The Peacebuilding Context Assessment (PCA) is a report commissioned by the United Nations to inform the development of a peacebuilding program in Sri Lanka. The objective of the PCA is to provide a descriptive and analytical summary of the contemporary challenges and opportunities with respect to peacebuilding in Sri Lanka. It is envisioned that this report will inform the formulation of a Peacebuilding Priority Plan, and assist in evaluating Sri Lanka’s access to longer-term financial support from the United Nations Peacebuilding Fund’s Peacebuilding and Recovery Facility.

The report is authored by Lead Consultant Dr. Nishan De Mel, and International Consultant Dr. Rajesh Venugopal. The report draws extensively on relevant information provided in UN documents, and research and data produced by the government, UN, development partners and civil society. In addition, it draws on interviews and consultations conducted across a range of actors in academia, government, administration, political parties, and civil society.
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### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>APRC</td>
<td>All Party Representative Committee</td>
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<tr>
<td>BBS</td>
<td>Bodu Bala Sena</td>
</tr>
<tr>
<td>CIABOC</td>
<td>Commission to Investigate Allegations of Bribery or Corruption</td>
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<tr>
<td>HIES</td>
<td>Household Income and Expenditure Survey</td>
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<td>JVP</td>
<td>Janatha Vimukthi Peramuna</td>
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<td>JHU</td>
<td>Jathika Hela Urumaya</td>
</tr>
<tr>
<td>ITAK</td>
<td>Ilankai Tamil Arasu Katchchi</td>
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<tr>
<td>LLRC</td>
<td>Lessons Learnt and Reconciliation Commission</td>
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<tr>
<td>LTTE</td>
<td>Liberation Tigers of Tamil Eelam</td>
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<td>MEP</td>
<td>Mahajana Eksath Peramuna</td>
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<tr>
<td>OHCHR</td>
<td>Office of the United Nations High Commissioner for Human Rights</td>
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<td>OISL</td>
<td>OHCHR Investigation on Sri Lanka</td>
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<td>PCA</td>
<td>Peacebuilding Context Assessment</td>
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<td>PSO</td>
<td>Public Security Ordinance</td>
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<td>PTA</td>
<td>Prevention of Terrorism Act</td>
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<td>RTI</td>
<td>Right to Information</td>
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<tr>
<td>SLFP</td>
<td>Sri Lanka Freedom Party</td>
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<td>SLMC</td>
<td>Sri Lanka Muslim Congress</td>
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<td>TNA</td>
<td>Tamil National Alliance</td>
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<td>UNHRC</td>
<td>United Nations Human Rights Council</td>
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<td>UNP</td>
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Executive Summary

Sri Lanka experienced a 26 year long civil war from 1983 to 2009 between government forces and Tamil separatists, embedded in an ethnic political conflict between the island’s majority Sinhalese and minority Tamils. The protracted nature of the conflict inflicted devastating and deeply felt consequences at the human, social, physical, and institutional level. It is commonly estimated that at least a hundred thousand people were killed during the war. In addition, people experienced prolonged periods of violence and physical insecurity, repeated displacement, loss of land and livelihoods, food insecurity, and the destruction of physical infrastructure. There are serious unresolved issues of psycho-social trauma, sexual violence, and the culture of impunity that linger on past the end of the conflict and often intersect with vulnerable groups such as female-headed households, families of the disappeared, or former child combatants.

The war ended in 2009 with an outright military victory for the government forces, and there has not been a resurgence or significant threat of resumption in violence since then. While there have since been significant improvements in many areas, the early post-war period from 2009 to 2014 was largely one of missed opportunities. The hostility of the government to many elements of the peacebuilding agenda, and the negative relationship that it had with key domestic and international stakeholders became serious limiting factors. There remains as a result, a large and multi-faceted task for peacebuilding, which requires transforming the ‘negative peace’ of the early post-war years, in the direction of a ‘positive peace’.

The elections of 2015 have given rise to the first political transition since the end of the war, and have empowered moderates on both the Sinhala and Tamil sides of the ethnic divide with popular mandates for peacebuilding and governance reform. The alliances formed during elections transcended traditional political party rivalries, and the present government has been formed with a new cross-party political alliance: President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe head the two largest parties, the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP) respectively. The main Tamil party, the Tamil National Alliance (TNA) is not part of the ruling coalition, but still has a positive working relationship of cooperation with the government. These political circumstances are unprecedented and they provide an important window of opportunity - which will inevitably shrink over time - to expand and
pursue the agenda of building a positive peace.

This report describes and analyses the contemporary challenges and opportunities with respect to peacebuilding in Sri Lanka, in terms of four broad areas: (i) politics and governance, (ii) economy, (iii) security, and (iv) reconciliation.

**Politics and Governance**

Peacebuilding in Sri Lanka requires a complex and multi-level national political consensus in order to emerge onto the agenda and sustain itself. At the elite level, consensus is required both across the ethnic divide (between the Sinhalese and Tamil leadership) and also at the intra-ethnic or cross-party level (between Sinhalese political parties, and between Tamil political leadership). Furthermore, this elite-level or ‘horizontal consensus’ at the apex needs to be complemented with a ‘vertical consensus’, or support for peacebuilding among the people, particularly the Sinhalese, without which it will be lack legitimacy and risk being fragile.

Beyond the political dynamics of consensus, major political reform is an important need in Sri Lanka at every level: the constitution, legislation and governance institutions. The most important and difficult of these will be the constitutional-level changes needed to provide a political solution to the grievances of the Tamil people, which have fueled the conflict. There is however, also a crucial need to complement this with a broader agenda of governance reforms that remedy the senses of injustice felt by Sri Lankan people of all communities. Governance reforms will have quicker impact on the ground, will be politically easier to accomplish and can help to maintain public support for peacebuilding.

- **Both horizontal (inter–elite) consensus and vertical (deeper social) consensus are necessary prerequisites for a robust peacebuilding agenda.** The 2015 political transition created unprecedented alignment of empowered moderates across party and ethnic lines. However, the depth of support and legitimacy that comes from a ‘vertical’ consensus (between political elites and the people) on vital issues of state reform and reconciliation is currently weak. This can make the horizontal consensus shallow and vulnerable, and can undermine any political solution borne out of elite-level negotiations. This disconnect is particularly evident with the Sinhala-Buddhist majority community and if left unaddressed, can become politically potent.

- **The APRC is a valuable starting point for deliberations on state reform.** The work of the All Party Representative Committee (APRC) of 2006–09 can serve as a useful starting point and template for renewed deliberations on state reform for two main reasons. First it is the latest set of proposals, formulated by a broad spectrum of Sinhala and Muslim political parties; hence it represents a significant horizontal consensus. Second, the APRC proposals garnered widespread acceptance in society, and thus bears an important element of the much needed ‘vertical’ consensus.

- **The Ashraff framework is a potential way forward in the merger conundrum.** One of the contentious questions of the political resolution is the Tamil request for the merger of the Northern and Eastern Provinces into a single Tamil-administered unit. However a merger of this nature will be resisted by both the Muslim people in these provinces and by the Sinhala community. The ‘Ashraff framework’, which presents an approach of redistricting rather than merging the two provinces, is a potential compromise that could meet the expectations and concerns of the Sinhala,
Building and sustaining a positive peace requires deep governance reforms. Decades of politicization and de-professionalization have eroded Sri Lanka’s governance institutions, including many that are expected to render top-level constitutional reforms into ground-level realities. Governance reforms to improve (i) effectiveness, (ii) politicization, (iii) inclusion, and (iv) accountability are relatively non-contentious and are easier to execute through constitutional, legislative, institutional and administrative measures than reforms involving power-sharing and transitional justice. These governance reforms are necessary not just as an instrumental element of the peace process: to meaningfully implement an ethnic political resolution and create vital political capital that aids vertical consensus between the government and people; but also as an intrinsic part of peacebuilding: to address and mitigate the radicalized frustration with state institutions that led to the conflict, and to build confidence and trust among people with regard to the stewardship of government by those who are moving the peacebuilding agenda forward through reforms that have been previously resisted.

Greater inclusion of women is important. The inputs by, and outcomes for women are integral to peacebuilding, and deserve special attention, especially as women are among the most vulnerable and marginalized victims of the war. Presently, the inclusion of women is low at every level of the political and governance hierarchy and at every stage of policy deliberation, formulation and implementation; and this lack of inclusion is likely to impact the quality, reach, and depth of decision making and implementation with regard to peacebuilding.

Economy

The economic context of peacebuilding has many facets. It begins with recognizing how economic history and economic interests have been drivers of the conflict. It also involves an understanding of the economic realities within the provinces and areas that have recently emerged from the devastation of war. Prioritizing peacebuilding provides a different economic lens to a general developmental framework. It prioritizes assistance that is ‘restorative’ for those who have suffered as a result of the war and an unbiased approach to addressing the restorative needs those who have suffered in all sectors and communities. It also looks at broader assistance that uplifts the economic conditions of youth and groups that have been vulnerable to radicalization with an eye to improving lives and integrating economic activities across provinces and ethnic groups. These aspects are important in themselves as positive measures of peacebuilding, and are also relevant to the transitional justice concern of non-recurrence of conflict.

Economic dimensions and dynamics. The heightening of social and economic insecurity among Tamil people was a key driver of the conflict and the war in Sri Lanka’s post-independence history. This insecurity stemmed from the nature of the state and the functioning of democratic governance. Competition for benefits that derive from state power, including for government employment, state land, education, and physical security, has been morphed into an ethnic competition and conflict. The conflict dynamics are heightened by an economically insecure inward-looking Sinhala business class that sponsors ethno-religious movements to intimidate rival local economic competition from non-Sinhala Buddhists. However, there is also a Sinhala business class that has transitioned to focus on exports and
integration with global markets that support the mitigation of conflict. Export-oriented growth strategies that create economic inter-dependencies between provinces and require complex value chain partnerships can help change these negative dynamics.

- **Economic status of war affected areas.** Just as there are historical economic causes, there are also economic consequences of the war that form part of the present peacebuilding context. The two provinces that have been the theatres of war lag behind other provinces in important respects. However, the Northern and Eastern Provinces have also been grown significantly after the end of the war, and aggregate income inequality, and multi-dimensional indicators of poverty between these and other provinces is not likely to be the operative problem going forward. The focus of economic engagement may now need to shift towards tackling the inequalities within the war-affected provinces, between these province’s own districts and cities. There are geographic pockets of extreme deprivation that run the risk of being forgotten or left behind by measures of success that focus on statistical averages.

- **Economic restoration and upliftment** of the most vulnerable segments of people align to the reparations and non-recurrence pillars of transitional justice respectively. A peacebuilding approach that adopts this paradigm can relate to the specific losses and vulnerabilities that have been caused in the course of the conflict, and generally improve people’s confidence as well. This can be approached in two ways: first, through the restoration of normal life that targets assistance to those who have suffered in the course of the war; and second, by focusing on categories of human vulnerability and vocation, such as the disabled, women ex-combatants, the indebted, suppressed-castes, and farmers and fishermen.

- The restorative framework would be geared to least four segments of war-affected people in Sri Lanka: (i) people of all communities who have suffered in the main theatre of war; (ii) soldiers and families of soldiers; (iii) victims of LTTE atrocities outside the theatre of war; and (iv) those displaced from their homes and forced outside the theatre of war. Young people are an important focus for peacebuilding because of the positive or negative changes they can bring with time. The current context indicates a mismatch between available jobs and the aspirations of young people, and also a lack of labor mobility and skills within these provinces that need to be engaged with and resolved. Furthermore, farmers and fishermen make a large part of the Northern and Eastern families and experience unique vulnerabilities in the post-war context. Targeting economic upliftment to these groups is likely to have a wide positive impact in mitigating discontent and moving away from potential conflict.

**Security**

The physical security situation in Sri Lanka improved significantly following the end of the war in May 2009, and there have been no signs of reversal or resumption. There is as a result, a need for significant reform and reorientation in Sri Lanka’s security sector to transform it and reorient it towards the needs of peacebuilding, and to address security concerns from a citizens’ perspective. For example, there are emergent post-war security threats in the form of extremist groups who have targeted Muslims. Another example of the security gap is the poor law enforcement in the Northern Province, which has a particularly important bearing on the safety of women. There
are several key areas around which progress can be focused in the security sector.

- **Re-orientation and managing change.** Decades of counter-insurgency have established a culture of impunity within the military for abuses against civilians and gross violations of human rights. This is especially the case for actions by the intelligence arm of the military. This needs to be addressed within a long-term process of re-thinking and adjusting the functioning of the security sector to assist the needs of peacebuilding (as a component of improving security) and not undermining it, even inadvertently. This change cannot be expected to arise independently from within the military itself, without an enlightened, intentional, coordinated and sustained change management program that is put in place towards achieving it.

- **Military occupation of public and private land.** Military occupation of public and private land, both during and after the war, continues to be a source of resentment. While there has been some significant progress in release of land for civilian use in the past year, the momentum will need to be maintained with regular actions to release further land from military control to the local administration and civilian use, to sustain sufficient confidence in the government’s commitment to phase out the military land occupation.

- **Military presence in the North and East.** The reduction of the military presence or de-concentration in the North and East is an important contributor to normalization of life in conflict-affected areas, particularly the Vanni where high visibility, intrusive surveillance, and symbolic forms of dominance continue to prevail. In addition, there is a need for de-proliferation of the military into non-military spheres of public life including civilian governance and commercial activities that place it in competition with local population and further fuels resentment.

- **New security threats** There has been a sharp increase in post-war religious violence by newly formed Sinhala Buddhist extremist groups such as the Bodu Bala Sena (BBS) and the Sinhala Ravaya targeting Muslims and Christians. The change in government has done much to reduce the political patronage previously enjoyed by these groups that allowed them to operate with impunity from law enforcement. Moving forward, an alteration in the political balance in their favor can be expected to contribute to resurgence in religious violence. Moreover, the normal process of the law has not yet caught up with their past actions, and without the safeguards of law enforcement functioning independently of political control they can re-emerge when the political context changes, and seriously erode peacebuilding in Sri Lanka.

**Reconciliation**

The immediate post-war years saw little in the way of a meaningful reconciliation. In Sri Lanka reconciliation involves three broad areas of consideration:

- **Addressing the underlying structural and societal drivers of conflict.** Sri Lanka’s ethnic conflict was less about conflict between people as much as one between communities and the state magnified through ethnically divisive state policies and practices. For the Tamil community in particular, there is a continued sense of alienation from and victimization by the ‘Sinhala’ state. In this context, the realization of a single Tamil-administered territorial unit is strongly tied to
a sense of justice and dignity; its symbolism can go a long way in terms of reconfiguring Tamils’ relationship with the Sri Lankan state. There are also shared experiences of state violence and marginalization that unite Sinhala, Tamil and Muslim people, such as enforced disappearances and police brutality, providing opportunities for cross-ethnic collaboration in redefining the state-society relationship in Sri Lanka. There is also a need to rebuild trust and cohesion between people of all communities to dispel mutual suspicion.

**Figure 1** Stakeholder Analysis for peacebuilding in Sri Lanka

The arrows mark the position in which we locate the stakeholders within this grid of low and high power and interest. The arrows point to the reference label and the direction in which they point is not relevant to the analysis. The term Power here is meant to define ability to effect change or make decisions.
and sustain peace at the societal level.

- *Fostering a process of closure and accountability.* Victims and survivors will prioritize different aspects of transitional justice depending on their lived experiences of the war and current circumstances. Two aspects that might be most important in the present Sri Lankan context with regard to closure are (i) learning the truth of what happened to missing and disappeared loved ones; and (ii) a political solution to the ethnic conflict.

*NE = north and east; referring to people who has been affected by the war due to both the military and LTTE*
A key priority for people seeking closure is that the process of seeking the truth is open, honest and genuine. Moreover, people seem to place greater importance on the institutional responsibility of the state, valuing accountability at the decision-making level above all other forms of accountability. There is also an important need to reconcile with the Sinhalese people, and build consensus in the south on the transitional justice agenda, requires that the government secure and maintain the confidence and trust of the Sinhalese people.

- Peace that generates confidence and is resilient. There are important elements of peacebuilding at the level of communities and individuals, such as memorialization and restoring a sense of normalcy in people’s everyday lives that have a significant impact on reconciliation. Resilience of the peace can be enhanced by creating space for memorialization by victims and people of all communities, by involving and integrating young people in the peacebuilding process, and by rebuilding community level social support structures that can play an important ensuring the non-recurrence of violence.
The Peacebuilding Context Assessment (PCA) is commissioned by the United Nations to inform peacebuilding priorities in Sri Lanka. The objective of the PCA is to provide a descriptive context and analytical summary of the contemporary challenges and opportunities with respect to peacebuilding in Sri Lanka. It is envisioned that this report will inform the formulation of a Peacebuilding Priority Plan (PPP), and serve as an input to the application and evaluation for longer-term financial support from the United Nations Peacebuilding Fund (PBF)’s Peacebuilding and Recovery Facility. This assessment draws on relevant evidence provided in documents and other related research and data produced by the government, UN, development partners and civil society. In addition, it draws on interviews and consultations conducted across a range of actors in the government, UN agencies, political parties, community leaders, and civil society in Sri Lanka.

