

Episode 6 (March 2021)

Spotlight on Sri Lanka

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Tine: Welcome to Justice Visions. I am Tine Destrooper and with me today is Brigitte Herremans, a researcher from the Justice Visions team whom those listeners who've been following us for a while actually know from the previous season as well. Hi Brigitte!

Tine:

Welcome to this new episode of Justice Visions. And my name is Tine Destrooper. I'm the project lead of Justice Visions at Ghent University's Human Rights Centre. And I'm also the regular host of this podcast. And this season we've been zooming in on cases where interesting developments in the domain of transitional justice are happening from Chile to Syria to last month, maybe unexpectedly, the Charlie Hebdo trials in France. And today we're looking at yet another continent. And we're going to be talking about Sri Lanka with Sangeetha, Sangeetha Yogendran.

Sangeetha:

Thanks Tine for the introduction. My name is Sangeetha and I'm a PhD research fellow at Ghent University. And one of the researchers in the Justice Visions team, examining victim participation in transitional justice processes, usually with a focus on Cambodia. In case my voice may sound familiar to those of you caught our episode on Cambodia, which was the first one of our second season. And of course, I've also had the pleasure of being the voice you hear on the intro and the outro of our podcast.

Tine:

Yes. And it's great Sangeetha to have you here today, because in addition to your work on Cambodia, you've also been monitoring closely what's happening in Sri Lanka. And today we are talking about Sri Lanka because just last week, a landmark resolution was passed in the UN Human Rights Council. But before we talk more about that in a second with our guest, I would actually like to ask you, Sangeetha, if you could maybe introduce some of the recent developments that have been taking place, but especially also their historical background.

Sangeetha:

Thanks, Tine. I am firstly, glad to be back today on this episode to talk about one of the country situations which I've always remained closely connected to. For a bit of background on the history of what we're talking about. I mean, firstly, it's hard to summarize a conflict that's been going on for more than 30 years, but I'll try my best here. Sri Lanka's decades-long civil war more officially began in 1983 and ended in 2009 and it was mainly a clash between the Sinhalese dominated Sri Lankan government and the Liberation Tigers of Tamil Eelam, an insurgent group. And this group was hoping to establish a separate state for the Tamil minority.

Tine:

So just to get this straight, so the Liberation Tigers of Tamil Eelam or LTTE as you also sometimes refer to them, those are the infamous Tamil Tigers, right?

Sangeetha:

What you have here is ethnic tensions between two groups here that began as a result of British colonial policies that initially favoured Tamil people and when Sri Lanka became independent, you had Sinhalese people, you know, rising the ranks into important government positions, you saw a retaliation to this in some ethnic policies that started to prioritize and favor Sinhalese people and the Sinhalese language. A famous example of this was the Sinhala Only Act from 1956, which made Sinhala the only official language of the country. And as you can imagine, this created barriers for Tamil people trying to access employment or government services.

Tine:

This conflict and this tension actually began way before the 30 year civil war that you were talking about, right?

Sangeetha:

So the idea of the Tamil Eelam, or Homeland soon began to emerge and calls began to emerge for a separate state for the Tamil people in Sri Lanka. And this might sound a little extreme, but in reality, the two groups were already living in somewhat separated spheres of country. You had the Sinhalese people predominantly in the South, West, and Central parts of the country and the Tamils in the Northern and Eastern part. So the LTTE after, you know, kind of destroying other budding Eelam groups, emerged to become the sole representative group for the Tamil people. The conflict then unfortunately escalated into civil war beginning after a day of riots targeting Tamil people in Colombo in July, 1983, a month, which was famously since been dubbed as Black July.

Tine:

And also, these final stages of the war at least were called a bloodbath by the United Nations, right?

