



Research Article

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State-Minority Contestations in Post-colonial Sri Lanka

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Abstract

This research focuses on the issue of state-minority contestations involving transforming and reconstituting each other in post-independent Sri Lanka. This study uses a qualitative research method that involves critical categories of analysis. Migdal's theory of state-in-society was applied because it provides an effective conceptual framework to analyse and explain the data. The results indicate that the unitary state structure and discriminatory policies contributed to the formation of a minority militant social force (the Liberation Tigers of Tamil Eelam – The LTTE) which fought with the state to form a separate state. The several factors that backed to the defeat of the LTTE in 2009 by the military of the state. This defeat has appreciably weakened the Tamil minority. This study also reveals that contestations between different social forces within society, within the state, and between the state and society in Sri Lanka still prevail, hampering the promulgation of inclusive policies. This study concludes that inclusive policies are imperative to end state minority contestations in Sri Lanka.

Keywords: contestations, majority Sinhalese, minority Tamils, society, state

1. Introduction

This is a study of state and society contestations based on the ethnic conflict of Sri Lanka. The Democratic Socialist Republic of Sri Lanka (formerly known as Ceylon) is an island in the Indian Ocean, about 28 kilometers off the southeastern coast of India with a population of about twenty one million. Sri Lanka is home to a multicultural society with culturally, ethnically, and religiously diverse community (Rameez, 2015). This ethnic diversity and identity based contestations are the basic factors for ethnic conflict. The Sri Lankan census of 2012 divided the population into Sinhalese (74.9), Sri Lanka Tamils (11.2), Indian Tamils (4.1), Sri Lanka Moors (9.3), and others (0.5) (Department of Census, 2012, p. 20). The lack of understanding between the majority Sinhalese and minority Tamils, certain policies adopted by the government that are supportive to the majority community, and ulterior motives of politicians are cited as the factors of this protracted conflict and civil war that took place in the country.

Sri Lanka is well-known all over the world for its civil war that ravaged the country over the last three decades. This civil war resulted in the death of over 100,000 people, mostly minorities, and forcibly displaced hundreds of thousands of people internally and externally (Nadeeka & Rodney, 2010; Imthiyas & Iqbal, 2011). Transformation and reconstitution of state and society have been a paradoxical theme in Sri Lankan political debate since independence of 1948.

The Sri Lankan government declared victory over the Liberation Tigers of Tamil Eelam (LTTE) in May 2009. This marked the end to one of the world's most protracted and brutal internal armed conflicts (Hoglund & Orjuela, 2011). The end of civil war should have created opportunities for State and Society reconstitution with inclusion of minorities which has been an abandoned process in Sri

Lanka owing to the contestations for domination between majoritarian state and the minorities.

This research aims to briefly answer the following key questions: What are the factors that contributed to the failure of the strong minority social force that was formed to reconstitute and create a new, inclusive state? What are the key lessons for the state and the Tamil minority group that can be derived from the civil war that ended in 2009? Why has the state not responded with inclusive policies to prevent another major contestation?

2. Methodology

This study is a qualitative analysis based on text analysis and supplemented with limited observations. The extensive academic literature collected and consulted for this study represent a range of subject areas in the field of social science, namely; history, sociology, cultural and social anthropology, political science, economics, administrative science, cultural and conflict studies. Some other sources such as press releases, leaflets, posters, election manifestos, ads, etc., produced by government and peace organizations were also studied, as a supplement to the literature. During field visit, the author collected a number of local and international literatures from the different libraries, institutions and individuals in the academic filed. Those literatures are such as books, previously conducted research and reports, journals, government policies, media articles and additional relevant documents. Qualitative data analyses were conducted through critical and interpretative approaches. These approaches entail classifying, weighing, and combining empirical materials from the literature and observations. These processes were successfully followed in the current study. The collected data was analysed to extract coherent and consistent descriptions and themes, which should eventually bring about conclusions that conform to the study's research questions.

