretations of human dignity. In this chapter, this interpretation is represented by Gewirth. In his theory the human actor is a purposive agent looking after his own interests, with an exclusively human outlook. Dignity is rooted in the human’s own self-interest, it is anthropocentric and dignity is based on human intentions. This theory is based on human atomism and isolation, and there is no role for the community. Humans need to be able to develop their own self-interest and claim that their dignity be respected. The environment is not part of Gewirth’s theory. Other humans are relevant: the individual must transfer dignity to other humans; this is based on the argument that the other should have the same type of space and opportunity that has been secured for oneself. What is discussed is what qualify for that dignity, not dignity in itself, but the properties and capacities the human hold for dignity. A quality based on human as a self-centred self-interested actor. The human in Gewirth’s theory is rational and his line of argument is based on formal logic rooted in what Gewirth calls “natural fact”. All three models presented in the chapter are based on rationality, but different types of rationality. I will come back to rationality later.

Gewirth grounds his argument on what he calls “natural fact”. Based on Latour’s logic of the cave, the moral philosopher has left the cave and come back with the moral fact of human dignity. Latour does not accept this understanding of the morality which the expert has access to. From Latour’s point of view, moral considerations are rooted in the common good, which involves people’s contribution to whatever that that might mean. The upper house is not separated from the lower house.

Another aspect of Latour’s critique is also relevant in a critique of Gewirth’s concept of “natural fact”. From Latour’s argument the fact Gewirth applied can be an example on his critique of science. Latour criticizes

scientists' use of the concept of "fact". He argues that they ignore their own role in the production and consequences of the results they present. One can thus argue that Gewirth's "natural fact" is reductive and ignores several facts relevant for human dignity.

Derrida approaches the concept of human dignity in a different way than Gewirth; his project is deconstruction. He both breaks down and gives new meaning, opening up for new interpretations and giving a space that in the next round requests decisions. He gives contradictions and tensions to the notion of human dignity. He operates with human dignity in a four-concept construction. On the one hand it is unconditional and incalculable. It involves the priceless singular and the unique human. It demands an immediate imperative. These interpretations are relevant, the human has a special position. On the other hand, Derrida says it is conditional and calculable. Dignity, like justice, has to be transformed into laws and norms. These are based on conditional calculations. These evaluations are based on the third person, if the unconditional comes from the singular, the calculations have to do with the other-with communities. These calculations have to protect the host, the family, and the community. Such conditionality is necessary. Derrida opens up the concept of dignity and leaves it in a tension where it can never settle. On one side we have the demands of the unique singular; on the other we have the demands of the community. The concept expresses something immediate and a kind of command, to deal with it one has to negotiate between different aspects, as in the discussion of hospitality considered above.

Derrida gives new dimensions to the concept of dignity. However, the concept is still human-centric. He does not include animals in the dignity concept, although he asks for more respect and a change in our understanding of animals and their role and importance for humans. Derrida's concept of calculations and conditionality was, for me, a reason to move to Latour's actor network theory, my third step. Here, the non-human actor is given a new meaning and role for morality. I feel that Derrida's discussions lack this moral aspect.

Latour redefines and challenges basic relations and perceptions established in modernity, such as the separation of fact and value, science

and morality. Humans are more integrated and embedded in nature and technologies and in their coexistence with animals. This means that human dignity must be redefined and based on the new positionality of the human and the role of the environment that shapes human lives. The conditionality and calculations Derrida operates with must take more aspects into account. The common world and the common good-not only for humans but also for the world, animals and ecological systems-have a place and role that in the end are also vital for the human itself.

As we move into ecology, it is natural that questions about anthropocentrism and human exceptionalism must also be addressed when it comes to understanding human dignity. The notion of the embedded human does not only involve inherently human purposiveness, characteristics, agency, rationalism, autonomy singularity, and uniqueness. We must also see the human in relation to other animals and plants, water, and matter-to nonhuman actors. The traditional understanding of human dignity sets the human above and outside nonhuman factors. However, there is a need for a decentering of the isolated independent human. The human is relational and it is not only human relations, rationality or cultural factors like language that define the human. We are also defined by matter, bacteria, plants and animals - “the animals that therefore we are”.

The issue in this chapter is how to bridge human dignity as the core value in traditional humanism with an understanding of the human as embedded in nature, matter and technology. To respond by respecting the imperative of human dignity means to respond by respecting not only the unique singular, but also the environment and ecology humans are embedded in. This means calculating with non-humans.

It is common to criticize Descartes, and this is something that both Derrida and Latour do. There are several reasons for this critique. Descartes has contributed to anthropocentrism and an exceptionalism based on human rationality. Such an understanding is problematic, given the current ecological and climate crises. Humans must stop seeing themselves outside and above the system. Kirby, in her discussion of Derrida, argues that there is a need

for a redefinition of the human that is more ecological; however, humans still have an exclusive role to play in this transformation. Humans must take responsibility and use their rationality to bring about change and make the decisions that are needed.

“An unpalatable fact of Cartesianism is that its questionable logic remains necessary to our sense of self, our belief that we exist as a unique site of reflexive inquiry, comprehension, and intentional action. The very notion of decision, that it is an act that requires forethought and responsibility presumes this self-possession. Why and how would we undercut our specific ontological significance, our sense of self-control, even if we wanted to?”
(Kirby, 2018: 122f)

Human dignity must be redefined, and the human task to transform the meaning of human dignity is a human obligation where human reasoning has a key role. The exclusive rationality we see in Gewirth’s project is not sustainable. The traditional view of human dignity must be redefined, but that does not mean we give up reason or the priceless human. Rationality is needed, but it is not the sole foundation for human dignity. What brings dignity to human lives is more than human rationality-nonhuman actors must also have a place in the dignity concept and project. Human dignity should not be a concept that marginalizes non-human actors, they are vital for life and lives in dignity.

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Chapter 03

Conflict and Conflict Resolution in Sri Lanka: 1971-2020

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Introduction

Sri Lanka's social, political and economic history has been shaped by its geo-physical positioning in the Indian Ocean. As an island nation situated close to the southern tip of India, it is not only an important strategic point in the ancient and modern sea routes of the 21st century, it is also an opus for reflecting the cultural diversity of the region. Since the 16th century, Sri Lanka has been exposed to European colonialism starting with colonization by the Portuguese (1505-1667) and the Dutch (1667-1796), and ending with 150 years of British colonialism (1796-1948). Sri Lanka's independence movement was a relatively peaceful constitutional struggle in comparison to that of India and the process was broadly defined as 'the transfer of power, occurring, as it did, in two stages (1931 and 1948) within the institutional framework of a dominion' (Wickramasinghe, 2010: 41). The British transferred power to a multi-ethnic and multi-religious elite English educated that shared the values and norms of British culture and emulated their life style. On gaining independence, the concept of nation and nation building, though not overtly articulated, became a newly emergent trajectory that evolved around a three pronged process of: (1) defining the nature of the state as democratic or socialist, unitary or federal and an identity based on ethnicity and religion or secularism, (2) economic development and a strong emphasis on social welfare, although Sri Lanka had social indicators that were exceptional in

comparison to other South Asian and South-east Asian countries,¹ and (3) responding to impacts of regional politics.

This trajectory of events gave rise to new social, economic and political structures and systems, the most noteworthy being the emergence of new social classes. The elite to whom power was transitioned, was not positioned to embark on an inclusive process of nation building which included the mobilization of a large group of people who spoke the Sinhala and Tamil languages and had a shared culture and economic life that was deeply rooted in the ideologies of religion, indigeneity, and caste. The exclusion of these newly emerging social classes from democratic processes, as well as the social and economic exclusion led to the emergence of insurrectionary movements that manifest as the left-wing insurrection and the ethnic or separatist insurrection.

The first left-wing insurrection manifest in April 1971 led by the Janatha Vimukthi Peramuna (JVP) or the People's Liberation Front (PLF), and the second insurrection of the JVP from (1987 to 1989) a more violent and virulent form was a manifestation of integral social violence. The two left-wing insurrections, aimed to establish socialism were short-lived compared to the ethnicity based separatist or secessionist insurrection. This second form of separatist insurrection was initially waged by five major Tamil youth organizations namely; the Liberation Tigers of Tamil Eelam (LTTE), Eelam People's Revolutionary Liberation Front (EPRLF), People's Liberation Organization of Tamil Eelam (PLOTE), Tamil Eelam Liberation Organization (TELO) and the Eelam Revolutionary Organizations of Students (EROS). The internecine conflicts between the rebel groups and interventions by India in the form of a Peace Accord with the Sri Lankan government in July 1987, which deployed a peace keeping force in Sri Lanka led to the decimation of some groups, while others surrendered their arms and entered mainstream politics. However, the LTTE did not adhere to the Peace Accord and continued its separatist insurrection until government forces defeated it in May 2009.

1. Literacy was 21.7 percent in the late nineteenth century, the malaria-eradication policy of 1946 was largely responsible for reducing the death rate from 20 per thousand in 1946 to 14 per thousand in 1947, life expectancy at birth secondary of a Sri Lankan in 1948 was 54 years. In 1950 the unadjusted school enrollment ratio of primary and school enrollments as a percentage of the population aged 5-19 years was 54%, and in 1950, infant mortality was 82 deaths per thousand live births. (Bhalla Surjit S. and Glewwe Paul, 1986, p.40)

Rationale and Objective

The article therefore, contends that Sri Lanka's conflict is not confined to an ethnic conflict but is a social conflict which falls into the purview of a protracted social conflict. According to Edward Azar, such deep-seated racial, ethnic, religious and cultural differences that have persisted over a long period of time are protracted in nature, and outbreaks of violence are inevitable when the group feels it is threatened. Such deep seated conflicts therefore, may not be resolved through constitutional changes unless accompanied by economic development (Azar, 1990). Based on this theoretical observation, this article argues, that constitutional changes in the form of political reforms do not address such deep-seated conflicts that are defined by both internal and external factors. The writer therefore, contends that inclusive economic development combined with social change needs to take place in order to address the deep-seated issues of youth unemployment, economic growth without equitable distribution and the lack of broad-based political participation for such protracted conflicts to be addressed. Based on this rationale the main objective of this article is to examine the context of violence, the nature and pattern of this dual armed conflict, review measures taken by successive governments, and analyze the effectiveness of counter insurgency/terrorism strategy.

This argument is elucidated and supported by a desk review of secondary research on political violence in Sri Lanka, and the authors own research over a span of nearly 30 years. The author also draws on experiential insights. The first part of the article analyses the social, economic and political processes since independence and how these processes gave rise to underground organizations which engaged in armed conflicts. The second part examines the nature and patterns of armed conflicts while the third part deals with measures taken by successive governments to prevent and respond to armed conflict. The final analysis is of the prospects of conflict resolution and how valid the premise of the article is, as a means of conflict resolution in Sri Lanka.

Socio-economic and Political Context of the Conflict

Sri Lanka's population constitutes of a people identified by ethnicity, religion and social class and to a lesser degree by caste. The Sinhala majority constitute 74.9% of the population, the Sri Lankan Tamils 11%, the Moors 9% and the Indian Tamils who are descendants of indentured labour brought from South India by the British in the mid-19th century constitute 5% of the population. The population when classified by religion shows that Buddhists comprise of 70.2%, Hindus 12.6%, Muslims 9.7%, Roman Catholic 6.1%, other Christian 1.3%, and other 0.05% (Department of Census and Statistics, 2012). The use of an official language is a contentious issue but the Constitution of 1978, states that Sinhala and Tamil are recognized as official national languages, while English is recognized as the link language. Apart from the distinctions by; ethnicity, religion and language, Sri Lankan society is stratified by social class and caste, both of which are economic stratifications that have social implications.

This context of identities based on ethnicity, religion and language is deeply rooted in Sri Lanka's colonial history and the state formation processes after independence in 1948. The constitution, system of government and common identity for functional democracy was of priority for post independent Sri Lanka. However, the process was contentious and divisive. The British transferred power in 1948, through a constitution that emulated the British type of Parliamentary Government. The Sinhalese-Buddhist nationalist forces that had no political participation and voice during the colonial period, and not represented even in the government formed after independence, gained power in 1956. These forces that came to power were supported by left-wing parties including the Marxist, Lanka Sama Samaja Party (LSSP) formed in 1935 and the Communist Party (CP) formed in 1943. For them, forging an identity and a unitary system of government was of priority. However, they failed to make significant changes in the system of government, mainly due to lack of consensus over power sharing with the Sri Lankan Tamil minority. After several failed attempts of arriving at viable power sharing mechanisms, constitutional reforms were first made; in 1972 and in 1978 and 20 amendments have since been made. The system

of government that exists is a Presidential cum Parliamentary system similar to the Fifth Republic of France. During, the 73 years of post-independence, power has been transferred between two main national political parties through elections. Consequently, scholars have cited Sri Lanka as a model of parliamentary democracy in the third world. (Jupp, 1978). However, the alternating transfer of power between two political parties was not without contention, as the power struggle between the majority Sinhalese and the largest minority- the Sri Lankan Tamils continued and so did the clamour for greater political participation and recognition of a common identity derived from a common ideology.

A structural factor associated with changes to the constitution reflected the discourse of the nature of the state that would ensure robust and inclusive democratic participation. For the major moderate political parties that have their primary vote banks among the majority Sinhala community, the issue at hand was the inclusion of emerging social classes in political processes. Therefore, their priority was, to maintain the existing unitary character of the state, while consolidating power at the center. The priority for the Federal Party that depends on the vote banks of the Sri Lankan Tamil community, especially in the Northern and Eastern Provinces, was for sharing of power and decision making through a federal state. The conflict of objectives were evident from the time of transitioning of power by the British and accelerated from 1949 onwards.

The demand for a federal government was strengthened by the policies of successive governments on citizenship, land settlement in the Northern and the Eastern Provinces, making Sinhala as the official language instead of the English language in 1956, employment in the state sector on the basis of the ratio of the ethnic population, and standardization of University admission since 1973 (Samaranayake, 1998, 159-190). Of the afore mentioned factors some were more potent than others. One such factor was the pursuit to define citizenship by introducing the Ceylon Citizenship Act of 1948 and the Indian and Pakistani residence (Citizenship) Act of 1949, followed by other agreements with the Government of India to end in-migration and finalize expatriation. The issue of official language also became an issue of identity

associated with the dichotomous debate of the nature of the state. The new citizenship acts, franchise laws and decisions related to the official language altered the balance of power between the various communities and helped consolidate a majority within the polity. The Vadukkudai resolution which was passed at the convention of the Tamil United Liberation Front (TULF) in 1976, shows the cumulative impact of these factors as the demand for a federal state had evolved to a demand for a separate state.

Another important process of state formation was economic development and social welfare. With the granting of universal franchise in 1931, social welfare was of priority for the elected members to the State Council. The Minister of Education in the State Council (1931-1947), C.W.W Kannangara introduced extensive reforms to the education system of Sri Lanka, throughout the 1940s, culminating in the implementation of the Education Act of 1943. The education act combined with the establishment of the department of social services in 1948, forged the pathway for equal access to education for all (Ministry of Education, 2007) free health services, land alienation for the landless peasantry and other measures followed, addressing fundamental social and economic issues of the population. The period between 1945 and 1970 saw an escalation of primary and secondary enrolments from about 867,000 to 2,71,6000. However, until 1959, this expansion was not accompanied by a simultaneous expansion of University education. During the period from 1942 to 1959, there was only one University in the country while the number of Universities expanded to five by 1977. The number of students seeking admission increased from 1,612 in 1948 to about 14,000 in 1970. In 1987, there were about 20,000 students in nine universities in the country. Approximately, nine students out of every 100 who started primary school eventually entered one of the Sri Lankan Universities. The limitations in employment opportunities in the public as well as the private sectors and widespread unemployment and under-employment eroded the real value of higher education as well as the concept of free education. Consequently, University education became a source of frustration rather than an entry to upward mobility. With this trend came politicization and radicalism among youth particularly the rural educated youth from 1965 onwards. Social modernization and lack of concomitant economic development contributed

to the origin and the development of underground organizations with a propensity for armed conflict.

The ripple effect of regional politics too has influenced the politically violent movements in Sri Lanka. The creation of East Pakistan as Bangladesh separating from the government of Pakistan, with assistance from the Government of India, was an example for the Tamil secessionist groups. The incident indicated the significance of intervention of the Government of India in creating a separate state in the region of South Asia (Phadnis ,1972). Moreover, Tamil Nadu in South India provides sympathy and cooperation for separatist groups due to ethnic, cultural, and religious affiliation between the Tamils in Sri Lanka and South Indian Tamils. These sympathies and affiliations between Tamil Nadu and the Sri Lankan Tamils created a conducive environment to establish a “safe haven” in South India for Tamil rebel groups and to indirectly influence the central government of India.

What is evident from the analysis of the context of insurrectionary violence in Sri Lanka is that: it is entrenched in the country’s state formation processes and cannot be analyzed as separate manifestations. There is a body of research on the causes of social and ethnic conflict, but very few have researched on what has contributed to transform social and political conflict into armed conflict that uses the approach and strategy of rural guerrilla warfare-cum-terrorism. The Tamil youth unrest similar to their counterparts among the Sinhalese youth was led by unemployed youth drawn from a specific social class. High aspirations generated by free education, lack of concomitant opportunities in employment, and exclusion from mainstream political processes were key factors, which transformed social and ethnic conflicts into a protracted armed conflict since the mid-seventies.

Nature and Pattern of Conflict

The conflict in Sri Lanka therefore, has two-distinctive patterns: the social or left-wing insurrection and separatist insurrection. The two insurrections waged by the Janatha Vimukthi Peramuna (JVP) or the People’s Liberation Movement represented the left-wing insurrection, while the ethnic

or separatist insurrection waged by the Liberation Tigers of Tamil Eelam (LTTE) manifests the Tamil ethnic factor.² Many researchers have written on the subject, analyzing the conflicts separately but few have drawn on the commonalities and the comparability. There are three interesting features in these two insurrections. The first is that both insurrections were pre-planned. The second was that violence has been spearheaded by organizations predominantly composed of youth. The JVP is based predominantly among the Sinhala-Buddhist rural youth while the LTTE represented the Sri Lankan Tamil Hindu as well as Christian youth. Finally, these incidents of political violence have seriously challenged the existing political authority and socio-economic structure of the country.

Left-wing Insurrection

The insurrection in 1971 was led by a breakaway group from the pro Mao Communist Party (CP). The main objective was to capture government power through the strategy of a one-day armed struggle and convert the country to an egalitarian socialist country. The insurrection began with widespread armed attacks on nearly 100 police stations on the 5th of April 1971. These armed attacks resulted in the capture or abandonment of 49 rural police stations, which comprised of one fourth of the police divisions in Sri Lanka. The significant guerrilla action which took place in the countryside, did not infringe on the urban areas. The insurrection in 1971 marked the defeat of the JVP. The official statistics of the number of deaths according to the then Prime Minister was 1200. It is generally believed that at least 5000 were killed including many in the Kegalle District in the Sabaragamuwa Province of the country (Jupp, 1978: 19). After the insurrection was defeated, 18,000 were in custody by August 1971. The Criminal Justice Commission (CJC) was created to try and punish the leaders of the movement (Alles, 1976: 208-255).

The second insurgency of the JVP manifested itself from 1987 to 1989. The proscription of the JVP after the ethnic riots in July 1983 and

2 The JVP was popularly known as the Che Guevara Movement and the LTTE as the Tiger Movement since its inception.

the presence of the Indian Peace Keeping Force (IPKF) as a result of the Indo-Sri Lanka Accord in 1987, paved the way as precipitating factors to the second insurgency of the JVP. The long-term objective of the insurrection was to capture political power by means of political violence. The short-term demands of the JVP were as follows: the immediate departure of the IPKF from the island, abrogation of the Indo-Sri Lanka Accord of 1987, abolition of the Provincial Council system established through the 13th amendment of the 1978 Constitution of Sri Lanka, fresh Presidential and parliamentary elections, and the dismantling of paramilitary forces (Samaranayake, 1997: 99-119).

In order to achieve its objective, the JVP in collaboration of the Deshapreme Janatha Viyaparaya (DJV) or Patriotic People's Movement used its campaign of violence against the politicians of the government party, the police and other armed personnel and their family members, civilians, officials of the state, and politicians from opposition parties and their supporters. This is a strategy of urban guerrilla warfare based on the use of terror and assassination as a means of paralyzing the state apparatus. The JVP enforced the strategy by carrying out planned and selected sporadic armed attacks on police stations and military bases. Furthermore, the JVP raided rural banks and co-operative stores, government administrative offices, post offices and sub-post offices, destroyed government vehicles, by using either explosives or arson in various parts of the country.

An added strategy was the general strikes (industrial action) and public demonstrations. During 1988 to 1989, public school students were mobilized by the JVP in their protest demonstrations against the government. The insurrection prevailed mainly in the Southern, Central, North Central and Western parts of the country. According to government figures, the JVP murdered 6,517 people including over 1,700 activists of the ruling party, 480 administrative officers of the government, 339 police officers, and 198 persons in the armed services from the beginning of 1986 to the end of 1989 (Peiris, 2013: 236).

The armed struggle from 1987-90 was much more widespread and better organized than the first insurrection in 1971. However, the pattern of the

second insurgency of the JVP and the counter-insurgency of the government was very different from the ethnic insurgency of the Liberation of Tamil Tigers of Eelam. It was carried out in the form of assassinations and counter-assassination, torture, abduction, demonstrations by school children, killings and counter killings.

The second insurgency of the JVP was defeated by the government forces by using brutal measures of counter-insurgency. It resulted in well over 65,000 deaths and the imprisonment of 10,000 members. The leader of the JVP and almost the entire political and central committee members were killed by the government security forces. The security forces resorted to extralegal actions including at least condoning the use of death squads, torture and terror against JVP sympathizers (Oberst, 1992: 128). In terms of the cost of the damage to public property, it is estimated to be 3,000 million Sri Lankan rupees. The human cost was unparalleled and unimaginable (Alles, 1990: 289-321).

Ethnic or Separatist Insurrection

Armed conflict in Sri Lanka was also manifested in ethnic separatism led by the Tamil guerrilla movement which comprised of Tamil youth known as the “Tigers”. Of the five groups that started insurrectionary violence, the Liberation Tigers of Tamil Eelam (LTTE) achieved dominance over the other major four guerrilla groups.³ The ultimate objective of the LTTE was to establish an independent, socialist Tamil or Eelam state by means of an armed struggle. The state of Eelam was to comprise of the Northern and Eastern Provinces of Sri Lanka. The Tamil guerrilla movement introduced a new dimension to political violence in Sri Lanka. The development of political violence in the mid-1970s will be viewed in four phases commonly known as: the first Eelam war from the mid 1970s to 1987, the second from the 1990s to 1994, the third Eelam war from 1995 to 2005, and the final phase was the undeclared fourth Eelam war from 2005 to 2009.

3. The four guerrilla groups are as follows: The Tamil Eelam Liberation Front (TELO), the People’s Liberation Organization of Tamil Eelam (PLOTE), the Eelam Revolutionary Organization of Students (EROS), and the Eelam People’s Revolutionary liberation Front (EPRLF).

The first phase, which is from the mid-1970s to 1991 initially concentrated on assassinating Tamil politicians and executing police informers. The assassination of the mayor of Jaffna in 1975, marked an important step in escalating political violence. The LTTE targeted the Tamil politicians who did not comply with its objective of achieving a separate Tamil state and who cast their vote in Parliament in favour of the first Republican Constitution of 1972. From 1977, they targeted armed attacks on the police and armed forces in the Northern and Eastern Provinces which are predominantly Tamil areas. The LTTE attained the peak of publicity with the murder of several police officers in Vavunia in 1978. From 1984, Sinhala civilians residing in settlements and villages within the Northern and Eastern Provinces became targets. During the first Eelam war, the LTTE, the TELO, the PLOT, the EROS, and the EPRLF resorted to violence. After the Indo-Sri Lanka Accord was signed by the Prime Minister of India and the President of Sri Lanka in 1987, the other four major violence groups gave up violence and entered mainstream politics. However, the LTTE continued its warfare with the Indian Peace Keeping Force (IPKF) stationed in the Northern and Eastern Provinces. The LTTE continued their guerrilla warfare until the IPKF withdrew at the end of March 1990.

The LTTE renewed its armed struggle against the security forces of the country soon after the withdrawal of the IPKF. Initially the police stations and army camps within the Eastern Province were targets of the LTTE's armed attacks. The following are the major attacks launched by the LTTE: an armed attack on the Jaffna Port in 1990, the attack on an isolated army camp at Mankulam in 1991, and the attack against the army camp at Elephant Pass in July 1991. A series of political assassinations was carried out by the LTTE. Of these, the assassination of Rajiv Gandhi the ex-Prime Minister of India in July 1990, Ranjan Wijerathne, the deputy Defense Minister of Sri Lanka in March 1991, and, Ranasinghe Premadasa the President of Sri Lanka in 1993 are noteworthy. In the second phase of the Eelam war, the LTTE claimed more than 11,000 lives from among the security forces and civilians and its cadres (Daily News, 1993: 1).

The third Eelam war in 1995 went on until the ceasefire in 2001. During this period the forces of the government were able to recapture Jaffna city, the capital of the Northern Province, and confine the LTTE to remote areas of the Vanni District in the Northern Province of Sri Lanka. The LTTE attacked the Central Bank, in Colombo in 1996, and the Temple of the Tooth Relic in Kandy in 1998.

The final Eelam war named as an undeclared, separatist war started in 2006. The closure of the Mavilaru Dam in the Eastern Province depriving farmers of irrigation water and the killing of 68 civilians including 15 children in Kebitigollawa in the North Central Province (NPC) by the LTTE triggered the final phase, which resulted in a well-planned operation that ended with the defeat of the LTTE in May 2009. It is estimated that 80,000 combatants and civilians died and many were displaced. The loss in infrastructure was high and 30,000 members of the government forces died while many were maimed and disabled (Chandraprema, 2012).

Government Response

Conflict resolution became a key agenda of successive governments since 1971. Governments have made socio-economic and political reforms to address conflict while formulating and implementing counter insurgency strategy. The main social and economic reforms were: the land reforms in 1972, education reforms in the same year, and most importantly, reforms in University admission to the science-oriented faculties based on a district quota system and the population distribution in 1973. Systemic problems in education were identified as the key causal factors and education reforms were seen as an important intervention to address insurrectionary violence. However, the planned reforms were not fully implemented and there was no structural shift in the education system. Lack of equity and equality in education services continued and children living in underserved districts such as Monaragala and Anuradhapura and those from the estate sector continued to receive an education that was not on par with well-resourced urban schools.

The number of schools classified as IAB⁴ which offer education in Science and Commerce are weighted to the Western and Southern Provinces and youth from the rural and estate sectors continued to access poor education services with lack of equality and equity in services.

After the second insurrection of 1987-89, a Youth Commission was appointed in 1990 to inquire into the causes of youth unrest. Several important recommendations were made by the commission and the National Education Commission (NEC) was appointed in 1991 as an apex body to oversee Education policy. The politicization of services for youth participation and a lack of change in the economic structure diminished the value of the implementation of these recommendations. Sri Lanka's first Commission of Inquiry into "involuntary removals of persons" was appointed in January 1991 with a limited mandate, to deal with new enforced disappearances that occurred after the peak of the violence between 1988 and 1990. However, the Government of the People's Alliance (PA), that came to power in 1994, appointed five commissions to inquire into cases of disappearances during the counter-insurgency from 1987 to 1989 and introduced a system of compensation. It offered an opportunity for healing and vindication for the families of the young people who disappeared or died of violent deaths but the structural factors remained relatively intact (Samaranayake, 1999: 41-52).

The government introduced reforms in Basic Education (Grades 1-5 and 6-9) in 1997, "as a political response to widespread youth unrest in the late 1980s". Although, effective implementation of education reforms were propelled by the drivers of education reform they were stalled by inhibitors, namely; a lack of will by education administrators and teachers to make fundamental changes to the system and inconsistent funding. The momentum of the reforms was lost due to these factors and so was its efficacy in addressing the structural causes of insurrection" (Little, 2011: 499-512). The expansion of higher education institutions from three to five and up to 15 and the increased intake of students were some of the other education measures.

4 Schools in Sri Lanka are classified as: IAB, IC, Type 2 and Type 3 based on the number of grades available, facilities and availability of study streams for the GCE Advanced Level.

The government of this period, however, was fighting a violent conflict in the Northern and Eastern Provinces, which escalated the defense budget and eroded investment in vital services such as health and education. The political and security instability and economic stagnation compounded the lack of structural reforms resulting in a stalemate in overall conflict resolution.

The complexity of the ethnic insurrection lies in its external interests, especially from India, which requires multiple responses. The United National Party Government introduced decentralization through District Development Councils (DDC) in 1981. This Act was intended to decentralize administration and power to the 25 administrative districts in Sri Lanka. These measures appeared to take the edge off the ethnic conflict at least temporarily. However, within two years the implementation of the DDC model proved to be a failure due to lack of financing and genuine devolution of power. The moderate Tamil political parties were not able to participate with the model of decentralization due to violent opposition of the Tamil guerrilla organizations who were waging terrorism and guerrilla warfare.

The failure of political reforms compelled the UNP government to rely heavily on military options. Military options that were seen as a viable response to ethnic insurrection, however, became an immediate cause for the ethnic violence in 1983. The ethnic riots of 1977 and 1983 were the turning point of conflict and conflict resolution in Sri Lanka. It also paved the way for the end of a unilateral approach to seeking solutions to conflict and the beginning of a bilateral approach via the Government of India as a third-party mediator. Third party involvement by the Government of India was initially, confined to facilitation of a dialogue with the armed groups in Thimpu, Bhutan in 1985. The Government of Sri Lanka however, was only in a position to negotiate but not offer greater devolution of power as a settlement to conflict.

In 1987 the government of Sri Lanka, was supported by the Government of India to introduce a systems model for the devolution of power. The Provincial Council System was legalized by the 13th amendment by the Second Republican Constitution of Sri Lanka in 1978. However, the LTTE did not accept the Provincial Council System and continued the armed struggle. The direct involvement of the Government of India as a third party concluded with

the assassination of Rajeev Gandhi in 1990. The positive impact of third-party mediation by India was the implementation of devolution of power and the acceptance of Tamil and English Languages as official languages on par with Sinhala.

From 1994 to 2005, the government relied on third party mediation by Norway backed by the United Kingdom, the United States and other European countries to negotiate a peaceful settlement with the LTTE (Samaranayake, 2006: 163-196). A major weakness of the policy during this period was the recourse to constitutional reforms and piecemeal reconciliation processes, rather than a holistic approach to insurrection which addresses seminal issues that arise from the process of state formation.

The United People's Freedom Alliance (UPFA) government in power from 2005-2015 recognized the importance of three factors. The first was that Sri Lanka, unlike other countries that have undergone protracted conflict, sustained welfare policies as well as economic growth throughout the conflict. Consequently, the country has the highest Human Development Index rank in South Asia (UNDP, 2020). During this period of conflict, the government therefore, moved a significant population out of poverty in non-conflict areas to the lower middle class and middle classes who have high aspirations of economic and social advancement.⁵ The second was the changing demographic structure; the elderly population (60+ years) is increasing (12.4 in 2012 and estimated to be 24.8 by 2041) with a declining child population. The absolute child population between 0-17 years of age was 5.9 million in 2012 and is expected to increase to around 7.0 million by 2021, before declining, leaving the country with an important youth cohort that will have to cope with an increasing adult dependency ratio.(De Silva, 2014) The third factor was that the end of the armed conflict would require heavy investments in reconstruction, rehabilitation and resettlement in the areas affected by conflict as well as sustained economic growth.

5. Significant poverty reduction evident across all sectors with a large decline in the estate sector poverty between 2006/07 – 2009/10. The proportion of population living below the official poverty line – referred to as the poverty headcount ratio (PHCR) dropped from 26.1 per cent to 6.7 per cent over the period 1991 to 2013 (a reduction of 74 per cent)

Economic growth therefore, was a critical strategy in the counter insurgency policy of the 21st century as it was envisaged that growth and distribution of the benefits of economic development would result in a shift in the economic structure from a stagnant agricultural base to a service hub and create jobs for young people while doubling the per capita income. Some of the key outcomes expected of the accelerated economic growth were: the provision of systems and incentives for skilling the labour force for a knowledge-based economy, encouraging competitiveness in the labour market, modernizing infrastructure to integrate the disparate parts of the country and providing services and facilities to an increasingly urban population (World Bank, 2012). For this shift in the economic structure, Sri Lanka depended on economic backflows from countries that attract Foreign Direct Investment in Asia. China as the main economic player in Asia became a vital and powerful ally. In order to attract investment, the government of Sri Lanka harnessed the benefits of its strategic location in the Indian Ocean especially, the port of Colombo that links the Silk Route, and other strategic assets. to attract investment. During this period, China became Sri Lanka's leading government lender and the largest investor.

Some of the key strategic investments were: the development of the Hambantota port as a service hub, development of the Colombo port projected to reach the 10th rank from the 20th, the Colombo South Container Terminal, Norochaholai Coal Power Plant, Colombo-Katunayake expressway, the Southern Express way and the Nelum Pokuna (Lotus Pond) Theatre. The Hambantota port officially known as the Magampura Mahinda Rajapakse Port was opened in November 2010 when the first phase of development was completed at a cost of US\$ 361 million.⁶ The investment in the Colombo Port City Project was to be US \$ 1.5 billion making it the largest ever foreign-funded investment built on reclaimed land covering nearly 600 acres or 359 hectares. It projected an investment of US \$ 15 billion within 15 years and local employment for 85,000. The Colombo port city construction started in September 2014 after a state visit made by the president of the People's Republic Government of China Xi Jinping who laid the foundation stone.

6. Hambantota is close to the world's main shipping lanes where more than 30,000 vessels per year transport fuel and material from the Middle East to East Asia.

It is a Direct Foreign Investment (DFI) (Shapard, 2016). Many of China's other investments came in the form of loans. The Lotus Tower is the highest edifice in South Asia and the nineteenth tallest building in the World with an investment of US \$ 100 million. As a country that was promoted from low income to lower middle-income status in 1997, Sri Lanka maintained an economic growth of 5.3% from 2010-2015, aspiring to become a middle, middle income country which was achieved in 2019 but retracted in 2020.

After the end of the armed conflict in the Eastern Province in 2007 and in the Northern Province in 2009, the government of Sri Lanka classified the process of recovery as the four "D" concept of demilitarization, development, democratization, and devolution. The Eastern and Northern Provinces were the centre of conflict for nearly three decades due to the separatist armed conflict. The conflict in the East was of a dual nature. The first was between government forces and the LTTE and the second was the internecine conflict between the LTTE and the breakaway faction of the Eastern Military Command of the LTTE from March 2004. The Tsunami of December 2004 also affected the Eastern Province killing an estimated 10,000 and destroyed infrastructure displacing nearly 12,796 families. A tsunami financing needs assessment showed that the Eastern Province was the most heavily affected area accounting for over 40% of the financing needs. In 2006, it was estimated that there were almost 200,000 civilians displaced internally. By December 2010, all of the displaced families were resettled in the Eastern Province.

The restoration of democracy through elections for local government institutions, the establishment of the Eastern and Northern Provincial Councils under a Chief Minister and Parliamentary Elections in 2010 demonstrated the state's capacity to revitalize democratic processes and facilitate the transition to civil administration from a military administration. The enabling factors for recovery and transition were the stability and capacity of the state, and the economic recovery. The economic recovery of the province was driven by indigenous factors as well as macroeconomic policies. The economies of both Provinces were based on agriculture, fisheries, livestock farming, tourism, the service sector and small and medium enterprise. The communities themselves revitalized the economy and restored livelihoods

with substantial support from the state, donors and the private sector. The macroeconomic policies created this conducive environment for recovery and development (International Centre for Ethnic Studies and World Bank, 2018: 1-18).

During this period of government, three important Presidential Commissions were appointed to investigate deaths and disappearances due to conflict and to make recommendations that would address both reparation and causal factors. The Commissions appointed by the President were quasi-judicial in nature. The Mahanama Thilakaratne Commission appointed in 2006, was mandated to investigate into the deaths and disappearances between September 2006 and February 2007. The second Commission was appointed to investigate allegations at the end of the ethnic insurrection and the Lessons Learnt and Reconciliation Commission (LLRC), presented its report to the Sri Lankan parliament on 16 December 2011. The recommendations and observations of the commission focused mainly on the casual factors for civil strife and the “governance, devolution, human rights, international humanitarian law, socio economic development, and livelihood issues, that need to be addressed. The Lessons Learnt and Reconciliation Commission of 2011 however, recognized that women, children, IDP’s and the disabled, had suffered considerably, and long-and short-term solutions are needed for inclusive reconciliation (The Lessons Learnt and Reconciliation Commission Report, 2011: 347).

The third Commission, the Maxwell Paranagama Commission was appointed in 2013, to investigate claims of missing persons in the Northern and Eastern Provinces from June 10, 1990 to May 19, 2009. Furthermore, a Parliamentary select committee was appointed to open dialogue for a political solution through by-party approval. However, these efforts to address the causal factors of conflict were thwarted by international lobbying by the Tamil diaspora, lack of political will by the opposition within the Parliament or the National State Assembly and the inability to mobilize citizens for broad based consensus on addressing causal factors of political violence.

After 2015

The change of government after the Presidential Election on the 9th of January 2015 and the parliamentary Election in August 2015 saw a concomitant policy change towards conflict resolution, in managing the economy and political ideology. During the campaign leading up to the Presidential Election of January 2015, against the incumbent President, the opposition parties were critical of the economic role of China, particularly the Colombo Port City project which comes under the New Maritime Silk Road Project. During the early stages, the newly elected President and the caretaker government of the country abandoned the Colombo Port City Project and the functions of the Mathtala International Air Port. This stance was continued after the Parliamentary Election in August 2015. The pro-China foreign policy was abandoned in lieu of a pro-western stand with economic ties favouring India. It was also evident that economic development was no longer seen as a strategy to address conflict but constitutional reforms and the structure of government was perceived as a more viable strategy, ignoring the factors that give rise to social conflict in the southern part of the country.

The government that came into power in 2015 took several measures to address the demands for constitutional change and power sharing by the Tamil National Alliance (TNA). These measures were also in response to Resolutions number 30/1, 34/1 and 40/1, of the Human Rights Council (HRC) which called for a process of transitional justice in promoting reconciliation, accountability and human rights, co-sponsored by the government and unanimously adopted by HRC members in October 2015. Some of the key actions were as follows: (a) establishing two Ministries to promote national integration and reconciliation, and national dialogue, co-existence and official languages, (b) a Secretariat for Coordinating Reconciliation Mechanisms and the Office of National Unity and Reconciliation to coordinate transitional justice and reconciliation initiatives. (c) developing a National Human Rights Action Plan for the Protection and Promotion of Human Rights (2017-2021), (d) the Office on Missing Persons (OMP), the Office for Reparations and the return of some of the military-occupied private land to its owners, (f) reopening investigations into past attacks on journalists; and recognizing

access to information as a fundamental right in the 19th Amendment to the constitution in April 2015 and passing the Right to Information Act in June 2016. Additional, measures included the replacing of the annual commemoration of the personnel of the armed forces who died during the ethnic insurrection, with a Remembrance Day for all ethnicities, and release of political prisoners who were former members of the LTTE. Processes were set in motion to enact a new constitution that would change the system of government with features of a near federal or con-federal state.

These two types of insurrections that lasted for nearly four decades from 1971 to 2009 challenges both the country's geographical integrity and the established social and political order. The LTTE continued to be a banned organization in Sri Lanka and other countries including the United States of America (USA), the United Kingdom (UK), and India. However, the indications are, that the LTTE operated within the country and outside, through its front organizations. It has mobilized the Sri Lankan Tamil population domiciled outside the country to lobby western governments to exert pressure on Sri Lanka to introduce a federal system of government, merging the Northern and Eastern Provinces of the country.

The phenomenon of youth unrest and social conflict in the south of the country and the Tamil ethnicity based separatist conflict concentrated in the Northern and Eastern Provinces have contributed to a dual political conflict in Sri Lanka. The structural causes of conflict are attributed to the processes of state formation after independence in 1948, but can be traced back to the social and economic changes set in motion by colonialism. The conflict led by Tamil youth however, has become a power struggle on the nature of state, namely unitary or federalist, with a polarization of citizens on ethnic lines. The Sinhala majority subscribe to the concept of a unitary state and the Tamil minority to a federal state. The conflict in the south, based among the Sinhalese youth is a movement for a socialist state instead of the existing capitalist state. These contradictions in determining the nature of state, however, is only a manifestation of a dual conflict arising from common structural causes. Therefore, a conflict deeply rooted in structural factors, cannot be addressed by constitutional changes that accommodate the

demands of the Tamil minority. This argument is best exemplified, by the second insurgency of 1987 to 1989, which was a response to the peace accord and devolution of power which supposedly addressed the ethnic insurrection ignoring the larger social conflict. Therefore, the challenge lies in economic development with equity and inclusive social and political participation of all ethnicities and social classes.

Discussion of Salient Findings

Conflict resolution processes in Sri Lanka depends on the ability of conflict actors to understand the nature and core problem of the conflict. The two left-wing insurrections were led by Rohana Wijeweera, an ex-medical student from the University of Lumumba. He introduced the Latin American model of insurrection to Sri Lanka. Government forces were able to put down both insurrections in the south of the country through violent militarily strategies. These insurrections were followed by Presidential Commissions, tasked with reparation and a diagnostic mandate to make recommendations for more lasting solutions. The recommendations made by the Youth Commission were partially implemented as there was no bi-partisan agreement between the two main political parties on the processes of conflict resolution. Therefore, recommendations of successive Commissions were either partially implemented or never implemented.

The JVP's trajectory is at a juncture, where it functions as a parliamentary political party, drawing its vote banks from among the Sinhalese-Buddhist rural youth and students from Higher Educational Institutions. It has three members in the current parliament, while the National Independent Front (NIF) a break away party from the JVP has seven members in Parliament. The Frontline Socialist Front is another break-away group from the JVP which has much leverage among university students and unemployed graduates. The JVP no longer postulates an armed struggle but its claims of socialism as an equalizing factor that addresses social and political conflict remains.

The ethnic insurrection ended with a long and violent confrontation between the LTTE and government security forces first in the Eastern Province

in 2007 and in the Northern Province in 2009. Systems changes through the amendments to the Constitution, namely the decentralization introduced in 1981 was not effective and devolution of power in 1987, proved to be an ineffective response to conflict. The devolution of power was never fully implemented and the Tamil National Alliance (TNA) that controlled power in the second Northern Provincial Council did not demonstrate a “political will” to make the system a viable solution. The Tamil National Alliance, that represents the aspirations of the separatists, aims at self-rule under a federal system of government. The most contentious aspect of this claim is the merging of the Northern and Eastern Provinces which comprise almost one fourth of Sri Lanka’s land area and more than one third of the 1700 km long coastline. The TNA uses non-violent but coercive strategies, via India and Western countries that have a Sri Lankan Tamil population domiciled in these countries with a recognizable vote bank and lobbying power to achieve the same objectives as the Liberation Tigers of Tamil Elam.

The objectives of the Tamil nationalist parties are supported by the international community supported by India. What is advocated is a quasi-federal government with a merger of the Northern and Eastern provinces through the enactment of a new constitution. This process is technically and diplomatically led by India, influenced by the Tamil population domiciled outside the country who are organized into a powerful lobby to gain the support of western countries, mainly the USA and the UK. The coalition of the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP) that came to power in 2015, had an 80% share of the vote bank in the country, and it was expected that this government could be pressured into gaining an endorsement of these proposals at a referendum.

However, the government failed to mass mobilize the majority community for such constitutional change. The Sinhala majority continues to be wary of such systems changes in a country that is strategically located in the Indian Ocean with the added complications of the geo politics of South Asia. The failure of mass mobilization and the uneasy alliance between the coalition parties namely; the UNP and the SLFP disintegrated, and this disintegration not only stymied attempts at constitutional change but also

resulted in the SLFP losing its electoral base among the Sinhalese-Buddhist majority. A new political party emerged, representing nationalist sentiments, called the Sri Lanka People's Party (SLPP) which became a political force at the local government election in 2018. This new political party led by the former President (2005-2015), won the Presidential election in 2019 as well as the general election of 2020. This re-grouping of power, based on ethnicity was a reaction by the Sinhala Buddhists to proposed constitutional changes that accommodates a federal government. However, this was not a phenomenon confined to the Sinhala Buddhist majority but a similar realignment was seen among the Sri Lankan Tamil political parties. The Tamil National Alliance (TNA) that had 16 parliamentary seats in 2015, won only 10 parliamentary seats in 2020. A schism in the UNP resulted in the formation of a new political party named as the United People's Force (Samagi Jana Balavegaya-SJB) and won 54 parliamentary seats. The United National Party that had 106 parliamentary seats in 2015 was decimated at the General Election of August 2020. What is evident from this analysis is that constitutional changes that ignore the state formation processes and the polarization of power based on ethnicity and religion are challenged either through violence or electoral means.

The concept of a federal government however, has a long history first mooted during the latter part of British rule. The first federal government was proposed by S.W.R.de Bandaranaike in the mid-1920s, emulating a model practiced in Switzerland.⁷ However, it was the Kandyan National Assembly (Udarata Sangamaya) that first submitted the proposal for a federal state before the Donoughmore Commission (Warnapala, 1994). These proposals however, were not accepted by the political elite in the country as well as the British colonial rulers.

7. He has written six articles to the Ceylon Morning Leader from 19th May to S.W.R.de Bandaranaike, "Federalism as the only solution to our political problem", The Morning Leader, 19h of May to 30th June, 1926. These are reprinted by the following source: ICES Occasional Papers, Devolution in Sri Lanka: S.W.R.de Bandaranaike and the Debate on Power Sharing, International Centre for Ethnic Studies, Kandy, 1996, pp.21-41.

The Federal Party (F.P.) of Sri Lanka mooted the demand for federalism as a solution to the ethnic conflict from 1949 up to 1976. At this stage the aim of the FP was to merge with a larger Dravidian Sovereign State in South India, thereby federating with India (Wilson, 1966: 119). The Sinhalese-Buddhist majority perceived such demands as part of a wider strategy to form a Dravidian State comprised of South India and Northern Sri Lanka. These strategies however, were not only opposed by the Sinhalese majority but by India as well and the Federal Party was forced to change its demand of federalism within unitary principles (Wilson, 1996: 119). The Federal Party tabled its proposals of federalism to the Constitutional Assembly in 1971 to be included in its deliberations. However, the proposals were dismissed by the Sinhala majority.

The demand for a federal system of government resurfaced after the military defeat of the LTTE in May 2009. A merger of the Northern and Eastern Provinces and a federal system of government was once again presented as a solution by the Tamil National Alliance (TNA). This solution is supported by a majority of Tamil politicians, selected left wing parties and some Civil Society Organizations.

Apart from the opposition by the Sinhala Buddhist majority, the merger of the Northern and Eastern Provinces is opposed by the Muslim minority who reside in the Eastern Province. The Muslim community is the most affected by the power struggles between the majority Sinhalese and the minority Tamils, as they speak Tamil but have a distinct identity based on religion and are scattered throughout the country. The most affected were those who reside in the North and East of the country and monopolize trade in these provinces. In October 1990, the entire Muslim population of 75,000 was evicted from the Northern Districts of Jaffna, Mannar, Millaitivu and Kilinochchi within one day by the LTTE. About 15,000 of such families continued to live in camps in the Puttlam District. At present, their dilemma is whether they should return to their original villages or remain assimilated to their host communities. Muslims in the Eastern Province were subject to similar violent attacks by the LTTE in the 1990s. Consequent to this violence, the Muslim population, retreated to ethnic enclaves in the Eastern Province

with segregated schools, polarized power and representation in parliament on ethnic identity and developed a distinct identity, based on religion and the cultures of the Middle East. The Muslims have opposed the merger of the Northern and Eastern Provinces on the premise that they would be a dual minority nationally and regionally (Samaranayake, 2006: 187-188).

A merger of the North and the East would also result in a scenario of two unitary states within the geographical entity of Sri Lanka. Based on experiences in South Asia, such divided and opposing entities in the country could result in forced outmigration of the Sinhalese, who reside in the North and the East and more than one third of the Tamils who reside outside the Northern and Eastern Provinces will be compelled to migrate to the Northern and Eastern Provinces. This scenario resonates with the experiences of the partition of India and Pakistan (Wilson, 1993: 159). Such divisive solutions would be particularly detrimental in a context where youth led violence groups have staged two insurrections and the issues that gave rise to these conflicts remain unresolved.

An added dimension is that Sri Lanka's geographical proximity to Tamil Nadu, not only poses a challenge to Sri Lanka but would also pose an equally potent challenge to India. Therefore, any constitutional proposal of a federal model, merging the Northern and Eastern Provinces would be an accelerator of another regional conflict than a peaceful settlement. As Marshall Singer argues, one of the tragedies of Sri Lanka is that the Sinhalese have never been able to accept the concept of federalism to them it meant creating a separate country on the island (Singer, 1996: 1148). The main reason is that the conflict in Sri Lanka is beyond a conventional ethnic conflict. According to Edward Azar the conflict in Sri Lanka comes under the category of "protracted social conflict" and such conflict cannot be addressed in the absence of viable economic development and distribution (Azar 1990).

Persistent social inequity due to a lack of broader economic development would be an impetus for youth though only 25% of the population, for either armed conflict or agitation. Peace achieved through the defeat of left-wing and ethnic insurrections have to be converted to economic and social development through strategies that address structural causes of conflict. It is

the contention of the author that the lack of a holistic and bi-partisan approach to understanding the nature of conflict and conflict resolution has resulted in protracted conflict that moves from armed conflict to other less overt forms of conflict.

Conclusion

A vast body of research exists on the ethnic conflict in Sri Lanka and its causal factors. However, very few studies have made a comparative analysis of the left wing insurrections led by Sinhala youth and the separatist violence led by Tamil youth. This article has analyzed the state formation process after independence in Sri Lanka and contends that the conflict in Sri Lanka is a dual conflict, with two manifestations: ethnic and social. Therefore, it falls into the purview of a protracted social conflict. Based on secondary sources and building on the author's own extensive research the article argues, that constitutional changes in the form of political reforms and federalism do not address such deep seated dual conflicts that are defined by both internal and external factors. The polarized politics of ethnic identity, regime changes and shifts of policies and approaches after general elections, confrontational politics and the lack of political maturity have resulted in a concomitant lack of understanding of the process of state formation and how it has created the structural causes of conflict. Such a political environment that is divisive, polarized and myopic is not conducive for bi-partisan dialogue of a political solution, and solutions that are presented are, unviable and inept. Therefore, retaining the current system of government and accelerated economic development that is equitable and inclusive remains the only solution to the existing dual conflict.

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Chapter 04

School Children, Teaching History and Ethnic Conflict: A Normative Examination of Textbooks in Sri Lanka

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Introduction

This paper is about teaching history to school children from year 06 to year 11 in Sri Lanka. It is the secondary level of schooling which is critical in molding citizens. The subject matter was approached from a normative perspective, a key focus of political inquiry. It examined the content of textbooks with a focus on their relevance to nurturing critical perspectives on history enabling students to value difference and diversity not following positivist epistemology. We have adopted a normative stance rather than a scientific focus or policy focus. A scientific focus is confined to explaining what is there while policy focus is concerned with what is possible. We do believe that for a society struggling with ethnic conflicts, the above two approaches are not sufficient. It requires transgressing and providing some thoughts on what ought to be. However, this does not imply that we are totally distancing the study from the scientific focus or policy focus of political studies. Yet, what is implied by a normative approach is that we are holding to the view that teaching history shall be based on objective facts and allow people to find shared history of all the people of Sri Lanka rather than teaching the past as exclusionist history of a particular ethnic group of a multicultural society from the very initiation of Sri Lankan society.

We have selected teaching history texts for school children because they are given free and decided by the state authorities by way of designing the content of the curriculum. The rationale was based on the recognition that teaching history gives substance for ethnic identification, tensions and anxiety in plural societies (Guichard, 2010). The normative approach was chosen on account of education scientists' expectations that teaching history must be oriented towards finding shared history for different groups rather than a particular identity group in a plural society. We hold that 'if any plural society is to enjoy a shared sense of political community across ethnic divides, it shall overcome the colonial logic of public policies and the continuing ethnic categorization after political independence through writing history. Anthropologists in Sri Lanka have pointed out that the recent ethnic conflict in the country of recent manufacture (Tambiah, 1993). The colonial project of writing history led to eulogizing particular ethnic group's culture which is numerically stronger and favoured under the territorial based principles of political representation since the 1930s (Rambukwella, 2012; Nissan and Stirrat, 1990). The ethnic problem had been aggravated by the patron-client networks influencing the sharing of the 'political spoils' in the country.

