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## Methodological Approaches to Unpacking Testimonies made to Sri Lanka's Lessons Learnt and Reconciliation Commission

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In this paper, I analyze Tamil women's testimonies that were made to the Lessons Learnt and Reconciliation Commission (LLRC) in 2010-2011, an inquiry commission set up by the Sri Lankan government to investigate the final stages of the war and initiated in a context of protracted genocide, increasing international scrutiny and calls for war crimes investigations. As my doctoral work and other human rights groups have argued, the LLRC is not methodologically sound or a credible form of transitional justice. Yet, Tamil people testified in large numbers despite a lack of witness protection, threats by the army and paramilitaries; despite having little faith in the LLRC or the government. My paper analyses the content of the testimonies made in the Northern Province within an intersectional analysis of nationalism, and asks: what did people testify about, what were their silences? What kinds of power dynamics are revealed in the testimonies? How did the LLRC - appointed by the Sri Lankan President, who is also accused of committing genocide - respond to and attempt to control Tamil testimonies? I ultimately argue that the LLRC is a form of Sri Lankan nationalism that was used to 'wipe clean' the nation after the most horrific phase of the genocide.

I problematize the LLRC as a legitimate truth commission, while also questioning the liberal premises that frame but limit the transformative possibilities of truth commissions within the field of transitional justice.

**This paper is** a part of a larger research project that examines the relationship between peacebuilding and transitional justice in the context of Sri Lanka. In this paper I analyze the transcripts of the testimonies made to the Lessons Learnt and Reconciliation Commission (LLRC) during the Commission's field visits to the Northern Province. This paper works to make several interventions. I problematize the LLRC as a legitimate truth commission, while also questioning the liberal premises that frame but limit the transformative possibilities of truth commissions within the field of transitional justice. This paper also works to tease out a framework of how to situate the testimonies made to the Commission in the Northern Province and in a sense pose the question 'what lessons can be learnt from the LLRC?' I draw on the testimony transcripts to argue that the LLRC should be understood both within a context of nationalist violence but also that it is both a product and productive of Sri Lankan nationalism. I attempt to shift the debate of whether the LLRC report should be completely discarded or whether the Commission made some important recommendations, to a discussion of what the Commission, in its entirety, produces. What can we learn about the post-2009 nationalist anxieties of the Sri Lankan state and how are these negotiated and subverted in the Northern Province testimonies?<sup>1</sup>

## Background

From 1983 to 2009, Sri Lanka was the site of a protracted conflict between the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan government. The Lessons Learnt and Reconciliation Commission (LLRC) was initiated by the Sri Lankan government to investigate into why the Ceasefire Agreement (CFA) of 2002 failed and the "sequence of events that followed thereafter up to the 19th of May 2009" (LLRC 2011: 2). It consisted of eight commissioners appointed by the then President Mahinda Rajapaksa. The Commission conducted interviews and investigations in 2010 and 2011, and released their final report on 15 November 2011.

The Commission was highly criticized by a wide-range of civil society, human rights groups and international organizations, including Amnesty International, Human Rights Watch and the International Crisis Group, which stated in an open letter that the LLRC “not only fails to meet basic international standards for independent and impartial inquiries, but it is proceeding against a backdrop of government failure to address impunity and continuing human rights abuses” (Amnesty International et al, LLRC Joint Letter, 14 October 2010). The LLRC came about at a time when there was increasing international criticism of the Sri Lankan government and its military actions during the final stages of the war. Evidence of war crimes, crimes against humanity and genocide were widely circulated internationally and rights groups began pushing for an international investigation into such allegations. The government proclaimed ‘war victory’ in 2009, which provided it with an unprecedented economic opportunity for attracting foreign investment as well as physical access to the previously LTTE-administered de facto state. However, the allegations surrounding the human cost of winning the war have prevented the Sri Lankan state from a smooth transition into economic prosperity and international acceptance.