Sangeetha:

Yes, unfortunately they did. And specifically they were referring to the final stages of the war when the Sri Lankan army had launched an offensive against the LTTE in the North and East of the country in 2008. The offensive was swift and brutal and the LTTE were forced to retreat further and further North into the country until they were pushed into the no fire zone that had been set up for civilians actually. In total you had almost 200,000 people who had to flee the conflict zone and right in the final stages, a shrinking pocket of land on the Northeast coastline, where clashes continued between government troops and the LTTE while 50,000 people approximately were trapped there. So the army declared that the war was officially over when the government announced that they had killed the LTTE leader. Casualty figures range around 50,000, just from fighters, from both sides of the conflict. But more importantly, more than a hundred thousand civilians are said to have been killed. Now I realise I've painted quite a grim picture here, but accounting for the civilian deaths and the mass human rights violations that occurred on both sides is why it's important that we keep talking about this issue.

Tine:

That's true. And I mean, the numbers Sangeetha that you're mentioning are staggering and maybe not something that all our listeners are aware of, that this is really the scope of the conflict. Also if I can follow up on that, if I'm not mistaken, one of your reasons that you have actually been closely following this conflict is also the fact that there is a personal element of this history for you too, right?

Sangeetha:

I actually have Sri Lankan Tamil origins, it was my grandparents who migrated from Jaffna, which is in the North and I learned Tamil as my second language after English. So I've always been following developments in Sri Lanka and conversations around the ethnic tensions and eventually the civil war have naturally been the subject of many conversations over the family dinner table, as you can imagine. Just to give you an anecdote, I actually tried visiting the country right after the end of the war. And this was during a time when you needed authorization to travel to the Northern areas. But unlike my friends who I was traveling with, my application and only mine mysteriously got lost, along with a few other people of Tamil origin at the Office of Ministry of Defence. That day was a very clear reminder that, you know, my Tamil roots were very clear and obvious and that we were in a country dealing with the immediate aftermath of a war.

Tine:

Yeah. I mean, it makes so much sense of course why this conflict would be so near to your heart and why you would be following it so closely. But what I was also wondering about is why haven't we seen Sri Lanka get as much attention more broadly, like at the international stage, compared to countries like, say Myanmar.

Sangeetha:

Indeed, Tine. And that's why I'm actually very excited that we're talking about this today, because Sri Lanka was actually tabled for discussion at the Human Rights Council meeting that took place this month. Earlier this year in January, the High Commissioner for Human Rights actually released a pretty damning report on the human rights situation in Sri Lanka. We now know that there is a new resolution on Sri Lanka that we will be addressing later. And perhaps this is a good juncture to introduce our speaker for today, who will also be able to give us an idea of the accountability efforts that have taken place since the end of the war and how a new resolution like the one we now have would fit into all of this.

Tine:

Yes, I think that's exactly the time to introduce Archana Ravichandradeva. Archana is a practicing lawyer in Toronto, but and this is important for our episode, she is also the Senior Advocacy Officer for PEARL, PEARL which stands for People for Equality and Relief in Lanka, and PEARL is an NGO that is led by human rights activists and its concerned about the situation in Sri Lanka. So Archana welcome.

Archana:

Hi everyone. Thanks so much for having me.

Tine:

Thank you for joining us, Archana. We've been talking quite a bit already, Sangeetha and I so I actually, what I would like to do with you is just dive right into this conversation, the

reason why we're here today, and ask you a bit more about how your organization, PEARL, how it's involved in the transitional justice processes around Sri Lanka and maybe to bracket that off, because it's a broad question of course, if you could maybe also tell us a bit more about how you work with victims and the idea of victim participation in this context.

Archana:

Sure. So PEARL, which stands for People for Equality in Lanka is a woman-led advocacy and research organization that has been advocating for justice and accountability in Sri Lanka for over a decade. It began in Washington DC, but now we have members all across many different countries from Canada, the U.S. to Australia, working on pushing for justice and accountability in Sri Lanka in different ways. So, as you mentioned, I am involved in the advocacy team on Sri Lanka. So my role is to connect with different levels of government, civil society, and other actors here in Canada to one, map current engagement with Sri Lanka and two, push for Canada to take a strong and principled approach to justice and accountability. And so I do this work in Canada and then we have different people from across the world also pushing their countries to step up and trying to create this multilateral process and multilateral push towards accountability. And I know that you talked about the ways in which we center victims in our process. One, I think what's so special for me, and so meaningful for me about working in PEARL is that it's led by Tamil activists and Tamil lawyers and researchers and advocates. And so being able to be part of the actual victim survivor community, all of us have our own stories about how our parents and our families were affected by the war and continue to still be affected, those that are still behind in Sri Lanka. I think that gives us such an important perspective and our whole commitment is to make sure that our voices and that the voices of the victim survivor community are highlighted at all levels of advocacy. So I know that a huge criticism of these international legal advocacy mechanisms and international justice in general is that it often becomes subsumed under other international politics or geopolitics, or it's often a white space.