The role of education and curriculum, though not particularly textbook contents, make minority groups feel threatened by ill-thought-out curriculum policies on language, history, religious instruction and the preparation for a pluralist society, has been long recognized (De Silva, 1986). However, abundant literature on Sri Lankan ethnic conflict has paid little attention to teaching history to school children. This is not to deny both the general concern for revisioning syllabus and contents of text books under the worsening ethnic relations situation and using education for social harmony under the newly established office for National Unity and Reconciliation (ONUR) in 2017 (Rutnam, 2017). Our training in Politics has led us to note a lack of studies on teaching history from a critical normative point of view. It has led us to explore the contents of the textbook lessons in history from year 06 to year 11 of Sri Lanka's school system. This study is comprised of the following sections. The first section of the article elaborates teaching history and its relationship with ethnic groups and conflict/peace. The next section explains the theoretical positionality of authors. It is followed by a

discussion of data and information collection and analysis of the study. After deliberation of the methodological aspects of the study, it ventures into a discussion of the findings of the study while the final section of the study is a normative conclusion and observations on the content of the lesson in the history textbooks.

Teaching History: Peace or Conflict?

Employing education for political purposes is nothing new in the history of political thought (Cunningham & Ladd, 2018). Politicization of curriculum, text book contents for extreme political purposes has been well documented (Paulson, 2015). Further, it is revealed that education could play a divisive role in instigating and perpetuating conflicts through unequal access and quality and a divisive curriculum has demonized the ethnic other in plural societies (Meertens, 2013). The recent scholarship on education has shown a shift among researchers and policy-makers in examining the iterative relationship between conflict and education and how factors such as content, structure, process and delivery of schooling may contribute to further conflict (Davies 2006; Novelli & Cardozo 2008).

In the case of Sri Lanka, the role played by successive governments since the political independence of the country needs to be understood. The political rivalry between the two major political parties needs special attention. Both the United National Party (UNP) (Presently Samagi Janabalavegaya (SJB) and the Sri Lanka Freedom Party (SLFP) (presently, Podujana Peramuna) have had firm roots in the numerical majority Sinhalese while the ethnic minority political parties having their roots in their respective ethnic communities (Wilson 1988). This is important because the government controls much of the publication of educational materials (Cunningham, 2014). In many ways, these textbooks are a means of cultural reproduction and consolidation of a national identity. Though there have been many changes in the curriculum since the 1960s, they all have been introduced without needs assessment but with an eye on furthering political agendas of chauvinist political regimes (Cunningham, 2014). It is also revealed that through numerous, reforms emphasize student-centered and activity-based approaches to pedagogy in

primary education (Little, 2011), teaching remains exam-oriented and teacher-centered and relies heavily on textbooks (Sørensen 2008; Wickrema & Colenso 2003). Educationalists have pointed out that those official interpretations of conflict as presented in history textbooks function to transmit collective values, beliefs, and convictions. Cronon (1992) examines how the valence, source, and nation of historical accounts of the Korean War affected Chinese and American students' beliefs about their shared past, emotions, national self-esteem, and threat perception in the present. Teaching history to produce historical practices and social epistemological changes and instrumentality in producing governing principles moulding children who are to be future generation, tracing ideas backwards and forwards to understand the previous and current historical conjunctures have also been studied (Popkewitz, 2008). The link between construction of identity and the role of teaching history while identifying the role of historical narratives has been studied in relation to different socio-historical settings. Teaching history becomes the glue that binds members of different groups enabling group consciousness and promotion of nationalist agendas (Korostelina 2008; Volkan 1998; Tajfel & Turner 2004).

The scholarship of teaching history has generally acknowledged positive and negative impacts that could be made on citizens of multicultural and multi-ethnic societies. If history teaching is designed to stereo type cultural and ethnic others, it would result in distrust and conflict among different groups in any multicultural society. It also has been recognized that if it is designed to make students informed and critical and reflexive, it would enable to produce citizens that respect others (Seitz, 2004).

From a normative point of view, teaching history may lead to understanding and honoring the multi-perspectival nature of the past and realizing that different groups experiencing the same events differently. It highlights the importance of looking for shared past and shared future destiny than searching for exclusionist narratives of history. The scholars that adopt a normative stance point out that teaching history if dominance oriented would cement divisions and tensions within educational systems paving the way for polar positions among groups about the past contentious

interpretations of history. If that line of approach is adopted by the governing elite of multicultural societies, it would feed a divisive sense of belonging in particular identities which are constructed in opposition to the identity of the relevant 'Others'. The 'us versus them' dichotomy is a key ingredient in different stories told by different parties about the conflict which shapes their versions of reality and produces separate sociocultural entities. This is the kind of history favored by ethnonationalist political entrepreneurs. Catherine Vanner, Spogmai Akseer & Thursica Kovinthan (2016) maintain that the main challenge for sustainable positive peace is that different groups seek to legitimize their own views of the past and the present, through which they affirm their identities and position themselves on a higher moral ground in relation to the 'Other'. As a result of this, people start to diminish the other, while glorifying themselves, which in turn leads to the creation of new tensions between the groups. It no doubt will get complicated and aggravated if a government in a multi-ethnic or multi-culture society favours a particular group through education policies of the state.

Theoretical Position

There are different theoretical positions followed by scholars explaining and advocating solutions to ethnonationalist conflicts throughout the world. To understand the discussion and analysis which is normatively informed in this study, an elaboration of theoretical positionalities of writers of the study is required. This study is a critical reflection of the contents of textbooks used to teach history for school children in Sri Lanka and with a specific focus on whether these text books have been useful in providing a sense of shared history, a common present and destiny as a whole and not as discrete and disaggregated groups in society.

Those explaining ethnic conflict and prescribing solutions have been pre-occupied with accounting for managing ethnic tensions through forms of consociationalism, ethnic accommodation, power sharing and devolution framework (Rampton, 2011: 1). Yet, what is lacking in these accounts is deconstruction of discursive practices in the construction of ethnonationalism by pointing out contradictions contained in the discursive practices themselves.

Rampton (2011) recognizes that one of the key issues with discourses championed by the elite is the inability to account for how agents play an active role in constituting landscapes and political and socio-cultural communities that they inhabit. In this context, we share the Notion of Nira Wickramasinghe (2006) when she states that origins of ideas and events are sometimes less interesting than how they reverberate throughout history; she adopts a different approach to the study of conflicts (Wickramasinghe, 2006: 107). We also share the notion of the New left perspective on the constructivists nature of identities and conflict championed by Benedict Anderson (1998) and Tom Nairn (1981). Nairn has maintained that nationalism could not be reduced to a singular archetype which displays the hidden truth of nationalism in any final sense. It is indeed a protean phenomenon and an autonomous mode of socio-political organization. It cannot be explained through recourse to mechanistic underlying social and politics dynamics (Nairn, 1981: 347). It is maintained that the elite in the peripheral states of the world system articulate a national register that is accessible to the lower orders seeking to propel themselves forward certain goals. Tom Nairn's proposition is helpful in recognizing that native elites do this through a certain kind of regression- by looking inwards, drawing more deeply upon indigenous resources, resurrecting past heroes and folk myths (Nairn, 1981: 348). He recognizes the instrumentality of nationalism for subaltern nations to navigate in the unevenness in global developmental inequalities (Rampton, 2011:5). Nairn recognizes that the elite engage in an instrumental populism out of necessity in both their relation to subaltern classes and in reaction to uneven development of the world system. (Nairn, 1981: 341). A somewhat similar but different approach has been adopted by Anderson in his explanation of the discursive construction of nationalism, by extension ethno-nationalism. The two authors also share and agree to the proposition that print capitalism prompted nationalism as a cultural artefact and as movement of imagining and creation, coupled with top-down dynamics emergent from colonial and postcolonial governmental logic in which society is mapped, enumerated and administered, producing a transformation of the significance of borders, identity categories and social structures and narratives which increasingly take on a nationalist hue (Anderson, 1991:163-185). What is lacking in those explanations

and description of emergence of nationalism and hegemonic formation of nationalist discourses is that they have all been unable to take into account the international dictate of the necessity for a nation with a history to claim statehood for the colonized world and people to claim political independence and become members of the international system under a capitalist world order (Arneil, 1994). This international norm is needed to be situated within the colonial ethnographic exercise if one wants to understand the hegemonic formation of nationalism; by extension majoritarian ethnonationalism in diverse societies such as Sri Lanka. The colonial ethnographers, largely the colonial public servants themselves, found culture, attitudes and norms of the colonized people totally different from that of their own. Largely driven on the necessity of the expedient rule of the colonized and their commitment to the idea of progress, the colonial administration embarked on an exercise of categorization and providing information for the colonial state or colonial statistics. Colonial statistics has dictated that each and every one of the colonized societies needed to be included into a definite category of social groups wherein mixed origin, different cultures, ethnicity and religion etc. was not allowed. However, the historical evidence substantiates that societies in South Asia including Sri Lanka had been accommodative of differences of culture and religions (Obeysekera, 1970). Further, Gananth Obesekera has noticed and observed that the portrayal of the Tamils as the enemy through disgraceful terminologies and distortion has been deliberately initiated with the colonial requirement of doing away with the Kandyan Kingdom by artificially embedding ethnic hatred among the different but fluid identity groups (Obeysekera, 2021). Thus, Colonial statistics and categorization has prevented fluidity of social identities and has contributed to fossilization of ethnic, religious and linguistic identities.

The fossilization of identities has further been strengthened by the norms of the international political system (Arneil, 1994). The International system since the Westphalia Treaty, has been characterized by the precondition to claim statehood in the international system, a homogeneous people was required. Making a people implied a people with a history for the people. Thus, the political elite and the intelligentsia in colonized societies had been tasked with making a nation to claim political independence out of the diverse

communities in the colonial state. The bipolar world order after World War II and the developmental approach prescribed for the new states in the context of balkanization of empires has equated development with nation building and changing the society towards a European type of society and state. In this process, the state and education has gained a critical role in making the national community for the state. The Colonial interpretation of Mahavansa, the chronicle of the Buddhist Order in the country with colonial discovery of archeological sites as proven evidence of existence of history for the Sinhalese Buddhist and resulting ethnic rivalry through community based political representation and power rivalry among the multi-lingual colonial political elite, paved the way for territorial based identity formation through discursive practices among competing elite, based on colonially constructed groups (Ismail, 2000 & Jaganathan, 1995) . Though this study does not follow the positivist tradition of research, it is hypothesized that competing ethno nationalisms has been constructed in the course of the evolution of rivalry among ethnic elites' competition for political spoils.

The literature review found that in the case Sri Lanka, there is no critical assessment of the role of the state and education in shaping attitudes of students who are at the molding stage of citizens of a multi-ethnic and cultural milieu of Sri Lanka. Yet, there are studies on the role played by education in forming identities. For instance, Fine, Weis, Powell and Mun Wong (1997, p. viii) note that education, 'the site for democratic inquiry, heterogeneity, and exposure to and celebration of 'difference', has become a foundational space within which children of differing races, ethnicities, social class, language backgrounds and genders 'learn their place' in the broader culture'. The scholarship on ethnic conflicts and conflict resolution seems to pay little attention to teaching history and their impacts on molding citizens for a multiethnic polity. The two authors of the present study also hold that if properly instrumentalized, teaching history can play a positive role in situations where humanity has been wounded, destroyed, and almost lost, as often happens during rival ethnic competitions. In this context, we hold that the political elite has not been able to explore shared history; imagining an alternative future. The task of teaching history Sri Lanka is ever eyeing for peace and harmony shall be the deconstruction of history and providing

a critical space for children to reflect upon and cultivate values of diversity and difference. In other words, learning to unlearn history which has been fashioned after the colonial implant of people.

Methodology

This study employed the ‘notion of symbolic power’ drawing from Bourdieu. (Bourdieu, 1977: 74). He reveals that the education system reproduces structures of power relations and symbolic relationship between different groups in a society. Through the reproduction of the structure of distribution of cultural capital among these classes. He discusses the traditional way of conceiving the educational system as transmitting traditionally accumulated information from generation to generation while critically looking at the role played by educational institutions in cultural reproduction of power relations. We hold that education in history can be converted towards critical engagement of historical narratives pointing out the contradictions contained in the historical accounts of the past initiated during colonial times and their continuation after the political independence of the country, would help to ease ethnic tensions.

In the above context, we have selected only the text books for history from year 06 to year 11 leading to the General Certificate of Education (Ordinary Level) examination. We have summarized the lessons in the history textbooks with critical reflections if the contents have covered competing and alternative explanations given by critical historians and are helpful in finding a shared history for all the communities of Sri Lanka by allowing students a space to critically reflect on their past, present and future. In the course of our analysis of the content, we have attempted to pinpoint contradictions and what is critically lacking in the content of the lessons.

Significance and Limitations of the Study

There are only a few studies that touch upon the link between histories and school text books largely dominated by government sponsored schooling system in Sri Lanka. Of course, if this study had covered all the text books

from year 6 to year 11, it would have been more meaningful. The time span to complete this research did not enable us to cover all the text books and go for a comparative study. If it had been the case, we could have been able to bring out contradictions among different text books in different subject stream. However, we believe, covering the text books is still enlightening. However, future researchers are warned herewith of the categorically stated limitation of this study if they are making use of our findings and conclusions in their researches.

Findings and Discussion

“The objectives of teaching history are spelled out at the end of the textbook for year 06 under Editors’ Notes. They are spelt out as follows: “the becoming of members of any society is consequent to its historical process. Hence what they enjoy as their culture and they are historical. The root causes of socio- political problems they encounter at present lay in their immediate history history works to give experiences to resolve conflicts. It is one of the reasons that one should study history. It will enable us to understand our social identity, to live together as separate persons and act with others for collective goals”.¹

Accordingly, the broader goal of the text books in history from year 06 year 11 in Sri Lanka is to mould good citizens. Textbooks have included many topics useful to shape attitudes of would-be citizens in the near future. The lessons have covered the evolution of human beings on the planet earth, different civilizations, revolutions, national movements, world wars and detailed discussions from time to time, the evolution of Sri Lankan history from early beginning to the present in a chronological order. Table 1.1 has summarized the contents of history text books from year 06 to year 11 with contents covered in each lesson together with observations made by the authors.

1. *Translated from Sinhala to English by Authors of the present study.*

Table 1.1. Content of Lessons with Observation by Authors

Year	Lesson	Content	Observation
06	1. Introduction to History	Definitions of History, Methods of study, use and measuring time of historical incidences.	We have reflected sudden jumping of the ancient throne of the kings with the Symbol of lion without any link to the explanation of the means of knowing history. The lesson states although events in the past <i>ended, the messages emerged out of them is useful for making the present a better one</i> . In the discussion of knowledge of the past, it has been highlighted that such knowledge will be useful to shape the future and knowledge of history is useful to harmonious living in a multicultural society (p 3)
	2. Old Human	The lesson highlights that the earth is the place for all flora and fauna and hence discussion is centred on the origin of the earth and the origin of different beings.	The lesson is based on the evolutionary process of human settlements and the gradual emergence of civilizations. As explanation of human differences, environmental facts have been brought out but not the politics of forming differences drawing from modern history
	3. Lesson 03: Old Civilizations of the World	It covers different old civilizations of the world after a brief introduction to what civilization is about and their heritage, for the present generations	It is observed that the lesson writers have attempted to keep a distance from their ethnos biases and be value neutral

	<p>4. Human Settlement in Sri Lanka</p>	<p>The lesson is comprised of two sections. The first part is on the early human settlement in Sri Lanka. The second part of the lesson is titled as Arrival of the Prince Vijaya and Human Settlement</p>	<p>It is highlighted that there were no such divisive identities such as Sinhala, Tamil or Muslim at the earlier and pre-historical ages of Sri Lankan history. It concludes such identities originated in Sri Lanka later. Part 11: This part of the lesson on the arrival of Prince Vijaya hides the destiny of those people who already inhabited the country. It also has attempted to link them blindly to the Aryans myth. It states the inhabitants by the time of his arrival, were in a lessor stage of development implying that the prince and his cohorts as more advanced. The writers of the lesson state that with the arrival of Vijaya, the traditions and the customs of the Indian Society spread in Sri Lanka without any concern for the colonial construction of modern India itself. The blind use of terminologies associated with nation state is constant throughout the historical account of people and political system of Sri Lanka</p>
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	<p>5. Fearless Kings of Sri Lanka</p>	<p>It covers five important kings over the territory of then Sri Lanka. The lesson has covered King Pandukabhaya, Devanapiyathissa, Dutugamunu, Valagamba, Vasabha and Dhatusena.</p>	<p>It details the meritorious measures of welfare by those kings. In the case of the narration on Pandukabhaya, the conspiracy of his uncles and public support from various indigenous relatives has not been mentioned though they are well known facts to students of Sri Lankan History. The lesson ends with some advice to the students to be emulated from the characters of those kings.</p> <p>We found the account on King Elara is very brief and we cannot find any reasons for not including him as an important king of the Anuradhapura Era. If the lesson in relation to King Dutugamunu and Elara had been included, information of some Sinhala speakers and Buddhist believers in the Elara Fold and some Tamil speakers and Buddhists in the Fold of Dutugamunu, would have provided a critical realm for the students to reflect upon the present conflict as this is one narration employed by ethnonationalists of both camp to justify their exclusionary state making projects.</p>
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Year 07	Lesson 01: Our Ancient Community Life	Discusses Economic Activities, Commerce and Culture	The section on culture has followed the colonial construction of identity categories. The lesson states that Sri Lanka is a place inhabited by different groups of people but it simplifies the demography of the country by recognizing Sinhalese, Tamils and Muslims as the groups of people in the country. The part that discusses introduction of Buddhism into the country accounts for civilization and good qualities as positive outcomes.
	Lesson 02 Our Famous Kings		
	Lesson 03 Our Cultural Heritage	Tangible and Intangible heritage	Seems to be following a scientific approach to history
	Lesson 04, Late Governing Centres	The lesson covers the shifting of kingdoms from place to place since the collapse of Polonnaruwa in 1215.	The emergence of local bred dynasties has not been sufficiently highlighted.
	Lesson 05 European Civilizations: Greek and Roman	Details the evolution of these civilizations.	Seems to be an impartial discussion

Year 08	Technology and the Arts in Ancient Sri Lanka	The lesson discusses the evolution of various forms of Technology and the Arts	The lesson has discussed the heritage of ancient technology and arts
	Lesson 02 Kandyan Kingdom	It contains details on the last native kingdom of Sri Lanka which includes origin, important kings, economy, society and arts forms	Sait Jothiya was ruling the area under the Kotte kingdom. He has rebelled against his rule indicating the emergence of non- dynasties competing for power. It further substantiates the fact that a nobleman named Senasammatha Vikramabahu becoming the king of the area. The important point to note is the seeking of concubines from Indian Dynasties. The discussion on king Kirthi Sri Rajasinghe revealed that even a Hindu could be the king if he received the blessing of the Buddhist clergy.
	Lesson 03: Renaissance in Europe	The lesson details the intellectual and scientific progress made out of rational thinking during the period from 14 to 16 centuries.	

	Lesson 04: Finding new Territories and the Arrival of Europeans in Asia	The lesson Details the context, reasons for the arrival of Europeans in Asia.	
	Lesson 05: Subjugation of Coastal Territories of Sri Lanka to the Portuguese	The lesson has focussed on the division of the Kotte Kingdom into three the internal struggle between different kingdoms and the relations they had with the Portuguese	
Year 09	Lesson 01 Colonization of Coastal Areas of the Country	Colonization of Coastal areas by the Dutch (Arrival of the Dutch in Asia, Seeking of Dutch Support to expel the Portuguese, Diplomatic and Military Relations with the Kandyan Kingdom, Invasion by Dutch	In discussing, the crowning of Kirthisri Rajasinghe, the brother in laws of Sri Vijaya Rajasinghe, a Nayakkar, sufficient attention has not been paid to highlight, that even an alien could become the king, if he followed the tradition of upholding Buddhist Practices.

	<p>Lesson 02 British Power in Sri Lanka</p>	<p>It has discussed the reasons for the British interest in Sri Lanka. The lesson also has discussed the reason for Kandyan kings to seek the support of the British.</p> <p>The lesson discusses the handing over of Dutch territories. The unbearable tax burden, resulting in rebellion in the coastal territories has been discussed. The consequent dyarchy and issues, of the subjugation of the Kandyan kingdom has also been discussed.</p>	<p>The counting of persons, property etc. for commercial purpose and schooling and introduction of print has been highlighted but without much emphasis on impact on relations among people.</p> <p>In the introduction, it is stated that British made a high impact on its history. The question is whether it is on society or history itself. Is history a living thing?</p> <p>The discussion on the invasion of the Kandyan kingdom and its subjugation has failed to account for shrewd colonial interventions and the chaos in the Kandyan Kingdom. The collaboration of the chieftains and clergy with the colonial powers has not been sufficiently discussed. The cruelty of the chieftains of the Kandyan Areas and the king's kind intervention has not been sufficiently discussed.</p>
	<p>Lesson 03 The Religious and National Revivalist Movement</p>	<p>The Lesson covers the activities of Missionaries, The threat on the cultures of the people of Sri Lanka,</p>	

	Lesson 04: Indian Independence Movement	It covers the European Encounter of India, the Revolt against British Rule, Indian National Congress,	
	Lesson 05: Constitutional Reforms and National Movement in Sri Lanka	The lesson covers various constitutional reforms introduced since 1833 to 1947	The lesson has not critically discussed the failure of Ceylon National Congress
	Lesson 06: Sri Lanka after Independence,	It covers 1947, 1952, 1956, March 1960, July 1960, 1965, First Republican Constitution, Second Republican Constitution and Various Public Policies	However, there is no word on the 1971 Youth Uprising, the 1987-88 youth insurgency or the Tamil Militant Movement.
Year 10	Lesson 01 Sources for studying History	Categorisation of sources, the importance of studying history and the conservation of Archaeological sources are covered	
	Lesson 02 Human Settlements in Ancient Sri Lanka	Proto historical, Pre-historical Settlement, Settlement during the early historical era has been discussed	Seems to be that the discussion is based on the evolutionary theory of human habitation

	Lesson 03 Evolution of Political Power in Sri Lanka	It discusses both Pre-polity and Polity formation with centralized state apparatus	The lesson seems to be written impartially with facts and figures on the formation of socio-economic and political structure
	Lesson 04 Ancient Society in Sri Lanka	It covers the nature of government, Economy, Professions and Culture	The lesson is fair in treating different religions and communities by drawing its attention to the location of the country and commerce and trade of the ancient period.
	Lesson 05 Ancient Science and Technology in Sri Lanka	It covers the primary Stages of scientific ideas, technology of House building, Water Management, measuring time based on the lunar month basis,	It discusses the king centred governance arrangement and attempts to portray the system as fair
	Lesson 06 Ancient Knowledge and Practical Application	It discusses adaptation of the knowledge system and its cultural heritage	Discussion on the status of women seems to be within the present popular notion of women's role in social space. Is it a portrayal of the past from the present perspective?
	Lesson 07: Cities in Dry Zoon and Emergence of New Kingdoms	The lesson covers the process of the shifting of the kingdom from place to place giving reasons	The emergence of Vanniyars, a local ruling elite has not been sufficiently emphasised. The emergence of a new political elite that replaces traditional Royal families has not been emphasized either.

	Lesson 08: Kandyan Kingdom	It covers its emergence and extension with details made by kings.	Neither the conflicts among the elite in the kingdom nor their power thirsty behaviour is sufficiently discussed. The lesson follows the popular path of explaining the Nayakkar Dynasty which was constructed by the English to subjugate in accordance with Obeysekera
	Lesson 09: Renaissance	It covers various aspects and its impact on the Sri Lankan Society	The lesson could have contributed to critical thinking if it had sufficiently discussed the intended and un-intended result of introducing such ideas to the Sri Lanka society
	Lesson 10: Sri Lanka and the Western World	The Lesson covers interactions between the Kandyan Kingdom with the Portuguese and the Dutch together with important figures of the time	
Year 11	Lesson 01; Industrial Revolution	It details the context of the industrial revolution, spread how it from Britain to the rest of Europe, the emergence of class-based politics, positive and negative impacts and its influence on Sri Lanka.	

	Lesson 02 Establishment of British Power in Sri Lanka	The lesson details the following topics The establishment of British power in the country, political locations, profitable spices such as cinnamon, the subjugation of the country and 1818 revolt. The 1948 rebellion and the resulting softening of British policies in Sri Lanka.	The major points that is lacking in the discussion are the impact of colonial policies in the formation of identity groups in the country.
	Lesson 03 The Revival of Nationalism in Sri Lanka	The lesson has divided its discussion into two parts as national and religious revival from 1848-1915 and agitation for political reform from 1915-1948. The discussion on religious revivalism is centred around Missionaries' attempts to spread their religion through propaganda and counter propaganda.	The major issue with the lesson is the eraser of the Eurasian community that contributed to the development of national consciousness.
	Lesson 04: Political Changes under the British Rule	The lesson details the evolution of the political system including milestones of its evolution up to the dominion status in 1948	However, the lesson is silent over why the National Congress was a unable to evolve into a genuine National Organization. Further, the discussion on the political left does not mention anything of the left politics that went beyond ethnic divides.

	Lesson 05: Social Transformation under the British	Has covered economic, social and cultural changes	The discussion on the positive and negative impacts on Sri Lankan society is contradictory. The lesson has dismally failed to bring into notice the good results that were brought with the introduction of the representative principle into the governance process of the country
	Lesson 06: Independence of Sri Lanka	The lesson has covered important incidents of political history up to the 1978 constitution and development policies	Ironically, there is no mention of aggravation of ethnic relations in the country due to short-sighted constitutional and other preventing students to imagine a better future instead of portrayal of Sri Lankan history as past conflict among the different peoples of the country.
	Lesson 07: Important Revolutions of the World	Details the American, French, and Russian Revolutions.	The lessons at the end have attempt to show the emergence of the bi-polar world order and Sri Lanka becoming a country of Non-aligned Movement without providing sufficient background of the evolution of the world order.
	Lesson 08: World Wars and Agreements	The lesson has discussed the world Wars the first, second and the resulting attempts at preventing such occurrence in the future.	Though it seems to be an objective discussion, it has failed to discuss the problems associated with nationalism in essentially multi-cultural societies that emerged out of the very nationalism of the world order framed.

Source: Compiled by authors

The research found that in writing history in relation to events and incidents that do not involve Sri Lanka, scientific approach has been followed. However, the lessons related to Sri Lankan politics, the jargon associated with modern nation state and nationalism juxtaposed has simplified the history of a nation with multiple identity groups. This is particularly interesting in the context of colonial statistical exercises of colonially constructed identity construction. We observed that there were many instances of having fluid identities in the pre-colonial days. Yet, the textbooks used in teaching history had not deviated from the colonial construction of identities while authors have been in pain to depict kings of mixed breeding to portray as purely Sinhalese.

It was found that lessons included many examples of intermixing of dynasties of different languages and faiths. The only lesson that did not follow that footpath has been the lesson on kingship and government formation during the Anuradhapura era in the year 10 textbook. However, it was noted that though there were different arrangements to accommodate differences and diversity before the superimposition of colonial state craft/graft has not been sufficiently highlighted. Thus, it was observed the students were not given a chance to reflect upon who are making use of the historical accounts in the lessons. The two researchers are of the point of view, if it had been done, it would have enabled students to critically reflect in problems of modern practice of nationalism and ethnic nationalism.

What we found in the history lessons is the rich sources of evidence of the existence of a shared past of different communities. Yet, the lessons have failed to touch those aspects enabling students to critically reflect on the present conflict from historically informed perspective. If lesson writers had been able to find some other perspective to look at history beyond the modern nationalist terminologies, it would have facilitated imagining an alternative Sri Lankan identity. If such an approach was adopted, the rich evidence scattered here and there in the lessons themselves could be used to nurture the shared pride of being Sri Lankan and an alternative future.

It is quite clear that the lessons in text books followed a narrative approach to explain history. This narrative approach aimed to produce a story connecting the past, present, and the future. It is revealed that the story telling tune of the lessons aimed at portraying unitary state from old times despite ample evidence to prove ancient political arrangement has been a decentralized and rule centric loyalty system. The lessons themselves contain information of decentralized forms of government before the colonial encounter of the country by chieftains who were known as kings particularly since the Dambadeniya kingdom. There is evidence revealing struggles between different dynasties, sometimes of alien marking starting with prince Vijaya and continued up to the last king of the Kandyan Kingdom and the local native elite.

It was found that the lessons never attempted at alternative interpretations given by historians. For instance, there existed an interpretation of the power struggle in Sri Lanka among competing dynasties rather than ethnic groups (See: Gunawardene, 1990). In fact, every ethnic group conflict were outcomes of colonial public policies. The narratives about past events do not have a closure, their structure is cyclical and they are always connected to a history writing pattern that has been shaped after colonial state craft with a present conditions and future orientations. The lessons on the evolution of the Sri Lankan society, clearly follow a format of telling stories to students with a clear beginning, middle and end connected linearly to the modern form of state, using terminologies associated with modern nation state. It was Sinhalese and Buddhist Centric despite facts of the mixing of dynasties of the Sinhalese and other stocks either on the maternal or the paternal side. It has been attempted to present them as solely unmixed (See. Year six and Seven Text Books). The rationale may be a result of following state sponsorship which carries out a discursive practice of the modern nation state largely dictated by the requirement of nationhood to claim statehood under international politics. It is held that stories create and give expression to personal and group identity by encoding a body of shared knowledge to which persons are intellectually and emotionally committed. There is in the stories a mixture of master structural discourses which include discourses of victimhood, aggression, domination, and unity on the one hand, and personal stories on the other. One can easily

find recurrence of these themes produced by the colonial state graft and the Sinhalese elite formed discourses within history text books. The lessons have closely adopted the colonial construction of communities and power pursuit by different ethnic political entrepreneurs continues even to date.

Stories and discourses can be distinguished. Stories can be recognized from the discourses because they describe an action that begins, continues over a well-defined period of time, and finally draws to a definite close. They become meaningful because of their placement within the narrative. Completed action gives a story its unity and allows us to evaluate and judge an act by its results. Such stories lead one to perceive an identity threat the presence of opposite meaning systems that have at their core the idea of a positive, morally pure and superior 'us' and evil, vicious and negative 'them' (Rothbart & Korostelina 2006). It can be observed that evolution of the Sri Lankan society is presented as a conflict between invaders, most from South India making the Dravidian Stock of People as evil "them" while presenting kings who had fought against them as pure Sinhalese rulers. Lesson writers seem to be at pains in representing those kings as purely Sinhalese. It may be connected with the requirement of the modern international system to become a nation to claim political independence cum inability to envision the alternative shared history and polity that could accommodate diversity and difference. It can be related to the idea of writing memories grafted into cultural memory by colonial public policy which is characterized by sharp distinctions like who we are and who we are not imposed by the political authorities that decide policies on education.

It was found that there were lessons contents aiming to educate students on contemporary history including development policies regimes, evolution of the constitutional system and the modern representative system. However, it is noticeable that they lack contemporary events like youth unrest in the South or the North of the country and the ethnic wars that cost enormously. It can be argued it is a result of a rupture between the school and the community. If the discourse had included such events, it could have resulted in enabling them to examine who they are in relation to the broader culture of Sri Lanka and imagine a better future for all instead of silencing and preventing them from growing such critical perspectives.

Conclusion

Following Bourdieu, (1973) and Luke (1988), this situation of the textbooks can be related not to writers of the lessons but to the modern logic of nation building. In our analysis we found that the themes of the history text books have failed to present a true description of the history of Sri Lanka and have not been able to create space for the students to critically reflect upon the present and the future drawing upon accurate accounts of the past. We have theoretically situated ourselves as the political elite that control the eyes of the state apparatus to communicate politically correct versions of the past, carving values, national identity and acceptable norms that are aimed at creating followers or loyal citizens. The lessons have not been able to create space red recent important historical incidence such as the ethnic war and youth unrest. We are at pains to understand as to why these have been ignored and forgotten. This may be related to the nation building project under the international system based on the nation state system. The nation state project requires a homogeneous society to functions properly. Electoral competition among political elites of different ethnic groups may lead to constructions of histories according to their power objectives. The Sinhala Sri Lankan Political elite who are numerically superior in terms of strength may find it beneficial to construct exclusionist history of the Sinhalese community because it is Sinhalese political leadership that could control the entire state sponsored education system. They might have found textbooks to be a means to that end. Text books are main sources of the official historical narrative. Political elites often very adamantly control education as a tool for shaping public opinion and international status. Textbooks have become not only a question of national identity and pride, but also a source of controversy that plagues the international arena. In the above context, under the free education policy, history writing remains an enterprise of crafting collective memories that have emerged out of elite competition in a particular political demography which has got a numerically superior ethnic group which is essentially a colonial construction. The situation becomes difficult to handle when lessening proselytized identities constructed by colonial policies were ardently embraced by the political leadership which resorts to majoritarian representative democracy. We normatively conclude that if one approaches

the past from the perspective of collective memory as social and cultural practices, it would not enable students to reflect on their past, present and future from a critical perspective. The contents of the lessons, particularly lessons related to Sri Lankan political history seem to be framed in and around imagined unitary state notions though the reality is something else. Thus, we normatively propose that the lessons in the text books be reoriented; they have to be rewritten to portray the shared past of the different communities and show the possibility of having and imagining a shared future which will enable the community to have effective attachments to civic political institutions while allowing the differences to be the norms of social interactions as was the case in pre-colonial Sri Lanka.

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Chapter 05

Vistas of Prosperity and Splendour? A Critical Analysis of Sri Lanka's Challenges Implementing SDG16

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Introduction

The United Nations 2030 Agenda for Sustainable Development (2030 Agenda) boldly aspires to eradicate global poverty, fight inequalities, address climate change and promote peaceful and inclusive societies through the multipronged approach of achieving 17 integrated goals and 169 targets covering social, economic, and ecological issues the world faces today. It provides a guide for nation-states based on universal principles of human rights, aiming to achieve sustainable development (Mezzanotti and Griffiths, 2020). Since the adoption of the 2030 Agenda in 2015 (and the subsequent implementation of the 2030 Agenda through the Sustainable Development Act No. 19 of 2017 that came into effect in October 2017 (Transparency International, 2018: 2)), Sri Lanka has been engaged in the international framework to promote Sustainable Development Goals (SDGs). However, the draft UN Sustainable Development Framework (2022) stresses that the unprecedented challenges posed by the economic crisis in Sri Lanka can “reverse the progress” which has been made toward SDGs in Sri Lanka (UN Sustainable Development Framework for Sri Lanka 2023-2027, 2022: 6). Sri Lanka ranks at 76th place out of 163 countries with stagnating progress in terms of achieving SDG 16 (Sustainable Development Report, 2022),

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which is geared to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective accountable and inclusive institutions at all levels” (United Nations, 2022). The targets of SDG 16 steer three specific themes: a) peace, premiering the promotion of peaceful and inclusive societies; b) justice, in terms of ensuring access to justice for all; and c) inclusion, in terms of creating accountable and inclusive institutions at all levels (UNDP, Oslo Governance Centre, 2022).

This study seeks to problematize, through a critical approach, contrasting meanings in current discourses related to the implementation of SDG 16,² particularly targets 16.3, 16.6, and 16.10, which are critical for the discussion of the present economic and political crisis in Sri Lanka, particularly due to the emphasis of SDG 16 on inclusive justice, accountable institutions and the protection of fundamental freedoms - three contentious issues arising from the Sri Lankan case. Thus, this article explores Sri Lanka’s delicate balancing act between achieving targets within SDG 16 and its internal challenges related to the current economic and political crisis. Rooted in critical discourse studies, it explores the influence of power relations on the realisation (or lack thereof) of targets within SDG 16 at the national level.

Inspired by Fairclough’s approach to discourse analysis, this article aims to observe power dynamics within the nation-state and focuses on the analysis of discourses presented within the key policy documents pioneered by the Rajapaksa regime in 2019 and assesses them in connection to Sri Lanka’s commitment to SDGs. Accordingly, this study raises two questions: (1) to what extent the recent changes in public policy discourses have subverted attempts to achieve SDG 16 in Sri Lanka, and; (2) how does the discourse reveal the way power relations influence the realisation of SDG 16

2. Through this paper, the authors do not attempt to advocate for the 2030 Agenda and the SDGs as the panacea for the institutional and structural challenges ahead of the present Sri Lankan crisis. The authors recognize and identify the critique against the SDGs, particularly the issue of mainstreaming development alternatives instead of upholding alternatives to development and rendering human rights discourse as goals, which may have various negative implications. This study dwells on the SDGs-led approach of successive governments to understand and outline the actions of the government (or lack thereof) towards realizing its international human rights obligations - the bare-minimum standard in the context of realizing basic human rights pursuant to SDGs.

at the national level. The article is divided into two parts: the first presents the legal commitment of Sri Lanka to International Human Rights Law, the SDGs, and SDG 16; the second focuses on Fairclough's main theoretical foundations and the data analysis. Thereafter, a joint analysis of the texts is proposed, considering the texts' perceived underlying circumstances and the reality intended from the discourse. This method allows the identification of ways by which the texts belong to a specific context of the international order and seek to influence this context through the actions they propose (Mezzanotti, 2020).

The Implementation of Human Rights and the Sustainable Development Goals in Sri Lanka

Domestic Application of International Human Rights Law and SDG 16 in Sri Lanka

Sri Lanka acceded to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) on the 11th of June 1980. However, with regard to the question of the domestic application of international human rights law, the relationship between treaty law and domestic law has proved to be a complex one. Such complexity arises out of "political factors" rather than "doctrinal constraints" (Udagama, 2015: 144). Importantly, the Constitution of Sri Lanka (1978) does not provide explicit reference to the relationship on the reception of international treaty law into domestic law. Further, a *lacunae* exists in the realm of statutory law concerning the reception of international treaty law. In this context, Cooray (1995: 237-238) underlines the requirement of enabling legislation in transferring domestic legal validity to treaty law, a significant characteristic of a dualist legal system. Referring to the implementation of International Human Rights Law in Sri Lanka, Udagama (2015: 109) outlines several provisions in the Constitution of Sri Lanka which provide vague indications on the status of international treaties in domestic jurisprudence. Among such provisions, Article 154 G (11) of the Constitution of Sri Lanka, which devolves the legislative powers of the government to provincial

councils, remains significant³. The Article stipulates that the Parliament is the only body that can enact legislation “in respect of any matter set out in the Provincial Council List for implementing any treaty, agreement or convention with any other country or countries or any decisions made at an international conference, association or other body”. Further, Article 157⁴ of the Constitution (1978) recognizes that, if the two-thirds majority of the Parliament approves any treaty or an agreement between the government of Sri Lanka and a foreign government in relation to the “promotion and protection of investments in Sri Lanka...as being essential for the development of the national economy”, such a treaty will have force in the Sri Lankan law. Interestingly, no executive or administrative action can be taken to contravene the provisions of such a treaty or an agreement, unless it is in the interests of “national security”. This complexity concerning the reception of international human rights law within the domestic legal system is further evident within the judicial practice. In *Singarasa v Attorney General* (2006), a controversial judgment that recognized the need for enabling legislation for the ICCPR to be domestically applicable in Sri Lanka, a five-judge bench of the Supreme Court identified Sri Lanka as a dualist legal system. Whilst this paper does not intend to dwell on the problematic implications of the judgment, its role in providing conclusive remarks on the dualist doctrine cannot be ignored. However, the formal legal position which has recognized the principles of dualism and the limits posited by the requirement of enabling legislation has also progressively declared international human rights law and environmental

3. Article 154 G (11): “Notwithstanding anything in paragraph (3) of this Article, Parliament may make laws, otherwise than in accordance with the procedure set out in that paragraph, in respect of any matter set out in the Provincial Council List for implementing any treaty, agreement or convention with any other country or countries or any decisions made at an international conference, association, or other body”.
4. Article 157: “Where Parliament by resolution passed by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour, approves as being essential for the development of the national economy, any Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State for the promotion and protection of the investments in Sri Lanka of such foreign State, its nationals, or of corporations, companies and other associations incorporated or constituted under its laws, such Treaty or Agreement shall have the force of law in Sri Lanka and otherwise than in the interests of national security no written law shall be enacted or made, and no executive or administrative action shall be taken, in contravention of the provisions of such Treaty or Agreement”.

treaties as ‘soft law’ instruments in interpreting domestic law (Udagama, 2015 : 94). This is evident in cases such as *Bulankulama v Secretary, Ministry of Industrial Development* (2000) and *Weerawansa v Attorney General* (2000).

Sri Lanka’s dualist position has important consequences on the implementation of SDGs in the country. The 2030 Agenda has overwhelming implications for the realisation and protection of human rights globally, with the SDGs being relevant to rightsholders everywhere (Mezzanotti and Griffiths, 2020). The link between human rights and goals is especially evident in SDG 16. The goal embodies a range of civil and political rights, with the goal’s 12 targets addressing issues ranging from reducing violence, corruption, and bribery, to ensuring rule of law and legal identity for all (United Nations, 2022).

The SDGs were adopted by the 193-member states of the UN in 2015, where 169 targets were set out to create tangible goals for national planning and policy processes in each member state. Member states are also involved in voluntary follow-up and review mechanisms, particularly in reporting national progress in relation to the SDGs. As such, each state identifies various indicators, localized to suit the country’s context in terms of measuring the progress of each target and goal in the 2030 agenda. The High-Level Political Forum on Sustainable Development (HLPF) is the key mechanism that engages in the follow-up and review mechanisms for the 2030 agenda (United Nations, 2022). The targets spelled out under SDG 16, include a broad range of legal, political, and institutional reforms setting out to achieve peace, justice, and strong institutions (United Nations, 2022). The rationale underlying goal 16 is the need to ensure freedom from fear for all people irrespective of their social standing (United Nations, 2022). As such, SDG 16 requires multiple stakeholders ranging from governments, civil society organizations as well as communities to work in collaboration to ensure the achievement of the targets underlying SDG 16. The targets set out under SDG 16 are also not mutually exclusive from each other. On the contrary, it is apparent that each target comprises an indispensable link with each other in envisioning the nuances of building peaceful societies. According to the Thematic Review of SDG 16 at the HLPF in 2019, peace, justice, and strong

institutions were outlined as the enablers of the entire 2030 Agenda (High-Level Political Forum on Sustainable Development, 2019). The progress or lack thereof achieved, in terms of SDG 16, is measured by 12 global targets associated with 24 indicators that have been agreed upon by States in the UN Statistical Commission.

National Policies and the Commitment of Sri Lanka to SDGs

National Policies

Since the adoption of the SDGs, there have been two key documents that have influenced the national policy framework of Sri Lanka. In 2015, the coalition government headed by President Maithreepala Sirisena introduced the government's vision for national policy titled, "Vision 2025: A Country Enriched" (Vision 2025) which is premised on creating a "knowledge-based, highly competitive, social-market economy" (Vision 2025, 2015: 11). The document highlights an eight-year strategic plan to achieve various targets including driving Sri Lanka's economic growth to achieve the "upper-middle income" bracket by 2025 (Vision 2025, 2015: 13). The strategy for achieving growth is comprehensively outlined in the document, where the approach includes liberalising trade and investment, increasing foreign direct investment, and increasing national exports (European Institute for Asian Studies, 2017). With the defeat of the coalition government headed by President Maithreepala Sirisena in the 2015 Presidential election, a new face emerged within the national policy trajectory, which was significantly different from "Vision 2025". The national policy framework introduced by the Gotabhaya Rajapaksa regime in 2019 was titled, "Vistas of Prosperity and Splendour", which is aimed at achieving four specific goals namely, "a productive citizenry, a contented family, a disciplined and just society, and a prosperous nation" (Vistas of Prosperity and Splendour, 2019: 2). National security is explicitly placed as the priority of the policy framework with ten key policies outlined as the framework for governance, including policies such as "an administration free from corruption", "new Constitution that fulfils the

People’s wishes”, “people centric economic development”, “disciplined, law abiding and values-based society” (Vistas of Prosperity and Splendour, 2019 : 2-3).⁵

National Responses to Implementing SDG 16

With the adoption of the 2030 Agenda, the Sustainable Development Act No. 19 of 2017 was enacted in Sri Lanka. The Act established the Sustainable Development Council Sri Lanka⁶ (SDCSL), which was entrusted with the responsibilities of “coordination, facilitation, monitoring, evaluation and reporting” of the SDGs implementation in the country (Sustainable Development Council Sri Lanka, 2022). Further, in line with the national commitment to fulfil the reporting of progress made towards achieving SDGs, the State has conducted two Volunteer National Reviews (VNR) in the past years. The VNRs are state-led voluntary reviews of the progress in relation to the achievement of the SDGs and should be analysed in that context. In the case of Sri Lanka, the periods of the two VNRs remain critical since the regimes in power during the two VNRs are significantly distinct, and as seen in the preceding section of this paper, they were operating within two different policy frameworks and national visions.

The Volunteer National Review in 2018 (VNR 2018)

The *Yahapalanaya* regime (Sri Lanka’s National Unity Government)⁷, which was in power from 2015-2019 was a coalition government that fostered a development policy framework named “Vision 2025: A Country Enriched”. The policy framework reflected key tenets of sustainable development and

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5. The ten key policies are: Priority to National Security; Friendly, Non-aligned, Foreign Policy; An Administration free from corruption; New Constitution that fulfills the People’s wishes; Productive Citizenry and a vibrant Human resource; People Centric Economic Development; Technology Based Society; Development of Physical Resources; Sustainable Environmental Management; Disciplined, Law Abiding and values based society. See more in pp. 2-3
 6. Section 10 of the Act stipulates the powers, functions and duties of the council.
 7. The *Yahapalanaya* regime came to power in 2015 pioneering the promise of championing “good governance” in the country. The *Yahapalanaya* regime was a coalition government, which arose as an opposition faction to the preceding authoritarian regime (led by Mahinda Rajapaksa) that was in power since 2005.

the SDGs. In line with the country's commitment to the 2030 Agenda, Sri Lanka expressed its interest in presenting the first VNR at the HLPF in 2017, and subsequently, the review was submitted in July 2018. Then, the State had taken several vital steps to prioritize the achievement of SDGs in various public sectors, in addition to the implementation of the Sustainable Development Act. One key feature was the establishment of the Parliamentary Select Committee on the United Nations 2030 Agenda for Sustainable Development (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 14). In addition, a specific ministry and a subject minister were allocated for Sustainable Development as well (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 14). The VNR Process was a multi-stakeholder approach undertaken per the United Nations Secretary General's Guidelines for the preparation of VNRs. The purpose was to "appraise the status of SDG implementation" in the country, whilst "creating awareness and ownership" of the SDGs (Ministry of Sustainable Development, Wildlife and Regional Development, 2018: 16-17).

The Volunteer National Review in 2022 (VNR 2022)

The second VNR was concluded in 2022, taking into account the critical conditions that had unfolded since the conclusion of the first VNR (Sustainable Development Council Sri Lanka, 2022). The report refers to the economic downturn stemming from the effects of the 2019 Easter attacks, the Covid-19 pandemic since 2020, and the current debt crisis in Sri Lanka (Sustainable Development Council Sri Lanka, 2022: 18). The report presents ten key policy measures undertaken by the State in progressing SDGs, particularly highlighting the integration of SDGs in national policies under the national policy framework titled "Vistas of Prosperity and Splendour". These include policies aimed at reaching outcomes such as poverty reduction, developing a healthy population, ensuring education for all, and building a clean environment. Further, the report outlines the government's role in Drafting a National Policy and Strategy on Sustainable Development (NPSSD) in terms of Section 11 of the Sustainable Development Act No. 19 of 2017. The NPSSD is aimed at localizing and contextualizing the SDGs across all levels of governance, with specific strategic interventions aligning with

SDGs. However, the NPSSD remains at a draft level at present. The report also outlines the role of the SDCSL in developing an “Agency Framework for SDG Indicators” which assigns specific institutional responsibilities to curate SDG data within the Sri Lankan public sector. Further, to ensure the mainstreaming of SDGs within the public service delivery, a Presidential Circular was introduced in 2019, where a dedicated officer was appointed to every public institution, tasked with preparing public service delivery strategies with the guidance of SDCSL.

The United Nations Sustainable Development Cooperation Framework

Apart from the VNRs, the United Nations Sustainable Development Cooperation Framework for Sri Lanka (Cooperation Framework) also provides critical insights into the commitment and progress of the country in achieving SDGs from a different standpoint, given that the Cooperation framework is “mutually owned” and is jointly led by the Ministry of Finance through the National Planning Department and the UN Resident Coordinator (United Nations Sri Lanka, 2022: 6). The mutually owned character of the framework distinguishes it from the VNRs and renders it a vital instrument to understand the UN’s outlook on the strategic priorities for the country in the given period, including the issues underlying specific SDGs. Since 2015, the Cooperation Framework has had two stages: the Framework for 2018-2022⁸ (United Nations in Sri Lanka, 2017: 10) and the draft Framework for 2023-2027⁹ (United Nations Sri Lanka, 2022: 7), which also reflects the regime change in 2019 and its resulting policy implications. Evidently, both frameworks emphasize the vitality of building strong institutions oriented towards progressing peaceful societies. The draft 2023-2027 framework

8. The Cooperation Framework for 2018-2022 enclosed four key strategic “drivers” which included: 1) improved data, knowledge management, and evidence-based policy; 2) strengthened innovative public institutions and engagement towards a lasting peace; 3) human security and socio-economic resilience; and 4) enhancing resilience to climate change and disasters and strengthening environmental management.
9. The draft Cooperation Framework for 2023-2027 iterates four strategic priorities as well. It outlines that the four strategic priorities require accelerated actions to recover from the economic crisis and the impact of the global pandemic. These strategic priorities are: 1) inclusive and equitable human development and wellbeing; 2) resilient and green recovery and growth for shared prosperity and environmental sustainability; 3) social cohesion and inclusive governance and justice; and 4) gender equality.

specifically highlights the need for inclusive governance and justice (United Nations Sri Lanka, 2022: 14). It highlights the central nature of SDG 16 in terms of achieving other SDGs and notes that in the context of Sri Lanka, the legacy of the prolonged ethnic conflict requires attention specifically in advancing SDG 16 (United Nations Sri Lanka, 2022: 14).

Given the ambit of the present study, this paper will critically analyse the findings and insights presented in the aforementioned national policy documents and reports to primarily assess the commitment to SDG 16 (or lack thereof) of the Sri Lanka State, taking into consideration the existing empirical contradictions within the SDG 16 official discourse.

Analysis

Critical Discourse Analysis as a Theoretical Lens

Norman Fairclough's conception of CDA seeks to define the playing field of discourse in the social sphere and, at the same time, describe the process under which the analysis takes place. CDA's main hypothesis is that common sense assumptions are implicit in linguistic conventions and usually not subject to conscious awareness. Therefore, common sense forms the basis of discourse almost in an automatic way, frequently without conscious intention by the individual delivering a discourse. Fairclough (1989: 2) considers that such assumptions are the place of identification of the ideological aspects of a given discourse. And since we live in a linguistic epoch, the exercise of power happens through the linguistic exercise of ideology.

CDA conceives discourse as social action and that the social conditions in which a discourse is given have two main influences over discourse: they determine the properties of a given discourse and the processes to produce and interpret discourses. Such processes are formatted by and within social conditions, therefore constituting social conventions. There is a social determination in every discourse and, concomitantly, a discursive determination in society (Fairclough, 1989). The process for critically assessing discourse includes the text, the production, and the interpretation processes (Fairclough, 1989: 24).

Critical discourse analysis involves the assessment of different discursive instances: description, interpretation, and explanation of discourse. Description involves the formal properties of the text and the identification and categorization of its terms. Interpretation is a cognitive process that conceives text as the result of production and as a resource of interpretation itself. Explanation analyses the transitory social events and the more durable social structures that format and are formatted by discourse (Fairclough, 1989 : 26).

Fairclough has drawn upon Foucault's notion of "orders of discourse", which are the subjacent social conditions that determine discourse. Foucault's assumption is that social actions are formatted by social conventions and that discourse, as a social action, is subject to this same constriction (Foucault, 2002 : 90). This constriction appears in the common sense "hidden" assumptions of discourse, which-according to Fairclough (1989)-are expressions of ideology. Discourse is, therefore, manifestation of power and political statements that determine the discursive nature of social and political changes. It is important to highlight that, for both Fairclough and Foucault, discourse both shapes and is shaped by the social order. And the idea that discourse is a manifestation of the linguistic determination of power, one shall conceive power not just in its negative connotation (oppression, exclusion, censorship, abstraction, etc.), but also in its constitutional, commissive nature (power also produces domains of objects and rituals of truth) (Foucault, 1973: 194).

The intrinsic nature of the orders of discourse is that they are formatted and constituted by relations of power. The field of forces that shape discourse is made of power relations that are intrinsic to discourse itself. The object of CDA is, therefore, the exploration of the linguistic conventions as products of relations of power and/or power struggles. Discourse is assumed to both incorporate and proceed from forms of power. And its main goal is to sustain or acquire structures of power (Fairclough, 1989).