Peacebuilding as a concept has a variety of definitions and has been operationalized in many ways. It is important to recognize that different stakeholders in Sri Lanka have a diversity of opinions on what constitutes peace, as well as different ideas on what the pathways and timelines to achieving this end should be. Addressing and engaging with many of these views has been an important part of the exercise. Peace signifies more than the absence of violent conflict or ‘negative peace’, and use the term peacebuilding here is to mean the fostering of a ‘positive peace’ that entails: addressing grievances, abating insecurities, advancing justice, fostering dignity, improving social cohesion and increasing economic wellbeing. All of these have both short and long term opportunities as well as challenges in their realization. This study on the peacebuilding context in Sri Lanka is expected to provide a framework to identify and prioritize potential opportunities and challenges.

There are two basic criteria for a peacebuilding agenda to emerge and be sustained: first there must be a stable security environment; and second there must be a conducive political environment. The end of the war in 2009 largely achieved the former, but in doing so was also trapped there. The political transition in 2015 has produced the latter to a large extent. The outcome of the elections and the change in government have created the possibility for Sri Lanka to recalibrate and expand its approach to peacebuilding. There is a fresh window of opportunity to consider and implement the pending agenda of building
a positive peace. This report provides a strategic overview of the peacebuilding agenda in Sri Lanka, examining the possibilities, constraints and dynamic trajectories that can arise. We frame the peacebuilding prospects for Sri Lanka within four broad transformations that are needed, in terms of: (i) politics and governance, (ii) economy, (iii) security, and (iv) reconciliation.
Background

Between 1983 and 2009, Sri Lanka suffered an extended period of intense political violence and civil war, fought primarily between Tamil militant groups and the Sri Lankan state security forces. This finally came to an end in 2009 when the Sri Lankan military succeeded in defeating the Liberation Tigers of Tamil Eelam (LTTE). Since then Sri Lanka has entered a critical phase of what can be described as an incomplete transformation from violent conflict to a positive peace. The firm end to military combat in 2009, and the fact that it has not resumed since then is itself a significant milestone, and one that created the necessary pre-condition for the deeper processes of peacebuilding. The peacebuilding process that followed however has been subject to significant criticism, as enforcing a ‘victor’s peace’, sometimes extenuating underlying grievances, and doing too little to build a positive peace.

Sri Lanka’s civil war was an escalation of a deeper political conflict that evolved after Independence in 1948 between the Sinhalese (comprising 75 per cent of the island-wide population) and the Sri Lankan Tamils (11 per cent), who form the majority of the population in the Northern and Eastern provinces. The conflict also has a distinct, but secondary impact on two other important ethnic groups in the island: the upcountry Tamils of Indian origin (4.1 per cent), and the Muslims or Moors (9.3 per cent).

The ethnic conflict between the majority Sinhalese and the minority Tamils arose in the early post-colonial years in the context of a divisive debate over national language, the citizenship status of Tamils of recent Indian origin, and access to state employment. These conflicts were channeled into and magnified by electoral politics, which became dominated by rival ethno-nationalist ideologies that gained widespread influence among the electorate. Sinhala-Buddhist nationalism gained widespread salience since the 1950s as an ideology that sought to Sinhalize the post-colonial state. To the Sinhalese this represented an unfinished agenda of decolonization and democratization, returning it to the rightful control of the indigenous majority. On the other hand, Tamils viewed this with concern as an agenda of ethnic domination by the majority, and the suppression of minorities. Tamil nationalism was driven by a growing insecurity of the future of the minority community in a state that was being dominated by an increasingly assertive majority. The flashpoint that ignited the ethnic conflict and elevated it into its present position of systemic centrality in the mid-1950s was the issue of national language, and the campaign to
Figure 2

Land area
6,5610 Km²

GDP
USD 74.9 billion

GDP per capita
USD 3,625

Population
20.7 million

Population growth
- 1%

Life Expectancy
74.3 years

Unemployment 4.6%
  Male 3.1%
  Female 6.5%

Labour force participation 54%
  Male 75%
  Female 35%

Poverty head count 6.7%

Districts in the Eastern Province:
  Ampara, Batticaloa, Trincomalee

Districts in the Northern Province:
  Mullaitivu, Vavuniya, Mannar, Killinochchi, Jaffna
replace English - the colonial era official language - with Sinhala only. This campaign, which was ultimately successful in its aims, generated a widespread political mobilization in both communities and initiated a period of hostile political confrontation.

Over the course of its extended, 26-year long history the conflict evolved and took different forms, involving four phases of war (1983-87, 1990-94, 1995-01, and 2006-09), and three failed episodes of peace-building (1987-90, 1994-95, 2001-06). Throughout these different phases, the war was fought primarily in the Northern and Eastern provinces of the country, and had devastating consequences for the population there, particularly for the Tamil community. The fourth phase of the war from July 2006 to May 2009 ultimately resulted in a decisive military victory by the Sri Lankan government forces over the separatist LTTE. In the course of the last few months of the war, during which a humanitarian crisis emerged as a result of several thousand civilians being trapped in the combat zone, virtually all of the LTTE’s leadership and cadre were captured or killed, bringing the war to a complete end.

The end of the civil war in 2009 left an enormous and multi-faceted task of humanitarian relief, reconstruction and economic development, particularly in the affected areas of the North and East. Since the end of the war there have been improvements in many areas, particularly with the end of large-scale violence, return of internally displaced persons (IDPs), de-mining, infrastructure construction, and the expansion of agriculture and fishing livelihoods. However, this was also a period of missed opportunities for resolving the long-standing grievances of the Tamil community. The fact that Sri Lanka’s civil war came to an end through the outright military victory of the state led to a heavy handed military-controlled approach in the post-war period of resettlement and reconstruction in the North and East. In this approach, there was a failure to recognize, and a reluctance to engage with the underlying causes of the conflict. Moreover, many of the immediate material problems of the Tamil people in the Northern Province were often neglected. Therefore, six years after the end of the war in 2009, Sri Lanka appears to be caught within a trap of what peace studies scholar Johan Galtung described as a ‘negative peace’, in which the absence of violence belies the existence of structural forms of unresolved conflict.

The primarily ‘internal’ nature of the ethnic conflict notwithstanding, the conflict also has an important external dimension which includes the long involvement of other countries, the international community and international organizations. The period from 2002 to 2006 in particular witnessed a significantly internationalized peace process to resolve Sri Lanka’s conflict, which was ultimately unsuccessful. International actors, therefore, have not been entirely outsiders but have been somewhat entwined in the history and trajectory of conflict. Within Sri Lanka the engagement of international actors in peacebuilding is not seen as that of a neutral umpire; rather, the perceptions are colored by their past engagements as well as by the dominant understandings of different ethnic groups with regard to Sri Lanka’s colonial history and their post-colonial anxieties. This is an inevitable part of the present peacebuilding context.

It is within these circumstances that the political transition and a change of government in 2015 opened a new window of opportunity to change course and move towards a positive peace. While resolving the issues that formed the causes of the war is critical for long term peace, there are also pressing issues that have arisen from the consequences of the war that need to be resolved more urgently, in order to build confidence and
momentum towards finding a resolution to the deeper structural issues. There are grounds for cautious optimism that a significant agenda for positive peace can be advanced in Sri Lanka at the present. There is a window of opportunity, which if not intentionally expanded and developed, will inevitably shrink over time. It is a time when important peacebuilding policies and trust with regard to peacebuilding initiatives can and should be set in motion.
Politics and Governance

Sri Lanka’s ethnic conflict is not primarily based on ethnic tensions between people of different ethnic groups as individual persons harboring personal prejudices and resentments. Some such tensions are certainly not absent, but they are more a consequence than a cause of the ethnic conflict. The conflict rather is marked by competition between people groups (as political entities, rather than people in their personal capacities) to benefit from government. That is, the origins and dynamics of Sri Lanka’s ethnic conflict are fundamentally related to the way in which people of all ethnicities in Sri Lanka have experienced government. It derives from the way in which state power has been constituted, accessed, exercised, and held accountable.

Consequently, peacebuilding entails addressing all of those issues at different levels through deep reforms in the institutions of the state. This implies changes at three levels: first, at the level of the constitution; second, at the level of legislation, and third at the level of institutions and administration. Many of these necessary reforms, particularly at the constitutional level, are likely to be complicated, contentious and time consuming. However, there are also opportunities to implement early reforms at the legislative and institutional level. Such reforms will be important in themselves, and also in building confidence and generating positive momentum and consensus towards deeper reforms.

This chapter highlights the mutually reinforcing relationship between governance reforms, confidence building and peace. It argues that capitalizing on available political space for short-term governance reforms would build public confidence needed for more contentious structural reforms. Hence reforms at the constitutional, legislative, institutional and administrative levels need to be understood in terms of the political capital they require (i.e. as discussed later in this chapter, the extent to which they enjoy ‘vertical consensus’), as well as their potential to build public confidence. Moreover, the chapter explores strategies on how to articulate reforms in ways that create political space for their execution.

Yabapaalanaya (good governance) was a key promise in the 2015 elections, and it resonated very strongly with people all across the country, who voted to change the government. Delivering on that promise and meeting the high expectations that have been built up amongst people of all communities will mean taking steps to make state institutions more open and transparent and operationally answerable for the performance.
of their duties, with the failure to meet defined minimum expectations being attached to institutional and legal remedies.1

Overall, achieving these results will require a substantial de-coupling of executive political discretion from the management and delivery of the state institutions – with strong, independent monitoring and oversight mechanisms that have the power to make institutions performance oriented and answerable to people. This was envisaged in the 17th and 19th Amendments to the Constitution though only weakly implemented. There now remain important opportunities to strengthen these mechanisms, even within the existing framework of the Constitution, as well as with further constitutional amendments. Such reforms are linked to building confidence among people, as they relate directly to the rhetoric on which the present government was elected. The political space to deliver such reforms is therefore comparatively greater than, for instance, reforms that involve power-sharing or transitional justice. Thus failure to introduce these governance reforms in the short term could create a trust deficit between the people (especially the Sinhala people) and the government, and jeopardize the space for more difficult reforms that are vital for sustainable peace.

3.1 The Political Dynamics of Peacebuilding: Opportunities and Risks

Since 2015, Sri Lanka has undergone important political changes that created a new and potentially unprecedented opening for peacebuilding. The election of a new government under President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe, and the new political climate that it has brought in represents a major improvement over the period from 2009 to 2014. The previous administration, under President Mahinda Rajapaksa, was deeply resistant to a political resolution to the conflict, based on the view that the military solution to the conflict had succeeded over previous attempts at resolution through negotiations or political reform. As such, the military solution was seen to have obviated the need of arriving at a political resolution.

The results of the January 2015 and August 2015 elections are very significant in this respect because it has empowered moderates on both the Sinhala and Tamil sides of the ethnic divide with comfortable electoral victories. This has given them a popular mandate to pursue a far-reaching agenda of reform, and also the legitimacy to negotiate as representatives of their respective constituencies. In addition, the 2015 elections transcended traditional political party rivalries with a new cross-party political alliance. The president and prime minister head the two largest and historically rival political parties, the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP) respectively. Moreover, the new government coalition also contains an important Sinhala Buddhist nationalist component in the Jathika Hela Urumaya (JHU), which has historically opposed attempts to arrive at a compromise solution to the ethnic conflict. The inclusion of some of these forces in the current coalition can form the basis on which to transcend the historical obstacles to peacebuilding.

Following the August 2015 parliamentary election, the Tamil National Alliance (TNA), which

1. For example, Right to Information legislation in India imposes financial penalties on the bureaucracy if it fails to provide requested information in an accurate or timely manner. Further, an appeal processes allow citizens to easily challenge the reasons given for the refusal to provide information. Without such safeguards that make the bureaucracy answerable for its decisions and face penalties for failure, the legislation is unlikely to have had its present success.
dominated the polls in the north and came a close second in the east, has assumed the position of official parliamentary opposition. The new Wickremasinghe–Sirisena government has a working relationship of trust with the TNA, headed by Rajavorthiam Sampanthan. The president, a Sinhala Buddhist, received an overwhelming endorsement from the people in the Northern and Eastern provinces, whose votes were vital in his electoral victory in January 2015. He retains a high level of support amongst Tamil people in the Northern Province. The TNA remains broadly supportive of the government, and the president and prime minister have in turn, promised to deal with the injustices and difficulties suffered by the Tamil people in the post-war period. While there remain areas of friction and rivalry that can easily rupture this relationship over time, the present political alignment represents an unprecedented alliance of moderates across party and ethnic lines.

Arriving at a political solution to the ethnic conflict in Sri Lanka has been enormously complicated, and has failed on numerous occasions in the past six decades, largely due to the failure to build a national consensus. A national consensus has two distinct aspects.

The first is the horizontal consensus among a critical mass of political elites across the major political divides. This involves consensus between: (1) Sinhalese and Tamil political leaders; (2) the two main political parties, the SLFP and UNP; (3) the main centres of political power - effectively between the President and the Prime Minister.

The second is the vertical consensus between the political establishment and people. A solution that is arrived at by elected political leaders can be shallow or brittle, and vulnerable to collapse if it lacks depth of public support. This means that there has to be adequately wide and deep support among people groups in order for the decisions made at the apex to have public legitimacy, to withstand electoral challenge, and thus to be durable. The main challenge in achieving a robust vertical consensus is to ensure that the peacebuilding is participatory, involving a process of two-way communication between leaders and people.

**Horizontal consensus: opportunities and risks**

Constitutional reforms in Sri Lanka require a two-thirds super-majority - or 150 votes out of the total 225 - in the unicameral legislature. Sri Lanka’s system of modified proportional representation with multi-member constituencies has since 1988 produced fractured mandates in which no single party on its own easily wins a majority, much less the required super-majority. Hence, constitutional reforms require the support of a broad coalition of parties, and often at least some sections of the opposition parties, if not the main opposition party as well.

**Opportunities**

- The August 2015 election provided the government with the required legislative super-majority for constitutional change. Such a majority is based on layered support from the core members of the UNP, smaller parties allied to the UNP, and the section of the SLFP that is aligned to the leadership of the President.

- Besides that, there are outer layers of legislative support from parties that are broadly allied to the government, but that are

formally part of the opposition, the most articulate of which is the Janatha Vimukthi Peramuna (JVP).

- The vital link in the horizontal consensus for peacebuilding is a Tamil political representation that has the legitimacy and ability to negotiate an acceptable package of reforms. This too is in place at present with the TNA’s presence in Parliament.

**Risks**

There are three significant risks to the horizontal consensus:

- The first and most-grave risk is a breakdown of the alignment between the President and Prime Minister. This risk is significant because they lead the two parties that in a future election will be in outright competition against each other, despite their short-term cooperation. Local government elections could be held early next year, in which case the leader of SLFP and the UNP have a critical decision to make. If their respective parties run against each other, instead of forming an alliance, their present horizontal consensus on national issues could unravel as well.

- The second risk is that due to the broad coalition within the government, which includes parties that have been hostile to devolution in the past, that the mid-point of the horizontal consensus between the President and Prime Minister could shift to a position that falls short of being acceptable to the moderate leadership of the TNA – thereby failing to qualify as a durable political solution. It could yet be accepted as a temporary halfway solution – and result in the moderate Tamil political leadership losing legitimacy and ground to leaders with less moderate positions, as it happened in the 1970s.

- The third substantial risk is of the TNA running into a leadership contest among its own constituent members before the negotiations with government are completed. This could happen, for instance, if the octogenarian leader of the TNA, Rajavarothiam Sampanthan, is incapacitated by illness and not able to function in that position. This could result in a leadership and ideological tussle between the current Chief Minister of the Northern Provincial Council and the current Secretary General of the TNA’s largest constituent party, the Ilankai Tamil Arasu Katchchi (ITAK). Such competition can undermine the TNA’s ability to forge a horizontal consensus with the Sinhala political parties in parliament.

**Vertical consensus: opportunities and risks**

Many have interpreted the elections in 2015 as a decisive break with the post-war political trajectory. However, it can also be understood as a periodic oscillation, in-keeping with past patterns, where political leadership has shifted periodically between the main political parties. A decisive break in the political trajectory would require not just a horizontal consensus on the steps towards reconciliation and further devolution but concomitantly a decisive change in the consensus between the political parties and people on these issues, especially the Sinhalese people who constitute a voting majority. This vertical consensus has not yet been built.

Public opinion on constitutional reform will be conditioned by:

1. The pre-2015 shift in the mid-point in the spectrum of views on state reform towards a more uncompromising solution under the
Rajapaksa government. Since the change in government, the view that a credible reconciliation process is necessary on pragmatic grounds - such as to counter international pressure and scrutiny - has gained ground.

2. The level of satisfaction with the government’s overall performance, and economic performance in particular, at the time of a potential referendum. Public discontent over the government’s performance can help mount opposition to any political settlement negotiated at the elite-level, particularly if the resulting settlement is perceived to favour one ethnic group over others or give people a sense of being ‘left behind’ in the pursuit of a wide-ranging reform process.