3. Theoretical framework of the study

The theoretical approach of state-in-society developed over the past four decades, within the extensive writings of Joel S. Migdal, is used to study and analyze state-minority contestations in Sri Lanka. Migdal's state-in-society approach from those of his contemporaries in the field of everyday politics. Migdal established state-in-society approach within the political science discipline. His writings inspired a new generation of researchers to conduct a novel study of the relationship between everyday life and state authority. The central conceptual argument of his approach suggests a definition of the state that differs from the concept of Max Weber, wherein the former explains two parts of the definitions. According to Migdal (2001a, pp. 15–16), the state is a field of power that can use or threaten to use violence and is shaped by (1) the image of a coherent and controlling organisation in a territory, which is a representation of the people bounded by that territory, and (2) the actual practices of its multiple parts. This definition is structured around the practices and image of the state platforms and is 'the core analytical and methodological' principle that runs through and defines state-in-society scholarship (White, 2013).

According to Migdal (1988), states and societies can be identified as weak or strong by applying the theories he introduced. He focuses his argument on the fact that states should concentrate on facilitating the process of qualifying everyone as a member of the state to obtain a single political status of citizenship. Migdal envisages that this status of citizenship can be declared to people, given the following conditions: (1) when the state has jurisdiction within specific boundaries; (2) when a situation arises where hegemonic control over society is possible; and (3) when the state is capable of instructing and implementing its survival strategies (Toit, 1995). The following factors virtually determine the survival of a state: the organisational capability of its leaders, population size, potential material, human resource availability, and larger international configurations. A state that focuses on survival and gaining of strength should be capable of mobilising and integrating with society, regulating social relationships, as well as extracting and properly using resources. A strong state should be capable of completing the above-stated tasks because a weak state cannot complete such tasks (Migdal, 1988). The methods by which these capabilities are measured reveal the citizens' level of participation in governing the country, the

legitimacy of the state, and the obedience of the populace. When a state is characterised by weakness, another social organisation would likely emerge with attempts to gain the control lost by the state with their survival tactics. When this situation arises, social control will be divided between the state and competing social organisations (Toit, 1995). Migdal defines social control as “the successful subordination of people’s inclinations of social behaviour or behaviour sought by other social organisations in favour of behaviour prescribed by state rules” (Migdal, 1988). This definition suggests that a state may gain social control when the people respect and obey what the state prescribes without giving preference to the dictates of their desires. These prescriptions are embodied in state laws. The strength of the state depends on factors, such as high level of social control, one set of survival strategies, high level of capabilities and compliance, participation, and legitimacy. When these factors occur in reverse order, the state is judged as weak.

The struggles and accommodation in the junctures among the components of the state and other social forces have produced a range of outcomes. We can capture these results in four ideal types. The first one is a total transformation. Here, the state’s penetration leads to destruction, co-option, or subjugation of local social forces and the state’s domination. The second is state incorporation of existing social forces. The third is existing social forces’ incorporation of the state. The state may fail altogether in its attempt at penetration.

Thus, Migdal’s framework helped build a comprehensive picture of the connections between the state (image and actual practices) and society (formation and defeat of social force in the best interests of society) concerning state and minority mutual transformation and reconstitution in Sri Lanka.

4. Findings and Discussions

What are the factors that contributed to the failure of the strong minority social force that was formed to reconstitute and create a new, inclusive state? The image of the post-colonial majoritarian unitary state of Sri Lanka was sufficiently dominant to control all rule-making process instrumental to the social control within its territory. In this regard, state policies were formulated and implemented to safeguard and satisfy Sinhalese majorities and were aimed at obtaining their electoral support for United National Party (UNP) and Sri Lanka Freedom Party (SLFP) (mainstream political parties) whilst discriminating Tamil minorities. Such leading policies were the Citizenship Act, the Sinhala Only Language Act, land policies and university admission and employment policies. Considering these circumstances, the Tamil minorities, who felt they were being alienated from the body politic with their culture being neglected, challenged the island’s post-colonial trajectory. In this way, state–minority contestation developed in Sri Lanka.

