

Civil war in Sri Lanka

In April 2011, the UN released a report on human rights violations during the last phase of the 26-year-long Sri Lankan civil war, in which 80,000 to 100,000 people were killed. While the document is comprehensive in its summary of the culmination of the war, its understanding would be incomplete without knowing the historical context of the conflict between the nation's two major ethnic groups.

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BASED GENEROUSLY UPON CLASSICAL WORKS such as *Mahavamsa* ('Great Chronicle', a historical poem in the Pali language), the earliest historical accounts of Sri Lanka date back to 5th Century B.C., when Sinhalese, the largest ethnic group of Sri Lanka, are said to have arrived on the island from the present day Indian state of Orissa. Much later, around 3rd Century B.C., Tamils, the nation's second largest ethnic group, started arriving from India's present day state of Tamil Nadu. Over the following centuries, the Buddhist Sinhalese and Hindu Tamils are said to have fought for domination of the island.

With the arrival of the Portuguese, 1505 marked the onset of western colonial rule on the island. Founding a fort in Colombo in 1517, the Portuguese gradually took control of the entire coastal areas. Their rule continued till 1658, when they were forced out by the Dutch, who established control over the nation, except the central kingdom of Kandy. Finally, in the last chapter of colonial rule, Sri Lanka came under the control of the British Empire in 1796. Though the British annexed Colombo and Jaffna quickly, it was only in 1815 that they were able to gain control over Kandy.

The documentation of the colonial period by western authors is significant because it throws light on the large numbers of kingdoms, of varying linguistic and religious currencies, in Sri Lanka at the time of the arrival of colonial rulers – and by extension, since ancient times. This is often cited by Tamils to counter any claim of solitary right of the Sinhalese on the nation. One of the historical accounts of the period that is used by Tamils and disputed by Sinhalese is the 'Clegghorn Minute'. In June 1799, Sir Hugh Clegghorn, the first British Colonial Secretary of Ceylon, in his letter to the British Government, wrote: "Two different nations, from a very ancient period, have divided between them the possession of the Island: the Sinhalese inhabiting the interior in its Southern and western parts from the river Wallouwe to Chilaw, and the Malabars (Tamils) who possess the Northern and Eastern Districts. These two nations differ entirely in their religion, language and manners."

Another account often cited by the Tamils, is a Dispatch to the British Colonial Secretary of State (1813) on the subject of the standing of Tamil language (and by extension, of Tamils) in Sri Lanka by Sir Robert Brownrigg, Governor of Ceylon: "As to the qualification required in the knowledge of the native languages, the Portuguese and Sinhalese only being mentioned excludes one which is fully necessary in the Northern Districts as the Sinhalese in the South. I mean the Tamil language, commonly called the Malabar language, which with a mixture of Portuguese in use through all the provinces is the proper native tongue of the inhabitants from Puttalam to Batticaloa northward inclusive of both these districts. Your Lordship will therefore, I hope have no objection to my putting Tamil on an equal footing of encouragement with the Sinhalese."

The aforementioned accounts, which are soundly brushed aside by the Sinhalese, illustrate the fact that the history of conflict over languages and the Sinhalese & Tamil identities is many centuries old. And yet, for a brief period, Sinhalese and the Tamilians had buried their differences and joined hands

to form the Ceylon National Congress in 1919. The catalyst was the common desire of winning independence from the British. However, the party was soon divided along ethnic lines. Many historians, K. M. de Silva being one, blamed the refusal of the Ceylon Tamils to accept minority status for the breakup of the party - the case in point being the outright rejection of the Donoughmore Commission's constitution by the Tamil leadership.

Published in June 1928, the Donoughmore constitution was a significant milestone in global history too, as it was the only instance in the British Empire outside the 'white dominions' of Australia, South Africa and Canada that enabled general elections with adult universal suffrage (right to vote) – thereby bestowing to a non-caucasian colony of the Empire the right to undertake one-person, one-vote and the power to shape the local polity. However, All Ceylon Tamil Congress, the first Sri Lankan Tamil political party, strongly opposed the Constitution, by terming it as "death to the minorities", while sticking to the demand for a 50-50 representation (50% for the Sinhalese and 50% for other ethnic groups) in the State Council.

