



# MEMORIALISATION FOR TRANSITIONAL JUSTICE IN SRI LANKA

DISCUSSION PAPER

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**Memorialisation for Transitional Justice in  
Sri Lanka:  
A Discussion Paper**

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*“So long as men can breathe, or eyes can see,  
So long lives this, and this gives life to thee”*

Sonnet 18, William Shakespeare

## Introduction

Memorialisation is an important tool in addressing conflict situations where years of repression, social inequality and injustice have created polarised communities. Memory initiatives can be a great healer and an enabler of reconciliation, paving ways and opportunities for dialogue, understanding, apologising, acknowledging and addressing past violence between divided societies. The change in the political environment in 2015 brought with it a space for such reconciliatory action, and in this respect, the government made promises to establish mechanisms to deal with the past- specifically the 30-year ethnic conflict that ended in 2009. Memorialisation can play a critical role in the government’s transitional justice agenda, specifically in terms of complementary measures that can help reinforce these systems that may take many months to set up. Further, memory initiatives can address grievances that are not captured fully by the structures promised by the government, while bringing together communities who have suffered similar issues such as disappearances, which were common not only during the 30-year conflict, but also during the two Southern insurrections.

The State can play a critical role in either healing or dividing further, communities, through any national memorialisation initiatives it takes up during their tenure in government. To this end, it is necessary that successive governments adopt a balanced approach to memorialisation, by way of a National Policy on Memorialisation.

This paper discusses first, the role of memorialisation in transitional justice in Sri Lanka. It then explores existing national, community and individual level memory

initiatives as well as the gaps and obstacles in the practice of memory. Next, the paper discusses the possibility of a strategic approach to memorialisation by way of adopting a national policy on memorialisation- at least in the public practice of memory by the State, following international guidelines and best practices. This analysis focuses on the need for memorialisation in Sri Lanka and relative merits of possible future interventions taking into account comparative global experiences.



## Memorialisation and Transitional Justice

Memory is inextricably linked to one's mind and has therefore a lifespan that is linked to one's ability to recollect. Such is the fickle nature of memory and why, over time, the need for memorialisation has emerged- to give life to that we hold dear, and that which helped shape our lives. For the purpose of this study, 'memorialisation' is defined as an act or effort to remember, commemorate, preserve or provoke memory or transmitted experiences of others.<sup>1</sup>

Memorialisation is not a new phenomenon to Sri Lanka. Historically, memorialisation was witnessed over the years in forms ranging from monuments and remembrance days to history education. From recent history, the Independence Day is an example of a State-led annual commemoration, held on the 4<sup>th</sup> of February to celebrate Sri Lanka gaining self-rule from the British Empire in 1948. The Independence Memorial Hall and the Independence Memorial Museum<sup>2</sup> are national monuments to memorialise this turning point in Sri Lanka's history and the independence struggle led by our national heroes. The War Memorial in Kilinochchi is a victory monument to celebrate the government victory in 2009 against the LTTE (Liberation Tigers of Tamil Eelam), memorialising a particular perspective on the 30-year conflict.

Each year in April, the JVP (Janatha Vimukthi Peramuna) marks its first armed insurrection against the Government in 1971, as the 'April Heroes' commemoration. The second JVP insurrection is memorialised by way of the 'November Heroes' commemoration marking the death of JVP leader Rohana Wijeweera in 1989 and many others. These commemorations do not however enjoy State support or recognition as does the Independence Day, due to the

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<sup>1</sup> Since the study touches upon a variety of efforts, including initiatives in memory of those who were lost due to causes other than war, conflict and violence, the author does not deem it fit to confine the definition of 'memorialisation' to only events of a violent past.

<sup>2</sup> Department of National Museums, *Independence Memorial Museum*, at [http://www.museum.gov.lk/web/index.php?option=com\\_regionalm&task=regionalmuseum&id=10&Itemid=75&lang=en](http://www.museum.gov.lk/web/index.php?option=com_regionalm&task=regionalmuseum&id=10&Itemid=75&lang=en) (last accessed 25/03/2016).



reason that the State does not want to commemorate armed insurgencies against it or acknowledge the horrific acts of violence carried out by the government to quell the insurgency. There is, to date, no apology by the State for government complicity in the violence or the crimes committed in response to either of the two JVP insurrections. The JVP, until recently<sup>3</sup> offered no apology for its own crimes during the insurrections. Apologies and acknowledgements go far in terms of repairing, to some extent, the damages of past atrocities while laying the foundation for reconciliation.

The State practice of memorialisation has been selective. Sri Lanka's post-independence history is barely reflected in national education curricular, and this is also true of Sri Lanka's three-decade long ethnic conflict. This deliberate marring of Sri Lanka's violent history is reflective of deliberate State amnesia and successive governments' approaches to dealing with the past- i.e. by way of denial. Denial has made it possible for consecutive governments to continue in power without confronting past horrors, behind which are sometimes very senior party members.

Many governments around the world continue to deny State complicity in atrocities and habitually suppress counter-narratives that challenge official accounts of triumphant, heroic pasts. The exclusion of multiple narratives or multiple truths- i.e. the numerous personal accounts connected to a single event- overtime, creates marginalisation that exacerbates the trauma of victims and yet goes largely unacknowledged by the government of the day. Sustained marginalisation left unaddressed has the potential to fuel renewed cycles of conflict. Memorialisation can play a crucial role in this respect and is a critical hurdle to overcome in any approach to transitional justice. It can be a tool to heal,

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<sup>3</sup> "JVP Tenders Public Apology Over 6000 Killings During 88-89 Uprising", *Asian Mirror*, 29 May 2014, at <http://www.asianmirror.lk/news/item/1386-jvp-tenders-public-apology-over-6000-killings-during-88-89-uprising> (last accessed 25/03/2016).

to combat impunity and achieve durable peace where similar violence is not systematically repeated.

The change in the political environment in Sri Lanka since 2015<sup>4</sup> brought with it a space to demand genuine transitional justice in a way that was previously incomprehensible. Transitional justice by definition is ‘the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.’<sup>5</sup> Within a conceptual framework for dealing with the past, which includes the right to know, right to justice, right to reparation and the guarantee of non-recurrence, memorialisation falls within the realm of reparations. However, it is a concept that cuts across all four pillars of transitional justice. Memorialisation can play a role in truth seeking (for e.g. archives, history books), justice (for e.g. to demand accountability), reparations (for e.g. memorials, public apologies) and guaranteeing non-repetition (for e.g. law-making). A sensible, sensitive, nuanced approach to memorialisation can act as a tool for reconciliation and healing.

At the 30<sup>th</sup> United Nations Human Rights Council (Council) sessions in September 2015, the Sri Lankan Foreign Minister outlined the government’s transitional justice agenda.<sup>6</sup> A few weeks later, at the same session, the Council adopted a consensus resolution ‘Promoting reconciliation, accountability and human rights in Sri Lanka.’<sup>7</sup> While the resolution spoke of processes related to all four pillars of transitional justice, it did not allude to memorialisation in explicit terms. This paper makes the point that something as complex as memory should ideally not be a

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<sup>4</sup> Maithripala Sirisena was elected President on the 8<sup>th</sup> January 2015 after a 10-year authoritarian rule under President Mahinda Rajapaksa.

<sup>5</sup> Guidance Note of the Secretary-General, *United Nations Approach to Transitional Justice*, March 2010, at [https://www.un.org/ruleoflaw/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf) (last accessed 25/03/2016).

<sup>6</sup> Ministry of Foreign Affairs Sri Lanka, *Statement by Foreign Minister Samaraweera at the General Debate of the 30th Session of the UN Human Rights Council*, 14 September 2015, at <http://www.mea.gov.lk/index.php/en/media/media-releases/6178-slfm-hrc30> (last accessed 25/03/2016).

<sup>7</sup> Resolution adopted by the Human Rights Council on 1 October 2015, A/HRC/RES/30/1

matter approached or addressed by way of commitments in a resolution drawn up in international fora. National memorialisation initiatives must be thought through in detail with significant buy-in from affected communities. As opposed to transitional justice mechanisms for truth seeking, justice, reparations and non-recurrence, where the set up of credible and independent mechanisms have either not materialised or consistently failed, memorialisation initiatives (also a form of reparations) for all those affected by the conflict has not so far been attempted.<sup>8</sup> A resolution should not therefore urge specific action on national memorialisation, when there has not been a need to lobby for them internationally,<sup>9</sup> or an attempt to address them under a changed political context, domestically. Furthermore, memory initiatives ideally should be need-driven, and should not impose a time frame for implementing such complex national initiatives that are heavily reliant on political realities on the ground. A resolution that calls for national memorialisation and memory initiatives could also be perceived as driven by international interests as opposed to local needs, which could risk the very objective of such initiatives.

