SUMMARY NARRATIVE: Causes and dynamics of violence in Sri Lanka's civil war

Introduction

Sri Lanka's civil conflict, which took at least a hundred thousand lives,[1] began in 1983 with the Tamil Tigers' attacks on government soldiers and ended in 2009, when the government staged a brutal assault on the rebels' final redoubt in the island state's northeast corner. The atrocities committed by both insurgent and government forces remain uninvestigated or prosecuted; the government of President Mahinda Rajapaksa refuses to acknowledge or pursue crimes allegedly committed by either the Liberation Tigers of Tamil Eelam (LTTE) or state forces.[2] The United Nations (UN) views its role in preventing mass atrocities in Sri Lanka as a repugnant failure, and the interventions of the international community as a whole—donor organizations, international financial institutions, and governments that sponsored an ultimately failed peace process—also were unable to shift the stakes of all-out war.

The causes of conflict were rooted in inter-ethnic competition in the decades prior to the war's outbreak: the roots of severely strained relations between the Sinhalese majority and Tamil minority can be found in the institutions, practices, and political choices of the colonial and post-independence periods. The objective of the LTTE rebels was the creation of a separate Tamil homeland, an objective first articulated officially in 1976;[3] the rebels gained control of vast sections of the country's north and east during the conflict. Sri Lanka's conflict may be characterized as a civil war in which the government sought to physically eliminate rebels and their supporters.

Sinhalese account for approximately 74 percent of the population and a Tamil minority population slightly less than 18 percent. Tamils practice Hinduism and speak the Dravidian Tamil language, while the majority of Sinhalese practice Theravada Buddhism and speak Sinhala, a Sanskritic language. Both ethnic groups have significant Christian populations, and seven percent of the island's inhabitants are Muslim, considered a separate ethnic community.[4]

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[1] 60,000 deaths is a conservative estimate of fatalities published by the Uppsala Conflict Data Program (UCDP). Other estimates cite at least 100,000 estimated deaths during the 26-year war. 300,000 Tamil civilian survivors were interned in government-run camps at the war's conclusion. See Templer, R. 2009. War Without End. *The New York Times*. 21 Jul.

[2] In the case study, the "LTTE" and "Tamil Tigers" are used interchangeably. See Appendix I for a political map of Sri Lanka.

[3] Mampilly, Z. 2011. Rebel Rulers: *Insurgent Governance and Civilian Life During War*. Ithaca: Cornell U. Press. 102.

[4] Ibid, 97.

Religious and ethnic pluralism produced peace, not inter-group antagonism, until changes in institutions and forms of local authority—weakened by colonial influence—fomented conflict along ethnic lines. By the early 1980s when the LTTE emerged as a Tamil insurgent group, communal violence was becoming increasingly pervasive. In the wake of imperial collapse and as a result of colonial policies favoring the Tamils, a kind of "ethnic security dilemma"[5] resulted in Sinhalese fear and insecurity. Once the Sinhalese gained control of the government following independence from Britain in 1948, an exclusionary mentality and electoral motives led the Sri Lankan government to carry out the forced repatriation of fifty percent of Indian "Estate Tamils" by the 1970s.[6] All Tamils and Sinhalese competed for resources, including access to state services, education, and means of economic production.

The importance of studying Sri Lanka's conflict is manifold. First, the country's historically discriminatory institutions created opportunities for extremist, identity-based politics, driven to violent fever pitch at several moments during the war. The zero-sum politics of the LTTE separatists was matched by the nationalist rhetoric of the two main Sinhala political parties, the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP). Exclusivist identity politics has fed "opposing narratives of nation and victimhood,"[7] dynamics which complicated efforts to negotiate an end to the war through a power-sharing agreement. These political conditions, combined with the willingness of both combatant parties to employ indiscriminate violence against civilians, resulted in heavy casualties. Second, changes in regional and international power struggles, framed by the Global War on Terror, significantly influenced the form and effectiveness of international attempts to intervene diplomatically, provide humanitarian assistance, and prevent the violence that occurred during the war's denouement.

Donor governments like the United States, international bodies, and humanitarian organizations were unable to forestall civilian deaths in the final years and months of the war—

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[5] Posen, B.R. 1993. The Security Dilemma and Ethnic Conflict. *Survival* 35(1): 27-47.

[6] Mampilly, 99. "Estate Tamils" is a term employed to describe descendants of Tamils whom British colonial officials had recruited starting in 1825 from the much larger community in south India. Also called "Indian Tamils," the laborers migrated from the state of Tamil Nadu to work on tea, coffee, and rubber plantations on the island (then Ceylon). The construction of the plantation economy through labor migration altered Ceylon's ethnic population balance for the worse, subsequently engendering nativist tension and instilling a sense of insecurity among the Sinhalese majority.

[7] Niland, N. 2014. Humanitarian Protection in the Midst of Civil War: Lessons from Sri Lanka. *International Development Policy.* Blog. 18 Feb. 4.

particularly in the final, bloody few weeks and months—due to a multitude of factors, including the tradeoffs involved in supporting aid operations in war zones under scrutiny and pressure from government and combatant forces. However, "humanitarians are not a substitute for political action; there are no humanitarian solutions for political crises."[8] While the United States Government (USG) and other actors supported a political solution to the conflict, diplomats and UN officials failed to pressure the Sri Lankan Government (SLG) sufficiently by denouncing human rights violations including extrajudicial killings and forced disappearances, and by making various forms of assistance conditional on basic respect for human rights. Some analysts argue that in the post-September 11, 2001 global context, a political decision was made by various governments to support the SLG's campaign to defeat the LTTE, no matter what the costs in civilian lives.

The ineffective involvement of external actors in Sri Lanka, specifically the USG and the UN, has considerable implications for how policymakers and practitioners think about weighing competing responsibilities—including protecting civilians in conflict zones, providing life-saving humanitarian assistance, and maintaining relations with governments. The UN's moral authority, and that of the United States and other governments and international organizations, requires that these bodies act in the face of threats to civilians. In the wake of the conflict in Sri Lanka, the international community faces critical decisions on how it manages intervention to address the threat or incidence of mass atrocities, particularly when action by the UN Security Council is frustrated by one or two states. A lack of engaged attention and willingness to speak out courageously in advance of mass-scale violence, when signs of risk for hundreds of thousands of civilians appeared clear to many observers, is unacceptable.[9] The UN developed a policy initiative, "Rights Up Front," as a direct result of the organization's efforts to correct the serious errors it made in Sri Lanka and internalize the protection of human rights and civilian lives into all UN operations and actions.[10]

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[8] Interview with longtime humanitarian worker Norah Niland, Jun. 2014.
[9] United Nations. 2012. Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka. 12 Nov.
<http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf>
[10] A summary is available on the UN Secretary-General's web site: http://www.un.org/sg/rightsupfront/doc/RuFAP-summary-General-Assembly.htm

Structure of case study

In the sections entitled Summary Narrative and Precursors and Triggers of the Violence, a synthesis of the conflict is outlined, including the historical background, dynamics and phases of violence and the peace process, and the triggers and escalatory dynamics that led to mass atrocities in 2009. In the "Analysis of Variables," I discuss the salient structural factors that helped bring about not only a political crisis and violent war, but also the mechanisms through which these conditions were perpetuated. "Policy Tools Used or Considered" focuses on the efforts of international actors, particularly the USG, to mitigate and prevent mass violence against civilians. The discussion of policy options emerges largely from interviews with policy analysts, advocates, humanitarian assistance experts, diplomats, and government officials. I emphasize the importance of several factors: taking history into account in determining the risk and likelihood of mass killings; instituting accountability and conditionality in assistance to the SLG; and the importance of tracking civilian harm. The case study concludes with a synthesis of lessons and analyses for early warning of mass-scale violence against civilians.

PRECURSORS AND TRIGGERS OF MASS VIOLENCE: Political crisis, brutal war, and the failure of negotiations

Root causes of civil war

The origins of tensions between Tamils and Sinhalese may be traced to colonial rule, when the Sri Lankan minority Tamil community sought educational and employment opportunities in new colonial sectors and as a result succeeded economically and politically, in a manner disproportionate to their share of the population.[11] Prior to the colonial era, ethnicity did not constitute a salient cleavage. Rather, dynastic politics provided structure to a variegated landscape which was characterized by the proximity of ethnic groups and the presence of multiple religions. Sinhalese and Tamil populations lived in semiautonomous kingdoms under the nominal suzerainty of Sinhalese kings[12], who established a Buddhist administration to govern

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[11] Rotberg, R.I., ed. 1999. *Creating Peace in Sri Lanka: Civil War and Reconciliation*. Cambridge, MA: World Peace Foundation. 5.
[12] Mampilly, 97.

the island. For centuries, this arrangement did not engender inter-ethnic divisions, and identities were fluid, until the colonial period introduced imbalance in relations among ethnic and religious groups.

The Portuguese, who arrived in 1517 and later the Dutch undertook efforts to undermine Buddhist Sinhala political institutions and remove local authorities. The British, who in 1796 expanded their empire to Sri Lanka (then Ceylon), intensified uneasy ethnic relations by creating an educational system that favored Tamil preparation for civil service, and Tamils came to dominate the bureaucracy.[13] In addition, the plantation economy in which British planters and officials "imported" Tamil laborers from India heightened Sinhalese fears about mass Indian Tamil migration and their own relative position in society.

The first-past-the-post electoral system that Sri Lanka adopted at independence in 1948 favored the Sinhalese and offered little protection to minority communities. The country's competitive economy facilitated the provision of a wide range of public goods to the population, under the "economic populism"[14] of the Sinhala-dominated United National Party (UNP). When government spending was outrun by continued welfare demands, Sinhalese politicians intensified their ethnic rhetoric to generate support, funneling resources to co-ethnics. Sinhalese nationalism led to a series of policies enacted to disadvantage the Tamil minority, including discriminatory policies in the armed forces, civil service, and university admissions. In 1972, strict quotas were institutionalized to limit the number of Tamils permitted entry into universities, and via university training, to the civil service.

In one interpretation of the sources of conflict, institutional decay created the conditions for civil war. The Official Language Act of 1956, which made Sinhala the national language— catalyzed anti-minority policies and ethnocracy.[15] This decree, and a change to the constitution in 1972 that solidified it, led to a change in Tamils' understanding that the simmering conflict may require a militant solution to achieve territorial autonomy, rather than a nonviolent struggle for

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[13] While it was not uncommon for the British (and officials of other colonial empires) to implement policies that favored a minority group, in Sri Lanka this decision may have had a severely damaging effect in the long term: the relative power that the majority Sinhalese gained after the departure of the British in 1948 meant the end of Tamils' privileged status and generated resentment and fear among majority and minority groups. This helped contribute to an "ethnic security dilemma." Tambiah (1986) explains the favored status of Tamils as resulting not from an innate capacity of Tamils for bureaucratic service but from a lack of other economic opportunities in the north of Sri Lanka, which led Tamils there to enroll in the newly opened missionary schools in the area.
[14] Mampilly, 100.
[15] Devotta, N. 2004. *Blowback: Linguistic Nationalism, Institutional Decay, and Ethnic Conflict in Sri Lanka*. Stanford: Stanford U. Press.

political and economic rights.[16] Linguistic nationalism and "ethnic outbidding"[17] resulted in the marginalization of minorities and undermined Tamil confidence in state institutions. In addition to chauvinist legal provisions, Sinhalese politicians made use of patronage to ensure voter loyalty and enforce almost total Tamil exclusion from the military, civil service, and university system by the 1970s. Over time, institutional deterioration engendered Tamil mobilization and the outbreak of violent ethnic conflict.

Economic liberalization in the late 1970s under the UNP Jayawardene government led to increased involvement of international financial institutions and donors like Japan in Sri Lanka; this move to external financing worsened ethnic tensions, and the conflict intensified. Jayawardene's development strategy became influenced by Sinhalese politicians' nationalist agendas, which prioritized settlement schemes (called "colonization schemes" by Tamils), favored Sinhalese majority areas, and heightened tensions before economic benefits could be realized.[18] In 1976, a united Tamil political party (TULF) called for a separate Tamil homeland.[19] By the early 1970s, several violent Tamil insurgent groups had emerged—the LTTE among them—composed of a younger generation of poorer Tamils in response to the lack of economic opportunities and systematic disadvantages they experienced as a result of Sinhalese policies.[20] LTTE bomb attacks in public spaces as early as 1972 and brutal fighting for primacy among several nascent Tamil insurgencies on the Jaffna peninsula characterized the first decade of the rebels' existence.[21]

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[16] Mampilly, 102.

[17] Ethnic outbidding occurs in the context of competitive electoral democratic politics when parties identified with particular ethnic groups have no incentive to cultivate the support of other ethnic groups. The behavior of ethnic parties intensifies as it aims to prove that it is more nationalistic than competing parties; theories of ethnic outbidding predict that extremist politics that destabilizes ultimately prevents conflict resolution in a democracy and may threaten democratic stability. See Brubaker and Laitin 1998; Mitchell, Evans, and O'Leary 2009; Chandra 2005.

[18] Richardson, J. 2004. Violent Conflict and the First Half Decade of Open Economy Policies in Sri Lanka: A Revisionist View. In Winslow and Woost, 2004, eds., *Economy, Culture, and Civil War in Sri Lanka.* Bloomington: Indiana U. Press. 41-72. p. 48-49.The economic measures undertaken by Jayawardene entailed massive infrastructure projects, including the Mahaweli River hydroelectric and irrigation project in northeast Sri Lanka, that were financed by foreign donors and institutions like the World Bank and the Asian Development Bank. These large-scale projects, carried out without attention to building a strong social infrastructure in newly settled areas, involved a lack of accountability in awarding contracts and created opportunities for corruption, which intensified inequality and inter-group tensions.

[19] The Vadukkodai Resolution adopted on 14 May 1976 called for the creation of an independent Tamil Eelam (Tamil state) in the north and east of Sri Lanka.

[20] Mampilly, 103.

[21] In May 1975, LTTE founder and leader Velupillai Prabhakaran (then aged twenty-one) shot and killed Alfred Duraiappah, the mayor of the northern city of Jaffna.