The LLRC, as a domestic state-led inquiry into the allegations, was meant to placate international criticism and maintain the sovereignty of the Sri Lankan state by framing the conduct of the Sri Lankan armed forces as a domestic issue rather than as a breach of international humanitarian law. In fact, of the 388 pages of the final report, 226 dealt with allegations of violations of international humanitarian law and unsurprisingly, the Commission found that there is no such evidence that any international law was broken by the government (LLRC 2011; for a response see also Tamil National Alliance 2012). The rest of the report dealt with a wide range of pressing topics such as disappearances, land claims and ‘reconciliation’ and provided suggestions on how the government might go about dealing with these issues<sup>2</sup>. However, by ruling out any breach of international law on the part of the government, these issues were then framed

as domestic problems to be sorted out by the same state and government that commits mass atrocities and genocide. The LLRC functioned as a 'whitewashing' of the Sri Lankan government and a reassertion of Sri Lankan national borders and unitary state structure, effectively justifying its power and authority over the Tamils who survived the war.

### **Truth Commissions: National Narratives and False Ruptures**

Within the field of transitional justice, a transitioning state is defined as one that is attempting to break away from authoritarian rule or one that has just ended armed conflict. Such states are defined as 'weak' because they remain politically divided and institutionally polarized. During transition, state infrastructure such as the legal system, police and army powers often remains under the control of the previous regime. Transitional justice programs are meant to be a bridge or a vehicle that strengthens the ability of a transitioning state to move these state institutions into more democratic ones.

Truth commissions are becoming increasingly popular transitional justice programs because they are easily accessible to transitioning states that may not have strong state institutions, such as a legal system to prosecute army officials who committed systemic human rights violations. Critical analyses of truth commissions argue that truth commissions are political interventions that rest "on a series of epistemological and ethical premises" (Posel 2008: 122; see also Mendeloff 2004)<sup>3</sup>. In other words, truth commissions rest on the premise that revealing the truth about mass atrocity will move a nation towards a more democratic future that is centred on a respect for human rights. Proponents of truth commissions claim that by revealing a 'victim-centric' truth and then institutionalizing this truth as the new national memory will not only ensure that such atrocities are never to be committed again, but also that the 'victims'- who were once excluded both as human and as equal citizens - will feel more included in the post-war or post-authoritarian nation (Hayner 2001).

Critical legal scholars have argued that the law rests on liberal notions of the individual, progress and rationality, and there is a more recent move to critically examine how these concepts are reproduced within the field of transitional justice (Al-Kassim 2008; Daly 2008; Hamber 2009; Kapur 2005; Ross 2003). Lia Kent argues that truth commissions and transitional justice more broadly are

informed by an underlying narrative of ‘transition’ or ‘progress’ that implies a progression from an illiberal to a liberal regime, or from violence to peace. Invoking Enlightenment values of ‘reason, progress, improvement and redemption,’ transitional justice discourse is built upon the notion of ‘breaking with the past’ and establishes a definitive sense of ‘now’ and ‘then.’ The assumption is that by ‘settling accounts’ through criminal prosecutions and instituting therapeutic truth-telling mechanisms, individuals and post-conflict societies will be assisted to ‘come to terms’ with the violent past and states will make the transition to peaceful, stable, liberal democracies (Kent 2011: 437).

The past is inscribed with illiberal values and made to be a container of chaotic, irrational violence whereas the present or transitioning period is presented as precarious because it holds the potential of being subsumed by the violent chaos of the anti-liberal past. The future then holds the promises of liberalism, of a peace and a democracy that is respectful of individual human rights.

Within this narrative, transition is employed to create a break or rupture between a past that is violent and authoritarian, and a future that is peaceful and democratic. The past is inscribed with illiberal values and made to be a container of chaotic, irrational violence whereas the present or transitioning period is presented as precarious because it holds the potential of being subsumed by the violent chaos of the anti-liberal past. The future then holds the promises of liberalism, of a peace and a democracy that is respectful of individual human rights. Such a conceptualization understands the coming to terms with what is constructed as a violent illiberal past enables a nation to become a peaceful and properly liberal one.