It would however be prudent for the Sri Lankan government to assist and initiate memory projects that complement the processes for transitional justice promised in the resolution on its own accord and with the participation of all stakeholders. During the national celebration of Independence Day in 2015- also in line with the Lessons Learnt and Reconciliation Commission (LLRC) recommendation<sup>10</sup>- a Declaration for Peace was made to,

*“... pay our respects to all the citizens of this country, of all ethnicities and religions, who lost their lives due to the tragic conflict that affected this land for over three decades, and for all the victims of violence since Independence...”*

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<sup>8</sup> The ‘Declaration for Peace’ in 2015 is an exception to this statement. The Declaration can be found at <http://www.news.lk/news/politics/item/6046-sri-lanka-marks-independence-day-with-a-special-declaration-of-peace> (last accessed 25/03/2016).

<sup>9</sup> The need for memorialisation is discussed later.

<sup>10</sup> Paragraph 8.304 of the LLRC report. The report can be found at [http://www.priu.gov.lk/news\\_update/Current\\_Affairs/ca201112/FINAL%20LLRC%20REPORT.pdf](http://www.priu.gov.lk/news_update/Current_Affairs/ca201112/FINAL%20LLRC%20REPORT.pdf) (last accessed 25/03/2016).

and pledged to

*“protect freedom and democracy, promote amity, cooperation between the diverse communities in this country, and at all times strive to walk the path of peace. We pledge our collective commitment to ensure that never again will we allow for this land to be traumatised by the shedding of blood of her citizens.”*<sup>11</sup>

In a historic and welcome move, the National Anthem was sung for the first time since 1949 in Tamil at the Independence Day celebrations in 2016.<sup>12</sup> While the government has already made some headway with symbolic reparations, the pushback to such efforts alone illustrates how much more needs to be done around peaceful coexistence in Sri Lanka. Further, these symbolic reparations, although welcome, do not by themselves provide a panacea for conflict resolution. They are insufficient to bridge what remains, even post-war, a trust deficit between ethnic communities. Much more needs to be done by the State and these initiatives must be a part of a holistic approach to transitional justice, where it is important that national memory initiatives mutually reinforce the mechanisms and processes to achieve reconciliation, as laid out by the government. Options for such are discussed below in the following pages.

Although the topic of memorialisation has been rendered politically sensitive (hence the term ‘politics of memory’<sup>13</sup>), memorialisation is a deeply personal

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<sup>11</sup> “Sri Lanka marks Independence Day with a special Declaration of Peace”, *The Official Government News Portal of Sri Lanka*, 5 February 2015, at <http://www.news.lk/news/politics/item/6046-sri-lanka-marks-independence-day-with-a-special-declaration-of-peace> (last accessed 25/03/2016).

<sup>12</sup> Azzam Ameen, “Sri Lankan anthem sung in Tamil for first time since 1949”, *BBC News*, 4 February 2016, at <http://www.bbc.com/news/world-asia-35495567> (last accessed 25/03/2016).

<sup>13</sup> See generally, Google Scholar search at, [https://scholar.google.com/scholar?hl=en&q=politics+of+memory&btnG=&as\\_sdt=1%2C5&as\\_sdtp](https://scholar.google.com/scholar?hl=en&q=politics+of+memory&btnG=&as_sdt=1%2C5&as_sdtp) (last accessed 25/03/2016).

topic.<sup>14</sup>As such, there are, and indeed have been efforts at national, community and individual levels to address memory. Given the space and opportunity in Sri Lanka today that is in stark contrast to the repressive and censorious political context under the previous government, it is an opportune moment to explore options for memorialisation in Sri Lanka.

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<sup>14</sup> Ruki Fernando, “Memory and Transitional Justice”, 10 May 2015, at <https://rukiiii.files.wordpress.com/2015/05/memory-and-transitional-justice-transcript-of-rukis-talk-jaffna-10may2015.pdf> (last accessed 25/03/2016).

## Existing Memory Initiatives in Sri Lanka<sup>15</sup>

### National Initiatives:

State sponsored memory initiatives have taken various forms over the years ranging from national days, museums, monuments, and even extend to clock towers and roads named after persons of national significance. The Bandaranaike Memorial International Conference Hall (BMICH), Independence Memorial Hall and the Memorial Museum, National days of mourning<sup>16</sup> are all memory initiatives that fall into this category. State-led memory initiatives celebrate heroism, acknowledge violence and pay tribute to those who have helped shape the nation. These national initiatives have therefore a level of prestige and recognition attached to them that community-led or individual initiatives do not. Due to this very reason, denial or selective remembrance on the part of the State can have damaging repercussions on individuals or communities systematically marginalised. Memorialisation provides the State with opportunities to foster unity and reconciliation, but to date, these opportunities have not been made adequate use of. The following examples of State-led memory initiatives represent this selective commemoration by the State, and illustrate a gap in initiatives dedicated to other parties who suffered equally, if not more, due to conflict.

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<sup>15</sup> See *Ibid* for a detailed compilation of Sri Lanka's memory initiatives.

<sup>16</sup> "Sri Lanka Govt. declares Day of Mourning", *The Official Government News Portal of Sri Lanka*, 9 April 2015, at <http://www.news.lk/news/sri-lanka/item/7043-sri-lanka-govt-declares-day-of-mourning> (last accessed 25/03/2016); and "Govt. declares Nov.12 a National Day of Mourning", *The Official Government News Portal of Sri Lanka*, 9 November 2015, at <http://www.news.lk/news/sri-lanka/item/10718-government-declares-november-12-national-day-of-mourning-for-late-buddhist-leader> (last accessed 25/03/2016); and "Funeral of Asgiri Mahanayaka Thero on March 13", *Ada Derana*, 10 March 2016, at <http://www.adaderana.lk/news/34504/funeral-of-asgiri-mahanayaka-thero-on-march-13> (last accessed 25/03/2016).

- The cenotaph war memorial located at the Viharamahadevi Park in Colombo<sup>17</sup> that is dedicated to the deceased Sri Lankan military personnel during the two world wars;
- The memorial for the Indian Peace Keeping Forces (IPKF) located in Sri Jayawardenapura Kotte, the administrative capital, which saw a prominent member of the Indian Government paying homage to it for the first time during Prime Minister Narendra Modi's visit<sup>18</sup> to Sri Lanka in 2015;
- The renovated Memorial for the IPKF in Palaly, Jaffna<sup>19</sup> that was declared open in 2015 with names of the 33 soldiers who died inscribed on its wall;
- The war hero monument at Parliament Grounds in Sri Jayawardenapura Kotte dedicated to the Sri Lankan government forces' soldiers who died during the war;
- The 'Shrine of the Innocents'<sup>20</sup> commissioned at the time of President Chandrika Kumaratunga<sup>21</sup> was a monument built in the mid 1990's dedicated to the civilian victims of terrorism, which has since been demolished to pave way for a Water Park, a project undertaken during the reign of President Mahinda Rajapaksa;
- The Kilinochchi war memorial,<sup>22</sup> a tribute to the victory of the armed forces;
- The fallen water tank site in Kilinochchi<sup>23</sup> which is a reminder of the LTTE's terrorism;

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<sup>17</sup> Yamu, "Viharamahadevi Park", 14 August 2014, at <https://www.yamu.lk/place/viharamahadevi-park-2/> (last accessed 25/03/2016).

<sup>18</sup> "Modi pays homage to Indian soldiers at IPKF Memorial, visits Parliament", *Times Online*, 13 March 2015, at <http://www.sundaytimes.lk/72247/modi-pays-homage-indian-soldiers-ipkf-memorial-visits-parliament> (last accessed 25/03/2016).

<sup>19</sup> T. Ramakrishnan, "Renovated memorial for IPKF soldiers", *The Hindu*, 9 June 2015, at <http://www.thehindu.com/news/international/renovated-memorial-for-ipkf-soldiers/article7298952.ece> (last accessed 25/03/2016).

<sup>20</sup> International State Crime Initiative, *Political Art in Sri Lanka*, at <http://statecrime.org/state-crime-research/political-art-in-sri-lanka/> (last accessed 25/03/2016).

<sup>21</sup> Right to Life, "The Disappearance of the 'Shrine'", 30 January 2012, at <http://www.right2lifelanka.org/new/newsview.php?id=456> (last accessed 25/03/2016).

<sup>22</sup> Raisa Wickrematunge and Abdul H. Azeez, "Monuments Of War", *The Sunday Leader*, 26 September 2010, at <http://www.thesundayleader.lk/2010/09/26/monuments-of-war/> (last accessed 25/03/2016).