For Fairclough, power is exercised in and through discourse. Power in discourse is exercised under a different form of restrictions imposed by the power holder: *a*) on the content of what is said and done; *b*) on the types of social relationships that can be developed through discourse; *c*) on the

positions that people are allowed to hold. These restrictions operate specific effects on people's beliefs and knowledge. Power through discourse is exercised by: *a*) standardization of discourse; *b*) limitation of the access to discourse (meaning the imposition of limitations of access to specific orders of discourse) (Fairclough, 1989: 77).

Such limitations (in and through discourse) serve ideological means. Ideology will be more effective when it is less visible, especially when it seeks to legitimize unequal relations of power. In these cases, ideology is hidden in discourse, seeking to contextualize discourse based on a particular worldview in such a way as to constrict the interpretation of discourse, causing the interpreter to feel mandated to reproduce that ideology (Fairclough, 1989, p. 85). Here, Fairclough transitions from the notion of "common sense" as the ideological hidden assumptions of discourse to the notion of hegemony in discourse. For the author, hegemony is domination in the spheres of economics, politics, and ideology. As a concept, hegemony allows for the accommodation of these three aspects in the linguistic and discursive disputes of politics and power. Hegemony is unstable by nature and linked to social action, therefore it has to be assessed based on its social effects (Fairclough, 1995: 77).

The ideological dimensions of the hegemonic struggle are contextualized and assessed by CDA at the level of the orders of discourse, which constitute the ideological-discursive facet of the contradictory and unstable environment of the hegemonic struggle. In other words, the orders of discourse are as complex, heterogeneous, and contradictory as the ideological complex. The discursive practice is, therefore, social action that is used as a tool for the hegemonic struggle, seeking to either reproduce or transform existing relations of power and social structures (Fairclough, 1995: 77).

The critical nature of Fairclough's theory manifests in the following circumstances: *a*) it considers that ideology may dissociate from its social foundations and become "naturalized", perceived as belonging to the nature of things and people as opposed to representations of interests of specific social groups; *b*) these ideologies (or naturalized practices) may be perceived as factors of social order; *c*) this sense of order may impregnate social events

with such effectiveness that even micro events and local practices become dependent on the bigger, widespread hegemonic ideology (Fairclough, 1995 : 82).

In Gramscian theory – which was also a source for Fairclough’s work - cultural hegemony is used to maintain dominance, using ideology to reinforce the status quo (Gramsci, 2000). The ruling classes of the State can do so through coercion and consent. Coercion involves using force to make less powerful classes accept its rule. Through consent, hegemony becomes apparent with the use of ideals and values to persuade subordinate classes of the legitimacy of dominant rule – hegemony is therefore used to maintain consent to the capitalist order. Thus, the strategic use of discourse can have practical implications for a society, as limiting of social discourse by hegemonic influence allows dominant forces to influence society, and can exclude minority discourses (Fairclough, 2010).

CDA’s methodological aspects include different steps for the assessment, each of which is fulfilled by answering specific questions. The 3 different steps of CDA are: text description, interpretation and formation. Text description addresses the experiential values of the word choices in a given text, aiming at identifying how the choice of words rely on or try to create specific social relations between the different subjects of the given discourse. Text interpretation assumes that ideology and hegemonic struggle are necessarily integrated with discourse. It seeks therefore to identify the context in which the text is given and how this context influences the interpretation of the text by the participants. Finally, text explanation closes the CDA loop: it seeks to identify the ideological assumptions of the text in an intentional way. As mentioned above, the ideological-hegemonic conceptions of discourse are usually reproduced automatically and non-intentionally by participants of discursive practice. CDA seeks to avoid this automatic process by forcing the interpreter to intentionally extract and analyse those assumptions. Usually, when discourse is a product of a struggle for power, the ideological-hegemonic hidden assumptions of discourse relate to the past, as it assumes that the subject of discourse holds power as a result of such struggles. When discourse is perceived as belonging to (an ongoing) power

struggle, the ideological-hegemonic hidden assumptions of discourse relate to the future, assuming an association with the intended consequences of the current power struggle. Text explanation will, therefore, seek to identify which social determinant factors (relations of power) format the discourse, which ideologies are embedded in the discourse, and how discourse is played *vis a vis* current struggles for power (whether discourse seeks to keep or change current power structures) (Fairclough, 1989).

Inspired by CDA, this study aims at 1) at the text description level, to identify the gaps between SDGs and the internal official Sri Lankan policy statements; 2) at the interpretation level, to outline the context in which the official country's discourse has been stipulated, assessing whether discourse aims at promoting SDG implementation; 3) at explanation level, to provide a gap analysis of the prevailing ideological status in the country and its potential for alignment with SDGs, specifically SDG's 16 targets 16.3, 16.6, and 16.10. Considering the nature of this study, an integrated analysis is presented.

Discourse Analysis

The Rise of Authoritarianism and the Economic and Political Crisis

The present economic and political crisis in Sri Lanka stems from deeper-rooted systematic factors and has posited grave concerns for the protection of human rights and fundamental freedoms of the people in the country. Evidently, it has also posited grave concerns in terms of realizing SDGs and in fact, as outlined above, threatens to reverse the progress made toward achieving SDGs in Sri Lanka (United Nations Sri Lanka, 2022: 6). In April 2022, Sri Lanka declared a state of insolvency and later entered into negotiations with the International Monetary Fund (IMF) for macroeconomic stabilization and debt restructuring (Cassim, 2022). By the 1st of September 2022, the IMF and the Sri Lankan government had reached a staff-level agreement on an extended fund facility to support Sri Lankan economic policies in the following 48 months (IMF Communications Department, 2022).

Experts representing the United Nations Office of the High Commissioner for Human Rights (UN OHCHR), in a statement, iterated that the economic and political crisis perpetuate direct threats to the full enjoyment of human rights in the country, including the freedom of assembly and expression (UN OHCHR, 2022). This is particularly because the economic crisis ensued with severe shortages of essential amenities such as food, medicine, cooking gas, and fuel, followed by long queues to acquire such basic amenities, which consequently resulted in several deaths (Daily News, 2022). *Aragalaya*, translated into English as the “struggle of the people”, is the mass protest movement in Sri Lanka, which unfolded in March 2022 as a result of the escalating frustrations towards the regime in power, particularly owing to the regime’s contribution to the economic crisis (Singh, 2022). The *Aragalaya* was instrumental in evicting President Gotabhaya Rajapaksa on the 9th of July 2022, marking an arguably watershed moment of people’s sovereignty in Sri Lankan history (Samararatne, 2022).

Whilst the reasons underlying the economic crisis are attributed to various factors, including (however not limited to) long-term fiscal and debt sustainability issues (Hoskins, 2022), the Easter attacks, and the Covid-19 pandemic; scholarly work evinces that the reasons underlying the economic crisis remain deeper-rooted in political, economic and institutional factors (Balamayuran, 2022). According to Balamayuran (2022), the economic crisis is often misleadingly attributed to a foreign exchange deficit caused by various factors, whereas the reality reveals disparate complexities arising out of “bad business”; “bad management” and “bad luck” (Balamayuran, 2022). “Bad business” involved the government repeatedly entering into detrimental international business relationships. “Bad management” constituted policymakers’ unwillingness to prioritize economic efficiency over political gains and patronage and “bad luck” involved the economic strains exerted by the Easter Sunday attacks in 2019 and the global pandemic in 2020, all of which contributed to the economic crisis. For Singh (2022) authoritarian populism was a critical factor that triggered the economic crisis in Sri Lanka. Singh notes,

“...the making of the current economic crisis is not hinged on short-term triggers alone, but also in the pitfalls of authoritarian populism marked by unfettered powers to executive presidency and nepotism and corruption that followed from it” (2022).

Singh’s analysis sheds light on the authoritarian political model ushered by the Rajapaksa regime which resulted in the centralization of Executive power, a key determinant in creating a governance system where policymakers marshalled unquestioned decisions. According to Devapriya (2022), the orthodox view on the causes of the Sri Lankan economic crisis attributed to the ill-conceived policy decisions made by the Rajapaksa regime in terms of fiscal and monetary policy of the country, which arguably exacerbated the underlying structural economic issues in the country (Devapriya, 2022). The assessments presented by Balamayuran, Singh, and Devapriya are critical to understanding the deeper-rooted political and institutional facets underlying the economic-political crisis in Sri Lanka, particularly the issue of policy decisions made at the hands of unfettered power. It also signals the contradictions present within the State’s official discourse concerning SDG 16 (targets 16.3, 16.6, and 16.10), particularly in the context of the centralization of power and rising authoritarianism. The developments within the internal Sri Lankan institutional structure and the unfolding of the present economic and political crisis suggest that the regime change in 2019, with the ascendancy of President Rajapaksa posited clear implications for the realization of SDGs, especially SDG 16.

The Policy Transition and the Weakening of Institutions

The policy programs “Vision 2025” and “Vistas of Prosperity and Splendour” notes an apparent formal commitment to human rights, ‘sustainable’ economic development, institutional reforms, and several other initiatives toward an overall recovery of the country. The same applies to the creation of a Sustainable Development Council, which was mandated with the task to support SDG implementation in the country. From a formal perspective, the policy documents and the reports suggest that the Sri Lankan State is committed to its international obligations, particularly

regarding its participation in international human rights mechanisms and the implementation of SDGs. The country has acceded to major human rights covenants including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and is also engaged in the domestic processes of implementing SDGs.

In line with its policy program “Vision 2025” and the commitment to progress SDG 16.3, the government of Sri Lanka introduced several vital reforms to promote the rule of law and strengthen independent institutions, particularly in April 2015. As such, the government enacted the Nineteenth Amendment to the Constitution (2015) which was principally rooted in depoliticizing the governance system of the country. As such, one of the strongest elements of the Amendment was the creation of the Constitutional Council (Article 41A) as well as the restoration of independent commissions administering human rights, the public service, the judiciary, elections, and the Police (Article 41B). The Constitutional Council played a prominent role in curtailing the powers of the Executive Presidency, particularly in making political appointments to key public institutions. The Constitutional Council’s role was two-fold: recommending presidential appointments to the independent commissions, and approving presidential appointments to the Superior Courts of the Judiciary. In any case, if the president fails to make the appointments through the recommendations made by the council within 14 days, the appointments are deemed to have been made through the operation of the law (Article 41A (6)).

Along with such robust institutional reforms, a new commission on Audit and Procurement was also introduced (Article 153A). The Bribery and Corruption Commission was strengthened by providing it with a Constitutional standing. National Human Rights Commission gaining the ‘A grade’ accreditation by the Global Alliance of National Human Rights Commissions (GANRI), “is a clear testimony of enhanced institutional capacity that has helped improved the rule of law in the country” (Ministry of Sustainable Development, Wildlife and Regional Development, 2018, p. 99), which is considered as progress made towards realizing SDG 16 targets.

Similarly, the introduction of the freedom of information to the fundamental rights chapter of the Constitution is outlined as a landmark step forward in achieving SDG 16.10 during this time period (Ministry of Sustainable Development, Wildlife and Regional Development, 2018, p. 101). Freedom of information, thus, has been strengthened as a justiciable right. The Government also enacted two critical legislations falling under the ambit of SDG 16: The Right to Information (RTI) Act, No. 12 of 2016, and the Office on Mission Persons (OMP) Act, No. 9 of 2017. Progressing towards target 16.10, the RTI Act promotes a culture of transparency and accountability within the public institutions of Sri Lanka. The OMP was established to promote reconciliation and ensure reparations for the victims of the long-term armed conflict that prevailed in the country.

Despite the aforementioned promising initiatives, more recent changes in the country's institutions have undermined democracy and the rule of law which are two fundamental tenants of SDG 16. The Twentieth Amendment to the Sri Lankan Constitution (2020) has promoted a change in the legal and political landscape, drastically hindering the capacity of the political and legal systems to provide for checks and balances, setting the President free from previous obligations and limitations enforced by the Nineteenth Amendment. The Twentieth Amendment, enacted in 2020 under the auspices of the Gotabhaya Rajapaksa regime, replaced the Constitutional Council with the "Parliamentary Council". The Parliamentary council was formulated with a sole composition of parliamentary members. It was not empowered to make binding recommendations as the Constitutional Council, but rather was provided with the powers to make "observations" to the president, which were not binding. As such, evidently, the Parliamentary council was a serious setback against the independent institutions in Sri Lanka. The Twentieth Amendment also bolstered the Presidential powers. The minimum age of eligibility was reduced and the disqualification of dual citizens running for the presidency was removed. It also repealed the previous duties of the president to ensure that the constitution is respected and upheld. In addition, the duty to promote national reconciliation and integration was also removed. The President also embodied the ability to remove the Prime Minister at any given time. In addition, the President was allowed to hold ministerial portfolios

without any limitations. The Presidential immunity was expanded to the extent where the President will not be subjected to any proceedings in any court or tribunal. Further, the Twentieth Amendment abolished the National Procurement as well as the National Audit Commission, two independent institutions previously established to strengthen institutional accountability to the public.

The aforementioned developments consequently posed a threat to Judicial independence as well. Under the Twentieth Amendment, the President is vested with the powers of making appointments of the higher courts in the judiciary at the President's own discretion. The President also possesses the discretionary power to make appointments to the judicial services commission. According to the International Commission of Jurists, the Amendment served primarily to increase the powers of the President and encroach on the powers of the Judiciary as well as the Parliament (International Commission of Jurists, 2020). The UN Special Rapporteur on Independence of Judges and the UN Special Rapporteur on Truth and Justice has reiterated the adverse impact posed by the Twentieth Amendment on the independence of the Judiciary, the separation of powers as well as the independence of institutions, a regressive set-back against the previous institutional reforms (UN OHCHR, 2021).

At a mere text-level, comparison between the progress made towards realising SDG 16 and the expected corresponding internal Constitutional system of Sri Lanka reveals that Sri Lanka has shifted from a position of "formally well placed" for the implementation of SDG 16 to one of "unfit for purpose". At the interpretation level, it is relevant to assess the rising of the twentieth amendment to the constitution, as that represents the shift and denotes the prevailing "orders of discourse". The twentieth amendment was approved by a majority in Parliament despite formal complaints and counter-movements by a considerable number of minorities and representatives of specific areas of society (such as political parties and civil society organizations ranging from the Janatha Vimukthi Peramuna (JVP), the Tamil National Association (TNA), Buddhist and Catholic clergies, the Sri Lanka Audit Services Association, etc.). Even a Committee appointed by Prime Minister Rajapakse issued a report with some criticism towards some of

the clauses from the amendments. The Supreme Court was also provoked by at least 39 different petitions and opined that four of the original clauses in the Amendment were inconsistent with the Constitution, and required an additional referendum (Centre for Policy Alternatives, 2021).

The UN statement titled “Sri Lanka: Experts dismayed by regressive steps call for renewed UN scrutiny and efforts to ensure accountability” (UN OHCHR, 2021) highlights specific concerns regarding the government’s commitments in relation to advancing SDGs. One key issue highlighted in the statement is the threat posed to independent institutions and the rule of law, key tenants formulating SDG 16. The concerns ranged from the threat to the independence of key public institutions such as the Human Rights Commission and the Judiciary to the issue of increasing militarization in Sri Lanka. One key implication of weakening institutions is reflected in the regressing space for fundamental freedoms ranging from freedom of expression, peaceful assembly, and the freedom of association. The UN Statement in 2021 brings to attention key concerns regarding the increased militarization and the restrictions against freedom of expression, peaceful assembly, and association within the national legislations and governance (UN OHCHR, 2021). This includes the continued presence of the Prevention of Terrorism Act No. 48 of 1979, a draconian law used to arrest and detain any individual under the guise of terrorism. The UN also cites the warnings of the Special Rapporteur on the rights to peaceful assembly and association on state surveillance and scrutiny of civil society organisations including human rights defenders (UN OHCHR, 2022). Against the backdrop of the recent protests, the UN OHCHR (2022) called for restraint, especially in policing the peaceful assembly of protestors who were dissenting against the prevailing regime. Further, the Office of the High Commissioner for Human Rights iterated several key aspects fundamental to upholding the rule of law in the country, especially fundamental for SDG 16. This includes the scrutiny against the use of the military in policing activities and the vitality of ensuring journalists and human rights defenders monitor and report the crisis in Sri Lanka.

The Ideological Shift and the Contradictions Revealed through the Discourses of the Policies

In the analysis of the national policy documents and the VNRs in the context of the legal and institutional reforms and related empirical developments in Sri Lanka, it is apparent that the implementation of human rights in general and of SDG 16, in particular, depend on the existence and maintenance, with a certain hegemonic predominance, of specific social structures that allow for a certain behaviour by the State, the ordinary people and those holding power positions within society. Such apparatus was clearly being established through the execution of the changes provided in the Nineteenth amendment to the Constitution, although however, the Twentieth amendment evidently reverted the process. President Gotabhaya, representing the Sri Lanka Podujana Peramuna (SLPP), was elected as the Executive President of Sri Lanka in October 2019 by an overwhelming majority of the population, marking an unambiguous ideological shift within the legal and policy trajectory in Sri Lanka, which reversed several progressive reforms made towards the furthering of human rights commitments and SDG 16 in Sri Lanka.

The political, as well as ideological circumstances that prevailed in the country at the time of the election, are significant to understand the drastic ideological shift reverting the institutional process foregrounded by the Nineteenth Amendment. The Presidential election took place in the aftermath of the Easter attacks in April 2019 (United Nations, 2019)¹⁰ and was grounded in Sinhala-Buddhist Ethno-nationalist aspirations (Vistas of Prosperity and Splendour, 2019, p.68) as well as a strong mandate to establish and strengthen the national security of the country (Vistas of Prosperity and Splendour, 2019, p.2). President Rajapakse's election manifesto, "Vistas of Prosperity and Splendour", had promised to introduce a new constitution (Vistas of Prosperity and Splendour, 2019: 3) and also remarked on the abolishment of the Nineteenth Amendment to the Constitution Vistas of

10. The Easter attacks in Sri Lanka were a series of terror attacks which targetted Christians who gathered in Churches and Hotels to celebrate Easter on the 21st of April 2019. See more about the UN statement on the attacks (United Nations, 2019).

Prosperity and Splendour, 2019: 9). As previously stipulated, the policy prescription promoted by President Rajapakse's election prioritised four goals "a productive citizenry, a contented family, a disciplined and just society, and a prosperous nation" (Vistas of Prosperity and Splendour, 2019: 2), whilst national security is explicitly placed as the priority of the policy framework. In that ideological context, the regime promised a "new Constitution that fulfils the People's wishes", "people centric economic development", "disciplined, law abiding and values-based society" (Vistas of Prosperity and Splendour, 2019: 2-3)¹¹. In August 2020, when the SLPP won the Parliamentary elections with a 2/3rd majority in Parliament, the context of the election was peculiar at best.

As analysed by Welikala (2020), the Parliament stood dissolved for over five months due to the Covid-19 pandemic, and the elections were eventually held on the 5th of August 2020. Whilst there are legal issues pertaining to the dissolution of the Parliament, this paper will not dwell extensively into that discussion. However, given the ambit of this paper, it is essential to analyse the implications of the election, disposition, and the ideological shift that took place in the Parliament. It is also imperative to underpin that the pandemic had reinforced the "case for strong Presidentialism" (Welikala, 2020). Against the backdrop of the pandemic, the government's response to unprecedented challenges was a national security-centered approach (Peiris, 2021: 64), where extraordinary powers were exhibited by the Executive in appointing various "Presidential Task Forces" (Centre for Policy Alternatives, 2020), composed of military and ex-military members to deliver public goods (UN Special Rapporteurs Statement, 2020). According to the UN Special Rapporteurs statement (2020),

11. The ten key policies are: Priority to National Security; Friendly, Non-aligned, Foreign Policy; An Administration free from corruption; New Constitution that fulfils the People's wishes; Productive Citizenry and a vibrant Human resource; People Centric Economic Development; Technology Based Society; Development of Physical Resources; Sustainable Environmental Management; Disciplined, Law Abiding and values based society.

“[I]n particular, the new administration has continued to bring non-military agencies under the Ministry of Defense and has appointed at least 28 retired and active military officials, including persons accused of committing serious human rights violations, in senior civil administrative positions and as part of a series of “Presidential Task Forces” established in the absence of Parliament in June 2020.”

The Task Forces were only answerable to the President and showcased the serious dearth of the regime’s public accountability (Centre for Policy Alternatives, 2020). President Rajapakse, in the inaugural session of the newly elected parliament, reiterated the priority for the abolishment of the Nineteenth Amendment to the Constitution in his statement of Government policy (Aljazeera, 2020). With 145 seats in Parliament, the SLPP secured an unprecedented majority, pertinent to achieve the aspired Constitutional reforms (Welikala, 2020). This ideological transition is considered a “democratic backsliding” by scholars such as Welikala. As Welikala (2020) observes, the reforms pioneered by the Nineteenth Amendment had empowered public institutions to counter the unprecedented powers of the presidential system, which were a hindrance to a regime geared to bolster the Executive presidency. In other words, the new shift of ideology was to centralize governance to further national security and economic efficiency, at the expense of fundamental freedoms, depoliticized public institutions, and accountable governance (Welikala, 2020).

The content of SDG 16 requires that democratic institutions operate within society in collaboration with the purpose of implementing enduring peace, justice, and inclusion. Strikingly, the VNR 2022 simply omits – or fails to address – the changes that the Twentieth Amendment generated in the centralization of unfettered political power at the hands of the Executive Presidency in Sri Lanka. What seems to have been an intentional omission in the official discourse has been flagged by the aforementioned UN’s statements on Sri Lanka (UN OHCHR, 2022), particularly in the context of the Twentieth Amendment’s direct implication on achieving SDG 16, which involves: militarization, over-concentration of power in the Executive branch, the dearth of power and independence of other legal institutions, the threat

to the rule of law, limitations posited against the exercise of fundamental freedoms (such as freedom of expression and peaceful assembly), the misuse of existing security legislations to arbitrary arrest activists, human rights defenders and individuals opposing the government in breach of due process of law, etc.

Thus, the assessment of the prevailing hegemonic power in Sri Lanka finds resonance in the challenging political discourse shaped by the Twentieth amendment to the Constitution, which has remodelled the foundations of an otherwise pre-existing democratic structure for a State struggling to make it right. It is apparent that the Twentieth Amendment promoted a quasi-constitutional dictatorship, and a bolstered presidential system subordinating the Parliament for the primary purpose of promoting authoritarian populism. However, in the official discourse, for instance, the reporting within the 2022 VNR, the omission of the empirical reality concerning the implications of the Twentieth Amendment to the Constitution is revealing of how the debate is no longer about if or when SDG 16 (or more broadly SDGs) development and implementation may occur in Sri Lanka, but about why it is obvious that within the current state of affairs, human rights and fundamental freedoms are not a political priority of the existing regime. Whilst the draft UN Sustainable Development Cooperation Framework for Sri Lanka 2023-2027 (United Nations Sri Lanka, 2022: 6) has flagged the implications of the economic crisis as a threat to reverse progress made towards achieving SDGs in the country, our analysis of policy documents in the context of empirical developments reveal far critical drawbacks in the path of progress towards SDGs, especially stemming to the dearth of political independence and rule of law within the public institutional framework. Although the UN Sustainable Development Cooperation Framework for Sri Lanka does not explicitly specify the implications of the heavy centralization of power by recent constitutional reforms, the fact that it highlights “inclusive governance and justice” as a strategic priority for the country from 2023-2027 (United Nations Sri Lanka, 2022: 7-9), is indicative of the challenges ahead of progressing SDG 16.3, 16.6, and 16.10 targets in Sri Lanka.

Conclusion

Inspired by Fairclough's approach to critical discourse analysis, this study has engaged in an analysis of discourses presented within the key policy documents pioneered by the Rajapaksa regime in 2019 in connection to Sri Lanka's commitment to SDG 16. The reporting and omissions present within the policy discourses were revealing of the subversion of SDG 16 in the country. The ideological shift exhibited by the reforms made in the governance structures signal the authoritarian political model that had risen in Sri Lanka in the aftermath of the Rajapaksa government that came into power in 2019. However, the official discourse of the 2022 VNR of the government of Sri Lanka at the HLPF omits, intentionally, the drastic reforms made to the constitutional architecture of the country, particularly the implications of the Twentieth Amendment and other quasi-constitutional exercises of power by the Executive President, for instance by executing functions of the governance via ad-hoc military structures, showcases the threats posed by the authoritarian model of governance towards realizing human rights in general and SDG 16 in particular.

Sri Lanka's National Unity Government or the *Yahapalanaya* Regime represented efforts to build democratic institutions and solid governance through democratic reforms during the period 2015-2019. One shall consider, though, that the *Yahapalanaya* Regime had also been preceded by authoritarianism, *i.e.* the former Mahinda Rajapaksa regime (2005-2010). The participation of civil society in the process of democratic reforms was key to challenging the then-prevailing perception that the Mahinda Rajapaksa regime was too popular and powerful to be defeated. The statements from the VNR 2018 reflect the ideological precepts from the *Yahapalanaya* Regime and the efforts towards an SDG-friendly ideological frame within the country. At the time, it seems that the prevailing order of discourse and the discourse from VNR 2018 was apparently a match, in the sense that the text sought to outline the regime's policies and aims. However, the *Yahapalanaya* regime lost momentum due to political infighting within the coalition, delays in the implementation of new policies, and a lack of a clear roadmap for the government to further implement the desired governance structures. These

are the main factors that led to the erosion of the regime. Consequently, the door was open to the return of authoritarianism, which culminated with the rise to power of the Gotabhaya Rajapaksa regime.

The circumstances of the rise of the Gotabhaya Rajapaksa regime were crucial for the present analysis. The country was in a post-armed conflict period when it faced the unprecedented Easter attacks, which paved the way for a regime associated with Sinhala-Buddhist Ethno-nationalist aspirations. The fear for their lives and of what the future could look like haunted the civil population, who, in turn, shifted their views back to a familiar political view: a more authoritarian standpoint anchored in “national security” and “economic efficiency”. The Rajapaksa regime, with the auspices of a strong electorate, therefore, concentrated power on the Executive branch, diluting power and ability to influence other institutional government branches and offices.

The present analysis of shifts of power and ideological hegemony in Sri Lanka considers the *Yahapalanaya* Regime as an exception in the history of the country, as it is both preceded and succeeded by authoritarianism and concentration of power in the Executive Presidency. The *Yahapalanaya* Regime and its commitments to SDGs, human rights, good governance, and democratization represent a struggle for power in discourse and in practice. Such struggle is not over yet, as one can see from recent events in the country, especially in the context of the *Aragalaya*. However, the ideology represented in the *Yahapalanaya* regime has not achieved hegemonic status, as it was overruled by authoritarianism again, which was even backed up by the political figures of the *Yahapalanaya* Regime *i.e.* the then Prime Minister and present President, Ranil Wickremesinghe, who is currently at the helm of the state anchoring the volatility of the Gotabhaya Rajapaksa regime). In Gramscian terms, it looks like the hegemonic struggles within Sri Lanka are still boiling and the ideological battles are yet to culminate in some sort of predominant viewpoint. Until then, coercion (through fear, authoritarianism, and state apparatus) may still take place. But it is not yet until a certain level of democratic consensus is reached that Sri Lanka will have developed adequate conditions to implement SDGs and reinforce human rights.

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Chapter 06

Walking the Tightrope: Sri Lankan Women's Rights NGOs between Universalism and Relativism

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Introduction

This paper is an attempt to understand how Non-Governmental Organizations (NGOs) working on women's rights in Sri Lanka negotiate between the universal framework of such rights and the particular realities of women that complicate this understanding. During the war torn past of the island, though women's rights organizations worked tirelessly for their cause across the country, the rights discourse was, justifiably, preoccupied with rights of a more fundamental nature concerning the physical security of persons in a situation of war. The post-war situation, however, has opened up greater space for the discussion on women's rights to be centered in the rights discourse, particularly given the disproportionate impact of the war on women who were left behind following the demise of their male relatives as a result of the war. More than a decade following the end of armed hostilities, many NGOs (and other organizations) have stepped in to help return lives to normalcy, and women constitute an integral part of their strategies. In other parts of the country too, the absence of war has meant that more attention can now be devoted to more subtle forms of rights violations against women, and women's organizations are using this opportunity to mobilise on the issue more than in the past. In all these theatres, however, a perennial question is whether these mandates are actually reflective of the problems of the women

they seek to serve, and whether their strategies are context-sensitive enough to be effective.

In this paper, we wish to delve deep into these questions within a framework of critical reflection on fundamentals such as the ultimate purpose of feminist activism, i.e. preserving and promoting women's agency, and the degree of contingent variation possible on it before it may be considered a commodification of this core purpose. To do so, we first review relevant literature on the question of women's agency in which we primarily anchor our analysis. Next, we discuss the normative standpoints and strategies of a few selected women's organizations in Sri Lanka, followed by an appraisal of the extent to which they invoke universal rights norms in the particular realities of women they seek to serve. We conclude with some observations, and clarify our stance on the issue, flowing from the discussion.

Methods and Methodology

A qualitative approach was employed in this study that is best suited to understand how NGOs in Sri Lanka work on women's rights, negotiating between the Universalist conception of them and the local milieu/context. To this end, representatives of five NGOs were approached based on our prior connections working in the sector. Having an already close connection with the respondents greatly helped the cause of the study, as interviews were relaxed conversations in which the respondents freely explored their stances on a range of issues, without reservation. However, we could not afford the luxury of in-person interviews due to the ongoing COVID-19 pandemic and the challenges it presents to close contact situations. Accordingly, we altered our study design to replace the traditional face-to-face qualitative data collection process with a 'socially distant' method facilitated via videoconferencing platforms and phone calls, depending on the requirements of the respondent.

Gaining informed consent from respondents is widely regarded as central to ethical research practice. Obtaining consent will prevent personal integrity violations and safeguard the freedom and self-determination of the respective participants of the study (NESH, 2016). According to Israel

& Hay (2006), informed consent implies two related activities: participants need first to comprehend and second to agree voluntarily to the nature of the research and their role within it. In line with this, we obtained verbal consent from all respondents for expert interviews. The respondents were contacted beforehand either over email or phone, and appropriately informed of the research objectives, list of key questions, and issues that the study touches on, in order to give them the time to think and prepare in this regard. Secondary data also took a significant place in this study. They were collected from a multitude of sources including books, previous research works and reports, and journal articles among other things.

A Conceptual Approach

Human rights are those rights that every human being possesses and is entitled to enjoy simply by virtue of being human. It is on this basis that women are entitled to enjoy human rights and fundamental freedom. The global commitment to equal human rights for women has progressed rapidly during the last 50 years with the drafting of international and regional human rights conventions and the emergence of the women's movement (Symonidas, 2020). Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and values of the United Nations (UN) as well. The UN pays particular attention to women's rights, in accordance with the Charter's provisions on equality. The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights that articulates fundamental rights and freedom for all humans without distinction of any kind, including sex and gender. Following the UDHR, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966 explicitly affirmed the obligation of state parties to ensure the equal rights of men and women to enjoy all civil, political, social, and economic rights outlined in the two Covenants.

The UN Commission on the Status of Women established in 1946, has been instrumental in initiating and developing foundational normative frameworks on women's human rights (Jones & Manjoo, 2019). The UN

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Declaration on the Elimination of Violence Against Women (DEVAW) owe their existence to the work of this Commission. The CEDAW is often described as an international bill of rights for women (Charvet & Kaczynska-Nay, 2010). As a gender-specific instrument, it acknowledges the shortcomings of other human rights regimes (Hellum & Aasen, 2013). According to the CEDAW, women must be accorded equal rights to those of men and be able to enjoy all their rights in practice. Article 2 of the CEDAW urges member states to respect their core obligations and requires states to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women. Campbell & Swenson (2016: 135) note that CEDAW could also play a transformative role in domestic jurisprudence on gender equality. Under the Convention, a CEDAW Committee was established to oversee its implementation by state parties. The Committee makes recommendations on any issue affecting women to which it believes the states parties should devote more attention.

Women tend to be particularly vulnerable in post-war contexts, experiencing issues related to gender-based violence, economic insecurity (stemming from the death of the breadwinner or general resource depletion due to war), and stigmatization (if they are survivors of the ‘losing side’). The United Nations Security Council Resolution 1323 aims to undo women’s gendered insecurities and it stresses the importance of promoting women’s participation in post-war decision making. The UN Security Council Resolution 1889 on Women and Peace and Security further emphasizes the importance of women’s inclusion in all stages of the post-conflict process. The resolution notes that women are increasingly underrepresented in post-conflict processes due to stigmatization and gendered insecurities. The adoption of General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations by the CEDAW Committee has strengthened and applied the CEDAW Convention to a diverse range of settings affected by political crisis and conflict (Swaine & O’Rourke, 2015).

Women’s participation in politics and public life is vital for their voices to be heard and perspectives to be counted in the drafting of policies, regulations,

and laws that protect and promote their rights. General Recommendation No. 23 on Political and Public Life adopted by the Committee recommends that state parties ensure equality between women and men in the right to vote, eligibility to run for elections, and hold public office at all levels of government. It also recommends ensuring equal participation in policy formulation and implementation, and participation in non-governmental organizations and associations concerned with public and political life (CEDAW, 1997).

The preamble of the Declaration on the Elimination of Violence against Women (DEVAW) states that violence against women is rooted in the historically unequal relations of power between women and men. As such, the adoption of the DEVAW was considered a seminal development in addressing violence against women. It is also viewed as a 'normative force' that influences international standards concerning violence against women (Charvet & Kaczynska-Nay, 2008). The preamble to the DEVAW recognizes that effective implementation of CEDAW would contribute to the elimination of violence against women. Truly peaceful societies not only have an absence of violent conflict, but also adopt measures to promote effective social inclusion and integration of women and men. Meeting international human rights standards and the realization of everyone's rights may contribute to the creation of a human rights culture.

In spite of their admitted merit, the Universalist assumptions underpinning the above framework – and in fact all purportedly 'global' human rights instruments – have been widely attacked for that very reason (see, in this regard, the work of Tibi, 1990; Onuma, 1999; Lindolht 1997; Weeramantry, 1997; Constantinides, 2000; Brown, 2007). This critique, and the key response to it, is known as 'cultural relativism', or the approach that regards Human Rights as only having meaning relative to the culture in which a person lives, and that 'Universalism' is an attempt of the West to hegemonize the global moral order. Criticisms of this latter approach have been made, on the grounds that cultural relativism "seems to be guilty of logical contradiction. If human rights are based in human nature, on the simple fact that one is a human being, and if human nature is universal, then how can human rights be relative in any fundamental way?" (Donnelly, 1984: 403).

However, the universal-relative dichotomy tends to de-center the issue of women's agency in the debate by focusing largely on unhelpful binaries such as 'Western-other' and 'individual-group'. These have the propensity to quickly degenerate into culture wars that portray women as either singularly victimized by certain cultural settings or very, very empowered by certain others. This "false and disabling dichotomy between notions of victimization and agency in feminist theory and practice" (Schneider, 1995: 389) obstructs the possibility of a more expansive understanding of 'agency' that is neither liberal (in the sense of privileging the notion of a completely autonomous individual making the choices that she wants), nor communitarian (in the sense of leaving choice-making capacity so contingent to contextual dynamics it loses its meaning).

'Agency' is, admittedly, a tricky word. The politics surrounding it immediately positions it in the liberal-individualist camp, inherently and in stark opposition to the communitarian project. These first impressions effectively ensure oversights regarding agency that may exist *within* a largely communitarian setting, much the same way that agency may not quite be present in a so-called liberal-individualist setting. Consider, in this regard, the following quote by Badran (2006, as cited in Zimmerman, 2014: 149) on what the implications of Islamic feminism should be in different cultural settings: "... there is no line between East and West with respect to Islamic feminism as it is an inter-Islamic phenomenon developed by Muslims throughout the world, which promotes both gender equality and social justice in the East and more pluralistic societies in the West with equal rights for all, whatever ethnicity, religion, or gender."

Various scholars have suggested alternative ways of viewing agency by re-conceptualising it through the use of intersectionality as a framework (Crenshaw, 1991; Salem, 2013). In this vein, they propose focusing on the lived realities of women in order to understand the complex and multiple ways in which agency can manifest even in seemingly 'hopeless' situations. In this exercise, understanding their gender not as a standalone category, but rather as one that is simultaneously intertwined with other markers of identity such as race, class, and regionality (among other things) will enable

one to understand different conceptions of limits, oppression, and freedom. As Nivedita Menon puts it, "... feminism requires us to recognise that 'women' is neither a stable nor a homogeneous category. This question of the entanglement of 'gender' with other identities arises in a variety of contexts globally..." (2012: 149).

For instance, as Schneider (1995) argues, the actions of women who have "mobilized their resources to keep themselves and their children alive, and ultimately acted to protect themselves" (388) in an abusive partnership have not traditionally registered with lawyers and judges as acts of agency. Rather, this sort of action is usually framed in a narrative of victimhood that does little to help us understand her conscious choices as a mother covertly negotiating the difficult circumstances in the interest of the safety of her children. This struggle against prevailing conditions in order to secure a better state of affairs, we submit, qualifies as an instance of reclaiming agency in however restricted a sense.

Of course, this by no means implies that women should continue to endure in these situations, negotiating the difficult realities on a regular basis and never exiting. However, our endeavour here is to bring to attention that there are actions short of 'exit' that are equally constitutive of agency, when understood in a nuanced way that is more in line with the lived experiences of women. This conversation is important for the purpose of awakening a political consciousness among women regarding their relative disadvantage as a sex category. To this end, it is necessary to acknowledge the specific experiences of disadvantage that women face *on the basis of* their sex that would be useful to highlight the underlying structural reality of patriarchy cutting across all contextual variations (Educards, 1994, emphasis added).

Educards explains how emphasizing the relative over and above the universal might come at the cost of women's rights issues being relegated to the private sphere, and therefore being regarded as essentially apolitical. "[I]n order to challenge the sexual power structure, women must transcend the established political order by acting together, according to their common (but class- and context-differentiated) experiences as women. Operationalized, this

notion of patriarchy means focusing on how women (do not) organize and act in specific contexts” (184). Given the flat, blind ‘arrogance’ of the Universalist project, and the very dangerous ‘anything goes’ tendency of its alternative relativist project, neither “will grant women agency as a collectivity” (ibid). Therefore, discerning patterns of oppression across multiple experiences will both “enable us to see our lives in the context of the lives of other women ... [and] will create opportunities for us to engage in effective agency against our circumstances of oppression because we can achieve more if we act together than if we act as individuals” (Isaacs, 2014: 154).

This is indeed a very fine balance to negotiate. Mobilizing women on the common basis of gender, while also engaging with the rich detail of their lived experience without falling into the trap of the Universal-relative dichotomy requires keeping the point in sight. Arundhati Roy draws our attention to this problem in the following quote:

The battles, as usual, have been played out on women’s bodies, extruding Botox at one end and burkas at the other. (And then there are those who suffer the double whammy, Botox *and* the burka.) When, as happened recently in France, an attempt is made to coerce women out of the burka rather than creating a situation in which a woman can choose what she wishes to do, it’s not about liberating her but about unclothing her. It becomes an act of humiliation and cultural imperialism. Coercing a woman out of her burka is as bad as coercing her into one. It’s not about the burka. It’s about the coercion. (2014: 37)

Taking our cue from the discussion above, we hope to attempt at transcending the Universal-relative dichotomy in the rights discourse which fails to speak to the real issue at stake here, that of women’s agency. As Abu-Lughod (2002) opines, “a more productive approach ... [would be to] contribute to making the world ... a place where there is the peace necessary for discussions, debates, and transformations to occur within communities” (789). In other words, a world where the necessary structural conditions are

present to re-visit questions of agency and oppression without having the discussion spiral into a culture war, so that reclaiming agency would constitute a common pursuit rather than the project of a dominant some. Abu-Lughod's appeal to using "a more egalitarian language of alliances, coalitions, and solidarity, instead of salvation" (ibid) when engaging in this exercise may be a helpful starting point to eschew the damaging binaries here.

In the light of these reflections, we wish to thematically organize our study around the issue of women's agency, and interrogate how a purely Universal or relativistic understanding of rights can obscure-or even compromise this central point. In order to more specifically anchor what we mean as 'agency' in this context, we draw on Paulo Freire, who in his *Pedagogy of the Oppressed* famously states that:

The oppressed must-see examples of the vulnerability of the oppressor so that a contrary conviction can begin to grow within them ... As long as the oppressed remain unaware of the causes of their condition, they fatalistically "accept" their exploitation. Further, they are apt to react in a passive and alienated manner when confronted with the necessity to struggle for their freedom and self-affirmation. Little by little, however, they tend to try out forms of rebellious action (2005: 64).

This, Freire argues, will give rise to a 'critical consciousness' that will in turn enable women and men to humanize more fully. The vulnerability of the oppressor (the patriarchal order and the men and women who partake in it knowingly or otherwise, in this instance) according to Freire can be found in their articulation of this critical consciousness as "anarchic" and one that "may lead to disorder". In doing so, a "fear of freedom" is instilled in the oppressed, and they are then found being ever so thankful for the oppressive order in which they live, because they think it gives them security (35).

Drawing on this conception, we understand 'agency' as any conscious action on the part of the actor, made within limitations she is conscious of, and

is ready to bear the responsibility of the consequences for. It is crucial for us that these conscious actions seek to, in some way, alter the conditions within which they take place, such that they are able to experience the potential of their humanness more fully. These conscious actions, while admittedly very contingent upon their context, will also, over time highlight certain common patterns that women will only be able to uncover by association with others and by learning about their experiences. It is this sharing that will pave the way for collective action against shared experiences of oppression, marginality, and injustice that would, in turn, make it possible for women to mobilize on the common basis of their gender.

In this essay, therefore, our aim is to pay attention to but also go beyond culture, and look into other structural realities that condition women's multiple understandings of their rights, and how such multiplicity, conditions the work of women's rights organizations and their mandates. We propose that the question of agency cuts across all these various situations, and provides the much-needed guidance for women's rights organizations when designing their interventions without appearing to be blind, while also not compromising their feminist politics. This work, hopefully, will constitute useful reference material for organisations working on women's rights in Sri Lanka not only in relation to programmatic ends, but also as an invitation to revisit their own assumptions regarding women's rights and feminist activism.

NGOs in Sri Lanka: Norms, Frameworks, and Strategies

Non-Governmental Organizations (NGOs), both national and international, are considered an indispensable component in the functioning of the international human rights regime (Steiner, Alston & Goodman 2007). They make an enormous contribution at the national, regional, and international levels for better protection and promotion of human rights. They can play a crucial role in teaching and localizing human rights and the struggle to promote and protect women's human rights in the world (Goel & Tripathi, 2010). The United Nations (UN) recognizes NGOs as international actors and has accorded them consultative status, enabling them to attend UN meetings and make written submissions and oral presentations. Their shadow

reports are used in subsequent deliberations in the review processes of the periodic reports of state parties. NGOs have been present in Sri Lanka from the beginning of British rule in the form of local counterparts of organizations affiliated with Christian missionary efforts in the British overseas empire (Wickramasinghe, 2001). Contemporarily, one can find thousands of NGOs operating throughout the country.

In order to broach the subject of the compatibility between the work-politics of women's rights organizations and the worldviews of the beneficiaries of their interventions, we first sought to acquire an understanding of the normative frameworks and modes of engagement of the women's organizations we approached. As revealed by these discussions (as well as our personal experience working with them on prior occasions), NGOs working for women's rights in Sri Lanka primarily draw their ideological inspiration from the international framework on women's rights that we have specified at the outset. Their mandates are geared towards gender equality at the most fundamental level, and to this end varyingly also towards economic and political empowerment of women, elimination of violence against them, labour rights of women, questioning the portrayal of the woman in popular culture, women's sexual and reproductive rights, and policy level changes, among other things.

Accordingly, many expressed strong opinions about the importance and necessity of an international framework for women's rights as a point of reference for their work. Some claimed that "relativism is all okay until you're in trouble"¹, with others echoing that it is important that women have a support structure to rely on during times of need. One respondent pointed out how feminism is "one of the most connected movements in the world", arguing that "the relativist critique doesn't take sufficient account of how post-colonial nations accommodate absolute ethno-nationalism which also oppresses women".² She further stated that "even though initiatives like law reform admittedly have limitations in how much they can speak to the people,

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1. Respondent of a national women's rights NGO in Sri Lanka, personal communication (virtual), 12/04/21
 2. Sri Lankan women's rights activist, personal communication (virtual), 26/04/21

they are nonetheless important because they open up a space for debate on crucial issues”, citing as an example the Prevention of Domestic Violence Act of 2005 and the debate surrounding it in Sri Lanka. While acknowledging the inequalities prevalent in the politics of enforcing human rights standards internationally, she also held that the normative substance of the international human rights framework nonetheless provides an important resource for women seeking protection from or redress for rights violations: “If this rights framework was not there, where would the subaltern subjects go?”

It is important to note that this seeming bias towards Universalism was in fact not so. The respondents highlighted the importance of context in their work, and how that significantly reshapes the understanding of women’s rights. Women’s reproductive rights stand out in this regard. One respondent recalled how her organization has on numerous occasions collaborated with government health officials to promote reproductive rights of women, but how said officials were confined to a cultural conformist framework of birth control within the parameters of the marriage institution, abortion only in the case of a threat to the mother’s life, and so on.³ Another also referred to similar experiences when working with women employed in the Free Trade Zones (FTZs), whose landlords staunchly oppose any sort of measure taken to this end (including distribution of condoms and conducting workshops on safe sex) because of the stigma that they will have to bear in the neighbourhood. Such interventions, therefore, need to be carefully designed in a way that continues to enable women to exercise their reproductive rights, while being culturally discrete.

According to another respondent, however, too much sensitivity to culture and other such local contingencies may actually compromise the primary mandate of an organization working to preserve women’s rights, which is making available a support structure during times of need so that women are able to bear the cost of making choices. As an example, she referred to an organization offering marriage counselling to curb domestic violence, but has refused on many occasions assistance to longstanding beneficiaries

3. Respondent of a national women’s rights NGO in Sri Lanka, personal communication (virtual), 12/04/21

who wanted to divorce continuously abusive spouses. In this instance, she said, the aim of the organization in question was to avoid becoming unpopular among the locals so that they can continue their work.⁴ Their contribution to helping women reclaim their agency, however, is put to question because of such withdrawal.

These practices may well contribute, perhaps unwittingly, to establishing certain ‘boundaries’ to feminist activism. This in turn can sap the courage out of women who have to make radical choices if they are to reclaim their agency. While women’s organizations do have to be mindful and respectful of the contexts they work in, the approach of ‘treading carefully’ might actually feed into the pervasive apathy of these neo-liberal times, ultimately serving to maintain the gender status quo with a few ‘progressive’ frills attached for political correctness, which then serves to “blunt the edges of political resistance” as Roy (2011: 43) would have it.

This is not a one-way affair, however. As repeatedly flagged in the conversations that we had, women’s organizations themselves continue to struggle with the increasing lack of interest in the younger generation to be politically mobilized on issues involving women’s rights. The atomizing and isolating influence of the neo-liberal economy only serves to reinforce and worsen these marginalities by stripping women (and of course men) even of their previous support structures in the extended family, community, and workplace. For instance, a respondent shared that it is increasingly difficult to encourage women working in the FTZs to unionize for their socio-economic rights, because of both the fear of losing the job, and the appeal of the idea of ‘independence’ they associate daily-waged jobs with (due to the mentality that they get to ‘choose’ who they work for, stay back whenever they want, etc.).⁵

This speaks to a central theme of this paper, i.e. intersectionality (specifically that between gender and class), whereby one is not simply a woman (or even a working woman, for that matter), but rather also part of

4. Sri Lankan women’s rights activist, personal communication (virtual), 26/04/21

5. Respondent of a NGO specializing in labour rights in Sri Lanka, personal communication (virtual), 21/04/21

an extremely disempowered segment of society that is, by virtue of this fact, pushed to ever more precarious forms of work. The rationale for contract labour takes place within these constraints, wherein ‘precarity’ appears as having greater agency compared to the usual conditions in which they live (Skanthakumar, 2017). What constitutes a right in this context is complicated by both gender and class, and may in fact render one right a violation of another (for instance, the fear that exercising the right to association to win a set of other economic rights such as fair wages and safe working conditions may violate the right to a livelihood). Women’s organizations constantly attempt to work their way around these problems through sustained engagement by way of conducting awareness raising activities and maintaining networks.

What, however, is happening to agency in such conditions? Drawing on Freire’s ideas and our own understanding of agency modelled on them, we submit that the situation involving FTZ workers does not indicate any agency. Women living in the FTZs are so constricted by the oppression of the order in which they live, we only see them preoccupied with negotiating daily life on these subaltern terms. Their refusal to unionize, while completely understandable, is demonstrative of this state of affairs. Agency in this kind of situation would necessarily consist in a) them becoming critically aware of the very artificial, deliberate, ‘engineered’ nature of their plight (rather than resigning into simply ‘accepting’ it) and b) taking initiatives, however small, to change the conditions in which they live; these initiatives may be as micro-thought no less significant-as insisting on spending a couple of minutes more on their lunch break, or as organized as joining a demonstration or even unionizing. It is when this political consciousness develops that people come to realize the commonness of their experience in spite of contextual variation, and it is that realization that makes emancipation even a remote possibility.

How do women’s organizations view the issues of agency and political mobilization? What are the strategies they employ to ensure due recognition for contextual variation when engaging with overarching themes such as agency and politicization? Do such strategies, however unwittingly, lend themselves to perpetuating a dominant conception of the problem’s women face? We visit these questions in the next section.

Negotiating between Universal Mandates and Particular Realities

It is perhaps worth reiterating that the dominant strand of feminism that views the woman as an individual with a set of rights that she is entitled to, and enjoys first and foremost as an individual, is fundamentally incompatible with the real-life experience of women-and in fact anyone-even in the West. This practice of regarding the individual as quite isolated from larger social realities, with which only interaction is presumed, is a key vulnerability of the liberal tradition that has drawn its fair share of criticism. “Michael Sandel, for instance, criticizes liberalism for its unrealistic conception of an “unencumbered self” which denies the possibility that any roles, commitments, or community membership should be constitutive of the self” (as cited in Brems, 1997: 159).

It is when making their case in this individuated sense that feminists working quite sincerely for the betterment of the women in their societies almost automatically align themselves with ‘liberal feminism’, a strand that is charged with blindness to very real differences in lived experience. When articulated thus, feminism ceases to be relevant to women living in different contexts, and may in fact even unwittingly lend itself to perpetuating a dominant, supposedly ‘Universal’ narrative of what constitutes women’s rights (Coomaraswamy, 1999). It is needless to state the irony of this development, given the historical struggle of the feminist movement against this very vice, i.e. domination.

Many feminists have relentlessly pushed back against such overarching conceptions of women’s rights that tend to act as exogenous arbiters of what does and does not count as women’s issues, women’s agency, women’s rights, and so on. As Stephen (2009) put it: “... the language that feminism speaks is, in our experience, also one of dominance which we have been struggling against.” As such, issues such as women’s liberation should be approached with sensitivity not only to the various socio-economic contexts within which women live and perceive their reality, but also to different conceptions of what ‘rights’ and ‘liberation’ mean as a result of such difference.

For that, we need to confront two more big issues. First is the acceptance of the possibility of difference. Can we only free Afghan women to be like us or might we have to recognise that even after "liberation" from the Taliban, they might want different things than we would want for them? What do we do about that? Again, when I talk about accepting difference, I am not implying that we should resign ourselves to being cultural relativists who respect whatever goes on elsewhere as "just their culture," I have already discussed the dangers of "cultural" explanations; "their" cultures are just as much part of history and an interconnected world as ours are. What I am advocating is the hard work involved in recognising and respecting differences—precisely as products of different histories, as expressions of different circumstances, and as manifestations of differently structured desires. We may want justice for women, but can we accept that there might be different ideas about justice and that different women might want, or choose, different futures from what we envision as best ...? We must consider that they might be called to personhood, so to speak, in a different language. (Abu-Lughod, 2002: 787-8)

Drawing on the insights above, it needs to be re-emphasized that we cannot assume a morally neutral stance of 'anything goes' in relation to relativism. As Winter (1994) articulates, such claims of non-interference display an alarming degree of indifference to what are clearly regressive, deplorable assaults on the agency of the woman. Such stances, she states, simply are a way of demanding that "the legal institutions of 'our patriarchy' respect the customs of 'their patriarchy'" (958), all the while leaving the core issue of women's agency unaddressed. In Winter's prescription, the reluctance to question what is unambiguously an exploitative situation, whether in a non-Western culture or otherwise, is to turn a blind eye to the corrosive reality of patriarchal control. As a respondent of this study also opined, this sort of approach runs the risk of "shedding feminist sensibility to do culture".⁶ We must endeavor here to caution that this is by no means to justify 'Western'

6. Sri Lankan women's rights activist, personal communication (virtual), 26/04/21

interventions, but rather to ‘call spades, spades’ irrespective of the cultural/ structural setting, in the interest of reclaiming women’s agency (understood as the ability to act or make choices that seek to change the oppressive conditions within which one lives).