The ‘new’ national memory, official truth or meta-narrative created by a truth commission, often necessitates the simplification of a complicated past as well as erasing the

continuum of wartime violence that persists in the 'present'. When state-led truth commissions are not coupled with independent transitional justice mechanisms that provide material, structural and prosecutorial powers – the 'truth' risks being co-opted. Analyses have shown the official truth that is constructed through truth commissions can be employed by regimes of transitioning states to enter into 'modernity' and as a result, gain international legitimacy (Kent 2011; Lanegran 2005; Posel 2008). This appropriation typically employs a nationalism that presents itself as 'new' and 'inclusive' because of its supposed break from the past. However, this nationalism is in fact a recycled one and the structural violence of the supposed past is continued, but is superficially erased or silenced in the 'present'.

Another potentially problematic aspect of truth commissions is the emphasis or uncomplicated relationship that connects voice to subjectivity (Motsemme 2005; Ross 2003). Truth commissions are often defined as 'victim-centric' where the 'victims' of past atrocity are given the space to vocalize their experiences of injustice (Hayner 2001; Theidon 2007). There are several justifications for this approach, some of which draw on clinical psychology that claims that talking about past experiences of violence has a therapeutic and cathartic effect. However, there is a growing body of literature that argues individual therapy sessions cannot be equated with truth commissions and that there is very little evidence that testifying before a truth commission has any kind of therapeutic value (Brouneus 2008; Hamber 2009; Hayner 2001; Ross 2003; Theidon 2007). Furthermore, there is increasing evidence that the opposite is true - that testifying is often retraumatizing (Ibid). This retraumatization is compounded by the lack of any structural, material or political change that often characterizes the results of truth commissions, particularly when they are the only transitional justice mechanism that is employed (Daly 2008; Ross 2003).

Advocates of truth commissions argue that it is important for 'victims' to testify because their narratives will be included into the new national memory. However, truth commissions

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and truth telling do not happen outside of broader relations of power. This is especially important to take into account as truth commissions become the 'go-to' transitional justice mechanism of choice. There are several political factors that shape truth-finding processes and as Kimberly Lanegran points out,

Manipulating memory is a potent tool in the powerful actor's arsenal. As a result, the official memory of past atrocities that the truth-seeking institutions sanction should be regarded cautiously as a product of a process shaped by the power balance of political actors (Lanegran 2005: 112).

Similarly, Cheryl McEwan states that "the question of who has the power to record the past and interpret history is important" (McEwan 2003: 742). McEwan argues that systemic human rights violations create an 'archival violence' by erasing particular groups as historical and human subjects. In contexts where impunity persists and the police and army powers remain loyal to the regime that committed atrocities, survivors must negotiate their truth-telling. Survivors are aware of the political power dynamics which structure truth-telling processes and they shape their testimonies according to such dynamics, making decisions about what 'truths' to tell, how to frame these truths, what information not to tell, and often survivors choose not to participate at all (French 2009; Hayner 2001; Motsemme 2005; Ross 2003).

In this case we need to push up against some of the liberal claims which inform truth commissions because the idea that truth can be told safely in a vacuum, combined with the uncomplicated linking of voice to agency, then risks that danger of denying survivors subjectivity (Theidon 2007). Instead more focus needs to be on how the assemblage of the testimonies told by survivors risks creating a new archival violence when they are appropriated as commodities to advance the legitimacy of a government or a state.

## Testimonies

Sri Lankan nationalism is a product of state infrastructure and it functions as an easing of the anxieties of a state that struggles to maintain control over borders that have been contested since the 1970s. There is a very long history of the violence of Sri Lankan nationalism and a discussion of it is beyond the scope of this paper. However, I will point out that the parameters and contents of this nationalism are defined by the Constitution, constitutional amendments and the law<sup>4</sup>. As will become apparent in the transcripts that follow, the conflictual nature of borders, national identity and belonging continues to persist despite the supposed end to the war.