Political power has a tended to have a great influence on public opinion in Sri Lanka, and public debate and reasoning has tended to be driven by political power centres. The vernacular press has generally taken its cues from the prevailing alignment of political power, rather than function as a critical, non-partisan ‘fourth estate’. The fault lines and points of contestation in public debate in this context mirror those that occur among political parties. While civil society organisations (CSOs) operating in the discourse space are important shapers of public opinion, they have historically relied on ideological resonance with the political powers of the day to secure influence and space to operate. Accordingly, ‘nationalist’ CSOs enjoyed considerable space under the former government, and have found themselves marginalised to a certain extent under the current administration. Meanwhile, ‘liberal’ CSOs have seen an expansion in space to operate since the 2015 transition.4 However, unlike ‘liberal’ CSOs, nationalist organisations can count on a significant public support base, and are hence retain the capacity to mobilise public opinion independent of political patronage. Accordingly, despite being de-prioritized form mainstream politics relative to the pre-2015 years, nationalist mobilization remains an important driver of public opinion, and accordingly of political imperatives. The influence of the pro-Rajapaksa faction of the UPFA as a vocal oppositional voice thus has important implications for the peacebuilding agenda, particularly with regard to the political solution where it is likely to play the role of a spoiler.

Opportunities

- The present horizontal consensus creates the space for the Sinhala and Tamil leaders to go beyond references to their electoral mandate and have a more robust engagement with their electorates on the contours of reconciliation and a political solution: engaging with their fears, questions and concerns. There is a vertical consensus between the current government and the people that voted for it in the south on the need for good governance and institutional reform. These are not high priorities amongst the northern and eastern electorates. However, as discussed later in this chapter, these issues are vital to the state’s effective delivery of services and to economic prosperity in these provinces. Hence a vertical consensus needs to be cultivated between the government and the northern and eastern electorates on this basis. Such consensus will be important to building confidence in the government’s reform agenda, which in turn creates the trust necessary for negotiating an ethnic political solution. Meanwhile, a vertical consensus

4. Ibid.
exists between the moderate Tamil political leadership and the Tamil people in the north and east on issues of power sharing and transitional justice. This consensus enables the TNA leadership to negotiate on behalf of the Tamil people and work with the government to cultivate a vertical consensus between the government and its own voter base in the south around such issues. This deeper level of social consensus can provide depth and resilience to an ethnic political solution, and enable the peacebuilding process to survive beyond a single electoral cycle.

- The interest within Sri Lankan society to build international respect and friendship and enhance economic opportunities, from a previous trajectory of facing criticism and marginalization, can help to endorse and explain the current reconciliation initiatives and build a vertical consensus.

- Pursuant to the 19th Amendment the President and Prime Minister effectively enjoy significant executive powers that are also shared and negotiated making them each – separately - a weak executive. This weakness creates a need for each to build popular legitimacy for their position when they differ – as a means of legitimizing their position over the other. This new incentive structure creates dynamic, especially given the cross party alliance, that can help drive activity towards harmonizing the vertical consensus with the horizontal consensus.

**Risks**

- The attempt to meet the time table of the United Nations Human Rights Council (UNHRC) or international pressure could create imprudent haste and encourage the Sinhalese and Tamil political leadership to rush through an outcome that does not have vertical consensus and is pushed through in the face of societal opposition. This would make the resulting changes vulnerable to destabilization and rejection in a future election.

- The delicate cross-party alliance that has come to power is both a source of strength and a constraint. It exists on the basis of a dual power structure with the potential for divergent compulsions and points of tensions. For example, the 2016 Budget proposals that were tabled mainly by the UNP, without much consultation with its coalition partner. There were immediate social and civil society objections to many of the proposals, which were then delicately leveraged by the President to have those proposals removed from the budget. The deeper, more contentious areas of political reform will need to be carefully negotiated, elongating timeliness and providing points of stress and the risk of deeper fracture.

- Transitions in government have usually been accompanied by shifts in the balance of power within civil society, and a reconfiguration of societal views and expectations to mirror those that manifest in political society. Accordingly as long as the pro-Rajapaksa faction of the UPFA actively contributes to public debate, there will continue to be space for mobilisation against a political settlement; this is particularly true if the constitutional reform process lacks transparency and is perceived to be an elite-level club room deal in Parliament. If there is a failure to reach out to the people and build a deeper pro-peacebuilding consensus at the grass-roots level, then there is the risk that it will be undermined, and countermanded by a rival populist mobilization against the peacebuilding agenda.
3.2 State Reform and a Political Resolution to the Ethnic Conflict

The political core of peacebuilding in Sri Lanka is to find a durable and just political resolution to the ethnic conflict. In particular, it is vital that the long-standing grievances of the Tamil community with the Sinhala-dominated unitary state are addressed in a meaningful way. Alongside issues of a cultural, restorative, and symbolic character, the political issues awaiting resolution involve achieving equality at the center, and devolution in the regions. That is, it involves measures to ensure equal citizenship rights, equal access, and equal, dignified treatment by the state of members of all ethnic communities in form and substance. Alongside this, it involves the territorial devolution of powers to allow a meaningful measure of self-governance by the Tamil and Muslim populated Northern and Eastern Provinces.

Beyond these broad parameters, there are important and finer grained issues of serious contention to be resolved about the merger of the Northern and Eastern provinces, and the extent and nature of police and land powers to be devolved. In this context the outcome of the previous round of discussions on an ethnic political resolution, the All Party Representative Committee (APRC) of 2006-09, can serve as a useful starting point. The APRC proposals deserve special mention for two reasons. First it is the latest set of proposals, formulated and supported by a broad spectrum of Sinhalese and Muslim political parties; hence it represents significant horizontal consensus. Second, the APRC proposals garnered widespread acceptance in society, fulfilling the requirement for vertical consensus to a considerable extent.

**BOX 1**

3.2.1 The APRC

The APRC had a 17-member Panel of Experts to support its deliberations. Of the 17 members, 11 proposed a framework that faced opposition by four of the members, who proposed an alternative set of proposals—diverging mainly on the merger of the Northern and Eastern Provinces and the devolution of police and land powers. The ensuing deliberations of the APRC produced a final draft report that was submitted to the former president Rajapaksa in August 2009. Despite Rajapaksa opting not to formally accept or publish the report, the wide consensus within the Sinhala political spectrum that was reflected in APRC’s proposals makes it a very relevant starting point from which to resume the building of horizontal and vertical consensus on constitutional reform.

The APRC’s final report submitted carried with it 15 political parties, including the JHU, the Mahajana Eksath Peramuna (MEP), smaller leftist parties, and parties representing the Muslim and estate Tamil communities, in addition to the SLFP and the UNP (through what was then a breakaway faction). In particular, the endorsement of Members of Parliament who are currently aligned with the ex-president (and who now function as a de-facto political opposition in Parliament), has made the APRC proposals a strong basis for cross-party deliberations in
3.2.2 The ‘merger’ conundrum

One of the most important and contentious questions of the political resolution is the merger of the Northern and Eastern Provinces into a single North-eastern Province. This long-standing demand from the Tamil side was implemented in 1988 following the Indo-Lanka Agreement of 1987 and the ensuing 13th Amendment to the Constitution. The Supreme Court subsequently reversed it in 2006.

The Tamil political demand for the merger of these areas arises from history of insecurity, particularly over state-led efforts to alter the demographic balance of these Tamil-majority areas – which in turn undermined the space for democratic Tamil political representation at the local and national level. The merger issue is present in two early agreements to resolve the conflict: the Bandaranaike–Chelvanayakam Pact of 1957, and the Dudley Senanayake–Chelvanayakam Pact of 1965. Both included provisions to merge the administration of the Northern and Eastern Provinces in whole or in part, and constrain central political powers over the distribution of public land. Preserving the linguistic character of the Northern and Eastern Provinces – as ‘Tamil speaking’ – was a primary concern in both these pacts.

The proposals of the APRC’s final report maintained the unitary framework of the state, proposed significant devolution of power to the provinces, central and provincial legislatures, and constitutional supremacy enforced by a Constitutional Court, judicial review of executive actions, and guaranteed civil, political, social and group rights. Hence the APRC envisaged an undivided and broadly inclusive State with much greater devolution of political power and much more accountable for how executive power is exercised.

A survey carried out in March 2009, as the war drew to a close, on the main proposals of the APRC’s proposals as they stood, suggested that they were largely acceptable among the Sinhala and Tamil communities. A follow-up survey carried out in March 2010 that included a sample from the Northern Province showed increased support for the APRC proposals both among the Sinhala and Tamil communities. This time, 80% of Sinhala respondents and 83% of Tamil respondents supported the APRC’s proposals. In addition, 80% of Up-country Tamils and 88% of Muslim respondents were in favor of the APRC proposals in 2010.

5. It is claimed that the Sinhala population in the Eastern Province increased by over 800% from 1947 to 1981, while the country-wide Sinhala population increased by around 230% during the same period.

6. The Bandaranaike–Chelvanayakam pact: “It was agreed that in the matter of colonization schemes the powers of the regional councils shall include the power to select allottees to whom land within their area of authority shall be alienated and also power to select personnel to be employed for work on such schemes…”

The Senanayake–Chelvanayakam pact: “Mr. Senanayake further agreed that in the granting of land under colonization schemes the following priorities be observed in the Northern and Eastern provinces: (a) Land in the Northern and Eastern provinces should in the first instance be granted to landless persons in the district; (b) Secondly, to Tamil-speaking persons resident in the northern and eastern provinces; (c) Thirdly, to other citizens in Ceylon, preference being given to Tamil citizens in the rest of the island.”
The present political context is complicated by the resistance of both the Muslim community - which forms a minority in the Eastern Province - and Sinhalese political parties to the creation of a single merged unit, which would be politically dominated by Tamils. Nevertheless, within Tamil politics and society, the concept of a ‘political solution’ is strongly tied not only to the expectation of increasing the extent of self-administration through devolution of power, but also to widening the scope of that administration to include Tamil people living in both the Northern and Eastern Provinces. As explained below (in section 6.1) a merger is also of high symbolic value to the Tamil people, and a key legitimating force for the Tamil political leadership. A merger will hence form a crucial plank of any credible political solution acceptable to the Tamils; a political solution without a merger could end up as a half-way house that undermines moderate Tamil leadership, and fails to bring closure to the ethnic conflict.

The context of past deliberations provides a potential way forward within these varying expectation and concerns, by drawing on what is termed the ‘Ashraff framework’ – named after late Muham- mad H.M. Ashraff, founder-leader of the Sri Lanka Muslim Congress (SLMC). The Ashraff framework was developed post-1994 and is also reflected in the main APRC Experts Committee report. The framework envisages redistricting the Northern and Eastern Provinces, and accordingly renaming them as the North-eastern Province and South-eastern Province; and allowing geographically non-contiguous areas within each province to be administratively placed under the other. This ‘redistricting approach’ has the potential to address the concerns of both the Tamil and Muslim communities, while also allaying Sinhala concerns with regard to a ‘merger’ of the Northern and Eastern Provinces.

Specifically, the geographically non-contiguous nature of the proposed units will avert the creation of large ethnically homogenous areas – redistricting will effectively amount to administrative recognition of the current status quo, in terms of the ethnic make-up of the two provinces. A key driver of conflict has been when a local community that is dominated by one ethnicity feels that decisions on its behalf are being dominated by administrators of another ethnicity – and ascribes their discontent with the state as deriving from that fact. In this context, appropriate ethnic representation in administration is likely to allay insecurities and fears of non-representation and ethnic discrimination. Moreover, redistricting as envisaged under the Ashraff framework addresses fears – of the Sinhalese and Muslims in particular - that a large contiguous Tamil-dominated geographical region will be established through a merger of the Northern and Eastern Provinces.

### 3.3 Governance Reforms as Peacebuilding

Understanding the mutually reinforcing relationship between governance reforms, confidence building and peace is important to Sri Lanka’s peacebuilding agenda. These governance reforms are relatively non-contentious and are easier to execute through constitutional, legislative, institutional and administrative measures than reforms involving power-sharing and transitional justice. Moreover, confidence in the government’s ability to deliver in terms of governance reforms will create vital political capital, without which the vertical consensus needed for long-term peace and reconciliation becomes elusive.

Important as they are for peacebuilding, state reforms that are centered on ethnic accommodation are only one part of the task of institutional transformation. Decades of politicization and de-professionalization, within a context of protracted insecurity have allowed the atrophying
and weakening of Sri Lanka’s democratic institutions, including many that are essential in order to carry forward the peacebuilding process and to render institutional and constitutional reforms into reality on the ground.

Moreover, weak institutions and ill governance are causal and contributory factors in aggravating ethnic tensions. The frustrations that underlie the Tamil grievances with the state bear close resemblance to what many Sinhalese also articulate - of disempowerment, distance, and alienation from the state and frustration with the callous regard of the bureaucracy and politicians for the people they are meant to serve. There are also similar sociological circumstances that feed the grievances - of vernacular educated, and socially disadvantaged social strata from both the Tamil and Sinhala communities. But these commonalities notwithstanding, nationalist ideologies mean that similar social realities are interpreted in very different ways across the ethnic divide. Whereas disempowered Sinhalese have framed their frustrations with institutional gaps in terms of the domination of the state and economy by urban, neo-colonial, westernized elites, their Tamil counterparts have viewed it in terms of the domination of the state by Sinhalese.

What this points to is that while the core ethnic nature of the problem at hand needs to be taken very seriously, there is also more to addressing the ethnic conflict than explicitly ethnic centered reforms. In addition, there needs to be a broader, sustained programme of reforms to address the multiple dimensions of disempowerment that citizens face and to improve the quality of governance. Reforms of this kind are thus crucial not only in preventing ethnicized dissatisfaction with the state, but also in creating the institutional depth required to implement reforms centered on ethnic accommodation.

The challenges to governance in Sri Lanka are manifest across many public institutions: the police, local administration, provincial councils, the judiciary, parliament, and ministry offices. While many of these institutions experience very specific issues, and while it is important to recognize the inherent limitations of any reform project, there are four overarching problems to address: (i) effectiveness; (ii) politicization; (iii) inclusion; and (iv) accountability. Reforms in response to each of these problems can be conceived within short and long timeframes. Given the mutually reinforcing relationship discussed above, it is important that confidence-building measures are prioritized in the short-term and more contentious reform measures in the long-term.

**Efficiency**

The most visible problem, and the source of considerable citizen frustration with the state, is that service delivery by public institutions consistently falls short of reasonable standards. They need to function better, respond better to citizens, and deliver better results. In many instances, the immediate source of the problem is that there is weak capacity, inadequate resources, misaligned or perverse employee incentives, a lack of oversight, and lack of morale or leadership. Institutions can be made accountable to the public in terms of: (1) enforcement, where poor or non-compliant practices invite negative consequences; and (2) answerability, where institutions function transparently and are responsive to public questioning. Public accountability will necessitate strong monitoring and oversight capacity, and an effective system of checks and balances between institutions.

In response to this lack of effectiveness, the short-term reform agenda could focus on advancing the right to information. There are two reasons that justify this approach. First, the right to information fits well with the good governance
rhetoric of the government. A promise to fulfill this right was specifically included in election manifests. Moreover, there is some momentum that is already building around this promise, given the inclusion of the right to information in the 19th Amendment and the tabling of the Right to Information (RTI) Bill in Parliament on 24 March 2016. Hence there is clear political space and incentive to advance this right, and doing so is likely to build confidence in the government’s ability to fulfill its reform promises. Second, capacity building and general institutional reform in the public sector has not been part of the political rhetoric of governments due to a genuine fear that they will lose the electoral support of public sector employees. Thus political actors have been reluctant to initiate public sector reform, or even promise such reforms on election platforms. In this context, a meaningful and vibrant (RTI) mechanism may help bring serious inefficiencies, incapacities and corruption within public institutions to the surface, thereby transforming such problems into public issues. Highlighting institutional weakness in this manner – through citizen and civil society action – may create the political capital needed to place deeper institutional reforms on the agenda. Thus guaranteeing a right to information can be a confidence building measure by itself as well as a catalyst for much needed institutional reforms.

**Politization**

Many of the problems of governance in Sri Lanka can be traced to a pervasive problem of over-politicization. State institutions are constantly prone to inappropriate manipulation and interference by politicians seeking to capture narrow private or partisan gain, and this has seriously compromised their professionalism and independence. It has served to create perverse incentives within the system, injecting the divisions and drama of partisan politics into state institutions and turning them into mechanisms for patronage distribution. Moreover, since political divisions often reflect ethnic divisions, this also forms the pathway by which ethnic-based patronage links, and the deep resentments they create, stream through state institutions. De-politicizing Sri Lanka’s institutions will thus also serve the important goal of de-ethnicizing them.\(^7\)

Dismantling deeply entrenched patronage structures over the short-term will be difficult, given the lack of political incentives and space to initiate such reforms. Moreover, patronage politics is not perceived too negatively amongst the Sri Lankan polity. However, it is also the case that nepotism was not perceived too negatively in the past; but this was changed somewhat through the election campaigns that challenged the Rajapaksa administration, when nepotism was characterized as one of the hallmarks of its corruption and bad governance. This shift in the how nepotism is viewed is a major shift in the Sri Lankan voter’s mindset. Yet the general scheme of patronage within Sri Lankan politics is not viewed in such critical light. In this context, making public the link between ineffectiveness and corruption within state institutions and patronage politics, where those links exist, would be a first confidence-building step towards reducing patronage politics and restoring better governance.