Archana:

And often also is complicated through legal ideas and theories and country specific agendas, that moves away from putting actual victim survivor voices at the forefront. So a lot of our advocacy efforts tries to revert all this. In my meetings I always push it back to what the people from the community are saying, highlighting their demands and their needs, and what's actually happening back home, but also using our privilege as people who are living in the West to push a little bit further and to try to push international countries to center victim survivor voices, and to push their narratives as the most important. So our research efforts, our advocacy efforts all highlight the actual experiences of people on the ground whether it's regarding land grabs, militarization, etcetera.

Sangeetha:

Thanks so much Archana and I think you captured so beautifully why all of us at PEARL have been drawn to the organization and that we all come with our personal stories to it as well. And maybe at this point, I just want to take a step back a little. It's been a while since, you know, the civil war officially ended. So maybe you can tell us a bit about what efforts for justice have happened to date and in light of the climate in Sri Lanka, politically especially, where do you see these efforts going.

Archana:

As you said, this is a quite long lasting conflict. And even if the actual violence maybe began sometime in 1983, I think the actual roots of the conflict stretch much further back into the actual nature of the state since independence. And so if you look at the entire entirety of the conflict in Sri Lanka, you'll notice that the issues with justice and accountability are tied to the extremely majoritarian, racist nature of the state itself, which upholds a very Sinhala Buddhist character, at the expense of other minority nations, such as the Tamil nation. So as a result, successive governments have engaged in, I consider, very shoddy international domestic mechanisms, such as the Office of the Missing Persons, and the Lessons Learnt and Reconciliation Commission, et cetera, to kind of save face and say that they're working on accountability and justice, but in my opinion, really, nothing much has been done.

Archana:

And these efforts by the government are extremely limited. They're not credible, and they've been heavily criticized by people on the ground and human rights activists and defenders around the world. And so that is why Tamil advocacy groups and international organizations have pushed for internationalized justice mechanisms in Sri Lanka, such as either a referral to the ICC (International Criminal Court), the ICJ, International Court of Justice, universal jurisdiction, et cetera. So I know we've talked a little bit about the resolution that was passed today. And this is an engagement at the UN Human Rights Council has been one of the ways in which the international community has been pushing for justice in Sri Lanka. As you mentioned, there was a report by the high commissioner where she, in very strong terms, condemned the current situation in Sri Lanka and even referenced potential referral to the ICC, et cetera. So today's resolution, which we've been working on and we've been pushing for, for so long, as kind of one of the main instances where international attention is focused on accountability in Sri Lanka, does not go even as far as the High Commissioners report and does not meet the Tamil community's demands for an internationalized justice process. But in my view, I think it is some small step towards justice. For example, there's a mandate in today's resolution for the Office of the High Commissioner for Human Rights to collect, consolidate, and analyze and preserve evidence of violations of human rights abuses with the view towards accountability. So this is one small step, and, you know, we've been talking about the whole extremely long nature of the conflict and considering just how long Tamils and other communities have been waiting for justice and accountability, there's unfortunately not that much that has been done, which is frustrating, but, you know, as part of the process to keep pushing forward.

Tine:

Maybe if I may Archana, I would like to pick up on what you were saying, and maybe you can take a step back because you're describing that resolution at the Human Rights Council, but you're also referring to some of the other human rights fora that are out there. And I just wanted to ask you, what has led to the Human Rights Council even actually becoming kind of a locus of action, and why the Human Rights Council as the seemingly preferred avenue for pursuing accountability now. What can the Human Rights Council do in this context?