In what follows I analyze the testimonies made to the Commission in the Northern Province. The testimonies made in the Northern Province are important because they are situated within a region that is historically and geographically Tamil and during the war it was the location of the LTTE de-facto state. The Northern Province was the primary frontline of the war, the most brutal phase of the genocide and experienced horrific devastation. The UN Panel of Experts, as well as the International Crimes Evidence Project (ICEP), report found that during the final months of the war, an estimated 75,000 to 120,000 Tamils were killed due to Sri Lankan army shelling, tens of thousands injured and disappeared, social and community infrastructure such as schools, hospitals and places of worship were destroyed, and those displaced lost their sources of livelihood (United Nations 2011). Immediately after the Sri Lankan army captured all of the LTTE administered territory, the entire population who survived the 2008-2009 period were put into camps for internally displaced persons (IDPs). Because the IDPs had been living in the LTTE defacto-state, they were treated as security threats and continue to be treated as such after their resettlement (AI 2009; Price 2010). Since the government declared 'victory' in May 2009, the Northern Province has become a site of increasing militarization where the army to civilian ratio reaches 1:3 (International Crisis Group 2012; Minority Rights Group 2013; The Sri Lanka Campaign for Peace and Justice 2013).

## The Commissioner's Opening Remarks

The Commissioners' opening remarks are important because they illustrate the framework of the Commission and signified the political objectives to which the testimonies would be used. The following is a portion of the opening remarks made by the chairman of the Commission in the Mullaitivu field visit:

Ladies and gentlemen, we have come here to find out the problems that you encountered before the war and the problems that you encountered after the war so that we can make recommendations to diffuse these problems with a view of building a united Sri Lanka where all of us are equal citizens enjoying equal privileges and rights. This country belongs to all its citizens irrespective of ethnicity and religion. Now the war is over. Now we must live like brothers and sisters where all of us are equal citizens enjoying equal rights and privileges. We are here to find out your problems and grant you some sort of relief and bring about an ethnic reconciliation so that the ugly head of terrorism will never raise its head once again in this country. This Commission of Inquiry is conscious of some of the genuine grievances that you all have. You can be rest assured that we will make very strong recommendations to ensure that these grievances are remedied and we live as brothers and sisters in this country. Thank you (Mullaitivu Divisional Secretariat Transcripts 2010).

Often the Commissioners would state that "you all are our brothers and sisters" or "we must behave as children from one mother." This effectively locates the Commissioners on a moral and rational high ground, as they are able to let go of the 'past' and embrace the witnesses into the post-2009 Sri Lankan national/familial fold. There was no recognition of the very divergent social location, relationship to the state and lived experiences between themselves and the audience to which they are speaking.

During the field visits there were numerous instances of the army, police and paramilitaries intimidating and threatening

witnesses. However, the Commissioners erased the violent context in which they were complicit as representatives of a government commission by not ensuring security for witnesses. Instead the Commissioners offered witnesses the choice of speaking in-camera if they were “embarrassed” to speak in front of an audience. This is further illustrated in the opening remarks made during the Vavuniya field visit:

Dear mothers, gentlemen, brothers, sisters and children, as we are all aware all of you were subject to various difficulties, inconveniences during the past several years. We have come to find out what your difficulties are what the difficulties you encountered over the past and the difficulties that you are encountering now. We will try our best to make recommendations to relieve you of these difficulties at present and also we will make recommendations to ensure that the difficulties will not occur again. We are alive to the fact that all of us are equal citizens and we must live in unity live children of one mother. We must forget the past and try and build a future for all of us and the future generations to come. For this you must tell us what your problems are, how one could lead a respectable life. You must be having problems in so far as education is concerned for your children, medical facilities to fulfill your health needs, basic accommodation and you should without any fear or embarrassment tell us your problems... (Vavuniya Transcripts 2010).

The opening remarks made during the field visits are revealing of the Commission’s attempts to depoliticize and narrowly define the parameters of the content of witness testimonies. The Commissioners claimed to be concerned about “some of the genuine grievances” of the witnesses. Yet, they pre-emptively located these grievances within the aim of “building a united Sri Lanka” where the onus was put on the survivors of violence to “live in unity” and as “equal citizens”. There was no acknowledgement that the Commissioners might be speaking to a group of survivors who had never experienced being ‘Sri Lankan’, materially or symbolically. The historical, structural and material violence that disenfranchised the Tamils in