As a result of the policies of exclusion, state and minority contestation began when a demand was made by Tamil minority political elites to reconstitute the unitary constitution of Sri Lanka to allow regional autonomy to the North and East by means of a federal solution. As a result of unreachable negotiations and continuous discrimination since the mid-1970s, Tamil politicians shifted from support for federalism to a demand for a separate Tamil state, namely, the ‘Tamil Eelam’, in Northern and Eastern Sri Lanka (areas of traditional Tamil settlement) (US Department of State, 2006, as cited in Fazil, 2016). Other groups, particularly the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), sought to establish an independent state through armed resistance.

The LTTE developed into a strong militant social force and challenged the image and practice of the state of Sri Lanka. The LTTE’s massive military victory over the Sri Lankan state and its ability to control substantial territory in the Northern and Eastern provinces led to the questioning of the state’s image at the end of the 20th century; however, neither the state nor the LTTE were fully victorious. The change in international perceptions following the September 11th terrorist attack on the United States of America combined with the stalemate in the civil war in Sri Lanka brought both parties into the negotiation process.

This study argues that to find a solution to these state–minority contestations, the attempts made by the state of Sri Lanka towards a peace settlement with the LTTE had involved some measure of third party or international intervention, including India and later Norway. A new optimism for a long-lasting peace emerged when the Norwegian government was invited officially in

2000 by the government of Sri Lanka and the LTTE to facilitate the peace process. Norway helped broker a Memorandum of Understanding/Cease Fire Agreement (CFA), which was signed by both parties on February 22, 2002 (Keethaponcalan, 2008, p. 93; Bouffard & Carment, 2006, p. 169).

The key provision in the agreement was a respect for existing frontlines. This initiative left large tracts of territory in the North and East under LTTE control and had also been mentioned in the CFA.¹ Several important agreements for further development of the peace process were made during six rounds of negotiations. An important outcome of the third round of talks held in Norway is the Oslo Communique, in which both parties agreed to explore 'a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples based on a "federal structure" within a united Sri Lanka'(Goodhand & Klem, 2005, p. 20). This event is interpreted widely as a shift in the LTTE position from 'separatism' to 'self-determination'. Both parties had changed their original demands significantly by moving away from the unitary position of the Sinhalese ruling class and the separatist position of the LTTE. These particular negotiations faced a major upset when the LTTE suspended its participation after the sixth round of talks. Thus, another important finding of this study is that the Norwegian facilitation had not been very successful in bringing peace to Sri Lanka because of new political developments domestically and internationally.

The state penetrated² the LTTE with the alliance of international actors, broke its Eastern wing (headed by Colonel Karuna), formed another social force of Karuna's faction and incorporated a new social force into the state structure. Different factors contributed to the failure of the LTTE, including national and international factors. National factors can be highlighted as centralised leadership of Prabhakaran and his inadequacy of strategic understanding, factions in the LTTE (e.g. the Karuna's defection), defection of the political wing of the LTTE, strong state leadership and state security and inability of the LTTE to fight effective hybrid warfare. The following international factors also contributed to the defeat of the LTTE: the assassination of ex-Prime Minister Rajiv Gandhi, post-September 11 changing the international politics of GWOT and international power balance (China factor).

The second key question is to determine the key lessons that the state and the Tamil minority group can derive from the civil war that ended in 2009. The state of Sri Lanka is expected to have learned lessons from the consequences of the civil war that ravaged the country for 26 years and devastated the lives, property and economy of the country. With these lessons, the state could introduce inclusive policies to accommodate minorities into the state system. However, studies have revealed that contrary to the above-mentioned assumption, the state learned the use counter-insurgency approach to defeat social force from the civil war. Such approach resulted in the failure of the separate state formation goals of the social force. The state also sought to broadcast the message to the international states to follow the 'Sri Lankan model' for succeeding in the counter-insurgency in their countries where intra-state contestations occur.³

Nevertheless, particular counter-insurgency strategies violated international law during the final months of the war. Thus, the United States sponsored the UNHRC resolution against the state of Sri Lanka on war crime allegations and requested the conduct of impartial investigations India (UNHRC, 2012, as cited in ICG, 2013; UNHRC, 2013). However, this resolution has not taken place yet. The LLRC mechanism is expected to provide a solution for human right violations and address the grievances of the minority through inclusive policies, but this mechanism also failed in Sri Lanka. Thus, this study concludes that the state has not learned proper lessons from the civil war.