Archana:

One of the reasons why the Human Rights Council has become the current locus of action on Sri Lanka is because after the very brutal end of the war in 2009, the Human Rights Council and the Commissioner at the time released a significant report in 2015 called the OISL report, which sort of reviewed some of the actions that occurred. And it's, I think one of the most comprehensive reports that we have to date that actually talked about what happened. And so there was engagement at the Human Rights Council, there was resolutions passed in 2015, and earlier as well, that put Sri Lanka on the agenda. And unfortunately, Sri Lanka is one of those countries that has a hard time coming on the agenda. And I know that something that we're going keep talking about.

Archana:

And so the Human Rights Council became one locus through which the Tamil community had access to countries that were willing to listen and countries that were willing to put Sri Lanka on the agenda. But, you know, we are always fighting, I guess, with the limitations at the Human Rights Council itself, like it's such a geopolitical entity, it's quite limited in its scope of what it's able to do. Everything is political because countries have to vote on everything. And so it's this like sort of tug of war between wanting to push for as much as we can at the Human Rights Council, but acknowledging the very extreme limitations of that body. I think there's something about using what we can and using what we have access to, but also pushing for alternative mechanisms as well. And that's where always talking about the International Criminal Court. We're always talking about secondary mechanisms as well. So I don't know if that answers your question, but that's part of the little dance or like the struggle that we're always dealing with.

Sangeetha:

It definitely answered the question and it gave us so much to think about. And you mentioned some of these alternative mechanisms, and I'm just thinking here about how, you know, both Syria and Myanmar in the more recent times have received so much attention on the international stage and, through the UN have managed to achieve investigative mechanisms set up in both these cases. Why do you think these other situations have managed to pursue such accountability on the international stage and the investigative mechanisms, for example, and why Sri Lanka has not?

Archana:

So this is something I ask my government contacts all the time, and I always bring it back to Myanmar, and I always bring it back to Syria and say, what's the difference? They're never able to give me a good answer, and I'm never happy with the answer. I think like the geopolitical nature of the international human rights standards and enforcement is a large part of it. There's lots of discussions we can have about the supposedly geopolitical view or importance of Sri Lanka vis-a-vis some of the other countries. Sri Lanka also does have many friends in the international community, right, which are opposed to intervention in Sri Lanka, whether it's for their own benefit or for others benefits, like I'm talking about the Russia's and China's of the world, which, you know, have very important economic investments in Sri Lanka as well.

Archana:

And so that's one factor. Then there's the factor that even though the conflict, you know, began in 1983, based on various governmental interventions that significantly impacted the Tamil community and which led to their marginalization and their oppression, the Sri

Lankan government was especially post 2001, able to weaponize the language of the war on terrorism. And so that gave it a degree of credibility, especially in 2009, it's talked so much about how it's very brutal end of the conflict was a humanitarian mission. It was a way for it to rid the country of the scourge of terrorism. That's not factual at all, but it was able to weaponize that type of language to give it credibility on the world stage, which it absolutely does not deserve, but which it does continue to benefit from. Something that I'm really struggling with is, when the brutal and violent end of the war happened in 2009, no one intervened, despite so many calls from the Tamil community and different communities.

Archana:

And now I'm hearing from some of my context that people are not dying right now as they did in 2009. So there's a chance that Sri Lanka will get pushed off the agenda. So it's our job just to keep Sri Lanka on the agenda as a whole, and even that is a win? I get so angry and extremely sad and frustrated when I heard that because it's not historical. The current situation in Sri Lanka is extremely dire, there's continual deterioration of the human rights situation there, increased repression, militarization, threat against human rights defenders. So that narrative does not make sense about how it's not as bad now as it was in 2009, but unfortunately that's the type of conversations that we're dealing with.

Tine:

Yeah. And this is really fascinating Archana. And I thank you also for drawing some parallels between the episode, that we did on Syria, for example, I think a lot of the dynamics that you're describing do also link back to, to that conversation. There's been a very important victory today in the Human Rights Council, but a lot of the work that you're describing sounds very frustrating as well, trying to think about for the accountability for victims of this conflict. And what we always try to do is to ask guests about evolutions that you're observing, signs that you're observing, that are hope-giving, or put differently, where you look for inspiration to further this quest for accountability or where PEARL looks for inspiration in that sense.

