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The Sino-Lankan Relationship: Challenging Liberal Foundations of Transitional Justice

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The Sino-Lankan Relationship: Challenging Liberal Foundations of Transitional Justice

Master's Research Paper

by

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Graduate Program in Political Science

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Abstract

Sri Lanka continues to demonstrate the challenges of implementing legitimate transitional justice mechanisms in a post-conflict state ruled by its victors. While the island-nation of Sri Lanka has managed to sustain relative peace for over a decade, the government's outstanding human rights record remains a concern for the country's minority ethnic groups. While there is substantial evidence against the Sri Lankan Army to validate the human rights abuses and war crimes alleged by Tamil civilians, little has been done to hold these individuals accountable. Within the sphere of liberal international order, a victor's peace, such as Sri Lanka's, would likely face Western pressure to abide by international law and prosecute these individuals, at the risk of facing economic repercussions. Nonetheless, Sri Lanka has refused to prosecute any government officials or Sri Lankan Army officers; yet, their post-war economy has nearly wholly recovered, due to its increasingly close relations with China. On this premise, this paper will analyze how China continues to defy liberal international norms, as demonstrated by the Sino-Lankan relationship. This paper will begin by defining transitional justice and the liberal international norms fostered by Western hegemony for the later portion of the twentieth century. It will then proceed by discussing how China has challenged liberal international norms in recent decades, through its growing economic dominance and vested international interests. This paper will then analyze the war crimes and human rights violations that took place during Sri Lanka's civil war and the failing transitional justice mechanisms that followed. Finally, this paper will conclude with an in-depth analysis of the Sino-Lankan relationship. Ultimately, this paper will argue that China is able to challenge Western norms and liberal international order, by providing an appealing alternative model for illiberal states, through its prioritization of sovereign equality over all other foreign policy principles.

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Introduction

The case of Sri Lanka and its increasingly close relationship with China serves as an example of the emerging authoritarian alternatives to the dominant narrative of liberal peacebuilding. While liberal international norms have remained the prevailing discourse since World War II, the resurgence of China and Russia has produced new challenges for liberal international order and Western influence.¹ Western liberal norms, championed by the United States throughout the twentieth century have focused on “open markets, multilateral institutions, cooperative security, shared sovereignty, and the rule of law.”² The concept of transitional justice is often thought to be a by-product of the Western liberal vision due to its emphasis on individual rights, obligations and accountability.³ Transitional justice as a practice has traditionally referred to the mechanisms a post-conflict state can undertake in order to transition towards democracy, however in recent years this has devolved to a basic acknowledgement of past violations and abuses.⁴ While transitional justice is often associated with mechanisms such as truth commissions or accountability of perpetrators, it may also include “longer-term institutional reforms of the judiciary, security forces and the like.”⁵ More authoritarian regimes, such as China and Sri Lanka, have argued that these peacebuilding efforts often have ulterior motives and seek to emulate Western visions of governance and institutions.⁶

¹ David Lewis, “Sri Lanka’s Schmittian Peace: Sovereignty, Enmity and Illiberal Order.” *Conflict, Security & Development* 20.1(2020): 17.

² John G. Ikenberry, “Why the Liberal World Order Will Survive.” *Ethics & International Affairs* 32.1(2018): 23.

³ Chandra Lekha Sriram, “Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice.” *Global Society* 21.4(2007): 590.

⁴ Paige Arthur, “How ‘Transitions’ Reshaped Human Rights: A conceptual History of Transitional Justice.” *Human Rights Quarterly* 31.2 (2009): 324.

⁵ Chandra Lekha Sriram, 591.

⁶ *Ibid.*, 588.

While the Chinese style of governance has remained in stark opposition to the Western liberal international order since the end of WWII, China's foreign policy efforts have changed significantly within recent decades. Despite American fears of Asian hegemony, "official Chinese statements constantly reiterate the line that China does not and will not ever seek hegemony, either in Asia or elsewhere."⁷ This does not appease American concerns, as Chinese foreign policy remains appealing, in its simple offer as an alternative to prevailing standards and norms.⁸ This can be seen through China's high regard for state sovereignty, and a clear effort to refrain from imposing belief systems, policies or values on other countries.⁹ This is best described by an Australian official interviewed by Lampton, claiming China finds its strength in "negative soft power – at times, *not* being the US is enough to improve China's international image."¹⁰ Additionally, much of China's growth in soft power in recent decades lies in growing fatigue and distrust with Western liberal political and economic norms; particularly in states located in the global south.¹¹ China offers a model of illiberal peace that values sovereignty and is willing to construct strong economic relationships without the imposition of any particular belief system, creating an appealing alternative for authoritarian governments, such as Sri Lanka.¹²

The significance of the Sino-Lankan relationship, in relation to illiberal peace and transitional justice, begins with the war crimes that took place during Sri Lanka's 30-year civil war. Sri Lanka suffered violent ethnic conflict for nearly three decades, beginning with the violent mobilization of the Liberation Tigers of Tamil Eelam (LTTE) in 1983, and ending with

⁷ Shaun Breslin, "Understanding China's Regional Rise: Interpretations, Identities and Implications," *International Affairs* 85.4 (2009): 819.

⁸ *Ibid.*, 823.

⁹ *Ibid.*, 825.

¹⁰ *Ibid.*, 826.

¹¹ *Ibid.*, 831.

¹² David Lewis, "Sri Lanka's Schmittian Peace: Sovereignty, Enmity and Illiberal Order," 18.

their bloodied defeat by the Government of Sri Lanka (GoSL) in 2009.¹³ The LTTE was representative of Sri Lanka's largest minority, the Hindu Tamils, and their quest for a Tamil homeland in the North-East portion of the island.¹⁴ While both groups had committed violent war crimes throughout the conflict, it was the final months of the conflict that was most concerning to international organizations such as the United Nations (UN).¹⁵ The estimated death toll during the final month of conflict is estimated to be upwards of 300 000 civilians, largely at the hands of Sri Lankan forces.¹⁶ Tamils were continuously targeted after the LTTE was defeated, as a World Report in 2014 describes "torture, rape, detentions, and summary executions perpetrated by the Sri Lankan Government against peoples suspected of involvement in the defeated Liberation Tigers of Tamil Eelam (LTTE) and government critics."¹⁷ While Sri Lanka did construct some transitional justice mechanisms after the civil war, it will become evident that these measures made little effort to address the root issues of conflict Sri Lankan society.

The Sino-Lankan relationship is most significant in this paper to demonstrate the rising popularity of China's foreign policy approach, as well as the general appeal of the 'Chinese Model.' Relations between Sri Lanka and China became suggestively closer in 2005 when China expressed its full support for President Rajapaksa, who was unwavering in his pursuit to defeat the LTTE by any means necessary.¹⁸ President Rajapaksa's military approach was not well received by Western powers, as they "had criticized Rajapaksa for continuing with the military

¹³ Christopher Powell and Amarnath Amarasingam, "Understanding Atrocities: Remembering, Representing, and Teaching Genocide." *University of Calgary Press* (2017): 26.

¹⁴ *Ibid.*, 26.

¹⁵ *Ibid.*

¹⁶ Kurtz, Gerrit, and Madhan Mohan Jaganathan. "Protection in Peril: Counterterrorism Discourse and International Engagement in Sri Lanka in 2009." *Global Society* 30.1 (2016): 94.

¹⁷ The Lancet. "Human Rights Violations in Sri Lanka." *Lancet, The* 383.9929 (2014): 1610.

¹⁸ Patrick Hein, "The Patterns of Chinese Authoritarian Patronage and Implications for Foreign Policy: Lessons from Sri Lanka, Myanmar and Cambodia," *Asian Journal of Comparative Politics* (2020): 5.

offensive against the LTTE and refused to provide financial or economic aid to him, he edged closer to Beijing which was a willing partner.¹⁹ From this point forward, China provided unconditional financial, military, diplomatic and economic aid for the GoSL, resulting in states dependence due to Western embargoes.²⁰ It was from this turning point during the conflict, that Sri Lanka became increasingly reliant on China's economic and diplomatic support, this continued into the island's post-conflict era. This paper will outline how Sri Lanka's ability to circumvent international pressure for accountability is in large part due to China's unwavering diplomatic and economic support.