**Inclusion**

Institutions must be socially inclusive and participatory. The post-colonial state has in many ways

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7. In 1963, the Ceylon Civil Service was abolished and replaced with the Ceylon Administrative Service (CAS), now known as the Sri Lanka Administrative Service (SLAS). The legal framework governing the SLAS allowed for greater discretion by politicians in terms of appointments, transfers and control over the bureaucracy - with negative consequences for quality of recruitment.
continued to embody and reproduce structural marginalization based on social hierarchies of ethnicity, language, religion, gender, occupation, class, and caste—which in turn compromises their ability to serve these constituencies. Apart from the exclusion of ethnic communities in the numerical minority, the most evident shortcoming in this respect is the position of women who may suffer a double or triple burden of exclusion based on ethnicity, gender and class in accessing public services. There is thus a critical need to increase the presence, status, and voice of women within governance institutions, so that women are not just victims but are in positions of decision-making and implementation. This will ensure that the concerns and problems facing women are prioritized and actioned as policy, and also that women will be able to access security, justice, and administrative institutions with greater confidence.

The inclusion of women in decision-making is clearly among the government’s election promises and carries with it considerable potential in terms of confidence building. The president’s pledges to women include a promise to introduce quotas for women representatives at the local, provincial and national levels. However, women face intersectional exclusion, and national level quotas may still serve to exclude women who face discrimination on ethnic and economic bases. Accordingly, it is crucial that mechanisms are found to include provincial and local voices of women in decision-making, and that this does not have to wait for women to be elected.

Meanwhile, access to land remains a major challenge faced by those residing in the North and East in general, and women in particular. In the post war context women-headed households in the North and East face incredible challenges in terms of generating incomes to support their families, and rely heavily on securing access to land. The lack of decision-making power with respect to land tenure is therefore a major challenge faced by women.

In this context, two short-term opportunities merit consideration. The first is the introduction of a quota system to ensure the representation of women at the local and provincial levels. This will ensure that women are in a position to influence policies that impact women in their localities. The second is to establish the National Land Commission envisaged under the 13th Amendment to the Constitution, to enable provincial councils to input on the formulation of national land policy. To date, the Commission has not been appointed, and in its absence the Minister of Land has determined national land policy on an extra-constitutional basis over the last two decades. Establishing the Commission will therefore restore some elements of devolution contemplated under the 13th Amendment and include minority voices in national level policymaking. Meanwhile, these two measures combined will ensure that women contribute to decision-making at the provincial level on a critical issue for women’s economic empowerment, such as through land alienation for example. Moreover empowering women, who are significant stakeholders within the peacebuilding agenda, and ensuring the implementation of important features of the 13th Amendment will together enrich the negotiations on meaningful power-sharing.
Despite having had the right to vote since 1931, and the first democratically elected woman prime minister in the world, political culture in Sri Lanka remains heavily male-dominated. In the 2015 elections, there were only 556 women of 6,151 candidates, translating into a present count of just 13 women in Sri Lanka’s 225-member Parliament. This means that women, who account for 52% of the population account for just 5.8% of legislators at the national level. Women constitute only 3.4% of legislators at provincial councils, and 1.9% at local government level. There are currently just two female members of cabinet.

This low level of representation is compounded by the fact that the few women in parliament have been from established political families, and mostly from the Sinhalese community. The minority parties from the Tamil and Muslim communities have particularly struggled to field female candidates or place women in positions of authority in their party structures. There are important consequences that this has for the analysis of peacebuilding and its risks, including the nature of the horizontal consensus, which is in essence, a consensus between males. There is also limited opportunity for gender perspectives to be mainstreamed into policy and legislative processes as women play a very limited part in public and political life and are largely excluded from decision-making.

Given that women constitute a significant component of the victims of war and the vulnerable, it is crucial that Sri Lanka take steps to increase the representation of women in parliament, cabinet, and at all levels of institutional leadership.

**Accountability**

Fourth improving governance and deepening institutional effectiveness amounts to improved public accountability and transparency, to address what Andreas Schedler calls the ‘opacity of power’. This can involve a variety of different systems of horizontal and vertical accountability, both within and outside the state that will open institutions to public answerability and sanction, as well as checks and balances from other parallel bodies. The 19th Amendment to the Constitution, which restored the functioning and independence of the Constitutional Council and the independent oversight commissions is a very important step in this direction.
As highlighted above, one important way in which citizens can become empowered to demand accountability is through legislation guaranteeing the right to information, which has become an important vehicle for citizen activism in other countries in the region. In addition to this initiative, public accountability systems could be strengthened in the short and long-terms.

Conventional public accountability systems in Sri Lanka currently face a challenge in terms of capacity and credibility. Standing institutions such as the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), the Auditor General’s Department and the Fraud Bureau of the police, face serious challenges in terms of resources, capacity and consequently, credibility. These weaknesses have led the government to create ad hoc institutions to deal with public accountability. Yet there has been a proliferation of such institutions under both the President’s and Prime Minister’s office resulting in jurisdictional overlap and confusion. Such proliferation is perhaps symptomatic of the political competition between the President and Prime Minister to own the good governance agenda and secure credit for results. A Presidential Commission of Inquiry currently investigates serious cases of fraud perpetrated during the previous government, while a Presidential Task Force focuses on asset recovery. Moreover, the Prime Minister has appointed an Anti-corruption Secretariat to coordinate anti-corruption initiatives, and has also established a Financial Crimes Investigation Division through a cabinet decision. Each of these institutions carries out functions that the CIABOC—a permanent statutory body—is mandated to carry out. Moreover, these ad hoc institutions have failed to deliver results in line with public expectations. In this context, public confidence in public accountability systems is likely to be on the wane.

Thus restoring confidence in the government’s public accountability efforts is vital in the short term. Supporting ad hoc institutions to deliver on their mandates through training, capacity-building and resource allocation will be necessary to restore confidence in the government’s ability to fulfill its promises. It will also have immediate positive implications in terms of combating the culture of impunity with respect to past crimes and corruption. However, these ad hoc institutions alone may not succeed in building a sustainable public accountability system that addresses the opacity of power. For such a system to emerge, permanent institutions, such as the CIABOC, will need to be strengthened and professionalized over the long-term to deliver results. Given the ostensible incompatibility of these short-term and long-term measures, it may be necessary to introduce practical solutions in the interim. One such solution is to encourage the secondment of CIABOC officers to the various ad hoc institutions set up to deliver urgently required short-term results. These seconded officers would therefore benefit from the training, capacity building and resources channeled towards these institutions and would eventually take their learning and experience back to the CIABOC. Such a strategy could produce long-term capacity within the CIABOC and ought to be replicated for other permanent institutions such as the Auditor General’s Department and the Fraud Bureau.

The short-term initiatives listed under each of the four governance problems in Sri Lanka are meant to build public confidence and create political space for more difficult and possibly contentious long-term reforms. In addition to this substantive approach, it may be useful to think about a terminological approach to package such initiatives, which could further strengthen their value in confidence building. The Lessons Learnt and Reconciliation Commission (LLRC) is particularly relevant in this regard. The Commission was appointed by former president Mahinda
Rajapaksa back in 2010, and is very much perceived as an initiative of the previous government. In fact, the present government recently began to move away from using the Commission's report as a framework for reconciliation, and stopped reporting progress in terms of implementing LLRC recommendations. However, the LLRC continues to possess legitimacy among the Sri Lankan public as a 'home-grown' framework for reconciliation. Moreover, like the APRC, the LLRC enjoys the relative support of an ideological and political spectrum much wider than the government’s own support base. Thus using the terminology of LLRC recommendations may have an important value in terms of expanding the support base for peace and reconciliation and creating a 'thicker' vertical consensus. Though the LLRC report is weak on accountability for international crimes, its recommendations on governance and rights are widely accepted as constructive. In fact, the UN Human Rights Council resolutions on Sri Lanka since 2012 use the LLRC as a frame of reference for these precise reasons. It is therefore important to note that each of the short-term confidence building measures listed above in this section have also been recommended by the LLRC. It clearly recommends the enactment of a law guaranteeing a right to information. It also suggests strengthening women’s participation in decision-making and recommends the establishment of the National Land Commission. Moreover, it recommends broad reforms in the public sector including de-politicization. Hence the LLRC continues to be an important frame of reference that could galvanize bi-partisan support for crucial governance reforms that can build public confidence and help address some of the structural barriers to durable peace. Accordingly, selecting, presenting and motivating the reforms as those recommended by the LLRC has both intrinsic and instrumental value.
4 Economy

4.1 Economic Dimensions and Dynamics of Conflict

The foundational problem in Sri Lanka’s ethnic conflict, as discussed in the previous section, has much to do with the nature of the functioning of the state. The organised efforts to access and solicit the advantages that accrue from proximity to the state divided easily into ethnic camps that were at competition and tension. The manner in which this competition has played out in Sri Lanka - as in the classic example the prisoners dilemma game - has left all communities worse off. This section derives opportunities for peace-building from several of the economic dimensions of the ethnic conflict.

4.1.1 Expansion of Tamil insecurity

There are at least four dimensions to the expansion of Tamil insecurity in Sri Lanka in the post-Independence years. The first affected mainly, but not exclusively, the Tamil elite and aspirational class. The second affected mostly the wider Tamil society and peasantry, and the third and fourth affected a cross section including the Tamil business community.

The first dimension of insecurity arose from the state’s role in giving people access to employment and education. Employment in Sri Lanka’s public sector (a ‘government job’) has been a source of prestige and aspiration for most people in Sri Lanka regardless of ethnicity, and remains so to this day despite the low pay and declining standards of the public sector. At Independence, the public sector had a disproportionate number of Tamils, but this was reversed after 1956 when Sinhala was made the official language. Knowledge of Sinhala became a requirement for promotions and many areas of recruitment.

Several retirement schemes from the civil service also targeted the exit of Tamils. These insecurities over employment were compounded by insecurities over education, with the nationalisation of schools and standardisation policies for entry into universities; the first affected the quality of schools available to Tamil-speaking students and the second affected access to university education. In 2012, the proportion of Tamil students in the state universities was approximately 14.5%

12. Knowledge of Sinhala became a requirement for promotions and many areas of recruitment.
13. This was through quota systems (initially ethnic, then geographic) which effectively cut down the access of Tamil speaking students. See A. J. Wilson (1988), “The breakup of Sri Lanka: The Sinhalese-Tamil Conflict” for further analysis on this.
per cent, which corresponds to the proportion of Tamil people in the national population. Yet, their representation in higher levels of government employment is in much lower proportions. A study by Verité Research in 2012 revealed that Tamils in Tier 1 and Tier 2 (the top 2 tiers) of the public sector were just 3 per cent and 6 per cent respectively.14

A second dimension of Tamil insecurity was the increasing importance of the state in the economic welfare of the population. Since Independence, the Sri Lankan state was significantly welfare-oriented. The state provides universally free education and healthcare, and apart from providing employment the state also controlled access to land, provided permits, contracts, and was a source of support for farmers and was critical in solving local economic problems. In the 1980s the state also became a major provider of housing to the poor. The Sinhalisation of the state and the perception of the state being prejudiced in favour of the Sinhalese people in the disbursement of economic benefits in all these forms, were a significant breeding ground for wider Tamil insecurity that encompassed the wider and poorer section of Tamil society. The welfare expectations that Sri Lankan people place on the state have not changed radically over the last few decades.

A third dimension of Tamil economic insecurity arises from fears of state led ‘Sinhalisation’. In the major developmental push of the 1980s, the Mahaweli River was diverted to create new farming communities in geographical areas that were made irrigable through this scheme. The consequent state-led settlement of Sinhala farmers and creation of Sinhala communities in the districts of the Northern and Eastern Provinces, which were the bedrock of Tamil representation in Parliament, fuelled insecurities that had existed from since Independence of creeping ‘Sinhalisation’ and an agenda of weakening Tamil political influence.

A fourth dimension relates to periodic public violence. In the first four decades of Independence, there were periodic bouts of violent riots that targeted the Tamil people and their business establishments, seemingly triggered by minor events. However, the state was seen as complicit in the victimisation of Tamils as the state security apparatus and institutions failed to offer them protection, and were even seen as tacitly condoning violence against Tamil people by standing-by as it occurred rather than preventing it.15

Given this context, of conflict generated through the expansion of Tamil insecurity, peacebuilding will need to focus on measures that address this insecurity. Opportunities to do so include:

1. Measures to create equal opportunities in state employment and promotions16 [addressing the first dimension];

2. Ensuring pervasive access to state administration in the Tamil language [addressing the second dimension];

3. Resourcing and empowering local

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14. University entrance among Tamil students was disproportionately high in the first few decades post-Independence, with access to better schooling in Tamil coastal areas being a major reason.

15. The best known and largest in scale are the riots in July 1983. However, this was not a unique event; such events have peppered Sri Lanka’s post-Independence history starting with Gal Oya in 1956.

administration with regard to the distribution of economic and developmental benefits [addressing the second dimension];

4. Devolved powers to the Northern and Eastern Provinces over the alienation and administration of state land [addressing the third dimension]; and

5. Mechanisms to make policing more efficient and accountable to the local community [addressing the fourth dimension].

There are two kinds of risks that emerge in successfully pursuing these opportunities:

1. Resistance: In Sri Lanka there has tended to be political, administrative and societal resistance when concerns that affect Tamil and Muslim people are being specifically addressed. For instance, the Equal Opportunities Act that was mooted in the late 1990s by then President Chandrika Kumaratunga faced stiff resistance and was never passed in Parliament.

2. Nominalism: A feature of constitutional and legislative changes in Sri Lanka is that they can remain ‘on paper’ without being meaningfully implemented, especially when they are not driven through a process of strong social support. For example, although Tamil was made an official language almost 30 years ago, most government departments as yet have failed to give effective implantation to it, and remain to this day unaccountable for their failures in this regard.

4.1.2 Dynamics of the Sinhala business-class

There are various forms of economic rivalry that have manifested in ethnic terms in Sri Lanka. The most problematic has been cases where economic rivalry has led to violence. While state-led colonisation schemes have created high risks of enmity and violence between people, a longstanding risk outside of state action has been of ethnicized economic rivalries amongst the business-class, which has led to Sinhala business-class support for ethno-religious consolidation. However, the economic landscape keeps evolving and the increasing prospects of economic success through global integration and exports gives rise to a counter-current of business interests in Sri Lanka that seek to mitigate or prevent the emergence of destabilising factors, one of which is ethnic violence. Both of these currents have been impacted in different ways by the liberalisation of the economy in 1977.

First, and especially in the initial years post-1977, the newly liberalised economy fuelled insecurity amongst the non-elite Sinhala business groups in the country who felt threatened by global economic competition and less protected by the state. It has been argued that this escalated Sinhala ethnocentrism with regard to inward-looking economic competition and fuelled ethno-religious zeal, which also manifested disastrously in the 1983 riots.17

Historically (even prior to 1977), traders and entrepreneurs within the Sinhala community have been identified as backstage actors that have prompted or supported the emergence of

17. See Sunil Bastian (2005) “The economic Agenda and the Peace Process 2005”, and his reference to Newton Gunasinghe (1996) “The open economy and its impact on ethnic relations in Sri Lanka,” (ed) Sasanka Perera, Newton Gunasinghe, selected essays, Social Scientists Association, Colombo. However, the economic dimension of the 1983 riots should not cloud the fact that it was also driven by a political and governance system seeped in a feudal mentality of collective punishment of dissent, rather than that of reasoning within a democratic political space.
violent public riots against the Tamil community – usually through financial succour provided to champions of Sinhala nationalist interests in the social and political sphere. This emerges from a section of the Sinhala business class that have had a proclivity to represent their interests in ethno-religious terms and in turn see Tamil and Muslim businesses as a threat to their economic success. For example, several Sinhala-Buddhist organisations that arose post-2010 (such as the Sinhala Ravaya, Ravana Balaya and BBS), and even Sinhala-Buddhist parties such as the JHU have a financial support base in organisations such as the Sinhala Veera Vidhana, an association of urban-based Sinhala traders that is typical of the Sinhala economic interest groups.

Second, after about two decades down the road of an open economy, there has been another segment of that Sinhala business class that is looking outward rather than inward for their success. This segment has been keen to see the ethnic conflict ‘settled’ instead of constraining Sri Lanka’s economic prospects. These actors therefore were able to support the ‘federal solution’ mooted by President Kumaratunga, as well as the ‘military solution’ of President Rajapaksa – the overarching concern being for the conflict to be laid to rest rather than about the means by which that was achieved.

The indications are that this outward-oriented segment grew wary of Rajapaksa’s presidency, with the growing risk of economic fallout from his government’s confrontational international relations and the fanning of new tensions between the Sinhalese and Muslims in the country. Meanwhile the inward-oriented segment consolidated by focusing on the economic patronage and opportunities that flowed from being close to local political power in the post-war years.

**Opportunities**

- In the present context therefore, outward-oriented economic growth in the country is likely to have positive implications for reducing ethnic competition and tensions in Sri Lanka, especially if it is designed to also be more inclusive; that is, to link small and medium sized enterprises (SMEs) to export markets. At present less than 5 per cent of Sri Lanka’s exports arise from the SME sector. Therefore it is important to pay attention to how export promotion activities are structured in the country towards deepening participation and including the SME sector.

- Government intervention to create an enabling environment and services for the export sector is especially valuable for SMEs who will not have the means to compensate for its absence. The services would include financing schemes for production linked to exports and technical assistance for the value addition. Such assistance should also be targeted at promoting complex value chains that inter-link multiple areas of production, processing and services, drawing in many firms in the country from different places, and potentially across ethnic and geographic communities. This approach can generate dynamics towards cross-ethnic cooperation and economic inter-dependence across different communities.

