Territorialisation in Sri Lanka: Spatial Imaginaries and Constitutional Change

Working Paper 3

'Borderlands, Brokers and Peacebuilding: War to Peace Transitions Viewed from the Margins'

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This project aims to generate a better understanding of contested war to peace transitions in Nepal and Sri Lanka with a view to improving statebuilding and peacebuilding interventions in post-war contexts in South Asia and beyond.

Its originality lies in an approach that takes the putative margins of the state as the primary vantage point for understanding and explaining the political and economic dynamics of 'post war' transition.

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Introduction

Contemporary discussions around the Sri Lankan constitution centre on a debate between the unitary centralisation advocated by the majority Sinhala polity and the federalist de-centralisation promoted by the minority Tamil polity. This paper will discuss the genesis of these bipolar constitutional visions in terms of the various spatial imaginaries (and resulting state formation processes) that influenced them. It will also illustrate that although a bipolar viewpoint has dominated the discourse and literature on Sri Lanka, other spatial imaginaries exist and contest the validity of those dominating the discussion. A centre-periphery lens will be utilised throughout to illustrate how perceptions of the 'centre' and 'periphery' have changed over time and depend on which spatial imaginary one utilises.

It is clear that even the most concrete identification of a state, its territory, is discursively created and is thus open for contestation. In Sri Lanka, the assumed naturalness of the state is particularly strong because it is an island, assumed to be bounded by its coasts, an assumption reinforced daily by cartographic representations. However, this paper will argue that such assumptions of spatial order, based on a single unitary entity, are challenged by spatial imaginaries that divide the island internally and forge connections across the sea. Political geographer, Stephen Legg (2007, 15), defines space as a 'matrix of power relations'. Control of space reflects a community's power. 'Spatial imaginaries' therefore refers to ideas or discourses about space and how it is organised or ordered. By examining different spatial imaginaries, it is possible to analyse how different groups view, and thus claim, territory, or specific geographic areas. Section I of this paper will examine the most persistent spatial imaginaries in Sri Lanka, their origins and transformations, and the tensions between them. Section II will relate these spatial imaginaries to key periods of constitutional reform and state restructuring in 1948, 1972, 1978, 1987, and contemporary proposals, demonstrating why both sides of the debate remain intransigent in their demands. However, it is important to note that constitutional reform is not the only force that has reshaped space in independent Sri Lanka. Although it is impossible to discuss in any depth in this paper, economic changes have also contributed to the transformation of space. This capitalist expansion in an economy struggling to find its place in the world did not always cleanly overlap with the state-making processes and spatial imaginaries discussed below.

I: Spatial Imaginaries

Colonial Creations

Sri Lanka is a postcolonial state. Unlike 'post-independence', the term 'postcolonial' is not a temporal marker. Instead, it signifies the persistence and continuation of colonially-produced social structures and cultural perceptions, an inability to completely move on and break with the colonial past. The British, being the first to 'unify' the island under one ruler, centralised the island's political, economic, and administrative structures. They are thus vitally important to discussions on the devolution of power as they bequeathed the unitary state to the independent government in 1948.

The 1833 Colebrooke-Cameron Commission sought to end the administrative divisions of the country loosely based on ethnic and cultural lines, instead reorganising it into a hierarchy of five provinces with twenty-one districts. The political and economic centre of the island was located in Colombo. The geopolitical and ideological roots of this structure can be traced to the seventeenth century Westphalian template of clearly defined, centrally controlled, independent social and political entities. The boundary is central to this territorial organisation, and the British determined that Ceylon's boundary would be its coasts. In addition to aiding the administration of the colony, this centralisation was aimed at improving its economic potential. A centripetal transport system was created to connect the centre of the island to its peripheries, and to enable the extraction of raw materials for export. This was particularly important both logistically and symbolically in the case of Kandy, whose kingdom withstood colonial rule until 1815. An ancient account of the island stated it would never be subjugated 'until the invaders bore a hole through a mountain that encircled the Kandian capital' (cited in Sivasundaram 2013, 227). The British therefore ensured they constructed a tunnel through a mountain when building the Colombo-Kandy road. Additionally, public works such as road building and surveying ancient irrigation reservoirs, together with developing the plantation complex, harnessed the island's resources for British use, bringing it under their control. The introduction of the plantation industry brought about significant spatial transformations itself, both in terms of infrastructure development and demographic changes, as Indian Tamil labour was settled. By opening up the interior, the British worked towards deconstructing its separation from the rest of the island, creating a unified spatial imaginary. This process was also connected to the frontier imaginaries of the British. The highlands were perceived to be an unruly, uncivilised, exotic space that required taming and harnessing. By connecting this region to the rest of the island culturally and politically, and making it a fundamental component of an export economy, the British 'civilised' the interior.