How is this fine balance between non-interference and enabling women to preserve/ reclaim their agency achieved? In their quest to find innovative ways of ensuring (and oftentimes restoring) women’s agency without compromising their communality, some respondents shared that they have introduced intra-community support mechanisms for issues of mental health and even divorce and its related hardships, rather than extending external support that would over time invite objections. Though the groundwork for these mechanisms have indeed been laid through specific, donor-funded projects, this operational logic ensures not only that the element of ‘interference’ is kept to a minimum, but also that these mechanisms endure well beyond the lifespan of a project.⁷ In terms of agency, they make available for women certain support mechanisms that can empower them to make costly choices – such as confronting an abusive partner or even exiting such a partnership – that would otherwise not have been possible.

Another respondent quoted the work of feminists who have worked within the Muslim community in Sri Lanka on reforming the Muslim personal law within a framework which the community would be culturally comfortable with. This involves calling to attention how the interpretation of Quranic verses is largely a reflection of the patriarchal attitudes and values of the men who were involved in it (given that doctrinal authority lies with them), and that alternative interpretations that respect women’s agency are in fact possible.⁸ Scholars such as Shukri (2015), Shah (2006), and Jawad (2003) have made similar observations, highlighting the contingency of Quranic verses and how, therefore, their meanings are not absolute but rather open to re-interpretation. In this endeavour, it is possible to discern an attempt

7. Respondent of a national women’s rights NGO in Sri Lanka, personal communication (virtual), 12/04/21

8. Sri Lankan women’s rights activist, personal communication (virtual), 26/04/21

at opening up a cultural space by challenging the dominant narrative, thereby renegotiating the relations of power in a manner more favourable to women.

Yet, other respondents claimed to focus more on the family-based needs of women such as economic empowerment as a means of ensuring/ restoring their agency through increased decision-making capacity that economic security introduces.⁹ This approach is admittedly vulnerable to criticisms of undermining women's agency by perpetuating their role as the 'sacrificing mother' who puts the needs of the family before those of her own. However, this respondent claimed that no talk of rights is possible until and unless the more fundamental question of economic security is addressed, and so this is used as a strategy to pave the way for a discussion by first ensuring the freedom to think. Additionally, and as already mentioned, this may contribute to the mother having more of a say in the household than she usually does, if she is instrumental in facilitating access to additional financial resources. This, therefore, may count as an initiative towards securing women's agency by way of changing the conditions of marginality such that women are free to choose – for themselves and their families.

As already mentioned, some respondents also use sustained engagement as a strategy to raise the necessary awareness on rights issues pertaining to women, thereby aiming at critical consciousness. This is, however, not to say these women are completely oblivious to the exploitative conditions within which they live. Perera-Rajasingham's (2016) work in the FTZs observes how "astutely critical of neoliberal and gendered forms of exploitation" (375) they are, as demonstrated by the plays they perform in theatre groups they have formed in collaboration with women's organizations in their very limited leisure time. The trick for these organizations seems to be in mobilizing this critical consciousness in women to fight for their rights. In this sort of situation, it is possible to see that the gap between the Universal and the specific is somewhat lessened, with the element of critical consciousness mediating between the two.

9. Respondent of a provincial women's rights NGO in Sri Lanka, personal communication (virtual), 11/04/21

Conclusion

What, in essence, are we saying? On one side is the universal narrative with all its logical force, but largely devoid of nuance and thus the ability to resonate with a vast number of women living in different conditions. On the other, there are the particular realities of the lived experiences of women within the confines of which some ‘rights’ may not appear as such at all. Attempting to reconcile these two runs its own serious risks by either appearing as a snobbish, you-don’t-know-what’s-best-for-your intervention, or one that chooses to ignore glaring instances of rights violation in the name of respecting diversity of experience.

Our proposal is that we change the terms on which this debate takes place, and thereby avoid falling into the trap of this dichotomy. If, instead, we center the issue of women’s agency in this debate, we will never lose sight of what is really at stake here. However, ‘agency’ should not be understood in the restrictive sense of the classical liberal tradition, whereby choices are seen as a result of individuals exercising their free will, without regard to the structural conditions that shape them. Nor should it be made to appear as purely an expression of the values they subscribe to, as a result of their socialization. Where, then, is one to look for agency?

It is here that Freire’s understanding of the matter may be helpful. What we understand as agency here has to do with developing a critical consciousness of conditions of oppression, and initiating conscious action to change things in however small a way. During the course of this, the oppressed will realize the commonality of the structures and logic of oppression across contextual variations, which alone will enable them to mobilize politically as a category.

Now, this may well sound as though we are making a case for Universalism. And we are. But the Universalism we appeal to here lies in the right of every human to be free from oppression, both of culturally/ structurally imposed restrictions as well as cultural imperialism. Thus, whenever people work towards changing the conditions in which their freedom is curtailed,

whenever they make ‘choices’ within those conditions that seek to-in however minimal a way-alter those conditions, we perceive it as an act of agency.

Therefore, we view the situation in which a single white mother of a not-so-rich background ‘enjoys’ sexual license (insofar as potential partners view her as ‘approachable’ given the lack of structural security that a strong personal economy would afford), just as oppressive as the situation of a new Indian bride forced out of her job to ‘serve’ her husband better; and an American teenager being forced, by extreme peer pressure (and sometimes outright bullying), into fitting the stereotype of the dominant understanding of femininity (or masculinity) as qualitatively no different from a woman being forced behind a veil. The inverse is also true, in that the choice of a wife to continue to take care of her ailing husband without walking out of the marriage-when she is fully able to do so-is, for us, as indicative of agency as when a woman chooses her career over her intimate relationship, given that in neither case is there submission to coercion.

What is important, then, is understanding the conditions within which choices are made and whether they seek to undo prevailing oppression, in however small a way. If people living in a certain situation organically and consciously seek to change those conditions in which they make choices, because they feel those conditions restrict their possibility of ‘becoming more fully human’ to borrow from Freire, and because they believe that all the alternatives available equally deny them this possibility (like in the case of contract labour in Sri Lanka’s FTZs), it is very much an act of agency. Even if the order they are trying to change thus is a so-called ‘progressive’, Western one that, for instance, forces people out of their preferred choice of dress in the name of cultural liberty, it is, by this understanding, an act of agency that could go a long way in upholding the feminist spirit.

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Chapter 07

Impediments to Political Participation and Representation of Women in Sri Lanka

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Introduction

Sri Lanka can be considered as one of the most progressive South Asian countries in terms of gender equality, particularly in terms of access to education and healthcare. Over time, women in Sri Lanka (51.9% of the total population), have gained remarkable achievements in terms of literacy rates, maternal and child mortality rates, physical quality of life and average life expectancy. However, despite this significant progress, women continue to be underrepresented in the decision-making positions in the economic, political and social sectors of society.

The 1978 Constitution of Sri Lanka guarantees gender equality as a fundamental right and recognizes affirmative action to bring about positive changes. Sri Lanka ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1981. Using CEDAW as a model, a Women's Charter was formulated for Sri Lanka, and it was accepted as a state policy in 1993. Further, the National Plan of Action for Women was introduced in 1996. Despite all these efforts, women's representation in political institutions and participation in politics is still as low as 6% in the national and local government. In the South Asian region, Sri Lanka presents the lowest participation of women in politics. Several studies and activists in

women's organizations have recognized this as a serious issue that requires effective policy attention and rectification.

Equal participation of women and men in decision making is important for several reasons. Given that women constitute half the population, their participation is required to strengthen democracy in society and promote its proper functioning. It is unlikely that goals of equality, development and peace and more representative democracies that work for everyone can be achieved. Without incorporating women's perspectives at all levels of decision making, it is unlikely to achieve the goals of equality, development and peace and more representative democracies that work for everyone.

Many factors such as institutional, financial, political, socio-economic and cultural have been identified as common significant challenges that hinder women's political participation. This paper investigates the factors impeding the political participation and representation of women by reviewing existing literature. The paper discusses the conceptual framework for women's political participation, the current situation in the world, South Asia and Sri Lanka, barriers to women participation in politics and the steps to be taken to achieve gender equality in political decision-making processes.

Conceptual Framework

Several scholars and activists working on issues of women's empowerment, political participation and representation have discussed the theoretical background for women's participation and representation in politics through empirical and theoretical studies. According to a group of experts in the United Nations Division for the Advancement of Women, there are four major, inter-related theoretical concepts which are essential to understanding the concept of equal participation and representation of women and men in decision-making processes (DAW, 2005).

Political Participation

Political participation has been defined in various ways and there is no universally accepted definition for this concept. According to the definition

used in DAW (2005), political participation is a process that allows political agendas to take part in politics through a range of activities such as discussions and dialogue, lobbying and engagement formally or informally. In Verba et al (1995), it is defined as an activity that can influence government actions either by affecting the implementation of public policy or influencing the selection of people who make those policies. However, most of the definitions give the common idea that political participation is the process that allows people to take part in the country's decision-making process directly or indirectly.

According to the Regional Gender Programme in South-East Asia, 2008-2009 (Labani et al., 2009), people can participate in politics institutionally or non-institutionally. Institutional political participation refers to the activities involved in the governance mechanisms for decision-making such as referenda, elections, advisory bodies, etc. Non-institutional political participation includes all the actions that are not part of the official channels for the establishment of policies and those that are aimed at exerting pressure on them such as demonstrations, electoral campaigns, individual or collective requests to public organizations, promotion of certain groups or social classes interests, membership and activities within political parties.

Political Representation

Hanna Pitkin provides one of the most significant definitions in her book, "The Concept of Representation; Make Present Again". According to Pitkin (1967), political representation is the activity that presents the voices, opinions and perspectives of citizens' in the public policymaking process. She identifies four types of representation in politics; authorization representation, descriptive representation, symbolic representation and substantive representation. Under representation, a range of stakeholders can voice various interests of political parties, members of parliament, social movements and groups, and specific state-based agencies promoting particular interests, such as a national machinery for the advancement of women.

Political Leadership

Political leadership is the concept which cuts across both political participation and political representation, by key individuals shaping political agendas, taking the lead in articulating these and participating in their translation into policy.

Political Accountability

Political accountability is the requirement for representatives and representative organizations to be responsible for their decisions and mandates as defined by their positions. It also includes representatives and leaders listening to and, when appropriate, acting upon criticisms, requirements and demands of the public, constituencies or the electorate. Women's participation and representation in the political decision-making process is important to empower women in a country. Women's political leadership allows them to make political agendas and it makes them more responsive to the constituencies and the public. Most scholars emphasize the importance of studying these four concepts.

Political Participation with a Gender Perspective

Historically, politics has always been coupled with men. In the literature of the past, veteran philosophers, thinkers and writers have connected politics as an act related to men, and they mostly used masculine terms to define politics. They have failed to denote gender balancing and the role of women in politics (Yusoff, 2016). In the early years, women in most countries were considered weaker than men as they were less educated, had a low self-reported interest in politics, and had low labour force participation compared to men. They were confined to family and household, and their daily lives had less involvement in both the public and family decision-making process. Initiatives to accommodate women and their rights within the political system and representative democracy was only considered with the mobilization of organized women movements in the latter part of the 19th century in Europe, which later expanded throughout the world (Yusoff, 2016).

At the beginning of the 20th century, the concept of gender equality came into stage and the rights of women were considered for reducing the gender gap in various sectors of society. New Zealand was the first country to grant women the right to vote in 1893 and since then the situation of women's participation in politics has improved with significant differences among countries. At the beginning of the 21st century, over 955 countries granted the two most fundamental democratic rights (for all citizens): the right to vote and the right to stand for election to ensure gender equity in representative democracy (Yusoff, 2016).

Though legal rights for women to participate in politics has been granted, there is a serious lack of women's participation in world politics which has become a concern of several international women organizations. One of the early human rights treaties which addressed this issue was "The Convention on the Political Rights of Women" adopted by the United Nations in 1952, which set international benchmarks for the participation of women in public life¹ (Gomez, M & Gomez, S, 2001). Later, at the fourth World Conference on Women, held in Beijing in 1995 (United Nations & World Conference on Women, 1996), the lack of women in institutions of governance was recognized as a critical concern. This Platform for action recognized that 'empowerment of women and gender are prerequisites for achieving, political, social, economic, cultural and environmental security among all people.

As the report of Regional Gender Programme in South-East Asia (2008-2009) states, "*To achieve gender equality in all spheres of life, it is necessary to achieve gender equality in the areas of representation, decision-making and political participation.*" Therefore, most of the recent politics and gender-related studies have been focused on the causes of inequalities between women and men and more sustainable ways of eliminating the barriers preventing women's participation and their representation in decision-making areas."

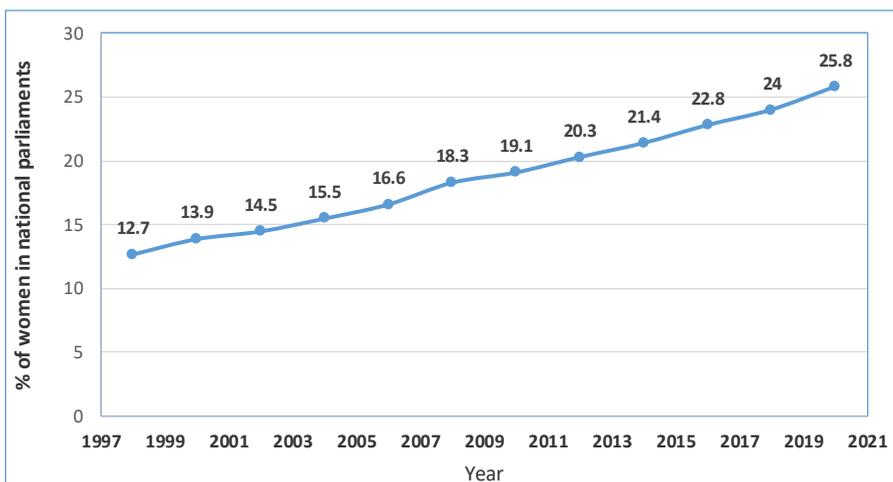
1. The Convention entered into force on 7th July 1954

Recent Trends in Female Participation and Representation in Politics

Although there has been marginal progress in women's political representation during the last few decades around the world, women continue to be underrepresented as political leaders and elected officials at the national level.

Over the last few decades, the proportion of women in parliaments around the world has increased significantly. The overall percentage of women in national parliaments reached 25.4% in 2020, up from 12.7% in 1998 (Figure 1). The greatest progress is seen in four countries: Rwanda, Cuba, Bolivia and the United Arab Emirates, where women held 50% or more of the legislative seats in 2020 (see Table 1). Compared to the situation in 1995, when no parliament had reached gender parity, this can be considered a significant improvement. Another trend that can be seen is the changes in the regional share of women in national parliaments. In 1995, the top ten parliaments with the highest representation of women were from European countries, mostly from the Nordic countries. Ranking in 2020 displays a representation of more regions. Despite these changes, there is still a long way to go to achieve the goal of gender parity in participation in decision making.

Figure 1: Percentage of Women in National Parliaments 1995-2020



Source: <https://www.ipu.org/> accessed: 24/10/2021

There have been many efforts by men and women to increase women participation in politics. Among them, legislative quotas have had a significant impact on the share of women’s political participation all around the world. Out of the top 20 parliaments with the highest representation of women, 16 have used some form of a quota for women. In 68 countries that held parliamentary elections in 2019, women were elected for 30.3 per cent of seats on average in the 40 countries that applied some form of quota. The percentage of women in parliament in the absence of quota is considerably lower. Only 17.9 per cent of seats were won by women in the 28 countries that do not have quota system. As pointed out by IPU (2020), these quotas are “no longer designed as a means to reach a minimum threshold of women candidates or members of parliament, but rather as a strategy to ultimately reach gender parity”.

Table 1: Top 10 Countries for Women’s Participation in Parliament 1995 and 2020

1995		2020	
Country	% women	Country	% women
Sweden	40.4	Rwanda	61.3
Norway	39.4	Cuba	53.2
Denmark	33.5	Bolivia	53.1
Finland	33.5	United Arab Emirates	50.0
Netherlands	32.7	Mexico	48.2
Seychelles	27.3	Nicaragua	47.3
Austria	26.8	Sweden	47.0
Germany	26.3	Grenada	46.7
Iceland	25.4	Andorra	46.4
Argentina	25.3	South Africa	46.4

Source: Reproduced from IPU (2020) <https://www.ipu.org/news/press-releases/2020-03/25-years-after-beijing-ipu-analysis-shows-gender-parity-possible>

The marginal progress made in the share of women participation in politics shows large regional variations. The Americas lead with 32% of women in parliament in 2020 followed by Europe where 30.4% of parliament seats are held by women (see Table 2). Within Europe, the sub-region of the Nordic countries has women holding over 40 per cent of parliamentary seats. Sub-Saharan Africa which is the third region in terms of representation of women in parliament has made an impressive improvement over the years. The regions of Asia, the Middle East and North Africa and the Pacific that hold 4th, 5th and 6th places respectively have made some progress. The high growth displayed in the region of the Middle East and North Africa is due to the removal of restrictions to women's right to vote or stand for elections, and the introduction of quota as part of political reforms after the Arab Spring (IPU, 2020).

Table 2: Regional Share of Women in Parliaments 1997-2020

Region	% women (1997)	% women (2020)
Americas	13.2	32.0
Europe	13.2	30.4
Sub-Saharan Africa	11.0	24.8
Asia	9.7	20.9
The Middle East & North Africa	3.4	19.3
Pacific	12.7	17.7

Source: <https://data.ipu.org/women-averages> Accessed on 7/11/2021

South Asia which has become the fastest-growing region in the world has made progress in closing its gender gap in terms of education and health. Despite being largely patriarchal and male-dominated societies, out of the eight countries in the region, four countries; Sri Lanka, India, Bangladesh and Pakistan had women heads of state in the past 50 years. Bangladesh is the only country in the world where the number of years with a woman head, exceeds the number of years with a male head of state. Pakistan elected the first female head of state of a Muslim country. In terms of the share of women in parliament, South Asia's

performance is not different from the other emerging regions. For example, women represent 20% or less of the parliament in six of the eight countries in the region.

As shown in Table 3, women representation in parliament in South Asian countries varies largely. At the end of 2020, women representation in parliament was the highest in Nepal (33.7%, 45th rank), and the lowest in the Maldives (4.6%, 184th).

Table 3: Women’s Political Representation in South Asia 2020

Country	% Women in Parliament
Nepal	32.7%
Afghanistan	27%
Bangladesh	20.9%
Pakistan	20.2%
Bhutan	14.9%
India	14.4%
Sri Lanka	5.4%
Maldives	4.6%

Source: www.ipu.org accessed on 10/04/2021

There are several barriers to women’s political participation and representation in South Asia which makes it extremely challenging. According to Agarwal and Ravishankar (2021), “*These barriers can broadly be categorized under these three categories-Money, Muscle and Misogyny. The 3Ms have percolated deep into the political systems of South Asian countries due to entrenched gender roles privileging men in public roles and boxing women into domesticity*”. South Asian women face multiple forms of deprivation such as poverty and economic insecurity, gender-based division of labour in the households, violence in public and private life, education and lack of awareness regarding political systems and processes, lack of training and capability of women for governance, prevailing norms regarding gender

stereotypes and their mobility are important among them. Almost all women who entered politics have strong political backgrounds that boosted their political careers (Bukhari, 2021).

Women representation in parliament in Sri Lanka, the first country to elect a female head of state in 1965 is as low as 5.4%, ranked 7th in South Asia. Sri Lankan women continue to lag behind men as party members, candidates for elections and their representation in politics has been low. In 2020, only 12 women represent the Sri Lankan parliament which consists of 225 members. Women make up 56 per cent of registered voters.

In Sri Lanka, 51.9% of the total population is represented by women and they largely contribute to the country's economy. Women have gained remarkable achievements in terms of literacy, education, health, quality of life and life expectancy compared to the other South Asian countries. But regarding decision making and political representation, Sri Lanka lags behind the countries which have a lower social status for women.

This disparity between Sri Lankan women's achievements in education, health and political representation raises the fundamental question of social justice, inclusive democracy, good governance and sustainable development of the country. A result of this low participation of women in politics is that women have little input into policies and programmes of which they are often the direct beneficiaries (Liyanage, 2012)

According to Sri Lankan political history, Adeline Molamure who contested the election in 1931 has been recorded as the first woman who represented the national legislature in Sri Lanka. In 1960, Sirimawo Bandaranayaka was elected as the first female prime minister and she made a huge impact on Sri Lankan politics. However, her political leadership and popularity didn't give support much to increase women's involvement in active politics, or their representation in parliament. During her active political career, she was fielding more women in elections but was unable to increase female representatives, even in her cabinet (Yusoff, 2016). In August 1994, Chandrika Bandaranayake was elected as the prime minister and later elected as the executive president. Her mother, Sirimawo Bandaranayake

was re-elected as the prime minister in November 1994. For nearly one-third of the post-independence period, Sri Lanka was governed by female leaders. However, during that whole period, women representation in parliament was as low as 5% which proves that female leadership has not had a positive impact on women's representation in parliament (Kodikara, 2009) (see Table 4).

Table 4: Women Representation in Sri Lankan Legislatures (1931-to date)

Period	Total members	Women Representatives	%
1931-1936	58	02	3.44
1936-1947	58	01	1.72
1947-1952	101	03	2.97
1956-1960 March	101	04	3.96
1960 March -July	157	03	1.91
1960 -1964	157	03	1.91
1965-1970	157	06	3.82
1970-1972/1972-1977	157	06	3.82
1977-1978/1978-1989	168	11	6.54
1989-1994	225	13	5.8
1994-2000	225	12	5.33
2000-2001	225	09	4
2001-2004	225	10	4.44
2004-2010	225	13	5.8
2010-2015	225	13	5.8
2015-2020	225	13	5.8
2015 to date	225	12	5.33

Source: <https://www.parliament.lk/lady-members> accessed on 7/11/2021

From 1947-1972, there were only a few female members (3 elected members and 4 nominated members) in the Upper house. The percentage of female cabinet ministers was very low until 1990 and from 1947-1994, there were only 15 female ministers including 2 district ministers and 3 state ministers. Wimala Wijewardhana, the minister of health from 1956-65 has been recorded as the first female cabinet minister in Sri Lanka (Silva, 1996). Most of the female ministers have been appointed to ministries such as welfare, rural development, women's affairs and small industries which are considered 'not powerful'.

Political history in Sri Lanka demonstrates that women from all ethnic backgrounds have been represented in this meagre number of women parliamentarians. The first Tamil female representative was Neysum Sarawanamuttu who was elected in 1932 (de Silva, 1996) Ranganayaki Padmanathan who was appointed in 1980 has been recorded as the second female Tamil political representative in Sri Lanka. Surprisingly, the Tamil United Liberation Front, a party that originally represented a large number of educated moderate thinking Tamils, has not produced a single female parliamentary member (Liyanaige, 1996). Ayesha Rauff, who came to Sri Lankan politics after her marriage was the first Muslim woman who appeared in Sri Lankan politics and she competed for the 1947 parliamentary election. Even though she lost the parliament election, she was successful in Municipal politics from 1947- 1950 (de Silva, 1996).

Women's entrance into politics via family ties is a common characteristic that can be seen in South Asian politics. In Sri Lanka, with a few exceptions, many women enter national politics through patriarchal social structures as they are connected to political families. Jayawardena & Kodikara (2003) refer to this as the "widows, wives, and daughters syndrome". As they point out, in contrast to women who engaged in politics in the 1930s through the 1950s, whose career in politics was relatively independent of their male family members, current female politicians seem to be "*'proxy' women politicians' with little or no political will of their own*". Most of the women who entered politics recently did so just to embrace their relationship with male politicians in their family and they try to represent their "family-led

constituency” (Wickremasinghe & Kodikara, 2012: 778). Others who are not directly connected to political families have some connections to male patrons and support bases, reflecting the patriarchal structures within which women need to receive support for election (Jayawardena & Kodikara, 2003).

Since the late 20th century, several women’s organizations and NGOs have been continuously demanding higher women representation in the main political parties. Though the manifestos of the main parties (UNP and SLFP) carried promises to increase women’s representations mainly in the 2010 and 2015 elections, both parties failed to fulfil those promises (Women and Media Collective, 2010). In both the 2010 and 2015 elections, women have had neither as many nominations nor as much representation in parliament.

The local government has an important role to play in national politics especially as the training ground for future national-level political leaders. The history of the local government in Sri Lanka dates back to 1865 when the first local bodies were introduced by the Municipal Council Ordinance in 1865 (de Silva, 1996). The present local government structure that consists of Provincial Councils, Pradeshiya Sabha, Municipal Council and Urban Councils was established in 1987. Currently, there are 335 local authorities in Sri Lanka consisting of 23 Municipal Councils (MC), 41 Urban Councils (UC), and 271 Pradeshiya Sabha (PS).

Though the local government is where a woman can logically find it easy to contest in elections compared to the provincial and national elections, women have played an even more limited role in local government bodies throughout the entire political history in Sri Lanka (de Silve, 1996). Women representation in local governments has been recorded between 1.7% and 2.01 % (Kodikara, 2012).

While local government bodies serve as a good training field for the upcoming male political leaders, it has not helped much to increase women’s political participation in Sri Lanka. According to Kearney (1981), *“prospect for service in local government bodies are so limited for the women almost to the point of non-existence. The small number of women in local government is a significant impediment to women’s access to national politics.”*

Table 5: Ministers of Provincial Councils by province 1993-2013

Province	1993		2006		2013	
	Women	Men	Women	Men	Women	Men
Western	-	5	-	5	-	5
North Central	-	5	-	5	-	5
North Western	1	4	-	5	-	5
Uva	1	4	-	5	-	5
Central	1	4	-	5	-	5
Southern	-	5	-	5	-	5
Sabaragamuwa	-	5	-	5	-	5
Eastern	-	-	-	-	-	5
Nothern	-	-	-	-	-	5
Total No	3	32	-	35	-	45
%	8.6	91.4	-	100	-	100

Source: The Sri Lankan Woman-Partner in Progress Department of Census and Statistics, Sri Lanka, 2014, p.98.

Another fact which can be seen in women participation in local government throughout the political history in Sri Lanka is that women have been often underrepresented in top leadership positions. Women had only 4% of seats in Provincial Councils and 1.9% in local government. According to the Inter-Parliamentary Union, ranking of women in Parliament in 2017, Sri Lanka was placed 180 out of 190 countries. Table 5 presents the number of female ministers elected for the provincial councils during 1993 – 2013. Except for the 3 female ministers in the provincial councils in 1993, none of the female representatives has been appointed as provincial ministers.

According to Kodikara (2012), the major barrier to women in local politics is the lack of nomination for them within the political party. In addition, women face an extra barrier in converting nominations into seats given to the women candidates compared to male candidates. As a solution

for this issue, Kodikara (2012) suggests that the mandatory quota for women in local government be increased beyond 2%.

During 1998-2000, several proposals on legislative quotas for women were made in Sri Lanka, but none of them was successful. In 2015, under good governance, initiatives were taken to implement a 25% quota for women's participation in local government. The Local Authorities Elections (Amendment) Act No. 1 of 2016 introduced a mandatory quota of 25% for women through a 25% increase of the total number of seats at the local government level, i.e. Pradeshiya Sabhas, Urban Councils and Municipal Councils.

Table 6: Number of Women Councilors Following Last Three Elections

	2008		2011		2018	
	Number	%	Number	%	Number	%
Female councilors	64	1.8	85	1.8	2526	29.1
Male councilors	3,558	98.2	4,515	98.2	6,699	77.1
Total councilors	3,622	100	4,600	100	8,690	100
Female PS* councilors	51	1.6	70	1.9	NA	NA
Male PS* councilors	3,292	98.5	3,173	97.8	NA	NA
Total PS* councilors	3,443	100	3,243	100	NA	NA
Female UM** councilors	13	3.4	11	2.6	NA	NA
Male UM** councilors	366	96.6	406	97.4	NA	NA
Total UM** councillors	379	100	417	100	NA	NA

Source: http://www.clgf.org.uk/default/assets/File/Country_profiles/Sri_Lanka.pdf

Accessed: 24/10/2021

Under this new amendment, the number of seats at the local level was increased by 25% from 6,619 to 8,825. The number of increased seats were available for women candidates nominated by political parties on a separate list based on the proportion of votes obtained by each party at the local council elections.

The first local government election under the 2016 Act was held on 10 February 2018. Under the new quota system, 17,128 women contested in the local elections. The impact of the quota for women's political representation was historical, given that women's political representation at the local government had not been above 2%. As a result of the gender quota, over 2,000 women were elected to the local councils in the 2018 elections. Women's political representation thus increased immensely from 2% to 29% (see Table 6).

The Importance of Gender Equality in Political Participation and Representation

The importance of gender equality in the political decision-making process has been critically discussed by several scholars and activists working on issues of women's empowerment and their political participation. According to the UNDP report on "Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership (2005)"², there are six major theoretical arguments that emphasize the importance of women's participation in politics.

- The justice argument-women account for approximately half the population and therefore have the right to be represented as such.
- The experience argument-women's experiences are different from men's and need to be represented in policy-making and implementation.
- The interest's argument-the interests of men and women are different and even conflicting and therefore women are needed in representative institutions to articulate the interests of women.
- The critical mass argument – women can achieve solidarity of purpose to represent women's interests when they achieve certain levels of representation.

2. *Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership*, Report of the Expert Group Meeting, Ethiopia (2005) <http://www.un.org/womenwatch/daw>

- The symbolic argument - women are attracted to political life if they have role models in the arena.
- The democracy argument-the equal representation of women and men enhances democratization of governance in both transitional and consolidated democracies

According to these six arguments, women's participation in politics is essential to represent their needs, interests as well as to protect their human rights. As Liyanage & Rajendran (2012) state the lack of women's representation throughout all spheres of influence in public life, represents a significant loss of human resource to the nation. It also raises serious questions about the validity and relevance of the decision-making process itself. The paper also finds some major reasons why a country should give priority to increasing its female political representation and they can be summarized as follows.

- The presence of women in public bodies will promote participatory democracy, democratic political systems, institutions and processes, good governance and peace. It will also ensure gender equality and it will directly help to achieve the fifth sustainable development goal; gender equality and empower all women and girls in a country
- Increasing female representation in politics can be considered as a matter of distributive justice. Women should get high authoritarian power considering their demographic weight and their contribution to society so that it will give them more confidence to work within the society at large.
- The increase in the number of women in the political institution will also contribute to the change in the nature of political institutions and help to create a more women-friendly political environment in the country.
- Increasing women's political participation is vital for achieving newly introduced Sustainable Development Goals (SDGs). When more women are engaged with the country's decision-making process, it

will empower women's status and reduce the inequalities within and among countries (5th and 10th SDGs). And also, it helps to promote a peaceful and inclusive society for sustainable development, provides justice for all and builds effective, accountable and inclusive institutions at all levels (16th SDG). Therefore, equal participation of males and females in politics and decision-making processes is essential for the sustainable development process in a country.

However, increasing just the "number" of women representatives in the legislative bodies is not sufficient and their presence should be effective in empowering women and sustaining the democracy in a country. Therefore, it is important to look beyond numbers when forming a mechanism to empower women through political participation (DAW, 2005).

Barriers to Women's Political Participation in Sri Lanka

The factors that hinder or facilitate women's political participation may vary from country to country with the different levels of socio-economic development, geography, culture, and the type of political system. In fact, women themselves are also not a homogeneous group as their attitudes, beliefs, characteristics and behaviours are different based on their class, race, ethnicity, cultural background and education level (Ballington & Karam, 2005). However, according to the Caribbean Conference Report on Increasing Women's Political Participation (2015), there are some common impediments to women's political involvement which can be seen in many countries in the world. They are;

- Political party's lack of openness and support for women
- Lack of support-networking
- Lack of skills such as media skills, literacy, and negotiation skills, networking skills, oral and written communication skills, message development, advocacy and lobbying skills and information gathering skills.
- Lack of visibility

- Family responsibilities
- Lack of finance
- Gender insensitive political systems
- Aversion to power over people
- Cultural and religious barriers
- Lack of mentoring
- Security issues and personal safety
- Adverse media exposure
- Women's lack of passion for politics

Ballington and Karam (2014) has also identified some common, significant challenges which hinder women's political participation all over the world and they have grouped them under 3 major categories such as,

- (1) Political obstacles
- (2) Socio-economic obstacles
- (3) Ideological and psychological hindrances.

Furthermore, several authors including Kiribamune, (1994); Liyanage, (2004, 2005); Leitan & Gunasekera, (1998); Kodikara, (2009); Liyanage and Rajendran, (2012), Yusoff, (2016) have studied these barriers empirically in the Sri Lankan context and their major findings have been analyzed in the following sections.

Political and Institutional Barriers

Barriers within the Electoral system

The type of electoral system in a country is very important in ensuring women's representation in parliament and sub legislative bodies. From 1978 onward, Sri Lanka has been practicing a Proportional Representative (PR)

system in electing members to the parliament. The PR system was found successful in increasing female representation in the legislative bodies in the countries that adopted the system. But there is no evidence that it contributed to increasing the female political representation in Sri Lanka.

Several negative factors that hinder political participation and representation of women within the current PR system have been identified. Under the PR system, public representatives are selected from large electoral districts. Therefore, candidates have to extend their political campaign to a large geographical area and it requires a huge allocation of finance as well as the need to travel very long distances to secure votes. From a women's perspective, this could seem a daunting task and it hinders women's participation in politics (National Peace Council of Sri Lanka, 2005).

The present electoral system provides for 29 members to be declared elected through the national list to the parliament. The mechanism allows political parties to nominate members based on the total number of votes polled by the respective political party. The members that have been nominated by parties under this system are mostly men. It is evident that in the case of Sri Lanka, the extensive power provided to the party leadership under the PR system remains an obstacle to increasing women representation (National Peace Council of Sri Lanka, 2005).

Furthermore, the PR is a very competitive electoral system that creates competition not only between candidates of different parties but also within the same party members leading to unethical political campaigns. Against such an unethically competitive backdrop, the challenge for a woman candidate can be severe.

These factors prove that the way in which Sri Lanka practices the PR system may not allow women to effectively participate in politics and it requires gender-sensitive electoral reforms along with a quota system in an inclusive manner in order to achieve sustainable development goals.

Absence of Quota system

Several studies identify the absence of a gender quota system as a major reason which hinders women's political representation in national and local

government in Sri Lanka (Yusoff, 2016; Kodikara, 2009; Liyanage, 1996). Sri Lanka's position in terms of female political participation and representation in the South Asian region is much lower than the more conservative Islamic nations such as Bangladesh, Pakistan, and Afghanistan. Women in those countries appear to have overcome various social and religious strictures imposed upon them and were able to raise their representative voices through the introduction of the gender quota system and reserved seats (National Peace Council of Sri Lanka, 2005).

As a result of a mandatory quota of 25% for women through a 25% increase of the total number of seats at the local government level in 2016 in Sri Lanka, the percentage of women in local government increased from 2% to 29%. However, whether these women would be able to change the system is still a question. It will be required to find ways to break other socio-economic and cultural barriers too for them to equally participate in decision making.

Lack of Support from Political Parties

Political parties have an important role in increasing women participation and representation in politics. It is the responsibility of parties to bring women into political processes and mediate their participation and involvement in politics. In Sri Lanka, the major political parties have shown much interest or commitment to increasing women's political representation. While nominations for women from smaller parties and independent groups have been increasing under the PR system, nominations for women by the major parties have remained low.

The structure and organization of political parties can be an obstacle to the participation of women in politics all over the world. Even though women play important roles in campaigning and mobilizing support for their parties, they rarely occupy decision-making positions in the political structures. According to Belington and Karam (2005), fewer than 11% of party leaders worldwide are women.

The political party structure and system in Sri Lanka is still mainly dominated by men and gender discrimination within the political parties is

a serious obstacle faced by female political representatives (DAW, 2005). Most of the party's supreme body in Sri Lanka has been filled with male members and women have little voice within the party structure. The best example is that, at the end of 2015, according to the Election Commission, no party is headed by women among the 63 recognized political parties in Sri Lanka. And also, out of 49 ministries in the national government, only 3 are led by women. The following table shows the low number of women in the central, working committee of 3 major political parties in Sri Lanka.

Table 7: Women's Participation in Main Political Parties, 2015

	Male	Female	Total
SLFP central committee	66	3	69
UNP working committee	60	10	70
Muslim Congress central committee	192	0	192

Source: Information from the party offices.

According to the election committee statistics, there are 63 registered national political parties in Sri Lanka and among them, only two parties; Sri Lanka Labor Party and the New Democratic Front have female secretaries. Therefore, it clearly shows that women have been given fewer opportunities and have been discriminated against within the party structure.

Moreover, most political parties are unwilling to give nominations to females as they feel it would be a waste to nominate a candidate who may not win (UNDP, 2004). This in turn impacts the perception of women as viable candidates on the part of those who provide money for election campaigns. In most cases, women are often placed in the party lists in the positions with the least possibility to win.

As Kearney (1981) and Liyanage (1999) indicate, all major political parties in Sri Lanka have been maintaining women's sections or fronts for years, but the power and effectiveness of these sections have been questioned. These sections are only active during the election period and are not much

effective for acting as instruments to enhance women's position within the parties and the legislative bodies. All parties use the women sections only to get more votes in the election. In addition, party leaders also tend to treat their female members instrumentally, to secure women's votes and to involve them in the party's lobbying and organizational activities, rather than seeing women as decision-makers and leaders (DAW, 2005).

Political parties usually possess resources for conducting election campaigns but women rarely benefit from these resources as many parties do not provide sufficient financial support for women candidates. In such cases, political campaigns of women have to be financed with their own funds, thus they need to have significant financial resources to get involved in politics. It discourages the women who are interested in participating in politics but do not have sufficient funds for political campaigns.

Socio-Cultural Barriers

The social and economic status of women in society have a direct influence on their participation in political institutions and elected bodies (Matland, 1998). According to some studies, socio-economic conditions take second place in electoral systems in women's legislative recruitment within established democracies (Belington et al, 2005).

Patriarchal System

Among all cultural factors, the patriarchal system in society is found to be the major factor that restricts women's political participation (Bari, 2005). In Sri Lankan society, men are considered the best for politics as they have unrestricted mobility, more resources and have power in decision making compared to women. As Samarasinghe & Liyanage (2015) state, even though women are willing to participate in politics, they are pushed away by the powerful patriarchal system in the political system. Oakley (2011) also agrees with this and says "*Women's participation within the highest to the lowest level in politics is delayed by the patriarchal culture in the political and social system in Sri Lanka.*"

Traditions, Norms, Myths and Beliefs in Different Ethnic Groups

In many countries, traditions continue to emphasize women's primary roles as mothers and housewives and restrict them to those roles. Patriarchal value systems favour gender roles, and traditional cultural values act against the advancement, progress and participation of women in any political process. Societies all over the world are dominated by an ideology of "a woman's place". Under this ideology, women are supposed only to play the role of 'working mother', which is generally low-paid and apolitical. In addition, in some countries, women are advised by men on how to vote (Balington et al, 2005).

Gender Role within the Household

With their primary roles within the households as mothers and wives and competing domestic responsibilities and care work, women are left with little or no time to participate in politics (Adamu & Mekonnen, 2009). The burden of household responsibilities discourages women from participating in politics. Some studies repeatedly emphasize that women pay a "motherhood penalty," relating not just to the time, and effort, but to the far greater maternal involvement necessary for breastfeeding, and to the persistent tendency of women to do a larger share of childcare as the child grows (Rosenbluth, Kalla & Teele, 2015). These barriers make it hard for women to participate in political discussions and decisions. According to the World Bank (2015), even if women enter politics, because of their huge family roles, they tend to start their careers late, have fewer children, spend more time on family care. It appears that only females with supportive families run for office, whereas men are more likely to run despite discouragement from their families.

As Anna Balletbo, former MP, Spain once stated "*Women believe that entering parliament means choosing between a private life or a public life. This is not the case. Instead, women should view their life as a continuum. They should decide what they want to achieve in life and prioritize these goals in chronological order. There is a certain right time to achieve each of these goals, whether it is becoming a wife, mother, professional or a parliamentarian.*"

However, women who come from strong political families may have more opportunities to engage in the political process as they get more support from the men in their families. But women from poor, minority ethnic communities and low cast families are not always welcomed to join the civic and political process.

Political Violence and Character Assassination

Political violence and character assassination are other social barriers faced by women who enter politics in Sri Lanka (National Peace Council, 2005). This especially impacts negatively on women in a country such as Sri Lanka which places much importance on the untarnished maternal image. Hence, character assassination becomes an easy but deadly weapon against women with high political aspirations which can destroy the chances of women gaining political representation in the country. The harassment of women does not end with character assassination; men even practice violence to deter politically active women who remain in the political arena (National Peace Council, 2005). There are many instances when violence and organized crime have scared women and provoked their fears of losing members of their families which hinders women from entering active politics.

Lack of Media Support

In politics, media is used to cultivate gender biases and promote a stereotype about ‘a woman’s place’, and to reinforce the idea that women are responsible for social problems, such as divorce and minor crime. In the mainstream media, women are depicted as beautiful objects: women are identified and objectified according to their sex, and are made to internalize certain notions of beauty and attractiveness which relate more to a woman’s physical capacities than to her intellectual and mental capacities. In Sri Lanka, the media does not recognize the low rate of women participation in politics as a serious issue and does not give much priority to promoting female political participation (Kiribamune, 1994; Liyanage 2004, 2005). During the past years, there were two popular television programs; “Yeheliya” and “Kedapatha” which conducted discussions mainly on gender issues, but

even in these programmes there was not much interest paid in addressing the political perspective of gender issues (Liyanage, 2004).

Lack of Confidence

Lack of confidence is another reason for women's under-representation in formal political institutions, whether in the parliament, ministries or political parties. This can be considered as a psychological factor that hinders women's participation in politics. In Sri Lankan culture, generally, women play a supportive role to men and their self-esteem is consequently low. Women's traditional role hinders them from taking part in discussions and expressing their positions. As such, women neither exert their political views nor make their self-assertion during political meetings and discussions.

Economic Barriers

Lack of Financial Resources

In many contexts, electoral campaigns are privately financed. Under the PR system, elections are very competitive and requires spending on publicity and campaigning to ensure a degree of influential power that is required in securing votes (Ballington & Karam, 2005). Women from poor economic backgrounds not able to afford these large expenses, give up their interest in politics.

Many developed countries with advanced democracies have introduced several financial and non-financial assistance for women candidates to encourage their political participation. For example, Canada, Australia, Japan, France and Portugal use strategies such as giving public funds to the parties and female candidates, allowing free subsidized media access during the election period and giving tax reliefs for female candidates to give more opportunities for women in politics (Shames, 2015) But the non-existence of such assistance to female candidates in countries like Sri Lanka discourages women who are interested in politics but face financial constraints.

Existing Strategies for Improving Women's Political Participation and Representation

Training and Capacity Building for Female Political Leadership and Raising Awareness of Political Participation.

In Sri Lanka, the majority of women who have entered politics have not had any formal political training before entering politics. Several studies have identified the lack of formal political training for women as a major barrier in empowering them (Kiribamune, 1994; Leitan & Gunasekara, 1998; Liyanage 1992). During the past two decades, some action has been taken by the government and non-government organizations to raise awareness of female political participation and provide training for female political leaders.

As the Center for women's Research (CENWOR, 2015) states, awareness-raising on the issue of underrepresentation of women has been done since 1995 and these awareness-raising programs were mainly done by non-government organizations. According to the survey done by Kodikara (2009), more than 5000 women appear to have been trained since 1995. From the mid-1990s, several organizations such as CENWOR, Women's Alliance for Peace and Democracy, Center for Society and Religion Agromat Foundation, Women's education and Research Centre (WERC), South Asia Partnership – Sri Lanka (SAPSRI), Sri Lanka Institute of Local Governance (SLILG) have paid some attention to leadership training and awareness-raising programs for women (CENWOR, 2014).

The impact of the above programmes has not been identified. Kodikara (2004) states that the organizations which conduct such training programs have not collected the information of how many trained women received nominations, contested elections and had been elected as a direct result of training because none of them had evaluated these training programs. By surveying some of the training programs conducted in 2004, Liyanage (2009) identified the criteria used in selecting participants for the programs and the lack of follow up measures as major limitations of most of the training programs for female political leadership. She states that the selection of the participants for these programs was not based on specified criteria and many

young women who did not have any interest in politics had participated in these programs just to obtain the certificate. She further says that *“The usual practice of NGO is once they get the fund, they conduct the program and once the funds are over they don’t have any opportunity to concentrate on any follow-up plans. Also, some NGOs just conduct training programmes without having any need assessment or systematic preparation of curriculum.”* Therefore, it shows that the training programs conducted by non-government organizations have not effectively contributed to enhancing the political participation of women in Sri Lanka.

Several previous studies (Liyanage, 2004; Kodikara, 2009) have identified that training programs were not successful in increasing the representation of women. The new knowledge and skills that are acquired by women through these programs are not necessarily the knowledge and skills that political parties are looking for in potential candidates which means there’s a considerable gap between what women’s organizations think as the training requirement for political leadership and the reality of what is needed to compete in party politics. According to (Kodikara, 2009) these leadership training and political awareness-raising programs should therefore be well planned and well designed to increase female political participation in Sri Lanka.

Quota System

One of the major strategies used by many developed and developing countries to increase female representation in national and local political bodies is, using mandatory gender quota systems. Generally, quota laws establish minimum percentage shares for targeted groups and are considered part of a large program of affirmative action. These laws can be applied to the political parties and government institutions with the objective of permitting women to overcome the barriers of under-representation in the political decision-making process.

However, according to Mrs. Bachelet, former head of UN women, half of all countries in the world have implemented some form of electoral quota during the past 20 years. International IDEA has found nearly 100 countries

that had either implemented quotas, had previously used quotas or were considering implementing quotas. Of these, 10 countries had adopted reserved seat guarantees and 30 countries had adopted legislation mandating quotas. In addition, 130 political parties in 61 countries had voluntarily adopted quotas³.

Many countries provide evidence that quotas have had an immediate and direct effect on women's participation. In general, among the 33 countries that have achieved 30% of women's representation, 28% have achieved that success by implementing gender quotas (Yusoff, 2016). In Argentina, women's participation has increased from 5% to 25% and then to 30% after they introduced the quota system. By 2005, Rwanda was able to elect 48.8% of women to the Parliament and that was also a result of adopting an effective gender quota system (DAW, 2005).

The recent world statistics also prove that gender quota has a great impact on women's political participation as women's political representation in countries that used gender quota was 28.35% in 2015 while only 13.5% of women were elected to parliament in countries which didn't use quota (Inter Parliament Union Review, 2016).

Activism and Advocacy of Women's Organizations

Activism and advocacy about increasing women's participation in politics is another strategy used in many countries. Especially, women's organizations and NGOs are largely involved in this matter. In Sri Lanka, activism and advocacy regarding women's political participation can be traced to the Beijing Platform for Action (BPFA) in 1995. Many of these advocacy campaigns have been led largely by NGOs and the National Committee on women and the Ministry of Child Development and Women's Empowerment (Jayasundara & Amarasuriya, 2015). Also, numerous women's groups have lobbied political parties to address the under-representation of women in political institutions in Sri Lanka through media campaigns, press conferences, one to one meetings and direct correspondence with political

3. The most up to date information is made widely accessible through International IDEA/Stockholm University Global Database on Electoral Quotas for Women website (www.quotaproject.org)

party leaders. (Kodikara, 2009). The main campaign led by them was the call for a quota system. In 2000, the International Center for Ethnic Studies initiated a discussion among grass-root level women activists on women's political participation and representation in Sri Lanka, particularly on the implementation of quota as a strategy to increase women's participation in local government. Between 2002-2004, the North Illinois University (USA) cooperated with four local NGOs and conducted a program on "Capacity Building and Advocacy for women in Grassroots Democracy in Sri Lanka". Targeting the 2006 parliamentary election, the National Committee for Women (NCW) also implemented an advocacy program and it took initiatives to train women and raise awareness on this issue (Kodikara, 2009).

Networking

According to Kodikara (2009), several women networks focus on increasing women's political participation representation in Sri Lanka. *Mother and Daughters of Sri*, one of the oldest women networks in Sri Lanka has 28 sub-organizations and six individual women. *The Central Province Women's Voice* is another network in which some civic, political and economic activists work together to coordinate women leaders in Central Province.

Apart from that, the University of Peradeniya cooperating with the Ministry of Child Development and Women's Affairs has introduced a Certificate program for women interested in active politics and currently 60 participants are following that course.

Proposal for the Future

Several previous studies have recommended several means/ways to accommodate women within the political system and motivate them to be represented in local representative bodies, including the parliament (Liyanage, 2004; Kodikara, 2009). If Government and political leaders consider the lack of women's representation as a weakness in their parliament democracy and are committed to strengthening it, these recommendations would be more useful to form the guidelines and framework for further action.

Implementing an Effective Gender Quota system

The absence of an effective mandatory gender quota system has been identified as a major barrier to increasing women's political participation in Sri Lanka. The national action plan for the protection and promotion of Human Rights, Section 5(1) also states that the inclusion of a minimum of 30% quota for women in politics will help Sri Lanka to reach international levels, regarding human rights and women empowerment.

However, a quota system should not be the exclusive means to ensure women's representation; it should only be held as a threshold to encourage women's participation in politics and to voice issues of women (Yusoff, 2016). In establishing a quota system, it is essential to look beyond the number of women. As women who lack civil and economic rights are unable to exercise their political rights fully, the gender quotas, need to be linked with the social and economic redistributive justice in the society.

Advocacy within the Two Major Political Parties

If major political parties give nominations to more women in areas where they traditionally win and support those women candidates, more women are likely to be elected to political bodies in Sri Lanka.

Giving Financial Support for Women Candidates

Many studies have pointed out that the accessibility and availability of resources are critical for women in political campaigns and it directly affects getting nomination and getting elected. If the government is serious in addressing the issue of the underrepresentation of women in political institutions, they should give financial support to the potential female candidates. Political parties should also take some action to provide funds for their female candidates. Liyanage (2004) suggests that the Government should establish a common fund without any party affiliation to help the women candidates of any party. Many studies indicate that a large pool of women candidates, combined with sufficient financial resources, can significantly increase the number of women elected (Ballington & Karam, 2005).

Reforming Electoral System

The electoral system also plays a vital role in determining women's representation in Parliament. Based on empirical evidence from the developed countries, PR can be considered as a better electoral system that helps more women to be elected. Many researchers suggest that multi-winner electoral districts or constituencies increase the chance of women being elected (Yusoff, 2016).

Evaluation of Training Programs and Consolidated List of Trained Women.

Even though a few political leadership training programs have been conducted by the government and NGOs during the past two decades, there was no proper analyses or reports on the impact of those training programs. Given that a large cadre of women has already been trained, it would be useful to compile a consolidated database of women who have followed training and capacity building programs with the cooperation of all organizations that have been involved in training and capacity building work.

Another important fact is that most of these political training programs have also been limited to women from the Southern Sinhalese community (Kodikara, 2009). Women from other ethnic communities in Sri Lanka face further obstacles in politics. For instance, the socio-cultural barriers to participating in politics are far more entrenched in the Muslim Community than within the Sinhalese community. According to Liyanage (2004), Training programs should be held before the elections with women candidates and it should be focused on the role of candidates, public speaking, fundraising, campaign management, identifying key national and local issues and developing leadership skills. This implies that more targeted training programs which consider the specific challenges faced by women in different ethnic groups in Sri Lanka are necessary to enhance the political participation and representation of women.

Interventions to Transform the Political Culture

The major barriers to equal representation of women in Sri Lanka are that the current political culture, male domination and the lack of internal

democracy within political parties (Kodikara, 2009). Thus, it is necessary to challenge these ideological and practical obstacles for women and claim politics as a domain where both men and women can equally participate. Kodikara (2009), in her study “The struggle for equal Political Participation of Women in Sri Lanka”, gives some recommendations to change the political culture of Sri Lanka. According to her, some initiatives should be taken to democratize political parties and ensure greater decision-making power for women within the political party. Women in the political field need to create a space where they can challenge the male-dominated structure within the party. For that, women’s leadership and political skills should be well developed.

Furthermore, Liyanage (2004) also suggests some recommendations to improve women’s status in politics through her study “Party Women: Their Role in Sri Lankan Politics”. As she states, women’s groups should make the effort to change the regulations and traditions of the parties to change the provisions of election laws (funding limitations etc.). For that women’s wings of parties should be strengthened. And also, information on potential women candidates should be compiled and maintained on a systematic basis and should be made available when candidacy or appointments are considered. Furthermore, she suggests that the research institutes should undertake more researches which would help to identify the major impediments to women’s participation in politics.

Conclusion is clear that many attempts to adopt gender-equitable measures to increase women participation and representation in politics were not successful. Sri Lanka was the first country to produce the first woman prime minister. Also, it is a country where women enjoy many achievements in the fields of health and education supported by policies and programmes that promote general equality and gender-specific interventions. The question arises as to why these achievements and related gains were not transferred into participation and representation in politics. Overcoming gender inequality in politics requires understanding the need, commitment and dedication to work towards achieving the goal by all involved including the government, political parties and society. Overcoming the challenge will not only help women achieve their fullest potential but contribute largely to achieving the SDGs.