<sup>23</sup> *Ibid*



- The war museum and victory monument<sup>24</sup> in Puthukkudiyiruppu;
- The monument to mark the event of opening the way for free movement between North and South which also serves as a war hero memorial<sup>25</sup> opened in 2009, located at the gateway to the Jaffna peninsula at Elephant Pass;
- Memorial for Lt. Gen. Denzil Kobbekaduwa located on the Kayts island in Jaffna, the monument for the Hasalaka Hero at Elephant Pass are some of the of the many monuments dedicated to individuals who played a heroic role during the war, as recognised by the government;
- The restoration of the Jaffna Public Library building started during the Presidency of Chandrika Bandaranaike Kumaratunga<sup>26</sup> as a reconciliatory gesture, however it took years to complete, and was criticised for the failure to consult locals in the reconstruction process.<sup>27</sup> The new building barely acknowledges the Library's former glory as a source of enormous pride for the Tamil community housing unique and irreplaceable palm-leaf manuscripts,<sup>28</sup> it's place as one of Asia's most celebrated libraries or the impact on ethnic tensions at the time when the Library was burnt;<sup>29</sup>
- The Lakshman Kadirgamar Institute of International Relations and Strategic Studies<sup>30</sup> is a research forum inaugurated in 2006, dedicated to the renowned former foreign affairs Minister, Lakshman Kadirgamar following his assassination by the LTTE in 2005;

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<sup>24</sup> For an album of photos taken by the author at the museum and victory monument, see <https://www.facebook.com/media/set/?set=a.10153155017173673.1073741875.512958672&type=1&l=9cfad86317> (last accessed 25/03/2016).

<sup>25</sup> Ministry of Defence Sri Lanka, *Historic gun battle memories at Elephant Pass immortalized*, 30 April 2010, at [http://www.defence.lk/new.asp?fname=20100430\\_09](http://www.defence.lk/new.asp?fname=20100430_09) (last accessed 25/03/2016).

<sup>26</sup> Celia W. Dugger, "Rescuing Sri Lankan Heritage From War's Ashes", *International New York Times*, 19 August 2001, at <http://www.nytimes.com/2001/08/19/world/rescuing-sri-lankan-heritage-from-war-s-ashes.html?pagewanted=all> (last accessed 25/03/2016).

<sup>27</sup> Some locals felt that the library should have been left in ruins as a reminder of the tragic incident and held that reconstruction efforts were attempts to whitewash the past. See <https://www.youtube.com/watch?v=8lK9pwUJ-NE> (last accessed 25/03/2016).

<sup>28</sup> Sundra Ganesan, "The Burning of the Jaffna Public Library by the Police in 1981 – 1", 21 February 2013, at <http://dbsjeyaraj.com/dbsj/archives/16896> (last accessed 25/03/2016).

<sup>29</sup> K. Nesiah, "Remembering the Jaffna Public Library", at [http://www.sangam.org/ANALYSIS/Library\\_6\\_01.htm](http://www.sangam.org/ANALYSIS/Library_6_01.htm) (last accessed 25/03/2016).

<sup>30</sup> For website of Lakshman Kadirgamar Institute of International Relations and Strategic Studies, see <http://www.kadirgamarinstitute.lk> (last accessed 25/03/2016).

- The ‘Victory Day’ celebrated between 2010-2014 to commemorate the end of the war on 19<sup>th</sup> May by the government of President Rajapaksa, has since been titled ‘Remembrance Day’ to commemorate both war heroes and civilians who died during the war – one of the only initiatives of this kind.

### **Community Initiatives:**

Community-led memory initiatives that do not have State sanction can, and indeed have, taken more liberal and creative forms over the years, ranging from parks, vigils, memorial lectures to arts<sup>31</sup> and theatre productions, sometimes organised by affected communities, otherwise also organised by local civil society, urban or municipal councils. Specific needs arising post-war can be addressed by way of community initiatives, in a way that is difficult to imagine through State action. For example, certain needs arising through transitional justice, such as criminal justice, serves as individual forms of seeking justice, but while mechanisms for such are underway, memory initiatives can assist entire communities’ calls for justice and an end to impunity. Some memory sites evoke strong emotion and are therefore contested for their ability to contribute towards reconciliation, however in the interest of and based on the needs and preferences of local communities, some have remained, while other community initiatives have faced significant push back for contesting the official or dominant narrative.

- The Raddoluwa, Seeduwa monument for the disappeared was erected where the abducted and consequently slain bodies of two activists were found in 1989. On the 27<sup>th</sup> of October each year, families of the disappeared, be it from the JVP era or from the conflict in the North and the East, gather to remember their missing loved ones.<sup>32</sup> It is one of the few monuments in Sri Lanka that has symbolic importance to all communities affected by the issue of

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<sup>31</sup> Op. cit., fn 20.

<sup>32</sup> Gehan Gunatilleke, “Confronting the Complexity of Loss: Perspectives on Truth, Memory and Justice in Sri Lanka”, *Law and Society Trust*, at p. 71; and op. cit., fn 14.

disappearances. While there have been threats to demolish the structure,<sup>33</sup> it has remained an example of how a memory initiative can bring together divided societies;

- ‘30 Years Ago’, is an online memory initiative<sup>34</sup> to reflect on the effects of the 1983 anti-Tamil pogrom, marking 30 years since Black July;
- ‘LLRC Archives’<sup>35</sup> is an online preserve of a selection of audio recordings, transcripts, submissions and newspaper reports of the Commission’s public hearings;
- A memorial vigil<sup>36</sup> to commemorate the 25<sup>th</sup> death anniversary of journalist and human rights activist, Richard de Zoysa who was murdered by a death squad with alleged connection to the government during second JVP insurrection, was held at the Colombo Dutch Hospital precinct in 2015;
- A commemoration in the name of the slain Editor of the Sunday Leader, Lasantha Wickrematunge is held on the 8<sup>th</sup> January since his murder in 2009, alleged to have been carried out under the instruction of the former President Rajapaksa due to his critical journalism<sup>37</sup>;
- To commemorate the life and vision of late Neelan Tiruchelvam, a memorial lecture is held each year, along with the repainting of a road painting where he was killed by the LTTE, at Kynsey Terrace, Borella;
- The Noolaham Digital Library project aims to digitise and archive ancient manuscripts that are of significance to the Tamil community so that the

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<sup>33</sup> Asian Federation Against Involuntary Disappearances, “Attempts to Destroy Monument of the Disappeared in Sri Lanka, A Grievous Offense Against Victims and Their Families”, 28 October 2011, at <https://afadsecretariat.wordpress.com/tag/monument-for-the-disappeared/> (last accessed 25/03/2016).

<sup>34</sup> For website of ‘30 Years Ago’, see <http://30yearsago.asia> (last accessed 25/03/2016).

<sup>35</sup> For website of ‘LLRC Archives’, see <http://www.llrcarchive.org> (last accessed 25/03/2016) and for more archival material, see ‘LLRC – Media Coverage and Submissions’, <http://groundviews.org/llrc-media-coverage-and-submissions/>, *Groundviews* (last accessed 25/03/2016).

<sup>36</sup> “Richard De Zoysa Remembered”, *Asian Mirror*, 19 February 2015, at <http://asianmirror.lk/news/item/7127-richard-de-zoysa-remembered> (last accessed 25/03/2016).

<sup>37</sup> International Federation of Journalists, “Sri Lanka to reopen investigation into 2009 murder of Lasantha Wickrematunge”, 1 January 2015, at <http://www.ifj.org/nc/news-single-view/backpid/33/article/sri-lanka-to-reopen-investigation-into-2009-murder-of-lasantha-wickrematunge/> (last accessed 25/03/2016).

- community doesn't experience a loss similar to when the Jaffna Library was burnt down during the ethnic riots<sup>38</sup>;
- A memorial museum was opened in 2013 by then President Rajapaksa<sup>39</sup> to remember the monks killed by the LTTE during the Aranthalawa massacre in 1987. The extremely graphic monument attempts to capture the horror and bloodshed of the violence by depicting the slain monks inside the vehicle they were travelling in.<sup>40</sup> It is ironic that a memorial that remembers Buddhist monks would take such evocative form, as there is a Buddhist belief that hate does not dispel hate.<sup>41</sup> It is also questionable if memorials of this nature are conducive to reconciliation;
  - The sites of the Kattankudy mosque massacres, still operational mosques, are immaculately preserved in similar fashion. The 1990 massacre of 103 Muslim martyrs by the LTTE at the Meera Grand Jummah Masjid<sup>42</sup> and Husainiya Masjid is almost a living memory of the violence.

### Personal Initiatives:

Personal memorialisation efforts, like community initiatives, take various forms to express and remember that which may be forgotten. They hold deep meaning and personal significance in a way that no other initiative can afford the space to express. Personal memory initiatives encompass anything from alms-givings, book dedications, art installations, documentation of incidents, photographs and story-telling. Even burial sites fall into this category of memorialisation, such as the

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<sup>38</sup> Smriti Daniel, "Sri Lankan Tamils around the world have built an online library to replace one torched in 1981", 18 February 2016, at <http://scroll.in/article/802923/sri-lankan-tamils-around-the-world-have-built-an-online-library-to-replace-one-torched-in-1981> (last accessed 25/03/2016).