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19. Analysis of voting patterns at the UNHRC show that countries that Sri Lanka was confronting and contesting were those with which it had advantageous trade relations and accounted for more than 50 per cent of Sri Lanka’s exports. See Verité Research (2014) “UNHRC measuring consequences and implications” also available at http://www.dailymirror.lk/45346/unhrc-measuring-consequences-and-implications
20. A typical example of this segment is the business chambers known as the Chamber of Young Lankan Entrepreneurs (COYLE).
ethnic and geographic lines. These forms of integration tend to act as impediments to the recurrence of conflict.

**Risks**

- The failure to ensure a growing and inclusive economy in Sri Lanka can foster widespread discontent, which is then easily tapped towards generating ethnic rivalries as well. This is mainly because as opportunities fail to expand or seem disproportionately distributed, internal competition and a sense of discrimination tends to build; and there is risk of these becoming ethnicized as it has occurred in the past.

### 4.2 Economic Status of War Affected Areas

In investigating the welfare of the war-affected people, this section begins with an analysis of poverty and income. This analysis provides picture that has several layers, and functions as paradigm to understand other areas of economic well-being as well. The most significant context of inequality, with reference to the war affected areas, which are the Northern and Eastern Provinces, is not the inequality between them and other provinces in the country, but the inequality within them.

The poverty comparison here is based on the Household Income and Expenditure Survey (HIES) of 2012/13. Since then, provincial economic growth has not been uniform. For instance, the Northern and Eastern Provinces have grown faster than the rest of the country, in the first few years post war, and then fallen back a little bit. There are also puzzles that arise with government data that need to be noted. For instance, data shows Vavuniya as having one of the lowest poverty rates in the country (3.4 per cent), and yet records 18 per cent of the households in the district as being huts or shanties. Further, the World Bank Country Diagnostic notes that at a slightly higher poverty line of USD 2.50 a day, Sri Lanka’s poverty rate increases to 25 per cent, from the 6.7 per cent official measure. This means that Sri Lanka’s official poverty rates are under-stating the extent of poverty in the country and cannot be an exclusive guide to evaluating priorities for economic assistance.

**Poverty:** In the 2012/13 HIES, four of the five districts with the highest levels of poverty in the country are in the Northern and Eastern Provinces. However, this is marked by wide income disparities within the Northern and Eastern Provinces and is mitigated by these provinces growing relatively faster after the end of war in their respective areas – the conflict ended earlier in the Eastern Province than in the Northern Province. In the Northern Province, Mullativu has a poverty level, measured by Head Count Index (HCI), of 28.8 per cent and Mannar a poverty level of 20.1 per cent; yet the average level for the province is 10.9 per cent. The majority of the population live in Jaffna with a poverty level of 8.3 per cent.

There are related statistics on the North and East that complicate the reading of average statistics. For instance, the inter-provincial rankings of GDP per capita and the income data don’t align. The Eastern province come eighth (only above the Northern Province) in terms of average incomes per household in 2012/13; yet for the same year, the Eastern Province is ranked fourth in per capita GDP amongst the nine provinces in Sri Lanka (see Table 1 and 2). The data for 2014, however, shows the per capita GDP rank of the Eastern Province going back down to seventh place.

**Provincial GDP:** The post-war economic dynamic is that Northern and Eastern Provinces
have seen a rapid increase in their per capita GD as a ratio of the national average. In 2005 the Northern and Eastern Provinces were at 45 and 51% respectively. By 2010 the Eastern Province had climbed to 79% and the Northern Province to 59%. By 2012 they were at 83% and 70% respectively. Yet in 2014 data they have unexpectedly fallen back to 76% and 68% (See table 2). Given the high dependence on agriculture incomes the reasons for the fluctuations can be harvests related, where local weather patterns play a major role. It also suggests that the post-war economic boost received by these provinces have now petered out.

**Housing, Water and Sanitation:** In understanding the economic status, it is useful to assess the prevalence and type of housing that people have. Even though people could be landless, in the urban areas of Sri Lanka, people are rarely homeless – and some studies place home ownership at over 80 per cent for returnees, and above the level of home ownership that existed before displacement, despite over 75 per cent of former housing being completely destroyed.\(^{21}\) The details of the district disparities in housing are given in Box 3.

Overall with regards to housing, water and sanitation, among the most vulnerable districts in the Northern Province, Kilinochchi and Vavuniya fare poorly (despite relatively less poverty within the province) whereas Mannar performs relatively better (despite more poverty). In the Eastern Province, Batticaloa continues to fare worse than Ampara and Trincomalee, and this

### Table 1 | GDP per capita (Rs.) by Province with rank

<table>
<thead>
<tr>
<th>Province</th>
<th>2005 Rank</th>
<th>% of National</th>
<th>2010 Rank</th>
<th>% of National</th>
<th>2012 Rank</th>
<th>% of National</th>
<th>2014 Rank</th>
<th>% of National</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western</td>
<td>190,649</td>
<td>153%</td>
<td>428,458</td>
<td>158%</td>
<td>552,992</td>
<td>149%</td>
<td>727,763</td>
<td>147%</td>
</tr>
<tr>
<td>Central</td>
<td>70,229</td>
<td>56%</td>
<td>209,276</td>
<td>77%</td>
<td>300,380</td>
<td>81%</td>
<td>407,830</td>
<td>82%</td>
</tr>
<tr>
<td>Southern</td>
<td>79,196</td>
<td>63%</td>
<td>240,167</td>
<td>89%</td>
<td>335,729</td>
<td>90%</td>
<td>439,179</td>
<td>89%</td>
</tr>
<tr>
<td>North Western</td>
<td>83,439</td>
<td>67%</td>
<td>228,365</td>
<td>84%</td>
<td>318,187</td>
<td>86%</td>
<td>453,608</td>
<td>92%</td>
</tr>
<tr>
<td>North Central</td>
<td>78,280</td>
<td>63%</td>
<td>215,285</td>
<td>79%</td>
<td>298,382</td>
<td>80%</td>
<td>402,928</td>
<td>81%</td>
</tr>
<tr>
<td>Uva</td>
<td>76,664</td>
<td>61%</td>
<td>190,933</td>
<td>70%</td>
<td>284,795</td>
<td>77%</td>
<td>392,775</td>
<td>79%</td>
</tr>
<tr>
<td>Sabaragamuwa</td>
<td>71,887</td>
<td>58%</td>
<td>180,549</td>
<td>67%</td>
<td>241,467</td>
<td>65%</td>
<td>349,746</td>
<td>71%</td>
</tr>
<tr>
<td>Northern</td>
<td>55,660</td>
<td>45%</td>
<td>159,044</td>
<td>59%</td>
<td>261,117</td>
<td>70%</td>
<td>338,249</td>
<td>68%</td>
</tr>
<tr>
<td>Eastern</td>
<td>63,819</td>
<td>51%</td>
<td>213,946</td>
<td>79%</td>
<td>306,471</td>
<td>83%</td>
<td>374,765</td>
<td>76%</td>
</tr>
<tr>
<td>National</td>
<td>124,773</td>
<td>5%</td>
<td>271,346</td>
<td>7%</td>
<td>371,061</td>
<td>7%</td>
<td>495,499</td>
<td></td>
</tr>
</tbody>
</table>


is consistent with its relative poverty status as well (see Box 3).

**Female-headed households:** Even though there is much discussion about the war creating a disproportionate number of female-headed households, neither the household surveys in the country nor the systematic country diagnostic of the World Bank provides much substantiation for this view. In fact, if at all these two provinces tend to fare better: Mannar (15 per cent) and Kilinochchi (16 per cent) have the lowest percentage of female-headed households in the country. All other districts range from 20-26 per cent and the national average is 23 per cent.

However, given the various inconsistencies outlined above with regard to the data streams, it is not possible to read too much into these statistics. In any case the cause of female-headed households in these provinces is likely to differ from the rest of the country. The high prevalence of female-headed households in the country could in some part be explained by the higher life expectancy of women in Sri Lanka, and women heading households when men have migrated within or outside the country to work. In the Northern and Eastern Provinces there is likely to be a higher prevalence of younger women heading households, and women who have lost their husbands to war, rather than labor migration or old age. The difficulty of obtaining a clear picture from the national statistics suggests that more localized data gathering is needed in making decisions on developmental interventions.

**Other measures of well-being:** Studies that have been conducted by the UN, the World Bank and others cover many other areas of concern, including health, education, nutrition, and food security. In all of these, the data and discussion arrive at similar conclusions: the statistical evidence shows the Northern and Eastern Provinces doing poorly, but not as being extremely disadvantaged in relation some other provinces in the country, several of which are also doing poorly. Yet despite the averages there is also evidence of specific pockets of deprivation in the north and

**Table 2**

Mean monthly household Income (Rs.) by Province with rank, 2012/13

<table>
<thead>
<tr>
<th>Province</th>
<th>Mean Income</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western</td>
<td>33,564</td>
<td>1</td>
</tr>
<tr>
<td>Central</td>
<td>22,292</td>
<td>5</td>
</tr>
<tr>
<td>Southern</td>
<td>23,606</td>
<td>3</td>
</tr>
<tr>
<td>North Western</td>
<td>25,854</td>
<td>2</td>
</tr>
<tr>
<td>North Central</td>
<td>21,848</td>
<td>7</td>
</tr>
<tr>
<td>Uva</td>
<td>21,909</td>
<td>6</td>
</tr>
<tr>
<td>Sabaragamuwa</td>
<td>23,134</td>
<td>4</td>
</tr>
<tr>
<td>Northern</td>
<td>18,916</td>
<td>9</td>
</tr>
<tr>
<td>Eastern</td>
<td>19,836</td>
<td>8</td>
</tr>
</tbody>
</table>

Source: Household Income and Expenditure survey, 2012/13

22. Census of Population and Housing 2012
23. HIES 2012/13
**BOX 3**

**ECONOMIC STATUS**

**Poverty**
In terms of the poverty headcount index, at provincial level Uva is the poorest province (15.4 per cent) in the country, closely followed by the Eastern Province (11 per cent) and the Northern Province (10.9 per cent). Within the Northern Province, there is considerable variation in poverty levels. Whilst Mullaitivu has the highest incidence of poverty (28.8 per cent) in the country at district level, Vavuniya has one of the lowest rates (3.4 per cent - after Colombo, Gampaha and Kalutara). The Eastern Province fares relatively better than the Northern Province, with poverty concentrated only in Batticaloa district (19.4 per cent).

That the depth of poverty may be greater in the Northern and Eastern Provinces is indicated by the fact that mean income is lowest in the country in these two provinces; within them only Vavuniya district stands out with relatively higher mean income. Food expenditure ratio (compared to non-food ratio) is relatively higher (60:40) in poorer regions of Mullaitivu, Mannar and Batticaloa. In sum, there appear to be pockets of poverty in Mullaitivu and Mannar (in the Northern Province) and Batticaloa (in the Eastern Province).

**Housing**
The percentage of households that are huts or shanties is highest in the country in Mullaitivu (45 per cent) followed by Nuwara Eliya (32 per cent), Kilinochchi (24 per cent) and Vavuniya (18 per cent). Jaffna, Mannar, and Batticaloa stand at around 7 per cent while other districts in the country have relatively fewer hut/shanty households (below 5 per cent). A similar pattern can be identified (in terms of rankings) for non-permanent housing units.

**Water**
Households with improved access to water fair relatively well in northern and eastern districts (over 80 per cent) with the exception of Kilinochchi (72 per cent). Districts outside the north and east such as Nuwara Eliya and Badulla fare worse.

**Food Security**
Over 40 per cent of the population of the Northern and Eastern Provinces has been identified as food insecure. In the North: 55 per cent in Jaffna, 28 per cent, in Killinochchi, 40 per cent in Mullaitivu, 26 per cent in Mannar, 35 per cent in Vavuniya; in the East: 56 per cent in Trincomalee, 21 per cent in Batticaloa and 41 per cent in Ampara.

**Sanitation**
With regard to households with improved access to sanitation, Mullaitivu (68 per cent), Kilinochchi (72 per cent), Vavuniya (85 per cent) and Batticaloa (85 per cent) fare the worst in the country. All other districts stand at over 90 per cent.
east where the poverty related issues are likely to be highly pronounced – as it would be in other parts of the country as well. (See box 3).

The discussion in this section and Box 3 sets out how the war-affected Northern and Eastern Provinces are faring with regard to poverty and basic needs. When examined at the provincial level there is a mixed message: Northern and Eastern Provinces are near the bottom of the pile in some measures, but they have also improved rapidly since 2005. Though yet lower down in the rankings on several developmental indicators, they are not the exclusive zones or deprivation in the country; and are sometimes ahead or not too far behind several other provinces in the country.

When looked at in the district level, there is considerably more variation. The analysis shows that Mullaitivu, Mannar, Kilinochchi and Batticaloa are amongst the worst affected districts and are among the five poorest districts in the country, while other districts in the North and East are doing much better. Drilling down further to city level will locate further pockets of deprivation in these and other districts as well. The assessment points to economic needs varying significantly within these provinces, within districts and within cities. In this context, localized evaluations will be a key guide in deciding on specific interventions.

### 4.3 Economic Restoration and Upliftment

The available research by development organisations on livelihoods, poverty, income and employment show that there are economic and social consequences that have arisen in the North and East during the war and post-war periods that yet need to be addressed. This is particularly the case for the most vulnerable, and the victims of the conflict, including those that were displaced from their homes, the landless, female-headed households (in all parts of the country, including military widows), ex-combatants, suppressed-castes, the disabled and the indebted. There is also the widespread sense that there is a lack of desirable employment.

Despite these deep seated problems in the economic aspect of people’s lives it would be incorrect to broadly classify the people in the North and East as the most under-developed or economically impoverished in the country. The analysis above on poverty and provincial GDP suggests that agriculture-based communities in Sri Lanka tend to be the least well off and that the Sabaragamuwa and Uva provinces seem to have some of the most entrenched issues with regard to emerging from poverty. The present assessment, however, is not attempting to provide a framework for evaluating developmental priorities in general – even though general overall development in the country can be beneficial to peacebuilding. This assessment recognises that development actions can be more specifically targeted towards peacebuilding when approached from a framework of economic restoration and economic upliftment in relation to the conflict. The concept of economic restoration is aligned to the third pillar of reparation in a transitional justice framework. The related idea of upliftment is aligned to the fourth pillar of transitional justice, which is non-recurrence.

Though not addressing the causes of the conflict, this type of economic ‘restoration’ and ‘upliftment’ will have a high impact in building confidence and fostering the necessary patience, while an adequate and durable ‘political solution’ – which will take time – is being forged in Sri Lanka.

### 4.3.1 Economic Restoration

The concept of economic restoration is familiar from the history of global conflicts. It is akin to
accepting that people have experienced special suffering due to war and conflict and deserve special assistance and consideration in recovering their economic lives. For Sri Lanka post-war economic restoration would be about ensuring that people everywhere in the country, including families of soldiers who have suffered due to the war, are assisted to recover what has been lost and from the harm caused in the course of war. This way of linking development actions to people’s experiences of loss during the war will link it more directly to peacebuilding than a standard needs assessment approach to developmental priorities.

The restorative framework would mean evaluating at least four segments of war affected people in Sri Lanka: (i) people who have suffered in the main theatre of war (of all ethnic communities); (ii) soldiers and families of soldiers; (iii) victims of LTTE atrocities outside the theatre of war; and (iv) those displaced from their homes and forced outside the theatre of war.

**People who have suffered in the main theatre of war**

This is the best understood aspect of the problem of restoration, but it needs focused attention. The focus for the Northern and Eastern Provinces affected by the fighting might be described as restoring the capacity of people and families for a ‘normal life’: restoration to land, with shelter, sustainable and resilient livelihood opportunity, and access to basic services including education and health. Restoring a proper infrastructure of social services within these areas (especially outside urban centres) is critical, because in vulnerable and underdeveloped situations, social services, not just in health and education but also in extension services to farmers, disability services, child care services, mental health and counselling services, and economic and job information services, can be the mainstay of security and support that helps families to recover their lives. In the context of female-headed households and the loss of traditional social support structures due to the consequences of the war, implementing such social services that work efficiently and are valued by the community, is doubly important in the restoration framework.

This will need a concerted program with sequencing and prioritization, because all people did not suffer equally and not all areas are in an equally desperate predicament post-war. Section 4.2 provides guidance with regard to understanding this unequal context. In understanding the differential context, special attention may be needed with regard to food-security. Data compiled by World Food Programme, reported in box 3, suggests a high level of food insecurity. These averages are also likely mask the fact that the problem is not generally distributed but likely to be extreme in certain pockets. Identifying these pockets, analysing the causes and assisting people with resources and habits to overcome the problem would be an important intervention in this context.

**Soldiers and families of soldiers**

This is a group that has not received adequate attention of development partners because it has been thought that the government has adequately compensated soldiers who have been disabled and families of soldiers who have been casualties of the war. There is yet a need to survey the adequacy of government provision in this area, to set standards for compensation and aftercare, and even to set standards and support structures for the economic integration of soldiers who retire. Currently, soldiers can retire with a pension (which may not be adequate to maintain family life with dignity in the local community) at around 40 years of age, as 20 years counts as a full term of service and triggers retirement when soldiers are not promoted to higher grades.
Victims of LTTE atrocities outside the theatre of war

The LTTE’s tactics of suicide bombing and attacking civilian targets meant that there are a large number of people (of all communities) that have suffered disability, death, disappearance and other forms of material loss during the conflict, outside the main theatre of the war. Presently there is no known formal assessment and listing of these victims. However, the large volume of submission made by affected people to various commissions and the high visibility of these events means that it should be possible to build a database on such loses and assess the adequacy (if any) of the assistance received by these people in recovering from their loss.