Some authors have worked to demonstrate that such conceptions of the island as a single bounded entity are misplaced. Sujit Sivasundaram (2013) describes the process of 'partitioning' from the mainland that began with British colonisation, illustrating that there were connections with India in terms of flows of people, trade, and religious ideas both before and after the British arrived. The British tried and partially failed to control these connections in order to realise their imaginary of a bounded spatial entity.

More importantly for the purposes of this paper, the island possessed internal political and administrative divisions in the precolonial period. These have been referred to as 'mandala states' or in S.J. Tambiah's (1986) words, 'galactic polities'. In 1505, this cluster of centre-based overlapping societies included three native centres of political power: two Sinhalese kingdoms in Kotte and Kandy, and one Tamil kingdom in Jaffna. None of these had the power to assert dominance over the other two and boundaries between kingdoms were shifting and blurred. A community's allegiance to a monarchical order functioned on the basis of caste service and tribute, rather than a rigid and increasingly homogenised alignment between community, language, ethnicity, and statehood, as in today's political reality. It is a political structure based upon these galactic polities, in which power is devolved to the peripheries, that Roshan de Silva Wijeyeratne (2003) calls for, arguing that attempts to do so through the establishment of District Councils in 1980 and Provincial Councils in 1988 have so far fallen short. British colonisation thus resulted in a dramatic transformation in the political spatial imaginary of the island. Sri Lanka went from being a cluster of centre-based overlapping societies, to a boundary-based society controlled from Colombo. This centralisation has endured in the postcolonial state, and its normalisation throughout a world based on the Westphalian nation-state model has made it all the more difficult for Sinhalese political leaders to imagine space in other ways.

Religion

The Buddhist imaginary of Sri Lanka as a unified single spatial unit is most important for Sinhala-Buddhists arguing for unitary centralisation. It has a long historical lineage. Kandyan Kings in the eighteenth century believed the island was a territory specially sanctified by the Buddha who had appeared magically three times on the island after his enlightenment. They referred to the island as Tri Simhala, the idea that the territory was divided into three historic kingdoms under one umbrella. These

Nayakkar kings hoped to bring the provinces under the spiritual superintendence of Kandy, and so to unify the island as a political entity. Despite their Indian (and Hindu) origin, the Nayakkars viewed themselves as responsible for the protection of Buddhism on the island, a protection that allowed them to be partially included in a 'Lankan' identity. Even before political and administrative centralisation occurred under the British therefore, the island was imagined as a unitary religious space. The British inherited this mantle of protecting Buddhism, expressed in the 1815 Kandyan Convention, and despite disassociating the state from it in the mid-nineteenth century, maintained a healthy respect for the religion, not least because the majority of the island's inhabitants considered themselves Buddhist.