While more welcoming than the Tamils, the Sinhalese too were not happy with the Donoughmore Constitution's stipulation of a committee system of government, which was meant specifically to address the multi-ethnic problems of Sri Lanka, and under which, no one ethnic community could dominate the political arena. Instead, every government department was to be overseen by a committee of parliamentarians drawn from all the ethnic communities. Nevertheless, amidst the discontent, the first State Council of Ceylon, largely run by a Sinhalese-led cabinet, came into effect on 7 July 1931, on the basis of the constitution. It was followed by the second State Council in 1937.

One of the significant milestone events of the 1930s was the first Sinhala-Tamil riots in Navalpitiya in 1939 – said to be centred around G.G. Ponnambalam-led Tamil rejection of not only the Donoughmore constitution, but also of *Mahavamsa* scripture, which the Sinhalese held in high regard. In 1944, a Board of Ministers headed by D.S. Senanayake muted, what they termed as, the 'Ceylonese Vision' for Sri Lanka, which envisaged cooperation and participation of all the various ethnic and religious groups in nation building. It led to the formation of the Soulbury Commission, which eventually ushered in Dominion status and Independence to Sri Lanka in 1948, with Senanayake becoming the first Prime Minister of the country.

One of the major moves of his government, which has significant bearing on the subject of Sinhala-Tamil conflict, was the introduction of the Citizenship Act of December 1948 and the Parliamentary Elections Amendment Act of 1949, which effectively made non-citizens of the Tamil plantation labourers, who then formed about 10% of the national population, and deprived them of their vote. When he died in 1952, his son Dudley Senanayake took his place. However, the Hartal of 1953, which was a massive countrywide protest (primarily) against the abolition of subsidy on rice, forced Dudley to resign from his post. And this political turbulence led to the politics and policies that put oil into the fire of the nation's ethnic conflict.

In 1956, S.W.R.D. Bandaranaike led the Sri Lanka Freedom Party (SLFP) to victory and introduced the 'Sinhala Only Act', which mandated Sinhala, the language of the majority

community, as the sole official language of the nation. At the same time other measures were introduced that sought to bolster the Sinhalese and Buddhist positions. This led to sharp protest from the Tamil community, which, under the leadership of Tamil Federal Party launched a *Satyagrah* (non-violent protest) campaign. It led to Sinhala-Tamil riots, in which more than a hundred Tamils were said to be killed.

In 1957, the government tried to dilute the Act with the Bandaranaike-Chelvanayakam Pact, which would have made Tamil the administrative language in the Tamil-speaking north and east regions. However, it was abandoned because of protests made by Sinhala nationalists and Buddhist monks. The following year, in 1958, another instance of Sinhala-Tamil riots left more than two hundred Tamils dead and scores of Tamils displaced from their homes. In 1959, amidst simmering tension on the issue, Bandaranaike was assassinated by a Buddhist monk.

Sirimavo Bandaranaike, the widow of the deceased PM then became the world's first woman PM and gave impetus to socialist economic policies and strengthened relations with the then Soviet Union and China. In 1972, the country became a republic and changed its name to Sri Lanka (from Ceylon). It also gave Buddhism the primary place as the nation's religion – thereby antagonizing minority groups, especially Hindu Tamils. Four years later in 1976, and as tensions increased in the Tamil-dominated north and east regions, the Liberation Tigers of Tamil Eelam (LTTE) was born, setting out to fight a violent campaign to bring about an independent state for Tamil People.