Those displaced from their homes and forced outside the theatre of war

Large numbers of people (of all communities) have been displaced from their homes in the North and East and the border villages as a result of the war. In particular, the Muslim community of the North faced mass expulsion by the LTTE between October and November 1990. These families now face a complex choice of deciding between their new and old homes and have suffered materially in having to relocate. Once again the assessment of the assistance received, its adequacy, the standards and guidelines in defining compensation are all weakly defined – leaving people in an uncertain predicament moving from pillar to post in seeking solutions for recovery in the post-war context. Part of this also has to do with how disputes over land that they were forced to sell or abandon can be resolved after over a decade of displacement. Possible steps with regard to resolving land disputes are discussed in Section 6 of this assessment, and they are relevant to all people who have suffered and remained in the theatre of war as well.

4.3.2 Economic Upliftment

Economic analysis around conflict re-emergence has drawn some broad conclusions that are relevant to note. In a post-conflict society, higher levels of schooling, economic growth, work opportunities and well-being; lower levels of population growth; and a shift toward value-added exports and away from primary commodity exports, tend to reduce the probability of conflict recurrence.25 One of the lessons that emerge from empirical analysis on the subject is that organised rebels become more difficult when economic well-being and opportunities in a society have expanded. This is simply because of the ensuing difficulties for rebel organisations to recruit and maintain contented foot soldiers, and to be financially viable.26 Since the analysis above on Sri Lanka also suggests that economic insecurity and difficulties faced by Tamil people have been a significant element in motivating conflict, attention to general economic upliftment would also fall within the peacebuilding mandate. The context, opportunities and challenges in this regard can be discussed with reference to youth and employment and with reference to economic vulnerabilities.

26. Interviews conducted in the North reflected this sentiment as well, pointing to the CFA period, and the relative well-being enjoyed then, as one that sapped the LTTE’s ability to maintain the motivation of its carders later, and describing the present period of relative well-being in Jaffna as a ‘trap’ by the government, vitiating the possibility of challenging the state if/when it fails to deliver on a political solution.
Youth and employment

The biggest concerns raised by the people in the North and East in the UN’s Peacebuilding Survey (2015) were with regard to the ‘economy and jobs’. As in the rest of the country, the predominant concern of youth in war-affected areas is for ‘better’ jobs rather than more jobs. There is a country-wide pattern, also reflected in the North and East, that while young people complain of the lack of jobs, firms complain about the lack of labor. This has to be understood in terms of the long-established mismatch in Sri Lanka between the aspirations and availability of jobs in the country. This is different to the mismatch between skills and jobs which is more commonly discussed.

There is indeed also a shortage of skills. The disruptions to schooling and training suffered in the war years has made a large number of young people less qualified and less equipped to take up the better paying jobs that are being created through new investments in war affected areas. Furthermore, there is an assumption that passing Ordinary Level Examinations (a national exam after ten years of schooling) is a pre-requisite to accessing any kind of skills training, and youth who do not possess this qualification tend to not explore other training opportunities as a result. Yet their salary expectations remain relatively high, and there is a reluctance to take up manual work. That is, the aspirations and jobs mismatch in Sri Lanka is a particularly important factor in terms of the challenging context for advancing economic outcomes.

Youth, and especially those with higher levels of education, tend to hold on to their aspirations of a ‘good job’ – which don’t match with availability – and are more likely to be unemployed as a result. In the relatively affluent parts of the Northern Province, however, there are also youth who live as ‘remittance dependents’ (living off an income remitted monthly by a close relative in another country) and are not actively seeking employment. In Sri Lanka, the lowest level of labor force participation is in the Northern (42 per cent) and Eastern province (45 per cent) respectively. The other two provinces in Sri Lanka that have very high level of poverty: Uva and Sabaragamuwa, have among the highest levels of labor force participation rates: 61 per cent per cent and 55 per cent per cent respectively.

The concept of a ‘good job’ seems to have three elements: remuneration; job security and designation (social status). This makes the pensionable and permanent jobs of the public sector highly attractive, especially as the starting wages in the public sector are also relatively high in relation to the private sector. This explains the disproportionate demand for public sector jobs over the private sector and especially over manual work. Between 40 per cent and 50 per cent of those seeking jobs in the North and East are attempting secure employment in the public sector; whereas, the highest availability of new jobs seems to have been in the manual work of the construction sector.

More than 50 per cent per cent of the people in the Northern Province live in Jaffna. Despite the said shortage of jobs, people in Jaffna also tend to be highly selective in the kinds of jobs that they are willing to take. As a result, the daily wage rate for unskilled workers exceeds Rs. 1,000 in Jaffna – whereas it tends to be around Rs. 800 even in Colombo. At the same time, there are other parts of the Northern Province where people are willing to take up any kind of work and are willing to work at lower wages. This

27. According to the National Youth Survey 2013, around 52 per cent of survey respondents preferred to work in the public sector.
suggests that labor is not very mobile within the province and even within districts.

Part of the lack of mobility could arise from lack of awareness. People are less aware of jobs that are not in their own area, and there is weak information flow across localities. However, willingness to go outside the district and work can also be low, even in areas such as Mullaitivu – where employment opportunities and incomes are very low.

**Economic vulnerabilities**

Both as a consequence of the war and as a consequence of cultural dynamics, economic vulnerability in the North and the East exists in various dimensions. The Systemic Country Diagnostic of the World Bank places the number of disabled in the North and East as 10-15 per cent of the population – most of them being ex-combatants of the LTTE. Ex-combatants are said to have weaker marriage prospects, and are more likely to be unemployed and under-employed, possibly due to social stigma. This seems to be particularly the case for women. However, when addressing economic upliftment from a non-recurrence perspective, it is also important to focus on the interventions that will have the widest possible reach and address those who are most likely to be radicalised into violence through economic discontent.

More than a third of the people in the Northern and Eastern Provinces would derive their livelihoods through farming and fishing related activities; and people in these trades tend to be vulnerable and poor. Therefore, targeting economic upliftment towards improving the farming and fishing sectors is likely to have a high positive peacebuilding impact within this context.

Presently, farmers and fisherman in Sri Lanka are extremely vulnerable to changes in the patterns of weather – and the output of agriculture based provinces can vary significantly based on weather patterns. Introducing techniques and information flows that reduce this vulnerability to the weather can go a long distance in assisting farmers and fisherman to uplift their economic status. In this context, improving irrigation facilities, storage facilities, transportation that reduces wastage, and technical and government assistance that provides guidelines and timely information for these industries, as well as financial facilities, are key areas of strategic opportunity for economic assistance. The potential for possible climate change shocks, and means of their mitigating, can also be considered in this regard.

As discussed earlier, facilitating the move towards value added activities can be an important way of uplifting the farming and fishing sectors as well. There is a further opportunity to develop and link farmers and fisherman in war-affected areas to the export value chain spanning geography and different ethnic communities within the country, and thus contributing towards non-recurrence.

Finally, when it comes to improving and expanding farming, land becomes very important. Lack of access to land is a key source of vulnerability. This is not just about the release of land from military occupation but the restoration of land to people for living and livelihood activities. Presently, one of the major challenges in restoring land to the people of the North and East is the lack of data on the precise status of land. Current data on the ownership status of land in the North and East, that is, whether it is state owned or privately owned, is poor. This lack of data often complicates claims to land and has led to the proliferation of land disputes. The process introduced under the Land Circular of 2013 is heavily undermined by this lack of data. Hence a cadastral survey of all land in the North and East could be undertaken as an important measure.
towards permanently resolving land issues in the north and east. Moreover, once such a survey is completed, the current procedure under the Land Katchcheri system (in which the Divisional Secretary determines land claims and issues or renews land permits and grants for state land) can be refined to include specific criteria for state land alienation. The existing process provides too much discretion to the Divisional Secretary and lends itself towards arbitrariness. The process set out under the Land Circular of 2013 could be strengthened to expeditiously resolve land disputes at the administrative level.
The security transition is the most basic component of the transition from war to peace. Pervasive physical insecurity is the condition of violent conflict, and reducing that insecurity is both a pre-requisite to peacebuilding, and itself a component of the peacebuilding agenda. The security transition necessary for peacebuilding in Sri Lanka needs to be considered in terms of reorienting the security sector from a war footing to one that delivers on peace-time security needs of citizens. This transformation entails a more substantial reframing from a top-down, state-centric orientation to a more people-centric one, in which a sustainable, positive peace and the security of the people are mutually reinforcing.

During the civil war physical insecurity was widespread, particularly in the Northern and Eastern Provinces where the military confrontation was centered. In that time, civilians were affected not only as ‘collateral damage’, but also as the direct targets of violence designed to intimidate, control, sexually exploit, and extort them. In addition to the risk of direct violence, the conflict also gave rise to other forms of vulnerability and insecurity, such as the inability to sustain livelihood activities. Restrictions on farming, fishing, access to land, and travel across contested areas were widespread. This climate of violence and deep insecurity has significantly reduced since the end of the war in May 2009 and there are no signs of reversal or resumption. There has been a visible improvement in the overall security climate since 2015, and responses to surveys suggest that 74 per cent of people in the Northern Province feel safer than they did a year before.28

This significantly changed security situation in post-war Sri Lanka is unusual and very significant. Unlike many other post-war or post-insurgency countries, Sri Lanka has not experienced continuing spasms of violence, terrorist attacks, or other such forms of manifest political violence since the end of the war in May 2009.

Interviews with key informants showed that the discernible reduction in the visible presence of the military forces in people’s daily lives over the previous year has been greatly welcomed in the North. These developments have done much to permit the gradual normalization of life since the end of the war. It also means that it is possible to

be more ambitious in the security transformation, and that there is a compelling argument for the normalization process to be taken further. There are four aspects to the security normalization that can be taken forward concurrently: (i) return of land, (ii) de-concentration, (iii) de-proliferation, and (iv) re-orientation. In the context of peace-building, there are opportunities and challenges with regard to each.

Beyond these substantive issues, there is also an important symbolic dimension to the presence of the military in the North and East. The military camps are large in size and imposing in nature. They span very large areas of land that once encompassed whole villages from which people remain involuntarily displaced. The symbolism of this presence along with memorials and structures that celebrate the military’s victory over the LTTE can be a grating factor on people’s sensibilities, as most people of the Northern and Eastern Provinces have lost close relatives during the war.

5.1 Return of Land

Military appropriation and occupation of land, both during and after the war, continues to be a major source of discontent and resentment in the North and East. Given the historical association of dry-land colonization and development schemes with the settlement of the Sinhala populations in contentious border areas, the continued occupation of land by an overwhelmingly Sinhala military force, despite the lapse of almost seven years since the end of the war, has perpetuated fears that there is an agenda of ethno-demographic re-engineering behind it.

The three branches of the military: the Army, Navy and Air Force, continue to hold very large expanses of land in these areas. This includes privately owned land belonging to local residents, or internally displaced persons (IDPs) who remain unable to return to their homes due to military occupation of their property. At the same time the absence of a cadastral survey has also made it difficult to verify the precise ownership distribution of the lands held by the military. Sources estimate that the military holds about 34,000 acres of state land in the two provinces combined and about 9,000 acres of private land in the Northern Province. The extent of private land held in the Eastern Province may now be negligible – less than 200 acres.

**Opportunities**

- The extent of land that has been brought under military control was based on a wartime footing, and the need to maintain buffer zones to constrain long-range weapons that could be used against the military camps. The present context allows for the buffer zones to be reduced in scope and large tracts of land to be released.

- Already, the periodic release of substantial tracts of land, in the last year has built a positive attitude and confidence amongst the Tamil people in the North and East. Land release can also be expected to expedite voluntary return of Sri Lankan refugees.

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29. In 2015, the following areas of land were released according to the Ministry of Resettlement: (i) 1000 acres from the High Security Zone in Tellipalai and Kopay in Jaffna District; (ii) 818 acres of land allocated to BOI in Sampoor in Muttur Division of Trincomalee District have been released for resettlement (after the two relevant gazette notifications were revoked by President Sirisena). The Navy agreed to release 237 acres of Sampoor village after relocating the Navy camp (cabinet agreed to allocate Rs. 200 Million rupees as expenditure for the relocation). Another 474 acres were released in Kilinochchi District. These land releases facilitated resettlement of 1171 families in Jaffna District 253 families in Sampoor village of Trincomalee District, and 78 families in Kilinochchi District.
currently in India. Maintaining this positive momentum does not require all the land to be released at once, but only for there to be consistent periodic release of lands, which is also easier in practice.

- The fact that the release of lands has political support within the Sinhala population and media, and significant support within the military as well31 has made this aspect of peacebuilding one that can move forward without too much impediment, and with continued positive results.

**Challenges**

- The right to occupy land does not derive automatically from the land being released by the military, but will require administrative functions of the province and center to establish ownership claims, boundaries and provide permits for the occupation of land. This is presently difficult due to the lack of a cadastral survey of land in the Northern and Eastern Provinces.

- Much of the lands that become available through release will not be immediately accessible or live-able. It will result in further expectations of road infrastructure, and also access to water to make the land live-able, irrigable and economically active. Therefore, the release of land needs to associated with a larger developmental plan aimed at providing durable solutions for people that will use the land, in order to reap the dividend of that release.

5.2 **De-concentration**

The term *de-concentration* is used here to mean thinning out in terms numbers, footprint and visibility on the ground. Currently, figures of troop strength are not publicly accessible.32 Interviews conducted in the course of this assessment unofficially suggested that military strength in the North and East has been reduced by 27 per cent since the end of the war, which together with past reports, would suggest that above 50% of the Sri Lankan military is still stationed in those two provinces.

Normalization involves the de-concentration of the military, particularly in the Northern Province, where high levels of deployment, land occupation, and in some areas high visibility, intrusive surveillance, and symbolic forms of dominance continue to prevail.

The high level of military presence has also led to the perception that an agenda of state-aided Sinhalaization was underway in the North and East. Military personnel are overwhelmingly Sinhalese,
and their concentration amidst largely Tamil and Muslim populations has contributed to a sense of societal and cultural insecurity among people in those areas. For example, the military is reported as engaging in the construction of Buddhist places of worship and preventing reconstruction of Hindu temples and churches destroyed during the war.\(^3^3\) Security restrictions have also prevented people from accessing their places of worship where they are located on land held by the military. Moreover, unlike religious violence targeting Muslims and Christians in the south, religiously motivated discrimination by the military carries with it the undertones of colonization and ethnic dominance by the ‘Sinhala’ state, which have historically been major drivers of conflict.

**Opportunities**

- Since January 2015 there has been significant progress in de-concentration, mainly through removing the military from carrying out police functions, rather than by reducing numbers. This move has been widely welcomed and remarked upon at many of the interviews with key informants in Jaffna. The resulting perception of the ‘military jackboot being lifted’ has a high positive impact, with an improved sense of social ease and well-being among the people especially within the urban areas of Jaffna. There are further opportunities to enhance and entrench this positive outcome throughout the North and East.

- Reducing the military presence will have further knock-on benefits in reducing suspicion and negativity with regard to the state, and in reducing victimization of poor and vulnerable women. That is because the concentration of military personnel has been accompanied by an increased demand and organized supply in sex work in the North.\(^3^4\) The prevalence of sex workers has contributed to a sense of moral degradation of the society, which is blamed on the military even if it is facilitated by local agents.

**Challenges**

- The reduction of military concentration is more pronounced in the urbanized areas of the Northern Province, such as Jaffna. However, reports suggest that military visibility remains high in areas of the Vanni (which encompasses the Vavuniya, Mannar, Mullaitivu districts, and parts of the Kilinochchi district in the Northern Province that came under the government’s control later than Jaffna did during the war). According to the UN’s Peacebuilding Survey (2015), more than 80 per cent of Northern Province residents are within five kilometers or a military camp or checkpoint; 30 per cent of those are within one kilometer.\(^3^5\) This is a level of military concentration within a population that is excessive, especially given the context in the North over six years after the end of the war.

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34. This tends to be the case wherever the military is stationed. It has been and still is the case even in the holy city Anuradhapura in the North Central Province where a significant military presence is maintained. Additional factors that are likely to have contributed to the prevalence of sex work in such areas include economic vulnerabilities and human trafficking. See also Radhika Coomaraswamy, ‘Summary of consultation with war-affected women for the global study on 1325 – a 15 year review (October 2015).

• The main subjective criterion that drives deployment decisions is the threat assessment.\(^{36}\) The prevailing threat assessment of military intelligence is that a return to violence in the Northern Province “cannot be ruled out”. The funding flowing into the North from diaspora sources, the activities and rhetoric of the beneficiaries and further information gathered by military intelligence is presently interpreted to suggest that the military should continue to exercise vigilance.

• Large investments have been undertaken in housing and other facilities built for the military stationed in the North and East. This means that the costs of relocation will be high and can be interpreted as an obstacle to re-location.

5.3 De-proliferation

The term *de-proliferation* is used to describe the phasing out of the military from non-military spheres of public life. Beyond the use of the military in civilian governance, this includes large-scale agriculture on occupied private land, commercial activities such as tourism and retail trade that place it in economic competition with local people and the deployment of the military in public sector development activity such as the building of road infrastructure.