The Sino-Lankan relationship will serve as a case study that depicts the global emergence of illiberal peace. This case will seek to explore how the Sino-Lankan relationship impedes the transitional justice process and fails to reconcile with marginalized minorities in this post-conflict society. This paper will proceed in a series of successive steps; firstly, by defining transitional justice and the Western liberal international norms that are intertwined with this process. To continue, it will discuss the various ways in which China is defying liberal international norms and its introduction of an illiberal peace. The third chapter of this paper will investigate Sri Lanka's human rights record in depth; this portion will largely refer to state-sponsored violence against Tamil civilians and the culture of impunity for war crimes. Next, Sri Lanka's transitional justice measures and its continuing failures will be addressed. Finally, this paper will conclude with an assessment of the Sino-Lankan relationship, and how China has contributed to the state of illiberal peace within Sri Lanka, ultimately, obstructing the potential for legitimate transitional justice mechanisms.

¹⁹ Patrick Hein, 5.

²⁰ Ibid.

Understanding Liberal International Order & Transitional Justice

1.1 The Rise of the Liberal International Order

Liberal International Order (LIO) as it is known today, can be traced back to two historic political projects that have evolved over centuries. The first of these being the Peace of Westphalia in 1648, and the second being the general construction of a liberal order.²¹ Both of these projects are considered Western visions of global order, with Westphalia emerging from Western Europe and liberal order being constructed by the United States following World War II.²² These endeavours, ended up reinforcing one another, as the “Westphalian project has focused on solving the ‘realist’ problems of creating stable and cooperative interstate relations under conditions of anarchy and the liberal-order building project has been possible only when relations between the great powers have been stabilized.”²³ To begin, the Westphalian state system was originally intended to be a political project for Europe but spread rapidly around the world in the twentieth century.²⁴ Ultimately, the system was intended to deal with power relations while maintaining the importance of state sovereignty.²⁵ This marked the first global shift towards a new standard of norms and principles “such as self-determination and mutual recognition among sovereign states – have evolved within it, further reinforcing the primacy of states and state authority.”²⁶ While Westphalian norms were not received without contestation, they were the most resilient and supported aspects of the international system.²⁷

²¹ Hans Kundnani, *What is the Liberal International Order?* German Marshall Fund of the United States, 2017, 2.

²² Ibid.

²³ John G. Ikenberry, “The Future of Liberal World Order,” *Japanese Journal of Political Science*, 16.3 (2015), 59.

²⁴ John G. Ikenberry, “Why the Liberal World Order Will Survive,” *Ethics & International Affairs* 32.1(2018): 23.

²⁵ Hans Kundnani, 2.

²⁶ John G. Ikenberry, “The Future of Liberal World Order,” 59.

²⁷ Ibid.

The Liberal International Order (LIO) is thought to have emerged following World War II when the United States rose to prominence as a hegemon.²⁸ The US championed the idea of a ‘free world’ during the Cold War, and essentially, “became the ‘first citizen’ of this order, providing hegemonic leadership, anchoring the alliances, stabilizing the world economy, fostering cooperation and championing ‘free world’ values.”²⁹ This LIO rested on four important pillars; liberal values, the expansion of democracy, free trade and multilateral institutions.³⁰ The construction of a liberal order was following the growth of democracy globally allowing for an evolution of these ideas over time as states grappled with the changes of modernity.³¹ The concept of liberal international order remains a hallmark of the West, “built around bargains, institutions, and social purposes that were tied to the West, American leadership and the global struggle against Soviet Communism. When the Cold War ended, this ‘inside’ order became the ‘outside’ order.”³² However, it is important to note that while the United States has remained the global hegemon for over a century, the concept of liberal internationalism was not only a historically American vision but collectively westernized effort when discussed alongside the Westphalian project.³³

The emergence of LIO marked a transition in the international system, with a peaceful transfer of hegemony from the United Kingdom to the United States.³⁴ Following the failed League of Nations and the end of WWII, “President Franklin Roosevelt’s administration tried to construct liberal order again, embracing a vision of an open trading system and global

²⁸ Jennifer Rudolph, *The China Questions: Critical Insights into a Rising Power*. Harvard University Press, 2018: 67.

²⁹ John G. Ikenberry, “The End of Liberal International Order?” *International Affairs* 94.1 (2018): 8,

³⁰ Amitav Acharya, “After Liberal Hegemony: The Advent of a Multiplex World Order,” *Ethics & International Affairs* 31.3 (2017): 272.

³¹ *Ibid.*, 8,

³² John G. Ikenberry, “The End of Liberal International Order?” 9.

³³ John G. Ikenberry, “Why the Liberal Order Will Survive,” 22.

³⁴ John G. Ikenberry, “The Future of Liberal World Order,” 59.

organization in which the great powers could cooperate and keep the peace – The United Nations.”³⁵ While liberal internationalism shared many similarities with the Westphalian system, some aspects conflicted with the original model as well. This is evident in the liberal international order’s framing of sovereignty. To start, the foundation of the LIO is essentially “multilateral institutions, alliances, special relationships, and client states – a hierarchical order with liberal characteristics.”³⁶ While both systems valued sovereignty, some form of international order and human rights, the idea of sovereignty was altered in the 1990s with the introduction of the ‘responsibility to protect.’³⁷ The ‘responsibility to protect’, which will later become relevant in the Sri Lanka case study, gives “the international community legal rights and obligations to intervene in the affairs of sovereign states.”³⁸ It is on this basis which many states, such as Sri Lanka and China, vehemently reject international criminal accountability measures; as they are believed to disregard sovereignty in their pursuit of justice.³⁹

Lastly, before discussing transitional justice as a product of LIO, it is important to acknowledge how liberal internationalism has evolved and the status of American hegemony. While it is debatable whether or not the United States is still the single global hegemon, there are indications that perhaps their influence is weakening since “in the 2000s, following the wars in Iraq and Afghanistan and the Great Recession, the United States suddenly appeared a less effective power.”⁴⁰ While it is unlikely that liberal international order is to collapse any time soon, there are indications that it is both slowing down and being challenged by semi-

³⁵ John G. Ikenberry, “The Future of Liberal World Order,” 60.

³⁶ *Ibid.*, 61.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ Patrick Hein, 11.

⁴⁰ John J. Mearsheimer, “Bound to Fail: The Rise and Fall of the Liberal International Order,” *International Security* 43.4 (2019): 33.

authoritarian regimes. For example, when looking at the expansion of democracy, one of the four elements of LIO, there is some suggestion that perhaps these norms are no longer appealing;

The global democratic revolution known as the Third Wave saw the number of democracies nearly double after the end of the cold war. However, the trend already peaked by 2000, and it faced further setbacks when the unfulfilled promise of the Arab Spring and reversals and backslidings in Egypt and Thailand.⁴¹

Amitav Acharya argues that the United States itself is abandoning the norms of the LIO, through its slow fragmentation of multilateral institutions.⁴² For example, a process which was already underway but expedited by President Trump, the United States has made a conscious effort to cast aside the liberal multilateral institutions in place of bilateral trade agreements and direct exchange.⁴³

Nonetheless, confidence in the LIO remains, as John Ikenberry claims: “liberal internationalism has survived its 200-year journey into the current century because, with liberal democracy at the core, it offered a coherent and functional vision of how to organize the international space.”⁴⁴ Further to this, rising global powers, such as China and India have incentives to participate within the LIO, in the benefit of their state’s interest.⁴⁵ For example, China is already intensely integrated into the world trade system, where “a remarkable 40 percent of its GNP composed of exports – 24 percent of which go to the United States.”⁴⁶ Thus, while certain parts of the liberal international order are being challenged by global powers, confidence remains that the LIO is far too entrenched to be replaced in the near future.

⁴¹ Amitav Acharya, 274.

⁴² Ibid.

⁴³ Ibid., 273.

⁴⁴ John G. Ikenberry, “The End of Liberal International Order?” 10.