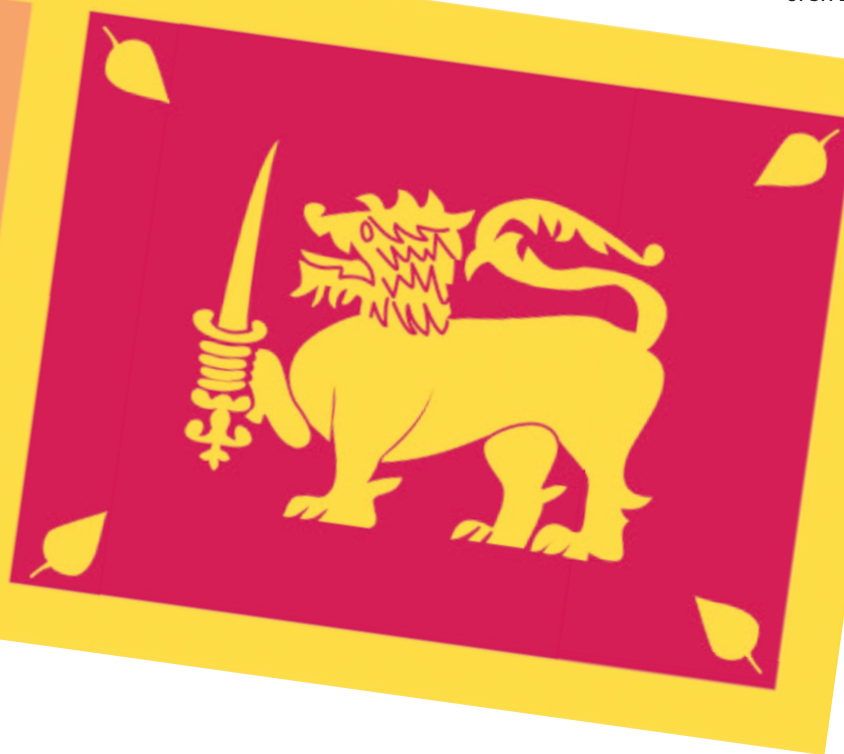
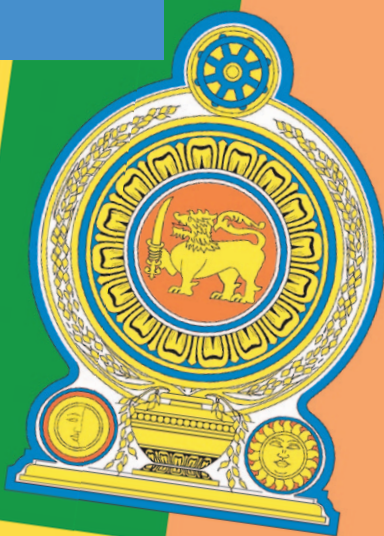
However, it was the separatist Tamil United Liberation Front (TULF) party, formed in the same year, but which instead believed in winning an independent Tamil nation without violence, which won all seats in Tamil areas in the 1977 elections. The success of the secessionist party led to anti-Tamil riots, which left hundreds of Tamils dead. But by 1980, and even though the J.R. Jayawardene government had agreed to some autonomy in the northern parts, the LTTE continued to oppose any political solution to the issue. Soon, even non-violent parties like the TULF started to become marginalized. As a result, in 1983, barely 10% of locals voted in government elections due to the LTTE's boycott call.

On 23 July 1983, the LTTE ambushed a Sri Lankan Army Patrol and killed 13 servicemen – leading to the Black July riots against the Tamil community in Sri Lanka, in which over one thousand Tamils were reportedly killed and tens of thousands fled their homes. That period is considered to be the beginning of insurgency in Sri Lanka. The LTTE then set off a guerrilla war and started routinely attacking government targets, while at the same time capturing territory in north and east. The government too then responded with a heavy hand, resulting in major casualties on the Tamil side. Civil war broke out in pockets of the nation - the LTTE dubbed it as the 'First Eelam War'.