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### **Witness Testimonies**

The Commissioners seemed to be aware that to be taken seriously the Commission had to have Tamil ‘victims’ testify, but they intentionally arranged the field visits so that they would not give too much space for testimonies by Tamils from the war affected areas in the Northern Province. The Commissioners quite frequently asked witnesses to write down their complaints rather than testifying. Time constraints were cited as the reason why people who came to testify were denied space to speak (Amnesty International 2011; testimony transcripts). Considering the Northern Province was disproportionately affected during the time period under investigation as defined by the Commission’s mandate (2002-2009), it is unsurprising that the eleven days the Commission allotted to the North was far too short. At times the transcripts are revealing of the tensions between the Commissioners and their interpreter. The Commissioners grew frustrated with the witnesses for continuing to testify as illustrated in the following exchange from the Killinochchi transcripts:

**Commission Interpreter to Chairman:** I have told them sir all that. I have told them. Very clearly I have told them, very elaborately in detail I have told them.

Commissioner Ramanathan once again addressed the people and stated that due to time constraints it is not possible to listen to everybody’s grievances and to submit in writing.

**Chairman:** tell them if it is in the case of a missing person or a person who is held in detention to give the information to them otherwise there is no purpose, because there is nothing that I can do here. It has to be given (in writing); then we have to make inquiries. Tell them we can’t say anything now.

**Commissioner Interpreter to the Witnesses:** It is only if it has been given in writing...

**Interruption from the Audience:** We have been doing this for the last so many months. We thought that the day will dawn for us but ...

**Chairman:** You see the point is this. We don't know each individual case. We have to inquire from the TID<sup>5</sup> and thereafter only we can say anything. So there is no point in coming and telling us this way. They must give all the particulars then we will inquire and take some positive action.

**Chairman to Interpreter:** Is her problem different?  
(Killinochchi Divisional Secretariat Transcripts 2010)

In order to reduce the number of testimonies, the Commissioners began announcing that all those who came to testify about detainees and missing persons should write down their 'complaints' rather than speak. At times the Commissioners would ask the Commission's translator, prior to a witness' testimony, whether their testimony would be about a 'different problem' meaning about something other than detention and missing persons. Yet the majority of the testimonies in the Northern Province dealt with issues of detainees and enforced disappearances. During one of the testimonies, the witness actually asked the Commissioners why they were so unprepared to deal with the issue of disappearances.

The witnesses seemed to be aware that on the one hand they were being used and portrayed as occupying the voice-agency-subject position in order for the Commission to appear legitimate. However, the actual denial of space to speak risked forcing witnesses into a voiceless-object position.

A reading of the testimonies complicates the connection between voice-agency-subject and the corresponding silent-victim-object position. The witnesses seemed to be aware that on the one hand they were being used and portrayed as occupying the voice-agency-subject position in order for the Commission to appear legitimate. However, the actual denial of space to speak risked forcing witnesses into a voiceless-object position. To mediate and subvert this dynamic the witnesses drew on various strategies to challenge the Commission's proceedings, by questioning its overall structure and by drawing on strategic uses of language and framing techniques (French 2009). In the following example, the witness testified about her detained son and son-in-law in

defiance of the Commission's requests:

**Chairman to interpreter:** please ask these people if they have any details of the people detained to hand them over as all of them are coming here

**Chairman to interpreter:** if they are making representations about persons gone missing ask them to give the details to that gentleman there

**Witness 10 (last witness):** my son and my son-in-law are detained

**Chairman:** give us some documentation regarding their identity, places where they are detained so that we can then move on the matter and see what we can do

**Witness 10:** I am a woman, I am a widow and I am helpless. There are 3 families I have to support

**Chairman:** does she know the place where her son and son-in-law are detained

**Witness 10:** one is at welikanda and the other is at omanthai detention camp. I have left the ID card details at home. Only now I know about the sittings so I came running from the shop  
(Nedunkerni Transcripts 2010)

At other times, when the Commissioners tried to end a witness' testimony, the witness would continue testifying anyway.

**Witness 11**

**Witness:** My son (X2) is under detention in the Welikanda Detention Camp. I have 4 daughters and my husband cannot do any work because he has been afflicted. The Army wanted all the people who had anything to do with the LTTE to register their names, so my son went and registered his name. They promised to release them within 6 months. So far they have not released them.