⁴⁵ John G. Ikenberry, “The Future of Liberal World Order,” 61.

⁴⁶ Ibid.

1.2 Placing Transitional Justice within the LIO

Transitional Justice (TJ) can manifest in a multitude of ways, depending on the context of a post-conflict society. The United Nations Secretary General (UNSG) claims that transitional justice;

‘[C]omprises a 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. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual persecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.’⁴⁷

There are four common approaches to transitional justice that are prominent in the field; this includes, criminal prosecutions, reparations for victims, truth commissions and legal or institutional reforms.⁴⁸ While transitional justice is argued to have been taking place since the end of WWII, the term did not come to be used until the late 1980s and early 1990s when a considerable political shift away from oppressive regimes was taking place in Latin America.⁴⁹

Ruti Teitel claims that there were four phases of transitional justice, that have led to the state of the field today. The first of these phases is known as the Nuremberg Trails; this process was arranged by the victors of WWII to address the crimes against humanity and war crimes committed by high-ranking Nazi officials.⁵⁰ While at the time, transitional justice as a political term did not exist, Teitel claims that the measures instituted met criteria of TJ.⁵¹ The second phase of transitional justice is marked by the fall of the Soviet Union; where there was a shift “away from Nuremberg-style international tribunals and towards national-level prosecutions

⁴⁷ Khanyisela Moyo, *Postcolonial Transitional Justice: Zimbabwe and Beyond*. Routledge, 2019: 14.

⁴⁸ *Ibid.*, 12.

⁴⁹ Paige Arthur, “How ‘Transitions’ Reshaped Human Rights: A Conceptual History,” *Human Rights Quarterly* 31.2 (2009): 334.

⁵⁰ Dustin N. Sharp, “Interrogating the Peripheries: The Preoccupations of Fourth Generation Transitional Justice,” *Harv. Hum. Rts. J.* 26(2013): 154.

⁵¹ *Ibid.*

inside the newly democratized or democratizing states.”⁵² Teitel continues to describe this phase as one where there was a general decline in the standards of the rule-of-law.⁵³ This tension between accountability and efficacy is a key component, as seen with Argentinian military officials.⁵⁴ There is a perpetual dilemma between attempting to hold perpetrators of war crimes accountable and the practical strains of finding a conflict resolution.⁵⁵

The third phase of transitional justice as described by Teitel is known as the ‘Steady-State’ TJ; in which case the field has moved from the exception to commonplace practices.⁵⁶ This was recognized as important in post-conflict societies, as “the question is not whether to conduct some form of transitional justice, but what the scope of modalities and sequencing might be.”⁵⁷ The final phase and current phase focuses on the intersection of politics in TJ work.⁵⁸ More specifically, balancing the needs of international agencies and local actors, as well as the possibility of a victor’s peace as the case of Sri Lanka, will demonstrate.⁵⁹ Lastly, it is important to note that the measures of transitional justice often work towards reproducing liberal forms of governance which are not always compatible with a post-conflict state in the Global South.

The most challenging component of implementing transitional justice is the rejection of its practices due to the perception that Western liberal governments are attempting to impose their ideologies onto the transitioning state.⁶⁰ This complaint frames foreign intervention as an infringement of sovereignty, but, that Western transitional justice mechanisms tend to overlook

⁵² Dustin N. Sharp, 154.

⁵³ Ibid.

⁵⁴ Ibid., 155.

⁵⁵ Khanyisela Moyo, 23.

⁵⁶ Dustin N. Sharp, 155.

⁵⁷ Ibid., 156.

⁵⁸ Ibid.

⁵⁹ Ibid., 158.

⁶⁰ Briony Jones and Thomas Brudholm, “Introduction: Rethinking Resistance to Transitional Justice,” *Conflict & Society* 2.1(2016): 68

local justice and reconciliation mechanisms. ⁶¹ Post-conflict societies which are undergoing the transitional justice process have often suffered from “torture, extrajudicial executions, disappearances, war crimes, crimes against humanity, forced labour or enslavement and genocide.”⁶² Typically, when such grave crimes occur, peacebuilding and transitional justice are introduced through pressure from the international community, Non-Governmental Organizations (NGO’s) and international organizations.⁶³ This results in, local actors often feeling disregarded by international actors, as explained by Sriram;

While an indigenous demand for accountability is undeniably significant in most, if not all, countries that have experienced conflict or mass atrocity and repression, the repertoires for accountability are formulated largely by external actors, as illustrated in the discussion of the policies of the World Bank, United Nations, and UK Department for International Development.⁶⁴

It appears that amongst domestic actors undergoing the transitional justice process, there is a common feeling of disconnect from influential international actors, who are dictating or contributing to the transitional justice agenda. Ultimately, the most common objection to international involvement in the transitional justice process is the argument that the imposition of Western norms is unwarranted and not culturally significant in certain post-conflict contexts.⁶⁵

The final critique of transitional justice and its liberal vision is the often-unintentional state-centred approach, with little priority given to the victims of violence. While transitional justice mechanisms explicitly claim that one of their functions is providing support for victims, this is often not the result. An example of this is truth-commissions which often assert that they serve to provide a platform for truth claims through public truth-telling in an attempt to

⁶¹ Dustin N. Sharp, 161.

⁶² Chandra Lekha Sriram, 583.

⁶³ Ibid.

⁶⁴ Ibid., 589.

⁶⁵ Briony Jones and Thomas Brudholm, 68.

reconnect victims and their communities.⁶⁶ While this is a legitimate laudable goal, “truth commissions operate through the continuing objectification of the victim to support the broader aims of the state. Although there is a link between the plight of individuals and inter-communal reconciliation, care should be taken not to conflate the concepts of individual and societal healing.”⁶⁷ While international transitional justice initiatives claim to have victims at the centre of their discourse a Western lens may overlook solutions that are more applicable in a particular cultural context.⁶⁸ Increasingly the liberal one-size-fits-all approach to transitional justice often fails to cater to the context of particular post-conflict societies; particularly those in the Global South.

This chapter sought to explain the origins and vision of Western Liberal International Order. Understanding the origins of the current LIO provides a foundation to effectively analyze how China continues to defy these liberal international norms, outlined in the following chapter. Furthermore, acknowledging transitional justice as part of the LIO and a Western vision of justice provides an additional dimension of analyzing Sri Lanka’s transitional justice record and its vigorous rejection of transitional justice mechanisms suggested by the international community, as well as the appeal of the ‘Chinese Model.’

⁶⁶ Simon Robins, “Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations.” *Human Rights and International Legal Discourse* (2017): 43.

⁶⁷ *Ibid.*, 47.

⁶⁸ *Ibid.*, 48.

China Posing Challenges to Liberal International Norms

2.1 China's Historic Resistance to Liberal International Norms

The beginning of the Korean War in June of 1950 can be seen as the beginning of America's efforts to contain communism in Asia.⁶⁹ The United States was particularly concerned about China's influence in the Asia-Pacific region following WWII, as "American governments were fearful of the People's Republic of China being able to spread out across East and Southeast Asia rather like the Japanese military had been able to take over much of Southeast Asian in December 1941 and January 1942."⁷⁰ From the 1950s onward, efforts to oppose the LIO were most common in the Asia-Pacific regardless of American efforts.⁷¹ While the United States remained the global hegemon from the end of WWII and following the Cold War in the 1990s, in the 2000s, this was weakened by the Great Recession of 2008 and its conflicts in Afghanistan and Iraq.⁷² During this time that China began to see massive economic growth and rising approval amongst its neighbouring countries due to the Asian financial crisis.⁷³ China's growth was significant in the early 2000s, "since from 2001 onwards, the Chinese economy grew increasingly rapidly. From 2003 to 2007, it sustained growth rates of well over 10 per cent per year."⁷⁴ The Asian financial crisis allowed China to increase its approval by acting as a catalyst for struggling states in the Asia-Pacific Region."⁷⁵

In recent decades, China has managed to integrate itself into the LIO, without compromising its Community Party or foreign policy strategies. China as an economic hegemon

⁶⁹ Richard Stubbs, "Order and Contestation in the Asia-Pacific Region: Liberal vs Developmental/Non-Interventionist Approaches," *The International Spectator* 53.1 (2018): 139.