Proximate triggers and escalation: dynamics of war

When war broke out in 1983, Sinhalese comprised 74 percent of the Sri Lankan population, and Tamils constituted 12.6 percent.[22] Muslims formed 7.1 percent, and Indian Tamils 5.6 percent; the remaining 6 percent encompassed Malays, Burghers, and "others".[23] The gradually increasing intensity of the violence occurred despite efforts to negotiate a peaceful settlement and implement economic development and political decentralization. The war took place in four distinct phases, referred to as Eelam wars I-IV. This included several failed ceasefires, peace talks, and an unsuccessful peacekeeping intervention by the Indians. The first two phases involved primarily guerrilla warfare, the third a military stalemate, and following the failure of peace efforts, the resumption of war led relatively quickly to the LTTE's demise and the war's end.[24] The following sections outline the contours of these phases, emphasizing important triggers and escalations of the military and political processes that defined the conflict.

THE RISE OF THE LTTE AND INITIATION OF WAR

By the late 1970s, Prabhakaran had established himself as the leader of the LTTE; violence among rival militant groups in Jaffna resembled a "gangland war", with the objective of bank robberies, arson, and attacks on installations being the eradication of other groups' members.[25] The LTTE became the dominant insurgent group by the mid-1980s. In July 1983, thirteen soldiers were killed in Jaffna by a land mine, the result of a Tamil Tiger attack led by Prabhakaran. This episode, and the unprecedented scale of killings that followed, is considered the beginning of the conflict.[26] The incident sparked four days of retaliatory anti-Tamil riots in Sinhalese-majority areas, including Colombo, and resulted in the deaths of as many as 2,000

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[22] Government of Sri Lanka. Department of Census and Statistics. 1982. *Statistical Abstract of the Democratic Socialist Republic of Sri Lanka—1982*. Colombo. p. 32. Cited in Oberst, R.C. 1988. Federalism and Ethnic Conflict in Sri Lanka. *Publius* 18(3): 175-193. (p. 176).

[23] Mampilly, 97. Muslims are referred to in Census Dept. data as "Sri Lankan Moors". "Burghers" are a small community of Eurasians (<1%), which formed through intermixing of the indigenous population with Europeans.

[24] Smith, C. 2011. The military dynamics of the peace process and its aftermath. In Goodhand et al, eds. *Conflict and Peacebuilding in Sri Lanka*. London: Routledge. 74.

[25] Weiss, G. 2012. *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers.* New York: Bellevue Literary Press. 45.

[26] Hayward, S. 2011. The Spoiler and the Reconciler: Buddhism and the Peace Process in Sri Lanka. In Sisk, T.D., ed. *Between Terror and Tolerance: Religious Leaders, Conflict, and Peacemaking*. Washington, DC: Georgetown U. Press. 185.

Tamils.[27] While accounts of the riots remain contested, a consensus emerged that the government ministers looked away while violence against Tamil civilians, businesses, and neighborhoods raged, including some reports of government ministers leading mobs in the streets. Evidence of UNP government complicity during "Black July," as the events came to be called, emerged in the use of voter registration rolls to target Tamils in their homes.[28]

Some analysts mark Black July as the moment when a greater number of ordinary Tamils began to believe that a place for them in the Sri Lankan nation would not emerge. When the riots happened, for many of these oppressed minorities, a violent response to targeted cleansing and decades of second-class citizenship seemed justified. This critical point early in the conflict led to considerably increased support for the LTTE. Many observers point out, however, that the insurgents cannot be considered representative of all Tamils at this stage or any moment in the conflict; the Tamil Tigers' methods, including the use of forced recruitment, were reviled by many Tamil citizens.[29]

The LTTE's killing of the soldiers triggered the outbreak of Eelam War I, which was ignited when government forces and the LTTE engaged in heavy fighting in the north. Large numbers of Tamils from the south of the country, where they had lived for generations with Sinhalese, migrated to the West, including North America, Europe, and Australia.[30] Some of these migrants provided financial support to the LTTE, and the Tamil diaspora remained a critical source of funding for the rebels throughout the war, including through taxation of diaspora members' business profits in the United Kingdom, Canada, and Australia.[31] Early in the

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[27] Mampilly, 104.

[28] Tambiah, S. 1986. *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy*. Chicago: University of Chicago Press.

[29] Variation in Tamil civilians' responses to the LTTE frequently implicated class differences. Middle-class and upper-class Tamils were frequent targets of extortion by the LTTE and risked assassination if they opposed the organization's objectives. Poorer Tamils in the north and east lived under LTTE rule, regarding them as their representatives as opposed to the national Sinhalese government; the children were forcibly taken as recruits to the LTTE organization, generating a certain kind of support for the rebels, if not for their brutal methods. See Anderson, J.L. 2011. Death of the Tiger. *The New Yorker*. 17 Jan. 41-55. At the core of Prabhakaran's universalizing ideology was his insistence that the Tamil Tigers legitimately represented all Tamils and their demand for Eelam.

[30] Mampilly, 104.

[31] Human Rights Watch. 2006. Funding the "Final War": LTTE Intimidation and Extortion in the Tamil Diaspora. 15 Mar.

conflict, the government of India and Tamil Nadu state government sent material support to the insurgency, including military training, small arms, mortars, land mines, and grenades.[32]

The LTTE is often credited with pioneering the technology of suicide bombing. In its first suicide attack, on July 5, 1987, Tamil Tiger cadres killed 40 security force personnel at the Nelliady army camp in Jaffna.[33] Human rights abuses, violations of international humanitarian law, and attacks against civilians by the LTTE—including ethnic cleansing of Muslims in the north and east—were among the consequences of the Tamil Tigers' brutal methods.

INDIA AS PEACEKEEPER AND LOSS OF INDIAN SUPPORT FOR LTTE

In July 1987, Indian support for the LTTE ended with the signing of the Indo-Sri Lankan accord, which led to a pause in the fighting and authorized the Indian Peacekeeping Force (IPKF) to disarm the LTTE. The rebels, not invited to the negotiating table, did not sign the accord, which amounted to a declaration of a unilateral ceasefire by the Sri Lankan government.[34] The Indian peacekeepers, which at their peak numbered 80,000, were not well received by the Tamil Tigers or the Sinhalese public, which was fearful of Indian invasion and imperialism; riots in protest of the intervention arose across Sri Lanka, and a small, nationalist Sinhalese insurgency, the JVP[35], organized a violent revolt. The IPKF became an "army of occupation" in the north, involving torture, disappearances, and bombardments of civilian areas.[36] In a bizarre turn of events, the Sri Lankan government provided weapons to the LTTE in an effort to push the IPKF out of the country. The IPKF departed in March 1990, after heavy fighting with Sri Lankan and rebel forces. Prabhakaran deeply resented the intervention of Indian Prime Minister Rajiv Gandhi, and in May 1991, he sent a female suicide bomber to Tamil Nadu to assassinate Gandhi while he was campaigning. The LTTE lost all material support from India

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[32] Mampilly, 104. Mampilly notes that the Indian government perceived providing support to the LTTE as a way to weaken the Sri Lankan government, which had turned away from the Non-Aligned Movement, and to pursue its objective of regional hegemony.

[33] South Asia Terrorism Portal (SATP). "Suicide Attacks by the LTTE." Accessed 25 Oct. 2013. <http://www.satp.org/satporgtp/countries/shrilanka/database/data_suicide_killings.htm>

[34] In the Indo-Sri Lankan Accord, the Sri Lankan government under Jayawardene also agreed to implement the 13th Amendment of the country's constitution (devolution of certain powers to Tamil areas). See Weiss 2012, 50.

[35] The Janatha Vimukthi Peramuna (People's Liberation Front) or JVP was formed originally as a Maoist group in 1971, seeking support among rural Sri Lankans for violent insurrection against capitalists and ultimately adopting a Sinhalese nationalistic mission.

[36] Weiss 2012, 53.

and was declared a terrorist organization by the Indian government, the first country to do so, in May 1992.[37]

From 1987 to 1990, the Sri Lankan government was doubly engaged militarily, countering the Tamil Tigers and the JVP insurrection in the South, in which 30,000 to 40,000 people are estimated to have been killed, many of whom were civilians suspected of being JVP collaborators.[38] Eelam II, beginning in 1990 following the departure of the IPKF and the failure of peace talks with the Ranasinghe Premadasa government (1989-1993), involved few changes in both sides' strategy and tactics.[39] LTTE's guerrilla insurgency generated increasing numbers of recruits, and in June 1990, the rebels shot 600 unarmed Sinhalese and Muslim police officers in eastern Sri Lanka. By 1990 it had expelled all 28,000 Muslims from the Jaffna peninsula; the rebels massacred 109 Muslim civilians in October 1991. The government remained occupied with the JVP uprising in the south. In May 1993, the LTTE assassinated President Premadasa, drawing again on its "Black Tiger" suicide bombers—the only assassination of a sitting head of state by a terrorist organization in history. The bloody Eelam War II ended inconclusively in 1995.

FAILED PEACE NEGOTIATIONS: MID-1990s and EARLY 2000s

Efforts to ignite government-LTTE peace negotiations began with Sri Lankan president Chandrika Kumaratunga—who had won the 1994 election on a left-leaning peace platform; in the long term, they had little effect on resolving the conflict. In April 1995, when the frustrated LTTE re-launched military action after a pause in fighting, Eelam War III began. After making some territorial gains, the Tamil Tigers called for talks with the government. During this time, the LTTE was evolving from an insurgency organization into a conventional force capable of confronting the Sri Lankan army, while maintaining pressure through urban guerrilla actions in Colombo.[40] In 2000 Kumaratunga and Prabhakaran officially requested Norwegian government assistance in facilitating peace talks. Still, fighting continued, and with successful attacks and

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[37] SATP. List of incidents and Statements involving LTTE. Accessed 22 Oct. 2013.
<http://www.satp.org/satporgtp/countries/shrilanka/terroristoutfits/LTTE.HTM>
[38] Weiss 2012, 556.
[39] Smith 2011, 75.
[40] Smith, 76.

advances by the LTTE in Jaffna and the Vanni, a military stalemate and considerable economic damages resulted.

Eelam War III ended as the stalemate persisted, and ongoing peace talks eventually culminated in a ceasefire agreement (CFA) signed in 2002. In the Oslo declaration of December that year, both sides agreed to explore a political settlement within the framework of a federated, but united Sri Lanka.[41] The peace process sputtered and eventually stalled completely when the parties could not agree on the details of this political agreement.[42] In 2003, when the LTTE withdrew from peace talks, the organization's spokesman emphasized that the movement was caught in a "peace trap" that was not addressing its political demands—and that the international actors had set the trap, allowing their pro-government bias to result in new power asymmetries between the combatants.[43]

The implications of peace talks were multiple. Parts of the country, particularly the east, became less secure as a result of negotiations. Military rearmament, political assassinations, and human rights abuses by both combatant parties rose during the period in which peace talks took place.[44] The military balance of power shifted according to changes in battlefield capabilities, the tactics of the two sides, and their abilities to mobilize resources.[45] Additionally, the LTTE came under increasing pressure as a consequence of the US' war on terror, increasing international isolation, and internal division. Politically, the failure of the government and the rebels to engage as genuinely committed to the peace process intensified military dynamics, as combatants were attempting to balance their dealings with international actors—not only on ceasing hostilities, but also on foreign aid, humanitarian support, and economic development—and domestic audiences. Negotiations failed to produce sufficient stability in the military realm as the groundwork for achieving a political settlement.[46]

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[41] The CFA involved the creation of a Sri Lankan Monitoring Mission (SLMM) to monitor ceasefire violations with the support of co-chairs Norway, Japan, the European Union, the United Kingdom, and the United States. See Goodhand, J. and B. Korf. 2011. Caught in the peace trap? On the illiberal consequences of liberal peace in Sri Lanka. In Goodhand et al, eds., *Conflict and Peacebuilding in Sri Lanka*. London: Routledge. 1-15.

[42] Goodhand and Korf 2011, 1.

[43] Goodhand and Korf, 1.

[44] Goodhand et al 2011.

[45] Smith 2011.

[46] Uyangoda, J. 2011. Government-LTTE Peace Negotiations in 2002-2005 and the clash of state formation projects, in Goodhand et al, eds., *Conflict and peacebuilding in Sri Lanka.* London: Routledge. 16-38.

Domestically, the peace process led to heightened political stakes for Sinhalese parties and politicians, increased insecurity, and it exposed fragmentation among voters in the south of the country.[47] Ultimately, this facilitated the election of Mahinda Rajapaksa in November 2005, who vowed to defeat the insurgency through a "war for peace" strategy that also struck an anti-Western tone. The LTTE's enforcement in the north of an electoral boycott is considered a decisive factor in Rajapaksa's victory, since most Tamils were expected to vote for the UNP, the opposing Sinhalese party. A large influx of international aid in the wake of the devastating 2004 Indian Ocean tsunami also benefited Rajapaksa politically, contributing to his electoral victory.

VIOLENCE AGAINST CIVILIANS IN THE NORTH AND THE WAR'S END

The military tide shifted against the LTTE as the mid-2000s wore on. In pursuing his objective of military victory, Rajapaksa intensified the war in the north and east and centralized power among a small cadre of his close advisers and family members. He focused on political mobilization in the south by emphasizing Sinhalese nationalism and developing ties with India and Pakistan, as well as donors like China, Iran, Pakistan, Russia, and South Korea.[48] With regional assistance, Rajapaksa was able to increase the size and effectiveness of the armed forces. In March 2004 the LTTE had experienced a critical setback, the defection of an important commander and Prabhakaran confidante Colonel Karuna from the organization. This generated losses in manpower, resources, and legitimacy, as Karuna took with him thousands of LTTE cadres in the east who claimed they had been neglected during the peace process.[49]

In combination, these factors intensified and exposed the LTTE's weak relative position by 2006. Two years of attacks on rebel-controlled territories would foretell the conclusion of the war, in which government forces killed the top leadership of the LTTE and ended the insurgency. In July 2006, the LTTE closed off the gates to the Mavil Aru reservoir, which cut the irrigation supply to 15,000 villages in government-controlled areas. Eelam IV began with the government's response to this move; using air strikes and ground attacks, Sri Lankan security

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[47] Goodhand and Korf, 7.
[48] Goodhand and Korf, 7.
[49] This led to a violent reaction from the LTTE against Karuna and his forces, and protection offered by the Sri Lankan state. Karuna is thought to have given significant sensitive information about the LTTE to the government, resulting in severe consequences for the rebels. The Karuna faction, or Tamil Makkal Viduthalai Pulikal (TMVP) as it was known, became a kind of paramilitary squad working in parallel with SLG forces; Karuna led the TMVP to form a political party in 2006. See Smith 2011, 79.

forces regained control of the reservoir.[50] This triggered a year-long campaign in the east by state forces, which wrestled that region back to state control. The army under Defense Secretary Gotabaya Rajapaksa's command began its push to retake the territory held by the Tamil Tigers. During 2007 and 2008 the security forces developed new technologies and improved training in counterinsurgency, including long-range, deep penetration units, and the government was able to disrupt, both militarily and diplomatically, the LTTE's arms procurement networks.[51]

Over previous decades, the LTTE had developed sophisticated naval and air forces and established state-like control in northern areas under its purview, including judicial, banking, police, communications, and taxation systems.[52] Until 2008, intense fighting and pitched battles persisted in the northern province, when it became clear that LTTE defenses were breaking down. In January 2009, the Sri Lankan army gained control of Kilinochchi, the LTTE's deserted *de facto* capital, and the rebels and the 300,000 civilians retreated eastward to Mullaitivu, a town on the northeastern coast.