**Opportunities**

• In March 2015 the practice of calling out the armed forces to exercise police powers in maintaining public order throughout the country (via monthly presidential orders under Section 12 of the Public Security Ordinance or PSO) was ended. The practice has been continuously adopted every month since August 2011 when emergency regulations, under which the military had been called out for several decades, were repealed. Military personnel are now technically confined to barracks, and the maintenance of law and order is now the exclusive preserve of the civilian police force. This has created a positive basis for continuing forward with further de-proliferation.

• Some of the commercial ventures, such as hotels, built and managed by the military have bred a sense of injustice – that the military is reaping commercial profits from occupied private land, while the local owners are deprived. Plans have been made to ease this tension by offering private owners a share of ownership in the ventures established. Rather than leave the details to the discretion of the military, there is an opportunity to develop proper financial and criteria for sharing ownership and providing the usurped owners of such properties with means of compensation and exit.

• The military does not maintain a high interest in some aspects of proliferation, such as retail sales of agriculture produced in military lands. These activities can be transferred to the local community, with the military activity in agriculture downscaled to focus mainly on supplying the needs of the military.

**Challenges**

• At present, the military has not been interpreting the non-issuing of the Gazette under the PSO as strictly restricting them to barracks. This has allowed the military to continue with its economic ventures and be significantly involved with local development activities as well; for example, the

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\(^{36}\) The objective criteria – such as land area, population, terrain, mobility – are non-controversial.
Security Forces Headquarters in Mullaitivu is involved in resettlement and reconstruction of schools and places of worship. Prior to March 2015, when the military maintained a highly intrusive security presence in civilian life, their visible involvement in local development activities is likely to have mitigated the deeper resentment and hostility towards the military among the civilian population. However in the present context, where there is an expectation that the military should remain within barracks, their continued involvement in developmental activities is not likely to be seen positively or contribute to restoring the normalcy of life in the North and East.

- The economic activities of the military have also created some livelihood dependence among local people. De-proliferation therefore will need another layer of consideration, to influence job creation rather than job loss in the method of transition.

- Many areas of military economic activity and income serve as a system of supplemental welfare and benefits for the military and their families. Given the large size of the military, any attempt to de-proliferate from these areas could be felt as a withdrawal of benefits that military personnel have come expect and enjoy, and is hence likely to be resisted.

5.4 Re-orientation

Decades of war have established a particular culture of counter-insurgency within the military that requires attention. For example the Prevention of Terrorism Act (PTA) of 1978 remains in force. The Act grants law enforcement authorities sweeping powers of arrest and detention that circumvent existing safeguards against arbitrary and prolonged detention. The PTA grants the Minister of Defence the power to order the detention of any individual suspected of being connected to unlawful activity for up to eighteen months, in any place or under any conditions determined by the Minister; Section 10 of the Act prevents any court or tribunal from calling into question such an order. A judgment of the Supreme Court in October 2014 held that a person could be arrested and detained under the PTA even if the subsequent indictment was brought under ordinary penal law (i.e. where the offence they are eventually charged with is not related to terrorist activity).

Sri Lanka’s defence budget has increased year on year since 2009, accounting for 9.8 per cent of government expenditure in the present 2016 Budget, and competes with alternative investments in welfare. For comparison, the entire free health care system of the country received a budgetary allocation of only 5.6 per cent of expenditure. Therefore, there is a need to review the security sector and consider a process of re-orientation, which can on the one hand assist the needs of peacebuilding, and on the other, face the new and emerging security challenges for Sri Lanka in the post-war period.

Accordingly, beyond the immediate normalization in war-affected areas of the country there is a longer-term imperative to re-orient, re-frame and re-think the needs of the security sector in Sri Lanka appropriate to a peace-time force.

38. As a percentage of GDP defence expenditure is relatively modest at less than 2.5% of GDP
Opportunities

- Military surveillance, movement control, and military activity remain significant, particularly in the Vanni, and have in the past generated chronic insecurity. In the North, 17 per cent of households reported having had a visit from military officials, and two per cent of citizens say their movement in and out of their village is restricted by the police, military or others.39 In this context, re-orienting the military to reduce overt intelligence gathering and surveillance can elicit considerable positive sentiment from the people. This can be seen in a strategic context. An overt sense of being under surveillance can create hostile sentiments and thereby even be counter-productive to security. The opportunity is then to also advance security, by finding a better balance between a surveillance-based approach to non-recurrence, and a civil confidence-based approach.40

- The military is the largest employer in the country and personnel can retire with a full pension relatively early – after 20 years of service. Such retirement and exit of personnel from the security forces also requires better management and resources to assist with reintegration and re-orientation into productive civilian and social life

- Improving the ethno-religious balance, practices and identity in the military will involve a slow long term effort, involving rounds of recruitment and training as the armed forces are gradually replenished. In the short term, there could be good faith opportunities to promote or appoint non-Sinhalese personnel currently in the forces to command positions. Such appointments could have high symbolic capital and help generate confidence in the state security forces among Tamil and Muslim people.

- The opportunity to re-orient the military also arises from the strong appreciation within the institution for global recognition and participation in joint activities and training with other countries, as well as in joining United Nations peacekeeping missions, and the benefits of re-orientation in advancing opportunities in that regard.

Challenges

- There are claims that incidents of criminality, extortion, and sexual predation involving rogue elements in the security forces continue even after 2015. People also feel that the responsible elements enjoy impunity from police action when connected to the military. Some re-orientation of the military mindset is needed, to allow normal prosecution and punishment for criminal activity from within its ranks to be seen as right and desirable.41

- At present there is a strong resistance from within the military to accept any sort of investigations with regard to violations of the human rights and war crimes. The current logic and mindset is that past extra-judicial actions (even when they amount to human rights abuses) can be justified as a part of the military mandate in managing the threat of future violence.

40. The military is already thinking in this direction, as reflected in the civil military coordination initiatives that have been set up. See: http://www.cimicjaffna.com/main.php
41. This also helps the military, by improving the discipline and professionalism within its ranks.
• In the course of the last decade, the military has been transformed in two ways. Firstly, the proportion in the military of Sinhalese who are also Buddhists has increased to an overwhelming level – our assessment is above 96 per cent – and the proportion of non-Sinhalese has declined – our assessment is to below 2 per cent. Second, these trends have been combined with the military moving towards an explicitly Sinhala identity, and practices of and symbols of Buddhism becoming overtly used and deployed within the military in ways that were taboo in the past and not permitted by military guidelines. These trends are not easy to reverse.

• Interaction between the government and the military to secure the buy-in of the latter on the security transformations needed for re-orientation is currently weak. While change management in any organization is difficult, in a war-winning military in particular, the deeper institutional and mindset changes can be difficult to endorse. There needs to be a large investment in professional, internal change management process within the military, if military personnel are to be successfully re-oriented from the logic and mindset that was applied in the war years towards the logic and mindset that would apply in their new roles as stakeholders in the peacebuilding process – helping soldiers see legal, economic and political actions and solutions not as a betrayal of the military gains but as a culmination of the peace. Without such intentional planning, resourcing and management and communication, the re-orientation process is likely to be superficial without deeper traction or success.

5.5 Post-war security threats

Beyond the issue of militarization there are also other drivers of insecurity in the North, stemming from fact that effective law and order has yet to be instituted in the former conflict affected areas. This has an important bearing on the safety and security of women in particular; the lack of personal security at home and in public places remains a primary area of concern among women and the communities they belong to.42 While members of the armed forces have been culpable in violence against women, there is also more generalized gender-based violence, compounded by the presence of a dislocated male population, a breakdown in the social cohesion of neighborhoods and neighborly relations, poor economic prospects and widespread drug and alcohol abuse.43 Poor law enforcement has furthered the sense that there is impunity for general violence and criminality, especially for those seen to be politically connected. In this context, there is continued lack of confidence among the Tamil people in the North that the state is able to deliver basic security. Yet, the persistent lack of faith in the police is not a strictly Tamil phenomenon; ineffective or even abusive policing practices have prevailed in all parts of the country, both during and after the war.44

The post-war years also saw a sharp rise in incidents of religiously motivated hate speech and violence by extremist groups such as the Bodu Bala Sena (BBS) and the Sinhala Ravaya, mainly targeting Muslims and Christians. The ascendancy of these groups has been aided by

42. Radhika Coomaraswamy, Summary of consultation with war-affected women for the global study on 1325 – a 15 year review (October 2015).
43. Key informant interviews in the North. See also Coomaraswamy, op. cit.
the post-war consolidation of Sinhala nationalism that marked the previous government, and political patronage that granted them impunity from law enforcement. In July 2014, a rally held by BBS activists in the Muslim-majority town of Aluthgama resulted in communal violence that left at least four people dead and a number of Muslim-owned homes and businesses looted and destroyed.

The rise of these groups is often identified with the tacit support that they were offered by powerful actors within the previous government. While the extent of patronage enjoyed by groups such as the BBS has reduced significantly, the group has maintained some visibility post-2015. For example, a recent campaign by the BBS against the provision of Islamic banking services led to President Sirisena calling for an explanation from the Ministry of National Policy and Economic Affairs (whose portfolio is held Prime Minister Wickremesinghe). Moreover, there has been little progress in investigations or prosecutions for past incidents of religious violence committed by these groups, perpetuating a sense of insecurity among the targeted communities. In the current context, the security threat from such groups lies in their potential revival in the event that political currents turn in their favor. Hence, the ability of such groups to emerge in an enabling political environment and spread insecurity is a key concern that needs addressing in a peacebuilding process.

Widespread mistrust in state security institutions has important consequences for peacebuilding: in the absence of an effective and trusted security apparatus, the security transformation vital to the transition from a negative to positive peace is unlikely to be meaningfully realized. Moreover, the lack of trust in the police also points to weak administration of justice, further undermining prospects for positive peace. In this context, there is an important opportunity to build confidence in the security apparatus, such as by instituting and improving community level policing and formulating rule of law reforms with a view to making the police responsive to security needs and accountable for lapses.
The assessment of the reconciliation context will examine factors at the state level as well as among people and communities. In a society that is still deeply scarred by the war, reconciliation means recognizing and addressing the pain of the violent past in order to move towards a common and dignified future. It involves forging trust, connections and cohesion among people divided by a long legacy of ethnic conflict. The agenda for reconciliation is thus necessarily broad and long-term. It involves elements of justice that are delicate and potentially divisive in themselves, and requires substantial investments in the short term for which the benefits take time to materialize and can be hard to observe. Nevertheless, it is an essential aspect of the transition from negative to positive peace.

Sri Lanka faces the challenge of instituting a credible and meaningful process of reconciliation involves three broad areas:

1. Addressing the underlying structural and societal drivers of conflict;
2. Fostering a process of closure and accountability with regard to abuses committed by all sides during and immediately after the war.
3. Peacebuilding that generates confidence and is resilient at the level of communities and individual people.

### 6.1 Addressing the underlying drivers of conflict

Despite decades of violence and ethnic tension that inflicted serious consequences on communities, it is important to recognize that the conflict did not erupt out of the enmity between people per se. In Sri Lanka, people of all communities have retained cordial and warm relations at multiple levels. The relative absence of localized communal violence in Sri Lanka compared to neighboring countries in the region is a telling indicator of the fact that while people from all communities suffered the consequences of conflict, that the drivers of conflict was not the relational tensions between people to people.

#### 6.1.1 Structural drivers of conflict

The ethnic conflict was less about direct conflict between people as much as one between people and the state magnified through ethnically
divisive state policies and practices with regard to key issues of security, employment, education and land administration. For the Tamil people in particular, a sense of alienation from and victimization by the ‘Sinhalese’ state also manifests in the routine functioning of state institutions, which is biased through direct and indirect means. Difficulties in accessing the state are further compounded by the pervasive administrative weaknesses within state institutions at the national, provincial and local government levels. For instance, the ability to deliver essential state services in the Tamil language has remained woefully inadequate, contributing to a continued lack of faith among the Tamil people in the central government’s ability to effectively deliver these services to Tamil-majority areas. A continued sense of mistrust in the state and central government has reinforced the view that greater devolution of power, particularly over land and policing, is a vital means of allaying Tamils’ insecurity over Sinhala domination. This history of broken promises, abuse of discretion and non-implementation of relevant legislation (outlined in various parts of this assessment) is also why equal opportunity laws and other such ‘liberal-democratic’ options, short of irrevocably devolving political power, has come to lack credibility in Sri Lanka to the Tamil people.

**The merger as an opportunity and challenge:**
As discussed Section 3, a political solution to the ethnic conflict must also contend with the aspiration for a merged territorial unit that grants Tamils a measure of self-governance in the north and east. This represents both an opportunity and a challenge.

*Opportunity:* Within the Tamil community, the realization of a merged territorial unit of self-governance as the anchor of a political solution has high symbolic value. It is an indicator that a measure of justice and dignity has been gained politically, despite failing to do so through an armed struggle. Thus this realization would also contain an element of closure for the Tamil people as a community—of being able to lay to rest the sense of injustice and grievance that fueled the armed struggle. The high symbolic and social capital that can be accrued through delivering the merger can be of enormous value to the reconciliation process: as it signals that separatism and violence is no longer a necessary means for the realization of Tamil aspirations in Sri Lanka. Hence placing the merger on the agenda for a political solution to the conflict presents a valuable opportunity to rebuild the trust of the Tamil people in the Sri Lankan state and strengthen the non-recurrence of conflict.

*Challenge:* Without careful explanation and calibration, the concept of merging the Northern and Eastern provinces will be strongly resisted by the Sinhalese as well as the Muslims. Among the Sinhalese it can too easily be framed and opposed as an unjust affront to the military victory and to the sacrifice made by the security forces. Among the Muslims, it creates the fear of being made into a ‘minority’ within a Tamil administration. The status quo is a divide between the Tamil people and others in their expectations of justice and reconciliation in this regard. While this divide is a key challenge that should be recognized in the process of building a vertical consensus, the historical context also presents a way forward. An approach that could reasonably address the concerns of all communities with regard to the merger has been described in Section 3.2.1 above.

**State-society relationship:** In Sri Lanka’s context, a significant part of the agenda, of addressing the past, overcoming inter-ethnic discord and winning trust, lies in reform at the level of the
state rather than society. Grievances directed at the state are not a solely Tamil experience; there are also shared experiences of state violence and marginalization that unite Sinhalese, Tamil and Muslim people. This presents several opportunities for taking reconciliation forward, as well as some challenges.

**Opportunities**

- People from all communities in Sri Lanka, over different periods have suffered enforced disappearances and police brutality. A number of commissions in the past, including the 1994 Western, Southern and Sabaragamuwa Disappearances Commission, the 1994 Central, North Western, North Central and Uva Disappearances Commission, the 1994 Northern and Eastern Disappearances Commission, the 1998 All-Island Disappearances Commission, and the Lessons Learnt and Reconciliation Commission (LLRC), have documented many of these grievances.45 Mechanisms for investigating and acknowledging the culpability of the state in these offences against people can naturally unite victims across ethnic communities, in their shared grief and outrage at the events, and also their shared relief and closure. The positive opportunity for reconciliation would be enhanced if this were not a limited owning-up of a ‘Sinhalese’ establishment to Tamils, but a broader owning-up of the Sri Lankan state to people of all ethnicities.

- Cross-ethnic cooperation on shared problems can also contribute towards forging consensus on the larger structural issues of state reform, by providing avenues for sustained engagement among ethnic groups on grievances against the state and potential solutions. Two common issues over which cross-ethnic bridging can take place are:

  1. **Missing persons.** Here, the experiences of women are particularly relevant. Women of all communities continue to bear the burden of missing loved ones, disappeared both during and after the war. Hence there is shared sense of unresolved grievance among women that bridges ethnic divides, presenting opportunities for cross-ethnic collaboration in seeking truth and justice for their losses.46

  2. **Questioning the impunity of the state.** The security and political establishment in Sri Lanka have faced longstanding allegations of misusing and abusing power against all types of democratic protests of people in the post-Independence years. Such habits have contributed significantly to the creation and escalation of violent conflicts in the past. Hence shared experiences of suppression and rights violation can form a


potential avenue for cross-ethnic work, by civil society for instance.

**Challenges**

- Owning-up and reparations can seem hollow if it is not followed by guarantees and action towards non-recurrence. Poor standards in record keeping, information sharing, administrative responsiveness and the administration of justice are part of the present context that need to be addressed in order to build confidence for peacebuilding. Measures to improve the functioning of the state in this regard automatically builds confidence and a sense of empowerment, especially among those who have felt marginalized or weak—Tamils and Muslims, and also Sinhalese people who are poor and not politically connected—when dealing with the state. This in turn reduces the tendency for ethnicized responses to the problem of the state that have fueled the conflict, as set out in Section 3.3 above.