<sup>39</sup> "Memorial museum for Aranthalawa massacre", *Daily Mirror*, 24 March 2013, at <http://www.dailymirror.lk/27158/memorial-museum-for-aranthalawa-massacre> (last accessed 25/03/2016).

<sup>40</sup> For photos, see <http://www.anilarumapura.com/gallery/image.php?aTitle=Aranthalawa%20Memorial> (last accessed 25/03/2016).

<sup>41</sup> See at 5.23, <https://www.youtube.com/watch?v=iOj0uvSUizI> (last accessed 25/03/2016).

<sup>42</sup> For an album of photos taken by the author at the Meera Grand Jummah Masjid, see <https://thyagir.wordpress.com/2015/08/04/bullets-where-i-pray/> (last accessed 25/03/2016).

'Bandaranaike Samadhi'<sup>43</sup> at Horagolla, constructed to remember the fourth Prime Minister of Sri Lanka, S.W.R.D. Bandaranaike. Below are a few examples of initiatives that relate to conflict.

- A common sight at places of religious worship are donations in memory of loved ones;
- Speaking at various Commissions of Inquiry set up by the governments, where individuals recount and retell their stories, is also a form of memorialisation;
- Pieces of art and literature too attempt to memorialise events and incidents of conflict. Artwork such as 'The Incomplete Thombu'<sup>44</sup> and exhibitions such as 'dis/ placement'<sup>45</sup> by Sri Lankan artist T. Shanaathanan are creative examples of such attempts to capture memories and effects of the ethnic conflict.
- Archives such as 'Websites at Risk'<sup>46</sup> aim to preserve for posterity, the content of websites that publish important information on human rights, democratic governance and peace building, that are at risk of having restricted access, being shut down or censored for its sensitive content;
- Other online content such that on the 'Peace and Conflict Timeline,'<sup>47</sup> and Groundviews<sup>48</sup>, capturing moments of the war<sup>49</sup> are further examples of personal memory initiatives.

### Obstacles:

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<sup>43</sup> For website dedicated to SWRD Bandaranaike, see [http://www.swrdbandaranaike.lk/his\\_life.html](http://www.swrdbandaranaike.lk/his_life.html) (last accessed 25/03/2016).

<sup>44</sup> "The Incomplete Thombu: A compelling interlace of architecture, drawing, memory and art", *Groundviews*, 2 December 2011, at <http://groundviews.org/2011/12/02/the-incomplete-thombu-a-compelling-interlace-of-architecture-drawing-memory-and-art/> (last accessed 25/03/2016).

<sup>45</sup> For catalogue of the exhibition, see [http://www.saskiafernandogallery.com/pdf/shanaathanan\\_ecatalogue.pdf](http://www.saskiafernandogallery.com/pdf/shanaathanan_ecatalogue.pdf) (last accessed 25/03/2016).

<sup>46</sup> For website of 'Websites at Risk', see <https://sitesatrisksl.wordpress.com> (last accessed 25/03/2016).

<sup>47</sup> For website of 'Peace and Conflict Timeline', see <http://pact.lk> (last accessed 25/03/2016).

<sup>48</sup> For website of 'Groundviews', see <http://groundviews.org> (last accessed 25/03/2016).

<sup>49</sup> "The end of war in Sri Lanka, captured for posterity by Google Earth", *Groundviews*, 12 September 2012, at <http://groundviews.org/2012/09/12/the-end-of-war-in-sri-lanka-captured-for-posterity-by-google-earth/> (last accessed 25/03/2016).

Governments of the day have not always been welcoming of memory initiatives in all shapes and forms and have even tried to stifle these efforts. Strong reactions such as that below of Jagath Weerasinghe's- the designer of the 'Shrine of the Innocents'- is understandable when governments stifle with initiatives that are meant to commemorate deeply tragic and personal losses:

*"Under the current regime, with their urge for development the neglected Shrine is being erased. As its designer, I really don't know what to say! I don't know if I should say anything against what's happening to the Memorial now, because it makes no sense as such; it was an orphan from its very beginning! The erasure of the Shrine is actually a process of enacting an abstract MONUMENT for our collective amnesia, and for our opposition mentality! I'd say that this - the presence of an absence/ the presence of an erasure - is a more pertinent monument for us in the South. If I have my way I'd imprison the broken narrative of the Shrine in a new memorial to commemorate the Shrine of the Innocents. We murdered thousands of innocent people for political reasons in this country; and then we built a memorial for them, and then we 'murdered' the memorial too. A society bent on amnesia, and blinded by the chimera of consumerism needs no memorial to remember victims of its recent history; it only needs monuments for rulers, kings, politicians, heroes and vulgar consumerism."<sup>50</sup>*

Majoritarian Governments that have gone to the extent of destroying memorials constructed on behalf of Southern insurrections, empathise even less with those of the North. LTTE cemeteries in the North were bulldozed over by the government to make way for army camps.<sup>51</sup> Families of LTTE members and suspected LTTE members have faced restrictions when they have tried to mourn the loss of their loved ones in the North. Celebrating 'Maaveerar Naal,' a Heroes Day commemorating the anniversary of the first LTTE cadre to die in combat, was

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<sup>50</sup> Op. cit., fn 21.

<sup>51</sup> Bhavani Fonseka, "Holding Memory Hostage to Politics", *Sunday Observer*, 7 June 2015, at <http://www.sundayobserver.lk/2015/06/07/spe-mil-02.asp> (last accessed 25/03/2016).

banned.<sup>52</sup> The ban continued even under the current Presidency in 2015.<sup>53</sup> The LLRC report too recognised these post-war conditions in the North:

*“During the Commission’s visit to Mannar, a member of the clergy brought to the Commission’s notice that the military had cancelled religious services to remember persons killed or missing and even some of the priests have been threatened and intimidated for their attempts to commemorate those killed in the conflict. He observed that while celebrations of victory have been held under the Government patronage, no efforts have been made by the Government to express solidarity with the families of those killed, missing and injured in the conflict.”<sup>54</sup>*

Restrictions, extended to those who tried to mourn the civilian casualties of the war.<sup>55</sup> In May 2015, although not physically obstructed, these families faced surveillance at mourning events.<sup>56</sup> Families, in the past, have even been

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<sup>52</sup> An earlier version of this discussion paper stated that ‘Celebrating ‘Mahaveer Day,’ a Heroes Day that falls on the birthday of the slain LTTE leader Prabhakaran was banned for ‘glorifying the LTTE’, and cited “No LTTE ‘Mahavir Day’ celebrations allowed in Sri Lanka - Military Spokesman”, Colombo Page, 26 November 2014, at

[http://www.colombopage.com/archive\\_14B/Nov26\\_1417019200CH.php](http://www.colombopage.com/archive_14B/Nov26_1417019200CH.php) (last accessed 25/03/2016); and “Five held with LTTE Mahaveer Day flyers”, Ada Derana, 27 November 2012, at <http://www.adaderana.lk/news.php?nid=20683> (last accessed 25/03/2016). This has been corrected. From 1991, the entire week from November 21-27, was declared as Great Heroes’ Week, and given that the LTTE Leader’s birthday falls November 26 there is a misconception that the heroes day was to celebrate the Leader’s birthday. See more at:

<http://dbsjeyaraj.com/dbsj/archives/56558>

<sup>53</sup> “LTTE ‘Mahaveer Day’ celebrations illegal in Sri Lanka – Police”, Colombo Page, 26 November 2015, at [http://www.colombopage.com/archive\\_15B/Nov26\\_i48514983CH.php](http://www.colombopage.com/archive_15B/Nov26_i48514983CH.php) (last accessed 25/03/2016).

<sup>54</sup> Paragraph 5.157 of the LLRC report, op. cit., fn 10.

<sup>55</sup> Ruki Fernando, “Three years after the war in Sri Lanka: To celebrate or mourn?”, *Groundviews*, 19 May 2012, at <http://groundviews.org/2012/05/19/three-years-after-the-war-in-sri-lanka-to-celebrate-or-mourn/> (last accessed 25/03/2016); and Ruki Fernando, “Celebrating war victory and banning commemoration of dead civilians: this is the home grown & indigenous reconciliation and freedom in Sri Lanka?”, *Groundviews*, 18 June 2010, at <http://groundviews.org/2010/06/18/celebrating-war-victory-and-banning-commemoration-of-dead-civilians-this-is-“home-grown-indigenous”-reconciliation-and-freedom-in-sri-lanka/> (last accessed 25/03/2016).