Despite growing international concerns about the drastic humanitarian situation, the government continued with the offensive. The LTTE reportedly used civilians as human shields; shot civilians who tried to escape from encampments in diminishing rebel-held territory; and refused to allow humanitarian supplies to enter these areas. The government was determined to destroy the leadership at all costs, and the LTTE refused to surrender unconditionally, creating the conditions for a brutal and bloody final episode. Prabhakaran and other leaders were allegedly killed in action on May 18, 2009, and the LTTE declared that they were laying down arms and were prepared to enter the political process.[53] According to UN estimates, some 7,000 civilians were killed and 10,000 injured during the last few months of fighting.[54]

Many factors played a role in the conflict's escalatory dynamics and outcome; not all have received sufficient emphasis in this introductory narrative. These may include variation in the control of territory, governance, and service provision by LTTE and government forces, which ranged significantly during the conflict. The devastating December 2004 tsunami, which killed around 30,000 Sri Lankans, resulted in large inflows of international humanitarian

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[50] Smith 2011, 80-1.
[51] Smith, 83.
[52] Weiss, 7.
[53] Goodhand and Korf, 8.
[54] International Crisis Group 2010, 5. Little—even approximate—consensus exists on civilian deaths. Some estimates suggest that the number of civilians killed in the final stage of the war reached 40,000.

assistance, providing cover for the importation of supplies and weapons that buoyed the LTTE at a crucial moment.[55] Control of the media by the government gradually increased during the conflict, primarily through severe intimidation and killings of scores of journalists, including Lasantha Wickrematunge, a national newspaper editor who was involved in a legal dispute with the government. He was killed in January 2009 in Colombo by masked gunmen who surrounded his vehicle.[56] The government denied any involvement in the crime, and the murder has not been investigated. In addition to journalists, the government targeted opposition leaders and lawyers, human rights activists, academics, and humanitarian workers.

The LTTE's brutal tactics matched the SLG's illegal methods: abducting young children from homes and schools in the north and east, even while the 2002 ceasefire was in effect, is only one example of the rebels' ruthlessness.[57] The outlawing of the Tamil Tigers—Sri Lanka did not ban the LTTE until January 7, 2009[58]—had an indeterminate effect on the conflict. The USG was the first to ban the LTTE, declaring it a terrorist organization in 1997. In May 2006, the European Union declared the LTTE a terrorist organization, confirming its growing international isolation. In explaining the extreme tactics and long-term resilience of the LTTE, the cult of personality surrounding Prabhakaran constitutes a critical factor. He was able to evade capture by the government for 34 years until his death. Finally, Buddhist elites, particularly those who embraced Sinhalese nationalism, played a role in fomenting conflict and contributing to the failure of the peace process, through the mobilization of hardline monks and their influential connections to politicians.[59]

Shared international failure to anticipate and prevent mass violence

Overall, the strategies used by international actors to prevent or reduce violence in Sri Lanka led to a series of dead ends—and a damaging tension that Sri Lankans experienced daily between

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[55] Weiss, 82.

[56] Wickrematunge, who was founder and editor of the *Sunday Leader* newspaper, wrote about corruption and abuse of authority by the Sri Lankan government. See BBC News, "Thousands mourn Sri Lanka editor", 13 Jan. 2009.

[57] Human Rights Watch. 2004. Sri Lanka: Tamil Tigers Forcibly Recruit Child Soldiers. 12 Nov.

[58] SATP. Incidents and Statements involving LTTE. Accessed 23 Oct. 2013.
<http://www.satp.org/satporgtp/countries/shrilanka/terroristoutfits/LTTE.HTM>

[59] Hayward 2011. Hayward stresses the centrality of Buddhist narrative and identity in the conflict, and the influence Buddhist ideology had in shaping governance and state structure in Sri Lanka.

peace pursued through "liberal engineering"[60] and peace exacted through military victory. The forum for peace talks that the international community helped provide yielded the projection of internal conflicts onto the negotiating table with little headway on the most central issue of political autonomy for Tamils; over time, this approach pushed fragmented domestic political agendas in even more extreme directions. Donors and international organizations were not able to supersede the intensity of political infighting among Sinhalese politicians, who were bound together by a tense network of coalitions. Throughout the course of the war, Tamil and Sinhalese moderate voices were silenced by intimidation, censorship, or physical violence, in attacks by the LTTE and the SLG. It is not clear to what extent international actions attempted to or would have been able to change the strategies and methods of the leadership of the warring parties.

In the early 2000s, as violence intensified in Sri Lanka, the US had become deeply engaged in fighting terrorism beyond its own borders. The USG did not, in turn, deny the legitimacy of the Sri Lankan government's domestic battle against LTTE terrorists, including the elimination-at-all-costs framework in which the Sinhalese government of Mahinda Rajapaksa was operating. The "global war on terror" may have over-determined the USG's position on the conflict; the Rajapaksa administration exploited this narrative adeptly, labeling its participation in a brutal civil war as a counter-terror effort. Prior to the extreme violence of the final months of the conflict, the tone of UN Member States' response to Sri Lanka was "give war a chance" and allow the government to remove its long-standing scourge of terrorism.[61]

As the conflict intensified and the Bush and Obama administrations focused on addressing the financial crisis that started in 2008, Sri Lanka's war became a less pressing issue. Analysts agree that had clear risks of large-scale violence been taken seriously earlier by the USG, the war's final denouement may not have been so deadly. The US, Britain, France, Mexico, and other states had tried in last-minute interventions to halt the bloodshed through the Security Council, trying to convince the Sri Lankan government that by saving civilian lives they would gain more, given that the LTTE leadership was surrounded. The US State Department offered to evacuate Tamil civilians from the north while the government bombed solely military

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[60] Goodhand and Korf 2011, 1-15. The concept of "liberal peacebuilding" is understood as a normative and policy framework in which alliances of international and domestic actors intervening in conflict-affected countries aim to implement a "package" of measures, in pursuit of the goals of conflict management, liberal democracy, and market sovereignty. In critiquing this project as a model for intervention, Goodhand and Korf argue that this project failed in Sri Lanka for multiple reasons.
[61] McAvoy, J. Personal communication to author, 9 Sept. 2013.

targets.[62] But late in the conflict, the Sri Lankan government relied on military assistance from China, Iran, and Pakistan, and the backing of Russia and China at the Security Council.

The UN has claimed a considerable portion of responsibility for providing information on civilian bombardments and for the prevention of further atrocities at the war's end, in a report published in November 2012 based on an internal review of the organization's actions and responses to conflict dynamics in Sri Lanka. First, the report stresses the responsibility of UN Member States in such a scenario. As the conflict in the Vanni deepened in 2009, Sri Lanka was never formally considered at the General Assembly, the Security Council, or the Human Rights Council. Diplomats pushing debate on the subject were hampered by a lack of information from the UN Secretariat on the human rights and humanitarian situation.[63] Second, the UN pinpointed its own institutional culture as at the root of the inaction. The UN faces a dual challenge: simultaneously retaining the support of a government to facilitate UN assistance provision while holding that government accountable through public criticism of violations of international law. "With its multiplicity of mandates and areas of expertise, the UN possessed the capabilities to simultaneously strive for humanitarian access while also robustly condemning the perpetrators of killings of civilians. It should have been able to push further for respect for international norms…"[64]

This "institutional culture of trade-offs" affected UN decisions in the field and at UN Headquarters in New York. UN officials and Country Team members "on the ground" in Sri Lanka were very concerned about not offending the Sri Lankan government because they feared loss of their humanitarian access. Some analysts have interpreted this absence of action to mean that humanitarian officials did not see the prevention of the killing of civilians as their responsibility.[65] The UN and other international actors share the failure to prevent civilian deaths, particularly but not limited to during the last two years; there were many previous opportunities during the conflict to publicize and address government and rebel violations of international humanitarian law. Advocates for civilian protection lament that the USG has not reminded state and rebel combatants of their responsibilities to protect civilian populations under international

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[62] Weiss 2012, 6.
[63] United Nations. 2012. Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka. Nov. p. 24.
[64] UN Internal Review Panel Report, 27.
[65] Gowan, R. 2013. The good fight. *aeon Magazine* (online). 26 Sept.

law, for instance in Syria and elsewhere. A focus on the prevention of conflicts has obscured the imperative to address parties' obligations when war *does* occur.[66] Wartime pressures constitute a critical set of problems for the UN, the USG, and responsible states to seize their responsibilities and coordinate action when they are most needed to forestall civilian deaths.[67]

ANALYSIS OF VARIABLES

Three primary variables catalyzed the political and military conditions that made mass killings possible during the civil war in Sri Lanka: a history of institutionalized discrimination; an ethnic security dilemma; and consistent access to resources on the part of LTTE insurgents. In addition, three secondary variables constitute significant factors—some are mechanisms, deeply related to processes implicated in the three main variables. The secondary variables are: government vulnerability, that is, a "fragmented" Sri Lankan state; active fomenting of violence by religious forces; and the willingness by the SLG and the LTTE to employ mass violence against civilians. In addition, the lack of geographic escape or genuine safe haven for vulnerable populations constituted a critical gap at the height of atrocities in January-May 2009.[68]

Institutionalized discrimination against Tamils

Discrimination against Tamils, codified early in the post-independence period, took shape in several institutional forms. Two stand out: the Sinhala-only Language Act (1956) and the 1972 Constitution, which renamed the country, until then known as Ceylon, as "Sri Lanka." These steps started into motion a series of policies and practices, which, through an exclusionary language and citizenship framework, explicitly isolated Tamils from economic opportunities and participation in society and ensured their subordination. For instance, they were excluded from service in the national armed forces and civil bureaucracy. The resentment and grievances spurred by the institutionalized marginalization of Tamils—a group that had enjoyed profound social and economic success during the colonial period—transformed over the 1960s and 1970s

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[66] McAvoy, J. Personal communication to author, 9 Sept. 2013.
[67] A focus on the role of the USG in mitigating atrocities in Sri Lanka receives considerable attention in "Policy Tools Used or Considered" (p. 27).
[68] Weiss 2012.

into an organized movement that eventually laid the foundation for the violent struggle for Eelam, an autonomous Tamil homeland.

At independence, Sri Lanka adopted a Westminster parliamentary system that naturally favored the Sinhalese while not protecting minority communities, an omission which stood in direct contrast to the extensive protections afforded minorities in India's constitution, written around the same time.[69] An effort led by Tamil political leaders to mobilize all Sri Lanka's minorities to demand a power-sharing arrangement wherein the minority coalition would have had a fifty-fifty power split failed. While institutional arrangements generated structural barriers to Tamil participation in policymaking and the country's new democracy, Sinhalese leaders, seizing their majority grip on the legislature and responding to incentives to outbid one another in the quest to steer the state toward ethnic dominance, went further in marginalizing Tamils.

Fifty percent of Indian Tamils who had migrated to Sri Lanka as laborers in the colonial economy were repatriated to India by the 1970s.[70] This occurred as a result of citizenship laws passed in the late 1940s denying Indian Tamils political rights, rendering them stateless; these steps taken by the Sinhalese-controlled parliament stemmed from lawmakers' fears that a united Tamil minority bloc would gain too much power in the legislature.[71]

Sinhalese legislators put in place populist economic policies—subsidized food, education, medical care, and transportation—that required considerable welfare spending, a political resource dwindling by the 1950s.[72] This realization by Sinhalese political parties facilitated a shift to a strategy that further emphasized and escalated ethnic rhetoric. By late 1954, anti-Tamil and anti-Christian sentiments had merged, and leaders in favor of Sinhala as the sole official language were gaining ground; this polarized inter-ethnic elite relations as some Tamil politicians also moved increasingly toward a nationalist stance.[73]

As the Sri Lanka Freedom Party (SLFP) came to power in 1956, Prime Minister S.W.R.D. Bandaranaike's efforts to devolve some provincial authority to the primarily Tamil northern and eastern regions and recognize Tamil as an official language were frustrated by

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[69] Mampilly 2011, 99.
[70] Jenne 2003. E. In Rotberg, ed. *State Failure and State Weakness in a Time of Terror.* Washington, DC: Brookings Institution Press. 219-244.
[71] Mampilly 2011.
[72] Snodgrass, D.R. 1999. *Creating Peace in Sri Lanka: Civil War and Reconciliation*. Cambridge, MA: World Peace Foundation. 89-108.
[73] DeVotta 2004, 62.

increasingly nationalist Sinhalese extremists in the SLFP. Facing heightened pressure from internal party rivals, Bandaranaike changed his well-known position on including Tamil as a second official language and passed the 1956 Language Act. This decision set into place policies that discriminated against Tamils in university admissions, the civil service, and the armed forces. Tamils—who had comprised 60 percent of professionals employed by the state at independence—held ten percent of these positions by 1970. The percentage of Tamils in the armed forces went from 40 to less than one.[74] In 1972, the government placed strict quotas on the number of Tamils allowed to be admitted to universities. Sinhalese politicians used patronage to ensure loyalty from voters, which resulted in the near-universal exclusion of Tamils from public and educational sectors by the early 1970s. These laws and their effects shaped the tenor and severity of antagonism between Sinhalese and Tamil citizens, and entrenched this intensifying standoff through the system of public institutions and distribution of political and social goods and services.