Conceptions of the island as a unitary religious space were strengthened by the Buddhist revival movement of the late nineteenth century which foreshadowed the advent of a specific Sinhala-Buddhist nationalism in the twentieth century. Leaders of this movement turned to the Mahavamsa and Dipavamsa chronicles, which portrayed Sri Lanka as the *dhammadipa*, where Buddha tamed the demons, restored stability to the cosmos, and claimed the island for Buddhism. These chronicles also tie together ethnic and religious identities, most clearly creating a good versus evil dichotomy in the Duttugemenu-Elara story. Here, the Sinhalese hero king, Duttugemenu defeated the South Indian Tamil invader Elara in battle. As de Silva Wijeyeratne (2003) argues, this account legitimates Buddhist violence in defence of the *dhamma*, and specifically of the Tamil Other that is excluded from the *dhamma*. Tariq Jazeel (2013) illustrates how such Buddhist imaginaries are even inscribed into the peripheries of the island. Ruhuna (Yala) national park contains a liberal distribution of ruins that lodges the park in a popular and national imagination as a landscape congruent with the former Sinhalese kingdom 'Ruhuna' where Duttugemenu sought refuge from Elara. During the Sri Lankan civil war, newspaper headlines such as 'Tigers Infiltrate Yala again' evoked the ancient refrain of Tamil invasion and Sinhala reconquest from the Mahavamsa, reaffirming the entire island as a Sinhala-Buddhist space.

The persistence of the island as a Buddhist space has also permeated politics. De Silva Wijeyeratne (2003) argues that because the postcolonial state has become thoroughly embedded in the social and cultural life of the Sinhala, predominantly Buddhist, majority, the hierarchical nature of Buddhist practices has inhibited the state from permitting devolution of power from the centre. Although the structure of the Buddhist cosmos remains in a continuous movement between order and disorder, the drive towards order has been unduly privileged in the postcolonial period as lending Buddhist legitimacy towards the unitary state bequeathed by the British. Since the late nineteenth century

therefore, there has been a progressive strengthening of imagining Sri Lanka as a unitary Buddhist space. This spatial imaginary has prevented the devolution of power from the centre due to fears of the division of the *dhammadipa*.

Ethnicity

Conceptions of ethnic difference are related to this Buddhist spatial imaginary but were more strongly moulded by the British colonial state. Since the 1970s, discussions of identity formation have been influenced by the work of Edward Said. He emphasises the colonial consolidation of ethnic difference in accordance with European ideas of race, which made it easier to rule. However, the Sri Lankan historian, John Rogers, modifies this argument, suggesting that the colonial presence was important but not all-defining. Identities used by the British had their roots in precolonial times, but these were 'placed into a new intellectual framework' by the British, and thus hardened. This hardening is crucial to understanding why opposing spatial imaginaries of many Sinhalese and Tamils are so intractable.

British policy was influenced by contemporary racial theories, seeking to categorise people in biological terms. Sivasundaram (2013) argues that in separating Ceylon from the mainland, Britons saw 'Malabars' (Tamils) as belonging in mainland India, in contrast to the true indigenous of the island, who were Sinhalese. This was particularly true of the plantation labourers arriving from the 1830s, who were classed as 'migrants' and 'Indian Tamils' in censuses. Indeed, Nira Wickramasinghe (2014) argues that the introduction of the census in the nineteenth century propagated the idea that identities were fixed and stable. In the 1871 and 1881 censuses, the term 'race' appeared for the first time, along with the category of nationality. Both Sinhalese and Tamils were classed as races and nationalities, and from 1881, 'race' became the dominant mode of classification, emphasising the biological and thus seemingly immutable differences between peoples. However, other differences were highlighted too. The 1901 census recognised Low Country and Kandyan Sinhalese as two different races. This regional division of the Sinhalese 'race' illustrates that spatial imaginaries existed beyond a simple Sinhala-Tamil dichotomy. Elite Kandyans in the early twentieth century perceived their culture and traditions being extinguished by the 'Ceylonese' nationalism articulated by Colombo reform leaders and called for a federal state in 1927. However, by independence, a broader 'Sinhala' identity had largely encompassed these divisions.