⁷⁰ Ibid.

⁷¹ Ibid., 148.

⁷² Jennifer Rudolph, 67.

⁷³ Richard Stubbs, 144.

⁷⁴ Ibid.

⁷⁵ Ibid.

is extremely unique since it “is a booming capitalist economy controlled by a communist party that is still guided by the dictum of democratic centralism.”⁷⁶ The rising challenges to the LIO is how China as a global economic power conducts its foreign policy. Shaun Breslin claims that there are four pillars of Sino foreign policy, which directly challenge the current LIO. The first pillar focuses simply on a “commitment to multilateralism underpinned by the central role of the UN as the guarantor of global security.”⁷⁷ The second pillar prioritizes active dialogue as a means of resolving conflict, as opposed to military force.⁷⁸ The final two pillars are most divergent from the LIO, as China boasts a commitment to economic development on a global scale; emphasizing that developed states must take it upon themselves to promote growth internationally.⁷⁹ The final pillar encourages inclusivity and “recognizing all societies and cultures as coexistent and equal stakeholders in the global order.”⁸⁰ However, all of these pillars, however, China has emphasized its unwavering respect for state sovereignty.⁸¹

Beyond China’s foreign policy pillars and its single communist party, China is thought to challenge the LIO in its perceived support for authoritarianism. China’s support for authoritarian governments accompanied by indirect reinforcement of anti-Western nationalism.⁸² For example, amid ethnic conflict, “China has blindly endorsed the ethnic majority narratives of Tamil and Rohingya terrorism in Sri Lanka and Myanmar where domestic elites have emphasized exclusive ethnic or religious identities as they bid to win or maintain power.”⁸³ Moreover, China has explicitly challenged the LIO on multiple occasions by utilizing its power on the United Nations

⁷⁶ Horace Campbell, “China in Africa: Challenging US Global Hegemony,” *Third World Quarterly* 29.1(2008): 94.

⁷⁷ Shaun Breslin, “Understanding China’s Regional Rise: Interpretations, Identities and Implications,” *International Affairs* 85.4(2009): 825.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Patrick Hein, 11.

⁸³ Ibid.

Security Council, to prevent attempts at employing international accountability for human rights violations or war crimes.⁸⁴ This has produced a clear divergence of opinions regarding the role of transitional justice in the peacebuilding process.⁸⁵

While China continues to remain evasive regarding its specific foreign policy strategies, sovereignty has remained its unchanging priority since as early as the 1950s. As mentioned by the late Wang Teiya, a former Chinese Jurist, “China regards the principle of sovereignty ‘as the cornerstone of the whole system of international law’.”⁸⁶ However, this is not to say that China is isolationist, Beijing accepts that its sovereign powers can be constrained by the global economy. Barelli claims that there are two caveats that explain the protective attitudes that the Chinese have towards the sovereign principle: “First, China opposes restrictions to sovereignty that are non-reciprocal and non-voluntary; and second, it firmly opposes any attempt to conceptually undermine sovereignty as the building block of international law and relations.”⁸⁷ There is evidence of China’s efforts to express its anti-liberal sentiments such as a joint declaration with Russia that was signed in 2016 confirming the priority of the principles of sovereign equality and the avoidance of intervention to maintain global stability.⁸⁸ Without stating explicit disapproval, China’s consistent stance on sovereign equality challenges liberal international norms, such as the Responsibility to Protect (R2P) doctrine.

China’s efforts to uphold sovereign equality principles are rooted in self-preservation and the strategy of using these legal principles to protect itself in any attempt from foreign powers to interfere with China’s domestic affairs.⁸⁹ In addition to the Western influence Beijing actively

⁸⁴ Patrick Hein, 11.

⁸⁵ Ibid.

⁸⁶ Mauro Barelli, “Preventing and Responding to Atrocity Crimes: China, Sovereignty and the Responsibility to Protect,” *Journal of Conflict & Security Law* 23.2 (2018): 177.

⁸⁷ Ibid., 178.

⁸⁸ Ibid., 179.

⁸⁹ Mauro Barelli, 180.

rejects, the country also faces a number of security challenges in the Asia-Pacific region further incentivising the active campaigning for sovereign equality.⁹⁰ Current president Xi Jinping reiterated this stance when he stated that;

The principle of sovereignty not only means that the sovereignty and territorial integrity of all countries are inviolable, and their internal affairs are not subject to interference. It also means that all countries' right to independently chose social systems and development paths should be upheld, and that all countries endeavours to promote economic and social development and improve their people's lives and should be respected.⁹¹

Since the early 1950s, China has worked to challenge liberal international norms and resisted Western attempts at imposing democratic visions of governance. China expresses its preference for Westphalian sovereignty. But it also has led to questionable human rights practices and policy abroad. For example, activists have pointed to the examples of Zimbabwe and Sudan as instances China's readiness to support authoritarian governments.⁹² Therefore, China not only opposes the LIO but actively promotes an illiberal system; as will be demonstrated in the Sri Lankan case. As China's economic influence and sovereign equality principles continue to grow in popularity in the Global South, it is important to envision the future standard of human rights that may evolve with this progression.

2.2 'The Beijing Model' & Contemporary Chinese Foreign Policy

⁹⁰ Ibid., 181.

⁹¹ Ibid.

⁹² Horace Campbell, 102.

‘The Beijing Model’ also referred to as the ‘Chinese Model,’ refers to China’s foreign policy strategies, and emphasizes what international order would look like if more regimes followed suit. Shaun Breslin claims that the Chinese model has two main dimensions, which act as an attractive alternative to many developing or semi-authoritarian states. The first dimension refers to “the managed process of re-engagement with the global economy and the maintenance of relatively strong state control and/or national ownership of key economic sectors.”⁹³ In this way, China has served as an example of the ability for an illiberal political regime to achieve substantial developmental and economic success while partially integrated into the LIO. ⁹⁴

Critics such as Ikenberry argue that this model of governance as an example for smaller states can be detrimental for the state itself, and the international system generally. For example, John Ikenberry claims that the international system functions largely under the ‘Beijing Model’, “only works when one or a few states opportunistically exploit and open system of markets. But if everyone does it, it is no longer an open system but fragmented, mercantilist and protectionist complex, and everyone suffers.”⁹⁵ Additionally, if the ‘Beijing Model’ does not expand, China will likely be forced to acquiesce to more or the norms upheld by liberal international order.⁹⁶

China’s ability to liberalize its economy without altering its illiberal style of governance has been key to the Chinese Model.⁹⁷ However, while this may serve as a model of success for authoritarian states, it remains highly unlikely that smaller developing states can mimic China’s success.⁹⁸ Moreover, China has successfully maintained its Communist government without submitting to Western liberal pressures, “one of the greatest challenges to US power, it seems,

⁹³ Shaun Breslin, 826.

⁹⁴ Ibid.

⁹⁵ John G. Ikenberry, “The Future of Liberal World Order,” 63.

⁹⁶ Ibid., 64.

⁹⁷ Shaun Breslin, 826.

⁹⁸ Ibid.

lies in China's acceptance of at least some of the global norms that successive US governments had tried to promote."⁹⁹ China does not seek to promote any particular ideology, but rather, simply rejects the imposition of liberal ideologies.¹⁰⁰ It is unclear if China's style of governance will become more popular in the years to come, however, actors in the Global South are seeking alternatives to Western styles of governance.

As the Chinese Model of governance grows in popularity, Breslin argues that the gradual move towards democracy is inevitable. John Ikenberry addresses the stall in democratic growth in recent decades and claims that;

Although it is true that the spread of democracy has stalled in recent years and that authoritarian China has performed well in the recent economic crisis, there is still little evidence that authoritarian states can become truly advanced societies without moving in a liberal democratic direction.¹⁰¹

While China's economic growth and maintenance of its ruling Communist party is a notable accomplishment, it cannot be ignored that Beijing has inevitably become more integrated into the LIO, and thus, compromised some of its inherent anti-Western sentiment.