In 1972, the legislature adopted the Republican Constitution, further reinforcing the discriminatory legislation that gave preferential treatment to Sinhalese. Sectarian tensions escalated over this most recent act of disenfranchisement. Well-educated Tamil youth in Jaffna, the historical center of Tamil culture and heritage, had formed the activist Tamil Students Front in 1970, one of the first groups to argue for the use of violence to fight for Tamil civil rights.[75] Over time, this movement initiated the creation of as many as 36 different extremist Tamil separatist groups. In 1972, Prabhakaran joined one of the most militant organizations, the Tamil United Liberation Front (TULF), a political party that aimed to establish a clandestine, parallel organization to recruit young Tamils to violent struggle.[76]

Rhetoric employed in ethnic "out-bidding" was a tactic employed by Sinhalese authorities as they consolidated control over the country's institutions in the 1950s and 1960s. Defined as an "auction-like process whereby politicians create platforms and programs to 'outbid' their opponents on the anti-minority stance adopted,"[77] ethnic outbidding results in a ratcheting up of rhetoric, policies, and at times, violence. These are efforts that favor discrimination against minorities or at least aim to mobilize support based on anti-minority

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[74] Rotberg 1999.
[75] Gunaratna, R. 1987. *War and Peace in Sri Lanka.* Colombo: Institute of Fundamental Studies.
[76] Hoffman, B. 2006. *Inside Terrorism.* New York: Columbia U. Press. 138.
[77] DeVotta 2004, 225.

sentiment. Discriminatory language policies emphasized ethnic differentiation and made it "possible to use the minority identity marker (i.e., language)" as a mechanism for political mobilization.[78] Empowered by the institutional structure, Sinhalese politicians embraced ethnic outbidding, which led to intolerance and conflict, encouraging short-term instrumentalism and political opportunism.[79] DeVotta argues that elites did not anticipate fully the consequences of outbidding, even as they enacted extremist policies. Following independence, the two Tamil political parties and two primary Sinhalese parties practiced outbidding in both inter-ethnic and intra-ethnic ways. This widened the distance between the two ethnic camps and emboldened extremists on the Sinhalese side to exploit the lack of consensus among Tamil political organizations.

Ethnic security dilemma

Conceptually and practically, an ethnic security dilemma is the crux of the conflict. Simply put, Sri Lankan Tamils' connections to the 60 million Tamils 29 miles across the waters in southern India have long made the Sinhalese majority insecure. In this so-called "minority complex," Sinhalese authorities fear an invasion of Sri Lanka fueled and financed by the powerful and wealthy Tamil diaspora in India, Canada, the United States, Australia, and Europe, and which could render the Sinhalese an ethnic minority in Sri Lanka and diminish their political and economic advantages. In the 1970s and 1980s, the perceived threat remained real to the Sinhalese, as the Tamil Tigers received arms, training, and safe homes for its insurgents in Tamil Nadu.[80] The British colonial government's Tamil favoritism made anti-Tamil sentiment among Sinhalese more salient following Sri Lanka's independence in 1948.

Evidence of an ethnic security dilemma is found in the migration of Sri Lankan Tamils toward the north in the 1980s and 1990s, where the LTTE was developing a parallel state and could provide local protection and security to members of this out-group. By 1990, the LTTE engaged in cleansing of the east, expelling all 28,000 Muslims from the northern Jaffna peninsula. In October 1992, the LTTE massacred 285 civilians in Palliyagodella village in

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[78] DeVotta 2004, 93.
[79] DeVotta 2004, 4.
[80] Smith 1999.

northern Sri Lanka.[81] Tamil Tiger violence against Muslims provides evidence that the embedded, local dynamics of the identity-based security dilemma were not limited to Sinhalese-Tamil animosity.

Another indicator of a security dilemma is the LTTE's sidelining of moderate Tamil actors through intimidation and violence. Tamil political parties, churches, and civil society groups were forced to support the LTTE, while leaders made clear that these groups would have no role in a future Tamil political administration. Prabhakaran sought to eliminate systematically actual and potential rivals from within and outside the Tamil Tiger organization, including the TULF and other Tamil groups, as well as Sinhalese opponents.[82] By the end of the 1970s, the LTTE was by design the predominant political and military force within the Tamil community.

Political opportunities and choices facilitated the empowerment of hardliners in both ethnic camps. Mobilizing supporters based on ethnic difference, Sinhalese politicians framed the Tamil "other" as the enemy, putting in motion a spiral of insecurity. From independence, the country's electoral system—the Westminster parliamentary model, under which the party that gains the most votes in national elections forms the government—fueled and incentivized the rhetoric and violence of 'ethnic outbidding' that characterized everyday politics.

During the conflict, in some areas where there was geographic intermingling of Sinhalese and Tamil citizens, for instance, in Colombo, there was significant violence. The "Black July" 1983 riots in the streets, initiated after the LTTE killed 13 Sinhalese police officers, resulted in the killings of 1,000 to 3,000 Tamils—a series of incidents that ignited the civil war. The LTTE launched attacks in urban areas throughout the conflict, often on buses and trains, leading to the deaths of thousands of Sinhalese civilians.

The LTTE's consistent access to external resources

The fact that the organization's support came from diaspora sources meant that the Tamil Tigers did not have to appeal to moderates among their own sponsors or supporters. Financial support from abroad and extortion of the diaspora allowed LTTE leaders to focus on constructing

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[81] Hosken, A. 2009. Sri Lanka's forgotten massacre. BBC News radio. 3 Aug. 40 of those killed in the village were Sinhalese, and the remainder were Muslim.
[82] Hoffman 2006, 139.

a highly disciplined fighting force founded on self-sacrifice and invincibility.[83] The LTTE, then, did not have to depend entirely on willing domestic political supporters, and their sustenance originated in a variety of sources; eventually the rebels' methods became coercive. Tamil rebels found refuge in Tamil Nadu when they were weak or being pursued by Sri Lankan government forces in the 1970s and 1980s, and the Indian state provided financial assistance to the LTTE, while the Indian intelligence service trained the LTTE and assisted in smuggling and transit across the Palk Strait. As a result of cross-border assistance, the LTTE developed a vast weapons procurement network that provided it with regular shipments of landmines, grenades, and other conventional weapons.[84] By the 1990s, the LTTE had become a highly-equipped fighting force, with a small air force, anti-aircraft missiles, and a small naval fleet to carry out smuggling operations. By 1996, 80 to 90 percent of LTTE resources came from abroad, primarily from a well-connected community of Tamil expatriates living in Europe, Canada, the United States, and Australia. A fleet of ten freighters supported its human trafficking, weapons smuggling, extortion, and probably drug running businesses. Without external patronage and extortion of the diaspora, the Tamil Tigers would not have been able to generate the financial and military resources to battle the Sri Lankan state.

The war economy in the north and east created strong incentives for LTTE rebels to perpetuate the conflict. [85] They received remittances from wealthy expatriates to continue their military operations, and taxes on the movement of goods and services, trafficking, racketeering, and theft served as important income. The LTTE extorted Tamil civilians, particularly in the east; teachers and government officials were asked to pay 12 percent of their salary, and abductions for ransom were common. Sri Lankan Tamils living in Canada, the UK, and other Western countries faced intimidation and extortion by the LTTE, forcing them to make financial pledges. While some of the Tamils who live overseas supported LTTE efforts, the organization often used coercion to secure funds from the diaspora, kidnapping affluent Tamils in Sri Lanka for ransom and systematically extorting Tamil business owners abroad. In late 2005, the LTTE initiated an aggressive fundraising campaign in the diaspora to support what they called "the

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[83] Ibid, 141.
[84] Jenne 2003, 228.
[85] Ibid.

final war" between the Tamil Tigers and the SLG.[86] The LTTE also used charitable organizations, for example, the Tamil Rehabilitation Organization, as a front for fundraising. These funding avenues made the LTTE one of the wealthiest militant organizations in the world at the time of its operation, raising an estimated $200 million to $300 million per year.[87] This allowed the group to rely on its military strength—not the negotiating table—as a means of demanding and achieving political recognition and gains.

Secondary Variables

Sri Lankan Government vulnerability

Not only can a failed or collapsed state create conditions for a security dilemma, but a "fragmented state"[88] in which the government is high-functioning—it holds and abides by elections, provides services, but it has lost control of some territory to an armed group–may also enable and perpetuate a security dilemma. In fact, the fragmented nature of the state may also be the result of a security dilemma. In Sri Lanka during the conflict, institutions were stable, the government provided social services and public goods, and the economy was robust. Sri Lanka's fragmented state was able to provide basic services, make democratic opportunities available to citizens, and maintain economic production and growth—including, on average, 4.6 percent annual growth until 1999.[89] The state lost territorial control of significant portions of the state in the north and east as the LTTE became more violent, gained reliable financial resources, and solidified its control of governance.

Conditions in LTTE-held territory relied on a clear political authority with responsibility for providing extensive public goods. In gaining increasing control in the north and east, the LTTE leadership met with a legacy of strong state institutions that had shaped the needs and expectations of Tamils living there. For lack of resources and bureaucratic capacity, the rebels

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[86] Human Rights Watch. 2006. Funding the "Final War": LTTE Intimidation and Extortion in the Tamil Diaspora. Report. 16 Mar.
[87] Bajoria, J. 2009 (Updated). Backgrounder: The Sri Lanka Conflict. Council on Foreign Relations. 18 May.
[88] Jenne 2003.
[89] Snodgrass 1999.

had little choice but to work with the SLG to provide continued services to the population, which was long accustomed to receiving public goods from the state.[90]

Mampilly argues that cooperation was important for the SLG: it limited the Tamil Tigers' claim to sovereignty. The state continued providing services to a population that violently challenged its control, and it compromised by allowing the LTTE to play an enormous role in the governance process in the north and east provinces. The LTTE, having appropriated existing state machinery, provided health, education, and other social services to civilians. Colombo facilitated this joint governance arrangement in order, ultimately, to limit the development of the LTTE's civil administrative structures; to maintain a tenuous link to the Tamil population; and to retain international aid and investment, which depended on preventing massive humanitarian disasters amid economic liberalization and war. Despite the LTTE's continued reliance on the government for support, the rebels were able to develop a comprehensive bureaucratic apparatus and symbolic authority that achieved deep legitimacy among members of Tamil society.[91]

The SLG's weak control of rebel-held areas, combined with the LTTE's ability to maintain a disciplined insurgent force and a steady flow of resources, made protracted military confrontation a way of life in the mid-2000s as the ceasefire broke down and the SLG invaded. Still, sustained control of territory and performance of state functions by the LTTE over decades—combined with military advances that put the SLG at a disadvantage from 1999 to 2001—culminated in a series of pitched battles after the failure of peace negotiations. It may be that a weak government emerges as nearly a necessary condition for mass killings, but variation in the forms that this vulnerability can take—in territorial, social, political, and demographic terms—must be taken into account as we build theory and policy.

Religious Forces Fomented Violence

Buddhist nationalist elites actively fomented violence to influence Sinhalese politicians and masses, and many recommended the use of violence in settling the ethnic conflict. Buddhist monks and leaders have been bound up with the nationalist Sinhala state in Ceylon/Sri Lanka and as ruling authorities for centuries. Their fears and antagonism were particularly oriented to

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[90] Mampilly 2011, 94.
[91] Mampilly, 128.

the peace process because they feared that a political solution to the conflict would result in a division of Sri Lanka into two separate states. A decentralized political structure would contradict two tenets of Buddhism in the country: Sri Lanka as a sacred land, and the Sinhala people as the protectors of Buddhism.[92] The idea of a Tamil homeland was unacceptable; Buddhist monks favor a unitary state and are resistant to the proposal of a federal arrangement. Finally, the Buddhist duty and doctrine of non-violence can be overruled or reinterpreted, according to some scholars, at moments when Buddhism is perceived to be in danger.

Buddhist elites' role in the conflict highlights the "religious nationalism" that forms the core of Sinhalese identity. Upon independence, Sinhalese Buddhist elites instituted discriminatory linguistic, educational, and economic policies, which eventually prompted Tamil resistance and civil war.[93] The ethnocentrism of Buddhist nationalist elites since 1956 has played a role in political polarization, ethnic outbidding, and the institutionalization of discrimination. Major Sinhalese political parties – the SLFP, UNP, and JVP – have been associated with nationalist pressure groups, both monastic and lay, that had considerable capacity for mobilization. In 2004, Buddhist monks themselves entered parliament, winning nine seats on a Buddhist revivalist campaign that actively opposed negotiations of a political solution to end the civil conflict.[94]

During the war, Buddhist connections to the military were evident in soldiers seeking spiritual guidance; they had concerns about their rebirth given their violent acts on the battlefield. Monks and their religious sites, particularly those located in the north and east, also required military protection from potential insurgent attacks. Most of all, the influence of the nationalist Sinhalese Buddhist ideology through "political Buddhism"[95] is central to understanding the disregard and active undermining of the rights of religious minorities, including Christians, Hindus, and Muslims in the country. Sinhalese Buddhists demonstrated forceful support for a military solution–rather than a political solution based on devolution of authority or power-sharing–to the conflict with the LTTE. Their unwillingness to compromise

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[92] Frydenlund, I. 2012. Canonical ambiguity and differential practices: Buddhism and militarism in contemporary Sri Lanka. In *Buddhism and violence: militarism and Buddhism in modern Asia*, eds. V. Tikhonov and T. Brekke. 95-119. p. 99.
[93] DeVotta, N. 2007. *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka.* Policy Studies 40. Washington: East-West Center Washington.
[94] Frydenlund 2012.
[95] DeVotta 2007.

has further polarized the conflict and incentivized multiple governments, in particular the Rajapaksa administration first elected in 2005, to fight until the LTTE is wiped out.

Commitment to use mass violence by combatants

The use of violence by the SLG and the LTTE in the final months of the conflict resulted in the deaths of tens of thousands of Tamils, perhaps as many as 40,000. Documentation of human rights violations, extrajudicial killings, torture, and indiscriminate shelling on the part of the SLG can be found elsewhere in the case study. Several analysts suggested that the SLG under the Rajapaksa family had committed to war-fighting strategy that did not distinguish between civilians and LTTE cadre. In addition to shelling hospitals, the government disputed demographic figures as a basis to systematically deny humanitarian assistance in the conflict zone.[96] The unusual refusal of a government to take measures to avoid killing civilians in combat operations poses a significant obstacle to those focused on protection and humanitarian assistance. While the Rajapaksa administration claimed it was the first government to insert a "zero civilian casualty" policy into their military plans, its battlefield operations and disregard for civilian survival before and after attacks provide ample evidence that this was not a genuine commitment.