Archana:

I think one, I'm so inspired by my team and all the work that we do, and just the kind of really innovative and engaged work that our researchers, our lawyers and our advocates do in terms of using the language of human rights, to think about creative ways in which we can push for accountability and justice. And then of course my biggest inspiration comes from everyone on the ground. And, you know, recently there's been so many protests from the Tamil community and from jointly with the Muslim community as well back home, which is not a community that we talked about, which also continue to face significant repression and oppression from the government. And so there were joint protests calling for, you know, referral to the ICC and internationalized mechanisms. There was a joint letter between different Tamil political groups, which had never been done before, talking about the importance of joint action and international accountability.

Archana:

And I was able to use these incredible actions from people that are being repressed and surveilled all the time and say, this is what they're saying, this is what they need, we can't do anything less. And so that was frustrating because, you know, they want so much. And yet the international community gives so little. But it was still very, very hopeful, and think that this is our demands and we will continue to keep pushing for them. So a lot of our

work recently has been in relation to pushing for the stronger UN human rights resolution. And I do have to say that the current resolution that was passed today is stronger, a bit stronger, I mean not as strong as I wanted it to be, but a bit stronger than the initial zero draft that we reviewed.

Archana:

And so that is a very, very small win, but I will take it as a step forward. However, it is not enough. And so when it comes for a call to action, you know, we have different requests for different countries based on their engagement with Sri Lanka. It's for example, leveraging GSP plus to push for human rights accountability is key for some of the advocacy work that we do in Europe, reviewing bilateral engagement with Sri Lanka is something that we push for in Canada. And so I encourage listeners that are interested in this to connect with PEARL to see about what we can do to engage with you and your country as well. But on a general note, the key calls to action that we have are one, promoting internationalized justice processes against Sri Lankan perpetrators, including through, as we talked about universal jurisdiction, the ICC, the ICJ, calling for targeted sanctions against key Sri Lankan political and military personnel, which the U.S did, I think it was last year, which was seen as a huge win, and we're trying to get other countries to do the same. They created a sanctions regime against army commander Shavendra Silva. Calls to stop the rapid rate of land grabs that are happening in the Tamil areas of the North and East by the government and military. And four, of course, heading the calls of victim survivor communities, including releasing the individual themselves, but at least the names and details of those who were forcibly taken by the government, especially since 2009.

Tine:

This is really interesting to see that the example of accountability in Sri Lanka that you're describing says something about how and where the UN and Human Rights Council can play a role in transitional justice efforts. But what's also really quite interesting to me is to hear how you're making these coalitions that are indeed so innovative and strategies that are normative and seeking out spaces where you can mobilize and when you're dealing with a context that is very constraint in many ways, to establish these networks of domestic actors, diaspora and international, actors or NGOs, which I think indeed is really inspiring. And I think it's increasingly what we see happening in, in lot of I would say difficult TJ contexts, which is mostly all of them, is that these networks are really the way forward. Thanks a lot for shedding a light on that. Next month we'll be talking more about difficult and complicated TJ contexts or atypical TJ contexts, so for our listeners, please stay tuned for that. For now, Archana, please let me just thank you so much for sharing these insights. And we do look forward to seeing how the process evolves, now that the resolution has been passed.

Archana:

Thank you so much. I very much appreciate being able to talk shop a little bit with you guys. It was great.

Sangeetha:

Thank you so much Archana and Tine for allowing all of us to engage in this really important discussion. I might be biased in saying that, but I do think so. And of course, on behalf of us and our team, thank you all for tuning into the Justice Visions podcast.

This was Justice Visions. To relisten to this episode, or to browse our archive, visit our website, justicevisions.org or subscribe now via Spotify or Apple music. Justice Visions is made possible through generous funding of the European Research Council. The podcast is produced by Wederik de Backer and you heard the voices of Tine Destrooper, the Justice Visions researchers, and our guests.