Nevertheless, a part of the society, particularly Tamil minorities, has learned very good lessons from the civil war: one is that gaining any solution through the war and secession is impossible, and the other is that the consensus of the majority community is needed to reach any

¹ As stated by Migdal and supported by Toit, the strong state of Sri Lanka transformed into 'weak state', whereas the LTTE transformed into a strong militant social force with quasi state structure to achieve its goal of Tamil Eelam.

² Defined by Migdal as the possibility of 'state incorporation of existing social forces.'

³ The Asian Age, "Any Country Facing Terrorism."

solution via state reconstitution/inclusive policies in the post-war Sri Lanka. In the post-LTTE era, the remaining Tamil minority social forces and some evidence indicate the LTTE formed the Tamil National Alliance (TNA) during the civil war with the intention to hinder power sharing through military contestation (Mayilvaganam, 2008, p. 29). In this regard, post-LTTE era TNA returned to the democratic approach with the majoritarian Sinhalese state and its elites throughout the presidential, general, provincial and local government elections in the post-civil war situation. In the meantime, through the influence of the Tamil diaspora, a portion of Tamil social forces attempted to contest the state with different approaches after war and tried to gain benefit for their society (Orjuela, 2017). This initiative was taken negatively by the state and majority Sinhalese. The social forces also criticised TNA leader R. Sampanthan and his colleagues by assuming they are supporters of the majoritarian state.

The present study highlights that the international community failed to avoid human rights and humanitarian violations against Tamil minorities by the state during the counter-insurgency in the last stage of the war. Furthermore, the international community failed to learn when and how to intervene during the violation of human rights and humanitarian laws.

This study shows that the unexpected defeat of the LTTE in 2009 provided the opportunity for a transition in the post-civil war politics in Sri Lanka. According to the conceptual framework (state-in-society theory), the devastation of secessionist social force (LTTE) weakened society tremendously in contesting the state, which led to the re-establishment of a strong unitary state. The fundamental goal of the particular social force was to fight for the constitution of a separate state for the Tamil minority group in the North and East in Sri Lanka. To reach its goal, this social force attempted to transform and reconstitute the state via a federal solution.

This study exposes that at the end of the war and with the defeat of secessionism, an opportunity was created to reconstitute state from unitary to federal for an inclusive approach. However, state reconstitution was abandoned during this ideal moment. In relation to state-in-society theory, Rajapaksa was a skilful leader who formed a post-war strong state along with his ruling elites. The state's strongman, Rajapaksa, used his popularity (gained due to the victory over the LTTE) as a strategy for propaganda to win the second election in 2010, and the masses obliged by extending support to Rajapaksa and his UPFA coalition (De Votta, 2010).

Therefore, this study shows that in the post-war context of Sri Lanka, the strong state increased rapidly its capability to penetrate weakened Tamils and regulate their social relationship in the Northern and Eastern provinces where the LTTE had strongly ruled for many years (De Votta, 2010, p. 333). Certain tools set up by the strong state to penetrate society and regulate social relations were identified as follows. First, the SLSF was organised and mobilised. Rajapaksa appointed his brother, Gothabaya Rajapaksa, an ex-military officer, as his defence secretary; this appointment led to an unusually close nexus between the civilian and military commands. Second, the state was instrumental to the fragmentation of minority parties and the weakening of state reconstitution via penetration and regulation of the social relationship. The TNA was keen to re-define the Tamil political project within the framework of devolution in the post-LTTE era. However, the Sinhalese majoritarian ruling class, who led the UPFA, attempted to weaken TNA by maintaining alliance with anti-LTTE Tamil parties such as Eelam People's Democratic Party and Tamil Makkal Viduthalai Pulikal (De Votta, 2009). Third, the unitary state and economic development were consolidated. Fourth, radical outfit and hate campaigns were proposed. Lastly, the strong state extraction of resources and use of these resources were deemed appropriate in the North and East.