The LTTE, for its part, employed forced recruitment of children; killed civilians in suicide bombings; adopted a policy of shooting civilians attempting to flee LTTE control during the last three months of the war; and used civilians as a buffer against Sri Lankan military attacks.[97] In 1985, 146 civilians were killed when the Tigers raided and opened fire at a shrine at Anuradhapura, one of the most sacred Buddhist sites in Sri Lanka.[98] Hoffman argues that the use of suicide missions by the Tamil Tigers was a natural outgrowth of the organization's strategic goals; they were used as a force multiplier and to recruit a solid popular base of support.[99] The LTTE's brutal treatment of civilians emerged in the remarks of the organization's leadership just before the end of the war, when leaders prolonged their surrender and allowed SLG forces to

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[96] UN Panel of Experts Report, 2011.
[97] Ibid.
[98] Anderson 2011, 45. This massacre is one of many planned attacks that formed part of LTTE strategy and use of terror tactics.
[99] Hoffman 2006.

shell and trap hundreds of thousands of people in the Vanni, an area the size of Central Park in New York City. An analyst who was communicating with the LTTE at the time indicated that the leadership admitted that they knew they had lost, but their logic for delaying the end of the war was as follows: the more civilians who died there, the greater the chances that the next generation of Tamils will rise up in anger to overthrow the enemy.

International actors faced a series of challenges in intervening to prevent civilian deaths—ruthless combatant forces, lack of safe passage for civilians, and frustrated humanitarian access. To the extent that USG and international actors' policy tools were responsible for the failure to protect civilians in the final months of the war, this shortcoming was a result of missed opportunities to take action years earlier, before the stakes of the conflict had become so high.

POLICY TOOLS USED OR CONSIDERED

Overview of International Actors' Policies and Choices in Sri Lanka[100]

The traditional instruments or mechanisms at the disposal of the USG and other governments with a stake in Sri Lanka to prevent atrocities proved insufficient. The United States' official focus was on supporting efforts to negotiate a political settlement centered on power-sharing to end the war. Security assistance to the Sri Lankan military reached considerable levels during the most violent periods of the conflict. Toward the end of the fighting, State Department communications expressed concerns over civilian casualties and emphasized that the US was putting pressure on the SLG to adhere to standards for resettlement camps and permit access for humanitarian assistance.[101]

It is not evident that the United States Government (USG) took steps to deter the Government of Sri Lanka (SLG) by either threat of punishment or denial, and it is unclear whether these types of options were considered, given Colombo's status as an ally of Washington and the context of the US' "war on terror." The United States did not seek to prevent

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[100] The analysis in this section draws directly on both on-the-record and off-the-record interviews with observers, policy analysts, advocates, experts on humanitarian assistance, diplomats, and government officials. Most interviews were conducted off-the-record. All were conducted by the author during June and July 2014.
[101] US Department of State. 2009. Archives of Daily Press Briefings. May 11-29, 2009. Accessed 9 Jul. 2014.

mass violence by explicitly providing solutions to political problems or serving as a guarantor of agreements, although it did support efforts to a political solution as a sponsor of the negotiation process in collaboration with European governments and Japan.

The USG had opportunities to support the peace process more consistently, specifically monitoring and calling out the ceasefire violations of both parties, but it did not seize these opportunities. These violations include shelling by government forces and assassinations carried out by the SLG and LTTE. The USG was understood to have been collecting satellite and intelligence information and therefore possessed knowledge of civilian locations and hospital facilities, troop movements, and overall battlefield shifts. As the war drew to a close, this assistance served as a basis for US diplomats to highlight severe civilian deaths and injuries as a result of the SLG's military efforts, but the SLG consistently disputed the numbers of civilian dead and provided demographic estimates of civilians in particular locations that were drastically below the numbers of Sri Lankans who lived in or fled these areas.

Once it became evident that mass violence was not only possible but, in fact, likely— which long-term observers claim they knew as early as 2006, when the parties returned to war after the ceasefire abrogation—the USG did not use the information it had to make critical, accurate information public: the numbers of civilians at risk and casualty figures. By 2006— before the ceasefire ended—the war had caused an estimated 65,000 deaths, and 215,000 had been displaced.[102] Some analysts argue that a public announcement by the USG of data on civilian casualties would have brought sufficient attention to the dire situation in Sri Lanka to place it on the agenda of the Security Council. Had the USG publicized these numbers or empowered the UN or another organization to do so, international actors—particularly the UNSC—may not have been able to ignore what was a humanitarian crisis. Having given the SLG a "green light" to pursue a military solution in the war against the LTTE and provided satellite information to the SLG in cooperation with the Indian Government—the USG was not well-positioned to publicize numbers of civilians at risk of becoming victims of mass violence.[103]

While the USG provided support for humanitarian assistance efforts during later stages of the conflict, it is not clear that the USG made a concerted effort to help ensure that humanitarian

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[102] Zissis, C. 2006. Sri Lankan War Comes Roaring Back. Council on Foreign Relations Analysis Brief. 11 Sept. Accessed 16 Jul 2014.
[103] This point was made by several interviewees.

agencies or international NGOs providing critical assistance had sufficient access to conflict-hit zones before conditions on the ground turned irreversibly dire.[104] One source estimates that USAID disbursed $6.5 million in aid to Sri Lanka in 2009, and "humanitarian assistance" formed one-third of those funds, amounting to $2.1 million. $.9 million was earmarked for peace and security assistance.[105]

Overall, international actors had few additional tools at their disposal to influence the conditions that would make atrocities possible. Three "no-fire zones" (NFZs) were announced by the SLG at distinct moments in the course of worsening violence, starting at the end of January 2009. Civilians had no choice but to move to these areas, and many of them were coerced by the Tamil Tigers to relocate and used as "human shields." At worst, the SLG abused these areas in order to target civilians, and at best, officials failed to respect the zones as fundamentally off-limits for indiscriminate shelling. Ample evidence existed that the SLG deliberately targeted hospitals in the NFZ. The USG did not publicly call out the SLG for its distorted notion of "safe haven"; this was a missed opportunity to bring attention to a fundamental violation of the laws of war.

The USG undertook an ambitious effort to attempt to bring about an end to the fighting at a late stage. Around January 2009, officials in Washington proposed the removal from Sri Lanka of much of the LTTE leadership in exchange for the leaders' surrender. The war would have concluded as a result. The LTTE leadership rejected the proposal, but if it had been accepted, it is not clear that there were plans in place for the protection and movement of more than 200,000 Tamil civilians. The negotiation of safe passage for civilians in surrounded areas had not been debated or resolved, as the LTTE and Tamil civilians became increasingly trapped in a small strip of land. Many analysts claim that the prospect—even the expectation—of international action and intervention in the conflict—emboldened the LTTE, particularly as violence and humanitarian conditions worsened during the final weeks and months of the war. Messages from

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[104] USAID reports that beginning in 2003, the agency supported "a small grants program to promote community reconciliation", and in 2009, it initiated a program in the Eastern Province to support community reintegration by assisting at-risk youth and former combatants. Early recovery and emergency relief funds formed a considerable portion of USAID assistance to Sri Lanka, particularly in the wake of the tsunami in 2004. However, in a comprehensive synthesis of its humanitarian assistance to Sri Lanka, USAID does not specifically describe its efforts to provide supplies and relief to civilian victims of military operations and IDPs—or to support organizations that were doing so. Accessed 16 Jul. 2014. <http://www.usaid.gov/sri-lanka/humanitarian-assistance>

[105] Foreignassistance.gov. Data on specific allocations of US assistance are not available for years prior to 2009. The $6.5 million disbursed by USAID in Sri Lanka in 2009 accounts for 23.63% of total US assistance; 76.01% funded Millennium Challenge Corporation (MCC) efforts. Accessed 16 Jul. 2014.

donor governments, the UN, and other international actors were not sufficiently coordinated or communicated to LTTE leadership; had communications and policies been managed more precisely, the LTTE may have recognized that invocation of "responsibility to protect" was unlikely and been willing to surrender.

The failures of the USG to play a more effective role in forestalling considerable numbers of civilian deaths by reminding the parties of their responsibilities under international law and making critical information public are sobering realities. In Sri Lanka, the USG lacked a vision: first, of a political solution that would address deep-rooted tensions in the country; second, a strategy for the prevention of mass civilian deaths in coordination with other actors; and third, of future accountability for war crimes and violations of international humanitarian law. The development of a vision—and guidance on how diplomatic personnel in Sri Lanka would implement it in coordination with its partners in Sri Lanka and international donors—required a longer view of the conflict and the historical framework in which the war occurred. As one analyst put it, so many people were killed "in full view of all of us."[106]

United States Engagement in Sri Lanka: The Importance of Time and Consistency

Analysts and participants' observations of US policy and action in Sri Lanka during the conflict have produced several important lessons. Consensus among individuals who worked in humanitarian and international organizations centers on a primary reflection: the policies that the United States undertook to help prevent mass killings of civilians were "too little, too late." This theme emerged consistently in interviews with policymakers, advocates, and academic analysts. The USG should have more vocally criticized the SLG's brutal military approach—without qualifying its rejection of the LTTE's murderous strategy—earlier, when the war-fighting strategy undertaken by the SLG had not yet hardened into an effort to destroy the Tamil Tigers at all costs, including taking the lives of as many ordinary Sri Lankans as was necessary.

Awareness of the historical involvement of the SLG in ruthless violence against Sri Lankan citizens—through targeted assassinations and massacres during previous decades— should have more consciously shaped US policies and statements on human rights abuses and obligations under humanitarian law. American diplomats, officials involved in a range of

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[106] Interview with Norah Niland.

negotiation efforts, and Washington, DC-based policymakers—seemed not to have taken into account the SLG's history of targeted killings and illegal detention of journalists, activists, and human rights defenders—and those they suspected of being LTTE sympathizers—and failed to foresee the potential for comprehensive violence against Sri Lankan civilians as the war intensified.

Had an appreciation of historical dynamics of the government's role in violence against ethnic minorities and perceived enemies informed the USG's understanding of events unfolding on the battlefield in the mid-to late 2000s, there may have been sufficient impetus for officials to speak out more forcefully, at an earlier stage, against the SLG's approach to prosecuting the war. In some contexts, evidence of government-sponsored human rights violations and extrajudicial killings may constitute a kind of early warning of mass atrocities. This missed opportunity invokes a different kind of knowledge than awareness of history: Analysts point out that at critical moments in late 2008 and early 2009, the USG likely had access to information about the numbers of civilians at risk—and later, the numbers of civilians killed in particular areas of the northeast once the military's final offensive had begun—due to information gathered through satellite technology and intelligence activity.[107] These figures could have provided the basis for debate and stronger action in institutional forums like the UN Security Council that have a responsibility to condemn and prevent atrocities.

Three critical elements characterize USG policymaking on Sri Lanka's conflict. **First,** US policy reflected ignorance or denial of–or perhaps a consistent willingness to overlook—a history of state violence against Tamils and other domestic political enemies, and gradual degradation of the rule of law on the part of successive Sinhalese-dominated governments. In other words, a lack of foresight—or of readiness to act on what it knew about both government practices and the dynamics of violence as they developed on the ground in Sri Lanka—prevented the USG from making its support for the SLG conditional on respect for basic human rights laws and principles.

Second, a focus on support for the SLG's military strategy disproportionately guided US policy in Sri Lanka and generated a certain path dependence that made it difficult for the US to adapt to conditions and developments as they changed during the course of the war and efforts to negotiate a settlement. The Global War on Terror ("GWOT") profoundly shaped the

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[107] This suggestion emerged in several interviews with policy analysts and observers.

environment in which the SLG fought its war against the LTTE. Anti-terror discourse influenced the USG response to the SLG's methods of warfare, including the steady provision of assistance and training to the Sri Lankan military; the proscription of the LTTE as a terrorist organization; and tacit approval by the USG and other governments of the SLG's effective labeling of their military effort as a counter-terror campaign. The USG's commitment to the SLG's prosecution of the war to destroy the Tamil Tigers ended up undercutting the US' expressed support for a political solution.

Third, the USG and the international community—including the UN—failed to track systematically and publish civilian casualty figures during the war in a consistent manner. This had particularly dire consequences for the final phases of the conflict, when SLG efforts to defeat the Tamil Tigers at all costs went unchecked by the USG or other governments and humanitarian access suffered. This is not to suggest that USG officials and diplomats, or individuals from donor countries were supportive of the particular methods through which the SLG aimed to defeat the Tamil Tigers, but rather that they did not present information that demonstrated the numbers of civilians becoming collateral damage. Analysts view the decision, particularly as it was made by the UN, not to count the civilian dead—or not to continue making figures public as the fighting intensified—as a sign of weakness that allowed the SLG to coerce the UN and other actors to leave the scene, clearing the battlefield of monitors and leaving humanitarian organizations without a source of information and leverage.

These interrelated and contingent elements amounted to a contradictory set of policies that legitimized the SLG's flouting of the rule of law and failed to contribute significantly to the process of negotiating a political settlement. Both parties to the conflict undertook horrific acts of violence against civilians. In the following sections, evidence culled from interviews, secondary sources, and government data provides support to a critique of the role of international actors, particularly the USG and the UN, throughout the conflict and in particular at its most dangerous moments.

Historical Context and Foresight: Earlier Engagement on Violence against Civilians

Contextualizing wartime violence and recognizing the potential for atrocities

The civil war in Sri Lanka emerged out of a history of state-sponsored violence and institutionalized discrimination, and the dynamics of insecurity engendered by an ethnic security dilemma. While the failure of the peace process constitutes the immediate temporal context of the final phase of war that led to mass atrocities, the deeper historical framework is the gradual degradation of the rule of law and governance and the occurrence of extrajudicial killings. The Sri Lankan state had a documented history of brutality in its treatment of ethnic minorities and in its response to militant resistance. Through their use of military, paramilitary, and proxy forces to target domestic enemies—including largely young Sinhalese who were killed in leftist JVP insurrections in 1971 and the late 1980s—various Sri Lankan governments demonstrated vast disregard for human rights principles and domestic and international law.

The overall historical context might have served as a framework for engagement with the Sri Lankan government even before the conflict worsened and observers began to perceive the high risk of mass killings of civilians. In 2006, in the return to war between Sri Lankan military forces and the LTTE after a long period in which ceasefire violations were common, the risks of large-scale mass atrocities should already have been clear to observers. Neither party was paying attention to international humanitarian law, humanitarian norms, or human rights standards. This raised concerns among many observers and advocates, who warned their colleagues at international institutions and in donor governments of the risks of massive humanitarian crisis if the fighting continued in this way.