China has also been able to cultivate its soft power through its Official Development Assistance (ODA) and Foreign Direct Investments (FDI), particularly to developing states such as Sri Lanka.¹⁰² Lim and Mukherjee describe this as a process in which the receiving state accumulates substantial economic benefits whereby China's model becomes increasingly appealing, creating a desire to emulate China's economic policies in hopes of a similar outcome. However, there are several potential shortcomings of weaker developing state's engaging with the 'Beijing Model.' First, history has indicated that ODI and FDI in large sums can lead to

⁹⁹ Shaun Breslin, 831.

¹⁰⁰ Ibid., 832.

¹⁰¹ John G. Ikenberry, "The Future of Liberal World Order," 64.

¹⁰² Darren J. Lim and Rohan Mukherjee, "What Money Can't Buy: The Security Externalities of Chinese Economic Statecraft in Post-War Sri Lanka," *Asian Security* 15.2(2019): 76.

corruption amongst ruling elites.¹⁰³ However, more concerning than this is the potential for a ‘debt trap,’ due to the extreme power dynamics between countries like China and Sri Lanka.

Mukherjee and Lim explain that:

Target governments incur debt obligations to sender states when the latter offer financing, for example for large infrastructure projects, either on preferential terms or on commercial terms. The link between debt and influence originates from the legal obligation to repay the loan and any accrued interest. This obligation is a source of leverage, since as creditor, the sender can offer debt relief in return for other concessions such as land grants, equity stakes, or favorable terms on other investment projects.¹⁰⁴

This leaves the receiving state in a vulnerable position since, if they defaulted on their debt, they are at risk to face the withdrawal of investments and finances they are dependent on, in addition to costly legal proceedings.¹⁰⁵ Thus, while the ‘Beijing Model’ remains appealing to developing states seeking unconditional and FDI, they are often negotiating from a position of weakness and risk incurring substantial debt and corrupt governance.

Within recent years, President Xi Jinping as pivoted from the foreign policy path his predecessors had paved. Under previous regimes, China had been developing quietly, however “under President Xi, China’s foreign policy strategy has seen a significant shift from ‘keeping a low profile towards ‘striving for achievement (*fenfayouwei*), and the establishment of ‘a favourable international environment for China’s rejuvenation.”¹⁰⁶ This has become evident in China’s ‘Belt and Road Initiative’ (BRI).¹⁰⁷ Announced in 2013, this geopolitical project is not only for China to continue its economic development, but also to flex its military power and political influence on a global scale.¹⁰⁸ This serves as an example of China continuously

¹⁰³ Darren J. Lim and Rohan Mukherjee, 75.

¹⁰⁴ Ibid., 76.

¹⁰⁵ Ibid.

¹⁰⁶ De Graaff, Naná and Vastiaan Van Apeldoorn, “US-China Relations and the Liberal World Order: Contending Elites, Colliding Visions?” *International Affairs* 94.1(2018): 117.

¹⁰⁷ John Mearsheimer, 47.

¹⁰⁸ John Mearsheimer, 47.

challenging the unipolarity of the LIO through its economic influence. Additionally, this has been a bilateral initiative which challenges the multilateral nature of the LIO.¹⁰⁹ Helleiner mentions that while there is a loose multilateral framework to the BRI, ultimately it is a “structured network for arrangements whose context and reach depend very heavily on China’s bilateral relationships with the countries involved and in which liberal lending mechanisms dominate.”¹¹⁰ The BRI illustrates how China has diverged from its previous foreign policy strategies within the last decade, in addition to how it challenges American hegemony and liberal international order.

This chapter sought to discuss the unique aspects of China’s foreign policy and how these strategies actively challenge Western liberal international order. China has successfully managed to maintain an illiberal style of governance while liberalizing its economy and achieving massive growth and development over recent decades. While it can be argued that China will be forced to conform to liberal norms over time, there remains concern that Beijing’s growing foreign policy influence will have detrimental impacts on the human rights practices of the Global South; as will be demonstrated by the case of Sri Lanka.

¹⁰⁹ Eric Helleiner, “The Life and Times of Embedded Liberalism: Legacies and Innovations since Bretton Woods,” *Review of International Political Economy* 26.6(2019): 1130.

¹¹⁰ Ibid.

Sri Lanka's Human Rights Record

3.1: The Sri Lankan Army & a Culture of Impunity

For nearly three decades the island-nation of Sri Lanka experienced a violent ethnic conflict between its majority Sinhalese and minority Tamil population. The Sri Lankan Army defeated the Liberation Tigers of Tamil Eelam (LTTE) in May of 2009 on the beaches of Mullaitivu.¹¹¹ While the loss of civilian lives to this conflict was normalized both within Sri Lanka and globally, the last month of the war received international attention due to a dramatic spike in violence.¹¹² In Sri Lanka's efforts to conclusively defeat the LTTE, "the final weeks of the offensive were marred by criticism from the West and Tamil diaspora of the Sri Lankan military's indiscriminate shelling of the 'no-fire zone,' where up to 300,000 civilians were held hostage by the LTTE."¹¹³ This chapter will provide the foundation for the Sino-Lankan relationship in order to analyze how these two states became more closely intertwined. Additionally, it will detail Sri Lanka's failed transitional justice agenda and its preference for an illiberal peace.

Sri Lanka's conflict began with ethnocentric politics, immediately following the island's independence from the British Empire.¹¹⁴ During the post-independence era, Tamils were increasingly marginalized by ethnocentric policies administered by the Sinhalese government in an attempt to appease the Sinhala majority population who were angered by perceived colonial disparities.¹¹⁵ These policies began with subject matter such as language and religion and

¹¹¹ Gerrit Kurtz, Madhan Mohan Jaganathan, "Protection in Peril: Counterterrorism Discourse and International Engagement in Sri Lanka in 2009," *Global Society* 30.1(2016): 94.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Kristine Höglund and Camilla Orjuela, "Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka," *Global Governance: A Review of Multilateralism and International Organizations* 18.1(2012): 92.

¹¹⁵ Ibid.

eventually translated to Sinhalese supremacy on an institutional level.¹¹⁶ Ethnic polarization continued when the Sri Lankan government brutally oppressed peaceful protests by Tamils resulting in the violent mobilization of the LTTE.¹¹⁷ Most mark the beginning of Sri Lanka's civil war as of July 1983, when "in response to the LTTE killing 13 Tamil soldiers, anti-Tamil riots broke out throughout the island. The state did nothing to stop the looting and mayhem over a seven-day period now referred to as 'Black July.'"¹¹⁸ During the aftermath of the conflict, evidence emerged of both LTTE and the Sri Lankan Army were committing crimes against humanity and war crimes. This chapter will only focus on the crimes committed by the Sri Lankan government as they relate to the Sino-Lankan relationship.¹¹⁹

The final stage of the conflict was led by the Rajapaksa government, who was a regime who was determined to defeat the LTTE, regardless of the civilian.¹²⁰ During this time approximately 300 000 civilians were trapped between the LTTE and the Sri Lankan Army's offensive.¹²¹ Evidence of war crimes during the final month of conflict involved "the government's killing of civilians through widespread shelling, the shelling of hospitals denial of humanitarian assistance, and human rights violations suffered by internationally displaced persons and suspected LTTE cadres as well as media and other critics of government."¹²² Additionally, the Sri Lankan army was indiscriminately shelling Tamil civilian areas that were designated 'no-fire zones' by the state itself.¹²³ The Sri Lankan government also

¹¹⁶ Kristine Höglund and Camilla Orjuela, 92.

¹¹⁷ Mytili Bala, "Transitional Justice in Sri Lanka: Rethinking Post-War Diaspora Advocacy for Accountability," *DePaul Int'l Hum. Rts. J.* 1(2015): 26.

¹¹⁸ Mytili Bala, 27.

¹¹⁹ Kate Cronin-Furman, "Human Rights Half Measures: Avoiding Accountability in Postwar Sri Lanka," *World Politics* 72.1(2020): 133.

¹²⁰ Kristine Höglund and Camilla Orjuela, "Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka," 99.

¹²¹ *Ibid.*, 95.