6.1.2 Societal drivers of conflict

At the same time, it is essential to recognize that for most Sri Lankans, ethnicity is a significant factor in structuring their social realities and determining their experiences. The constraints of language, geography, and ethnicized education mean that many people are socialized in ways that condition and reinforce their attitudes to other groups. These problems are highlighted in a series of findings in the survey results of the UN’s 2014 Strategic Context Report. It finds that while 69 per cent of Sri Lankans consider their citizenship, rather than religion, ethnicity, or language place of origin to be their primary identity, it is also the case that ‘three quarters of Sri Lankans have few or no friends outside their ethnic group’, just 16 per cent of people feel they understand the customs of other groups, and ethnicity is a limiting factor even in business partnerships and commercial interaction such as selling property.47 An island-wide survey carried out in 2014 found that over 73 per cent of people from all ethnicities believed that Sinhala was the country’s only national language; this view was held by over 80 per cent of Sinhalese people, over 50 per cent of Tamil people, and almost 35 per cent of Muslim people.48

These gaps in communication, perception and contact between people of different ethnicities were compounded during the war years, which imposed and reinforced ethnically differentiated outcomes on a routine basis. In particular, the population of the North and East, and adjoining border areas were deeply affected by the pervasive climate of violence, destruction, and insecurity. Studies of social attitudes by ethnicity have long shown marked differences in what Tamil, Sinhalese, and Muslim people perceive as the main problem in the country and the priorities for government action. For example, 34 per cent of people in the North experienced a loss of land, compared to 5 per cent in the Southern Province.49 There also remain significant divergences ethnicized differences in perception that influences the space for the reconciliation process. In 2014, island-wide survey data showed that 39.9 per cent of Tamil people believed that the government has done nothing to address the root causes of the war, while 35 per cent of

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the Sinhalese people said the government had done a lot to address the same.\textsuperscript{50} On the issue of accountability, 42.6 per cent of Sri Lankans stated that there should be a credible accountability mechanism for events during the final stages of the war; 83.9 per cent of Tamil people, 61.7 per cent of Muslim people and 32.2 per cent of Sinhalese people were in favour of such a mechanism. 44.4 per cent of Sinhalese people surveyed opposed the institution of an accountability mechanism, along with 9 per cent of Tamil people, and 16.4 per cent of Muslim people.\textsuperscript{51}

Reconciliation and peacebuilding in Sri Lanka thus faces the challenge of addressing this predicament – that the lived realities of people and the way they are treated by the state has been different based on ethnicity, and accordingly their perceptions, their political reality, and their sense of priorities for reconciliation and peace are also quite different.

\textbf{Opportunities}

- A significant part of reconciliation involves dealing with the objective consequences of the war. This opportunity entails redressing the real inequalities in the way people of different ethnicities experience daily life, and in particular the state, whether in terms of their security, employment, or economic prospects. In the Tamil-dominated North and East, where much of the war was fought, it involves addressing the effects of the war in terms of:

  a. security, so people feel a sense of safety, freedom and normalization of life;
  b. economics, so people can recover private lands, establish homes, livelihoods, education and access public services; and
  c. politics and governance, to make local-level government institutions inclusive and responsive to people’s needs.

- The LLRC report of December 2011 contains an important and widely accepted framework to address the broader issues of reconciliation. While there were shortcomings in the methodology and findings of the report, the recommendations of the LLRC are widely viewed as a positive contribution to reconciliation. Importantly, they enjoy wide support across the political spectrum. They include recommendations on addressing the consequences of the war such as land rights, military presence, armed groups, extra-judicial killings and disappearances, as well as governance and rights, such as stabilizing independent institutions, the rule of law, freedom of expression and language policy. Several of the LLRC’s recommendations can be immediately implemented, and can do much to build trust and confidence amongst people.


6.2 Fostering a process of closure and accountability

The most difficult and politically delicate, yet necessary aspect of the reconciliation process is coming to terms with a painful and divisive past in a way that is healing, yet unifying, and that acknowledges, respects and commemorates the grief and loss suffered by its victims of all communities. This is a complicated and enormous task given that the war lasted for 26 years, affecting a large portion of the population, and involved a constant stream of violent incidents, most of which have never been addressed. As the OHCHR Investigation of Sri Lanka (OISL) report of 2015 concluded, ‘gross violations of international human rights law, serious violations of international humanitarian law and international crimes were committed by all parties’. Coming to terms with the weight of violence and injustice of the past enables victims and people of all communities to take the first steps towards a degree of normalization in their lives and a genuine sense of peace at the personal and community level.

In the Sri Lankan context, as in most contexts, transitional justice involves four broad pillars: (i) truth telling; (ii) justice (i.e. accountability); (iii) reparations, and (iv) guarantees of non-recurrence.

The pillars of transitional justice are interconnected and priorities differ

At the outset, it is noted that people will prioritize different things depending on their lived experience and current circumstances. Many people residing in conflict-affected areas prioritize the third pillar, reparations: return of land and compensation. Yet for others, finding out the truth about the whereabouts of their loved ones is the most pressing need. Many highlighted the importance of ensuring personal security in the North and East by ending the varied forms of criminality and violence, particularly against women. In this regard it was also considered important to combat impunity of the perpetrators, suggesting a link between the concerns for non-recurrence and the concerns for accountability.

Therefore, it is important to understand that people differ in what aspect of transitional justice they prioritize. Meanwhile, the aspiration for a political solution seems to be a pervasive and strong underlying priority among a large section of the Tamil people in the north. This can be seen in part as the long term guarantee of non-recurrence, but it also encompasses a sense of reparation for the losses suffered, and a sense of restoring the overall dignity of the Tamil community. Actions on transitional justice do not seem to neatly fall into just one pillar or the other; the sensibilities of people suggest that they are interconnected.

Therefore, the two aspects that might be most important in the present Sri Lankan context, with regard to closure – or coming to terms with the past – are (i) closure with regard to the true status of loved ones that are missing and the disappeared, and (ii) a political solution.

Priorities for closure

Open and honest process: The phenomenon of disappearance has occurred all through the war years starting in the late 1980s. But with time many families have accepted that their loved ones have been killed, despite the lack of information. The lack of closure seems to be especially acute in the several thousand cases of persons that have been disappeared in the last decade, and immediately after the end of the war. What is being requested by their loved ones mostly is honest and genuine engagement
toward finding out what has happened, and the
government being transparent about the inform-
ation it has, the information it does not have,
the difficulties it has in answering questions, and
acting sincerely to provide as much information
as possible. Such a process itself can be valuable
in building back some trust and assisting the
people to achieve closure and move forward in
a process of reconciliation.

State accountability over individual prosecu-
tions: Discussions also revealed an important
nuance in terms of how victims and survivors
conceive of the question of ascribing fault –
which is an aspect of justice. People seem to
place greater importance on the institutional
responsibility of the state, rather than on individ-
ual perpetrators. The identification and admission
of the state’s responsibility seems to be the more
important factor for a ‘sense’ of justice. Other
studies on transitional justice in Sri Lanka appear
to corroborate this by pointing out that victims
and survivors generally value accountability at
the decision-making level above all other forms
of accountability.52

Sequencing of transitional justice processes

The Sri Lankan government is, in the UNHRC
resolution that it co-sponsored in September
2015, committed to instituting a domestic
accountability mechanism with international
participation, although progress on this has
been slow. Dealing with these abuses through a
credible and robust process is a factor in bring-
ing closure, justice, and healing to the victims
of the war.

Meanwhile, there is considerable debate in Sri
Lanka over the issue of sequencing i.e. deter-
mining the chronological order of the pillars
and deciding which pillar of transitional justice
ought to take precedence. Some commentators
argue that constitutional reform must take prece-
dence.53 Though not always framed as such, these
commentators would value guarantees of non-re-
currence above other pillars. Others argue that
the truth-telling processes must take precedence;
still others claim the process should begin with
investigations and prosecutions of perpetrators
already identified by previous inquiries includ-
ing the LLRC. Yet an integrated approach to
transitional justice may require a departure from
this compartmentalized or sequenced ‘pillared’
approach. Victims of the war do not seem to
conceive of the matter in such theoretical terms.

Therefore, seeking opportunities to take forward
initiatives across all pillars in parallel and recog-
nizing what can be done in the short term and
what could take longer, what is easier to do and
what would be harder, and setting expectations
accordingly, and making steady and tangible
progress regardless of pillar or theoretical
sequence, is likely to be a sensible and practical
way forward. Some opportunities for thinking
forward in this way are identified below.

• Truth Commission: A full-fledged
truth-seeking process will necessarily entail
a new Truth Commission in the form com-
mitted to under the co-sponsored UNHRC
resolution. The Commission’s mandate
should cover a sufficiently wide ‘temporal
horizon’ to enable the owning-up of the state
to people and victims of all communities.

52. Gehan Gunatilleke, Confronting the Complexity of Loss: Perspectives on Truth, Memory and Justice in Sri Lanka
(2015), at 105.

53. See Ram Manikkalingam, The politics of punishing war crimes in Sri Lanka OpenDemocracy (8 February 2016)
at https://www.opendemocracy.net/openglobalrights/ram-manikkalingam/politics-of-punishing-war-crimes-
in-sri-lanka [accessed 24 February 2016] and Niran Anketell, Accountability and a Political Solution: A Response
to Ram Manikkalingam, Groundviews (14 February 2016) at http://groundviews.org/2016/02/14/accountabili-
ty-and-a-political-solution-a-response-to-ram-manikkalingam/ [accessed 24 February 2016].
Such a Commission will require special legislation and significant planning and resourcing. However, the establishment of an Office of Missing Persons may not require a long timeframe. Establishing this Office in the short term could build confidence among victims and survivors prioritizing truth.

- **Implementing LLRC recommendations:** This can be an important short-term step forward in terms of the justice pillar. The co-sponsored UNHRC resolution envisions establishing a special judicial mechanism, but this is likely to be time consuming and difficult with regard to achieving horizontal consensus while satisfying the expectations of the resolution. Yet the government can take immediate steps to prosecute paramilitary perpetrators named by the LLRC, which will not face much political resistance either internally or amongst the people. Beginning credible prosecutions in this regard will build confidence among victims and survivors – particular those affected by such paramilitary groups – and will facilitate patience with regard to meeting more demanding expectations.

- **Release of Land:** Release of land occupied by the military is a major priority among for people in the North and East (in addition to Tamils, this includes Sinhala and Muslim families whose land remains military-occupied). While that process moves forward gradually, further positive measures can be taken in the short-term to facilitate access to land. Steps needed for this were discussed in Sections 4 and 5.

- **Establishing the National Land Commission:** While constitutional reform will take time, certain components of a political solution could be implemented in the short term. For example, establishing the National Land Commission as envisaged by the 13th Amendment to the Constitution could be an important step towards making devolution, even under the current laws, more meaningful. This will be a strong signal that the government is genuine in its intention to devolve and share power with provincial councils and will build confidence amongst Tamil people in the run-up to a political solution, creating more space for negotiations on contentious issues.54

**Reconciling with the Sinhalese people**

In post-war Sri Lanka, justice is viewed not just at the individual but the collective dimension. Sinhalese, Tamil, and Muslim people all view their community as the victims of injustice in the hands of ‘others’. Hence any process of instituting justice inevitably has a larger, communal dimension that must be kept in mind. Yet, there is also an important need to ensure that diverse individual experiences of loss and suffering experienced by the Sinhalese, Tamil, Muslim people are not wholly subsumed within broader communally defined narratives of the conflict. The concerns and buy-in of the Sinhala people are important in moving forward with transitional justice.

In this context, the losses borne by soldiers and military families, and the experiences of Sinhalese, Muslim and Tamil people victimized by the LTTE, must also be acknowledged and addressed.

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54. It is noted that President Sirisena was a supporter of enhanced devolution under the Chandrika Bandaranaike Kumaratunga constitutional proposals of 2000. Moreover, some of his close advisors are proponents of land devolution and have authored studies on how to ensure the full implementation of land devolution provisions under the 13th Amendment – also see: Austin Fernando, Jayampathy Wickramaratne & O.C. Jayawardena, *Devolving Land Powers: A Guide for Decision-makers*, Verite Research (2013)
in the transitional justice process moving forward. Addressing these in terms of economic restoration, or reparation, was discussed in Section 4. The transitional justice process will have wider acceptance if it ensures that investigation into injustices do not focus solely on Tamil victims in North and East.

There is an expectation in the present context that an internationalized transitional justice process will be strongly opposed by the Sinhalese community, particularly if it moves towards prosecuting military personnel who have been positioned in a heroic status among the Sinhala people for ending the war. Therefore, there is the risk attached to elements of the transitional justice agenda - that they can be leveraged to ferment political opposition and instability, and work to unravel the progress that is being made towards peacebuilding.

**Building consensus on transitional justice**

The potency of this risk is attached very much to the communication and management process that is built into the roll-out of transitional justice. What has been outlined above in terms of sequencing and prioritizing have taken cognizance of this risk. However, in the process seen thus far the government seems to lack a mechanism for such strategic prioritization or for building horizontal consensus within the government itself. This lack of a serious, intentional and professional approach will invariably jeopardize the vertical consensus with the Sinhala people as well.55 Moreover, the resulting fragility of the vertical consensus with the Sinhala people, and the anticipation of their resistance, runs the risk of being cast as a disincentive to move forward on transitional justice.

For the transitional justice process to gain wider acceptance, not just among Tamil and Muslim people but also among Sinhala people, the management and communication of it will need to engage with societal values, history, culture and normative ideas of building a just society. The value framework embodied by institutional processes such as in the UNHRC has not been institutionalized in Sri Lankan society, and in a context of moving against existing societal norms putting policy before persuasion in is invariably a political risk.

Attaching the normative framework of transitional justice to governance and institutional reform is likely to be a powerful credibility factor amongst the Sinhala people, who have also suffered the injustice of state institutions and continue to do so, such as in the form of police brutality and a callous bureaucracy. The present government’s lack of success in building confidence among the people with regard to fighting and sweeping out corruption is hence a significant liability when taking forward an internationalized transitional justice process. In other words, the government faces the risk of a trust deficit among the people if it fails to deliver on its core promises of good governance, while taking forward the transitional justice agenda requires a trust surplus.

55. Hiding behind this problem can also allow the government to excuse itself from making progress; which in turn will play in to the fears of the Tamil people that they have been deceived once again, and ferment another long cycle of political resistance and conflict.
It is important to bear in mind that while justice is critical, it is only one dimension of the task of reconciliation and one part of addressing the legacy of the past. There are other important elements of peacebuilding at the level of communities and individuals, such as memorialization and restoring a sense of normalcy in people’s everyday lives that have a significant bearing on reconciliation.

The triumphalist narrative of a ‘victor’s peace’ in the post-war years, had the effect of crowding out the space for alternative narratives of loss. It denied the victims and survivors in the Tamil community the possibility of grieving and memorializing. Such experiences are inimical to the task of building peace for communities and individuals who have suffered losses during the
war, and can perpetuate a sense of mistrust and hostility towards the state and other communities. Closely linked to the ascription aspect of transitional justice is then an acknowledge ment of the legitimacy of grief directed at the state, and of alternative narratives of people’s loss and suffering besides that of the ‘winning’ side. Compared to the immediate post-war years, key informants have welcomed a greater freedom of speech and association in the North and East. This in itself is an important step towards reconciliation, but it is yet vulnerable to the discretion of the political leadership. There are several opportunities in this regard.

- **Space for public memorialization**: There have been post-war crackdowns by state law enforcement on those seeking to commemorate and remember family members who died in the course of the war in the North and East. Obstacles to performing final rites and religious ceremonies have also been reported. An important step in reconciliation hence entails the establishment and maintenance of an enabling environment for grieving and memorialization, for both individuals and communities. The first and most important step in this direction could be to institute mechanisms to ensure that peoples’ freedom of association and speech are not subject the discretion of political leadership.

- **Addressing and integrating youth**: Youth discontent has been seen as a source of violent political extremism in the past. Educated in an ethno-linguistically segregated environment, young educated people, particularly from under-privileged backgrounds, have linked their frustrations and discriminations to the state. People who are socialized in conflict or bear those scars carry that legacy for a lifetime, but in the present context there is a possibility for that to be reversed as a new generation of young people is growing up outside the shadow of war for the first time in decades. This will, however, require pro-active long-term initiatives aimed at building trust, social cohesion and through education, employment, and social interaction between people of different ethnic and religious backgrounds. The work of the LLRC is worth noting in this regard. The LLRC made several recommendations pertaining to young people, education and social integration. For example, it recommended ethnically mixed student populations in schools and universities, cross-ethnic student exchange programmes among students, and the establishment of child-friendly spaces in conflict affected areas. It is also important that young people do not feel ‘left behind’ in the processes of state reform and reconciliation, and that they are included as agents of change in building a sustainable and resilient peace. It is also worth noting that the government set up several structures and made significant efforts to reconcile Sinhala youth, after the southern youth-led uprising in the latter part of the 1980s. Such initiatives have not yet been initiated by the government with regard to Tamil youth.

- **Rebuilding social support structures**: While confidence in national-level governance institutions varies, local community, religious, and administrative institutions are an important source of resilience, trust and strength for building reconciliation. However, the experiences of displacement and resettlement have significantly eroded pre-war social support structures embedded in communities in the North and East. Key informants in the Northern Province pointed to a sense of cultural and moral degradation in society in a context of poverty and insecurity; particularly with regard to the plight of women and youth, who are perceived to have few options at achieving a decent life.
besides migrating abroad. In this context, there is potential for disillusionment, and a sense that the people’s expectations of a better life after the end of the war have not yet been met. While attention has been paid to the economic restoration, social and cultural aspects of restoring a sense of normalcy in the lives of people directly affected by the war have been somewhat neglected. Hence, in addition to material well-being, there are important opportunities to re-build social support structures aimed at enhancing the non-material aspects of resilience in war-affected communities, particularly those structures that already command the confidence and trust of the people, such as religious bodies. Such structures are also an important element in non-recurrence of violence and ensuring the sustainability of peace.