It was evident that the SLG—particularly the Rajapaksa administration—employed and was willing to employ brutal counterinsurgency methods, including mass-scale enforced disappearances and the detention of suspected LTTE militants, who were held on little evidence and without trial, and later executed in large numbers.[108] In January 2006, five young Tamil students were murdered in the town of Trincomalee in the northeastern part of the country. Police are suspected of killing the young high school students; the "Trinco Five" case remains unsolved, despite public pledges and assurances made by President Rajapaksa to donor governments that those in the security forces found responsible would be brought to justice.[109]

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[108] Interview with Alan Keenan, International Crisis Group Sri Lanka Senior Analyst. June 26, 2014.
[109] Human Rights Watch. 2006. Press Release. Sri Lanka: Protect Witnesses in Trincomalee Killings. Murder of Five Youths Highlights Need to End Impunity. 29 Jun. Accessed 15 Jul. 2014.

While Robert Blake, US Ambassador to Sri Lanka (2006-2009) denounced the crime and called for an investigation, the government's failure to investigate and prosecute the murders did not affect the support for the SLG in its military campaign. In August 2006, the massacre of seventeen aid workers—local staff members of French organization Action Against Hunger—in Muttur, in Trincomalee district was allegedly carried out by security forces. [110] The tragic incident, which was not investigated or prosecuted, made clear that security threats were endangering humanitarian aid delivery.

As analysts have pointed out, "alarm bells" should have been ringing as crimes and impunity continued and civilian lives were lost. By 2006, it was clear to observers that large-scale killings of civilians and targeted, violent coercion of journalists into censorship or silence were signs that the war would continue to be prosecuted using brutal and illicit methods. It is impossible to know whether these methods could have been halted if a timely and forceful position had been adopted by the USG and other governments. The USG's failure to make its assistance conditional on the Sri Lankan security forces respecting basic human rights principles gave the impression, though, that USG protest—however strenuous the exhortations by Ambassador Blake to end disappearances and attacks on journalists and civil society—"would only go so far."[111] Senior SLG political and military leaders understood that they would not face serious penalties or real political costs if they continued fighting the war in this way.

The poor timing of a transition in U.S. presidential administrations in early 2009 contributed to an incomplete diplomatic staff being in place in Sri Lanka and a lack of assertiveness in policy-making when it was most needed. Following President Barack Obama's assumption of office in late January, appointments of State Department officials occurred over the following two to three months. This resulted in gaps in personnel on the ground in Sri Lanka as well as a lack of comprehensive policy guidance during a critical period. The USG should have not only called out the SLG's violence against civilians and human rights abuses, but it should have encouraged other governments that had invested in Sri Lanka—for example, the co-

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[110] Ondaatjie, A. and P. Tighe. 2006. Sri Lanka Rejects Report Blaming Army for Killing Aid Workers. Bloomberg News. 30 Aug. Accessed 16 Jul. 2014. See also Niland 2014, p. 6. All seventeen of the Action Contre la Faim (ACF) workers in Muttur were found dead on August 6, 2006, murdered execution-style in their agency compound following the Sri Lankan army's advance on the Eastern province. An estimated 500 civilians died in Muttur the same week.
[111] Interview with Alan Keenan.

chairs of the peace negotiations[112]—to condemn the violence in strong terms and use their leverage to affect government decision-making. In particular, Japan had political leverage because it provided considerable aid to the SLG, including as much as $275.9 million in 2006 and $119.7 million in 2008.[113] In 2008, only 22.7 percent of foreign assistance to Sri Lanka from all donors—which totaled $441 million—was allocated for humanitarian aid, leaving ample opportunity to make considerable assistance funds conditional on changes in government action.

Finally, analysts warned against the potential danger of the USG falling into "engagement traps" set by the SLG as it prosecuted the war with increasingly illegal and murderous methods.[114] An example is the Consultative Committee on Humanitarian Affairs (CCHA), an inter-agency task force established by the SLG and designed to ensure that humanitarian assistance would reach IDPs; it comprised officials from the government, the UN, and other humanitarian agencies, and representatives of the diplomatic community, including the US. The Committee was initiated as a way to coordinate humanitarian assistance during the military campaign in the East, when hundreds of thousands of Sri Lankans were displaced.[115] The CCHA was chaired by the SLG's Ministry of Disaster Management and Human Rights and attended by other government ministries.[116] This included the Minister of Defence, Gotabaya Rajapaksa.

Analysts claimed that USG involvement in the CCHA legitimized the military efforts undertaken by the SLG, providing cover for a war that was fought with illegitimate means. Being part of the CCHA was an example of the USG's dual-track policy on Sri Lanka, in which US officials would make statements about human rights concerns or access for aid organizations, and at the same time, support the process—like CCHA—which undermined the principles that were being invoked in the other track. Even as US officials were pushing in CCHA sessions for greater security and access for aid convoys in the North during the period of the SLG's military

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[112] The so-called co-chairs of the peace negotiations between the Government of Sri Lanka and the LTTE were the governments of the United States, the United Kingdom, Japan, Norway, and the European Union.
[113] Aidflows.org. Estimates are for "Official Development Assistance" (ODA) to Sri Lanka from Japan, its top donor. The United States provided $32.04 million in aid to Sri Lanka in 2006 and $54.07 million in 2008. US assistance declined by more than $20 million in the final year of the conflict (2009) to $33.04 million. More specific focus on USG aid to Sri Lanka is included in the following section.
[114] Interview with Alan Keenan.
[115] The Ministry of Disaster Management and Human Rights was disbanded after the end of the conflict.
[116] UNHCR Global Appeal 2009 Update. Sri Lanka. 2009. p. 296. Accessed 16 Jul. 2014. <http://www.unhcr.org/4922d42a0.pdf>

efforts there, they were also giving their approval to a set of destructive policies.[117] Some analysts commented at the time and subsequently that the CCHA served as a propaganda mechanism for the SLG—a means of engaging with Western governments and requesting funds to support development plans in a way that made them partners in a joint military and humanitarian campaign. One observer went further, arguing that the CCHA formed part of the government's "sophisticated campaign to intimidate and emasculate the relief community."[118]

The All Parties Conference (APC), a recurrent political mechanism adopted by the SLG to seek a resolution to the conflict, may be considered a second example of an engagement trap. This governmental exercise employed by successive administrations, beginning with President Jayawardene in the 1980s, called representatives from political parties together to formulate a set of proposed constitutional changes for power-sharing that would be presented as part of the negotiation process with the Tamil Tigers. These proposals often turned on devolution of powers to provincial and district-level councils as part of a new political arrangement in the north and east. President Rajapaksa convened an APC in July 2006, and Ambassador Blake emphasized the faith that the United States had in the renewed process in an interview on Sri Lankan television. "We further believe that the agreement now between the SLFP and UNP agreement marks a wonderful opportunity, and one of the best in recent years because now the 2 major parties are now working together. So there's this important APC process that is underway, so we hope that that will rapidly produce a power-sharing proposal that will form the basis for peace talks."[119] The APC process convened by Rajapaksa did not conclude and present its findings until June 2010, after the war ended.[120] The APC, which fell short in its inclusiveness of opposition parties, may be interpreted as a mode through which the SLG strung along the USG and other governments, signaling that meaningful proposals were being developed even as the military prepared for a series of offensives. A US diplomat I interviewed suggested that through promises of devolution and negotiation, the SLG purposefully misled the USG over many years.

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[117] Interview with Alan Keenan.
[118] Niland 2014, 6.
[119] Blake, R. 2007. Interview with Sri Lankan journalist Kevin Jacobs. Lanka Business Report. ETV. Jan. Accessed 11 Jul. 2014. <https://www.youtube.com/watch?v=4vwVbt1Zr2k>
[120] Proposals Made by the All Party Representatives Committee to Form the Basis of a New Constitution. 2010. Eds., Yogarajan, R. and M. Nizam Kariapper. 19 Jul.

US "green light" to SLG's military option – and path dependence

What guided US policy on Sri Lanka throughout the war? From an early point in the conflict, USG officials expressed their support for a political settlement that would guarantee equal political rights for all ethnic and religious groups in Sri Lanka. Many questions remain about the substance and timing of different forms of assistance to the SLG, though observers and those involved in policymaking in Sri Lanka assert that over many years the USG provided material assistance to security forces.

Some analysts stress the nature of the Tamil Tiger organization as part of the reason that the USG supported a path to its military defeat—their record of criminality and association with tactics of terror. In the wake of September 11, 2001, security concerns drove the USG to support the SLG in its pursuit of the military option.[121] Some analysts believe that USG policy underwent a transformation to a position that was explicitly pro-Sri Lankan government and anti-LTTE.[122] Others emphasize the geopolitical importance of the island and increasing concerns about China's expanding influence in the country, which has grown considerably since 2005. Amid competition over access to ports in the northern Indian Ocean and the evolving naval strategies of the US, China, and India,[123] the USG may have made a concerted decision to support the SLG, despite the country's low importance to American strategic interests.

According to one academic observer, a change in emphasis of US policy began during the Clinton administration, in the late 1990s, when news of the LTTE's employment of suicide bombings, forcible recruitment of children, and extortion of Tamil diaspora members in foreign capitals became too glaring to ignore.[124] The Tamil Tigers were proscribed by the USG in the first list of foreign terrorist organizations (FTOs) in 1997. The events of September 11, 2001 and the election of the pro-free market and pro-West Ranil Wickremesinghe government engendered renewed USG engagement in Sri Lanka, particularly as a new peace process gained steam.

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[121] Former Ambassador to Sri Lanka (2003-2006) Jeffrey Lunstead wrote, "If the U.S. developed anything approaching a strategic interest in Sri Lanka, it derived from the feeling in the post-September 11, 2001 world that the threat from terrorism had to be confronted globally, and that governments facing terrorist threats should cooperate against them." Lunstead 2007, 14.

[122] Interview with advocate.

[123] Vaughn, B. 2011. Sri Lanka: Background and U.S. Relations. Congressional Research Service Report for Congress. 7-5700. RL31707. 16 Jun.

[124] Interview with long-time observer of Sri Lanka.

USG assistance to the Sri Lankan military rewarded the return to the peace process in 2001 and 2002. This effort increased support for training of soldiers in US military schools; initiated a Foreign Military Financing program; and declared Sri Lanka eligible for the Excess Defense Articles program. High-level military contacts, including visits from US officers and Navy ships, and teams from US Pacific Command advising their Sri Lankan counterparts, became a regular element of military relations.[125] These changes constituted a significant increase once the peace process began, and USG officials characterized the objectives of the strengthened relationship as two-fold: 1) deter the LTTE from returning to war; and 2) guarantee that the Sri Lankan military would be better equipped if the LTTE resumed hostilities.[126] The stated purpose of the USG assistance was deterrence and to make the cost of a return to war high, emphasizing that strengthening the SLG's capacity was an investment in peace, not military action.[127] Whether the SLG understood the nuances of this message is unclear.

A decline in development assistance to Sri Lanka during the period from 2004-2009 corresponded to decreased hope in the peace process on the part of the USG. [128] The decline occurred as the demand for USG resources to fund military efforts in Iraq and Afghanistan increased considerably.

Longtime Sri Lanka analysts remain uncertain about the precise levels and nature of the military assistance that the USG provided to the SLG during the conflict.[129] Data compiled by the Center for International Policy suggest that a number of programs provided funds to the Sri Lankan military and police forces for training, education, and security operations. This assistance reached a high point in 2006, when the USG provided $17 million to Sri Lanka[130]—at a time when the SLG was re-arming (as was the LTTE) as part of its efforts to renew military action even as the 2002 ceasefire remained in effect. This included "Section 1207 Security and

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[125] Lunstead 2007, 17-18.

[126] Ibid.

[127] Lunstead stated publicly in January 2006 that with military assistance, "we are helping to shape the ability of the Sri Lankan Government to protect its people and defend its interests. Let me be clear, our military assistance is not given because we anticipate or hope for a return to hostilities. We want peace... If the LTTE chooses to abandon peace, however, they will face a stronger, more capable and more determined Sri Lankan military."

[128] Lunstead, J. 2011. Superpowers and small conflicts. In Goodhand et al. eds., *Conflict and Peacebuilding in Sri Lanka.* London: Routledge. 54-73. p. 65.

[129] Uncertainty about the specific breakdown of military assistance to Sri Lanka during the war emerged in several interviews.

[130] Security Assistance Monitor. Data: Military and Police Aid to Sri Lanka. Accessed 25 Jun. 2014. <www.securityassistance.org>

Stabilization Assistance," "peacekeeping operations," and "international military education and training."[131] The US was widely understood to have been providing crucial satellite information about the locations of incoming arms shipments to LTTE areas, allowing the SLG to attack the locations. In November 2010 Defence Minister Gotabaya Rajapaksa credited the USG with critical assistance in helping to locate Tamil Tiger ships during the war.[132]

The USG provided certain kinds of military assistance cautiously, according to observers. The USG justified its direct support to the Sri Lankan Navy by claiming that that branch was not involved in human rights abuses.[133] The US provided critical surveillance equipment with the justification that it would "reduce civilian casualties."[134] Some qualifications of USG assistance resulted from awareness of the SLG's involvement in human rights abuses and extrajudicial killings, primarily through congressional action. US Senator Patrick Leahy spoke out in September 2006, cautioning that the United States was supporting SLG forces "who have been responsible for violations of human rights."[135] A US diplomat I interviewed stated that by 2006, considerable military assistance to Sri Lanka had been terminated. The State Department called attention to severe abuses in Sri Lanka in 2007: forced disappearances, extrajudicial killings, occurring disproportionately in Tamil areas; the use of paramilitary forces to intimidate domestic critics; torture by police; and denial of fair public trial.[136] In 2008, the State Department requested $6.5 million in assistance for Sri Lanka for fiscal year 2009.[137]

These observations did not seem to reduce US military assistance, which reached steady levels in the years leading up to 2008. An analyst pointed out that military support to the SLG was not affected even when it was clear to the USG that Sri Lankan security forces were undertaking mass-scale enforced disappearances of Tamils, targeted assassinations, illegal detentions, and torture. In these circumstances, an important policy instrument at the disposal of the USG was to make its assistance strictly conditional on the Sri Lankan military respecting

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[131] Ibid.
[132] Anderson 2011, 53.
[133] Interview with long-time advocate and Sri Lanka analyst.
[134] Ibid.
[135] The Leahy Amendment or Leahy Law was passed in Congress in 1997. It prohibits USG security assistance being furnished to any unit of the security forces of a foreign country if there is evidence demonstrating that the unit has committed gross violations of human rights.
[136] US Department of State. 2008. 2007 Country Report on Human Rights Practices. 11 Mar. Accessed 16 Jul. 2014. The report also highlighted the LTTE's use of torture, arbitrary arrest and detention, targeted assassinations, bombings of civilian areas, and forced recruitment of children.
[137] US Department of State. FY 2009 Congressional Budget Justification for Foreign Operations.

basic human rights principles. Instead, a dual-track process emerged, in which on one hand, the USG would supply critical military assistance to the SLG, and on the other, the USG made public and private expressions of concern over human rights violations. "Concern with respect for human rights principles and international and national laws did not reach such a level that it ever called into question US support for the military defeat of the LTTE."[138] According to analysts, senior SLG officials were aware that US political and military support was not really in question and that invocations of human rights concerns would ultimately not challenge the framework of the war on terror ("good Sri Lankan government fighting bad terrorist organization") that the Bush administration had adopted. This fundamental contradiction defined and structured USG policy in Sri Lanka.