¹²² *Ibid.*, 99.

¹²³ Gerrit Kurtz and Madhan Mohan Jaganathan, 94.

misled the international community when discussing the conflict during the final stages of the war as expressed by UN Emergency Relief Coordinator John Holmes, in that “his report included assurances from the Sri Lankan government that ‘it had virtually stopped using heavy weapons’, but Holmes added ‘it remains unclear how far this is the case in reality.’”¹²⁴ Despite publicly pledging not to use heavy weapons in February of 2009, it became clear that this promise was not kept even when LTTE fighters and civilians were tightly mixed in the no-fire zone.¹²⁵ Sri Lanka’s strategy was overt, as Sri Lankan Commander of the Army Sarath Fonseka, “Go for the kill, maximum casualties and destruction of the infrastructure of the enemy with minimum possible damage to the troops.”¹²⁶ There was little effort made to protect civilians.

The Sri Lankan army faces many credible allegations of war crimes beyond those in the no-fire zone. There was enough evidence against the Sri Lankan army for prosecutions, since “after the war, evidence of more atrocities emerged: videos taken by Sri Lankan soldiers showed extrajudicial killings, torture and suggested the sexual assault of female fighters.”¹²⁷ Throughout the decades of conflict and the years following, the GoSL maintained a culture of impunity for war criminals of the Sri Lankan Army.¹²⁸ During and after the conflict, it is estimated that hundreds of thousands, if not millions, of ethnic Tamils, were displaced and fled the island.¹²⁹ One of the most concerning aspects of the Sri Lankan Army’s allegations of war crimes is the GoSL’s view that “during the end phase of the war it pursued a ‘humanitarian rescue operation’ and maintained a policy of zero civilian casualties.”¹³⁰ The Sri Lankan Army is not being held

¹²⁴ Gerrit Kurtz and Madhan Mohan Jaganathan, 98.

¹²⁵ *Ibid.*, 108.

¹²⁶ *Ibid.*, 104.

¹²⁷ *Ibid.*, 108.

¹²⁸ Neil DeVotta, “A Win for Democracy in Sri Lanka,” *Journal of Democracy* 27.1(2016): 162.

¹²⁹ Damien Kingsbury, *Sri Lanka and the Responsibility to Protect: Politics, Ethnicity, and Genocide.* Routledge, 2012: 8.

¹³⁰ Kristine Höglund and Camilla Orjuela, “Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka,” 99.

accountable for credible allegations of crimes against humanity and war crimes as the GoSL strongly denies Tamil civilian casualties at all.

The international community waited idly for the conflict to conclude, with knowledge of the tactics that the GoSL was using yet chose not to mobilize with a response.¹³¹ The post-war climate,

on June 22, 2010, the UN Secretary-General appointed the Panel of Experts on Accountability in Sri Lanka (“Panel of Experts”) in order to ‘advise [it] on the issue of accountability with regard to alleged violations of the international humanitarian and human rights law during the final stages of the armed conflict in Sri Lanka.’¹³²

Despite efforts from the international community to push for accountability from the GoSL, there has been little compliance with these suggestions. President Rajapaksa has consistently expressed his harsh disapproval of Western hegemony and its disregard for sovereignty and strongly opposes any form of international intervention.¹³³ The greatest obstacle to finding justice for the civilians who were victims of this conflict is that Sri Lanka remains a non-signatory to the Rome statute.¹³⁴ Consequently, the International Criminal Courts (ICC) has no jurisdiction, indicating that ultimately the international community does not have a legal obligation over the crimes that took place during the civil war.¹³⁵

Over the decade following the civil war in Sri Lanka, evidence that crimes against humanity as well as war crimes took place on a large scale at the hands of the Sri Lankan government; against Tamil civilians. These crimes include but are not exclusive to, torture, sexual assault, extrajudicial killings, the withholding of aid from civilians, and the indiscriminate

¹³¹ Damien Kingsbury, 10.

¹³² Nihal Jeyasinghe and Daley J. Birkett, “A War Crimes Tribunal for Sri Lanka? Examining the Options Under International Law,” *Case Western Reserve Journal of International Law* 46.3(2014): 570.

¹³³ Kristine Höglund and Camilla Orjuela, “Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka,” 89.

¹³⁴ *Ibid.*, 575.

¹³⁵ *Ibid.*

shelling and bombings of hospitals located in the no-fire zone.¹³⁶ Despite the evidence and pressure from the international community, Sri Lanka has failed to take action, denies the allegations, and continues to disregard legitimate minority grievances. In a majoritarian society, President Rajapaksa was able to validate state-sponsored violence through “nationalism, patronage, and traditional values on his struggle against imperialist Western states and terrorism.”¹³⁷

3.2 Post-War Violence

While Sri Lanka has maintained relative peace after the conflict for over a decade, minority injustices continue in a majoritarian post-conflict society. Evidence points toward the existence of an illiberal peace in Sri Lanka. There is a concern that because the GoSL has never directly confronted the root causes of the conflict, peacebuilding and reconciliation cannot truly move forward. Orjuela, Herath and Lindberg claim that;

The post-war government’s approach to ‘peacebuilding’ and the prevention of renewed violence—in a situation where the root causes of the conflict to a large extent remained—was continued militarization, with an unceasing strong presence of the armed forces in the Tamil areas in the northeast of the country, coupled with economic development and reconstruction which focused mainly on large infrastructure and lacked popular participation (Höglund & Orjuela, 2011).¹³⁸

This is to argue that Sri Lanka has in no way addressed the ethnic polarization that exists within its majoritarian society. Instead, in the aftermath of the conflict, Tamil civilians who express legitimate concerns regarding corruption are intimidated into silence through constant military presence. Minority concerns are not only involving impunity for war crimes and corruption but targeting of ethnically Tamil areas by Sri Lankan forces.

¹³⁶ Gerrit Kurtz and Madhan Mohan Jaganathan, 108.

¹³⁷ Kristine Höglund and Camilla Orjuela, “Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka,” 93.

¹³⁸ Camilla Orjuela, Dhammika Herath and Jones Lindberg, “Corrupt Peace? Corruption and Ethnic Divides in Postwar Sri Lanka,” *Journal of South Asian Development* 11.2(2016): 154.

There are two key aspects of Sri Lanka's post-conflict society: first, that the GoSL's narrative of the war is centred around terrorism, not ethnocentric politics, and second, that the majoritarian state operates under a victor's peace.¹³⁹ Counterterrorism has been used to delegitimize Tamil grievances and conceal the explicitly ethnocentric politics enforced formerly by the GoSL. In a post-conflict Sri Lanka minorities are the victims of violence left with little dignity or acknowledgement of the abuses that were endured. Typically, conflicts fought in the post-Cold War period concluded with either international intervention or the bartering of peace agreements, but Sri Lanka does not fit this archetype.¹⁴⁰ As the GoSL emerged victorious from the civil war this largely dictates the pattern of peace is to follow. While there is currently the absence of conflict, Sri Lanka remains far from any form of positive peace. In the post 9/11 world, the decision to pursue a counterterrorism discourse has allowed the GoSL to legitimize state-sponsored violence and human rights abuses. Furthermore, the GoSL has been able to reject criticisms on the basis that their actions are "justified through mobilization against liberal peacebuilding and intervention of mainly Western powers, which Sri Lankan leaders perceive not as liberal but as power-hungry and driven by self-interest."¹⁴¹ This sentiment echoes China's consistent narrative of the importance of sovereign equality when navigating foreign policy.

Impunity for war crimes is no longer the only human rights abuses alleged against Sri Lanka. Following the government's defeat of the LTTE over 200 000 Tamils were held in internment camps for almost a year in which there was inadequate access to clean drinking water, food, or health care.¹⁴² During this time, thousands of civilians in these internment camps

¹³⁹ Gerrit Kurtz and Madham Mohan Jaganathan, 95.

¹⁴⁰ Shyamika Jayasundra-Smits, "Lost in Transition: Linking War, War Economy and Post-War Crime in Sri Lanka," *Third World Thematics: A TWQ Journal* 3.1(2018): 63.