<sup>56</sup> Ruki Fernando, “Tamils in North & East Sri Lanka remember those killed despite intimidation and surveillance”, *Groundviews*, 20 May 2015, at <http://groundviews.org/2015/05/20/tamils-in-north-east-sri-lanka-remember-those-killed-despite-intimidation-and-surveillance/> (last accessed 25/03/2016).



obstructed from displaying photos of their lost family members in their own homes - military personnel have requested that those photographs be removed.<sup>57</sup>

These restrictions however have not been exclusively on the part of the government. The LTTE too did not tolerate commemorations by rival groups in areas they controlled during the war.<sup>58</sup> The JVP too stands accused of restricting memorialisation initiatives to remember those they were responsible for killing, by way of obstructing or making it difficult for communities for example, carry out funeral processions.<sup>59</sup>

Throughout history, power dynamics of various parties have had a significant impact on repressing or assisting memory initiatives, based on whether or not it suited the narratives of those in control. Memorialisation has stood as a powerful method of expressing and giving life to counter-narratives and contesting ideologies where multiple narratives have been largely unwelcome.

Continued repression can only lead to more violence, and this is something the government must take note of in its reconciliation attempts. These various forms of ad-hoc obstructions to memorialisation- be it from the government of the day or by non-State actors- have been a point of frustration for many affected families. However, they have braved these threats, intimidation, obstructions and restrictions to remember, despite fears of reprisal, their loved ones. Their courage is testimony to the innate human quality and need to remember.

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<sup>57</sup> Op. cit., fn 14.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

## Strategic Memorialisation

The previous section laid out the diversity of existing memory initiatives in Sri Lanka, and to an extent highlighted the need for space and support- both active and passive- for such efforts by the State. This section aims to discuss guiding principles around memorialisation and their applicability to the Sri Lankan context.

### The Need for Memorialisation:

A *New York Times* opinion page article had the following to say about how people feel about memory spaces:

*“When the Vietnam Veterans Memorial opened in 1982, people were startled to find the black gash in the earth and its list of names so moving. And then they started to leave things at the wall — letters, cards, photographs, votive candles, a teddy bear, cans of fruit salad. Some of these items seem like attempts to talk with the dead, but others seem like ways of being present, or ways of making the memorial in some small part something they themselves have made. The objects seem to say: These men are gone, but with this gift we are part of one another. It is easy in our individualistic culture to think of memories as private and selves as interior. That is an illusion. Our memories and dreams dwell incarnate in the world. Sometimes, they are too much to bear.”<sup>60</sup>*

According to ‘*Confronting the Complexity of Loss: Perspectives on Truth, Memory & Justice in Sri Lanka*’<sup>61</sup>, a study that sought stakeholder perspectives on various pertinent post-war issues, some participants were unable to see any point in memorialisation, as it would not bring their loves ones back. Others held that

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<sup>60</sup> T. M. Luhrmann, “How Places Let Us Feel the Past”, *International New York Times*, 25 May 2015, at [http://www.nytimes.com/2015/05/25/opinion/how-places-let-us-feel-the-past.html?emc=edit\\_th\\_20150525&nl=todaysheadlines&nlid=62738264&r=3](http://www.nytimes.com/2015/05/25/opinion/how-places-let-us-feel-the-past.html?emc=edit_th_20150525&nl=todaysheadlines&nlid=62738264&r=3) (last accessed 25/03/2016).

<sup>61</sup> Op. cit., fn 32.

commemoration would be inevitable since memory is inescapable by nature, due to emotional desires, even when there is no rational basis for it. Some had taken up the position that memorialisation is necessary for personal and societal benefit.

While there have, evidently, been a number of national attempts to memorialise selective events in history, there are equally evident attempts to deny and obstruct them. Community initiatives have attempted, and to some extent succeeded, in bridging this gap, however there is still much more the State can do in terms of encouraging and accepting multiple truths in Sri Lanka's violent past. Despite official policy, there have been a number of instances where members of government<sup>62</sup> and government documents have called for the State to recognise, acknowledge and apologise for violence, including government complicity, and assist community and individual memory initiatives. Paragraph 8.303 of the LLRC holds that,

*“Leaders on all sides should reach out to each other in humility and make a joint declaration, extending an apology to innocent citizens who fell victims to this conflict, as a result of the collective failure of the political leadership on all sides to prevent such a conflict from emerging...”*

While there is no one precise, accepted reason for the need for memorialisation, there is consensus that there is some benefit in it for all communities - be it personal or inter-generational - and an interest by members in government to push for it.<sup>63</sup> When addressing this need in the context of transitional justice, there must be a clear, concerted, strategic approach to the delivery of memory initiatives as much as possible. At the very least, such an approach must be adopted in public

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<sup>62</sup> As recently as on 8 March 2016, JVP MP Bimal Rathnayake in Parliament called for a common monument for the disappeared so that families of the missing in the North and the South, including civilians who disappeared, government forces families as well as the families of LTTE members could use as a memorial. See link to Hansard at, <http://parliament.lk/uploads/documents/hansard/1457932518009431.pdf> (last accessed 25/03/2016).

<sup>63</sup> *Ibid.*

practice of memory initiatives, given their potential to worsen already sensitive issues. A great deal of critical reflection therefore must be undertaken when nationally approaching the terrain of memory. Tipping the balance in favour of majority demands or pandering to electoral concerns, could quite literally, cement political dominance and exclusion. National memory initiatives will face the inevitable challenge of negotiating multiple narratives to address individual and community needs and initiate projects that address deep-rooted concerns. It is crucial that already marginalized communities do not feel excluded in discourses on memory. Critically engaging with issues that are bound to crop up, such as how to cultivate an environment of tolerance where multiple and sometimes competing accounts of truth are accepted or at the very least tolerated in a pluralistic society; answering the 'who', the 'how', the 'why', the 'when', the 'where', the 'what'; and to what extent a State and community contribute to the task of historical clarification; how to negotiate the dynamics of dignifying memories of perpetrator, victim, survivor when memory is also a deeply personal topic; all render a national approach to memorialisation a very difficult venture. To this end, it is useful to consider contemporary guidelines on memorialisation.

### **Guiding Principles on Memorialisation:**

In the absence of an internationally accepted set of principles on memorialisation, this paper draws upon national and international best practices in memorialisation, as drawn up by Impunity Watch.<sup>64</sup> These eight principles are analysed in terms of potential risks, benefits and lessons they pose for Sri Lanka.

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<sup>64</sup> Impunity Watch, "Policy Brief: Guiding Principles of Memorialisation", January 2013, at [http://www.impunitywatch.org/docs/Policy\\_Brief\\_Guiding\\_Principles\\_of\\_Memorialisation.pdf](http://www.impunitywatch.org/docs/Policy_Brief_Guiding_Principles_of_Memorialisation.pdf) (last accessed 25/03/2016), (hereinafter Guiding Principles). The author was a part of the exchange and policy development for Asia, and draws upon other regional studies conducted by the same organisation. For guiding principles on memorialisation that have been drawn up for the specific context of Zimbabwe, but are also relevant to Sri Lanka, also see: <http://www.ntjwg.org/kcfinder/upload/file/Guiding%20Principles%20Memorialisation%20%5BConference%20Copy%5D.pdf> (last accessed 25/03/2016).

- **Context:** Consider the root causes of the violence, the nature of the conflict, how (if at all) the conflict ended, the current social and political situation, and enduring legacies of the conflict, such as structural violence.<sup>65</sup>

The largest Tamil political party, the Illankai Tamil Arasu Kachchi (ITAK) supported Maithripala Sirisena at the 2015 Presidential election and consequently at the general elections in August 2015, ITAK became the main opposition party in parliament resulting from a coalition agreement drawn up between the two main political parties. The JVP too supported Sirisena's candidacy by asking its members not to vote for Mahinda Rajapaksa. They are currently the third largest political party represented in parliament. With a majority of parliament in broad agreement with the agenda of the current government, and with commitments made by the government to undertake genuine transitional justice mechanisms, the political context is thus a good one for those affected by former conflict situations to push for State acknowledgement of crimes, to recognise and apologise for crimes committed in its name, and to advocate for change in what gave rise to the conflicts in the first place, by addressing root causes. The biggest pushback for the government is from some members of the United People's Freedom Alliance (UPFA) and ultra-nationalist segments from within and outside the parliament. It is however hoped that President Sirisena, as the leader of the UPFA, will dispel any unreasonable doubts cast on the public by these movements. President Sirisena has spearheaded important law-making in the current government - 2015 saw the passage of the 19<sup>th</sup> amendment to the Constitution, which established independent commissions and limited the executive powers of the President.<sup>66</sup> Likewise in 2016, the parliament adopted, after much deliberation, a consensus resolution facilitating much needed constitutional reform. Although these positive developments provide hope for future developments in the realm of good governance, it is by no means an

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<sup>65</sup> Guiding Principles, op. cit., fn 64.