This study identifies post-war social control as claimed by Migdal to be dependent mostly on the level of people's participation in strong state. The state succeeded in the mobilisation of the Sinhalese majority outside the North and East and directed them to participate in the political process of the country, whereas the minorities in the North and East continued to support the remaining social forces such as TNA and Sri Lanka Muslim Congress. Thus, the strong state had the capability to mandate social control in the entire country but faced challenges to achieve its fullest social control in the minorities' predominant areas of North and East. This process is evident in the results of the post-war Presidential, Parliamentary, Provincial and Local Government elections.

However, the Tamil minority and international community expected that the state must introduce inclusive policy mechanisms as a solution to the conflict. State attempts made for state reconstitution in post-civil war Sri Lanka, which should have contributed to finding a resolution to the ethnic conflict and sustainable economic development. Such efforts can be identified as follow: the home-grown solution, local level power sharing, Government-TNA talks, Parliamentary select committee and South African initiatives as third party. But then again, these efforts failed to deliver sustainable peace in the post-civil war Sri Lanka.

It was expected that the post-war situation would provide the opportunity to find a resolution to the ethnic conflict by way of devolution of power to the periphery and include minorities into the state system which discussed above. Anyhow, post-war initiatives of inclusive mechanisms failed as usual. Thus, the state introduced exclusive policies and consolidated its power. However, Rajapaksa and his government pursued amendments to the constitution such as the 18th Amendment, Devi Neguma, and adopted impeachment against the former chief justice of the state. These centralisation activities of state power and misuse of power expressed very bad impression in the international arena against to state of Sri Lanka. As Saravanamuttu notes, the "18th Amendment must be seen as yet another decisive step in the centralisation of power in the executive – the recurring theme of our country's constitutional evolution" (Saravanamuttu, 2010, p. 13). Yet, it is also significant to note that further entrenching of the Executive President in the structures of state power had the support of some leaders of ethnic minority communities as well. The EPDP, TMVP and the CWC, already members of the ruling UPFA and the SLMC, which crossed over from the opposition to provide the government the two-thirds majority it needed to pass the Amendment, backed the 18th Amendment. There were doubts about the government's commitment to both devolution and democratic governance.

The third key question is to determine why the state has not responded with inclusive policies to prevent another major contestation. One reason is the strengthening or re-establishing the dominance of ruling class. The image of the post-civil war state has been strengthened with the one side military victory and support of the majority. This situation strengthens coherent, controlling capacity of the state, thereby promoting the reluctance of the majoritarian state to respond in an inclusive manner (policies) to prevent another major contestation. Another important component of state is actual practices that indicate specifically the bureaucratic system or permanent administration of the state, which has been insufficient to avoid policies of exclusion. Therefore, the dilemma of post-independent political culture or traditions amongst ruling elites resulted in the avoidance of inclusive policies. Such unhealthy political culture is rooted deeply into the state machinery (bureaucrats). Hence, state institutions or bureaucrats could not formulate or enforce inclusive policies and could not influence the political elites in considering the inclusive policies.

The government attempted to extend its security forces and equipment (Selvanathan & Selvanathan, 2014) to avoid regrouping and face any security threat to the territorial integrity of the state. Many security strategies have been followed by the state to neutralise regrouping, such as increased defence expenditure, strong security monitoring system and increased military posts in the former war tone areas.

The political elites of Sri Lanka have been fragmented on the basis of political parties, ideologies, ethnicity, religion, radical and moderates. Leaders of Sri Lanka have failed to bring all 'political elites' into a common consensus on the national issue in the post-civil war parliaments. For example, the elites' consensus will move to a turbulent situation if the new policy/constitutional draft includes a great devolution to the minority-dominated North and East. The lack of elite consensus state has not introduced inclusive policies to avoid further major contestation. Elites may influence the decision of the citizens of Sri Lanka if new inclusive draft is submitted to the people for approval. However, minorities are expecting the nature of the state needs to change, and they should have been accommodated into the state system as a consequence of post-civil war.

Religious identity-based political parties are another segment of political elites who oppose and mobilise majority community against inclusiveness. In accordance with state- in-society theory, contemporary social forces of majority community concerned with Sinhalese identity may work against the inclusion of minorities. These ethnic-based political parties (elites) and social forces will not come to a consensus to introduce inclusive policies.