After a brief and unsuccessful attempt at peace talks with the LTTE in 1985, the government forces pushed the group into a territory around Jaffna in the north by 1987. In the same year, Sri Lanka initiated steps towards creating new councils for Tamils in the north and east and also signed an agreement with India to have the Indian Peace Keeping Force (IPKF) patrol in the Tamil dominated areas. But by 1990, the IPKF, which had already lost over one thousand soldiers in a seemingly bottomless pit of a war, left the country after Sri Lankan President Ranasinghe Premadasa, hoping to pave the way for negotiated settlement, ordered the IPKF to leave and opened negotiations



Genesis, culmination and the UN report



with the Tigers. But the LTTE soon broke away from talks and stepped up the violence by many notches – including the usage of suicide bombs – to capture more territory. The violence peaked with the assassination of PM Rajiv Gandhi in May 1991 and Sri Lankan President Premadasa in May 1993.

One more round of peace negotiations took place after the victory of Sri Lanka Freedom Party's (SLFP) Chandrika Kumaratunga on the poll plank of settlement of the insurgency issue. However, in April 1995, the LTTE sank two navy boats. It started a six-year cycle of mayhem in which the government launched a massive military campaign that retook the Jaffna peninsula, while the LTTE responded with widespread attacks on government, army and Sinhala civilian targets. A raw nerve was touched when the LTTE also bombed Sri Lanka's holiest Buddhist site.

In 2002, the Sri Lankan government and the LTTE signed a Norway-brokered ceasefire that saw the decommissioning of weapons and the opening of roads linking the Tamil stronghold of Jaffna with the rest of the nation. More significantly, the government lifted the ban on the LTTE, while the latter dropped its demand for an independent Tamil nation. But, a year later, the LTTE again withdrew from talks, citing a lack of government support – although the military ceasefire stayed in effect. But in March 2004, things became complicated for the government when the LTTE's eastern military commander, Col. Karuna, split from the group. What followed were violent clashes between the two factions. Amidst the LTTE accusation of collusion between the government and Col. Karuna, the ceasefire eventually collapsed when Colombo was hit by a suicide bomb blast, the first such incident since 2001.

Even the grave human tragedy brought by a massive Tsunami in December 2004, which killed over thirty thousand people, could not bring the warring factions together, as a row erupted over the distribution of foreign aid, worth an estimated USD 3bn.

The final phase of the military conflict can be said to be the period when a state of emergency was enforced after the assassination of Sri Lanka's Foreign Minister in August 2005. Then, in November, Mahinda Rajapaksa, who was Prime Minister at the time, won the presidential elections. Amidst failed peace talks in Geneva in 2006, and the pull-out in 2008 of an international panel invited by the government to monitor investigations into human rights, the Mahinda Rajapaksa government carried out a massive military onslaught against the LTTE.

As the war continued, thousands of Tamil civilians were caught between the government army and the LTTE – and were killed by both sides. In 2009, according to United Nations estimates, about twelve hundred non-combatants (Tamils) were being killed each month! Eyewitness accounts talked of the use of cluster bombs, tanks, heavy artillery and even light aircraft across the LTTE stronghold during the last phase of the fight; even as United Nations political organs and bodies, by the UN's own admission, "failed to take actions that might have protected civilians".

In May 2009, government forces declared victory with the killing of the LTTE leader Prabhakaran, thus bringing an end to a 26-year-long insurgency. But the final round of military exercise received widespread global condemnation for alleged human rights violations by both sides. As evidence of serious human rights abuses and massive civilian casualties in the five-month offensive (which ended the war) kept mounting by the minute, UN Secretary General Ban Ki Moon, under tremendous pressure from Human Rights activists and many government quarters,

Coming down equally hard on the LTTE, the report alleges that the militia used civilians as human shields. It states:

"February 2009 onwards, the LTTE started point-blank shooting of civilians who attempted to escape the conflict zone, significantly adding to the death toll in the final stages of the war. It also fired artillery in proximity of large groups of internally displaced people (IDPs) and fired from or stored military equipment near IDP or civilian installations such as hospitals. Throughout the final stages of war, the LTTE continued its policy of suicide attacks outside conflict zone."