Framed by the post-September 11 anti-terror environment, the proverbial "green light" that the US gave to the SLG consisted not only of direct strategic and military assistance, but the exclusive relationship it maintained with the SLG, while official communication with the LTTE was illegal. The decision to eliminate a source of information and political leverage by prohibiting direct channels to the LTTE reduced the USG's ability to support the peace process consistently and legitimized the actions that the SLG took. Reliance on unilateral support for the SLG—even if implicit, at times—guided policy-making and generated a certain path dependence that made it difficult for the USG to adapt to conditions as they developed on the battlefield and at the negotiating table.

A critical question concerns the analysis that American policymakers conducted during that period: Did USG officials believe that supporting a strategy leading to the military defeat of the LTTE would be the optimal strategy for post-war security, stability, and political reform? Would the eradication of the LTTE lead to post-war reconciliation among ethnic groups? One analyst questioned whether policymakers considered that what would likely follow a brutal and bloody defeat of the Tamil Tigers—continued distrust and insecurity among minority and majority groups—would outweigh its benefits. In addition, the degradation of the rule of law and governance that a military defeat of the LTTE would entail would make it difficult for the rule of law and governance to recover.[139] The conflict is sustained by the illegality of the conduct of the

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[138] Interview with Alan Keenan.
[139] In the five years since the end of the war, governance in Sri Lanka has become increasingly centralized, impunity for crimes committed during the war persists, and journalists, human rights defenders, and religious and ethnic

war—not only because unresolved grievances persist.[140] For these reasons, the military solution to the conflict generated serious concerns among advocates and analysts about long-term stability and peace.

James Clad, who was Deputy Assistant Secretary of Defense for Asian and Pacific Security Affairs under President George W. Bush, was at the helm of military policy and assistance to Sri Lanka until 2009. For Clad, the increased influence of China, Pakistan, and Iran in Sri Lanka as a result of the USG's expressed criticisms of the SLG's human rights violations during the war made these statements counterproductive to American interests.[141] The USG response was characterized by a disjunction between USG policies based on one hand on realist assessments of relative power balances and on the other, on concerns about human rights and civilian protection. "The task of enhancing protection – addressing or mitigating threats that disregard the status of civilians – almost invariably goes beyond making statements or what is loosely called 'advocacy,'" as one observer wrote in June 2014.[142] It would not be fair to claim that USG officials, particularly Ambassador Blake, were unwilling to make forceful statements denouncing government abuses and confront senior SLG officials; by all accounts, he did take steps to make these complaints public. But statements that failed to anticipate clear risks of mass atrocities did not amount to an effective strategy. A lack of communication and coordination between the Pentagon and the State Department on Sri Lanka seemed to weaken USG policy at various stages. The contradictory nature of USG policies and efforts in Sri Lanka seemed to provide legitimacy for the SLG's prosecution of the war and failed to reduce illegal killings and human rights violations.

The Global War on Terror and its effects on the war in Sri Lanka

Anti-terror discourse influenced the USG response to the SLG's methods of warfare, including the steady provision of assistance and training to the Sri Lankan military; the

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minorities remain unsafe. One interviewee emphasized the "surveillance culture" that pervades the country, particularly in the north of Sri Lanka.

[140] Analysts noted that both the LTTE and the SLG conducted the war illegally.

[141] Anderson 2011, 52. The SLG could turn to other non-Western donors who funded economic and military plans without voicing concerns about human rights.

[142] Niland, N. 2014. Responses to the feedback by Sir John Holmes and Miriam Bradley. Blog post. Debate: Humanitarian Action and Protection. 18 Feb. Accessed 16 Jun 2014. < http://devpol.hypotheses.org/69#comments>

proscription of the LTTE as a terrorist organization; and approval by the USG and other governments of the SLG's effective labeling of their military effort as a counter-terror campaign. As early as the 1980s, the Tamil Tigers were being referred to as "terrorists" in international meetings.[143] The Rajapaksa administration skillfully used the GWOT narrative by capitalizing on the demonization of the LTTE and simultaneously employing comparable methods. In turn, the SLG and pro-government media sources depicted human rights as a tool of Western hegemony and claimed that US actions in other parts of the world have destroyed its credibility.[144]

In addition, the USG's commitment to the SLG's particular prosecution of the war to destroy the Tamil Tigers ended up undercutting the US' expressed support for a political solution. Due to legal restrictions, the LTTE's inclusion on the list of terrorist organizations closed off certain pathways of engagement that might have been available to the USG.[145] Some intermediaries and international civil society organizations urged the US government to facilitate the political development of the LTTE, in particular, training negotiators. Due to the LTTE's designation as an FTO, the USG was limited in its efforts to engage in dialogue and make its stated intentions clear to the LTTE. Ambassador Lunstead recognized the pitfalls of this approach, which construed policy as unilaterally favoring the SLG—even if that was not the intention. "The U.S. decision to avoid all contact with the LTTE made it more difficult to convey the nuances of its position."[146]

One aspect of this path-dependent policy emerged from anti-terrorism laws: once an organization appears on the list of terrorist organizations, its removal is very difficult. While the LTTE strongly wished to be taken off the list because it affected their access to cross-border financial flows, the opportunity to engage directly with USG officials on potential negotiating points would also have been welcomed, particularly at early stages of the peace process. USG flexibility might have breathed life into efforts toward negotiations at critical moments and allowed for a pivot in the tone of talks. It would also have weighted USG policy more evenhandedly, which was important if the USG was genuinely committed to the negotiation of a political solution. Instead, the USG was forced into a fixed position toward the LTTE and limited

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[143] Interview with advocate.
[144] Niland 2014, 4.
[145] It is worth noting that there was no legal prohibition against meeting with LTTE officials.
[146] Lunstead, J. 2007. The United States' Involvement in the Sri Lankan Peace Process 2002-2006. The Asia Foundation. 6.

in its communications with the organization. In discussing the LTTE's rejection of a USG offer to remove the organization's leadership from Sri Lanka in exchange for their surrender, an observer privy to this process emphasized that the proposal was not received in good faith due to a perception on the part of Tamil Tiger leaders that the US alliance with Colombo was too strong to be trusted. A surrender negotiated successfully at that point, in early 2009, might have saved tens of thousands of civilian lives.

Beyond the "Grave Failure" of the UN: the International Community and Systematic Tracking of Civilian Harm

The United Nations' role in preventing and addressing mass atrocities

The UN's litany of failures in Sri Lanka included that it: did not adequately counter the SLG's underestimation of population numbers in the Vanni; did not confront the SLG on its obstructions to humanitarian assistance; and was not willing to challenge the SLG regarding its responsibility for attacks that were killing civilians.[147] Both UN Headquarters officials and UN Country Team members are implicated in the shortcomings of the response. An inability to coordinate an adaptive, coherent response to address human rights abuses and violations of international humanitarian law—which is central to the UN mission—was a primary factor in missing early warning signs. The UN failed to give voice to its staff workers and agencies in the field by making clear statements about the occurrence of violence against civilians. These shortcomings have led many to characterize the UN's efforts in Sri Lanka as disappointing at best, and at worst, complicit in atrocities. In September 2008, the SLG issued a statement noting that it was unable to guarantee the safety of UN staff inside LTTE-controlled territory, and the warning was followed by attacks on Kilinochchi that damaged UN buildings when they came under government fire.[148] With its operational capacity damaged, the UN agreed to depart the battlefield as SLG forces bombarded the areas in preparation for a large offensive.

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[147] UN Internal Review Panel Report, 27. "The Panel's report concludes that events in Sri Lanka mark a grave failure of the UN to adequately respond to early warnings and to the evolving situation during the final stages of the conflict and its aftermath, to the detriment of hundreds of thousands of civilians and in contradiction with the principles and responsibilities of the UN."
[148] Weiss 2012, 103-4.

Debate about the UN's role and responsibility in preventing and mitigating mass killings in Sri Lanka invokes a broader debate about the relationship between different responsibilities that arise in humanitarian crises—the protection of civilians and provision of material assistance. The tension involved in prioritizing these types of actions has challenged humanitarian actors in many contexts; the war in Sri Lanka laid bare the stakes of this tension[149] in an environment in which combatants carried out indiscriminate attacks on civilian areas, including those the SLG had sanctioned as no-fire zones, where it had encouraged civilians to concentrate, after indicating that it would cease the use of heavy weapons. The UNSG's Panel of Experts Report stated that most civilian casualties were caused by government shelling. The SLG "shelled in spite of the knowledge of the impact, provided by its own intelligence systems and through notification by the United Nations, the ICRC, and others."[150] Large-scale attacks on the 330,000 civilians in the Vanni included the shelling of hospitals and the deprivation of people in the conflict zone of food and medical supplies, including surgical supplies.

Many observers, including many from within the organization, conclude that the UN role in Sri Lanka's conflict was a serious failure.[151] Some suggest that the weakening of the UN presence in the country took place over several years as country representatives and heads of agencies on the ground allowed themselves to be cowed by the SLG. Attempts by government officials to intimidate and coerce UN officials often succeeded, and those who stayed did so based on profound compromise they made with the government. Finally, analysts stress that the UN's fundamental mistake was its failure to track systematically civilian harm, and when it did collect numbers of casualties, to make them public.

A basic paradox emerges when humanitarian assistance and civilian protection are in tension: UN officials did not want to resist or strongly criticize the government for its violations and crimes because they feared doing so would lead them to lose their access altogether. UN officials did not resist the SLG in September 2008, and in the end they lost their access anyway.[152] Some analysts argue that UN access was already so compromised that it would have been preferable to have drawn a line, cited their fundamental mandate to protect civilians, and

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[149] See Niland's (2014) commentary on humanitarian protection amid violence in civil war and responses by John Holmes and Miriam Bradley on managing the politics of protection.
[150] UN Panel of Experts Report, 2011. ii.
[151] The UN characterizes its own role as shameful, particularly in protecting human rights.
[152] UN Internal Review Panel Report, 2012.

asserted that the SLG's call for them to leave the battlefield was unacceptable. Other observers disagree, saying that even had the UN tried to remain, the SLG would have made it too difficult for them to continue their operations.[153]

Even if the UN was prevented from staying in the field, UN officials could at least have made the SLG pay a price.[154] The UN and other organizations failed to see that the SLG was at war with anyone who stood in the way of carrying out their goals, and a vocal, principled stand against government shelling—instead of making limited deals and largely keeping quiet on government actions—would have gone a long way in defending UN principles and international law and ensuring reputational costs for the SLG. These were clearly not easy decisions for UN officials, and they were made under severe pressure. UN Country Team staff members were repeatedly intimidated in meetings with SLG officials and threatened physically. A number of local UN staff were arrested and tortured. John Holmes, who was UN Emergency Relief Coordinator from 2007 to 2010, visited Sri Lanka during the war and commented that it was one of the most dangerous places on earth to be a humanitarian worker.[155]

Willingness to speak out on behalf of civilian victims and in pursuit of accountability after the defeat of the Tamil Tigers was not consistent among UN officials and Member States. Immediately following the end of the war, UN High Commissioner for Human Rights Navi Pillay called for an independent international inquiry into violations of human rights and international law in Sri Lanka. Hers was a singular voice. UN Secretary General Ban Ki-Moon did not emphasize accountability for crimes committed during the war by the combatants; in a visit to Sri Lanka, Ban issued a joint statement with President Rajapaksa on "the close cooperation" between Sri Lanka and the UN and celebrated the country's "new post-conflict beginning."[156] In a Special Session of the UN Human Rights Council (HRC) held in Geneva on May 26-29, 2009—a week after the end of the war—USG representative Mark C. Storella noted that the US "appreciated the strong commitment made by Sri Lanka to the promotion and

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[153] It was not clear at the time to those working on protecting humanitarian access what legal channels were in place to allow UN workers to continue with their operations when the SLG would not allow it and said it could not guarantee the workers' safety. Short of a UNSC resolution, it may not have been possible for the UN, even if it *had* been more resistant to SLG demands that it depart, to remain.
[154] Interview with Alan Keenan.
[155] Press Conference by Foreign Minister of Sri Lanka. 2007. United Nations Department of Public Information. 26 Sept.
[156] Joint Statement at the Conclusion of UN Secretary-General's Visit to Sri Lanka, 23rd May 2009. United Nations Office of the Resident Co-ordinator. Colombo.

protection of human rights in keeping with international human rights standards and the country's international obligations."[157] Pillay, on the other hand, urged accountability and justice for victims of atrocities. Human Rights Watch noted that the failure of the Council to condemn abuses by both the SLG and the LTTE and guarantee post-war humanitarian access adds to the "crisis in confidence in UN bodies to speak out clearly on human rights issues."[158]

The importance of tracking harm and civilian casualties in protection efforts

Divergent estimates released by a range of entities at various stages of the last several months of the war have generated a lack of certainty and consensus about how many civilians died in the conflict—and in the final phase of hostilities. Demographic estimates released by the SLG, which stated that it operated on a "zero civilian casualty policy" throughout the 2009 war, have contributed to uncertainty. By the fall of 2008, there is some consensus that around 420,000 civilians were living in LTTE-held areas, a figure arrived at using a 2006 head count and a 2008 Sri Lankan civil service estimate. Around 285,000 Tamil civilians were counted at the end of the war.[159] Taking various estimates of civilian casualties into account as well as the 14,000 civilians who escaped on ICRC ships leaves anywhere between 26,000 and 146, 679 people unaccounted for.[160]

International humanitarian actors working in war zones rely on an authoritative and credible source of casualty numbers in order to ensure that they have continued access to besieged areas. This did not materialize at critical moments during the last phase of the conflict. "There is no standard formula to counter or end atrocity, but the UN does have to use its moral platform, to bring attention to the nature and the consequences of atrocity."[161] Analysts agree that

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[157] Reliefweb. 2009. Human Rights Council Continues Special Session on situation of human rights in Sri Lanka. 27 May. Storella emphasized the need for the Sri Lankan Government "to make all possible efforts to combat discrimination against persons belonging to ethnic minorities." Accessed 7 Jul. 2014. <http://reliefweb.int/report/sri-lanka/human-rights-council-continues-special-session-situation-human-rights-sri-lanka>
[158] De Rivero, J. 2009. Sri Lanka: UN Rights Council Fails Victims. Press release. Human Rights Watch. 27 May. Accessed 7 Jul. 2014. <http://www.hrw.org/news/2009/05/27/sri-lanka-un-rights-council-fails-victims>
[159] Harrison, F. 2012. *Still Counting the Dead: Survivors of Sri Lanka's Hidden War*. London: Portobello Books. See Appendix One, p. 236-9.
[160] Ibid. See also the comprehensive tallying compiled on the Crisis Group blog. 27 Feb. 2012. Sri Lanka's dead and missing: the need for an accounting. Accessed 19 Jul. 2014. < http://blog.crisisgroup.org/asia/2012/02/27/sri-lankas-dead-and-missing-the-need-for-an-accounting/>
[161] Interview with Norah Niland.

the UN has a unique authoritative position and voice in the world for making civilian casualties public.