A large population of Minority Muslims and Sinhalese are residing in the North and East. They are demanding that their aspirations be considered and that they be accommodated them into the future power devolution, which is an additional challenge to the state reconstitution process. A notable finding of the study is that Tamils are demanding for a re-merged North-Eastern Province, whereas the Muslims are against it.

This study determined that the present national government cannot introduce inclusive policies. Former President Rajapaksa and his new political advantage through recent local government election weakened the government.

The defeat of the LTTE has weakened the society. Thus, absence of strong social force and weakened minority is insufficient to transform and reconstitute the existing strong state and consider the way forward to accommodate Tamil minorities.

Different types of contestation within minority and between majority and majority cause for the state's reluctance in introducing inclusive policies after war. TNA gained the mandate of the Tamils and contested with the state for inclusive policies and self-determination. Remarkably, post-LTTE Tamil minority social forces are contesting each other with the influence of the Tamil diaspora and are demanding that the state introduce different types of inclusive mechanism. This unhealthy situation blocks the state from considering the Tamils' aspirations.

One of the crucial outcomes of the post-civil war state of Sri Lanka is inter-society rivalry amongst different social forces. Sinhalese majority social forces are gaining mass support through the hate campaign and mob attacks against the minorities and their social forces, transforming as political parties and becoming influential forces in the government. Minority social forces are also showing their counter protest against majoritarian state and majority people. This inter-society rivalry is another factor that contributes to continuous exclusion.

An introduction of new inclusive policy and a high level of civil society participation are also essential. Lack of participation of civil society can be a challenging stumbling block in introducing new inclusive policies for avoiding escalation of new contestation. In the liberal world, civil society participation is essential to the introduction of social welfare or inclusive policies. However, civil societies of Sri Lanka did not influence and encourage the state of Sri Lanka to introduce inclusive policies for accommodating minorities into the state system in the post-civil war period.

The Tamil diaspora and its Transnational Government of Tamil Eelam (TGTE) are key challenging factors in the recent hindrance to the inclusive agenda. The TGTE and its goals have been to create fear about new secessionist demands.

This study shows that India and other international actors are not exerting integrated pressure on Sri Lanka towards a political solution to the national question. The international community is more concerned with the impartial investigation of war crimes than on pushing for a unique model of resolution. A strong suspicion has evolved that India may not support the disintegration of the provincial council system. Notably, UNHRC's resolution on Sri Lanka also requests that a political settlement be reached on the devolution of power to the provinces. No clear statement has been released by India and international actors on the matter of resolution to the ethnic conflict. Thus, Sri Lanka is struggling without proper guidance to find a final settlement.

5. Conclusion

The research concludes that the militant social forces can be one of the major social forces in the study of how state and society transform and constitute each other. State transformed the minority (part of society) through the introduction of policies of exclusion (image), which convinced the minority to form militant social forces for constituting a new state. Using the conceptual framework based on state-in-society theory, this research finds that militant social force (LTTE) is a key actor in fighting against the state in behalf of the society during the state and society contestations. Militant social forces can challenge the image (rule-making capacity) and actual practices (state actors and agencies) of the state in a political arena. These militant social forces can attempt to transform the state to achieve its basic goal of a separate state. State has been found to penetrate into society and defeat militant social forces. As a result, society transforms into a weak society, whereas state transforms into a strong state. State, society and the international community can

learn several lessons from the end of civil war, which was a consequence of the state–minority contestations. However, the strong state would introduce policies to continue to consolidate its power and control minorities. In this juncture, the state reintroduced policies of exclusion and transformed society into a weak one. During state penetration and defeat of militant social forces via counterinsurgency strategy because of the influence of local and international factors, international humanitarian and human rights law can be violated by the state and the militant forces. Unfortunately, the international community failed to avoid humanitarian violation during the final stage of the civil war and to intervene during the humanitarian crisis. The state would not introduce inclusive policies without the challenges/influence of militant social force and because of other identified reasons.

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