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Chapter 08

Role of E-Government in Public Services Delivery in Sri Lanka: A Review

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Introduction

Institutions in the private sector have always been at the forefront of adopting newer technologies to maintain the efficiency and effectiveness of their organizations, while governments have been lagging in adopting modern technologies in public institutions. The term electronic government (e-government) has been used to denote the use of digital technologies in the functions of government. According to Gartner Group (Kao et al., 2000), “e-government is the continuous optimization of services delivery, constituency participation, and governance by transforming internal and external relationships through technology, the internet and new media”. Hence, e-government includes government services provided to citizens, employees, businesses, and government agencies using digital technologies. In integrating e-government with public administration, Brown (2005) has expounded that e-government combines two elements of the government; ‘one is the environment within the government and in the society at large, created by the use of electronic technologies such as computing, email, the World Wide Web, wireless and other ITs, combined with management models such as client/citizen centricity and single-window convergence, and the other

element is the basic model of the state and public administration within that, linking the dynamics of democracy, governance and public management.

Integration of digital technologies to government functions has taken diverse forms and magnitudes in different countries, in which advanced economies are leading while developing countries are lagging. For example, in Sri Lanka, efforts to introduce digital and assistive technologies to the functions of the government commenced in the early 1980s by formulating national information technology (IT) policies but due to various barriers it was not appropriately implemented (Hanna, 2008).

Public services include activities governments manage to serve the citizens (CTFT, 2014). It is any service provided for a large number of citizens by the government (Grout and Stevans, 2003). The legislative and executive regulations define the functions of public services (Calabro, 2011). With the emergence of new challenges and needs of the citizens, public services often tend to undergo reforms and modernization. Many governments and public services organizations are trying to secure the fundamental changes in the design of public services delivery to provide better services to the citizens (Ferlie et al., 2003).

There are at least three main theories of IT in public administration. First, the theory of technological dynamism which argues that a critical driver of change in information systems is the theory of technology determinism (Voltis, 1992). According to this theory, when new technology appears, it creates change and will be adopted by public administration. Second, the reinforcement theory which argues that administrations implement IT if it supports their view of organizational change (Sherrod, 1971). Finally, it argues that in elections citizens choose candidates who have a similar position to them on the issues.

In the same way, information technology is adopted in public administration if it agrees with the public administrators' view on the organization's future direction. Third, the socio-technical theory which argues that organizations are made up of people in the social system that use tools, techniques, and knowledge to shape the organization (Pasmore, 1988). Finally,

it argues that the demands of the external environment influence technical change. These theories take the position that the adoption of information technology for organizational change significantly depends on the corporate cultures, social systems, and the views of the public administrators.

Deakin (1990) identified several aspects to be considered in providing better public services, including; (i) accountability between providers and users and community; (ii) representation and participation from the whole citizen body and users of the services through dialogue and consultative decision making; (iii) information about the availability, operation, organization and performance on users' interests; (iv) access including availability, ease and adaptability to meet the new needs; (v) choices to be freely made by the citizens; and (vi) redress through complaining channels and related procedures. In a system of e-government, if the government has given due regard to these aspects and has instituted the public services delivery mechanism, there shall be a responsible and trustworthy government that delivers public services efficiently, effectively and equitably.

In providing public services, governments may attempt to be innovative (Stewart, 1987) and encourage an influential role for the users to ensure a good service (Deakin, 1990). In addition, governments may attempt to build trust in public services delivery organizations (Hartley, 2005) through continuous efforts to transform the mechanism and methods of services delivery, so that the mechanisms should go beyond simple automation such as restructuring and transformation of public services delivery needs to be thought (Strover, 2002).

In attempts to provide public services efficiently, effectively and equitably, the introduction of novel technologies to the government has taken place since the 1990s in many countries worldwide. Information communication technology and related technologies became the central instruments in converting traditional governments into electronic governments (Anthopoulos et al., 2015) that sought to reduce costs of providing public services while improving the quality of the services and reach. However, going beyond the use of IT, many governments presently seem to practice complex e-government systems that have become a new administrative system.

E-government is used to improve efficiency, equity and effectiveness of public services delivery as it can reduce costs of public services delivery by using digital technologies. Khosrow-Pour (2009) has identified many significant benefits of electronic government, summarized in table 1. These make it clear that the introduction of e-government tends to significantly improve the quality of public services delivery that would create an effective government. The e-government contributes to improved public service, administrative efficiency, open government capabilities, ethical behaviour and professionalism of public employees, trust and confidence, and social values (Khosrow-Pour 2009; Carter, 2005; Cook and Harrison, 2015; Castelnovo, 2013; Ndou, 2004; Rose et al., 2015).

E-government cannot be considered as a single configuration of meaning, power and norms. Digitization of governments is as much cultural and interpretive as well as technical and objective (Chen, 2003; Chen et al., 2014). The introduction of IT into the government's functions will not automatically impact the improvement of public services. It significantly depends on the public services orientation of the government and social structures so that governments should be mindful of citizens' interests, values and needs in designing public services delivery mechanisms (Chen, 2003; Chen et al., 2014).

E-government is recognized to be uplifting the quality of governmental services by revolutionizing the entire governmental service, which is traditionally criticized for its inefficiency and lower productivity, particularly in developing countries (Giordano et al., 2015). Furthermore, with the mounting digital literacy rate and internet penetration followed by the arrival of smart handheld devices with a vast array of network-friendly applications, people eventually choose online services over time-consuming and costly manual and paper-based services. As a result, e-government is expected to contribute to quality enhancement, increasing cost efficiency, improved transparency, and greater equity resulting in greater democracy, minimization of corruption, investment-friendly atmosphere, increased economic growth and stability, and greater customer and employee satisfaction (Wadhwa, 2020; Patnaik, Pattnaik & Singh 2020).

Table 1: Benefits of E-Government

Type of Benefits	Description
Removed Boundaries	The electronic government will help break down the agency and jurisdictional barriers to allow more integrated whole-of-government services across the tiers of government. In addition, seamless access will be taken much further with electronic government, making the government more approachable.
Enhanced Accessibility	A government in the off-line environment can be challenging to access. It often requires visits to the government office, while some business activities can be conducted by phone. It can be problematic for people in regional and remote locations. The electronic government offers the potential to increase access to information and services significantly.
Improved services quality	The underlying goal of the electronic government is to improve service quality for all citizens. The electronic government represents convenient and reliable services with lower compliance costs and higher quality and value.
Integrated agencies	Cross-agency initiatives can lead to high-value services which provide efficiency benefits for citizens and the government. Scope for cross-agency initiatives exists where several services are closely related – that is, where information needs to be gathered from more than one agency.
Improved reputation	The electronic government helps build an image of a country as a modern nation, an attractive location for people to visit, and make businesses investments.
Greater citizens participation	The electronic government makes it easier for those who wish to contribute.

Source: Khosrow-Pour, 2009.

As characterized by Tennakoon (2020), transformation to e-government takes place on several key pillars. At the initial stage, the e-services are limited to disseminating information as governmental agencies set up their websites to share information about them and make the services and information available about contacting them. Next, the movement to official two-way transactions occurs, where sensitive information such as personal and financial information are exchanged between a governmental body and other parties. At stage two, privacy and security concerns are highly relevant to secure the transaction. The next stage is characterized by multipurpose portals, which allow customers to use a single point-of-entry to all citizens/customer-centric service deliveries. The e-governmental service demands may cut across different government agencies stressing all related governmental bodies to span their systems beyond the institutional boundaries. At stage four, personalization of the portal takes place, allowing citizens/customers to access a variety of services at a single website while accommodating a greater level of personalization for individual users. It calls for sophisticated web programming to enable interfaces with both electronic and non-electronic services. At the fifth stage, the fundamental transformation of government structures into e-forms, takes place. These standard services are clustered so that customers can enjoy a unified package of e-services instead of a set of disparate services. Hence, the departmental boundaries may become invalid and merge to create a network of institutions.

Finally, during stage six, transformation and full integration of e-governmental services arise. Front and back offices services are joined together via technology to offer seamless service delivery. This transformation process is usually a lengthy and incremental one and thus may take differing periods depending on the e-readiness of each governmental department (Tennakoon, 2020; Wadhva, 2020; Turban et al., 2015).

E-government has had a significant impact on public administration by changing the public service's environment, adding new concepts and methods to its operations, and changing the relative weight and relationships among established elements of public administration. E-government includes many elements such as citizen-centred service, information as a public resource,

new skills and relationships, impact on accountability and management models, technological advancements, and improved services. These activities of e-government can be understood through four broader perspectives: e-service, i.e., e-delivery of the government information, programmes, services; e-management, i.e., use of the information technology to improve the management of government from streamlining business processes to improve the flow of information within government offices; e-democracy, i.e., use of e-communication vehicles such as email and internet to promote citizens' participation in the public decision-making process; and e-commerce, i.e., the exchange of money for government goods and services (Cook et al., 2002).

As a technology-driven service delivery system, e-government possesses countless benefits for any country regardless of its size and economic status. E-government tends to enhance the service quality of the governmental services with improved efficiency and lowered cost (Bhuiyan, 2011). The governmental procedures tend to become simple to understand and easy to deal with once they are transformed into e-format. Likewise, the e-government carries great potential that can be fruitfully used to enhance the quality of public services.

There are several studies on the adoption of IT in government in Sri Lanka. First, most studies in this area have focused on administrative systems and reforms in Sri Lanka from a public administration perspective (Wanasinghe, 1994; Samaratunga & Bennington, 2002; de Alwis, 2013; Nanayakkara, 2015; Liyanage et al., 2019a). Second, some studies have analyzed the role of digital technologies in improving the functions of government institutions in Sri Lanka (Hanna, 2008; Weerakkody et al., 2009; Tennakoon, 2020). These studies emphasize the role of technology, especially information technology, in improving the functions of the government and governance. Third, a few studies have focused on examining the effects of IT on the efficiency of public services in Sri Lanka (Fernando, 2006; Deshani & Weerasinghe, 2015; Elapatha and Jehan, 2020; Alahakoon and Jehan, 2020). These studies analyze the role of IT in government from an information technology perspective.

This theoretical and empirical literature emphasizes several benefits of e-government, including; (1) making every information of the government available to all in the public interest; (2) making the government aware of the problems of the people; (3) increasing and encouraging people's participation in the governance process; (4) improving the country's information and communication technology and electronic media, for uplifting the country's economy by keeping governments, people and businesses in tune with the modern world; and (5) establishing transparency and accountability in the governance process; and reducing government spending on information and services (Hanna, 2008). E-government, therefore, is expected to generate many benefits to the society at large, including; (1) improving convenience; (2) promoting transparency; (3) saving the time of employees; (4) improving the accessibility of data; (5) unifying various departments/divisions of the government; (6) cutting public expenditure; (7) saving physical space; and (8) promoting sustainability (Bertrand, 2019; MDIIT, ICTA, 2019). It is expected to completely transform all government functions that will enable it to provide better services to society. However, how far these objectives have been achieved in the case of Sri Lanka is not yet thoroughly studied and revealed.

It is also clear that though there is an abundance of theoretical and empirical studies that have emphasized the role of e-government in improving the quality and efficiency of government, most developing countries, including Sri Lanka, appear to have not successfully attempted to reap the benefits of e-government. This study, discusses the relevance of these conceptual and theoretical insights to see how far the policymakers in Sri Lanka have been guided by these ideas and assess the progress of implementation of e-government as well as its effects. The existing empirical studies concerning advanced economies clearly show that e-government has contributed to significantly improving public administration. However, there is a lack of studies evaluating the implementation of e-government, its effects on the efficiency and effectiveness of public services delivery in Sri Lanka, and the prevailing institutional, social and cultural impediments to implementing e-government in Sri Lanka. To fill this void, this paper will review and discuss the implementation of digital technologies in government,

the contribution of e-government efficiency and the effectiveness of public services delivery. In addition, the review will identify various impediments to implementing e-government initiatives in Sri Lanka that needs to be addressed through public policy and legislation to convert the traditional government into e-government.

The remainder of this paper is organized as follows. Section two has focusses on the progress of introducing digital technologies in public institutions in Sri Lanka since the early 1990s. Section three analyzes the role of digitalization of the functions of the government in Sri Lanka in determining the efficiency and effectiveness of public services delivery. Section four pays attention to various impediments existing for the digitalization of government. The last section presents the concluding remarks.

Implementation of E-government in Sri Lanka

Integration of digital technologies to various government institutes in Sri Lanka commenced in the early 1990s. These include digitalization of regional pension and decision support system, integrated rural development programme, activities of Export Development Board, project monitoring for state accounts, operations of the banking sector, employee provident fund, government press, citizens database, Lanka Educational and Research Network, and utility billing. Digitalization in these functions has happened in different magnitudes, however the progress achieved is low. Sri Lanka's experience of introducing e-government has been one of moderate success even though computing was introduced to Sri Lanka as early as 1962 when IBM supplied the Insurance Corporation with accounting machines (Samaranayake, 1998). Soon after, the State Engineering Corporation and later the Department of Census and Statistics, using their IBMs, provided computing facilities to many state agencies and universities. In 1977, a lump-sum depreciation scheme was introduced under a new government that promoted a free market economy to encourage computerization (Hanna, 2008). That prompted many state and private sector organizations to use computers. From this initiative, Sri Lanka has come a long way with myriads of achievements, failures, and obstacles in incorporating e-government practices into governance, public and private service delivery.

Sri Lanka introduced the open economic model, which was highly inspired by Neoliberalism, in 1978. However, it has not been able to eliminate the deep-rooted socialist practices in its political stance. The dichotomy between Neoliberalism and Socialism is sharply visible in Sri Lankan economic and political spheres. The rivalry between these two major ideologies has affected shaping the e-government initiatives of Sri Lanka since its renewal and restoration process in the late 1970s. With the introduction of Neoliberal economic policies, Sri Lanka also incorporated New Public Management practices into its governance structure. This was a significant turning point in the attempt of incorporating e-government into public services delivery in Sri Lanka. Later this process was also stimulated by merging the approach of Public-Private Partnerships (PPP) into the governance mechanism of Sri Lanka, which directly determined the structures and functions of the model of e-government in Sri Lanka. The following sections of this paper have briefly explained the evolution of e-government in public service delivery in Sri Lanka by taking appropriate examples.

With the advent of the microcomputer and the personal computer in the 1980s, the Minister of Education introduced computers to a large number of schools, along with curriculum development and teacher training, conducted with the aid of a few universities competent in IT. A comprehensive plan was developed to introduce computing to all universities and train university lecturers. British Aid supported overseas training and equipment purchases (Hanna, 2008). Meanwhile, the University Grants Commission, a state body, also supported the programme. As a result, many public sector institutes followed computerization projects. Some of those projects were featured by the Asia Pacific Development Center (APDC) in its Asian case studies on public sector computerization, alongside examples from India, Malaysia, Singapore, and Thailand (APDC 1986). Analysis of such projects points to some common patterns in their successes and failures.

Information Technology (IT) was introduced to school syllabuses and universities as an academic discipline around the 1980s; after four decades now, its performances can be evaluated. It can be stated that there are a lot of peaks and valleys in this process as IT education has taken place through

trials and tribulations. Still, it is recognized that IT education is limited to urban schools in Sri Lanka. IT education has not successfully tapped the rural schools in underdeveloped areas in Sri Lanka by the moment of writing this paper. This situation results from the unequal distribution of resources, regional development disparities, weak public policies and decision making, and lack of physical and human resources. Nevertheless, Sri Lanka has a high adult literacy rate of nearly 92 per cent from 1981 to 2021 due to the free education system (World Bank, 2020). In comparison, the percentage of the computer literate population is only 32.0 per cent in 2020 (Department of Census and Statistics, 2020). The availability of personal computers at the household level varies between 22 per cent to 23 per cent in the period from 2018 to 2020 (Department of Census and Statistics, 2020). There is a considerable scarcity of IT teachers in government schools in Sri Lanka, especially in rural areas.

The destruction caused by the thirty-year protracted civil war in Sri Lanka prevented socio-economic development and progress of any governance initiative in the Northern and Eastern parts of the country in many ways. This civil war has also caused a drawback in IT education and infrastructure development to facilitate such education in war-affected regions. Apart from these factors, many school students show resistance and sluggishness in IT education, even in schools in urban areas. This circumstance resulted from long-term conservative practices in the Sri Lankan education system with deep socio-economic and psychological roots. It has been identified that a particular percentage of students maintain the same lethargy towards IT practices even after enrolling in universities. To address this challenging situation, most faculties in most of the state and non-state universities in Sri Lanka have introduced mandatory IT courses with credits to make every student familiar with computer usage. However, this kind of forceful exercise cannot make computers a student-friendly application without gaining the confidence and passion of students. Moreover, the government, since 2015, launched a credit facility system for university students with zero interest rates to buy laptops to support their university education.

Table 2: Early Stage Key E-government Initiatives in Sri Lanka

	Initiative	Description
1.	Regional pension and decision support systems	In the mid-1980s, the Sri Lankan Treasury introduced two IT pilot projects at the Government Agent's Office in Kalutara, a district close to Colombo.
2.	Integrated Rural Development Programme	In the early 1980s, Sri Lanka introduced the Integrated Rural Development Programme (IRDP) in all districts of the country. Funding came from several donor countries.
3.	Trade	In the early 1980s, the Export Development Board took some enterprising steps to support export trade.
4.	Project monitoring for state accounts	In the mid-1980s, the Department of National Planning initiated the use of IT for monitoring development projects. The department had a remote link to the minicomputer system at the National Institute of Business Management, a state sector pioneer in IT training and consulting services.
5.	Banking sector	Local banks moved to computerization early, driven in part by competition from foreign banks that had already done so. The Central Bank of Sri Lanka then established an automated interbank clearinghouse in the late 1980s.
6.	Employees' Provident and Trust Funds	The Employees' Provident Fund is managed by a board that functions under the Ministry of Labor. Nevertheless, its computerization was handled by the Central Bank, using its mainframe computer.
7.	Government printer	In 2000, the agency made a digital version of the Government Gazette available through its intranet. However, the publication is still not available on the internet.
8.	LK portal	The Computer and Information Technology Council of Sri Lanka (CINTEC) launched a national Web portal named www. Lk. The portal had been linked to several websites, such as the website of the Information Department and some Sri Lankan newspapers.

9.	Department of Inland Revenue	The Department of Inland Revenue began its computerization programme several decades ago. However, progress was slow, and the department was left with a legacy of manual operations and an IT-illiterate workforce.
10.	Citizen database	One of the most apparent e-government initiatives would be integrating the data relating to citizens and sharing these data across agencies.
11.	Lankan Educational and Research Network	As email came into use, at least between computer scientists, Sri Lankans overseas created a store and forward email facility: a volunteer took a daily telephone call from the United States, then sent the day's collection of email to the University of Moratuwa. Thus began SLNet, which later turned into the Lankan Educational and Research Network (LEARN).
12.	Y2K Task Force	The task force consisted of professionals from key agencies. They all worked as a team and kept the Cabinet, and the public informed.
13.	Utility billing	Billing and payment collection for utility services, telephone, electricity, water are excellent targets for computerization.
14.	Release of examination results	The Department of Examinations has been computerizing the scoring and administration of national exams for more than 30 years, continually modernizing and improving the system. Recently, the department released the results of the national exams through the internet, giving hundreds of thousands of candidates' instant access to their results.

Source: Hanna, 2008.

However, there is a tremendous improvement in this prevailing situation with action taken to digitalize school and university education to overcome the challenges posed by the Covid 19 global pandemic. The importance of IT education is highlighted in this paper because the graduates are the ones who will later implement the e-governance practices in public service delivery after a massive bulk of them are appointed as public officials in the public administration sector in Sri Lanka. Table 2 summarizes the early stage key e-government initiatives in Sri Lanka (Hanna, 2008) that have shown significant success in improving the quality of government.

In 1983, the Government of Sri Lanka (GoSL), for the first time, introduced the National Computer Policy. The Information and Communication Technology Act No. 27 of 2003 was introduced in 2003, and the Information and Communication Technology Agency of Sri Lanka was established (Hanna, 2008; Devendra, 2021). In 2004, the ‘e-Sri Lanka Development Project’ was started, which included information infrastructure building, improvement of human resources in IT, citizen-specific service delivery, creating a modern government using IT for social and economic development, and endorsing Sri Lanka as a hub of IT (Devendra, 2021). The e-Sri Lanka initiative was expected to use IT to develop the economy of Sri Lanka by reducing poverty and thus improving the quality of life of its citizens (Dissanayake and Dissanayake, 2013). However, the massive Tsunami that occurred in the Indian ocean at the end of 2004 hit Sri Lanka and caused colossal destruction, which ceased and reversed the entire ongoing development in every sector, including e-government, by grabbing the essence of the entire national resources to rebuild the destroyed regions. The natural disasters that Sri Lanka has experienced during the last thirty years have significantly diverted the resources allocated to e-government initiatives into disaster relief, rehabilitation and reconstruction.

The Information Communication Technology Agency (ICTA) was established in July 2003 by the government to define, catalyze, and lead the implementation of the country’s IT policy (Hanna, 2008; Hapuarachi, 2011). The ICTA has an effective institutional model that draws on the unique e-development experience of other countries. Independence has been granted

to implement a multi-pronged programme of activities called “Auctioning ideas” (Hanna, 2008; Hapuarchchi, 2011). Since the launch of the e-Sri Lanka initiative in 2002, the country began to develop IT that sought to address the digital divide by disseminating IT to the regions and provinces outside of Colombo, particularly in the rural areas (Gamage and Halpin, 2006). The e-Sri Lanka was envisioned as a framework for creating an enabling environment where the government partnered with stakeholders to develop infrastructure and establish e-government services. The e-Sri Lanka roadmap transformed into the multi-donor funded e-Sri Lanka Development Project, with the Communication Technology Act no. 27 of 2003, under which the Information and Communication Technology Agency (ICTA) was established for implementing the organization of the e-Sri Lanka Development Project. The ICTA’s mandate was strengthened by the IT (Amendment) Act no. 30 of 2008, making the apex IT policymaking body and executive agency for IT (Hanna, 2008; Hapuarchchi, 2011). By today, it can be found that ICTA has achieved some of its desired goals, but not all of them. One of the main barriers in achieving its objectives was finding the vast amount of initial capital needed for the projects launched by the ICTA to promote e-government in Sri Lanka. In this case, the financial assistance provided by the United Nations Development Programme (UNDP) and the local NGOs like ‘Sarvodaya’ contributed extensively to bring the experience of e-government to many marginalized and underdeveloped areas in Sri Lanka.

The e-government initiative was further enhanced with the National IT Policy and Action Plan prepared by the Information Technology Ministry in 2011. In addition, a digital strategy known as “Smart Sri Lanka” was introduced in 2013 with the “One Government 2020” strategy in 2020. The Cabinet of Ministers approved both the 2011 and 2013 strategies for implementation. One Government 2020 strategy was a unified e-government strategy that envisioned a ‘fully integrated, citizen-friendly, cost-effective and converged service delivery to all by 2020 through a responsive and networked government’ (MDIIT, ICTA, 2019). However, many of these programmes and actions in these three documents have thus far been left unimplemented, having little bearing on the development of the national digital agenda.

In 2017, the government introduced ‘Vision 2025’, a policy roadmap to make Sri Lanka a prosperous nation by transforming the country into the knowledge hub of the Indian Ocean by facilitating the social-market economy. This action plan also emphasized the importance of adequately incorporating e-government into the public services delivery to strengthen democratic values by minimizing prevailing corruption in the public sector. As the latest initiative, the National Digital Policy of Sri Lanka from 2020 to 2025 was introduced. It envisioned ‘a better life for people by transforming Sri Lanka into a sustainable country that is prosperous, knowledge-based and inclusive by 2025’. This National Digital Policy outlines Sri Lanka’s digital agenda for 2020 to 2025. The policy provides high-level principles and a conceptual framework for Sri Lanka to achieve sustainable economic development and growth by creating an innovative economy and effective governance. Furthermore, the policy prescribes the key drivers and enablers essential for Sri Lanka’s development as a digitally-empowered nation. The two main pillars identified under this policy relate to the broader economy and governance. The critical enablers are connectivity and networks, digital skills and culture, trust and confidence, and governance and leadership. In addition, the digital potential is a cross-cutting enabler focusing on future-proofing all digital solutions considered in each pillar and enabler (MDIIT, ICTA, 2019).

These highly ambitious agendas experienced limited implementation and minimum success in Sri Lanka. There has been much hype and rhetoric of the role of e-government with limited fragmented actions in certain institutions while most public institutions are far behind the digital age. For decades, the shifting of power between political parties that has resulted in high-level political instability in Sri Lanka has reversed many of the progressive policy changes in e-government with sudden and unpredictable government changes. As a result, the prevailing power struggle in Sri Lanka has lost many fortunes, including overall socio-cultural, economic and political development. One example of this chaotic situation is from 2018 to 2020; within two years, the Sri Lankan government was dissolved, and new governments came into power more than three times.

It is a widespread practice in Sri Lanka; with the power shifts in the political sphere, the public policies also change, including the previews of ministries. Accordingly, the politicians use their influence to change the top positions in the public administration sector and assign their political supporters to those positions to implement their party policies at the ground level in the country. The political culture and identity politics tainted by cronyism, nepotism, favouritism, patronage systems, and various conflicts of interests have adversely affected the implementation of e-government in Sri Lanka since its very beginning. In this manner, in present day Sri Lanka, this high-level political instability and party-based governance instead of policy-based governance have severely damaged the coherence and smooth function of e-government in a plethora of ways.

During the dominion period from 1948 to 1972, Sri Lanka, which inherited a public administration system from colonial rule, had experienced an efficient public administration under the Ceylon civil service, which was simultaneously reformed to create the current administrative system when Sri Lanka became a republic in 1972. During this period, the late Lee Kuan Yew, the founding Prime Minister of Singapore, who spearheaded Singapore to move from a third world country to a first world country, visited Sri Lanka in the 1950s when he was travelling to the UK for studies. He had envisioned developing Singapore to the level of development he saw in every sector in Sri Lanka that prevailed during that era. He was fascinated by the effective and efficient public sector with offices equipped with modern facilities and the public services provided for the citizen free of charges like education and health under the welfare system and rich natural resources of Sri Lanka in that particular passage of history. The public sector in Sri Lanka has not experienced a significant improvement including the adoption of newer technologies. Countries that were far behind Sri Lanka in terms of public sector performance have made significant strides in improving the quality and efficiency of government.

Effects of E-Government on Public Services Delivery in Sri Lanka

Sri Lanka's efforts to introduce e-government has produced mixed results. Table 3 provides data on the e-government survey of the United Nations regarding Sri Lanka. Data indicates that Sri Lanka has made significant progress in introducing e-government since 2003. There is substantial progress in e-government development index value, e-participation index rank, e-participation index value, online services index value, and telecommunication infrastructure index value. However, the e-government development index and human capital index have remained stagnant, though there have been some spikes in specific years during the last two decades. That the e-government development rank has remained almost stagnated during the last two decades indicate that Sri Lanka has failed to implement e-government initiatives to improve the efficiency and effectiveness of government. Many countries that started government initiatives long after Sri Lanka have gone very far in implementing e-government services. Sri Lanka appears to be a case of much political hype and limited success in implementing e-government services.

The efficiency of public services delivery can be achieved under the conditions of maximizing the results of action about the resources used, and it is calculated by comparing the effects obtained in their efforts. Measuring the effectiveness normally requires: (i) estimating the costs the resources consumed in the effort; (ii) estimating the result, the outputs; and (iii) comparing the two. However, it is challenging to evaluate the efficiency of the public services delivery because of the inherent nature of the public services in which there is difficulty in numerically measuring the outputs. Due to measuring issues, attempts have been made to examine efficiency in order to understand whether the introduction of IT has contributed to reducing the cost of the public services that were previously delivered without the support of IT. However, this type of evaluation is not sufficient to assess the outcomes of e-government accurately, and more research and data analysis is required in this matter.

Table 3: E-government Indicators of Sri Lanka

Indicator	2003	2010	2012	2014	2016	2018	2020
E-Government Development Index rank	84	111	115	74	79	94	85
E-Government Development Index value	0.38	0.39	0.43	0.54	0.54	0.57	0.67
E-Participation Index rank	37	82	109	33	50	85	66
E-Participation Index value	0.29	0.14	0.07	0.64	0.66	0.62	0.71
Online Service Index value	0.27	0.26	0.37	0.65	0.65	0.66	0.71
Telecommunication Infrastructure Index value	0.03	0.10	0.19	0.23	0.24	0.31	0.52
Human Capital Index value	0.84	0.83	0.73	0.73	0.73	0.74	0.76

Notes:

1. The E-government Development Index is a composite measure of three important dimensions of e-government, namely: provision of online services, telecommunication connectivity, and human capacity
2. The E-Participation Index assesses, on a 0-to-1 (best) scale, the quality, relevance, and usefulness of government websites in providing online information and participatory tools and services to their citizens.
3. Online Participation Index measures the online presence of all 193 United Nations Member States, which assesses national websites and how e-government policies and strategies are applied in general and in specific sectors for delivery of essential services
4. The telecommunication Infrastructure Index measures the existing infrastructure required for citizens to participate in e-government.
5. Human Capital Index is used to measure citizens' ability to use e-government services.

Source: UN e-government survey, <https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/161-Sri-Lanka>

Sri Lanka appears to have spent a significant amount of taxpayer and donor-funded money to introduce IT into public services delivery during the last two decades. Most public services that have not adopted e-governance in Sri Lanka were not efficient, and the institutes that have adopted digital technologies have shown efficiency improvements (ICTA, 2008; Jehan et al. 2010; Elapatha and Jehan, 2020; Alahakoon and Jehan, 2020). It should be mentioned that the time-saving potential, transparency and accountability, high percentage of accuracy compared with the manual services, resources efficiency in the services delivered through the e-government have contributed to gaining such efficiency and effectiveness.

Several e-government initiatives in public institutions have contributed to improving public services delivery in Sri Lanka. The e-motor revenue license project introduced in the Western Provincial Department of Motor Traffic has enabled vehicle owners to renew the annual revenue license in a few minutes or obtain the license by making payments online. The project on digitization of birth, marriage and death certificates implemented by the Registrar General's Department has enabled residents to obtain a copy of any of the three certificates in a few minutes. The e-human resource management project implemented by the Combined Services Division in the Ministry of Public Administration has led to a high degree of efficiency improvement, saving time and resources spent on administering annual transfers of public servants. The Department of Immigration and Emigration has adopted IT successfully to improve its efficiency and effectiveness through a policy of paperless operations which includes the issue of passports to citizens and border control activities at the international airport in Colombo, the department has been able to achieve efficiency improvements through IT integration and training and motivation of staff (Hanna, 2008; Adhikari, 2014). These are some of the successful e-government initiatives that have contributed to improving the efficiency of public services delivery in Sri Lanka (Chandraguptha, 2012).

Many initiatives in e-government have also brought many other unexpected positive outcomes. The e-government initiatives that have converted traditional public services into digital platforms have reduced

or eliminated the need for the public to visit government offices regularly. This is a significant outcome when it comes to time and resources saving. One of the most important things is that many of the roads in Colombo and other urban areas close to the government offices had a high level of road traffic during office hours. This situation was resulted in visiting thousands of people visiting Colombo and other cities every day to accomplish their public service requirements. That consistent traffic caused an enormous loss in time and money and environmental pollution, including air and noise pollution. Those were severe impediments in Sri Lanka's journey towards sustainable development. Therefore, increased usage of e-government has contributed to achieving sustainable development by reducing resource wastage and improving resources efficiency as its indirect outcome.

E-government has contributed to improving public services delivery in Sri Lanka in several ways, including; reduction of citizens' and organizations' time, efforts and the cost of services; improvement of service delivery and citizens' satisfaction; creation of more work opportunities; improving the efficiency of government agencies; improving services through a better understanding of users' requirement; sharing of good practices and information among various government agencies efficiently and effectively; creating productivity gains by assisting government's policies; improving transparency and accuracy of decisions; and helping build trust between government and citizens. Effectiveness is the capability to produce the desired result or the desired output from a given set of inputs, which is a performance indicator. When the public services delivery is effective due to e-government, it indicates that e-government has generated the intended or desired outcomes. It expects to benefit and address cutting budgets and the critical financial situation government institutions face (Dissanayake, 2011; Abu-Shanab, 2020; Nam, 2019). However, political, economic, and cultural disparities across countries affect the variation in the impact of e-government on government effectiveness and efficiency. By analyzing the aspects mentioned above, it is apparent that proper implementation of e-government practices can promote Sri Lanka's commitment to achieving Sustainable Development Goals (SDGs) by 2030. The Agenda 2030 is a people-centred agenda built on the foundation of transparency, accountability and inclusion.

Hence, both e-government and the SDGs agenda have a great potential in mutually incorporating each other to achieve their objectives.

Though e-government generates significant positive outcomes for public institutions, most public sector officials had no understanding of the value of e-government and seemed to perceive that e-services have no public value (Nufna & Fernando 2020; Alahakoon and Jehan 2020; Liyanage et al., 2021). Therefore, this kind of personal perspectives and ideologies have hindered the progress of e-government in some places. This situation indicates the importance of implementing effective awareness-raising campaigns at every level of society to avoid misunderstandings of the community on e-government in order to fully gain the actual benefits of e-government. However, the e-government initiative of the Ministry of Public Administration has significantly contributed to improving the effectiveness of the services of the ministry.

The effectiveness of e-government services was impeded by institutional and cultural factors inherent in public organizations (Irfan, 2017). The effectiveness of e-government on public services delivery has been constrained by a lack of interpersonal and fully fledged computer users, the absence of goodwill of politicians and bureaucrats, and inadequate e-government infrastructure in government institutions in Sri Lanka. This situation can be identified in highly professional entities like state universities in Sri Lanka. In addition, a certain degree of dogmatism infused into the institutional culture has caused such deterrents.

The contribution of e-government to improving public services delivery has not always been uncontroversial as many conditions tend to govern the success of e-government. For example, in an empirical study concerning the case of Indonesia, it has been revealed that there is a misleading perception that assumes that e-government alone is sufficient to achieve better public service, but evidence suggests that the role of e-government in improving public service tends to significantly depend on factors such as financial support, maintenance of the technology, and work culture of the e-government management (Aritonang 2017). This situation is also highly relevant and applicable in the Sri Lankan context. In addition, even though

some e-government programmes have demonstrated efficiency and economic gains, many are struggling to make a convincing case, and effectiveness and other end-outcomes are even more challenging to achieve (Yang & Rho, 2007).

The success of e-government tends to significantly depend on several factors, including political, social and group rights, resources, organizational leadership, strategic planning and collaboration and the status and recognition of human rights in the society. The experience of many countries in the world overwhelmingly suggests that the institutional, political, social and economic context under which the e-government is implemented tend to play a significant role in determining the impact of e-government on the efficiency and effectiveness of public services delivery. In this case, it is vital to mention the importance of the Right to Information Act, No. 12 of 2016 in the journey of amalgamating e-government into a broad practice at each level of governance. This Act has been perceived as a milestone in citizen-friendly policies in Sri Lanka that can lay the foundation for democracy, open governance, citizens' active participation in governance. The Right to Information of 2016 is a legally binding document that can enhance transparency and accountability in government functions. According to the provisions of this Act, the government of Sri Lanka has the legal obligation of providing information upon the request of the public regarding specific governmental actions which are open to the public. When paying attention to the recent achievements and practices in e-government in Sri Lanka, the Right to Information Act of 2016 paved the way for the people-centred e-government in Sri Lanka by incorporating internationally recognized standards and values related to human rights protection and promotion.

In the case of Sri Lanka, the impact of e-government in public sector performance is not free of controversy. In a comparison of Sri Lanka and the United Kingdom, implementation of e-government is constrained by several barriers, including political, organizational, and technical contexts that in turn dampen the effects of e-government on improving efficiency and effectiveness of public services delivery. The achievement of outcomes, the development of trust, and the effectiveness of public organizations, the public

value of e-government in Sri Lanka is unsatisfactory in all the dimensions of public value generation (Weerakkody et al. 2009; Karunasena et al 2011). This predicament has been inevitable because of the lack of e-services, the security threat to public information in public organizations, the low adoption of information and communication technologies in government, and the low uptake of available e-government initiatives. Human resources quality and user attitudes of public institutions tend to determine the impact of e-government on public sector performance significantly.

The public sector in Sri Lanka still follows the outdated Weberian bureaucracy. The Sri Lankan public sector has been branded as highly bureaucratic, hierarchical-oriented, and corrupt. There is also a significant trust deficit in public administration in Sri Lanka, showing a severe principal-agent problem. The people in Sri Lanka have a lower trust level towards governance and public institutions (Ramasamy, 2020). The existing despairing attitude of the people towards public administration and management in Sri Lanka has negatively affected its performance in many ways. Accordingly, through this research, it was also recognized that the prevailing socio-cultural factors, including public attitude, also play a significant role in gaining the actual benefits of e-government. If attention is paid to the circumstances in Sri Lanka, e-government has become unable to function properly at every level in society due to the fading nature of public trust.

Problems about the system quality, service quality and lack of a precise centrally planned mechanism for implementing information systems have dampened the potential benefits of IT in improving public sector performance. Government institutions use IT applications mainly for personal administration and accounting purposes (Pushpakumara, et al, 2014; Liyanage et al, 2019b). There is no wide or comprehensive usage of IT in government institutions, as functions such as transport, performance management, customer feedback, marketing are excluded. At the beginning of 2022, the Government of Sri Lanka intends to introduce an electronic payment method in public transportation, which has been common in most countries for many years. This project was abandoned and postponed many times in history due to internal factors like less motivation and resistance. A

lack of IT literate employees, issues of maintaining IT software and hardware, internet problems, and data protection problems have prevented the public institutions benefiting from e-government.

Because of the inherent weaknesses and chronic inertia existing in public institutions, the e-government programme has failed to transform public sector organizations in Sri Lanka compared to those of many developed countries which have recorded successful e-government achievement episodes. However, a slight improvement in overall e-government practices in Sri Lanka has been noticed recently with the new normalcy created by the Covid 19 pandemic. Most public institutions and officials who previously resisted e-government had to adapt to e-governance since they had no other efficient alternative in maintaining and continuing public services delivery under the circumstances of the Covid 19 pandemic. Six distinct strategies, that should be adopted include; i) an information infrastructure development program to ensure affordable access to information, communication, electronic services, and other content; ii) a coherent investment strategy to provide transparent, effective and efficient public services by re-engineering government processes and empowering technology; iii) an e-society development program to empower the most vulnerable communities in Sri Lanka by promoting innovative use of IT; iv) an IT-literate development program to build up an IT-skilled workforce; v) an IT industry development strategy to develop the domestic IT sector to ensure sustainable economic growth in the country, and vi) a program designed to create policy and a regulatory environment and to develop leadership and institutional capacity building to support IT-based developments and reforms to implement the e-government programme in Sri Lanka effectively (ICTA 2005). However, failure to implement a comprehensive programme of public sector reforms while implementing e-government has seriously dampened the positive role of e-government on the efficiency and effectiveness of public services delivery. The success of the implementation of e-government and the potential benefits when implemented appears to depend significantly on several social, political, economic, cultural, institutional and policy factors in Sri Lanka, some of which act as impediments.

Business Process Management (BPM) and Business Process Outsourcing (BPO) sectors in Sri Lanka are firmly positioned by factors like the country's high literacy rate, the talent pool that comprises IT literate experts, some investor-friendly policies, and an encouraging business environment. Moreover, public utilities like broadband and satellite connectivity have shown rapid growth in the past few decades. However, it can be identified that the development of digital infrastructure has not been distributed equally throughout Sri Lanka. Many people in underdeveloped areas do not have sufficient access to IT equipment and telecommunication facilities, especially internet facilities. This factor is one of the massive obstacles in promoting e-government in Sri Lanka. Nevertheless, the country's internet coverage was expanded to 19.5 per cent in 2015, compared with the average of 1.1 per cent in 2005 (Antonio, 2016). Meanwhile, Sri Lanka was the first in the South Asian region which introduced 4G broadband technology in 2013 (Antonio, 2016).

Consequently, Sri Lanka's IT and digital infrastructure sectors have a pivotal role in driving the nation towards sustainable human development and economic growth and enabling an innovative environment that respects knowledge and wisdom. All the above-detailed aspects have contributed a lot to uplift the standards of e-government in Sri Lanka in several ways. In these circumstances, the role of the e-government and its efficiency and effectiveness in services delivery have gained unprecedented significance.

One of the most popular election promises of the coalition government, which came to power in 2015, was introducing free Wi-Fi facilities to every nook and corner in the country by 2020. They attempted to fulfil this goal by launching Google's pilot project, 'Google Loon', but it did not succeed due to technical failures. The current government is also striving to improve Sri Lanka's digital infrastructure by prioritizing the reviewing of the government's rules, regulations, policies, and other legislation practices regarding the IT sector to enhance the capacity, productivity, and utility of e-government services in Sri Lanka, especially to deliver public services amidst the Covid 19 pandemic.

Anyhow, the efficiency and effectiveness of any governance strategy have closely connected with affordability. The overall efficiency and effectiveness of e-government in Sri Lanka has been adversely affected by the high tax rates imposed by the GoSL. Currently, Sri Lankans have to pay several types of taxes for accessing IT gadgets and telecommunication services, including the internet. From 2019 to 2021, the tax rate for internet services was 10.20 per cent, and that of telecommunication services other than internet services was 22.60 per cent (Telecommunications Regulatory Commission of Sri Lanka, 2021). The other types of telecommunication taxes include the Telecommunication Levy, CESS, Value Added Tax (VAT) and Nation Building Levy (NBT), the Environmental Tax imposed from 2019 and the other taxes by telecommunication services providers. Apart from the tax hikes, currently, the GoSL has decided to restrict the import of telecommunications equipment. As a result, most of them have been labelled as luxury items and an additional tax has been imposed on them. This current unfavourable environment was identified as a massive hit in the efficiency and effectiveness and the further development of e-government in Sri Lanka through this research. As mentioned above, the GoSL strives to create a conducive environment for digital infrastructure development, but on the other hand, it imposes heavy taxes on telecommunication services. Therefore, it can be concluded that this contradictory situation has negatively impacted the quality and standards of e-government in Sri Lanka.

Impediments to Adopting E-Government in Sri Lanka

The introduction of IT in public institutions in Sri Lanka is confronted by many impediments ranging from issues of organizational culture to external factors. One of the most striking barriers faced by developing countries such as Sri Lanka is the lack of funds to invest in digitalization. Public institutions are confronted with severe budgetary constraints to make the required initial investments to establish e-government systems. The fixed cost of establishing e-government appears to be significantly high, which is beyond budgetary allocations. Financial constraints have significantly impeded the implementation of the e-government programme in Sri Lanka, even though

the government has spent taxpayers' money and international donor-funded money for this purpose (Liyanage et al, 2021).

A lack of IT literate employees is a significant barrier to implementing e-government services in the public sector (Liyanage et al, 2021). Employees of public institutions are recruited mainly through competitive examinations, while a significant number are recruited through political appoints, especially to the semi-governmental institutions. One of the key impediments to introducing IT into public administration is the fact that employees do not have the technical skills and competence to use IT resources for public services delivery. Part of the problem lies the fact that IT requirement is not included in the prerequisites for recruiting for most of the occupations in the public sector. To implement e-government successfully, all public sector employees should possess essential IT skills, including basic computer operations, cybersecurity knowledge, online communication tools, remote working, social media marketing and web search skills. Apart from them, various types of administration software such as management information systems, accounting information systems, learner management systems are highly beneficial. Therefore, a lack of an IT-savvy staff in public sectors hinders the implementation of IT-oriented public services delivery.

Converting to e-government is also hindered by the fact of lack of institutional reforms, including regulatory restructuring. Government institutions differ from private sector institutions in many ways, including their processes, culture, and ways of working (Kanungo, 2011). Government organizations are plagued by phlegmatized and lackadaisical work systems. Government organizations often tend to resist drastic changes usually associated with technology-based interventions. The bureaucratic dimension, as the dominant organizational dimension, tends to be hostile to introducing more efficient and productive systems. The urge to control and exert authority over the lower categories of employees force the higher-level officers to prefer procedural guidelines and protocols that are not primarily compatible with e-government systems. Organizational restructuring and reforms are required in the public sector to implement e-government systems fully and efficiently.

Conventional legal and regulatory frameworks tend to affect the effective implementation of e-government frameworks significantly. The traditional public administration system has been organized to be operated under a paper-based managerial framework for operations and reporting purposes. Conventional legal and regulatory frameworks and arrangements often hinder the use of e-government (Angelopoulos, et al, 2010). In Sri Lanka, public sector institutions are governed by various Acts of Parliament, financial regulations and administrative regulations, and government establishment codes. These regulatory arrangements specify how organizational matters should be operated. These regulations, procedures and protocols have been arranged considering the conventional system of government which is not compatible with the newer ways of managing affairs using e-government systems. Regulatory and legal arrangements existing for the management and operations of the public sector institutions for public services delivery often hinder the use of e-government services in Sri Lanka (Liyanage et al 2021). It has been shown that the ‘implementation of e-government principles and functions requires a range of new rules, policies, laws and governmental changes to address electronic activities including electronic archiving, electronic signatures, the transmission of information, data protection, computer crime, intellectual property rights and copyright issues’ (www.e-spincorp.com).

Corruption and e-government appear to have a two-way relationship (Mistry and Jalal, 2012). While the introduction of e-government tends to significantly reduce corruption in government, existing corruption in government may hinder the introduction of more transparent and trustworthy e-government initiatives. The e-government initiatives may be viewed by corrupt officialdom and politicians as mechanisms that prevent bribery, corruption, embezzlement, and rent-seeking activities. Most existing studies in this area argue that e-government can reduce corruption by addressing the issue of asymmetric information, poor accountability, government inefficiency, and service delays (Aduwo et al, 2020). However, some studies have shown that e-government may not necessarily reduce corruption in government (United Nations, 2020). In contrast, there is evidence that overinvestment in ITs might have led to more opportunities for corruption

in government (Charoensukmongkol & Moqbel, 2014). This makes it clear that the relationship between e-government and corruption in government is seemingly contentious in which corrupt regimes may not prefer to adopt e-government as it would reduce the space to engage in corrupt activities.

The introduction of e-resources to the public sector has always been a hot topic among trade unions. A slew of economic studies has predicted that new advances in the use of IT in government will automate or change a significant number of jobs (Reshef, 1993; Nissim and Simon, 2021). E-government initiatives may make some occupational roles redundant and some skills obsolete so that there is a strong basis for trade unions to resist the introduction of e-government. As a result, the introduction of e-government is not seemingly well received by the employees because of the perceived fear of layoffs and reduction in additional benefits. As a fact, automation of public institutions using IT leads to a reduction in employment opportunities in the public sector. Moreover, introducing e-government and E-Systems would significantly reduce the employees' need to engage in overtime work. Since overtime earnings appear to be a constant source of income for most employees, the support to introduce e-government will be lacking. Trade unions would also take that anti-e-government stance since it would reduce employment opportunities and overtime opportunities. These forces would create significant internal resistance to the introduction of e-government so that the attempt to improve efficiency, effectiveness and equity through e-government would be a hard-fought exercise.

A conventional system of public administration that has created a particular form of work ethics for employees in public institutions might not necessarily support the efforts to improve the efficiency and productivity of public services delivery (Kaisara & Pather, 2010). In addition to a lack of worker motivation for e-government, governments might face ethical dilemmas using IT in delivering government services. In the information age, what constitutes ethical and unethical conduct has to be redefined and re-constituted in public organizations. Furthermore, ethical issues in the context of management information systems and accounting information systems constrain the effective use of e-government services. Hence, there should be

new initiatives to address the new forms of shirking practices and misuse that might emerge due to the management and operations of public institutions in the e-government system.

Concluding Remarks and Policy Implications

This paper reviewed the role of e-government in improving public services delivery in Sri Lanka which has, over the years, spent a significant amount of funds on e-government initiatives aiming to improve the efficiency and the effectiveness of public services delivery. The theoretical and empirical literature suggests that e-government has significantly improved the efficiency and effectiveness of public services delivery. In Sri Lanka, e-government initiatives that have been fully implemented in certain public institutions have shown significant improvements in the efficiency and effectiveness of public services delivery. However, according to the e-government survey of the United Nations, the progress made thus far in implementing e-government initiatives in Sri Lanka is not satisfactory. The introduction of e-government to improve efficiency and effectiveness has been impeded by many factors in Sri Lanka, including severe budgetary constraints faced by public institutions and poor leadership and motivation. Chronic impediments confronted by public organizations to adopt e-government include a lack of IT literate workforce in the public sector, unfavourable institutional cultures that protect rigid hierarchy and red tape, strict procedures and protocols and work norms, and incompatible legal and regulatory frameworks available for public sector organizations, persistent corruption and resistance from workers and trade unions due to the fear of possible layoffs and reduction in additional benefits due to the adoption of technology, and unsuitable work ethics and lack of professionalism which has prevailed for a long time.

The review reveals several actions that need to be taken by the government to convert the traditional government into e-government. First, the entire public administration systemic must be reformed and restructured to suit the digital age. Work norms and work ethics should be redesigned and reshaped for the public sector employees to work in a digitalized government. A comprehensive and time-bound e-government programme needs to be

implemented into the entire government, all institutions and all possible operations. Administrative regulations and financial regulations governing all governments institutions need to be reviewed and revised to suit the operations in a digital platform. A tall and hierarchical administration structure that is built on colonial vertical monitoring and supervision framework needs to be converted to a flat administrative system. This requires revising and reforming procedural guidelines, administrative protocols, and the entire modus operandi of public institutions. National procurement guidelines need to be revised to suit the digital age. There is no doubt that the transformation of traditional government into e-government will result in a modern state that can deliver public goods and services efficiently, effectively, equitably, in a trustworthy manner which would result in a resulting in a people-centred democratic government that is inclusive and sustainable.

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Chapter 09

Linguistic Concerns and Minorities in Public Administration: A Study with Special Focus on Empowering Linguistic Rights in Post-war Sri Lanka

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Introduction

Language was always felt to be a problem in a plural society because it is one of the elements that identifies a group of population as such since the use of a language is one of the most important factors which creates identity in multi-cultural or a plural society (Vacca, 2010). Pluralism has historically enriched the Sri Lankan society with its multi-ethnic, multi-linguistic and multi-cultural communities. However, the recognition of ethnic and linguistic differences and identities in political and administrative domains has continued to be a contested matter. Though the Sri Lankan people differentiate themselves in different ethnic categories, majority of them speak only two different languages namely, Sinhala and Tamil. Sinhala is the mother tongue of the Sinhalese who form the majority in the country's population while Tamil is the mother language of the majority of Tamils (either Sri Lankan origin or Indian origin) and Muslims ('Moors' in ethnic category) – all form the minority ethnic groups in Sri Lanka. It is worth noting that societies with multi-linguistic communities succeeded in maintaining linguistic harmony building integration among different linguistic communities through policies and projects respecting and recognizing different languages particularly minority languages. However, in Sri Lanka – though it possesses only two major linguistic groups, the language recognition and use in daily affairs

including public administration has continued to be a subject of debate particularly in the post-independent era.

The question of linguistic minorities has taken on a particular urgency, however, because of the increasing recognition-amongst both linguists and speakers of minority languages themselves-of the threat of extinction faced by many minority language (Dunbar, 2001). The provision of or other legal protection for linguistic minorities is widespread in democratic governance and administrative system. Minority rights are part of human rights that cannot be denied by others, especially by the majority and the governmental institutions. There is a growing interest in minority language rights due to the pressing issues of properly recognizing and implementing minority rights provisions in many countries. Many international laws and norms allow minorities to exercise their socio-cultural, economic and political rights in their daily affairs. Among them, linguistic rights are popular rights that make many minority groups empowered in society. However, in many plural societies, majority domination through language and religion has been a part of their political and social system. This induces the marginalization of minority concerns, especially of their rights in governance and public affairs. The administration of public institutions and their functions has also come to be influenced by this practice, which not only violates the rights of ethno-linguistic minorities but also questions the efficiency and effectiveness of the functioning of these public institutions. Therefore, accommodating the linguistic rights and concerns of minorities within the administrative machinery has become one of the major subjects of focus by the government in plural societies.

The major objective of this research is to examine the linguistic rights and linguistic concerns of minorities in public administration in Sri Lanka through an extensive review of national language policy, nature (or degree) of the accommodation of Tamil as official language equal to Sinhala, and the nature of linguistic concerns experienced by Tamil-speakers in accessing public institutions. Although linguistic grievances and concerns faced by minorities are identified in many areas of public life, this study has specially focused on the linguistic concerns of minorities in public administration.