**Commission:** Tell her that we will be writing to the authorities.

**Witness:** Please help us. We have registered a complaint

... We have been spending quite a lot of time. We went to Vavuniya Police also several times to make a complaint. They promised to release them within 6 months, now it is more than a year.

**Commission:** Right, right.  
(Killinochchi Divisional Secretariat 2010)

There were also several instances of people in the audience interrupting the Commissioners and argued that they had been writing down their complaints and giving them to different authorities for so many months, sometimes years, that at this point they expect more from a government-arranged Commission. Witnesses also pointed out that the Commission was structured so that it was exclusive and inaccessible to people, either because it was poorly publicized or because it was physically inaccessible to the tens of thousands of people who have war-related disabilities<sup>6</sup>. For example, the following excerpt from a witness testimony that was titled “representation re: disabled people” in the testimony transcripts:

One more small thing. So much of disabled people are here. Can you make some arrangements to give them assistance? They cannot come to this meeting because they can't even walk (Pachchillapillai Divisional Secretariat Transcripts 2010).

Witnesses who were former government workers, such as teachers, surveyors or irrigation workers, employed strategic uses of language and it was often these workers who pointed to more systemic or structural causes of the war. Saptarshi Mandal discusses how what she calls the ‘burden of intelligibility’ is often placed on the witness (Mandal 2013). In other words, the witness carries the responsibility of shaping their testimony so that it becomes ‘understandable’ to those who are to consider it in their judgements. Government workers often began their testimonies by stating “I am a pensioner” or “I am a teacher,” in a strategic attempt to position themselves as equal to the Commissioners. In other words, these were attempts to shift the relations of power between the witness and Commissioners. Take for instance the following testimony:

**Representations of (Witness 2)**

I am a pensioner. The problem in our country has aggravated so much because from time to time our leaders of political parties introduces or brings about proposals and solutions to the problems but again it is being contradicted or disturbed by our own politicians and our leaders. So this is the very reason why the problem is getting aggravated and dragged.

The second problem is: whenever the party in power tries to settle our problem the party in the opposition protests and works against it because they do it they are against it because if the problem is settled then they know they will have no future political life. So they try to oppose it and that is one of the reasons why we are in this situation. Due to this reason the frustrated Tamil youth took up the problem into their hands to settle the issues (Pachchillapillai Divisional Secretariat Transcripts 2010).

The testimony made by Witness 2 above provides a nuanced analysis of the history of majoritarian politics in Sri Lanka and the violent outcomes of having a centralized unitary state structure in such a context. As a ‘pensioner’ this witness is identifying as a knowledgeable elder and as someone who has lived through decades of state violence and genocide that culminated in an armed struggle for a separate state. Witnesses such as the pensioner, who testified in the Northern Province, knew who a government-led commission would actually recognize as a subject and of epistemological importance. Strategically identifying themselves as government employees, just like the Commissioners, was a way of claiming subjectivity and arguing that their knowledge should not be discounted. Contrary to liberal notions of the individual and individualized harm, these witnesses used their very small in-roads into potential subject positionality to attempt to further open up space for those who the Commission very clearly denied subjectivity. They would either testify to the plight of Tamils as a whole, to the struggles of the people in their communities or attempt to humanize the “frustrated Tamil youth” who the Commission described as “the ugly head of terrorism.”

Despite constraints, due to time or due to the threat of violent repercussions, witnesses often used their testimonies to question the foundations of the Commission and the Sri Lankan government's reasons behind holding such a commission. Witnesses questioned the post-war image projected by the government after the war, of the people in the North enjoying peace and prosperity. In the short amount of time given to Witness 4, she weaves together her personal experience of violence within a broader socio-political context of state oppression and bravely locates the Commissioners in her testimony:

**Witness 4**

I am a teacher. Now I am holding the post of Secretary in a women's society. My greetings and thanks to the commission that has been appointed by His Excellency the President and those who are present here today. I have a small doubt. Now I see lorries with big posters of "Uthuru Wasanthaya"- prosperity of the North. Those lorries are going towards the North. What is the prosperity or benefit that I have got here? My son who was to appear for the GCE (OL) examination was shot by the army on the 23rd of November 2006. Today I am living with a disabled husband, and also with a daughter. My daughter could continue with her higher studies, but I am not economically sound enough to provide her with higher education, because I am living in a very backward village. But I have heard and seen many advertisements and public exhibits in the news media about providing jobs, employment. Vanni was a war torn area, but Vavuniya was not a war-torn area. Lot of people living in this area are living in poverty and they are going through a lot of suffering and trauma, but you, Commissioners, are living and able to work in AC comfort. But we do not have all those facilities. Look at the people here. They have no jobs. They are living in abject poverty here. That is the suffering we are going through here. You may help us in whatever form, but our people are going through all the difficulties. You may bring about peace and prosperity, but the sufferings, the pain, the wounds that have got well entrenched in our hearts cannot be removed... (Chettikulam Transcripts 2010)

In the next transcript, made by the Jaffna Diocesan Laity Council, the Commissioners and state media who were reporting on the LLRC proceedings are questioned as to why they thought that the testimonies made under heavy militarization were genuine or complete representations of people's experiences of war.

...We appeal to everyone to tread the path of justice and truth, so that all feel safe and respected. It is shocking to read in the media that the Tamil people are not concerned about a political solution for the ethnic question. A wounded man definitely requires immediate first-aid which does not preclude further treatment and recuperation. Just as a starving beggar would first ask for a meal, our people too are in such a pathetic state for their very existence that they now ask for the bare essentials of life which should not be constructed as non-concern for the distant solution or objective. It is also reported that the people in the Vanni prefer a military rule to a civilian rule. What other response can be expected from them, when they are compelled to live among security personnel themselves. The whole country is aware of the responses of persons tortured in security establishments when they are taken by the same torturers before even magistrates and doctors, when the victims know that they have to go back to with the perpetrators...Demilitarization and the strengthening of democratization and civilian administration are the needs of the moment with provision avenues for people's genuine voice to be heard. Many seem to forget the spirit of non-cooperation, disappearance of national feeling and violent armed uprising in the North-East were only crucial and unavoidable consequences of

1. Disregard for the due rights of the Tamil speaking people

2. (still worse) the armed and violent suppression of all democratic approaches by them to get matters rectified

Even now the situation is not better but worsened in under-cover ways.

The war too needs to be looked at as only an eye-opening phase of the struggle for Tamils' rights staged by deeply aggrieved parties cornered in every way. There is also an open and dangerous tendency to brand anyone supporting or speaking out for the legitimate

rights of Tamils, be they Sinhalese or Tamils, as supporters of the LTTE. We wonder whether this is not a ruse adopted to stifle the cry for the Rights of Tamils. This tendency needs to be stopped to avoid dangerous consequences... (Jaffna Diocesan Laity Council 2010).

Witnesses challenged the Commission's dehistoricization of the war and pointed out that the war was only the "eye-opening" phase of the struggle for Tamil rights. The Commissioners were often warned that without a political solution, the war would undoubtedly start again.

### **Grappling with a Past that is the Present**

The testimonies made to the LLRC were once available on the Sri Lankan government web site but have since been removed. However, their physical removal happened long before; they were first removed during the field visits by the framework set out in the Commissioners opening remarks, and through the silencing of the witnesses by denying them the time and space to voice their narratives of suffering. The testimonies were then again erased through the writing and framing of the LLRC report. The witnesses' suffering, resistance and insistence on subjectivity are not reflected in a report that privileges building a unified Sri Lanka and emphasizes letting go of the past. However, these narratives were never to be included by a commission that employs the discourse of reconciliation, whilst dehistoricizing and erasing the political and racialized nature of violence. If truth commissions are premised on the idea that revealing a victim-centric truth of mass atrocity will enable a nation to move towards a peaceful future, the LLRC not only failed to reveal the 'truth' of violence as experienced by Tamils. It also constructed a 'truth' that was to be appropriated as the new national memory where Sri Lankan state violence was absolved and made to be invisible.