Some believe that UN staff members have a responsibility to count and collect names and numbers of dead and injured. This risky and complex work must be done in coordination with a number of other humanitarian personnel, NGO staffers, and governments who may have access to satellite imagery. This work also relies on the support of Member States to provide strong backing to UN field staff and raise these staffers' voices as critical channels of information to UNHQ and other international actors. From an advocacy perspective, this helps ensure that combatant parties encounter multiple sources of pressure to adhere to international laws of war.

Debate persists among humanitarian practitioners about whether—and how—the UN should continue counting and publishing casualty numbers in Sri Lanka. John Holmes wrote in 2014, "We did not keep quiet about the facts simply to protect the operation. We did tell the world regularly what we knew…" Emphasizing that there was no facile tradeoff or yielding to government attempts to intimidate UN officials, Holmes claims that the UN did not stop publicizing casualty statistics because officials feared a negative government reaction but because they lacked confidence about the accuracy of the numbers. Holmes argues that even if the UN had remained in the Vanni and been more focused on civilian protection and continued to release casualty numbers, little evidence suggests that the SLG would have listened and changed its plans.[162] In contrast, some analysts believe that if the UN had started making explicit statements on the numbers of civilians at risk from mid-2008, it would have been more difficult for the SLG to pursue the conclusion of the war the way it did. A diplomat I interviewed noted that the UN *has* come forward with civilian casualty numbers in conflict environments outside Sri Lanka, and they were not more precise than figures released in Sri Lanka.

Some observers argue that if the UN or the US had made civilian casualties public in late 2008 and early 2009, the Security Council might have been compelled to consider the humanitarian situation in Sri Lanka before violence escalated precipitously. If the USG, which possessed satellite information about the impacts of government shelling and imagery of areas in the north and east, had stated that by a given period, there were 250,000 civilians at risk, the imperative for a UNSC debate might have been strengthened considerably. Donor governments in Sri Lanka who constitute major Member States must urge the policy and political staff at

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[162] Holmes 2014, 15-16.

UNHQ in New York City to empower their staff in various agencies—Office of the Coordinator of Humanitarian Affairs (OCHA); UN High Commissioner for Refugees (UNHCR); UNICEF; UNDP; and UN High Commissioner for Human Rights (UNHCHR), which have divergent leadership, mandates, and authority—to voice their concerns, send clear messages to HQ, and manage relations with the government. Analysts suggest that developing mechanisms to support and hear these voices systematically are critical to holding governments and rebel organizations accountable for rights violations and violence against civilians. This should form part of a concerted, donor-driven strategy to coordinate assistance and protection policy with ample support to UN actors.

When the SLG blocked entry for relief workers and medical and food supplies to the Vanni—and the LTTE refused to allow civilians to leave the surrounded area—analysts emphasized that *only* international support and pressure could deliver the kind and level of protection and assistance that civilians needed in the most dangerous phase of the war. Writing in April 2009, International Crisis Group program director for Asia, Robert Templer, emphasized the immediate and imperative role of the UN and donor governments. "Both civilians—and disarmed fighters—need stronger international guarantees of their safety. Only international supervision, unhindered by the government, can provide the necessary level of protection."[163] Full complicity of both the SLG and LTTE in killing civilians and flouting humanitarian law makes assistance and protection provided by international organizations indispensable.

The UN has resolved to incorporate lessons from failure in Sri Lanka and renew its commitment to emphasizing human rights in all its work. Following two unprecedented reports detailing UN decision-making and failures in Sri Lanka, in May 2014 the UN introduced the "Rights Up Front" initiative, which calls for the internalization of human rights principles by all staff members as they design and implement policy.[164] This includes improved management of information on serious violations of human rights and humanitarian law; coordination of early warning through UNHQ and the field; and more effective protection work. A separate initiative sponsored by the UN involves a ten-month investigation of alleged war crimes in Sri Lanka, including those committed by senior government officials. UN High Commissioner for Human

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[163] Templer, R. 2009. Day of Reckoning in Sri Lanka. *Foreign Policy*. 20 Apr. Accessed 16 Jul. 2014. <http://www.foreignpolicy.com/articles/2009/04/19/day_of_reckoning_in_sri_lanka>

[164] A statement on the policy change is available: <http://www.un.org/sg/rightsupfront/doc/RuFAP-summary-General-Assembly.htm>

Rights Pillay has said that the war crimes inquiry will proceed with its investigation in Sri Lanka even if the Rajapaksa government does not allow them access, which it has refused.[165]

Conclusions

To make counterfactual conjectures about mechanisms that could have prevented past violence against civilians is not straightforward. In this report I have aimed to synthesize evidence on actions that various actors undertook and analytical perspectives on those actions to offer an interpretation of what the USG, UN, and other international actors might have done to prevent mass atrocities or slow their pace after they began.

The USG's ability to anticipate, based on historical and present circumstances of human rights violations and diminished respect for the rule of law, that clear risks of large-scale killings may be perceptible long before they are underway is critical. In introducing the "Human Rights First" report, UN Deputy Secretary General Jan Eliasson indicated that systematic human rights violations have frequently been a precursor to mass atrocities.[166] Effective anticipation requires that the USG, the UN, and their partners set in motion a coherent system of managing information and evidence on violations. Reading the signs—degradation of the rule of law, extrajudicial killings, massacres that remain uninvestigated, and a culture of violent coercion of journalists—as indicators of an environment in which mass-scale violence at the hands of the state and other forces is not only possible, but likely—is increasingly central to developing a nuanced and sensitive early warning system.

In the process of interpreting these signs, donor governments should seek opportunities to cooperate and establish mechanisms to change offending governments' behavior that involve what analysts called "muscle." The USG is uniquely positioned to employ its strength, for instance, to implement strong sanctions of top government officials and exert more forceful diplomatic pressure in the UNSC—measures that may obligate other governments to enforce serious penalties on the SLG and curb its resources and maneuverability. Had the USG instituted strong sanctions on SLG officials in 2006 for their roles in the two massacres in Trincomalee

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[165] New UN rights probe intensifies pressure on Lanka. 2014. *Morung Express*. 30 Jun.
[166] Boon, K. 2014. Assessing the UN's new "Rights Up Front" Action Plan. 27 Feb. Accessed 19 Jul. 2014. <http://opiniojuris.org/2014/02/27/assessing-uns-new-rights-front-action-plan/>

province, a USG diplomat involved in policymaking in Sri Lanka suggested, it is possible that fewer atrocities would have occurred. Exerting muscle might also entail instituting strict conditionality on assistance and training through concerted efforts to build coalitions among committed governments, the UN, and other organizations *in advance of* severe violence. Donor governments with substantial leverage, including, prominently, Japan—a country that provided $275 million in assistance to Sri Lanka at a high point in 2006—can play a critical role in exerting pressure on the SLG to respect fundamental rights and international law.

Expanding conditionality to the assistance provided by international financial institutions (IFIs) like the World Bank, the International Monetary Fund, and the Asian Development Bank may also contribute to increasing accountability. This might include making IFI grants, loans, and projects conditional on governments and their security forces demonstrating basic respect for human rights and humanitarian principles, particularly when a country is at war. When a government that is violating human rights principles has the ability to turn to China and other donors for infrastructure and development funds, a combined effort among IFIs and regional banks may help counter the influence of no-strings-attached model by making large amounts of critical assistance conditional.

A primary obstacle to early warning efforts is that those who are warning about the risks of a potential humanitarian crisis and atrocities are marginalized by powerful actors. Many analysts noted that their initial warnings about indicators of risks in Sri Lanka were ignored. The local and international activists, advocates, NGO staffers, and policy analysts who were warning at early stages of imminent humanitarian crisis were at the greatest risk of being impugned. Interviewees highlighted this as a serious problem in many contexts, one that is compounded within a highly polarized environment in which accusations of anti-government activity are common. A diplomat noted being characterized as "overemotional" and "exaggerating" after bringing up the possibility in meetings with donor representatives that war crimes were being committed. Advocates stated that bringing rights abuses and mass violence to the attention of SLG officials resulted in the officials' invocation of the credibility problem of the USG—"But the US is doing this, doing that," referring to actions in Iraq and Afghanistan.

Another major challenge to early warning, according to practitioners and observers who worked in Sri Lanka, is the inherent uncertainty of evidence as events are unfolding. Knowing how to assess the status of claims about violations of human rights and verifying casualty reports

may not be entirely possible. That this uncertainty prevents making documentation of atrocities and illegal actions public is a general constraint on effective atrocity prevention. "You can only really be sure of how bad it is after it's happened."[167] This obstacle emerges particularly when political actors perceive that government-to-government relations are at stake. Given the fact that many diplomats are essentially conservative in making statements and announcing policies— their unwillingness to "get too far ahead of events" is understandable—analysts argued this hesitancy, which accumulates over time, constitutes an even greater challenge.

There may be ways to address the dilemma of incomplete or uncertain evidence of violations and atrocities, and current debates in human rights, humanitarianism, and policy circles reflect a range of perspectives on how to overcome this. Tracking civilian harm in conflict zones need not implicate the notion of "violations," finger-pointing, taking sides, or threatening future accountability in The Hague. The UN Human Rights unit in Afghanistan undertook this strategy, bringing attention to civilian harm by tracking it carefully, and using the evidence to challenge the warring parties to desist from harmful practices. Reducing some of the most violent dynamics of war at an early moment in a conflict may allow humanitarian actors to shift the focus from blaming warring parties to studying war's impact on civilians. Once they had documented incidences of civilian harm—primarily deaths but also injuries and infrastructure— the Human Rights unit issued public reports and communicated directly with military leaders, including US Army officers and Taliban commanders, obliging action based on the harm done to civilians.[168]

In contrast, some analysts of the Sri Lanka conflict argue that articulating a credible, specific threat of future prosecution—for instance, Defence Minister Gotabaya Rajapaksa is a United States citizen and thus vulnerable to prosecution under US law—for those allegedly involved in war crimes constituted an opportunity to attempt to change the behavior of SLG officials and war-planners and prevent violence. In addition, employing evidence of civilian casualties to demand changes in behavior from combatants is effective only if warring party leadership is sensitive to information and evidence of civilian harm. There is evidence to suggest that both the SLG and LTTE were impervious to criticisms based on civilian deaths and in fact

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[167] Interview with Alan Keenan.
[168] Interview with Norah Niland. This evidence-based advocacy strategy met with some success, including restrictions on the use of air strikes by the parties to conflict and instructions being provided to fighters operating in Kabul to avoid harming civilians.

may have calculated that higher numbers of civilian dead would serve their long-term, strategic goals. Overall, policy strategies regarding accountability of perpetrators of war crimes must be tailored to particular cases.

USG policy in Sri Lanka failed to anticipate clear risks of mass violence based on state-sponsored killings and rights violations at the time. A commitment—by default or as a result of a concerted policy decision—to support the SLG's prosecution of the war to destroy the Tamil Tigers ended up undercutting the US' expressed support for a political solution. The UN and the USG fell short in their responsibilities to protect civilians and leverage casualty data to ensure humanitarian access. Events in Sri Lanka demonstrate that the work of humanitarians can never be a substitute for political action. "There was an absence of leadership in the midst of the crisis from the humanitarian side. But I can't say that from within the political part of the equation because of the politics of consensus. There was broad consensus between different capitals and within the diplomatic community to wipe out the Tigers, whatever the costs to civilians."[169] As the expression of a crisis of political order, the war required a political solution to change the structures and institutions that underlie minority grievances and oppression and fuel Sinhalese insecurity. Ethnic and religious tensions, violence, and impunity continue to plague Sri Lankans.

Finally, the work of the USG in investigating and preventing future atrocities should continue in Sri Lanka. In 2010, the State Department found "the government [of Sri Lanka] and its agents" were responsible for "serious human rights problems." These included arbitrary and unlawful killings, disappearances, discrimination against the Tamil minority, a continuation of a climate of fear among minority populations, the torture and abuse of detainees by security forces, and restrictions of freedom of the press, assembly, and association. Observers also found that official corruption with impunity and a lack of transparency were also serious problems.[170] The SLG under Rajapaksa—elected to a second six-year term in 2010—has wasted opportunities to move toward a political solution in the interest of centralizing state power. The country has been militarized in dangerous ways, reconstruction of the north and east has stalled, and Tamil and Muslim grievances persist. Tens of thousands of civilians remain missing. The continued commitment of Sri Lankans, the UN, the Human Rights Council, and the USG to investigate and

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[169] Interview with Norah Niland.
[170] U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2011. 2010 Human Rights Report: Sri Lanka. 8 Apr.

account for the war's large-scale violence may help create a political and social environment in which recurrence is unthinkable.

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Appendix I: Map of Sri Lanka

Sri Lanka

District Boundary
Province Boundary
(non-administrative)
Road
Railroad
River
★ National Capital
⊙ District Capital
• City or Town

0   20   40 KM
0   20   40 Miles

District names are the
same as their capitals.

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