Methodology

This is a qualitative study in nature and has used descriptive and interpretive methods to examine the nature of the official language policy, with specific focus on the accommodation of minority language particularly in public administration and the related issues faced by the minority communities in Sri Lanka. In Sri Lanka, the two language-Sinhala and Tamil are spoken traditionally, the Sinhala language continues to dominate in public life and public (civil) administration. Tamil language-although it is spoken by one out of four in the country's population, and has gained recognition as an official as well as a national language-continues to be marginalized in practical life. Therefore, through the above methods, this study attempted to study the development of 'official language' discourse, adaptation of 'the official language policy', the conception of Sinhala as the only official language, the nature of minority concerns and grievances with regard to exercising their linguistic rights in public administration.

In order to understand and review the language policy and linguistic issues faced by the Tamil-speaking minorities in public administration, this study has reviewed a number of secondary literatures available in the form of literary books, book chapters, research articles, reports of commissioned studies and individual studies. Due to the difficulties that emerged as a result of the Covid-19 pandemic, this study has not incorporated any primary data. However, the study has attempted to justify the arguments based on the examination of secondary data.

Language Policy in Public Administration in Multicultural Societies

Language policy can be understood as the explicit and implicit policies used in an attempt to change the language behaviour of individuals within a society. As such, language policy may support or discourage the use of languages or varieties of languages within a society (Thomas, 2007). According to Annamalai (2002), language policy is basically about deciding on the networking of languages. It involves choice of functions and the choice of language to perform each of them. The choice is made for a purpose to serve

the perceived need of the maker of the choice. The common assumption is that it is the government, or a central body authorized by it, that makes the policy. This policy is naturally for the country and its purpose is to meet the needs of the country. It is assumed that the community and individuals will not have a different choice or will subordinate their choice to the government's choice. However, when deciding a common language policy, it is the responsibility of the government to consider the linguistic plurality of the society.

One of the common language-planning problems in plural societies is deciding what language should be the medium of administration particularly in recognizing minority language. The recognition or acceptance of language of minority groups (minority language) has been considered as advocated rights of groups. In this sense, minority language discourse has evolved. As response to the claims for minorities advocates, major policy measure on minority rights were adopted at international level. These measures generally appear in the major instruments inspired by the Universal Declaration of Human Rights (the 'Universal Declaration') developed after the Second World War: in particular, the Convention for the Protection of Human Rights and Fundamental Freedoms (the 'European Convention on Human Rights', or the 'ECHR'), and the International Covenant on Civil and Political Rights (the 'ICCPR'). This broad category of rights could be described as encompassing a regime of linguistic tolerance, and includes measures which aim to protect speakers of minority languages from discrimination and procedural unfairness, among other things (Dunbar, 2001). The second broad category of language rights could be described as encompassing a regime of linguistic promotion, and includes measures which create certain 'positive' rights to key public services, such as education and public media, through the medium of minority language. Using minority language for public administration is also recognized in this category of minority rights. Indeed, the issue of language forms part of a broader debate on the rights of ethnic and cultural minorities (Dunbar, 2001).

Selecting or adopting a common language for the administration of public affairs – language of administration is also a contested matter in language policy, especially in multicultural societies. Public administration

is a critical domain especially in modern times when citizens are obliged to complete official forms in order to have benefits from the government, to apply for a job, to obtain certificates, and, of course, to receive a range of important services from the public sector. Public administration influences our daily lives and to be denied the use of a minority language in dealing with the public administration is a form of linguistic marginalization since this is a sector which ensures the prestige and development of a language because it is part of the collective domain of a society, thus, its use can confer a kind of official status on a language allowing its evolution and increasing its prestige (Vacca, 2017).

In any societal context, the effective communication between citizens and public administrative institutions is essential for the functioning of national life of every different group and communities of difference in terms of language, ethnicity, religion, culture etc. The definition or recognition of state language or languages in multicultural societies play a vital role in determining minorities' communication with public administrative institutions. The failure to accept or recognize language/s of minorities induce a number of linguistic concerns for minorities including bureaucratic jargon, discrimination and violation of other rightful human rights. Particularly, the failure to recognize minority languages makes the minority communities vulnerable in accessing public institutions and effectively articulate their demands and needs. Therefore, language becomes a support system for different linguistic communities not only for their material development but also for their relationship with other communities and the state system.

Therefore, in order to adopt a national or an official language policy, it is important to understand the language landscape particularly in plural or multicultural communities and societies. Because, in multicultural societies, national minority languages are part of this landscape. That landscape must be recognized by accepting or recognizing the language of minorities and making necessary policy and institutional arrangements to use their language in the public sphere or in administration.

For the development of minority communities and their cultures, it is vital that they are taught and study in their own language and are able to

access public services in their mother tongue. The use of a minority language as a language of service access and delivery and communication also results in better and more effective delivery of public services by improving quality of and access to health, social services, education, employment, justice, and other public services. Since communication with public institutions is a two-way street, authorities should not always seek to impose on everyone the use of a single, official language in all situations: they should also reach out to those amongst their population who share a distinct language. Failure to engage with minorities in their own language increases their sense of exclusion, while the use of minority languages reaches them more directly and increases their participation more effectively. It can also save lives since language can be a major constraint to accessing basic or essential services. The recognition and use of multi-language in plural societies is highly good for democracy, and even for productivity in the public sector including delivery of a number of public services and goods.

It is worth noting that good governance includes legal, administrative and territorial arrangements which allow for peaceful and constructive group accommodation based on equality in dignity and rights for all and which allows for the necessary pluralism to enable the persons belonging to the different groups to preserve and develop their identity. Meeting the aspirations of minorities and ensuring their rights acknowledges the dignity and equality of all individuals, fosters participatory development, and contributes to the lessening of tensions both within and among different communities in a society.

The notion of language policy and planning emerged in the early 19th century along with the concept of a nation-state, “when one language one nation ideology” was prominent. It is the joint venture of nation-states and linguists that created or labelled languages such as mother-tongue, national, official, native, non-native and many more different categories so that they (nation-states) were able to control and manipulate the linguistic behaviour of their citizens (Singh et al., 2012). It was mainly after World War II that many new independent nation states emerged, with increasingly bilingual and multilingual policies, but most of them tried to maintain status-quos by

adopting the former colonial languages, mostly in Asia and Africa. Most of these newly independent states followed the same old path of their former colonies by adopting the colonizer's educational policies in general and language policies in particular (Singh et al., 2012). According to Spolsky (2009), there are four major factors that determine the language policy of a nation-state: the sociolinguistic ecology (language practices), a set of beliefs (language ideology) relating language to national identity, the effects of globalization (the pull towards international languages, especially English), and pressure for attention to the rights of indigenous or migrant linguistic minorities. These factors have shaped the current bilingual and multilingual education complex in many countries. Many countries faced changes in forming a common language policy with the influence of either one or more of the above factors. The Sri Lankan experience also reveals the challenges in formulating a common language policy accommodating the language rights of minorities.

Ethnic and Linguistic Pluralism and Language Policy in Sri Lanka

It is evident that Sri Lanka has been a country with multi-ethnic, multi-religious and multi-linguistic societal set-up for centuries. This plural societal set-up has helped to enrich social harmony in the country for many centuries. However, as Coperahewa (2009) indicates, every community in Sri Lanka has unique features in their ethnicity, culture and language. This unique feature of Sri Lankan communities received the attention of scholars and travellers. The Sri Lankan society is composed of four major ethnic groups, among them Sinhalese form the majority while Sri Lankan Tamils, Muslims (Moors) and Indian Tamils form minorities. In terms of religion, they are the followers of Buddhism, Hinduism, Islam and Christianity. However, almost all speak either Sinhala or Tamil as their mother tongue. Sinhala is the mother tongue of the Sinhalese while Tamil is the mother tongue of all minority groups. There are also a few groups of smaller numbers such as Malays and Burgers who mostly speak Malay and English respectively.

According to the latest population census (2012) in Sri Lanka, in terms of ethnicity, Sinhalese form 74.9 percent, Sri Lankan Tamils form 11.2

percent, Muslims (Moor) form 9.3 percent and Indian Tamil form 4.1 percent. In terms of religion, Buddhists form 70.1 percent, Hindus form 12.6 percent, Muslims (Islamic believers) form 9.6 percent and Christians form 7.6 percent (Department of Census and Statistics, 2015). In terms of language, nearly 96 percent of Sinhalese speak Sinhala as their mother tongue while 96 percent of all other ethnic groups speak Tamil as their mother tongue (Peiris, 2000).

The settlement pattern of ethnic groups has also linguistic dimensions in Sri Lanka. Out of the nine provinces, seven provinces are predominated by the Sinhalese while the other two provinces, namely Eastern and the Northern provinces are predominated by Tamil-speaking communities, i.e. Sri Lankan Tamils and Muslims. This linguistic aspect of population settlement has further increased divisions and lack of communications among the country's two major linguistic communities. Together with the above phenomenon, it is worth noting that due to the strictly followed or implemented 'official language policy', majority of the Sri Lankans are fluent in a single language, either Sinhala or Tamil. Lack of policy preference and ethnic divide politics continue to make challenges to make language a common identifier to unite the ethno-linguistic groups in Sri Lanka.

It is noted that Sri Lanka has a mixed population of four major ethnic groups and two major linguistic groups but as the figures quoted earlier show, they are in proportions which give the overwhelming majority to one group namely the Sinhalese or Sinhala-speakers. However, communal differences and conflicts have arisen although one normally associates them with situations like in many plural societies, where the groups are evenly balanced in terms of linguistic and ethnic differences. The causes in Sri Lanka seem to be the fear among minorities of domination by the majority community and side-tracking their distinctive differences and rights. At the end of the colonial rule, with the prospects of independence, various demands were made to the imperial government by the Tamil-speaking minorities for consideration in the new constitution including higher or equal representation at State Council and recognition of their language (Tamil) as official one.

It is observed that preserving minority languages is a way to increase democracy in a state and the spirit of cohabitation of its populations. One's

language is important to everybody and language is a core part of a population for communication not only among people but also with public institutions. In a plural societal context, linguistic rights issues are closely associated with issues of national, collective, and individual identity. They impact on the participation and inclusion of minorities to a greater extent which will lead to sentiments of alienation or marginalisation of minorities and potential instability or conflict situation if not properly addressed in a balanced, reasonable way. The above context is highly observable in the matter of linguistic rights and concerns of minorities in Sri Lanka. In fact, as Midlarsky (2011) argues, the introduction of Sinhala as the only official language on political grounds shifted the status of the Sinhala language to a superior level and placed the Tamil language in an inferior position, thereby relegating Tamil to a limbo of official nonexistence. Communal relations between the Tamil-speakers and the Sinhala-speakers consequently deteriorated. Later, this situation progressively intensified the ethnic conflict between the two major ethno-linguistic groups.

Language Policy and the Emergence of Sinhala-Tamil Ethnic conflict

After more than four centuries of colonization, Sri Lanka, then called 'Ceylon', gained independence in 1948. Underlying postcolonial tensions between the Sinhala-speaking majority community (or Sinhalese-Buddhist) and the Tamil-speaking minority communities (Tamils Hindus and Muslims), centred around injustices the Sinhalese had suffered at the hands of the British colonizer, which in turn prompted the Sinhalese-Buddhist majority dominated Parliament, pressured by constituents and the Buddhist clergy, to adopt a post-colonial language policy that consecrated Sinhala as the only official language of the country in 1956. This hegemonic language policy made the knowledge of Sinhala a precondition to entering the public service and to obtaining a promotion, thus ostracizing the Tamil-speaking ethno-linguistic minorities and undermining their success in public service and economic (Wyss, 2020).

However, political leaders of both Tamils and Sinhalese ethno-linguistic groups espoused the idea of *swabasha* (native language) during the colonial

period in order to achieve primacy of place for Sinhala and Tamil as the local languages. The demands for *swabasha* rights were overtly articulated as a protest against the privileges enjoyed by the English educated elite, privileges not open to the masses educated in the local languages (Perera, 2008). The formal process to introduce *swabasha* was initiated in 1944, when J.R.Jayawardena moved a resolution in State Council to declare ‘Sinhalese the Official Language of Ceylon within a reasonable number of years.’ Immediately, an amendment was proposed by V.Nallaiah, a Tamil State Councillor, to provide official language status to both Sinhala and Tamil. This was seconded by R.S.S.Gunawardena, a Sinhalese State Councillor, and the resolution in this form was approved by 27 to two in the Sinhala-dominated legislature, a sign of the absence of ethnic overtones in the issue of official languages at that time (Sarjoon, 2020; Perera, 2015).

The turning point in the discourse of official language occurred in 1956 when the SLFP government of Mr. SWRD. Bandaranaike announced the adoption of Sinhala as the official language. The Tamils whose mother tongue was Tamil felt that their interests in the country and position particularly in the administration and education was endangered and started a movement for recognition of their specific personality (ethnicity) and interests which was expressed politically as a demand for a form of federation together with the recognition of Tamil as an official language (Mendis, 1992). In this setting, communal feelings were aroused and led to the violence and disturbances of 1958 when Tamils became the targets of attack by the Sinhalese rebels resulting in loss of life and damage to property. This resort to violence disrupted the state of communal harmony and created rancour and a legacy of bitterness among the two ethno-linguistic groups.

There was an effort in 1957 to recognize Tamil as an official language or language of public administration and public instruction particularly in the Tamil-speakers predominant Northern and Eastern regions of the country through Banda-Chelva Pact. Based on the Pact, Bandaranaike’s government then passed a Tamil Language (Special Provisions) Act No.28 of 1958. An especial reference needs to be given here to the provision regarding the use of Tamil for administrative purposes in the Northern and the Eastern regions of

the country (Perera, 2008; DeVotta, 2004). However, no meaningful efforts were made to implement the Act until the 1970s.

After long agitation and advocacy by the Tamil-speaking politicians and public, Tamil was given official status equal to Sinhala under the 13th Amendment to the constitution (adopted in July 1987), followed by the 16th Amendment (made in 1988) that declared Tamil as a state and official language of both the Northern and the Eastern provinces and countrywide. The current legal and policy framework for Tamil language rights can be found in Chapter IV of the 1978 Constitution – as modified by the 13th and 16th Amendments in 1987 and 1988 respectively and supplemented by the Official Languages Commission Act (No.18) of 1991, as well as in government directives through gazette notifications and public administration circulars. MRGI (2011:26) has identified the current legislative guarantees on Tamil language rights as follows:

- That the medium of examination for selection to the public service, judicial service, provincial public service, local government service, or any public institution may be Tamil or Sinhala, or a ‘language of [the person’s] choice’ (presumably English). However, admission may be conditional on that person acquiring ‘a sufficient knowledge of Tamil or Sinhala, as the case may be, within a reasonable time – where such knowledge is reasonably necessary for the discharge of his duties.’
- All laws and subordinate legislation are to be enacted and published in Tamil in addition to Sinhala, together with an English translation. Provincial councils and local authorities are permitted to issue orders, proclamations, and so on in the language of administration with a translation in English.
- Tamil is also raised to become the language of the courts – the records and proceedings being in the language of the court – throughout Sri Lanka in addition to Sinhala. However, Sinhala is asserted to be the language of the court in areas where Sinhala is the language of administration.

It is worth mentioning that over the past few years, there has been marked improvement in the recognition and implementation of Tamil as national as well as official language (or language of administration) equal to Sinhala in Sri Lanka. However, the overall implementation of Tamil language provisions in government administration has been a series of disappointing stories.

The efforts of successive administrations to find a permanent solution to the accommodation of Tamil as official language were unsuccessful owing to extremist pressures on all sides. In the 1970s, the situation took a dangerous turn with the start of a militant youth movement among Tamils to ensure their right to self-determination and self-rule. As Perera (2008) rightly points out, language dynamics due to the politicization of language policy provided the most powerful manifestation of the Sinhala-Tamil conflict and managed to occupy the centre-stage of Sri Lankan politics immediately after independence. As Iszák-Ndiaye, (2018) rightly points out, minority language rights and use have frequently been a source of tension and conflict in many states. Proponents of linguistic rights have sometimes been associated with secessionist movement or have been seen as a threat to unity and integrity of a country. In fact, the language issue has long been a deep-rooted cause of ethnic conflict in Sri Lanka.

Recognition of Tamil as an Official Minority Language in Public Administration

In a plural society where communities are identified by clear linguistic differences, the recognition of minority languages and making necessary arrangement to access the public administration functions in minority languages is essential to ensure the minorities' linguistic rights in public administration. The use of a regional or minority language in dealings with the administrative authorities clearly involves the sphere of fundamental rights (Poggeschi, 2012).

It is worth noting that the existing constitutional provisions, Acts, public administration circulars and other government notifications have recognized both Sinhala and Tamil in an equal manner in Sri Lanka. Accordingly, both

Sinhala and Tamil will be official languages of Sri Lanka while English shall be the linking language. Also, both Sinhala and Tamil shall be the national language of Sri Lanka (See: Parliament Secretariat, 2021:10). A person shall be entitled to be educated through the medium of either of the national languages. According to Article 22(1) of the constitution, Sinhala and Tamil shall be the languages of administration throughout Sri Lanka and Sinhala shall be the language of administration and be used for the maintenance of public records and the transaction of all business by public institutions of all the provinces of Sri Lanka other than the Northern and Eastern provinces where Tamil shall be so used provided that the President may, having regard to the proportion which the Sinhala or Tamil linguistic minority population in any unit comprising a division of an Assistant Government Agent (now the Divisional Secretariat), bears to the total population of that area, direct that both Sinhala and Tamil or a language other than the language used as the language of administration in the province in which such area may be situated, be used as the language of administration for such an area.

According to article 22(2) of the constitution, in any area where Sinhala is used as the language of administration a person other than an official acting in his official capacity, shall be entitled: (a) to receive from and to communicate and transact business with, any official in his official capacity, in either Tamil or English; (b) if the law recognizes his right to inspect or to obtain copies of or extracts from any register, record, publication or other document, to obtain a copy of, or an extract from such register, record, publication or other document, or a translation thereof, as the case may be, in either Tamil or English. (c) where a document is executed by any official for the purpose of being issued to him, to obtain such document or a translation thereof, in either Tamil or English (Parliament Secretariat, 2021: 10).

The constitution has also recognized that a Provincial Council or a Local Authority or a public institution which conducts its business in Sinhala shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity in Sinhala and a Provincial Council or a Local Authority which conducts its business in Tamil shall be entitled to receive communications from and to communicate and transact business with, any official in his official capacity, in Tamil.

According to the constitutional provisions, all laws and subordinate legislation shall be enacted or made and published in Sinhala and Tamil, together with a translation thereof in English. Similarly, all orders, proclamations, rules, by-laws, regulations and notifications made or issued under any written law other than those made or issued by a Provincial Council or a Local Authority and the Gazette shall be published in Sinhala and Tamil together with a translation thereof in English (Parliament Secretariat, 2021: 13). The constitution has also recognized that Sinhala and Tamil shall be the languages of the Courts throughout Sri Lanka and Sinhala shall be used as the language of the courts in all the areas of Sri Lanka except those in any area where Tamil is the language of administration (Parliament of Sri Lanka, 2021: 13).

The above constitutional provisions clearly indicate that Tamil has also been recognized as an official language and therefore, Tamil-speakers can access the public services in their mother tongue, i.e., in Tamil. However, in practice, the implementing of the official language policy specially in conducting public administration or accessing public services in the Tamil language has continued to be problematic matters. The Tamil-speaking communities continue to face a number of issues in this regard.

Linguistic Concerns of Minorities in Accessing Public Services

Studies have revealed that overall, the implementation of Tamil language provisions in government administration has been a series of disappointing stories in Sri Lanka (See: Yusoff et al., 2015; MRGI, 2011). Although, Tamil has been accepted as a national language and official language-as linguistic rights of Tamil-speakers, in the case of Northern, Eastern and Central provinces, Tamil-speaking ethnic minorities-the Tamils, the Muslims and the Indian Tamils-have continued to suffer greatly due to the violation of the Tamil language provisions and the domination of Sinhala language in administrative affairs (Yusoff et al., 2015a).

Even in the larger Tamil-speaking regions of the Northern and the Eastern provinces, the Tamil-speaking public and public officers continue to

face a number of difficulties in accessing public services in their own language. The civil war institutionalized the domination of the Sinhala language and the marginalization of Tamil in the public administration, especially in the Northern and the Eastern regions, while in the post-war context too, there have been a number of moves to fortify the existing set-up and make it even stronger. In some Tamil-speakers predominant districts, particularly in the Eastern province, District Secretaries (who represent the central government in the administrative system and wield considerable authority are generally of Sinhalese descent with little or no knowledge in the Tamil language.

There have been a number of claims and voices from the Tamil-speaking communities advocating the proper implementation of Tamil language provisions at provincial, district, and local levels of public administration. Apart from a few developments, no meaningful attempts have been made to strengthen the implementation of the Tamil language policy and provisions respecting it as a minority right. However, the domination of the Sinhala language in the daily affairs of administration continues.

The functions of public administration in the Eastern provinces is notable in the case of the failure of implementing Tamil language provisions in the official language policy. The administration in this province is highly dominated by the Sinhala language. The provincial administrative heads such as the Governors, and Chief secretaries are always selected from Sinhalese-speaking officials who have poor Tamil language proficiency. The case of district administration in the Amparai district is one of the worst regarding non-implementation of Tamil language provisions in public administration. Although Amparai is one of the districts in the Eastern provinces, and majority (nearly 62 percent) of the district population are Tamil-speakers, the District Secretariat continues to be administered by the non-Tamil-speaking administrators (See: Yusoff et al., 2015). The severe and continuous negligence in implementing Tamil language provisions in administering daily administrative affairs in Tamil has induced the Tamil-speaking people of this district to claim and advocate for a new administrative district covering the Tamil speakers' predominant areas for their administrative ease (See: Sarjoon et al., 2015).

Tamil-speakers living outside the Northern and Eastern provinces also face number of difficulties in fulfilling their public needs in their mother tongue. Majority of them are unable to transact their official business with public authorities in the Tamil language, either through correspondence or in person, signage and information materials in the Tamil-language are scarce. The Official Languages Commission is also under-resourced, unable to inspect and monitor implementation of the official languages law and is unwilling to take legal action against recalcitrant public institutions for failure of supporting the language policy (See: Martyn, 2013; Official Language Commission, 2009).

Discussion: Linguistic Empowerment as Human Rights Promotion in Post-Civil War Sri Lanka

Language right is an important right to protect individuals and groups who identify them as distinct from others and it becomes a collective right to choose one's language or languages for communication both within the private and the public spheres. For minority groups, the opportunity to use one's own language can be of crucial importance, since it protects individual and collective identity and culture as well as participation in public life. Language serves important symbolic and identity roles in societies which are emerging from conflict to peace.

Preserving one's own language is a way to keep and to discover information that would otherwise be irremediably lost (Vacca, 2017). In fact, most of the recent conflicts have an important relationship with minority issues. It is possible to avoid conflicts by respecting minorities. When the legitimate concerns of minorities regarding their language use in public affairs are accommodated, tensions are greatly reduced. If the majority-language is promoted in public life at the expense of minorities, this can be a considerable source of minority grievances and lead to majority-minority interethnic tension.

In fact, many agree that the failure or denial to recognize the Tamil language as a state or an official language equal to Sinhala has not only contributed to the emergence of ethnic conflicts but also has created many

issues in Sri Lanka related to decentralization of public administration, democratization, and minority rights accommodation. Therefore, Tamil-speaking ethno-linguistic minorities have been demanding that the government should enhance institutional capacity to implement Tamil language provisions in order to facilitate communications between the people and the public officers so as to fulfil their needs in their own language.

Minority rights and interests are not only linked to linguistic and cultural matters. A high level of autonomy in all public sectors, especially in the administration of local affairs where minority groups live predominantly is essential to the protection of linguistic identity and to the management of public functions in a self-determined manner (Yusoff et al., 2015). As a developing country in the Third World, Sri Lanka has been facing a number of challenges in accommodating linguistic concerns of minorities. However, due to a number of shortages and incapacity in its political and administrative system, many of those demands, have yet to be settled. Due to the failure of the proper implementation of the language policy or failure to recognize and implement Tamil as official language or language of administration, and due to the non-supportive attitude of administrative elites particularly in implementing minority language provisions, Tamil-speaking communities face a lot of difficulties in accessing public services and accessing public institutions.

In fact, linguistic issues have been one of the core issues in Sri Lanka's ethnic conflict, proper implementation of the language policy would be a way of accommodating the rights and interest of linguistic minorities within the administrative machinery. This would help reconcile a number of linguistic concerns of minorities in post-war Sri Lanka. The Tamil-speakers find the failure to implement the Tamil language provisions in the national language policy as a violation of their rights guaranteed in the constitution. This injustice must be reconciled.

It is a noteworthy fact that rebuilding public administration is a crucial form of reform for governments in countries recovering from civil wars, insurgencies, or external military incursions. Though the Public Administration Circular No. 3 and 7 of 2007 promotes the bilingual services

of the public sector, it is of concern that no positive action is envisaged for the recruitment of bilingual or trilingual speakers to central and provincial governments to redress linguistic grievances of minority communities to public administration. In Sri Lanka, violent conflict has caused the violation of a number of minority rights on the one hand and undermined or weakened administrative capacity in many parts of the country, on the other. As a country that experienced a thirty-year civil war, many aspects of administrative procedures, rules and regulations and policies were not properly implemented or misinterpreted in many parts of the country. The marginalization of Tamil language related Acts, laws and policies has caused serious concerns for Tamil-speakers in accessing services from public institutions. Therefore, there is a need to not only recognize and implement minority rights including language rights provisions, but also to revisit the existing policies for wider accommodation of minority rights focusing on the changing multi-cultural context in the country.

In fact, there was room for Sri Lankan authorities to reconcile the linguistic concerns of Tamil-speakers during the post-civil war period. The integral role of language in the post-conflict reconciliation process was acknowledged in the 2011 report produced by the Lesson Learned and Reconciliation Commission (LLRC), appointed by the President. The report, which itself was initially released in English became available in Sinhala and Tamil languages only in August 2012, includes recommendations such as:

- The learning of each other's languages should be made a compulsory part of the school curriculum. This would be a primary tool to ensure attitudinal changes amongst the two communities. Teaching Tamil to Sinhala children and Sinhala to Tamil children will result in greater understanding of each other's cultures.
- The proper implementation of the language policy and ensuring trilingual (Sinhala, Tamil, and English) fluency of future generations becomes vitally important. A trilingual education will allow children from very young days to get to understand each other.

It is worth noting that some actions have been taken to achieve the goals of the LLRC report. The government has implemented a number of institutional mechanisms, including the creation of the Ministry of National Languages and Social Integration (later Ministry of National Co-Existence, Dialog and Official Languages), which led the implementation of the official language policy at the national level. The ministry had taken a number of initiatives to properly implement the language policy. However, as Martyn (2013) rightly indicates, language remains a strong dividing force in the country. Technically, government services are required to be available in each of the official languages; however, a common complaint is that forms are often only available in a single language and that translators are often unavailable. To implement the official language policy, that is trilingualism (Sinhala, Tamil and English), it is necessary to provide high-quality language instruction in English, Sinhala, and Tamil. However, not only is this expensive, Sri Lanka also lacks enough qualified instructors to do so. Also, as Wakkumbura (2016) points out, lack of proper execution of administrative functions related to language rights, prevailing negative public opinion and insufficient focus for up-skilling the linguistic competencies also create challenges in this process.

Since majority of countries contains a number of linguistic groups, linguistic pluralism becomes a fact of everyday life for most people. Many countries during post-conflict recovery essentially find 'language pluralism' an interesting policy formulation for social integration (Fishman and Garcia, 2010). In pluralist societies, public administration needs more policy reforms and institutional modernity in order not only to adopt the new trends in public and development administration but also to accommodate the rights and interests of the different groups of people, especially of minorities at different level of administration. It is worth noting that without accommodating the minority grievances including linguistic concerns in public administration, any attempt to strengthen good governance and democracy building particularly in the post-civil war societies would not be successful.

Conclusion

Sri Lanka is a plural society with multi-ethnic, multi-linguistic and multi-cultural communities. It is evident that the majority of the Sri Lankans speak either Sinhala or Tamil in which Sinhala speakers form the majority and Tamil-speakers form the minority in the country's population. However, the official language policy has been a contested issue in Sri Lanka due to the lack of recognition of minority language and the proper implementation of national language policy and provisions. Although the Tamil language is legally recognized as an official language to be used in administration of public affairs equal to Sinhala, responsible authorities have failed to implement the Tamil language provisions in the official language policy in public administration at both the central and local levels. Negligence in implementing Tamil as an official language in public affairs, and the subsequent lack of opportunity for Tamil-speakers to access public services in their own language has been one of the major grievances of Tamil-speakers. To a greater extent, these grievances have also contributed to intensify the Sinhala-Tamil ethnic conflict in the country.

A human rights approach to language can be framed as a 'recognise-implement-improve' method of ensuring state authorities to effectively comply with their obligations: laws, policies and processes and recognise language rights within a human rights framework; authorities must integrate these in their conduct and activities; and mechanisms which must be in place to effectively address failures and improve compliance.

It is widely accepted that in any multi-cultural society everyone is entitled to equal and effective protection against discrimination on grounds such as language. This means that language preferences which are unreasonable or arbitrarily disadvantages or excludes individuals would be a form of prohibited discrimination. This applies to differences of treatment as between any language, including official languages, or between an official and a minority language. Any area of state (public) activity or service, authorities must respect and implement the right to equality and the prohibition of discrimination in language matters, including the language for the delivery of administrative services and other public services.

The form of organization of public administration is closely linked to the issue of minority rights protection. Indeed, specific organizational structures can be conducive to better protect minority rights (Guella, 2014). Legislation that gives due consideration to the need for efficiency at management level and introduces new public bodies and facilitates greater integration of minority groups into the existing administration can empower minorities in the domain of public administration in a country.

Since language issue or language policy was one of the core factors for the emergence of ethnic conflict, and continued to be a contested matter throughout the period of the civil war and post-civil war period as well, revisiting the official language policy, therefore, can relate directly to the wider processes of post-war reconciliation in Sri Lanka. However, the empowerment of language and other rights of minorities not only necessitates the formation or revisiting of policies but also the proper implementation of those policies expecting to accommodate or promote the rights of minorities. Therefore, apart from policy revision, proper implementing language policy needs to be adopted by strengthening physical and human resources, sufficient budgetary allocation, and monitoring mechanism. What is important in the post-civil war context in Sri Lanka is that the linguistic concerns of Tamil-speakers also need to be handled as part of empowerment of minority rights which will in turn empower the reconciliation of grievances of ethno-religious and linguistic minorities and strengthen ethno-linguistic harmony in the country.

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Chapter 10

Globalizing Human Rights: The Role of NGOs in Protecting and Promoting Human Rights in Sri Lanka

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Introduction

Civil society plays an important role in securing human rights and democracy, and facilitating state reforms to ensure democratic governance. Most scholars working on democratic transition and consolidation claim that a vibrant civil society is a sine qua non for liberal democracy to take root (DeVotta, 2005). Some argue that non-governmental factors have been the engine of global expansion of human rights in the post -World War II era (Lauren 1998; Weiss & Gordenker 1996; Wiseberg 1992). Among them are international non-governmental organizations such as Amnesty International and Human Rights Watch, which have played key roles in the formative years of global human rights by promoting international human rights instruments and publicizing gross human rights violations (Tsutsui, & Wotipka, 2004: 587). It is argued that human rights international nongovernmental organizations have become even more critical in the contemporary international human rights regime - their unsparing reports of local human rights practice all over the world have been essential in proceedings of United Nations human rights instruments such as Human Rights Council. Many NGOs have gained official consultative status in the U.N and have been actively promoting their visions of human rights standards into the new century. Indeed, non-governmental organizations have been taking turns leading the efforts to establish human

rights as a major global political agenda (Lauren, 1998; Weiss & Gordenker, 1996; Wiseberg, 1992).

The number of human rights NGOs and citizen memberships have increased dramatically, especially within the past twenty years, corroborating the expansion of the international human rights movement. At the national level, we find that many countries have increased their participation in the international human rights movement in the last few decades. While wealthy Western countries tend to have the greatest number of citizens who are members of NGOs, the least wealthy or peripheral countries consistently register the lowest level of citizen participation in affairs of human rights. Indeed, citizens in less industrialized and less democratic countries are increasing their involvement in international human rights activities due to persistent violation of human rights and various forms of discriminations. Some evidence shows that linkage to global civil society is a key factor in drawing citizens into human rights activism (Tsutsui & Wotipka, 2004: 612). Among the thousands of campaigns and movements working for human rights locally and globally, two remain significant. The biggest is Amnesty International (AI), founded in 1961 in London. By the beginning of the twenty-first century, AI had around one million members in more than 160 countries, and national sections in around 70 countries. Its budget has increased through findings from individual subscriptions and private foundations and it does not accept money from governments. The other is Human Rights Watch, founded in 1978 in New York (Tsutsui & Wotipka, 2004; Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). It began its existence as Helsinki Watch, established to monitor the human rights commitments of the superpower agreement of 1975 (the Helsinki Accords).

In contrast to AI, Human Rights Watch is a non-membership organization with regional divisions and a budget of around \$16 million. It has prime access to the mass media and its regular reports of abuses of human rights all over the world are highly visible and, like AI, often controversial (Welch, 2001). Despite the powerful work they do, in some respects these are both elitist organizations that have ambiguous positions with respect to capitalist globalization (Sklair, 2009: 92). Thus, human rights NGOs are part

of a broad range of organizations and movements, variously referred to as transnational advocacy networks, transnational social movements and even a nascent transnational civil society. These umbrella terms generally exclude official governmental bodies (including the UN and other inter-state networks) and those attached to the private economic sector. At the UN Beijing World Conference on Women in 1995, for example, 40,000 people representing thousands of these groups attended the NGO forum (Sklair, 2009: 90). Yet, Van Tuijl (1999: 493) argues that NGOs need to further develop the quality of their networks to become innovative sources of democracy as well as legitimate and effective sources of universal human rights and international justice.

Globalization seems to have a considerable influence in the proliferation of NGOs across the world, because the former increases the sources of injustice that are beyond the scope of national systems of justice. The World Bank and the International Monetary Fund have a major impact on the lives of millions, but there are only a few local or decentralized institutional opportunities to resort against their actions. The political space for governments is equally affected by international forces, which may have an impact on how governments behave domestically. NGOs have begun to fill some of these widening institutional and geographical gaps for people or communities who want to exercise their guaranteed rights (Tsutsui & Wotipka, 2004; Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). Particularly, during the last 25 years, NGOs have contributed to international and national discourses on issues of global scope, such as the eradication of poverty and the promotion of gender equality, peace, sustainable development and human rights. Most NGOs no longer work alone but rather in networks that transfer information and other resources across borders. Gradually increasing density of NGO networks and the intensifying degree of NGO advocacy have provided organizational articulation of a global human rights enforcement mechanism (Van Tuijl, 1999: 494).

Research on the development of international human rights law and institutions has revealed the crucial role played by nongovernmental agents in defining international human rights norms, developing institutional

mechanisms to ensure adherence to international norms, and monitoring national and local human rights practices. In recent years, researchers have made more concerted efforts to understand how NGOs operate and interact in protecting and promoting human rights (Lopez et al, 1998). There is a steady growth of NGOs engaged in human rights works and they are organized across national boundaries. Against this backdrop, the study aims to provide better understanding of the work and contribution being done by NGOs in the field of human rights in Sri Lanka in general and promoting a human rights culture in particular.

In Sri Lanka, NGOs work at every level to promote and protect the human rights of every individual with their maximum potential within their mandate. They play an important role in identifying, addressing and offering direct assistance to those whose rights have been violated. NGOs conduct trainings and meetings at grass-root levels to raise awareness of human rights for every individual in the society in general and marginalized communities specifically. For example, some NGOs focus on providing training to government officials as well as providing awareness to the public, particularly those who were affected by war, legal and institutional discriminations, natural disasters and other epidemics. Such training covers a range of topics such as human rights, women's rights, child rights, gender equality, migrant workers' rights, minority rights, and so forth. NGOs also fight against the individual violation of human rights against any member of the society by providing safety and security (Baehr, 1993). NGOs usually lobby for changes and reforms in national and international law related to human rights. Since NGOs have their own network and have common issues to address locally as well as internationally, they use many tools to advocate and influence states and regional mechanisms to adopt various regulations in promoting human rights including free and equal access and justice. NGOs also work with the government and other stakeholders in developing the substance of those laws they propose (Weiss & Gordenker, 1996; Wiseberg, 1992; Lauren, 1998; Sklair, 2009). The active participation of NGOs in law making can be considered as the right sign of democratization.

As such, the work of NGOs in Sri Lanka has been identified as important in various contexts, though they have largely been looked at in a negative perspective. Since the 1970s, non-governmental organizations (NGOs) in Sri Lanka have played a key role in addressing problems including human rights violations and issues with decentralization, local government and community development. The point of departure was the formation of the Civil Rights Movement in 1970 by a group of Colombo - based elite highly committed to human rights. Yet, in most cases, the relationship between the Sri Lankan government and the NGOs has similarly been contradictory. Reports and publications by NGOs on both completed and ongoing projects provide an account of their role in the field of conflict resolution, peace building, relief, rehabilitation and reconstruction work, humanitarian assistance, human rights, policy advocacy and local development, but it has not been duly recognized by successive governments of Sri Lanka.

Much of the existing research on human rights and NGOs consists of case studies of individual organizations working for human rights; comparative studies of a select number of organizations; studies of the work of human rights organizations and institutions in specific countries or regions; and studies of the political processes surrounding human rights standard-setting and enforcement (Lopez et al, 1998). This chapter thus complements previous research with a systematic survey on the contribution of NGOs in globalizing human rights in the Sri Lankan context, addressing questions about (a). how these NGOs are organized, (b). Contribution towards creating a human rights culture and how they seek to uncover and defeat violations of human rights nationally and internationally. (c). The chapter will further analyze how the political authorities have handled NGOs in Sri Lanka and (d). the changing space for the NGOs to operate in Sri Lanka.

There has already been much written on NGOs in Sri Lanka from different perspectives such as NGOs role in peace building (Orjuela, 2005; DeVotta, 2005; Goodhand, 1999; Walton, 2008, 2012a, 2012b), origin, development, functions of NGOs and their impact on socio-economic political spheres (Fernando, 2003; Perera, 1998; Wickramasinghe, 2001; Uyangoda, 1995; Kelly, Kilby & Kasynathan, 2004; Fernando & De Mel, 1991),

NGOs politics in Sri Lanka (Akurugoda & Yurova, 2017; Sørensen, 2008), relationship between state and NGOs in Sri Lanka (Kloos, 1999) and the ethno-gender dynamics of Sri Lankan NGOs (Ruwanpura, 2007). These are some of the widely cited literature that review the role of NGOs in protecting and promoting human rights in Sri Lanka. Yet, these scholarly works have provided little attention to demonstrate the contribution rendered by NGOs and their impact in the human rights spheres. Thus, the present chapter aims to fulfill the lacuna in the existing literature by providing theoretical and empirical insights on the role of NGOs in Sri Lanka towards the creation of human rights culture and norms. The chapter has been written based on a large volume of secondary evidence collected from scholarly publications, government reports on NGOs, publications of human rights NGOs, NGOs Secretariat, Reports of Human Rights Commission, media reports and other relevant documents. We have employed a qualitative content analysis method to interpret our findings and arguments in this chapter. The prevailing pandemic situation prevented the authors from involving in field work and meetings at the community level to collect primary data which could be a limitation of this chapter. Yet, the authors used their informal contact with human rights NGOs across the country to collect certain information and clarified some of the misconception prevailing over human rights NGOs in Sri Lanka. The reminder of the chapter has been organized as follows; the second section provides the theoretical framework and review of literature to situate the chapter in order to provide better understanding on the contribution of NGOs towards human rights globally; the third section examines the functions of NGOs working for human rights in Sri Lanka; the fourth section discusses the nexus between NGOs and human rights in Sri Lanka; the fifth section examines the relationship between Sri Lankan governments and human rights NGOs; the sixth section examines the challenges faced by human rights NGOs in Sri Lanka followed by conclusion and policy implications.

Role of NGOs in Promoting Human Rights: Conceptual Framework and Review of Literature

The concept of non-governmental organization (NGOs) and international non-governmental organizations (INGOs) is a contemporary

world phenomenon. They are non-state actors who work in every spheres of social life of global citizens today. There is no universal definition of NGOs. Simply it means an organization or agency unrelated to main organs of the state mechanism- Legislature, Executive or Judiciary - they are called non-governmental organizations. International and domestic laws recognise NGOs-for example, Article 71 of the UN Charter confers consultative status to NGOs. The Economic and Social Council (ECOSOC) formed the Committee on Non-Governmental Organizations (NGO Committee) in 1946. Anna Vakil (1997) defines NGOs as self-governing, private, not-for-profit organizations that are geared toward improving the quality of life of disadvantaged people. They are neither part of government nor controlled by a public body. As such, they are elements of civil society, which is a space or arena between households and the state which affords possibilities of concerted action and social self-organization. In Sri Lanka, NGOs emerged due to her unique hydraulic civilization combined with the Buddhist value systems that promote voluntarily giving away things for the benefit of others. Irrigation Councils that maintained and managed small- and large-scale water reservoirs are considered as the early community-based organizations in Sri Lanka. Later, with the three western invasions, western- model NGOs/INGOs emerged in Sri Lanka. In other words, The British colonial period marked the clear emergence of the organizational forms of NGOs as they are known today - for example, the Christian missionary work in education, health and social welfare, the establishment of the Young Men's Christian Association (YMCA), the Young Women's Christian Association (YWCA) and the Salvation Army's presence in Sri Lanka were significant non-profit organizations. In the post-independence era, several periods can be identified where dramatic increase of NGOs has taken place viz. 1970 (s)-introduction of foreign aid, 1978-liberalization of economy, 1983-civil conflict, 1987-89-second youth insurrection, 2004-tsunami, and 2009-end of LTTE terrorism (Bandara, 2021; Wickramasinghe, 2001).

In the contemporary world, there remains a significant increase of NGOs all over the world. For example, India is reported to have over 3.3 Million NGOs. It means there is an NGO for every 400 people. The number of people worldwide donating money to NGOs increased from 1.2 billion in 2011 to

1.4 billion in 2014. By 2030, the number is expected to grow to 2.5 billion (Bandara, 2021). In Sri Lanka, with little over 37000 registered NGOs (both local and foreign) operating in various parts of the country, their contribution to development, creation of employments and most importantly to attract the much-needed foreign exchange has to be highly recognized (NGOs Secretariat, 2021). Also, their contribution in times of disaster such as the ongoing pandemic is unprecedented. The primary source of funding for NGOs in Sri Lanka consists of a variety of local and international donor organizations. The principal contributors include (a) various UN agencies, (b) bilateral agencies (USAID, Canadian International Development Agency-CIDA, Swiss Agency for Development and Cooperation-SDC), (c) international non-governmental organizations such as Save the Children, World Vision, Oxfam, Child Fund, (d) local private and public sector organizations, (e) Local and foreign private donors, etc. However, in the current context, the public perception on NGOs and their operations have dramatically changed and generally are not favorable across the country due to the recent Easter Sunday suicidal bomb attack and emerging anti-NGO perception under the present government.

NGOs have played an important historical role in establishing and expanding the U.N. human rights system. The U.N. founding conference in San Francisco in 1945 helped achieve the inclusion of human rights in the U.N. Charter (Our Voice, 1993; Korey, 1999). Since the adoption of the Universal Declaration of Human Rights in 1948, NGOs have consistently continued their efforts to strengthen the U.N. human rights system and have succeeded in influencing the formulation of different U.N. treaties and conventions, such as the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1989 Convention on the Rights of the Child etc. Often, NGOs have led the way in proposing new institutional arrangements in order to embody U.N. responses to human rights abuses. Their influence is visible in the creation of such mechanisms as the U.N. expert body to examine disappearances, the working group on arbitrary detention, the establishment of Special Rapporteurs. There are now Special Rapporteurs for nine different categories of universal human rights to conduct expert investigations and, of course, the creation of the position of U.N. High Commissioner for Human Rights, Human Rights Council (Gaer, 1995; Wiseberg, 1992). In the

process of Universal Periodic Review NGOs have been playing a pivotal role nationally and internationally. In most cases, NGOs collect the information necessary to reveal the truth about human rights conditions in the most remote or politically oppressed corners of the world. Evidence shows that human rights violations fall between the cracks of local, national and international systems of governance and justice so that NGOs try to compensate for these gaps by invoking international human rights standards (Van Tuijl, 1999: 497; Korey, 1999). Conceptual divisions between NGOs are often made according to levels of operation, function and substantive orientation. Examples of these divisions include issues such as the environment, gender, peace, human rights, poverty development. The primary goal of human rights NGOs "monitoring and reporting of government behavior on human rights, particularly violations, building pressures and creating international machinery to end the violations and hold governments accountable (Gaer, 1995; Van Tuijl, 1999). Under the umbrella of human rights promotion, for example, there are organizations that focus primarily on human rights but also organizations that deal with poverty and social development issues.

Korey (1999) indicates that 'the establishment of international norms by which the conduct of states can be measured or judged was the primary preoccupation of NGOs'. In many cases, human rights NGOs were the initiators of new human rights documents that helped set-up some rules aiming to protect the human rights. They participated in drafting the main human rights documents. In setting-up the human rights standards NGOs play the role of contributors as well. In the drafting processes, they help to write laws and treaties and largely act as experts of particular field of human rights rather than politicians. Claude (2006) argues that "this role increased and became political as NGOs gained legitimacy shaped international public opinion and formed coalitions with sympathetic governments". NGOs also significantly contribute to the formulation and development of international human rights law through the submissions of complaints and through international litigation, instituting or intervening in cases as parties serving as experts, testifying as witnesses etc. Moreover, in many instances NGOs have been involved not only in articulating and building consensus for relevant norms, but also in helping to establish the institutions designed to enforce

those norms (Claude, 2006). In other words, NGOs act as ‘watchdogs’ and provide an independent overview and assessment of whether and how human rights are ensured.

Uyangoda (1995) notes that NGOs are precisely the long description of the non-government organizations. They are voluntary bodies formed by groups of citizens for specific purposes of social service or social and policy intervention. They can be neighborhood associations, pensioner’s clubs or temple development societies with a limited scope of interest and activity. They can also be human rights bodies or economic development and environmental organizations or women’s associations with a concern for national issues and therefore a wider scope of interest and activism. The theoretical framework and review help provide detailed account of the contribution of NGOs in promoting and protecting human rights in Sri Lanka. Further, the framework sets out the foundation to understand the contribution and the impact of NGOs’ activities towards the promotion of human rights and challenges encountered by NGOs in the journey of creating a human rights culture in Sri Lanka.

Functions of NGOs Working for the Protection of Human Rights

For more than 30 years, human rights NGO’s have been performing a variety of important functions in both the protection and promotion of human rights which started with the formation of the Civil Rights Movement in 1970. The first and one of the most important functions they play is that of monitoring the behavior of the state and of other power elites with the view to exposing and denouncing human rights violations. This is a vital function because unless their behavior is monitored, governments will not be held accountable. Maintaining human rights in accordance with the standards of international human rights law is one of the main function of NGOs (Korey, 1999; Brochard, 2005). Increasingly in the international arena, NGO’s have initiated and played vital roles in the drafting of international standards and in helping to interpret those standards. As an aspect of this, NGO’s have also played an important role in articulating or defining new issues and areas requiring legislation. At the national level, human rights NGOs are

often engaged in drafting legislative proposals, preparing position papers on pending legislation, testifying before parliamentary committees and lobbying for the repeal of unjust legislation (Brochard, 2005).

One of the main function of NGOs is to provide relief through humanitarian activities. This paves the way for immediate relief for the affected people. This might also additionally contain a mix of techniques and strategies from denunciation to providing legal assistance to trace disappeared individuals, for touring detainees and trying to stable humane remedy and situations even as they're imprisoned to provide clothes and ethical assistance to their families. It may additionally contain lobbying now no longer simply one's very own authorities but governments in different international locations and worldwide organizations (Welch, 2001). Another Function of NGOs is to promote human rights education and human rights awareness. This method should be found in both formal and informal methods. NGOs which play a key role in human rights struggles are often the most vulnerable and isolated. However, these organizations act with impunity in the interest of the people and has been successful in mobilizing people in rural areas. Even though human rights struggles are fought and won largely in national arenas by organizing and mobilizing in the slums and the barrios by concertizing people about their rights and how to fight for them, the role of international support cannot be underestimated (Brochard, 2005). Thus, solidarity and support at both the regional and the international levels can have an impact and it can and often does by giving visibility to the struggles of national and local NGO's that provide some small measure of protection for those on the front lines.

In addition to the above, NGOs participate in policy activities according to their objectives and nature. Mainly they carry out policy formulation and policy implementation activities, namely they influence the process of law making and enforcement via various their methods at various levels according to their nature and objectives. Influence in law making depends on the time frame, audience and the scope of impact, whether national or international. The primary way any NGO can influence the process in human rights protection and promotion is by direct assistance. Direct assistance is quite a common

way in the NGO field, particularly when working on social and cultural rights where direct services to the victims whose human rights were violated will be compensated through humanitarian assistance, training developments and by giving legal aid to present their claim against the violation they suffered (Becker, 2020; Korey, 1999; Welch, 2001). There are also NGOs that do the work of gathering information. Their work is very supportive in bringing human rights offenders to justice and sentencing which sometimes governments are reluctant to do, and particularly any violations caused by government policies or enforcement. Presenting accurate information in international forums will put pressure on the people or government to address human rights violations and ensure the protection of marginalized people (Korey, 1999). There exists a view often mentioned about NGOs, that is their policy of ‘naming and shaming’ human rights violators and abusers in order to put pressure on government. Simmons (2013: 46) notes that Non-governmental organizations have been at the heart of understanding how and why human rights values became salient internationally in the twentieth century. He argues further that human rights have been championed by civil society actors, and embraced by most governments grudgingly. This is the natural consequence of the content of these rights—they tend to empower individuals and civil society groups and their governments. Qualitative literature has been dominated by studies of the importance of civil society actors, non-governmental organizations and transnational advocacy networks in moving the human rights agenda forward (Korey, 1998). NOGs are now said to constitute ‘external legitimating audiences’ that keep the unlimited exercise of state sovereignty to some degree in check.

Campaigning and lobbying are the third way an NGO employs to influence the process of law making and enforcement regarding Human Rights protection and promotion. Although there have been a number of methods in campaigning, and lobbying by NGOs, and every NGO will find the most suitable, given the objectives it has in mind, the nature of the target and the availability of resources. Letter writing campaigns and signing online petitions are common methods that have been used by most of the international NGOs such as Amnesty International and UNICEF. NGOs contribute to human rights awareness and public awareness by providing human rights

education. The purpose of providing such education is to make the public aware of their rights and for educational work. The public is educated about the basic human rights, protection, violations but also about defending them from any human rights violation (Gaer, 1995; Wiseberg, 1992; Korey, 1999).

Nexus between NGOs and Human Rights in Sri Lanka

Wickramasinghe (2001) notes three characteristics of the NGOs in Sri Lanka: (1) an international NGO sector serving the humanitarian needs of the country stemming from the ethnic conflict; (2) a few large and well-distributed national NGOs involved in poverty alleviation projects in conjunction with the state or complementary to the state and (3) a myriad of small NGOs sometimes called CBOs involved in rural development. The Voluntary Social Service Organizations Act, No. 31 of 1980 is the main act which refers to organizational forms similar to NGOs but it does not specifically mention the term 'NGO'. According to the act, 'voluntary social service organization' means any organization formed by a group of persons on a voluntary basis and (a) is of a non-governmental nature (b) is dependent on public contributions, charities, grants payable by the government or donations local or foreign in carrying out its functions (c) has as its main objectives, the provision of such relief and services as are necessary for the mentally retarded or physically disabled, the poor, the sick, orphans and the destitute and the provision of relief to the needy in times of disaster.

Up until 1970, there was a slow but steady increase in the number of human rights NGOs. The reason for the sudden increase in the number of NGOs from 1971 onwards was in response to the internal conflicts and insurrections which occurred at that time. In 1971, the Janatha Vimukthi Peramuna (JVP) insurgency led to a new awareness about problematic socio-economic issues and in the absence of an adequate government policy, private persons took various initiatives to improve situations conceived as highly problematic. According to Fernando and De Mel (1991) there was no trend towards the formation of new or expansion of the existing NGOs in the SLFP government. It was the newly elected United National Party (UNP) government's emphasis on an open economic policy which led to a reduction

of certain welfare policies and this trend opened spaces for NGOs to enter where and when the government withdrew (Fernando, 2003). Movement for Defense of Democratic Rights was another organization engaged in educating human rights among rural Sri Lankans shortly after the JVP insurrection.