The LLRC is an attempt to produce a post-war narrative of Sri Lankan nationalism that rests on unity within diversity, reconciliation and being children of one mother. By dehistoricizing state violence, Tamil survivors are not only

In other words, the new national memory as created by the LLRC archive of the past, continues to deny Tamils entry into a subject position within the post-2009 Sri Lankan nation. It is for that reason why it is important to ask, post-war for whom? Transition from what? Transition to what sort of nation?

denied subjectivity through the denial of history, but also denied subjectivity in the 'new' and supposedly 'post-war Sri Lanka'. In other words, the new national memory as created by the LLRC archive of the past, continues to deny Tamils entry into a subject position within the post-2009 Sri Lankan nation. It is for that reason why it is important to ask, post-war for whom? Transition from what? Transition to what sort of nation? As such, the LLRC and the Sri Lankan national memory and nationalism it constructs is not only an attempt to create a false rupture with the past, but it is an attempt to put into the past what is really the violent present of those for whom the war is far from over.

## ENDNOTES

<sup>1</sup> I use 'post-2009' as a temporal placeholder, because, as I argue in my other chapters and which is outside of today's discussion, I push up against the idea that the conflict and the war are over. So I am intentionally resisting using terms like 'post-war' or phrases like 'the war is over but the conflict is not'.

<sup>2</sup> It has been noted that many of the recommendations made in these sections have been borrowed from recommendations from previous government arranged commissions of inquiry, and many of the recommendations made in the chapter on reconciliation are actually from the 13th Amendment made to the Constitution in 1987 and which had never been implemented. For an overview of previous commissions arranged by the Sri Lankan government (see Pinto-Jayawardena 2010).

<sup>3</sup> Mendeloff lists nine aspects of these assumptions: divided societies are better off held together than separated; shared, collective identities are peace-promoting; historical beliefs and national identities are relatively easy to manipulate; truth telling can serve as the basis of a new shared identity; democracies are less prone to civil war; truth telling promotes democracy; truth-telling promotes an accurate historical record; truth telling promotes respect for human rights and the rule of law; and respect for human rights and the rule of law is peace-promoting (Mendeloff 2004).

<sup>4</sup> The roots of the conflict date back to the British colonial administrative system where a single, centralized colonial government was constructed, dismantling the three kingdoms that were indigenous to the island. In the 1940s when the constitution of independent Ceylon was drafted, the post-colonial disenfranchisement of the minority Tamils followed with several laws, state policies and later the Republican Constitutions of Sri Lanka (1972 and 1978). Prior to the official beginning of the armed conflict, there were several violent anti-Tamil pogroms, notably in 1956, 1958, 1971, 1977 and 1983, that caused the deaths of tens of thousands, the internal displacement of over 100,000 Tamils to the Northern Province and particularly after 1983's 'Black July', a substantial

refugee population that is now over one million. Between the 1950s and 1970s, Tamils agitated for a federalist decentralized government system through a populist Gandhian movement, however in the 1970s Tamil youth frustrated with reformism, shifted to an armed struggle for a separate state that was to be located in the traditional Tamil kingdom in the North and East (Manogaran and Pfaffenberger, eds 1994; Manogaran 1987; Stokke and Uyangoda, eds 2011; Tambiah 1992).

<sup>5</sup> The 'TID' refers to the Terrorist Investigation Division of the Sri Lankan police.

<sup>6</sup> According to the United Nations Panel of Experts Report, during the final four months of the war, approximately 40,000 surgical procedures and 5,000 amputations were performed in the war zone (United Nations Panel of Experts 2011: 40).

<sup>7</sup> It is important to understand this reference to the LTTE within a context of Sri Lankan nationalism. The statement is not meant to be a distancing or disassociation from the LTTE, rather it should be read as a means of calling attention to the material implications of the discourse of terrorism within Sri Lanka. Specific examples include the Prevention of Terrorism Act and the 6th Amendment to the Sri Lankan Constitution that proscribe any action deemed to violate the territorial and unitary structure of the Sri Lankan nation-state.

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