The Panel, as stated in the report, found "credible allegations", which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law were committed, both by the Government of Sri Lanka and the LTTE, some of which amount to war crimes and crimes against humanity. Here follow the respective indictments of the two warring sides, listed in the report:

Credible allegations that comprise five core categories of potential serious violations committed by the Government of Sri Lanka:

1. Killing of civilians through widespread shelling;
2. Shelling of hospitals and humanitarian objects;
3. Denial of humanitarian assistance;
4. Human rights violations suffered by victims and survivors of the conflict, including both IDPs and suspected LTTE cadre; and
5. Human rights violations outside the conflict zone, including against the media and other critics of the Government.

Credible allegations against the LTTE associated with the final stages of the war reveal six core categories of potential serious violations:

1. Using civilians as a human buffer;
2. Killing civilians attempting to flee LTTE control;
3. Using military equipment in the proximity of civilians;
4. Forced recruitment of children;
5. Forced labour; and
6. Killing of civilians through suicide attacks.

The panel also made some pointed recommendations to all concerned parties – principal aspects that include investigations by an international panel into the alleged war crimes, short and long term accountability measures by the Sri Lankan government and even a comprehensive review of the actions (or the lack of them) of the UN during the war and the aftermath. Significantly, the panel also recommends reconsideration of the Human Rights Council's May 2009 Special Session Resolution (A/HRC/S-11/L.1/Rev.2) that congratulated Sri Lanka for ending the war, rather than calling for an investigation into mass civilian casualties.

While the reaction from Sri Lanka, expectedly, was swift and resounding in its rejection of the report as being "biased and flawed", Navi Pillay, the UN High Commissioner for Human Rights, said she hoped that the "disturbing new information (carried in the report) will shock the conscience of the international community into finally taking serious action".

Gordon Weiss, a former UN official in Sri Lanka, who has written a book on the conflict, said the report has exposed a "frontal assault on international law that demanded accountability". Equating it with the globally-condemned violations in the Bosnian war, he asserted that "the UN didn't do enough" and that the report makes the world body culpable of "failing to use the available casualty figures".

With a view of taking the findings ahead, experts suggest that one option for Ban Ki Moon would be to set up a commission of inquiry either at the International Criminal Court or another judicial body – as a possible first step toward a war-crimes prosecution. But with China most certain to exercise its veto power on the matter, this may be unlikely to work. All the same, other experts consider there to be an array of other mechanisms still at Ban's disposal, if he wishes to explore them. Read the complete 214-page UN report at <http://bit.ly/eq3uZb>

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appointed an Advisory Panel of Experts on Accountability in Sri Lanka Allegations, in 2010. Comprising Marzuki Darusman, a former Indonesian attorney general, Yasmin Sooka, a South African human rights expert, and Steven Ratner, a US lawyer, the panel began its work in September 2010.

Over the next 6 months, the panel's primary task was to stay clear of partisan sources of information on incidents and casualties. An internal group, named the Crisis Operations Group took figures from the Regional Director of Health Services as the baseline. Simultaneously, information from National Staff of the United Nations and NGOs, the International Committee of the Red Cross (ICRC), and other sources, were used to cross-check and verify the baseline. At the end of the process, the panel submitted its findings to UN Secretary General in April 2011 in New York.

In its report, the panel has come down heavily not just on both the Sri Lankan government and the LTTE, but also on the UN itself, for failing to speak out forcefully enough on civilian casualties during the fighting.

The report mentions:

"Between September 2008 and 19 May 2009, the Sri Lanka Army advanced its military campaign into the Vanni using large-scale and widespread shelling in three consecutive No Fire Zones, where it had encouraged the civilian population to concentrate, even after indicating that it would cease the use of heavy weapons. It shelled the United Nations hub, food distribution lines and near the International Committee of the Red Cross (ICRC) ships that were coming to pick up the wounded and their relatives from the beaches."

The Government systematically shelled hospitals on the frontlines. All hospitals in the Vanni were hit by mortars and artillery; some of them were hit repeatedly, despite the fact that their locations were well-known to the Government. The Government also systematically deprived people in the conflict zone of humanitarian aid, in the form of food and medical supplies, particularly surgical supplies, adding to their suffering. [...] tens of thousands lost their lives from January to May 2009, many of whom died anonymously in the carnage of the final few days."