¹⁴¹ Kristine Höglund and Camilla Orjuela, "Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka," 91.

¹⁴² Damien Kingsbury, 9.

were forcibly disappeared, assumed murdered, at the hands of Sri Lankan forces.¹⁴³ The continuing violence after the civil war solidified a status of second-class citizenship. Lastly, there is not only evidence of the Sri Lankan Army's human rights violations within its borders, but also there have been similarly reported "incidents of the systematic sexual abuse and rape of children reported against the Sri Lanka soldiers who served in the UN peacekeeping missions in Haiti and the Central African Republic."¹⁴⁴ The GoSL has not launched any investigation into these incidents, nor has there been any repercussions for Army officials.¹⁴⁵ The Sri Lankan Army has a pattern of behaviour reflecting a blatant disregard for human rights and has promoted a culture of impunity for human rights violations and war crimes.

Despite no longer being in a state of conflict, "bodily crime is widely reported from post-war Sri Lanka and between 2009 and 2013 the number of complaints received by the police for investigation of bodily crimes of sexual nature alone increased by 34%."¹⁴⁶ Furthermore, the minority Tamil community has expressed grave concerns regarding the forced disappearances and abductions of individuals suspected to be associated with the LTTE by the GoSL; in the post-conflict era a Tamil individual is reported missing approximately once every five days.¹⁴⁷ The most concerning aspect of increasing crime statistics within Tamil areas is the ongoing militarization of these areas and the looming presence of the Sri Lankan army.¹⁴⁸ Based on the Sri Lankan Army's history of violence and abuse a military presence in the North-East may be contributing to increasing reports of crime.

¹⁴³ Damien Kingsbury, 9.

¹⁴⁴ Shyamika Jayasundra-Smits, 70.

¹⁴⁵ Ibid.

¹⁴⁶ Shyamika Jayasundra-Smits, 69.

¹⁴⁷ Ibid.

¹⁴⁸ Camilla Orjuela and Dhammika Herath, 154.

3.3 Sri Lanka's Failing Transitional Justice Agenda

The Lessons Learned and Reconciliation Commission (LLRC) was appointed by the GoSL to address international concerns for accountability. The LLRC report was released in November 2011 and since its release has been accused of absolving the state from war crimes.¹⁴⁹ The LLRC has been characterized as problematic for several reasons. First, while the sentiment behind the LLRC appears to be a truth-seeking transitional justice mechanism, this was openly rejected as a concept prior to the GoSL acquiescing to Western pressure abide by international law and the norms of LIO.¹⁵⁰ Also, the transitional justice process is often meant to be dual-sided, however,

an issue that complicates achieving transitional justice is the demise of nearly all LTTE personnel who engage in war crimes. Their misdeeds can be documented further, but they cannot be punished. Thus, the pursuit of accountability will end up being a one-sided affair, and there is simply no support for this among Sri Lanka's majority Sinhalese.¹⁵¹

So, while transitional justice mechanisms would still serve a legitimate and important purpose in Sri Lankan society, without the presence of LTTE cadres it produces an unpopular process to the majoritarian victor's peace.

The final report produced by the LLRC, released in December 2011, was accompanied by inherent biases associated with the commission, accomplishing little in terms of accountability.¹⁵² The final report details the atrocities committed by the LTTE, there is little to

¹⁴⁹ Sharika Thiranagama, "Claiming the State: Postwar Reconciliation in Sri Lanka," *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 4.1(2013): 94.

¹⁵⁰ Kristine Höglund and Camilla Orjuela, "Friction and the Pursuit of Justice in Post-War Sri Lanka," *Peacebuilding* 1.3(2013): 310.

¹⁵¹ Neil DeVotta, "Civil War and the Quest for Transitional Justice in Sri Lanka," *Asian Security* 13.1 (2017): 77.

¹⁵² Kristine Höglund and Camilla Orjuela, "Friction and the Pursuit of Justice in Post-War Sri Lanka," 310.

no discussion regarding the large-scale civilian casualties at the hands of the Sri Lankan Army.¹⁵³ In addition, there were allegations of corruption during the interviewing process, where Tamil victims did not feel safe; “for instance, in Kayts Island Jaffna, there were threats against witnesses, and in several hearings, witnesses were photographed by security forces.”¹⁵⁴ Moreover, the composition of the LLRC committee was questionable, with minimal ethnic diversity, for example, the only Tamil individual apart of the LLRC was also the only woman.¹⁵⁵ Three of the commission members were senior government officials during the period when the Sri Lankan army committed the war crimes under question.¹⁵⁶ These types of the shortcomings of the LLRC and their impaired ability to effectively address the allegations against the Sri Lankan Army as well as adequately provide the necessary support and protection of vulnerable victims. Sri Lanka’s only effort at a transitional justice mechanism was finally met with a refusal to implement any of the suggestions outlined in the LLRC report. For example one of the LLRC’s suggestions was the army be withdrawn from civilian areas, following the final report, “in 2012, the Sri Lankan state announced in its annual budget that it would continue to expand the army instead of demilitarizing. Abductions linked to the security forces continue to this day.”¹⁵⁷

The purpose of this chapter was to introduce the human rights record of Sri Lanka, and its current methods of addressing its ongoing allegations of state-sponsored violence. In addition to the crimes against humanity and war crimes committed by the Sri Lankan Army against Tamils, it has become evident that minorities post-war Sri Lanka are not receiving the support or justice

¹⁵³ Kristine Höglund and Camilla Orjuela, “Friction and the Pursuit of Justice in Post-War Sri Lanka,” 310.

¹⁵⁴ *Ibid.*, 311.

¹⁵⁵ Sharika Thiranagama, 99.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*, 103.

they deserve. Further to this, this chapter sought to express Sri Lanka's passionate rejection of Western intervention and liberal visions of peacebuilding.

The Sino-Lankan Relationship

The growth of the Sino-Lankan relationship occurred at the height of Sri Lanka's civil war at a time when the government of Sri Lanka was facing intense scrutiny from Western countries. Sri Lanka remained politically volatile and struggled to contain the LTTE however;

After the Indian (1987-1990), Norwegian (2002-2006) and Japanese (2002-2009) diplomatic initiatives reach a political settlement between the Sinhalese and the LTTE had failed, China stepped in in 2005 to support the newly elected President Mahinda Rajapaksa, who was determined from the beginning to defeat the LTTE.¹⁵⁸

Rajapaksa welcomed China's support as it was the first offer of economic, financial, military and diplomatic aid that was virtually unconditional.¹⁵⁹ The United States and Western countries continuously expressed disapproval for the Rajapaksa regime and its aggressive military tactics with the LTTE eventually declining to provide aid at a time when it was desperately needed.¹⁶⁰ China was a willing and expedient partner providing the Sri Lankan state with approximately US\$12.4 billion from 2005 to 2014 alone.¹⁶¹ China helped to support Sri Lanka's economy during a time of conflict and played an important role in the defeat of the LTTE. China's intervention supplemented a decline in military aid due to Western arms embargoes.¹⁶² The urgency to defeat the LTTE resulted in a loss of incentive to appease Western concerns. China continues to provide military aid for Sri Lanka in order to maintain its peace through heavy army

¹⁵⁸ Patrick Hein, 5.

¹⁵⁹ Ibid., 5.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² Malathi De Alwis, "The 'China Factor' in Post-War Sri Lanka," *Inter-Asia Cultural Studies* 11.3(2010): 434.

presence in the north and eastern parts of the island.¹⁶³ Sri Lanka received unconditional aid and was able to maintain its sovereignty and have control over the conclusion of its conflict; something Rajapaksa desired since entering office.