<sup>66</sup> For more information see, Centre for Policy Alternatives, "A Brief Guide to the Nineteenth Amendment to the Constitution", 29 May 2015, at <http://www.cpalanka.org/a-brief-guide-to-the-nineteenth-amendment-to-the-constitution/> (last accessed 25/03/2016).

indicator of how the next few months will play out in terms of government reconciliation efforts.<sup>67</sup>

Understanding social-political realities and assessing power-relations is key to successful, credible and effective policies on memory projects. Initiatives must consider power dynamics of whether there is sufficient support to challenge the dominant narrative, and if the dominant narrative is that of victor's justice (as it is in Sri Lanka, currently) or if it is a negotiated political settlement to end conflict. There is also the victim-survivor-perpetrator classification to be conscious of, since the lines between them are often blurred. Those systematically and perpetually marginalised would expect more from the State, and the State must aim to dispel fears of exclusion.

Another aspect to consider is cultural appropriateness and local context of any memory initiatives undertaken. There is no one-size-fits-all approach the State can take in this regard. For example, the international community's reconstruction of the destroyed 16<sup>th</sup> century Ottoman Stari Most bridge (Bosnia-Herzegovina) that stood for over 400 years before it was destroyed in 1993 during the Croat-Bosniak war, as a reconciliatory measure between the two communities, took little account of the local context, sentiments and tensions. The reconstructed bridge therefore is said to have little reconciliatory impact due to overly ambitious targets without assessing ground realities.<sup>68</sup>

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<sup>67</sup> For instance, the President has contradicted key commitments made via the Human Rights Council resolution. See, "Sri Lankan President: No allegations of war crimes", *Al Jazeera*, 29 January 2016, at <http://www.aljazeera.com/programmes/talktojazeera/2016/01/sri-lankan-president-allegations-war-crimes-160128150748006.html> (last accessed 25/03/2016); and "President reiterates refusal of foreign judges in human rights investigation", *DailyFT*, 21 March 2016, at <http://www.ft.lk/article/532229/President-reiterates-refusal-of-foreign-judges-in-human-rights-investigation> (last accessed 25/03/2016).

<sup>68</sup> Impunity Watch, "Memory for Change: Discussion Paper", November 2014, at [http://www.impunitywatch.org/docs/Discussion\\_document\\_Memory\\_for\\_Change-3\\_to\\_7\\_Novem1.pdf](http://www.impunitywatch.org/docs/Discussion_document_Memory_for_Change-3_to_7_Novem1.pdf) (last accessed 25/03/2016).

Assessing any religious implications of memory initiatives too is important to make them locally relevant. For example, the display of bones in a memory initiative, although probably successful in evoking strong sentiments, may not always be appropriate in terms of religious beliefs of the affected community.<sup>69</sup> Likewise, a genuine assessment of community needs and local beliefs in topics such as forgiveness and tolerance (karma, for example) must be undertaken when drawing up initiatives that aim to seek for truth and justice based on calls for restorative or punitive justice, that may either make communities confront or let go of past violence.<sup>70</sup>

Since it would be a difficult task to confine all these considerations that apply to multiple waves of historic violence, from the insurrections to the ethnic war, to one or two initiatives, perhaps a multi-pronged approach would be more viable.

- ***Critical Self-Reflection:*** *About each actor's role in memory initiatives in light of differing values, biases and with awareness that the very presence of different actors can influence memorialisation, taking care not to burden memorialisation with overly ambitious goals. Seek inspiration from other contexts, but simultaneously be aware of the dangers of transplanting experiences from one context to another.*<sup>71</sup>

Interventions in something as deeply personal as memory, requires careful self-reflection in order to recognise intended and unintended consequences. In a sensitive context such as that in Sri Lanka, each aspect of memorialisation must be critically assessed, especially if undertaken by or on behalf of the State. Answering questions around who, why, how, when, where, what is done has the potential to mitigate some of the risks associated with memorialisation, in order to recognise possible consequences of intervening in local initiatives or national

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<sup>69</sup> Guiding Principles, op. cit., fn 64.

<sup>70</sup> For an analysis on this see, op. cit., fn 32.

<sup>71</sup> Guiding Principles, op. cit., fn 64.



initiatives to memorialise local incidents. The same can be said of international participation in memory initiatives. As noted earlier, memory initiatives must not be seen by affected communities as prescriptive and imposed upon them, and must be handled organically. International practitioners and non-governmental organisations involved in memory initiatives must take caution not to transplant comparative initiatives without taking a fine comb through all aspects and angles related to proposed initiatives, and also understand that intricacies of effective memorialisation cannot be confined to or captured by way of setting out on paper, the aims, objectives, indicators and log frames as per donor requirements.<sup>72</sup> The Stari Most bridge is one such example where intervention, without taking into account local context as mentioned above, has not resulted in the intended reconciliation:

*“It has become a metaphor, a bridge from the past to the future, a bridge between Croats and Muslims, a bridge between the internationals and the locals and a bridge between the Muslim world and Europe. The problem with all the metaphors is that the promised reconciliation hasn't actually occurred. Yes, people cross from one side to the other. But they still live completely separate lives. When traumatized people fail to play out our script of reconciliation, we tend to blame them rather than our own wishful thinking. Bosnians of all ethnic groups would be shallow creatures indeed if they did not hold onto memory and pain. Yet we are impatient with their memory, impatient with their reluctance to be reconciled. We are in a hurry. We are leaving, in part, because they have failed to provide us with the requisite happy ending... Our need for noble victims and happy endings suggests that we are more interested in ourselves than we are in the places like Bosnia that Americans have taken up as causes. This may be the imperial kernel at the heart of our interest in reconstruction and nation building. For what is empire but the desire to imprint our values on another people? Imperialism is a narcissistic enterprise, and narcissism is doomed to disillusion. Whatever other people want*

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<sup>72</sup> Guiding Principles, op. cit., fn 64.

*to be, they do not want to be forced to be us. It is an imperial mistake to suppose that we can change their hearts and minds. It is their memory, their trauma, not ours, and intervention is not therapy. We can help them rebuild the bridge. Whether they actually use it to heal a city is up to them.*"<sup>73</sup>

Similarly, there is an acute risk, especially in the context of Sri Lanka, that interventions could backfire on the objectives and furthermore could risk ultra-nationalist forces hijacking initiatives with good intentions to gain popularity and momentum against 'western' impositions.

While national mechanisms set up for truth telling maybe beneficial to some, and may even serve a purpose nationally, but for others, especially those who suffered during the conflict, it may be traumatic. Impacts of testimonial therapy vs. re-traumatisation therefore must be given due consideration. Similarly, national initiatives to preserve memory of violent conflict will, inevitably, attract and promote 'war tourism'- a concept that has gained global popularity. National policy must recognise this and aim to mitigate as best as possible its risks. Communities' perceptions of national memory initiatives- be it feeling loss of ownership of the initiative due to 'war tourism', or not seeing any community utility in the initiative for themselves- could defeat the very purpose of the initiative. National memory initiatives must also take caution when promoting memory initiatives and be vigilant of different perceptions, and their impact on stakeholder acceptance of the initiative. As a solution, national memory initiatives could consider attaching community benefit to potential 'war tourism' by perhaps charging a minimal entrance fee for non-Sri Lankans, with the fees charged being channelled towards helping the socio-economic needs of the affected communities.

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<sup>73</sup> Michael Ignatieff, "When A Bridge Is Not A Bridge", *International New York Times*, 27 October 2012, at <http://www.nytimes.com/2002/10/27/magazine/when-a-bridge-is-not-a-bridge.html?pagewanted=all> (last accessed 25/03/2016).

- **Participation:** *Genuine grassroots participation can ensure that local needs, traditions, human rights, and socio-cultural sensitivity are respected for the purposes of ensuring local ownership, meaningful engagement and context-sensitive memorialisation.*<sup>74</sup>

A bottom-up approach could mitigate some of the risks associated with navigating the complex terrain of memory initiatives. Observations made by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, at the conclusion of his second advisory visit to Sri Lanka in 2016 highlighted the need to consult victims in the government's transitional justice agenda. He said,

*“Consulting victims is also a means of trying to guarantee a close fit between the programmes to be established and the needs and expectations of their beneficiaries; it is a way of eliciting information about topics and issues that may not be apparent; symbolically, it is another way of reaffirming the inclusive nature of society, the reintegration of victims into the community of citizens, and a way to signal to others the currency of the notion of equal rights.”*<sup>75</sup>

Broad-based consultations should therefore play an integral role in transitional justice processes and in informing the design of complementary memory initiatives, in order to avoid the type of criticism attributed to the restoration of the Jaffna Public Library discussed previously. Carrying out consultations alone however is insufficient for a credible initiative. Participation is key to acceptance and ownership. For example, in Thailand, families of the disappeared took on a

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<sup>74</sup> Guiding Principles, op. cit., fn 64.