Similarly, Movement for Inter-Racial Justice & Equality was the first major majority Sinhalese based group calling for ethnic equality. It is currently almost defunct, but is a precursor of all other organizations and groups that have mushroomed in recent years calling for peace, human rights, democracy and ethnic equality. On August 22, 1979, several organizations and individuals met in Colombo to express their commitment to work on racial justice and socialist equality. The Movement for Inter-Racial Justice and Equality [MIRJE] was formed because of this conviction. MIRJE aimed to promote inter-racial justice and equality in accordance with the following principles: (i). equality of all rights among the various linguistic groups in the country; (ii). opposition to communalism and racial injustice and discrimination in all their overt and covert forms; (iii). opposition in the area of inter-racial relationships to all anti-democratic policies and procedures of government, all repressive legislation and repressive action of the security forces; (iv). upholding in the area of inter-racial relationships of democratic and civil rights and human liberties; (v). upholding of the right to full and free citizenship of all the people of Sri Lanka, including the Tamil people on the plantations and elsewhere; (vi) opposition to racial discrimination against estate workers and others in the fields of employment, education, housing and health; and (vii) fostering the union of workers and peasants of all races in the struggle for inter-racial justice and equality. MIRJE was an NGO devoted to the realization of the human rights of all people within a plural democratic framework. During the past two years, it facilitated awareness-raising among students on human rights issues, the constitutional provisions related to human rights and the Universal Declaration of Human Rights.

At present, Center for Policy Alternatives, National Peace Council, Law and Society Trust, Centre for Human Rights and Development, Centre for Society and Religion, Women in Need, Women and Media Collective, National Fisheries Solidarity Organization, INFORM Human Rights

Documentation Centre, Right 2 Life, Rights Now, Institute of Human Rights, National Federation for Human Rights, MONLAR, Viluthu, Institute of Social Development, Human Development Organization, are among many others, that continue to remain active in protecting and fostering human rights in Sri Lanka. In addition to this, there are also human rights centers established in the universities to promote human rights education among university community and outsiders-they include the Centre for the Study of Human Rights, University of Colombo and Centre for the Study of Human Rights, University of Peradeniya. These centers have also been working at the community level through series of outreach programs and they are also working with law enforcement agencies to enhance their knowledge and understanding of human rights. NGOs also work with and support Human Rights Commission of Sri Lanka to carry out human rights education across the country and conduct quiz competitions among school students, and celebrate international Human Rights Day and international events related to human rights. NGOs contribute significantly to create awareness on UDHR and other international human rights instruments-international, national, regional and local NGOs remain part of this venture.

In addition to the above, many voluntary NGOs in Sri Lanka have shown interest in development issues that have played a less energetic role in the state or have been completely emptied. This can be seen in the wider focus of NGOs in the 1980s when they expanded their concerns from development-oriented activities to a rights-oriented sphere. The prolonged war and the second JVP insurrection resulted in numerous human rights violations and many NGOs were involved in activities associated with the protection of human rights and the support of war affected people through relief and rehabilitation work. Uyangoda (1995) claims that in the 1980s and 1990s, a number of other NGOs actively campaigned for peace and the democratic rights of the Tamil people. These were multi-ethnic advocacy and activist groups who were bound by a shared commitment to a vision of progress for Sri Lanka conceived on the basis of liberal and humanitarian concepts of ethnic harmony, justice and equality. In the aftermath of the December 2004 tsunami disaster, many voluntary NGOs and private individuals landed in Sri Lanka with budgets of various dimensions and projects of various time periods. This

involvement can be highlighted as an important point of NGO growth in Sri Lanka. Although there was already considerable NGO involvement, it was in the post-tsunami period that these rose rapidly.

Relationship between Government and Human Rights NGOs in Sri Lanka

After 1948, the UNP government continued the plantation-based economy and the open policy on foreign investments. In 1950, Sri Lanka obtained membership of the IMF and the WB. At that time, the government also reduced its social welfare commitments and this led to a change of government in 1956. After 1956 the government promoted Sinhala nationalism and this had a profound influence on development policies, foreign policy and the flow of foreign aid. In the 1960s, government recognition of an NGO role came in the 'freedom from hunger campaign' under the auspices of the food and Agriculture Organization (FAO). During this time, NGOs also worked with the state on the promotion of minor irrigation schemes and as collaborators with the government in development projects (Korey, 1999).

In March 1990, a high-powered panel was set up by the Executive President R. Premadasa to investigate allegations of foreign funding to international and local NGOs without the knowledge or approval of the government. This was called 'the Presidential Commission of Inquiry in Respect of Non-Governmental Organizations functioning in Sri Lanka' which was better known as 'the NGO Commission'. There were three broad reasons for the inquiry which was made public in the gazette notification setting up the commission: (1) the number of NGOs functioning in Sri Lanka (2) concern that there was no framework for monitoring the activities and funding of these NGOs (3) concern that some of the funds received from foreign sources as well as those generated locally were being misappropriated or used for activities prejudicial to national security, public order or economic interests and in addition for activities detrimental to the maintenance of ethnic, religious and cultural harmony among the people of Sri Lanka. In 1994, the People's Alliance (PA) led by the Sri Lanka Freedom Party came to power and marked another phase of state-NGO relations. In the 1994 Parliamentary

election, the NGOs and PA government shared a common ground on the need to solve the ethnic conflict through a negotiated political settlement. NGOs became involved in implementing programmes towards a non-military solution for the ethnic conflict to restore peace (Fernando, 2003). During this period, NGOs were actively helping the government to implement human rights agenda and programs which eventually led to the politicization of NGOs. However, this collaboration between the PA government and NGOs was not evident in other government programmes. After the collapse of peace talks and negotiations between GOSL and LTTE (1994-2005), many NGOs lost confidence in building peace in Sri Lanka. After 2005, NGOs came under severe scrutiny under the Rajapaksa regime which, particularly targeted HR organizations and curtailed their operation-yet such NGOs survived amidst the growing pressure on the part of the government and they continued their agenda of promoting and protecting human rights and democracy which can be considered as a significant contribution of NGOs in Sri Lanka to ensure human rights. Media remains important in human rights advocacy, but, in the case of Sri Lanka, there is no such media to promote the culture of human rights, rather they tend to instill anti-NGOs perceptions among the public and policy makers which continues to be a threat for HR NGOs. During the 'Yahapalanaya' government, HR organizations became prominent and they closely worked with the government to establish transitional justice mechanism and supported the government's efforts to build peace and reconciliation in a variety of ways, which unfortunately did not last long due to different reasons. During this time, NGOs also supported the preparation of the National Human Rights Action Plan, but after the regime changed in 2019, all these initiatives came to standstill.

Fernando (2003) further notes that human rights-based NGOs began to revert to the watchdog role they had played in the 1988-1993 era as many incidents of human rights violations began to be reported especially in war-affected areas. Further, election malpractices, violence and misuse of power by the government were also reported during the Wayamba (north western) provincial council election in 1999. NGOs played an active role in monitoring the election process and openly confronted the government's action. In this period, the government began to come under heavy criticism by NGOs. Since

the 2002 ceasefire, NGOs have been involved in peace-building projects including promoting development in conflict-affected areas, establishing 'peace dividends', building relationships at the community level and fostering popular support especially in the south (Goodhand, 1999). According to Walton (2008), these programmes had donor commitments to and hence their support for NGOs was heavily dependent on the state's commitment to the peace process. As a result, NGO activities and objectives became increasingly aligned with the political project driven by the United National Front (UNF) government and its international supporters.

During the post-war period despite facing restrictions and constraints by the central government, some NGOs began to be involved directly with local communities to deal with human rights issues. This involvement and their contributions revealed the potential for NGOs to address the multiple needs in human rights. The long background of failure by the central government to introduce genuine efforts to address the human rights issues and the recent contributions of NGOs to human rights suggest that if NGOs were involved directly, there would be more progress than that could be achieved by simply relying on the central government (Akurugoda & Yurova, 2017). In general, Sri Lanka's NGOs that promote human rights have substantial information and contacts abroad, as well as a large repertoire of strategies to pressure the government. Importantly, NGOs strengthen the voice of local organizations by supporting them financially, suggesting advocacy methods or providing information which would not have been otherwise available. They focus on issues of marginalized, underprivileged and ethnic minorities and empower these communities to demand their rights and entitlements. NGOs also expose the wrongdoings of government at international levels, such as the U.N. or World Bank meetings, in international media, multinational companies and international human rights organizations. They raise the issue of lack of accountability for human rights violations that had occurred during the last phase of the ethnic conflict. They disseminate information on human rights issues, and use the legitimacy and send NGO representatives to attend such meetings. NGOs tend to achieve an optimal degree of pressure with the support of domestic and international strategies and institutional mechanisms.

The approach governments choose to deal with the increasing influence of NGOs tends to have a domestic focus, where governments expect to have a certain degree of control. NGOs persuade their governments to do the 'right thing', such as to establish an independent judiciary system, provide protection against organized crime, create budgets for social services, pass laws to properly regulate labor relations or set environmental standards, protection of fundamental rights, which in turn create hostile relationship between the government and the NGOs. As a result, they experience heated debates on the development or enforcement of laws or regulations governing NGOs. In the past two years, for example, new proposals for a revision of NGO laws or regulations have been introduced in many countries Albania, Brazil, Egypt, Japan, Mongolia, Pakistan and Uganda ((Human Rights Watch 2011; Lai 2004) and a similar process is underway in Sri Lanka as well.

To maintain control over NGOs, the Sri Lankan government including the present and the past, use different means to hamper, disturb or stop their activities. The government has challenged the credibility or legitimacy of certain NGOs and their actions by using legal or sometimes illegal means to ban them from operating in the country or intimidate or arrest NGO personnel. This explains that governments that neglect or violate human rights are more likely to control NGOs by repressing them or denying their right to exist. In some cases, the state has prohibited the operation of independent NGOs, such as in China. NGOs tend to collect information on human rights violations or environmental degradation using rudimentary forms of organization or individual action (Van Tuijl, 1999: 503; Jayasankaran, 1997). Under such severe governmental pressure, NGOs in Sri Lanka employ creative ways to survive using their organization's structure or mutual relationships vis-à-vis the prevailing legal and political regime. Some NGOs have been able to evade the impact of restrictive laws by registering as non-profit companies under the Company Law. There are also NGOs registered as foundations so they can avoid being subject to the restrictive law on mass organizations. Based on the Sri Lankan case, one could argue that NGOs may also exist and operate in an undefined institutional space created by lengthy legal or bureaucratic procedures.

Moreover, in Sri Lanka, coalition building among NGOs has been an effective means of protection against government interference. In some cases, NGOs have opted for national coalitions or networks in order to build consensus and to present a unified front to authorities. In other cases, NGOs have decided to stay away from centralized coalitions to avoid becoming visible targets for control driven authorities. It is also evident that NGOs in the local and regional levels in partnership with the mass media, have enlightened societies on human rights issues, primarily achieved through daily and continuing advocacies for human rights in response to the abuse, negation, and/or neglect of human rights. This is partly supported by international human rights NGOs such as Amnesty International, Human Rights Watch etc. These campaigns demand stronger international norms on human rights, particularly those for the protection and promotion of the economic, social, and cultural rights of children, ethnic minorities, migrant-workers, refugees, women, and other vulnerable groups, enhancing the rights for each individual and community.

Overall, NGOs in Sri Lanka serve as:

- Focal point, platform, and network for information gathering and research required to both challenge and create new policy advocacies for human rights;
- Avenue for articulating particular human rights abuses/issues. For example, Amnesty International has a regional office in Sri Lanka to challenge human rights abuses, be they individual or collective cases;
- Agency for mobilizing and/or articulating various forms and modes of confrontational protests and demonstrations, targeting NGOs
- Networking forum to push local, regional, and international government bodies to react to human rights abuses;
- Hub to gather strong local support to reshape human rights norms and policies, which are more likely to promote governments commitment towards human rights.

Challenges for Human Rights NGOs in Sri Lanka

Since most of the NGOs in Sri Lanka advocate democratic reforms, human rights, peace, free and fair elections, and media freedom, they do encounter various forms of challenges. It is noteworthy that foreign funding for NGO peace work has come under severe criticism in Sri Lanka. According to Orjuela (2005) the strongest opposition to NGOs and the peace process came from Sinhala nationalist groups. Wickramasinghe (1995) adds that militant Sinhala groups vilified ‘foreign-funded NGOs’ as responsible for undermining the morale of the troops and pursuing ‘selfish aims’ instead of thinking of the good of the nation. Critiques of relief organizations failed to make distinctions between local NGOs which received foreign funds and others. Uyangoda (1995) stated that what extremely interesting in Sri Lanka was that the state had only occasionally come out against the human rights-based NGOs on the argument that they endangered national security.

Humanitarian NGOs who had worked in the conflict areas were branded as pro-LTTE because they had worked among civilians in LTTE-controlled areas. For example, international humanitarian NGOs such as the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR) were there because in situations of armed conflicts, direct parties to the conflict are not always capable of looking after and providing for the civilian population affected by the conflict itself. Critics of human rights NGOs failed to understand that international humanitarian organizations have worked in Sri Lanka at the request of the government to carry out specific activities asked by the government (Uyangoda, 1995).

A Secretariat for NGOs was established in 1996 in the Ministry of Health, Highways & Social Services. Nevertheless, according to a special gazette notification issued in 2010, the NGO Secretariat has started functioning under the Ministry of Defense (NGO Secretariat.1995). The motives for setting up the secretariat may have been clear and reasonable, but the problem was that they were under the control of the Ministry of Defence. Because the war ended in 2009 and the government was unable to present arguments about national security. In 2015, it functioned under the purview of the Ministry of National

Co-existence, Dialogue and Official Languages under the good governance government. But again, the NGO Secretariat started functioning under the Ministry of Defense in June 2020 and a few months ago was brought under the Ministry of Foreign Affairs.

Some of the challenges which are encountered by the Sri Lanka's NGOs are closely related to government policies and attitudes towards NGOs. Namely, NGOs that are working in the field of human rights tend to face more challenges due to long-standing human rights violations triggered by three decades of civil war and lack of accountability for human rights. There is also the point of view on the part of government that NGOs are doing wrongful deeds to the society, which leads to condemnation, targeting the activities of NGOs without any rationale. Disclosure of certain information regarding discussions conducted in a closed environment via media without the consent of parties concerned. The government tends to discourage rights-based interventions, policy advocacy, training, awareness raising campaigns etc. by preventing or advising against implementing NGO activities in the form of networks and collectives ; discouraging the activities of NGOs that engage in constructive criticism on the policies of the government and lack of accountability; spreading a wrong opinion about NGOs stating that they are a threat to national security and sovereignty; embarrassment and intimidation of staff members of NGOs by forced entry into their offices without proper notice; forcing to register NGOs with the National Secretariat even when they are duly registered with various state authorities under relevant Acts; interrogating various NGOs by summoning them to the National Secretariat stating that there are complaints against their organizations..

The Mullaitivu District Secretariat issued a set of guidelines in 2019 to the NGOs working in the district asking them to prioritize infrastructure development and not soft skill trainings. This guideline specifically says that NGOs should reduce training provided in thematic areas such as women's empowerment, child rights, youth training, human rights, democracy, civil society, land rights training, and the formation and strengthening of self-help groups. Furthermore, the action plans of organizations that contain less than 70 per cent of physical infrastructure activities, such as the construction of rural

roads, wells and preschools, will not receive its approval. This restricts right-based organizations continue their goal in promoting human rights especially in post war areas like Mullaitivu where it is most needed and also puts a risk to the sustainability of these organizations (see: <https://srilankabrief.org/sri-lanka-crackdown-on-ngos-and-ingos-guidelines-from-district-secretaries/>). A Similar kind of pattern could be observed in other areas as well where the Director General of NGOs Secretariat urges NGOs to spend their time and money on tangible things rather than conducting training and capacity building activities and human rights NGOs have come under severe criticism and scrutiny under the present government.

From Sri Lanka's National security perspective there were recommendations made by the sectoral oversight committee in 2020 shortly after the Easter Sunday attack. This includes the following areas: empowering and legalizing of the NGOS Secretariat, amendments to the Wakfs Act No 51 of 1956, empowering Muslim Civil society. There is a dedicated section that talks about regulating Muslim Civil Society organizations and it went on to state further that NGOs funded by Middle Eastern countries are recognized as religiously aligned and therefore interpreted as non-genuine. It is also mentioned that any social organization working with the Muslim community must comply with the Jamiyyathul Ulama Council (Council of the Muslim Theologians) and this is applicable to the entire country. This one size fits all approach also applies to any organization lead by persons who belongs to the Muslim community despite whether the NGO is registered under (Volunteer Social Service Organization (VSSO) or companies act etc. This is a discriminatory approach and the same doesn't apply to organizations that have Christian, Buddhist or Hindu affiliation.

In February 2020, the decision to withdraw from the co-sponsorship of the UN Human Rights Council resolutions 30/1 and other linked resolutions regarding human rights accountability in Sri Lanka impacted the survival of NGOs working on transitional justice and reconciliation processes. This includes organizations that work with the Office of Missing persons in relation to enforced disappearances. Lack of trust among the NGOs in the newly appointed Director General of the NGOs' Secretariat has created a

non-amicable environment. The independence of these institutions and their relationship with NGOs to collaboratively promote human rights in Sri Lanka is being questioned. Very clearly this shows the shrinking space for civil society under the present government. The government is planning to bring about a new law to regulate civil society organizations. In August 2021, President Gotabaya Rajapaksa, in his capacity as the Minister of Defence, advised the Legal Draftsman to draft a bill enabling the introduction of a new piece of legislation in place of the Voluntary Social Service Organizations (Registration and Supervision) Act No. 31 of 1980. The cabinet decision regarding the above move was published and the government started the process of drafting the new Act soon. According to the Cabinet's decision, it has been found that the provisions of the existing Voluntary Social Service Organizations (Registration and Supervision) Act, which is the main legislation for the registration of voluntary organizations, does not cover the present requirements. During the previous Yahapalana Government's tenure, the Cabinet also approved a proposal to include amendments to the Voluntary Social Service Act.

Yet, during that time, many activists and organizations, including the Centre for Policy Alternatives (CPA), mentioned that the proposed amendments had contained adverse effects as well as far-reaching consequences on the activities and finances of civil society, adding that those amendments, if enacted, would have a discouraging effect on a variety of private entities in Sri Lanka (Perera, 2021). Interventions by the Criminal Investigation Department (CID), the Terrorism Investigation Division (TID), and military intelligence officer have been taking place to monitor the activities conducted by these organizations and some of the NGOs have been highly securitized due to their activities on human rights, democracy, rule of law etc. It is deemed on the part of civil society that amendments to the Social Service Act will contain some clauses, such as preventing a bank from facilitating an NGO from opening or maintaining a bank account without proof of registration. Under the Act, if the NGO maintains a bank account in contravention of the provisions, such an organization shall commit an offence under this Act, etc. (Perera, 2021). Some civil society activists argue that new amendments or Act will undoubtedly impose additional administrative and financial burdens on these organizations,

which will hamper their ability to carry out their intended goals and missions. The Financial Transactions Reporting Act No. 6 of 2006 also contains similar provisions requiring institutions to disclose financial transactions to the Financial Intelligence Unit. It is also argued that since NGOs fall under the purview of Right to Information Act of 2016, it is unnecessary to bring about new laws or amendments to regulate NGOs, because one could simply obtain necessary information about NGO in relation to financial matters, namely source of funding, target communities, expenses, and so forth. The RTI act also enable one to gather information on transparency, accountability and other operations of civil society organizations in Sri Lanka. When it comes to regulation of NGOs/INGOs, basically, there are three types; i.e. self-regulation, peer regulation and state regulation. Researchers have observed that the literature on the efficacy of peer regulation is scant (Crack, 2016).

The Director General and Registrar of the National Secretariat for Non-governmental Organizations Raja Goonaratne explained the moves for the introduction of a new law to monitor the operations of NGOs and INGOs in Sri Lanka. During an email interview with the Daily Mirror he said that a huge number of NGOs and NPOs operate without any monitoring or supervision in Sri Lanka so that it is the statutory duty of the National NGO secretariat to confer NGOs/INGOs official recognition, provide facilitation and supervision under the regulatory mechanism. He further went on to state that “we have identified more than 15 crucial areas where we need to introduce new laws. In the recent past, several attempts have been made to amend VSSO Act as follows;

- In 2010, cabinet gave approval to amend the VSSO Act in its meeting held on 08.11.2010 under Cabinet Paper/10/2657/403/075
- (b)In 2018, as per a cabinet decision on 20, February, 2018, under Cabinet Paper/18/0272/750/002 the cabinet gave approval to draft a Bill to amend the VSSO Act.
- The idea of amending the NGOs laws was mooted again in 2019, when the National NGO Secretariat was brought under the Ministry of Defense by Gazette Notification No 2153/12 dated 10.12.2019.

- Once again, a cabinet paper for amending VSSO Act was submitted on 02.11.2020 and May 2021 as well (Bandara, 2021).

Conclusion

The chapter intends to explore the role of NGOs in promoting and protecting human rights in Sri Lanka. The theoretical frameworks and empirical evidence of the chapter show that NGOs in Sri Lanka have immensely contributed to the promotion and protection of human rights system as a normative framework-the notion is that human rights reached the grassroots simply because of NGOs' contribution. Put differently, since 1970s, NGOs have been contributing to create a culture of human rights, though there remains challenges and obstacles in achieving the goal. The Sri Lankan case shows that NGO work is an articulation of the promotion of universal human rights. Changes imposed by globalization have strengthened the role of NGOs in human rights such that they are one of the most influential players in ensuring human rights. They have been persistently advocating human rights, peace and democracy amidst growing challenges and securitization in general and specifically NGOs in the Northern and Eastern part of Sri Lanka. In defending human rights, many NGOs in Sri Lanka are guided by international human rights laws that are incorporated in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and many other international human rights treaties. It is argued that in the hands of NGOs, these human rights norms (national, regional, international) become a tool to ensure human rights and freedom for everyone across the globe.

In Sri Lanka, relations between government and human rights NGOs have taken different forms according to the policies and aspirations of different governments and rulers, political parties and leaders and events taking place in the country, as discussed elsewhere in this chapter. Governments backed by Sinhala-Buddhist nationalist political parties and forces sought to brand NGOs as imperialist agents. This critique has been counter-criticized by many authors as a ploy by governments to prevent NGOs from engaging in human rights protection deliberately ignored by many governments.

It expresses the government's fear of receiving international pressure on human rights protection when NGOs act as guards to protect human rights. Compared to human rights NGOs in this regard, development-based NGOs do not face much pressure. Indispensably, NGOs have been playing a crucial role in bringing the concept of human rights to the rural masses during the conflict period and post-conflict situation, and there remains increasing concern and awareness on human rights among the ordinary people of this country-which became possible largely because of the persistent commitment and contribution of human rights NGOs in Sri Lanka. Today the Covid-19 global pandemic is further complicating the work of human rights NGOs. The analysis of this chapter also highlights some of the shortcomings from among NGOs in Sri Lanka-there are ad hoc organizations working in the field of human rights, yet in practice they don't have a culture of respecting human rights, pluralism and democracy. Lack of unity among HR NGOs is another drawback-they are more likely to give priority for funding, and in some cases, they tend to fight to get funds from variety of sources. Though the HR NGOs have individually contributed to human rights, due to internal conflict and competition among themselves, they are unable to devise a collective mechanism to create a human rights culture in Sri Lanka. In this case, some HR organizations including MIRJE, Civil Rights Movement etc. have been exceptional. There has been poor coordination among HR organizations and they are unlikely to have long-term strategies to enrich human rights in Sri Lanka. The chapter nevertheless informs that Sri Lanka's governments should create an enabling environment for human rights NGOs to create a culture of human rights which is a core element of democratic governance and sustainable development-this requires institutional, legal, resource and policy supports on the part of the government.

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Chapter 11

The Right to Participation: Reflections on Young People's Participation in Climate Protests in the United Kingdom and Sri Lanka

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Introduction

Participation of children and young people in school and in society has been a prominent topic in human rights education in the past decades. This discourse has expanded further against the backdrop of ongoing climate protests. Climate protests initiated by young people gained headway in 2018, when a 15-year-old Swedish activist named Greta Thunberg initiated a school strike for climate, in front of the Swedish Parliament, leading up to the Parliamentary elections (Crouch, 2018). Greta's actions later generated a widespread movement among young people around the world, where many took to the streets to advocate for climate action instead of attending school (Thunberg et. al, 2019). As the number of young people joining climate protests increase, the dominant standpoint of viewing young people as 'objects of concern' lacking the sufficient competency to make decisions is challenged (Hartas, 2010: 94). Young people are being viewed as 'subjects of rights', entitled to the freedom of participation, expression as well as assembly (Ferguson, 2019). However, the question of whether climate protests should encompass participation of young people remains a topical subject at present. Noteworthy, the United Nations Committee on the Rights of the Child (The Committee) is also currently in the process of fielding the draft General

Comment No. 26 on children's rights and the environment with regard to participation and climate change. (UNOHCHR, 2021).

Whilst participation of young people in school and society has been discussed under different perspectives, in this study we will be adopting a legal perspective to examine participation as a right of young people. In doing so, our intention is to examine the way in which right to participation encompasses young people's right to protest against climate change. Further, we will also analyze the challenges to participation faced by young people in the context of climate protests. The distinction between children and young people is made in certain instances to address the nuances associated with the right of participation. However, such a distinction will not be made within the discussion of this paper. Article 1 of the United Nations Convention of the Right of the Child (UNCRC) defines a child as 'every human being below the age of 18 years old, unless under the law applicable to the child, a majority is attained earlier'. For the purposes of this study, we will be referring to 'children' and 'young people' interchangeably to identify everyone who is entitled to rights under the UNCRC.

The Committee defines participation in the light of Article 12 of the UNCRC (2009, para.13), which deals with the child's right to be heard. Article 12 (1), that 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child; the views of the child being given due weight in accordance with the age and maturity of the child'. Further, Article 12 (2) states that, 'For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law'. Owing to its scope, this study will build on the substantive elements constituting the right to be heard under Article 12(1) of the UNCRC in order to analyze the right to participation in climate protests.

Drawing from Laura Lundy's legal perspective on participation (2007: 932), we argue that climate protests encompass young people's right to participation under Article 12 of the UNCRC. In this case, participation, in the

form of protests, is not only an inherent right, but also places a legally binding obligation on States to assure that legal and pedagogical barriers to such participation are duly addressed. Further, we argue that empirical challenges in balancing the principle of best interests with the right to participation has been a stumbling block to participation in climate protests, particularly in ensuring that protests are not hindered by adult decision makers. In the present analysis, we focus on the climate protests movement ‘Fridays for Future’ (FFF), in the context of school strikers in the United Kingdom (UK) to draw insights for child participation in climate protests in Sri Lanka. In this regard, we will first examine the theoretical framework surrounding the right of participation embedded within the UNCRC, with particular reference to Article 12. Next, we will analyze the right to protest as a form of participation, with specific reference to the FFF climate protests in the UK. Subsequently, we will examine the empirical challenges to participation, especially in striking a balance between the principle of best interests of the child and the principle of participation in climate protests. Lastly, the analysis will examine the insights that could be drawn from UK’s experience, in relation to participation in climate protests, for Sri Lanka.

Background

To begin with, we will first expand on the right to participation and the principle of best interests of the child against the backdrop of climate protests in the UK. we will also outline the emerging discourse surrounding child participation in climate protests in Sri Lanka.

Defining the Right to Participation

The Committee defines participation as ‘ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes’ (2009, para. 3). Further, the Committee underpins the right to be heard as ‘a crucial element of such processes’ (2009, para. 13). Accordingly, States have an obligation to guarantee the right to be heard for groups of children as well.

States should ‘exert all efforts to listen to or seek the views of those children speaking collectively’ (2009, para. 10). Therefore, in implementing the right to participation under the UNCRC, States are obliged to: ‘encourage the child to form a free view and provide an environment that enables the child to exercise her or his right to be heard’ (2009, para. 11); ‘The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation’ (2009, para. 12). In analyzing these comments made by the Committee, it is evident that the UNCRC views participation as a right of young people, which places a robust legal obligation on States to guarantee the right. Importantly, the State obligation to listen to and seek views from a collective of children or a group of young people, indicates several legal implications on States in terms of guaranteeing the right to participation in climate protests.

Participation in Climate Protests in the UK and Sri Lanka

Child participation in climate protests in the UK has raised several questions with regard to the obligations of the State in guaranteeing the right to be heard to young people. Despite the UK having ratified the UNCRC in 1991, there are gaps in implementing the right to be heard in decision-making (Lundy, 2007: 928). In 2021, the UK Department of Education, introduced a ‘Draft Strategy of Sustainability and Climate Change for Educational and Child Services Systems of the UK’ (Draft strategy). The Draft Strategy explicitly dissuades schools and students from taking part in climate protests (UK Department of Education: 21). Therefore, the gap between policy and the right to participation in climate protests remains a key concern in the UK.

On the contrary, child participation in climate protests is still an emerging topic in Sri Lanka. In this study, we will focus on the ‘Stop Ecocide’ climate protest, which was held on the 19th of March 2021 (Hamza, 2021). The protest was organized as a demonstration in line with the Global Climate Action movement, to raise awareness on environmental protection through various artistic means, including painting and displaying a large mural with a message stating ‘Stop Ecocide’ against a hand-painted backdrop depicting

the effects of deforestation. The mural was taken down by the Colombo Police Environmental Unit shortly after it was displayed. This incident has several implications with regard to child participation in climate protests in Sri Lanka. The most critical implication being the response of adult decision-makers to child participation, especially in balancing participation with the best interests of the child.

The Principle of the Best Interests of the Child

The best interest's principle housed under Article 3 of the UNCRC, underpins that the best interest of the child will be the 'primary consideration' in 'all actions concerning children'. However, according to Lansdown this does not mean that the best interests principle "trumps" other rights in the UNCRC, particularly the right to participation. (2009: 19). In fact, the Committee underpins that '[T]here is no tension between articles 3 and 12' and stresses on the complementary role played by the two articles in ensuring the right to participation on the child's own terms (2009, para. 74).

Theoretical Framework

The centrality of UNCRC Article 12 within the discourse of right of participation stems from the work of scholars such as Laura Lundy. In her paper 'Voice is not enough: conceptualizing Article 12 of the United Nations Convention on the Rights of the Child', Lundy stresses that '[T]here is a need for a greater awareness of the fact that respecting children's views is not just a model of good pedagogical practice (or policy making) but a legally binding obligation' (2007: 930). In Lundy's work, a new model to conceptualize Article 12 is introduced, where she outlines the following elements embodied within Article 12: Space; Voice; Audience; and influence (2007: 933). Lundy cautions discussions about UNCRC Article 12, where due weight has not been given to the entirety of the Article, particularly the obligations of the State (2007: 927). Lundy elaborates on the right of the child to be heard, with specific reference to the term 'assure', stressing on the mandatory obligation on the part of the State in enabling young people the ability to express their views freely and give those views due weight. In fact, the State has 'a positive

obligation to take proactive steps to encourage children to express their views' (2007: 934). In line with Lundy's assessment, it is evident that, States are legally obliged to play a role beyond a passive recipient of young people's views.

Building upon Lundy's work, Gerison Lansdown has further developed the conceptualization of participation in terms of highlighting the involvement of young people in decision making processes (2009: 13). Lansdown cites four-levels of involvement within a decision-making process, where young people are entitled to rights. These four levels are: the right to be informed; the right to express an informed view; the right to have the view taken into account; and the right to be the main/joint decision-maker (2009: 13). According to Lansdown, 'if advocacy to promote children's right to participation is to be effective, it is imperative that it is grounded in a clear understanding of the scope of the relevant rights in the Convention and the obligations they impose on governments' (2009: 12). Lansdown also points at the debate on the 'potential risks of participation' and the best interests of the child. Accordingly, Lansdown notes that "[W]ithout explicit recognition that assessment of children's best interests must be directed towards the realization of their rights and take serious account of children's own views, it can be used as a powerful tool in the hands of adults to defend any action or decision made on behalf of children" (2009: 19).

Dimitra Hartas, in her work on "Young People's Voice and Participation", outlines key principles of 'minor politics' as the foundation of young people's participation (2010: 113). These include inclusion, empowerment, citizenship and political education, independence as well as community. Accordingly, Hartas notes that, '[M]inor politics offer an important framework within which to place inclusion, empowerment and citizenship in ways that relate to young people's everyday life. It is only then that the right to participation becomes a lived experience' (2010: 113). The idea here is that minor politics has the ability to challenge the consensus as well as the discretion of those who are making decisions, thereby paving the way for young people to participate at a local level and ultimately make an impact even at a global level (2010: 113).

Writing in the context of climate protests initiated by school children, Nicholas McMurry (2020) elaborates on the right to protest as a form of participation for young people. According to Murry, Article 12 of the UNCRC consists collective rights for groups of children to advocate and influence decisions that concern them (2020: 94-95). Accordingly, protests are a form of communication utilized by young people in expressing their opinions and views under Article 12 of the UNCRC (2020: 95). An important question raised by McMurry is whether the Committee endorsed a child's right to be heard in 'general political mandates' (2020: 95). McMurry concludes that the Committee's wide interpretation of 'all matters affecting the child' renders that "the social processes of their community and society' fall within the ambit of Article 12 of the UNCRC. Therefore, in his view, expressing views on climate change and environmental degradation is a form of child participation in the context of present climate protests (2020: 95).

In the light of the views expressed by Lansdown, Lundy, Hartas and McMurry, it is evident that participation is a multi-faceted right, embodying freedom of expression, right to access information, best interests of the child as well as the right to be heard in the form of protests. Further, participation also entails the legal obligation on the State to facilitate the right to participation. This becomes critical consideration in the debate surrounding climate protests, especially when the right to protest is also placed within the right to participation. Accordingly, the key question is whether such placement ensues an obligation on the State to facilitate protest movements as a part of guaranteeing young people the right to be heard for young people under UNCRC Article 12.

Protesting as Participation: FFF Climate Protests in the UK

Obligation of the State to Guarantee the Right to 'Space' and 'Voice'

In Lundy's conceptualization of Article 12 of the UNCRC, the right to participation embodies the rights to: voice; space; audience and influence. These four elements are analyzed in a chronological manner, in which voice and space are seen as the first stage of guaranteeing young people the right

to express views freely in all matters affecting them (Lundy, 2007: 933). In other words, voice and space are two sides of the same coin which promotes a positive obligation on the part of the State to facilitate the expression of views.

On the one hand, the right of space places an obligation on the State to “assure” the environment for young people to express their views freely. The importance of assuring a ‘space’ for young people to express views freely involves a positive obligation on the part of the State to facilitate the process of expressing views, irrespective of the medium in which young people express their views. One key consideration in such assurance is also ensuring that the space provided for the expression of views are free from any rebuke or reprisal. Thus, the right to participation also relates to Article 19 of the UNCRC, especially concerning the right of young people to be protected from any kind of abuse (Lundy, 2007: 934).

On the other hand, the right of voice also places an obligation on the State to facilitate the right to express views freely without any arbitrary limitations. As Lundy outlines, the only limitation to expressing the voice is to consider whether the child is capable of forming a view (2007: 935). The significance here is that, the views expressed by young people, need not be mature. The most important requisite is to determine whether they are capable of formulating a view (Lundy: 35). In this context, the State has the obligation to listen without presuming that young people are incapable of expressing their views. In both of the aforesaid instances, space and voice relates to ‘all matters affecting young people’. As highlighted by McMurry in the preceding section, discretion on what matters affect young people is open to wide interpretation. The Committee also notes that ‘States parties should carefully listen to children’s views wherever their perspective can enhance the quality of solutions’ (2009, para. 27). These dimensions of the right of participation indicate that participation can even be in the form of protests.

However, it is imperative to distinguish the right to participation from the freedom of expression (Article 13, UNCRC) and the freedom of association and peaceful assembly (Article 15, UNCRC). Whilst, both of these latter rights are integral to participation, the right to participation

under Article 12 remains unique in terms of the obligation it places on the State. In the words of the Committee, ‘Article 12 imposes an obligation on States parties to introduce the legal framework and mechanisms necessary to facilitate active involvement of the child in all actions affecting the child and in decision-making, and fulfil the obligation to give due weight to those views once expressed’ (2009, para. 81). Therefore, the State has the legal obligation to even facilitate protests of young people, especially if it is the medium of expression of views chosen by young people.

Challenges to Voice and Space: Empirical Gaps in terms of State Obligations in the UK

Empirically however, several gaps exist in terms of the State’s obligation in facilitating the right to participation for young people, especially relating to climate protests. In the Draft Strategy of Sustainability and Climate Change for Educational and Child Services Systems of the UK (Draft strategy) brought forth by the Department of Education in 2021, young people as well as schools are not encouraged to take part in climate protests (UK Department of Education, 2021: 21). The Draft strategy explicitly notes that, ‘whilst schools should support pupil’s interest in climate change and tackling both its causes and effects, it would not be appropriate to encourage pupils to join specific campaigning groups or engage in specific political activity, such as protests’ (UK Department of Education, 2021: 12). The main issue in taking such a position, especially in an educational strategy is that it eliminates the views expressed by young people who have participated and continue to participate in climate protests since 2018 (Fridays For Future, 2021).

Further, taking such a standpoint restricts the space and voice of young people in climate action, particularly as climate protests are marked out as an ‘inappropriate’ way of expressing views. This questions the hierarchy of authority in deciphering which views count as legitimate in decision making processes. Although the Draft Strategy underpins that it has been developed with multi-stakeholder engagement including children (UK Department of Education, 2021: 10), there remains a critical question as to whether the participation of children in drafting the Draft Strategy was merely consultative.

Lansdown classifies child participation into three key criteria, which includes consultative participation; collaborative participation as well as child-led participation (2009: 20). ‘Consultative participation’ refers to the process of adults seeking young people’s views to improve on their own understanding of the experiences of young people. This is primarily informative and does not involve young people in decisions made by adults. ‘Collaborative participation’ provides the opportunity for young people to be involved in making decisions alongside adults. In contrast, ‘Child-led participation’, refers to the process whether young people take their own decisions, and adults play the role of facilitators in the process by extending support in different ways. Whilst, participation of young people can take all three forms in different stages, in the event of climate protests, there is an obligation on the State to ensure collaborative or child-led forms of participation in fielding a mechanism in which children’s concerns regarding climate change and environmental degradation is given due weight in educational decision-making. The Draft Strategy evidently falls short in this regard, especially as it undermines the views, sentiments and agency of children who are actively engaging in climate protests.

Securing the Right of ‘Audience’ and the Right of ‘Influence’ in Climate Protests

Accordingly, the right to ‘audience’ and the right to ‘influence’ under Article 12 of the UNCRC is critical as it links to the State obligation to give young people’s views due weight. The obligation placed upon the State in guaranteeing the right of audience relates to young people having the opportunity to communicate views to ‘an identifiable individual or body with the responsibility to listen’ (Lundy, 2007: 937). Influence signifies the obligation on the part of the State to ensure that once the views are expressed by the child, they are given due weight. The Committee has stipulated that, “appearing to ‘listen’ to children is relatively unchallenging; giving due weight to their views require real change” (2003, para.12).

In my analysis of the Draft strategy and its actions and outcomes, it is evident that the strategy has not given due weight to the expression of young

people's views in the form of climate protests. In fact, the key action areas pertaining to climate education is geared towards a climate change adaptation route, promoting children to take up skills to adapt to changing climatic conditions (UK Department of Education, 2021: 12-14). There are explicit references to the duty of schools to remain 'politically impartial' and avoid climate education as a 'political issue' (UK Department of Education, 2021: 12). In this regard, it is debatable whether the drafters of the strategy took into account the existing reality of young people's participation in climate protests. Further, in light of Hartas's principles of 'minor politics' outlined above, there appears to be an exclusion of the views expressed by young people over the FFF climate protests in the decisions made by the drafters of the strategy. This raises a serious concern relating to whether the best interests of young people particularly in climate protests have been taken into consideration within the Draft strategy.

Balancing the Principles of Best Interests and Participation in Climate Protests

The best interest's principle is crucial in order to ensure that views are given due weight by decision makers once they are expressed by young people. However, it is imperative to balance the principle of best interests with the right to participation, especially in instances where adult decision-makers police the right to participation on the basis of protecting children. Lansdown notes that, the best interest's principle is key in striking a balance between protection and participation (2009: 18). As discussed in preceding sections, the Committee has also stressed that the principles of best interests of the child and participation as mutually constitutive, where 'one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children' (2009, para. 74). Thus, evidently the principle of best interests is concomitant with the right of participation embodied in Article 12 of the UNCRC.

However, one cannot disregard the risks associated with children joining protests, particularly climate protests by skipping school. As highlighted by Lansdown, children are the most vulnerable group in society and a 'higher

duty of care' is required in dealing with the exercise of their rights. (2009, p.18). In any event, participation cannot undermine the protection of children. Lansdown (2009: 18) and Hartas (2010: 102) analyzes various instances where child participation might run the risk of children falling prey to adult agendas. There can also be various unintended and long-term consequences when children actively participate in climate protests as activists. For instance, participation could affect children negatively in future employment opportunities or risk the physical and psychological health of young people. In societies where child participation is not accepted or prominent, these risks are even more heightened.

Nonetheless, there is also the need to acknowledge the experiences, views and emotions expressed by young people in the form of resistance. Adult decision-makers who hold the power to take decisions with regard to young people cannot override and eliminate such views expressed by young people on the basis of the best interests of the child. In 2021, amidst the Cop26 discussion, the Education Secretary of UK, Nadhim Zahawi noted that students should 'think about their own career in science and technology and innovation' as opposed to attending climate protests (Adams, 2021). He further stressed 'I would urge children not to miss school, not to miss class-we don't want to get into a situation where teachers and headteachers are having to issue fines for missing education' (Adams, 2021). It is evident that, although Zahawi has not used the exact terms of best interests of the child, the statement of the Secretary depicts the role of a gatekeeper who determines what is in the best interests of young people and which way the right to participation should be exercised by young people.

In contrast to Zahawi's statement, Article 12 of the UNCRC 'recognizes the child as a full human being with the integrity and personality and the ability to participate freely in society' (Freeman, 1996: 37). In fact, Lundy argues that '[I]n some decisions, at some point, the adults' views maybe irrelevant and the child's view should prevail' (2007: 939). She further highlights that, rights such as freedom of association and assembly can even be independently exercised by young people in certain circumstances (2007: 939). As seen in Hartas's conception of minor politics, participation of young

people encompasses participation in the form of challenging decision-makers by raising questions that affect the present lives of young people (2010: 113). In this regard, it is vital to understand that vulnerability of young people is not a result of their lack of capacity, but could also be a result of them being excluded from making decisions about their own lives. The best interest's principle cannot be a predetermined adult judgement. On the contrary, resistance expressed by young people through climate protests should be the predominant consideration in determining the best interests of the children.

Therefore, it is apparent that amongst the numerous challenges ahead of the right to participation, the restrictive role played by adults as gatekeepers of UNCRC Article 12 remains a major challenge to participation of young people (Lundy, 2007: 937). Thus, levelling principles of Best Interests or protection against participation of young people continues to be a stumbling block to the exercise of the right to participation at present. In this regard, for young people to realize the right to participation in the essence of what the drafters of Article 12 of the UNCRC intended it to be, a 'cultural shift' is required. Such a shift would mandate participation, even in the form of protests, as an integral element of decision-making with regard to young people (Sinclair, 2004: 118). It is equally imperative to underpin that the right to participation 'should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives' (The Committee, 2009, para. 13). Thus, it is evident that recognizing young people's ability to exercise agency is a starting point to underscore the true meaning of participation, especially in the context of climate protests.

Insights for Sri Lanka

The above analysis of child participation in climate protests in the UK is insightful for Sri Lanka due to two key reasons. Firstly, it outlines the obligation on the part of the State to guarantee the right to participation for young people, even in the form climate protests. Secondly, it is also a useful case study to map out the challenges ahead of right to participation, especially in relation to balancing the best interests of the child in the context of

participation in climate protests. Sri Lanka ratified the UNCRC on the 19th of July 1991 and thus, is under obligation to guarantee the right to participation for children. This involves guaranteeing the right to voice, space, audience as well as influence. In other words, if children resort to artistic means or protests to express themselves, the State has the special obligation to facilitate the expression of such views by children. However, in its Concluding Observations on the combined fifth and sixth periodic reports of Sri Lanka, the Committee has noted that respect for the views of the child ‘continues to be insufficiently implemented’ in Sri Lanka, especially in relation to General Comment No.12 of 2009 (2018, para. 18). In this context, the Committee was predominantly referring to legislations, judicial and administrative proceedings in the country. However, in analyzing the response of adult decision-makers to the ‘Stop Ecocide’ climate protest, it is evident that the Committee’s observations remain valid with regard to the lack of respect shown towards the views of children advocating against climate change.

In fact, during the ‘Stop Ecocide’ climate protest, the adult decision-makers took immediate steps to remove the mural painted by children, who were expressing their sentiments against climate change through a visual medium. Further, the President of Sri Lanka, Mr. Gotabhaya Rajapakse, made a statement in national media noting that the mural was ‘damaging the environment’ (News First, 2021). In his remarks, the President stated that ‘displaying murals is not the way to protect nature’ (News First, 2021). Whilst the aforesaid responses of adult decision-makers show explicit disregard towards views expressed by children especially in climate change narratives, it also signals the restrictions posed by adults in terms of exercising the right to participation by limiting the scope for voice, space, influence and audience. It is also evident that the adult pre-determination of what is the ‘appropriate’ or ‘proper way’ of expressing disagreement is mirrored in the ‘Stop Ecocide’ climate protest similar to what was observed in the UK case study. However, unlike in the UK, Sri Lanka has not explicitly restricted participation in climate protests at present. In its National Climate Change Policy (NCCP), Sri Lanka adopts a national ambition to promote policies geared towards creating a ‘climate change sensitive generation’ and ‘promoting proactive and responsible participation’ (Kagawa, 2021: 18). Empirically however,

the adult responses to the ‘Stop Ecocide’ climate protest stand against these policy objectives delineated to encourage a proactive generation responsive to climate change. It is imperative in this context to stress on the obligation of the State in assuring the right to participation for young people, especially in matters affecting them. The ‘Stop Ecocide’ climate protest could be one of many forthcoming climate protests in the country, which will pinpoint legal and pedagogical barriers to participation in Sri Lanka, particularly in formulating policies for climate change education in the future. Thus, the experience of the UK is useful to understand the multi-faceted nature of the right to participation and the legal obligations places upon the State to assure the right to be heard under Article 12 of the UNCRC.

Conclusion

In conclusion, drawing insights from Laura Lundy’s legal perspective on participation, we have argued that young people’s right to participation under Article 12 of the UNCRC includes the right to engage in climate protests. To arrive at this conclusion, we first examined the theoretical framework surrounding the right of participation embedded within the UNCRC, with particular reference to Article 12. Next, we assessed the right to protest as a form of participation, with specific reference to the FFF climate protests in the UK. Subsequently, we analyzed the empirical challenges to participation, especially in striking a balance between the principle of Best Interests of the child and the principle of participation in climate protests. Lastly, we drew insights from UK’s experience of climate protests in order to outline the empirical challenges to participation in Sri Lanka.

Accordingly, in this case, participation in the form of protests is not only considered as an inherent right of young people, but also as a right that places a legally binding obligation on States to assure that legal and pedagogical barriers to participation are duly addressed. In our analysis, it was apparent that, even if the principle of best interests is not theoretically juxtaposed to the right to participation, empirically it is a stumbling block to participation, especially in the context of climate protests in the UK. In our analysis of the Draft Strategy of Sustainability and Climate Change for Educational and

Child Services Systems of the UK and the ‘Stop Ecocide’ climate protest in Sri Lanka, it was apparent that adult decision-makers continue to hinder the right to participation by limiting the scope for young people to exercise voice, space, audience and influence.

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Chapter 12

Human Rights Status of Persons with Disabilities in Sri Lanka: Challenges and Opportunities

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Introduction

The terms ‘*Impairments, Disabilities. and Handicaps*’ (ICIDH) are often used interchangeably. However, the International Classification of Impairments, Disabilities, and Handicaps (ICIDH) promotes a most common framework and definitions of disability-related issues (WHO, 1980: 2-3). In the context of health experience, a disability is any restriction or lack of ability to perform an activity in the manner or within the range considered normal for a human being (WHO, 1980: 28). However, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognizes that ‘disability is an evolving concept’ (UNCRPD, 2006: 1). Further, the UNCRPD identifies that Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UNCRPD, 2006: 4).

More prominently, the preamble of the United Nations Convention on the Rights of Persons with Disabilities states, *Disability is an evolving concept, and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder full and effective participation in society on an equal basis with others* (UNCRPD, 2006: 01).

In academia, the definition of disability has been a controversial matter. Thus, definitions range from the very narrow to the very broad, from the medical to the social, from the cultural to the local, from the one intended to integrate them into society to the one for exclusion and segregation (Gupta, 2012: 145). However, in cooperating with the UNCRPD, the present study defines the term disability as physically, psychologically, and socially constructed and reflects a misapprehension in the thinking on the part of society.

It has been estimated that more than one billion people in the world live with some form of disability and that a significant proportion of persons with disabilities live in the continents of Asia and Africa (World report on disability, 2011). They are among the most marginalized, vulnerable, and excluded groups in the world. Specifically, they face several barriers to the realization of their basic human rights.

However, the human rights of persons with disabilities have been now properly documented in the United Nations' human rights system and the significance of protecting their human rights by States acknowledged. In this context, many international documents including the Declaration on the Rights of Disabled Persons (1975), *World Programme of Action Concerning Disabled People* (1982), the *Convention on the Rights of the Child* (1989), the *Standard Rules on the Equalization of Opportunities for People with Disabilities* (1993), *United Nations Convention on the Rights of the Persons with Disabilities-CRPD* (2006) and *Convention on the Rights of Persons with Disabilities and its Optional Protocol* (2007) have highlighted that disability is a human rights issue. Moreover, the United Nations has established a range of international mechanisms to deal with human rights issues of disabled persons including *the Ad Hoc Committee: Convention on the Rights of Persons with Disabilities*, *Committee on the Rights of Persons with Disabilities and Special Envoy of the Secretary-General on Disability and Accessibility*. International human rights law determines that every person, including Persons with Disabilities, is entitled to all the rights and freedoms without distinction of any kind.

The population of Sri Lanka has amounted to approximately 20.3 million and the *Census of Population and Housing Report of Sri Lanka in 2012* has estimated that about 8.7% of persons live in visual, speech, hearing, and mobility, intellectual, psychiatric, and epileptic conditions (Census of Population and Housing Report of Sri Lanka, 2012). Among them 57% of persons with disabilities are male and 43% female. Moreover, persons with disabilities in Sri Lanka surface from a complex interface between widespread structural factors like health conditions, social factors, living situations, and the misapprehension in the thinking on the part of society. And, over the past years, research on persons with disabilities in Sri Lanka has been comparatively unsophisticated mostly covering issues like ignorance of their basic human rights. However, *Disability Studies in Sri Lanka: Priorities for Action*, a research by Peiris-John, Attanayake, Dickson, Wickremasinghe, & Ameratunga, is a critical mass of multi-disciplinary work. It has emphasized the significance of a collaborative strategic program of research using effective participatory approaches that engage all sectors and communities relevant to uphold the rights of people living with disabilities (Peiris-John, et al, 2014; 1742-8). Specifically, persons with disabilities have been constantly marginalized due to the absence of a substantive human rights-based approach in Sri Lanka. Therefore, in the language of human rights, people with disabilities in Sri Lanka experience a sense of grievance and injustice. Structuring on the recognition of both the diversity among forms of disabilities and the practical importance of disability to the future of Sri Lankan society, the objectives of this study are to identify and analyze the human right based challenges and opportunities such as right to education, employment, sexuality, reproductivity, health, and political participation of persons with disabilities. Moreover, this study is looking to make policy recommendations to the Government of Sri Lanka in order to overcome some human rights-based issues faced by persons with disabilities. Further, the fundamental questions that the present study seeks to answer are: (01) What are the national and provincial level policies and institutional frameworks for enhancing the human rights status of persons with disabilities in Sri Lanka? (02) What are human rights challenges faced by persons with disabilities in Sri Lanka at the personal, familial, and societal levels with regard to their

disability?, (03) Do the national policies of the Government of Sri Lanka help to foster positive attitudes about persons with disabilities' capabilities and their roles in the community?, (04) What are the policy options before the Government of Sri Lanka that can be applied to overcome some human rights-based issues faced by persons with disabilities? Specifically, same approaches of analysing human right based issues faced by persons with disabilities have failed to develop sufficient understanding of providing a long-term answer to the above problem. Further, this study argues that both state and society have a substantive obligation for accommodating the dignity of persons with disabilities through a human rights-based approach.