Sino-Lankan relations are complex as the strong relationship is multi-faceted. There are several reasons that a closer relationship with Beijing is beneficial to Sri Lanka. China's support for Sri Lanka was not merely in unconditional aid, but in diplomatic aid at the international level. Following the conflict, the Sri Lankan government greatly benefited from having a powerful ally on the United Nations Security Council (UNSC) since China ensured that no resolution would be delivered against Sri Lanka.¹⁶⁴ In addition to this, China alongside Russia helped dismantle a Swiss resolution by "congratulating Sri Lanka on eliminating terrorism, liberating the north, addressing the needs of Tamil refugees and also reaffirming the 'principle of non-interference in matters which are essentially within the domestic jurisdiction of states.'"¹⁶⁵ China also made significant investments in infrastructure on the island by providing \$1.2 billion to build a port, railways, an airport, railways, and various other projects.¹⁶⁶ China also increased Sri Lanka's nonconditional aid, by fivefold, between 2005 and 2009.¹⁶⁷ With the financial support of China, the Government of Sri Lanka was able to circumvent possible culpability in the civil war crimes and pursue an illiberal form of peace.

There are several reasons that liberal peacebuilding was inconvenient and undesirable for Sri Lanka. More than the infringement on sovereignty the values promoted by liberal international order place a great deal of accountability on the state.¹⁶⁸ For example, one of the

¹⁶³ Patrick Hein, 5.

¹⁶⁴ Malathi De Alwis, 438.

¹⁶⁵ Ibid.

¹⁶⁶ Darren Lim and Rohan Mukherjee, 79.

¹⁶⁷ Ibid., 437.

¹⁶⁸ David G. Lewis, 16.

principles of liberal peacebuilding is that typically, “armed conflicts had ‘root causes’ – well-founded grievances articulated by defined social groups – that needed to be addressed to ensure sustainable resolution of conflicts.”¹⁶⁹ In the Sri Lankan context this would require the Rajapaksa government to acknowledge the political grievances of the Tamil community and the faults of its regime. Furthermore, liberal peacebuilding tends to place blame on authoritarian governments in conflict as opposed to guerilla groups.¹⁷⁰

On the diplomatic level, China ensured that Sri Lanka’s sovereignty is upheld as an act of self-preservation. China’s campaign against a low-level Uighur insurgency in Xinjiang also relied on authoritarian mechanisms and state coercion.”¹⁷¹ Similar to Sri Lanka, following 9/11, China utilized counterterrorism to legitimize its treatment of the Uighur population in the same way as the Rajapaksa regime did. Sri Lanka as an island has geopolitical significance to China, as it is a location in China’s Belt & Road initiative.¹⁷² China’s efforts to ensure Sri Lanka remains a stable unitary state is due in part to the economic plans for the region and to make Sri Lanka a ‘Pearl’ on China’s ‘String of Pearls.’¹⁷³ Furthermore, China’s increasing long-term presence in the region is key to challenging the regional superpower, India.¹⁷⁴ Sri Lanka is a beneficiary of the regional geopolitical rivalry between India and China.

The American response to growing relations between Sri Lanka and China has been disapproval. Firstly, the two UNHRC resolutions created “were opposed by China and other countries backed by China and they accused the United States of infringing on the sovereignty of

¹⁶⁹ David G. Lewis, 16.

¹⁷⁰ Ibid.

¹⁷¹ David Lewis, John Heathershaw, and Nick Megoran, “Illiberal peace? Authoritarian Modes of Conflict Management.” *Cooperation and Conflict* 53.4(2018): 489.

¹⁷² Li Yibo, “The US Enhancing Ties with Sri Lanka: Motivations and Restraints,” *China Int’l Stud.* 77(2019): 111.

¹⁷³ Jude Lal Fernando, “The Political Economy of Post-War Reconstruction in Sri Lanka: Development-Security Nexus vs. Tamil Right to Self-Determination,” *Asian Journal of Peacebuilding* 5.1(2017): 31.

¹⁷⁴ Li Yibo, 112.

Sri Lanka.”¹⁷⁵ Fernando argues that in fact, the United States’ campaign for accountability is not for the championing of human rights but fear of China’s increasing authority on the island.¹⁷⁶ This was demonstrated by the American response to Sri Lanka’s regime change in 2015 when a pro-Western president came into office the United States quickly eased its pressure on the accountability for human rights violations.¹⁷⁷ Additionally, the United States postponed a UNHRC report regarding the allegations against the Sri Lankan Army until September 2015.¹⁷⁸ A Pro-Western government in Sri Lanka was significant to the United States due to impending fear of Chinese influence in the region and Sri Lanka’s geopolitical value. American concerns are apparent: “In August 2018, The Pentagon released the 2018 China Military Power Report, and at the beginning of the report gives the example of Hambantota Port as proof of China’s efforts to expand its regional global presence.”¹⁷⁹ While Sri Lanka functioned under a pro-Western government for a short period following the civil war the head of state is a member of the Rajapaksa family. In recent years, the United States has expressed its suspicions of China in South Asia, as Vice President Mike Pence explicitly criticized China for its relations with Sri Lanka, claiming that the island is being led into a ‘debt trap.’¹⁸⁰ Pence claimed that, in turn, Sri Lanka’s inability to pay for the port and its associated commercial risks, eventually it will become a Chinese naval base.¹⁸¹

Sri Lanka may appear to be a minor player in the power-relations between China and the United States, it is representative of a greater and growing challenge to the existing liberal international order. This chapter explored the increasingly close relations between China and Sri

¹⁷⁵ Jude Lal Fernando, 42.

¹⁷⁶ Ibid.

¹⁷⁷ Li Yibo, 108.

¹⁷⁸ Ibid.

¹⁷⁹ Li Yibo, 107.

¹⁸⁰ Li Yibo, 107.

¹⁸¹ Ibid.

Lanka and outlined the economic influence that China has had over the island. It demonstrated China's role in ending Sri Lanka's civil conflict and its support in helping the regime maintain an illiberal majoritarian peace model. This chapter examined the role of China in developing Sri Lanka's infrastructure and how that has translated into influence over the island. It is also important to assess the American response to this relationship in its efforts to uphold democracy and liberal values as well as the process of transitional justice. While it remains unlikely that liberal international order will be dismantled in the near future, China continues to challenge the system and establish new ways for illiberal governance to function and sustain itself within the LIO.

Conclusion

This case study sought to illustrate China's ability to challenge Western norms and liberal international order by offering an alternative model for illiberal states exemplified through the Sino-Lankan relationship. This paper detailed the origins of the current liberal international order and principles upheld by the West. The United States has for decades championed values and focused on policy measures that support multilateral institutions, a free market, the spread of democracy. In addition to this transitional justice remains an important by-product of liberal international order which the West encourages in post-conflict societies. Transitional justice measures include a Western for countries emerging from conflict, in hopes of imploring a democratic transition. In the Sri Lankan case, this has been seen to be an act of self-interest in order to expand Western influence. The second chapter outlined China's historic resistance to liberal international norms, and ways in which the communist state conducts foreign policy today. While Beijing claims to have no desire to become a global hegemon it is expected its sphere of influence and promotes of anti-Western and anti-liberal values. The Chinese Model offers

diplomatic and economic benefits to states who do not wish to conform to the LIO. The third chapter outlined the Sri Lankan context and the literature on its human rights record and how its transitional justice agenda has failed. Finally, the concluding chapter discussed the Sino-Lankan relationship and its obligations to the liberal international order. At the height of the conflict, Sri Lanka had multiple failed international peace negotiations and a regime determined to defeat the LTTE whereby China intervened and supported the Government of Sri Lanka through to its victory over the conflict. The unconditional aid provided by China allowed for Sri Lanka to acquire the necessary military support to defeat the LTTE. Additionally, China's ongoing diplomatic support prevented Sri Lanka's referral to the ICC and allowed for the island to circumvent the allegations of war crimes and crimes against humanity. China has been able to benefit from its investments of infrastructure in Sri Lanka and its geopolitical addition to its 'String of Pearls.'¹⁸² China successfully impeded the transitional justice agenda imposed by the West in Sri Lanka, and instead upheld its principles of sovereign equality and was able to strategically benefit from Sri Lanka's political situation. While China offers alternative options to democracy for developing states it also erodes the standard of upholding human rights that were constructed by liberal international order. Although it remains unlikely that liberal international order will collapse, it is evident that the United States remains threatened over China's growing influence in the region, as well as the increasing appeal it provides for illiberal regimes.

¹⁸² Li Yibo, 112.

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