<sup>75</sup> Observations by the Special Rapporteur on the conclusion of his second advisory visit to Sri Lanka (26 January to 1 February 2016), 10 February 2016, at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17029&LangID=E> (last accessed 25/03/2016).

project to plant trees along the Chao Praya River in 2007 in a way of participating in memorializing through a living form, their loved ones.<sup>76</sup>

Given the difficulties in fully understanding and balancing ground realities, complexities, expectations, appropriate content, local needs and relevance, the option of support by way of providing space, means and building capacity to carry out local initiatives too is an option worth considering for the State.

Over-romanticisation of the grassroots<sup>77</sup> perspectives in a national approach to memorialisation has to some extent, the potential to cultivate narrow, divisive viewpoints and accounts. Examples of memorials such as that in Aranthalawa or Kattankudy evoke strong sentiments, which are understandable at community level, but must be evaluated before initiation at national level as factors that may negatively affect healing and reconciliation. On the other hand, removing itself from, or ignoring community demands, as in the example of the Jaffna Public Library, could place national memory initiatives beyond the acceptance and ownership of local communities. Therefore, national initiatives must aim to strike a balance as best as possible, through discussion and compromise, when shaping these difficult projects on memory that can contribute to transitional justice processes. The State must be vigilant of the risks and aim to play a neutral role in promoting tolerance, without taking advantage of the opportunity for memorialisation to legitimise narrow political stances.

There have been numerous calls<sup>78</sup> for a common monument built for all those affected by the conflict as a starting point to transitional justice, till processes and mechanisms fall into place. While this may be a good suggestion, a lack of

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<sup>76</sup> Impunity Watch, “Memorialisation as Related to Transitional Justice Processes in Thailand: An Exploration”, at <http://www.impunitywatch.org/docs/ThailandCountryExploration.pdf> (last accessed 25/03/2016).

<sup>77</sup> Guiding Principles, op. cit., fn 64.

<sup>78</sup> For example see, op. cit., fn 62; and Gerrit Kurtz, “Bridging the narratives in Sri Lanka”, *The Hindu*, 19 April 2014, at <http://www.thehindu.com/opinion/op-ed/bridging-the-narratives-in-sri-lanka/article5926158.ece> (last accessed 25/03/2016).

community consultation or participation coupled with limited access to such memorials risks defeating these good intentions. The National Monument to All Victims in Burundi is one such example where the lack of genuine stakeholder participation and an overly simplistic approach, even with the best of intentions, resulted in an idle monument that did not achieve the intended purpose.<sup>79</sup> The Liberation War museum in Bangladesh<sup>80</sup> on the other hand, was able to foresee the risks of limited access to memory sites (which also served an educational purpose) and accounted for it in their outreach activities. A mini mobile museum with selected artefacts travelled the entire country, reaching out to 51 districts and 6,92,811 students.<sup>81</sup> Similarly, the Citizens Archive of Pakistan<sup>82</sup> sought to provide cultural and historic education through specially designed school and college outreach programs aimed at providing access to its vast archive.

- **Complementarity:** *Memory initiatives must be considered as part of a framework for transformative justice that includes complementary mechanisms for guaranteeing truth, justice, reparations and the non-recurrence of violence. Attention should be given to the diverse ways that memory initiatives can contribute to the goals of political and institutional reform, addressing socio-economic inequalities, demands for human rights, as well as the range of individual and community needs after violence.*<sup>83</sup>

Memorialisation can play a critical role in complementing existing or proposed transitional justice processes. It can help fill in the gaps where truth seeking is concerned, especially with regards to the disappeared; it can be a powerful tool to call for accountability where only mass atrocities receive some sort of justice

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<sup>79</sup> Op. cit., fn 68.

<sup>80</sup> For website of the Bangladesh Liberation War Museum, see <http://www.liberationwarmuseumbd.org> (last accessed 15/03/2016).

<sup>81</sup> *Ibid.*

<sup>82</sup> For website of the 'Citizens Archive of Pakistan', see <http://www.citizensarchive.org/> (last accessed 25/03/2016).

<sup>83</sup> Guiding Principles, op. cit., fn 64.

and individual crimes fall through the cracks; it can be reparations in the form of a national apology and acknowledgement of complicity when reconciliation initiatives are insufficient to restore the dignity of those affected; it can supplement measures for non-recurrence by way of education and awareness raising or where institutional reform takes a long time.

Memorialisation can also take the form of addressing socio-economic inequalities and generating livelihood opportunities for those affected by conflict, so that communities are able to enjoy tangible benefits from initiatives. A concern often raised by communities affected by protracted conflict is that sometimes processes initiated to assist them in truth seeking fail to address their most basic needs for day-to-day survival. Memorialisation efforts in such contexts may not be immediately apparent. A vast number of those appearing before the Paranagama Commission to inquire into cases of war-time disappearances have highlighted their dire economic state compounded by the loss of their primary breadwinner to the conflict. Poverty is a very real and pressing concern for most of the war affected in the North and the East and memory initiatives must ideally intervene in the provision of relief as an approach to bridging the gap between the ideological and the practical. For example, in Nepal, memorials built to remember loved ones that also aimed to address social needs by way of constructing water pumps.<sup>84</sup> Initiatives that serve social utility have proven to be successful in addressing more than one concern for affected communities.

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<sup>84</sup> Impunity Watch, “Memorialisation as Related to Transitional Justice Processes in Nepal: An Exploration”, at <http://www.impunitywatch.org/docs/NepalCountryExploration.pdf> (last accessed 25/03/2016).

- **Process:** *Memorialisation is a long-term, participatory process that requires the sustained involvement of all actors and in particular the involvement of younger generations through inter-generational dialogue. Timing and sequencing are key factors in memorialisation.*<sup>85</sup>

It would be useful for those involved in the subject of memory to approach it with both short-term and long-term agendas. Short-term projects in the form of, for example monuments, benefit a particular purpose, however are unamenable to changing contexts and local needs. Initiatives, while capturing and defining present memories, must aim to shape the future. Long term-processes such as history education in the national curricular or institutional change, have inter-generational benefits. Longevity and sustenance of memory initiatives is also a worthwhile consideration to this end for practitioners of memorialisation, as some initiatives could prove to have a lifeline much longer than that of ad-hoc initiatives such as truth commissions. Initiatives that are static, which do not evolve over time to reflect evolving memories therefore risk being irrelevant and outdated over time. The Peace Museum in Kathmandu is an example of a memory initiative that evolved over time. What started out as an exhibition of photographs of the conflict, over time evolved to incorporate responses and reactions of the visitors to the museum. The exhibition was then taken around the country in order to tackle the issue of access in order to reach out to a wider audience,<sup>86</sup> much like the example from Bangladesh mentioned above.

Memory projects should not be seen as an afterthought, and must therefore be incorporated at the outset, when designing larger processes for transitional justice. Giving due consideration to process also involves considering timing and sequencing of interventions, based on other transitional justice processes in the pipeline that memorialisation initiatives should aim to complement. Assessing the

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<sup>85</sup> Guiding Principles, op. cit., fn 64.

<sup>86</sup> Op. cit., fn 84.



context, as mentioned before, is a part of this process in order to avoid doing too much, too soon.

- **Multiple Narratives:** *There can be no one truth after violence; the multiplicity of discourse, different understandings and the value of social dialogue should be acknowledged, respected and adapted to, but recognising that this does not inevitably lead to reconciliation or require affected communities to give up their claims for justice.*<sup>87</sup>

One of the key dangers to avoid in memorialisation attempts is to exclude and ignore the multiple accounts or narratives to any one event or conflict. For example, memory initiatives related to the ethnic war must strive to provide a voice to the voiceless and challenge the homogenous discourse by aiming to capture not one, but the rich variety of multiple narratives. These narratives must include those of victims, survivors, perpetrators and those affected, including civilians caught in crossfire, for a broad understanding of the context and mutual recognition of suffering, without limiting focus to any narrowly defined sections of society. As Ruki Fernando, a Sri Lankan human rights activist put it,

*“A hero to one person is a villain to another. But soldier or militant, each is also a son or daughter of a mother and father, and may have a husband or wife, brother or sister... The challenge for us, that I want to leave you with, is how we encourage inclusive remembering, instead of exclusive remembering. This means considering victims from different ethnic or religious groups, but also from the perspectives of different perpetrators. Do we want to remember only groups – particularly groups of victims, themselves victimised by a particular group – or do we want to remember all victims, irrespective of who they or the perpetrators are or were? Should we commemorate those who engaged in abuses and violence, and if so, how should we do it? Should we, the commemorators, remember in*

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<sup>87</sup> Guiding Principles, op. cit., fn 64.