Primary and secondary data were collected by the researcher while carrying out the present research. For primary data collection, the study selected the Kandy district from the Central Province, Ratnapura district from the Sabaragamuwa Province, Jaffna District from the Northern Province, Batticaloa district from the Eastern Province, and Colombo District from the Western province the areas with the highest and lowest percentage of persons with disabilities in Sri Lanka (For more details, see, diagram no. 02 and table no. 02). Primary data were collected from forty respondents using purposive sampling method. The selection of the sample comprises of five probation officers, thirty persons with disabilities, and five government officers. Thirty persons with disabilities were selected from those between 15-59 of age group based on the ratio of the sight, hearing, walking impairments by birth from the four districts. Further, based on the population ratio of the Census of Population and Housing Report of Sri Lanka in 2012, ethnic ratio, gender ratio and religious ratio were taken into consideration in the process of selection of the sample. In this study, unstructured interviews through telephone, and zoom conversations as well as field observations were used as the primary data collection tools considering the prevailing Covid-19 pandemic. Secondary data were collected from books, journal articles, reports, international human rights instruments, national regulations, and procedures. In this study, qualitative and quantitative methods have been applied in analyzing data and systematic application of statistical data has been examined using scientific tools. No study has taken holistic steps to discuss the human rights status of persons with disabilities and their perception of their disability. Thus, the

present study could be a valuable means of gathering explanations, policy recommendations, and gaining insight into persons with disabilities in Sri Lanka.

Human Rights Approach Model of Persons with Disabilities

In academia, models of persons with disabilities are often called conceptual models of disability. However, a close look at the literature on disability reveals that there are no universal models for defining disability as a term itself (Michailakis, 2003: 209). Therefore, contemporary academia, adopt various models when studying and analyzing disability. However, since the 1960s, there have been many different models of disability which have been presented in scientific literature. Among them, the most important are the medical, the social, the human rights approach model, and the functional model of disability.

In her study on ‘Models of disability: The juxtaposition of biology and social construction’, Julie Smart points out several signs of various models of disability giving focus to matters such as definitions of disability, explanations of causal attribution and responsibility attributions, needs of disability, the formulation and implementation of policy, value judgments, academic disciplines study and learning about persons with disabilities, shaping the self-identity of disabilities, and causes of prejudice and discrimination (Smart, 2004: 2529). However, for some, the dichotomy between the medical and social models of disability is an outdated subject in the disability studies discourse (Degener, 2017: 02). However, the problem lies not in the prevention or studying the problems of disability as diseases, but it lies with the attitude as mentioned by Najma Begum (Begum, 1995: 30-37).

In the present research, the human rights approach model of persons with disabilities has been applied to identify and analyse the human right based challenges and opportunities such as right to education, employment, sexuality, reproductivity, health, and political participation of persons with disabilities in Sri Lanka. For some, the human rights approach model of persons with disabilities and the social model of persons with disabilities

have some common characteristics. However, Anna Lawson & Angharad E. Beckett argue that the two models have different subjects and different functions in the crafting and monitoring of the United Nations Convention on the Rights of Persons with Disabilities. In the human rights context, their roles are complementary and supportive for the development of human-rights-consistent law and policy, as well as systems and frameworks for monitoring progress. (Lawson, & Beckett, 2021). Further, the medical model of persons with disabilities focuses on the persons' medical disorders such as their specific impairments and it does not deal with the broader social and human rights issues. However, the human rights approach model focuses on the inherent dignity of the persons with disabilities and subsequently, only if necessary, on the person's medical needs or physical traits/characteristics (Quinn and Degener, 2002: 14).

Moreover, in their comparison between the social model and the human rights model, Anna Lawson & Angharad E. Beckett are supportive of the following arguments with references to the human rights approach model.

- First, the human rights model produces rights-holders.
- Second, the human rights model delineates the type of statement and practice associated with a human rights approach to the disability policy.
- Third, the human rights model allows disabled people to work on themselves.
- Finally, the human rights model (like the social model) can be characterized as an oppositional device operating to challenge technologies of government that marginalize, disadvantage, and disempower disabled people (Lawson & Beckett, 2020: 21-22).

In analyzing the strengths and weaknesses of the human rights-based approach, Morten Broberg & Hans-Otto Sano mention some of the consequences of the human rights-based approach. For them, the human rights-based approach is particularly suitable for ensuring that the weakest

citizens have access to essential services such as health-care, water, sanitation, and education as well as whether it is suitable for strengthening the concept of citizenship, etc. (Broberg & Sano, 2018: 672).

However, the human rights approach model of persons with disabilities admits disability as a significant dimension of human culture. It regards disability as a normal aspect in general and persons with disabilities are equally entitled to basic human rights as others in particular. Moreover, this model supports that all human beings irrespective of their disability have certain inalienable rights. Further, it attempts to anchor all policies, action plans, and programs, in principles derived from international human rights treaties' and declares progress towards the achievement of such human rights as its ultimate objective (Schulmann, Ilinca & Rodrigues, 2017: 7).

Institutional Framework of Persons with Disabilities in Sri Lanka

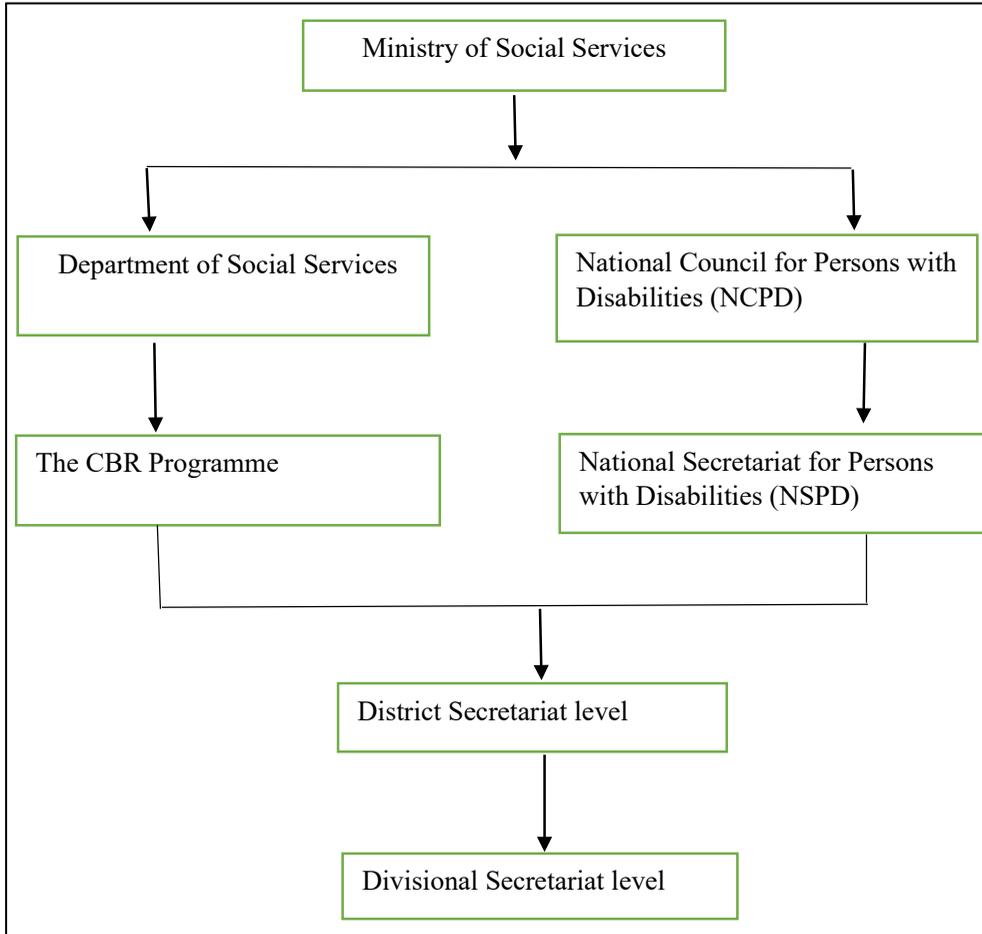
In Sri Lanka, persons with disabilities are legally defined by Article 37 of the Protection of the Rights of Persons with Disabilities Act as “person with a disability” means any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life’ (Act No. 28, 1996, Article 37). The National Policy on Disability for Sri Lanka emphasized that this definition incorporates both medical and social aspects of persons with disabilities (Ministry of Social Welfare, 2003: 9). Further, article no. 23 of the Act has proclaimed the protection of the following rights of persons with disabilities.

- No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.
- No person with a disability shall, on the ground of such disability, be subject to any liability, restriction, or condition about access to, or use of, any building or place which any other member of the public has access to or is entitled to use, whether on the payment of any fee or not (Act No. 28, 1996, Article 23).

In addition, article no. 24 of the Act has provided the following remedies to grant the provisions for the protection and advancement of persons with disabilities.

- Where there has been a contravention of the provisions of section 23, any person affected by such contravention of the Council on behalf of such person may apply to the High Court established under Article 154P of the Constitution for the Province in which the person affected by such contravention resides, for relief or redress.
- Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined following the procedure laid down by rules made by the Supreme Court under Article 136 of the Constitution.
- The High Court shall have the power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any application referred to in subsection (Act No. 28, 1996, Article 24)

Diagram - 01
National Level Institutional Structure of Dealing Persons with Disabilities in Sri Lanka



Source: Prepared by the Author

Moreover, the Act has granted permission for the establishment of the National Council and National Secretariat for Persons with Disabilities. The principal function of the Council is to ensure the promotion, advancement, and protection of the rights of persons with disabilities. Its overall functions cover both the medical and socio-economic needs of persons with disabilities.

Further, the Act has granted permission to establish a National Fund for Persons with Disabilities, and funds to come from the annual national budget.

Additionally, the Department of Social Services of Sri Lanka has adopted a Community Based Rehabilitation (CBR) Programme as a strategy for improving the delivery of service by providing physical necessities such as commodes, water, electricity, and access facilities to persons with disabilities. Moreover, it has a policy framework to provide infrastructure facilities for Skills Development Centers run for children with disabilities. This program aims to provide equal opportunity as well as protect the basic human rights of persons with disabilities (Department of Social Services, 2017). An attempt was also made to implement the National Action Plan for Disabilities by the Government of Sri Lanka in 2013. However, these programs are not largely successful due to the lack of institutional capacity including financial support from the government and non-state sector organizations.

In addition, provincial ministries and departments of social services in Sri Lanka provide several policy options with regard to persons with disabilities such as identifying persons with disabilities in their province; rehabilitating persons with disabilities and protecting their rights; providing relief, such as housing and access facilities, vocational training, and self-employment grants; linking government sector programs with the NGO sector in their province; providing assistive devices; improving educational facilities for disabled children through establishment and maintenance of preschools for those who have early childhood disabilities; directing disabled children to special schools; and addressing the prevention of disability by providing information on nutrition, etc. (ADB, 2005: 11)

In addition to the national and provincial level state mechanisms, several International and national level non-governmental organizations which work with persons with disabilities have registered in the National Secretariat for Non-Governmental Organizations as per the provisions of Act No. 31 of 1980 as amended by Act No. 08 of 1998. They currently apply a community-based rehabilitation approach for the wellbeing of persons with disabilities and seek to provide their basic needs.

Overview of Persons with Disabilities in Sri Lanka

Sri Lanka is an island nation, of about 65,610 square kilometers, located in the Indian Ocean. The total population of Sri Lanka is 20,359,439 persons and the population density is 325 persons per square kilometer of the country (Census of Population and Housing Report of Sri Lanka, 2012: xvii).

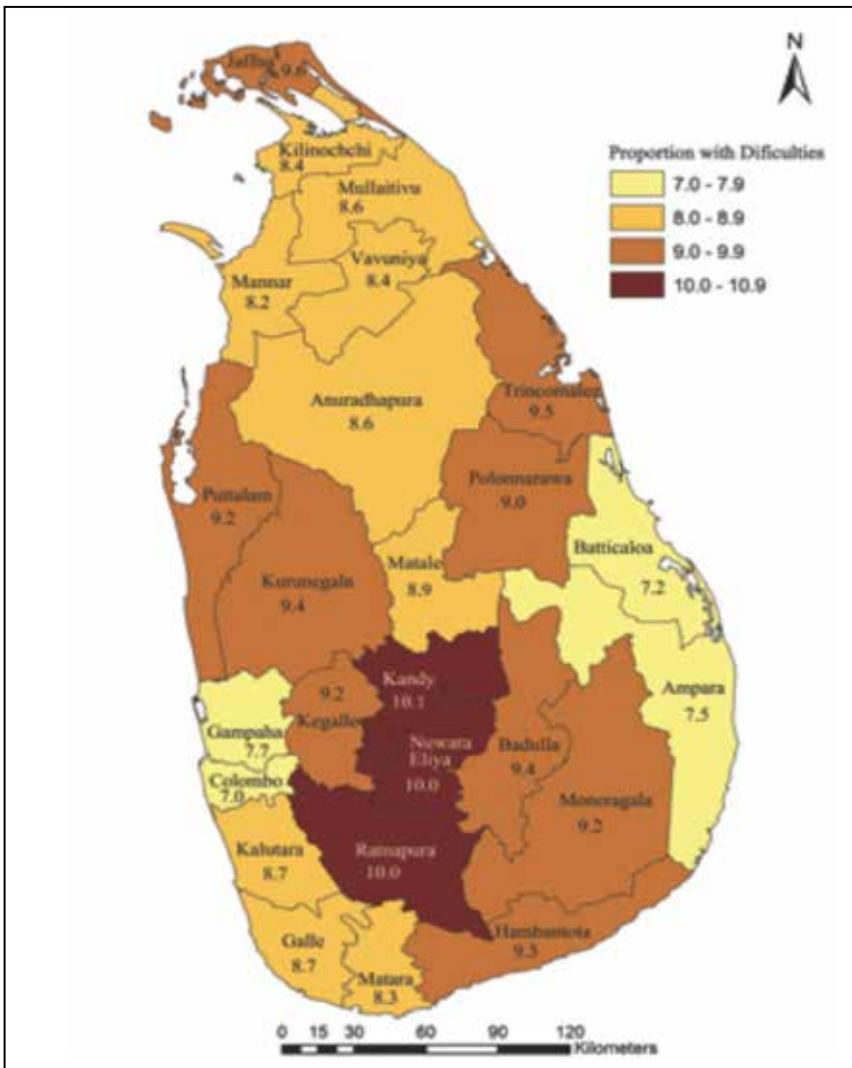
Based on data from the Census of Population and Housing Report of Sri Lanka of 2012, the percentage of persons with disabilities in Sri Lanka is 8.7% (1,617,924) of the population aged 5 years are, scattered in all districts in Sri Lanka. The majority of these persons (996,939) have impairments in their vision while the next most common difficulty in the population is in mobility/walking; 734,213 persons (Census of Population and Housing Report of Sri Lanka, 2012: 132). The number of persons with auditory deficiencies is reported to be 389,077. According to this information, the number of physically or mentally impaired per 1000 in the population is 87 (8.7%) persons (Census of Population and Housing Report of Sri Lanka, 2012: 132).

Table - 1
Number of physically or mentally impaired persons per 1000
in the Population by their impairment, 2012

Impairment	No.	Rate (Per 1000 persons)
Impaired Population	1,617,924	87
Sight	996,939	54
Hearing	389,077	21
Walking	734,213	39
Memory/cognitive	343,689	18
Self-Containing	197,575	11
Communication Problems/difficulties	180,833	10

Sources: - Census of Population and Housing Report of Sri Lanka, 2012: 133

Diagram - 02
The rate of physically or mentally impaired persons
(per 1000 in the population-aged five years and old)
by district, 2012



Source: - Sources: - Census of Population and Housing, 2012: 134

According to the Census of Population and Housing Report of Sri Lanka in 2012, the highest number of impaired persons is reported from the Kandy, Nuwara-Eliya, and Ratnapura districts. Jaffna, Trincomalee, and Kurunegala districts record the next areas with the highest number of persons with disabilities compared to /only second to Nuwara-Eliya and Ratnapura. However, when compared with the distribution of population, Colombo district which is the most populated district in Sri Lanka records the lowest rate for physically or mentally impaired persons in 2012. Even though the civil war in Sri Lanka has resulted in significant rates of physical impairment and mental illness, war-affected areas like Kilinochchi, Mullaitivu, Mannar, Vavuniya, Batticaloa, and Ampara report comparatively low rates of persons with disabilities in the Census of Population and Housing Report of Sri Lanka in 2012. According to the map/Diagram-02 a significant proportion of persons with disabilities live in the districts of Kandy, Nuwara-Eliya, Ratnapura, and Jaffna in Sri Lanka.

Human Rights' Status of Persons with Disabilities in Sri Lanka

Persons with disabilities are not only among the most deprived human beings in Sri Lanka but they are also the most neglected (Liyanage, 2017: 251-265). They are deprived of their basic human rights such as their right to education, employment, marriage, health care, mobility, equality, etc. However, it must be noted that the Government of Sri Lanka provides several legal provisions and policy options to eliminate conditions that prevent persons with disabilities from gaining equal rights and equal opportunities (Protection of the Rights of Persons with Disabilities Act, No. 28 of 1996). Yet families struggling with disabilities are among the poorest segments of Sri Lankan society. They are more likely to be trapped in poverty due to a range of challenges including stigma linked with a disability, negative societal attitudes, problems with mobility, earning power, child care problems, etc. (Padmani & Perera, 2019: 6)

For the study, the purposive sampling method has been adopted in which five districts namely Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo were selected as samples for the collection of empirical data. Data from the Census

of Population and Housing Report of Sri Lanka in 2012 show that these five districts have the highest number of persons with disabilities. The highest number of persons with disabilities is reported from the Kandy district where the rate is 101. The next highest number (100) reported is from Ratnapura. The third-highest number (96) of persons with disabilities shows in the Jaffna district. According to the data of table no. -02, the districts of Batticaloa and Colombo report the lowest rate in Sri Lanka where the rates are 72 and 70 respectively.

According to the Census of Population and Housing Report in 2012, the total population of Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo districts are 1,375,382, 1,088,007, 583,882, 526,567, and 2,524,349 respectively. Further, table-02 shows that the number of persons with disabilities in the Kandy district is 126,623, in Ratnapura 996,604, in Jaffna 541,254, in Batticaloa 475,239 and in Colombo 150,325. The total number of persons with disabilities in the five districts, in which the Census of Population and Housing in 2012, was carried out completely was 463,084 of population aged 5 years and over. The data shows that the highest rate was recorded for the seeing disability/visual impairments and the self-care disability in the districts of Kandy, Ratnapura, and Jaffna. Substantial rates were also stated in hearing, walking, cognition and communicated in the five target districts.

Table - 02
Population with difficulties (aged 5 years and over) by selected
Five districts, type of difficulty, and sex rate per 1000 population

District and sex	Total Population (5 yrs. & above)	Population with difficulties		Type of difficulty											
		No.	Rate	Seeing		Hearing		Walking		Cognition		Selfcare		Communication	
		No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate	No.	Rate
Kandy	1,257,665	126,623	101	79,354	63	29,257	23	58,874	47	26,141	21	14,297	11	12,417	10
Ratnapura	996,604	99,722	100	65,533	66	25,916	26	43,580	44	21,406	21	11,394	11	10,073	10
Jaffna	541,254	51,966	96	29,874	55	11,693	22	23,064	43	9,912	18	5,350	10	6,739	12
Batticaloa	475,239	34,448	72	19,243	40	6,025	13	15,929	34	7,533	16	3,330	7	5,120	11
Colombo	2,157,744	150,325	70	93,876	44	34,429	16	64,520	30	31,262	14	21,204	10	17,800	8

Sources: - Census of Population and Housing, 2012: 66

Basic Civil and Political Rights of Persons with Disabilities

Persons with disabilities have the inherent right to respect and human dignity whatever the origin, nature, and seriousness of their handicaps and disabilities are the Preamble of the United Nations Convention on the Rights of Persons with Disabilities emphasizes that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programs. Further, persons with disabilities are entitled to exercise their full enjoyment of all human rights and fundamental freedoms in the Civil, political, economic, social, cultural, or any other field (UNO, 2006: Article No. 02). Being a party to the United Nations Convention on the Rights of Persons with Disabilities since 2016, the Government of Sri Lanka is obliged to fulfill its provisions of it.¹

Right to equality before the law and equal protection of the law

Before the adoption of the United Nations Convention on the Rights of Persons with Disabilities in 2016, the Government of Sri Lanka had taken several measures to recognize the civil and political rights of persons with disabilities. Specifically, Article no. 12 of the 1978 Constitution of Sri Lanka has granted the right to equality as one of the fundamental rights of Sri Lankans, including those persons with disabilities. As per article no. 12 (3), ‘No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition about access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion’ (The Constitution of Sri Lanka, 1978, Article 12:3). It shows that persons with disabilities are allowed the enjoyment of fundamental rights in Sri Lanka. More specifically, in his fundamental rights petition on 11th December 2018, Dr. Ajith C.S. Perera challenged the non-compliance with provisions of the access facilities for persons with disabilities by nine respondents including the National Council for Persons with Disabilities before the Supreme Court of Sri Lanka. Subsequently, the petitioner filed that ‘All public buildings and

1. Sri Lanka ratified the Convention on the Rights of Persons with Disabilities on 08th February 2016 and became the 162nd State to ratify this Convention.

public places must provide access facilities for persons with disabilities which comply with the aforesaid regulations, should be constructed in a manner which complies with the aforesaid regulations and that newly constructed public buildings should not be issued a certificate of conformity unless they are constructed in compliance with the aforesaid regulations' (SC FR Application No. 273/2018: 4-5). It is important to note that the Supreme Court of Sri Lanka issued several directions to the National Council for Persons with Disabilities acting together with the National Secretariat for Persons with Disabilities incorporated with the Protection of the Rights of Persons with Disabilities Act No. 28 of 1996, as amended, and the Disabled Persons (Accessibility) Regulations No. 1 of 2006, as amended in Sri Lanka in favor of the petitioner's application. Moreover, the Supreme Court of Sri Lanka ordered the state to pay the petitioner a sum of Rs. 50,000/- on account of costs on 18th April 2019.

However, due to the absence of a human rights-based approach in Sri Lanka, public and private sectors have mostly neglected and marginalized persons with disabilities. They are treated unequally in terms of lack of freedom of expression, access to information, to express their views and opinions, and enjoyment of equal rights, etc. (The State of Economic, Social and Cultural Rights in Sri Lanka, 2017, 01-58). Further, persons with disabilities face different structural challenges before the court when they are required to fulfill the procedural requirements of the legal system of Sri Lanka. Persons with disabilities experience multiple discriminations as and when they need to communicate within the court system due to lack of alternative communication methods and mediums and when they need physical access to court premises in the very process of seeking justice (UN Universal Periodic Review, 2017: 6). The experience of a few persons with disabilities relate that they face many difficulties in gaining access to the court system of Sri Lanka due to both infrastructural and social barriers.

In addition, by the end of 2021, Sri Lanka was a signatory to all the major human rights treaties of the United Nations including the United Nations Convention on the Rights of Persons with Disabilities. But, Sri Lanka has not acceded to the Optional Protocol which provides any individual or group of

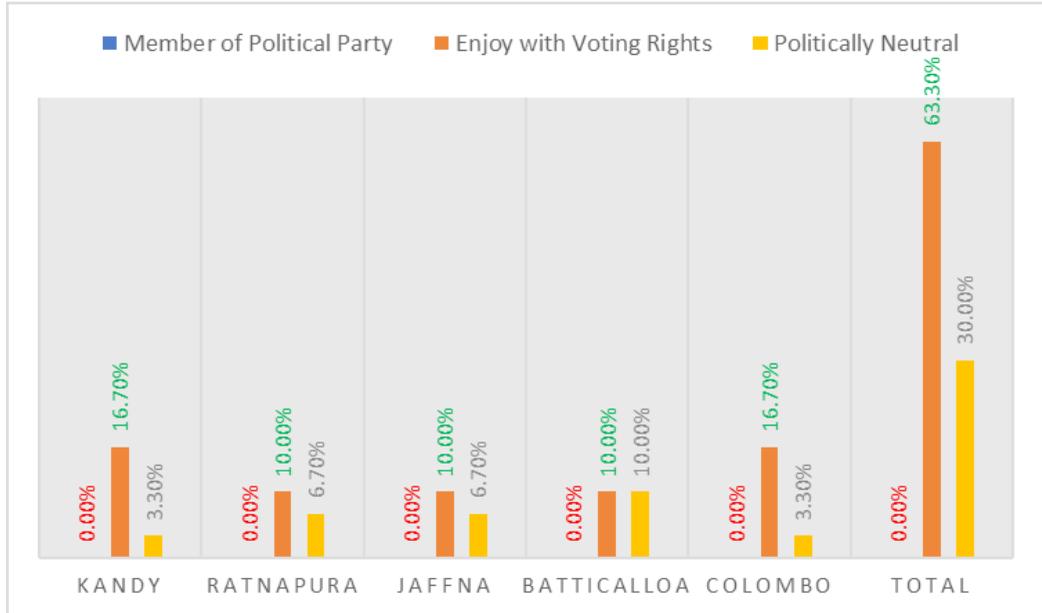
individuals to communicate with the Committee on the Rights of Persons with Disabilities. However, in the Sri Lankan context, persons with disabilities are entitled to all rights and freedoms without distinction/discrimination of any kind.

Right to Political Participation

Sri Lanka has comprehensive legal provisions and national policies to give effect to the realization of equal political rights of persons with disabilities. Specifically, the Government of Sri Lanka provides special provisions for any voter considered to be a person with a disability (2011 Elections (Special Provisions) Act No. 28). However, when compared with other sectors, political participation of persons with disabilities present different statistics in five districts. According to the survey, no person with a disability is shown as being a member of a political party. However, chart-04 shows that 63.3 percent of persons with disabilities enjoy voting rights at the national, provincial, and local level elections.

In discussions of persons with disabilities, it was revealed that the majority were mobilized by their parents, relatives, neighbors, and peers to enable them to cast their vote in favor of a particular political party or a candidate. Further, the pattern of engagement with the political process is also similar to their voting behavior. Since the existing political system does not favor them, 30% of responded persons with disabilities have been politically neutral in the five districts which were scrutinized. At interviews with persons with disabilities and government officers, many barriers such as inadequate facilities, lack of assistive technologies and devices, poor attitudes, and interferences by parents, relatives, neighbors, and peers are dominant/unavoidable in the political participation of persons with disabilities. According to the views of responded persons with disabilities, they have been highly neglected by the structural and socio-cultural pattern of Sri Lanka. The survey found that persons with disabilities have been substantively neglected in the mainstream decision-making process and have no representatives in the parliament, at provincial councils, or local authorities in Sri Lanka.

Chart - 04
Political Participation of Persons with Disabilities



Source: Field Survey, 2021

Basic Economic, Social and Cultural Rights of Persons with Disabilities

When it comes to socio-economic status, the majority of respondents are (89%) members of lower-income families. However, 11% of respondents belong to middle-income families. Further, majority of respondents have been neglected by the state and the society.

In general, basic, social, and cultural rights are essential conditions for the social and economic development of all human beings and persons with disabilities in particular. In Sri Lanka, the agenda of persons with disabilities has endured several policy changes to meet the mandates of the UN *World Programme of Action* for Disabled Persons. Further, the Government of Sri Lanka has taken several steps to introduce regulations like the *Human Rights Commission Act* (no.21 of 1996), *The Protection of the Rights of Persons with Disabilities Act* (no.28 of 1996), and the *Social Security Act*, (no.17 of 1996)

as well as rehabilitation programs such as the development of education, vocational training, psychosocial and creative therapies, social support, religious support, recreational activities, and community rehabilitation services to meet the needs of persons with disabilities (Hettiarachchi 2015: 106). But, the Government of Sri Lanka has not achieved substantial progress in the advancement of human rights for persons with disabilities.

Table – 03
Basic Statistics of Special Schools by Province and District-2020

Province/District	Schools	Students			Teachers		
		Male	Female	Total	Male	Female	Total
1. Western	12	702	399	1,101	21	223	244
11. Colombo	5	311	175	486	13	103	116
12. Gampaha	4	281	145	426	8	87	95
13. Kalutara	3	110	79	189	-	33	33
2. Central	4	102	67	169	9	34	43
21. Kandy	2	70	42	112	5	23	28
22. Matale	2	32	25	57	4	11	15
3. Southern	4	219	146	365	15	73	88
31. Galle	2	85	41	126	7	20	27
32. Matara	1	65	49	114	1	21	22
33. Hambantota	1	69	56	125	7	32	39
4. Northern	1	58	56	114	8	20	28
41. Jaffna	1	58	56	114	8	20	28
5. Eastern	1	33	7	40	1	8	9
51. Batticaloa	1	33	7	40	1	8	9
6. North Western	2	145	103	248	9	32	41
61. Kurunegala	1	80	66	146	5	19	24

62. Puttalam	1	65	37	102	4	13	17
7. North Central	1	46	38	84	6	4	10
71. Anuradhapura	1	46	38	84	6	4	10
8. Uva	1	104	89	193	17	28	45
81. Badulla	1	67	55	122	9	20	29
82. Monaragala	1	37	34	71	8	8	16
9. Sabaragamuwa	3	88	94	182	7	30	37
91. Ratnapura	1	28	23	51	2	11	13
92. Kegalle	2	60	71	131	5	19	24
Total	30	1,497	999	2,496	93	452	545

Source: School Census-2020: 111

This section focuses on the socio-economic conditions of persons with disabilities in the Kandy, Ratnapura, Jaffna, Batticaloa, and Colombo districts. The present survey reported/revealed that most people with disabilities do not have equal opportunity to access the same health care, education, and working opportunities as their non-disabled peers.

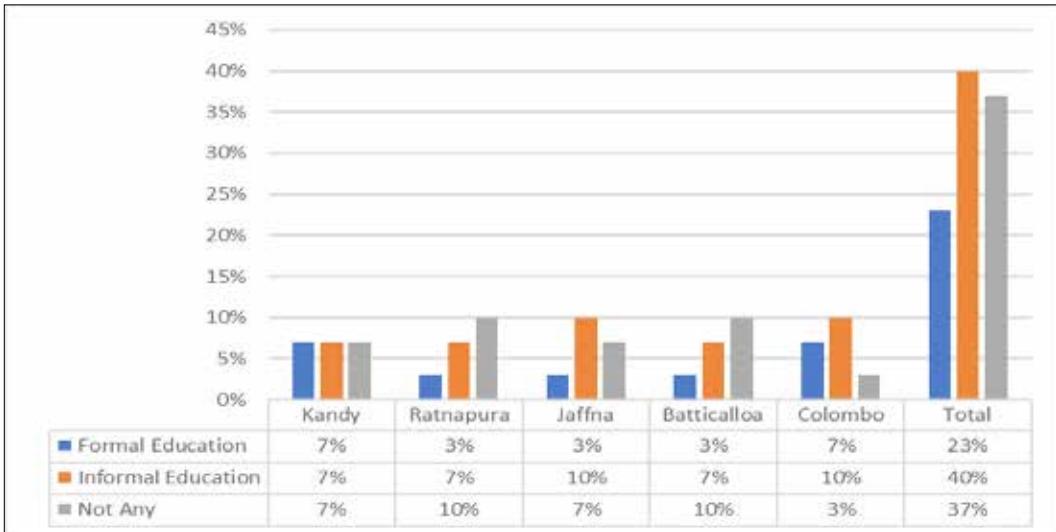
As a national policy, the Government of Sri Lanka practices/endorsees free education for all. Even though the Ministry of Education runs some schools for persons with disabilities and special education units in some schools in the five districts, the present survey revealed that the majority of persons with disabilities never receive either formal or informal education.

Right to Access to Formal and Informal Education

The average formal and informal education rates amongst people with disabilities are much lower than those of the non-disabled in Sri Lanka. The survey highlights that 23% and 40% of responded persons with disabilities have received formal and informal education respectively. But 37% of persons with disabilities did not receive either formal or informal education. Moreover, the present survey revealed that there is gender base disparity in the

education among men and women with disabilities in the five districts. Chart -01 shows that the right to access formal and informal education to the person with disabilities is quite higher in urban areas in the districts of Colombo and Kandy. In comparison districts like Ratnapura and Batticaloa, the figures stand at 10% of persons with disabilities having received formal and informal education, while 10% of persons with disabilities have not got the right to access either formal or informal education as a result of uneven distribution of resources. At interviews with persons with disabilities, probation officers, and government officers, it was highlighted that the physical infrastructure, the academic and the social environment of the schools, vocational training institutes, and universities were yet not ready with reasonable accommodation to integrate the persons with disabilities to provide an inclusive formal and informal education.

Chart - 01
Right to Access to the Formal and Informal Education

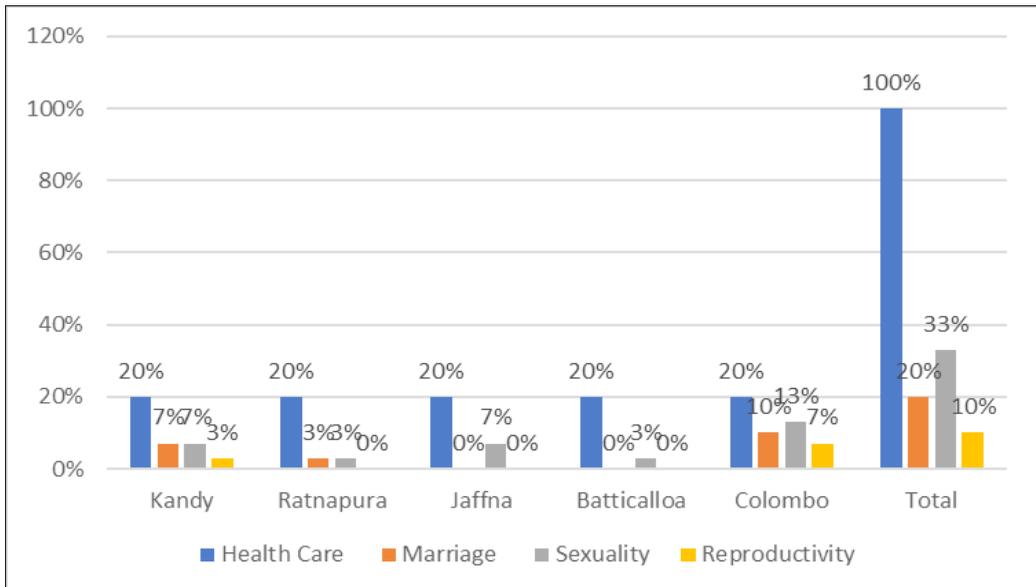


Source: Field Survey, 2021

Right to Sexuality, Reproductivity and Health Care

According to universal human rights norms, the right to health care, marriage sexuality, and reproductivity are fundamental human rights. As a result of the free health policy of Sri Lanka since 1951, a higher regional average has benefited from healthcare. However, based on the data obtained from the Census of Population and Housing Report of Sri Lanka in 2012, the total number of persons with disabilities in Sri Lanka is 1,617,924 of the population aged 5 years and over. According to the present survey, 100% of persons with disabilities receive free health care from the government. In the interviews, the majority highlighted that they are satisfied with free health care because of their economic vulnerability and some of the health care privileges for them. In the meantime, some persons with disabilities emphasized that they do not receive due recognition from the free health sector as they are marginalized in society.

Chart - 02
Health Right to Health Care, Sexuality and Reproductivity



Source: Field Survey, 2021

Persons with disabilities have the same sexual and reproductive health needs as others (WHO, 2009: 01). On comparing the marital status of the non-disabled with persons with disabilities, it was revealed that the majority of persons interviewed with disabilities have been unable to get as a result of societal negligence as well as physical and psychological barriers. Nevertheless, according to the survey, 20 percent of persons with disabilities have been married with others with disabilities or non-disabled. However, chart-02 indicates that the percentage of reproductivity of persons with disabilities is 10. When compared with the reproductive rate of persons interviewed with disabilities, it is quite lower than their marital status. At the interviews with persons of disabilities, it was found that the majority of them including married persons have negative attitudes on reproductivity as a result of social and health motivators like their partners, health practitioners, educators, parents, and peers. Further, it was identified that lack of access to sexual and reproductive education, health information, and services has become one of the major challenges faced by them.

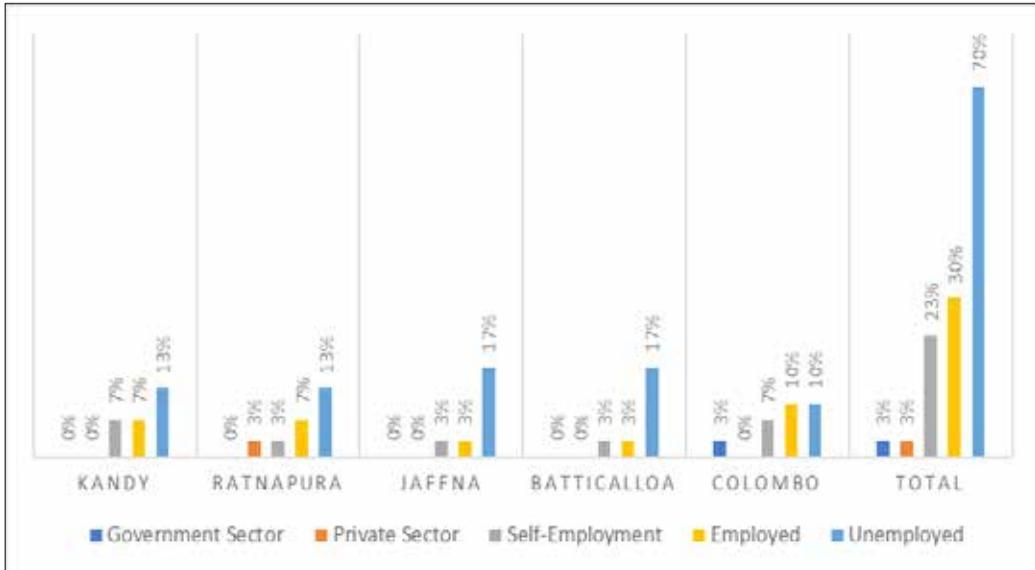
Despite health care and marriage, the right to sexuality for persons with disabilities remains one of the contentious issues in the human rights discourse. In the Sri Lankan context, the right to sexuality in the case of persons with disabilities is often paid little attention in public discourse, policymaking, and other sectors. Moreover, prostitution/access to sex-workers and abortion are taboo topics and legally prohibited because sexuality is a legal and social construct in Sri Lanka. However, interviews revealed that when compared with the marital rate of persons with disabilities interviewed with disabilities where the rate is 20, the sexual behavior of persons interviewed with disabilities shows 33 percentage. In the interviews, it was found that some persons with disabilities, specifically unmarried persons, experience unprotected sexual relations. In short, this has resulted in the violation of the sexual and reproductive rights of persons with disabilities, including marriage, illegal and forced abortions, lack of access to sexual and reproductive health education and service.

Right to Employment

Even though persons with disabilities constitute a significant percentage (8.7%) in Sri Lanka, their basic economic rights including the right to work, right to a fair wage, right to safe and healthy working conditions, right to promotions, and right to engage in trade union actions remain unmet. However, the Persons with Disabilities Act of Sri Lanka has largely been interpreted to mean that the main provisions relating to equal opportunities in employment are covered/provided. In short, the 1996 Act makes provisions for non-discrimination towards Persons with disabilities in employment. Further, the Government of Sri Lanka has introduced several programs for the realization of their basic human rights to live independently by providing skills including rehabilitation of disabled persons, by providing educational services and engaging them in social services, awarding grants, providing aid and assistance to victims of natural disasters, protecting the rights of disabled persons, and providing nutritious food, medical facilities, vocational training and employment to disabled persons as incorporated in various Acts (Special Educational Society (Incorporation) Act No. 3 of 1999 and Rana Viru Seva Authority Act No. 54). In addition, Act (No. 9 of 1992) provides provisions for enhancing educational and vocational training facilities of the visually handicapped; employment opportunities by giving financial assistance and guidance for self-employment and marketing of products manufactured by the visually handicapped (Rehabilitation of The Visually Handicapped Trust Fund Act (No. 9 of 1992). Moreover, the Government has established mechanisms at District and Divisional Secretariat levels to facilitate the social protection and poverty alleviation schemes of persons with disabilities in the medium term from 2017 to 2021. As a result of the existing Covid-19 pandemic and the financial crisis faced by the government, the program has not successfully reached its target yet.

Chart - 03

Employment and Unemployment Pattern of Persons with Disabilities



Source: Field Survey, 2021

But, it can be observed that employment opportunities for persons with disabilities in both the government sector and private sector are much lower compared to the figures related to the non-disabled in Sri Lanka. In 1988, the Ministry of Public Administration issued a Circular on the Employment of Persons with Disabilities, reserving 3 percent of job opportunities in the state sector for them (Public Administration Circular No. 27/88 Of 1988). Further, this quota has also been extended to private and semi-governmental sectors. However, the finding of the survey in chart-03 shows that 3 percent of persons with disabilities interviewed work in the government and private sectors. However, persons with disabilities are required to have the minimum most common qualification for a particular job issued by the Public Services Commission. Therefore, the competitive recruitment pattern to positions in state and private sectors has become a challenge for persons interviewed with disabilities due to the lack of formal and informal education as well as unequal distribution of resources. In addition, the survey revealed that unless there are proper mechanisms for monitoring their job security and

safety, the majority of persons with disabilities are not ready to work in the private sector.

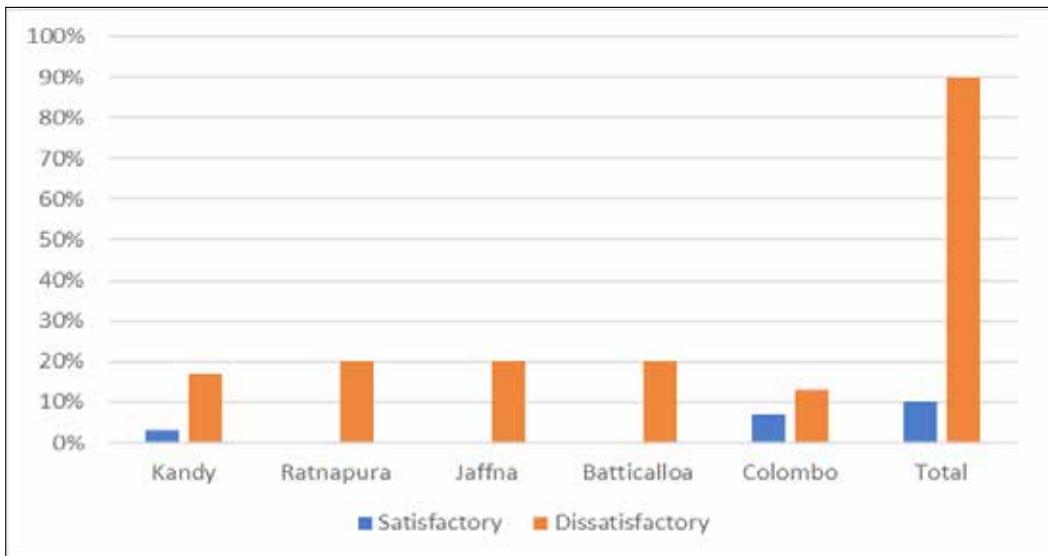
The self-employment pattern of persons interviewed with disabilities shows that agriculture, small-scale unstable business, and plantation remain the main occupations in which the percentage is 23% in the five districts. Whilst the target group of the population over 15 years was found to be persons with disabilities, only 30% were economically active. Moreover, the unemployment rate of persons with disabilities interviewed in the five districts is 70% and they do not engage in any economic activity. It reveals that the majority of the target group members are below the poverty line and the majority of them do not have stable income-generating sources. However, it is also observed that they live under subsistence level and are willing to improve their standard of living by participating in income-generating activities. But, some of them are not mentally and physically fit to work and are viewed as dependent on their family members. The experience of persons with disabilities shows that they have very limited options in finding suitable occupations/job opportunities due to practical and socially constructed limitations. Specifically, the majority of persons with disabilities interviewed vehemently emphasize that the existing vocational training programs of the Department of Social Services under the Ministry of Social Services conducted for them are inadequate in view of the current demands of the job market. Further, the up-grading /increasing of the 3 percent reserved for their benefit and the elimination of discriminations against the recruitment for employment in the public and private sectors are the more urgent demands on their part.

Right to Social Security

As per article 22 of the Universal Declaration of Human Rights, everyone has a right to social security. In general, social security is one of the major concerns of persons with disabilities. Further, social security is one of the main vehicles that can serve to break the exclusion of persons with disabilities (UN, 2017: 3).

As a developing country, Sri Lanka has introduced several legal provisions and policy options for expanding access to social security for its people such as incorporate employment protection and promotion; social security/insurance, and safety nets. Moreover, the Government of Sri Lanka has passed several acts in favor of the social security of persons with disabilities including Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996, Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996 and Disabled Persons (Accessibility) Regulations, No. 1 of 2006 promulgated under Article 23 (2) of Act No 28 of 1996.

Chart – 04
Satisfaction Pattern of Social Security



Source: Field Survey, 2021

In the survey, it was found that some of the major structurally constructed challenges for persons with disabilities interviewed in the five districts in Sri Lanka are to be found in the lack of inclusive social protection laws, regulations, and programs, the poor functioning of monitoring systems, institutional weakness, insufficient budgetary allocation for social security

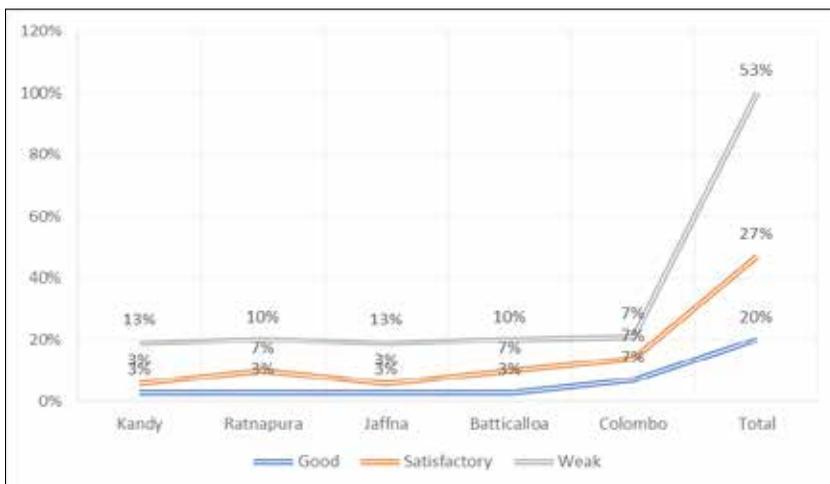
of persons with disabilities (Parliament of Sri Lanka, 2021: 1206). Further, chart-06 shows that while 10 percent of persons with disabilities interviewed are satisfied with the social security system of Sri Lanka 90 percent of them are dissatisfied with it because of the lack of accessibility to public places such as educational institutions, government offices, hospitals, religious places, bus stations, railway stations public toilet facilities, and even the provision of inadequate facilities, and the lack of opportunity to participate in sports, cultural activities and events and the lack of accessibility to public transportations like buses and railways. However, as per chart-02, all the interviewees /all those who were interviewed s have expressed their approval of the healthcare system of Sri Lanka.

Awareness of Human Rights of Persons with Disabilities

Meaningful human rights awareness is a key concept within the discourse of persons with disabilities. It provides a platform for them to fully integrate with society. In the Sri Lankan context human rights awareness for persons with disabilities has become a quite complicated process.

Chart - 05

Awareness of Human Rights of Persons with Disabilities



Source: Field Survey, 2021

Chart-05, data indicates that 53% of persons with disabilities do not have sound knowledge of their basic human rights. Some of the interviewers strongly believed that human rights are meaningless and that they do not benefit by them. However, 20% of persons of those who are differently abled are aware of human rights including the rights of persons with disabilities especially those who have a formal educational background. Some of them have participated in human rights awareness programs conducted by both state and non-state sectors and one interviewer has completed a Diploma Programme in Human Rights. Further, 27% of those interviewed have a satisfactory understanding of basic human rights, and have attended informal human rights awareness programs. The majority of persons with disabilities interviewed responded that they have been marginalized and neglected by the state and society. But, they do not have a clear idea of the responsibilities and obligations on the part of the state in the process of the realization of their basic human rights. Though there are government and civil society initiatives to address human rights issues related to persons with disabilities, it is clear that the human rights awareness programs of Sri Lanka have failed to promote human rights strategies and plans for persons with disabilities. Thus, they have been left out of the mainstream human rights agenda.

Moreover, during the interviews with probation officers and government officers, it was mentioned that the Government of Sri Lanka has taken several steps to enhance the living conditions of persons with disabilities in collaboration with governmental and non-governmental organizations in providing sports facilities, special health care, formal and informal education, vocational training, financial support and legal aid for self-employed. Moreover, they pointed out that the significance of the changing societal attitudes on persons with disabilities as well as attitudes of persons with disabilities matter in enhancing their living conditions. The findings show that there are considerably positive responses from probation officers and government officers about the political, economic, and social integration of persons with disabilities. In addition, the interviews with government officers highlighted the fact that some difficulties and barriers such as lack of transportations and awareness are the main obstacles faced by persons with disabilities in getting access to special facilities provided by the

Government of Sri Lanka. Finally, both probation officers and government officers expressed their views in favor of the significance of a comprehensive community-based rehabilitation approach to enhance the well-being and give due recognition to persons with disabilities.

Concluding Remarks and Policy Recommendations

Persons with disabilities have the same human rights and fundamental freedoms as well as dignity and due recognition as other persons. However, Amartya Sen highlighted that persons with physical and mental disabilities are not only among the most deprived human beings in the world, but that they are also frequently enough, the most neglected (Sen: 2004). In this context, the main focus of the present study has been to understand, primarily through the human rights approach model of disabilities, what persons with disabilities experience in realization of some basic human rights for their dignity. Moreover, the present study has attempted to explore the visible human rights challenges opportunities and experiences of persons with disabilities living in the districts of Kandy, Ratnapura, Jaffna, Batticaloa and Colombo as well as policies and practices of the Sri Lankan Government towards them. In particular, the focus is on their basic human rights such as right to education, employment, sexuality, reproductivity, health, and political participation.

Through interviews the present study revealed that persons with disabilities anticipate challenges in their ability to fulfill their future aspirations for employment in both the public and the private sector owing to a lack of awareness and sensitivity as well as apathy among prospective employers in the five districts. When compared with right to education and right to health care, majority of them held a negative attitude towards the realization of some sensitive human rights such as sexuality, reproductivity, equality before the law and equal protection by the law and political participation

Despite these challenges, a majority of persons with disabilities who were interviewed were found to be active agents rather than passive victims. Specifically, with their educational background and the lack of proper

attention of the government, a majority of them have adopted various self-confident strategies that involved handling issues they face on their own and/or seeking support from informal sources like friends and peer networks rather than looking for privileges from the state sector.

In addition, as a developing economy, the Government of Sri Lanka does not allocate a sufficient amount from its annual budget to empower persons with disabilities because of financial difficulty and a lack of awareness of decision-makers in the government. In addition, some of the general public and decision-makers believe that investment in persons with disabilities is a waste of the GDP. Thus, it is evident that persons with disabilities in Sri Lanka are vulnerable to both state practices and social attitudes of normality. More specifically, even though the civil war had ended in 2009, those persons with disability in Sri Lanka face challenges not only from the medical field but also from the legal system and the state as well as society due to the lack of human rights approach model.

The present study proposes the following suggestions for enhancing the status of persons with disabilities in Sri Lanka through the human rights approach model.

- The draft Disability Rights Bill which is a new legislation to be established an independent commission in order to realize disability rights in place of the Protection of the Rights of Persons with Disabilities, Act, No. 28 of 1996 which has been approved by the Cabinet of Ministers in 2008 should be adopted as national law on persons with disabilities in Sri Lanka.
- The Government of Sri Lanka should take immediate action to accede to the Optional Protocol that provides any individual or group of individuals to communicate with the Committee on Rights of Persons with Disabilities
- In cooperation with the provisions of the Public Administration Circular No. 27/88 of 1988, the 3% quota system when recruiting for

employment persons with disabilities in both state and private should be properly monitored and implemented by the Government of Sri Lanka. Moreover, special provisions should be made available by the Government of Sri Lanka to safeguard the rights of persons with disabilities to engage in a suitable occupation.

- The Government of Sri Lanka should design and implement a program including awareness, physical access, accessibility of services, and accessibility to institutions, such as the police and the judiciary to safeguard access to justice for persons with disabilities.
- The infrastructure of public education and vocational training institutes including reasonable financial and human resources should be enhanced in cooperate with inclusive educational requirements of persons with disabilities.
- The state sector and the non-state sector should work together to eliminate negative perceptions, myths, and stereotypes which exist in society regarding persons with disabilities.
- Children with disabilities who are under 15 years of age require substantial investment in health and education both formal and informal. Further, elderly persons with disabilities require additional health-care hospice services.
- The existing social protection mechanisms need to be enhanced by providing sufficient human resources, financial assistance, and infrastructure.

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Human Rights and Reconciliation in the Post-Conflict Multicultural Society in Sri Lanka

Edited By
Adne Valen-Sendstad
Jeewaka Saman Kumara

This research collaboration between the University of Peradeniya and the University of South-Eastern Norway is an outcome of strong commitment, mutual cooperation and steady perseverance by the authors and editors during challenging times. PGIHS is privileged to have had the opportunity to partner with USN on this project and to host the publication work in Sri Lanka.

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