*groups, or as individuals? And should we have private commemorations, as the former government sometimes told us we should, or collective public commemorations?”<sup>88</sup>*

There can be no one truth to an account witnessed by many, and competing accounts and versions should be tolerated and acknowledged, even where accounts are anecdotal. Care must however be taken in the delivery of these multiple narratives in order to avoid reigniting cycles of violence. For example, State driven local initiatives that might aim to capture the atrocities committed by the LTTE, could potentially affect the reintegration of rehabilitated former members of the movement back into a society that suffered by the actions of the LTTE. Stigmatisation and marginalisation do not foster healthy reconciliation.

Multiple accounts provide for a basis for dialogue generation and the negotiation of several truths between polarised communities, and State intervention in memory initiatives must therefore aim to elevate diverse, multiple local accounts into the national discourse. A recent example for such dialogue was apparent in the reaction to singing the National Anthem in both Sinhala and Tamil at the Independence Day celebrations in February 2016. The media frenzy that resulted, in a way, also promoted dialogue and insightful discussion on the government’s decision to put into practice the Constitutional recognition of Tamil as an official language.<sup>89</sup>

The government of President Rajapaksa was particularly supportive of and led the way in terms of officiating the ‘liberator’ narrative post-war, controlling the portrayal of history on structures, constructing elaborate monuments depicting the valour and bravery of the Sri Lankan forces. There was limited consultation or participation of even the families of the armed forces in what the government of the day was erecting. These triumphalist monuments have therefore been only just

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<sup>88</sup> Op. cit., fn 14.

<sup>89</sup> Article 18 (2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

that. Aside from serving as spaces for photo opportunities for war tourists, they have had limited success beyond side-lining, isolating, discriminating, victimising, creating unease and further marginalizing stakeholders in the communities in which they are located (and others geographically far removed), where the mourning of their own loved ones has been faced with sustained military obstruction. The enduring divisiveness and tensions between ethnic communities have been cemented through such monuments and they have the capacity to fuel further cycles of hate and revenge. Supporting minority narratives in a context where the majority narrative has been the dominant national discourse is important in translating victories into apologies and acknowledgement of the failure, of government, to protect the rights of all, equally. To avoid reproducing root causes of the violence that gave effect to wars and conflicts, recognising multiple narratives must therefore be one the primary concerns of any national memorialisation policy.

- *Youth: Memorialisation must prioritise and promote the active inclusion of younger generations as agents for change, for the non-recurrence of violence and for dignifying the memories of survivors, especially since youth are often left on the side-lines of memory initiatives by a focus on direct conflict actors.*<sup>90</sup>

It is important to be forward looking in any memory initiative so that it serves an inter-generational purpose that would also play a role in guaranteeing non-recurrence and ensure lasting relevance to those who did not directly experience the horrors of the war. Currently, Sri Lanka's national education curricular does not reflect the decades of violence post-independence.<sup>91</sup> There is no mention of the JVP insurrections, the 1983 anti-Tamil pogrom or the ethnic war that plagued the country for close to three decades. This sheltered, selective approach to some

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<sup>90</sup> Guiding Principles, op. cit., fn 64.

<sup>91</sup> Impunity Watch, "Memorialisation as Related to Transitional Justice Processes in Sri Lanka: An Exploration", at <http://www.impunitywatch.org/docs/SriLankaCountryExploration1.pdf> (last accessed 25/03/2016).

of the most significant turning points in our history is a tragic tale of chronic denial on the part of the State. Anecdotal and sometimes biased accounts of history, passed on from generation to generation, on occasion, promotes divided identities, and are insufficient in providing a broad understanding and appreciation of the root causes of the conflict and the sheer depth of violence undergone by generations of Sri Lankans and the existence of multiple truths.

Selecting the most appropriate medium, or selection of mediums, to communicate the message in memory initiatives to link the past and the present, is just as important as the content. A study on how best to approach different age groups should ideally be conducted with the aim of creating a multiplier effect to transform a violent past, if not done so already. For example, successful social media campaigns such as *#MenolakLupa*<sup>92</sup> (*#AgainstForget*) in Indonesia have had an impact in reaching out to and informing demographics that are sometimes beyond the reach of traditional, mainstream mediums. 'Nunca Mas' (never again), the report of the National Commission on the Disappearance of Persons in Argentina, which included detailed accounts of disappearances during the seventies, became a best seller upon its publication as a book, and acted as a medium for raising awareness in the younger generations. In another example<sup>93</sup>, the Timor-Leste Ministry of Education created a child-friendly version of the report produced by the Commission for Reception, Truth and Reconciliation in East Timor, called 'Chega' (meaning 'stop' or 'enough') to make the report more appealing to younger generations. The LLRC report too could be packaged in similar fashion to make it more appealing for mass consumption.

Education, be it through the national curricular, museums, social media, prime time television, films, documentaries, art exhibitions, literature, postcards, letters,

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<sup>92</sup> Impunity Watch, "Memorialisation as Related to Transitional Justice Processes in Indonesia: An Exploration", at <http://www.impunitywatch.org/docs/IndonesiaCountryExploration.pdf> (last accessed 25/03/2016).

<sup>93</sup> Impunity Watch, "Memorialisation as Related to Transitional Justice Processes in Timor-Leste: An Exploration", at <http://www.impunitywatch.org/docs/TimorLesteCountryExploration.pdf> (last accessed 25/03/2016).

memes, cartoons, posters, infographics, photography, documentation and archives or easy to digest awareness raising programmes, are all mediums at the disposal for national memorialisation initiatives that are worth considering when deciding upon appropriate outreach methods. This is fundamental to an education programme that aims to contest the former national discourse and create attitudinal change and promote tolerance in order to prevent recurrence.

- ***Politicisation:*** *Memorialisation is an inherently political process that can be utilised for the reclamation of violated rights or appropriated to serve malevolent purposes that can entrench impunity and subvert fundamental rights.*<sup>94</sup>

Practitioners must inevitably address the ‘politics of memory’ at play at any given context, given that government action only goes so far as the votes it can secure at elections. There is great potential for those who adhere to partisan politics to levy support for their cause, or against another, by stirring or mobilising ultra-nationalistic, majoritarian discourse. For example, there was limited and controlled media reportage of the Aluthgama incident in 2014 where the Bodu Bala Sena (BBS), a hard-line Buddhist group allegedly operating under tacit sanction of the then government, publicly incited religious and racial tensions. The then government saw some benefit in permitting the stirring-up of such tensions due to their reliance on an ultra-nationalist, majoritarian voter base. The government’s wilful ignorance, exclusion and omission of certain events from history for political convenience, do not provide a healthy environment for confronting truths and non-recurrence.

This is precisely why memorialisation should be guided by a national policy as opposed to a government policy to the extent possible, in order to avoid institutionalised amnesia of a difficult past and its susceptibility to political

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<sup>94</sup> Guiding Principles, op. cit., fn 64.

appropriation. Relevant line ministries and offices involved in reconciliation<sup>95</sup> must push for a National Policy on Memorialisation and see that it gets approval from the Cabinet.

As flagged earlier, support for locally owned memory projects or equal access to funds for community projects can, to a great deal, limit potential politicisation of initiatives and processes being blocked, manipulated or hijacked for narrow political objectives. For example, following the success of 'The Act of Killing,' an Indonesian documentary film about the killings and violence of 1965-66, by the Oscar-nominated filmmaker, Joshua Oppenheimer, the sequel by the title of 'The Look of Silence', faced political censorship.<sup>96</sup> The resistance movement to the censorship created more publicity and awareness than the government intended. Local initiatives to publicly broadcast investigative documentaries such as 'Sri Lanka's Killing Fields' and 'No Fire Zone' by Channel 4 could pursue along similar lines.

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<sup>95</sup> Ministry of National Integration & Reconciliation, Ministry of National Co-Existence Dialogue and Official Languages, Ministry of National Policies & Economic Affairs, Office for National Unity and Reconciliation, Secretariat for Coordinating Reconciliation Mechanisms as well as proposed transitional justice mechanisms such as the Truth Commission and Office for Reparations.

<sup>96</sup> Op. cit., fn 92.

## Conclusion

The depiction of memory, be it through simple or elaborate initiatives, hold deep meaning and impact for those who were affected by conflict. Agency in memory therefore is a tricky terrain, however one that is required, especially in Sri Lanka's post-war context. It necessitates careful and considerate approach in the context of dealing with the past and transitional justice, where denial, omission and non-confrontation of a violent past has contributed to a widened trust deficit within communities in Sri Lanka. Memorialisation has great potential to heal and connect divided societies as much as to divide and reignite suppressed feelings of hate, revenge and inequality. While individual and community initiatives have, and should take form in ways best suited to each local context, State initiatives must seek to capture multiple narratives from the viewpoint of reconciliation, tolerance and promotion of the rich cultural and religious diversity of Sri Lanka's pluralistic fabric. In this respect, the government must initiate, at this crucial juncture, a National Policy on Memorialisation that binds current and future governments to abiding by best principles and practices on memorialisation that do not perpetuate narrow political agendas, by way of exclusion and marginalisation, nationally.