The 1833 Colebrooke-Cameron reforms, despite aiming to produce a liberal society with an overarching 'Ceylonese' secular-civic identity, created a Legislative Council in which local elites were nominated on the basis of ethnicised community representation. This provided an institutional basis for notions of difference, as it initially included three members: Sinhalese, Tamil, and Burgher. The reforms also affected the spheres of education and the civil service, both of which were subsequently organised along alignments of language and ethnicity. Almost a hundred years later, the Donoughmore Commission further hardened ethnic spatial imaginaries. In 1927, the Commission abolished communal representation and introduced universal suffrage in an effort to develop a 'true national unity'. Minority communities were bitterly hostile to this, arguing that without communal electorates and due to the rise in the number of Sinhalese eligible to vote, the system would effectively guarantee the permanent Sinhalese domination of politics. Universal suffrage was vitally important to the subsequent rise of Sinhala-Buddhist nationalism as it garnered a popular base by emphasising the importance of Sinhalese 'sons of the soil' rather than Colombo elite reformers. The Donoughmore Commission was also the first instance that descent and claims of purity were put forward as reasons to obtain rights and entitlements by minority communities. This illustrates how pervasive the British discourse of 'indigenous' and 'migrant' had become, a discourse that persists in modern articulations of spatial imaginaries and their supposed historical justification.

Since independence, and particularly since the mid-1950s, the Sri Lankan government has been dominated by a Sinhala-Buddhist majority. The state has consequently engaged in processes of constructing and reaffirming the Sinhalese ethnic spatial imaginary that was moulded during the British colonial period. S.W.R.D. Bandaranaike's 'Sinhala-Only' policy of 1956 promoted Sinhala to the status of official language of the country, effectively ending the two-language formula accepted by the Sri Lankan polity, and prompting the first in a series of ethnic riots. In making a minimum level of Sinhala mandatory for public sector jobs, it discriminated against Tamil-speaking people's access to these. Limits were placed on the number of Tamil students who could enter university due to the perceived privileges accrued by the community during colonial rule. This formed part of a wider process of 'ethnic outbidding' (DeVotta, 2005), which also included the gradual Sinhala domination of personnel in the police and military and the infusion of Sinhala-Buddhist iconography, rituals, and practices into everyday political and social existence. 'Colonisation' schemes in which agricultural settlements were created in the interior of the island, and Sinhalese farmers were incentivised into moving into predominantly Tamil areas in the north and east, also demonstrated a determination to

extend the Sinhala ethnic spatial imaginary to the peripheries of the island. This was legitimised through Sinhala nationalist rhetoric – the opening of the dry zone areas through state intervention was equated with the restoration of the purportedly glorious ancient hydraulic civilisations of the Sinhalese. Politicians even compared themselves to the kings who built these ancient irrigation schemes. Thus, just as when the British opened up the interior, frontier imaginaries drove these colonisation schemes. Discourses of civilisation and productivity enabled Sinhala farmers to act as the frontiersmen of the state. The Maheweli development programme was formulated in 1967 and accelerated after 1977. By the late 1960s, the government had already alienated more than 300,000 acres of land to 67,000 people. The demographic changes brought about by these settlements contributed to breaking up the contiguous territory of the Tamil-speaking people. As a result, Tamils accused the government of attempting to change the ethnic composition of these areas, making Tamils a minority where they had previously been a majority, and thus weakening their political voice. Although there were economic justifications for this policy, ethnic spatial imaginaries constructed during the British period due to a hardening of identities have clearly persisted and become key drivers behind state-building processes in the post-independence period.

A new stage in the deterioration of relations between Tamils and Sinhalese occurred after the anti-Tamil pogrom in July 1983. Up to 3,000 Tamils were killed and 200,000 made refugees by systematic violence perpetrated by Sinhala-Buddhists exacting revenge for the killing of thirteen Sinhala soldiers by the Liberation Tigers of Tamil Eelam (LTTE). The Sinhala-Buddhist majority government responded late and insufficiently, declaring a curfew only after the worst violence had occurred, failing to appeal for restraint, and in some cases, even legitimising the pogrom on national television as a justifiable Sinhala response to Tamil militancy. The violence was construed as a just punishment, as Tamil neighbours, friends, and colleagues became embodiments of the Tamil insurgent. After this, the government passed a constitutional amendment which stated that a separate state would be illegal, forcing the Tamil Liberation Front (TULF) to leave parliament and leaving the Tamil minority with no political representation in the legislature. 'Black July' is widely considered the beginning of the Sri Lankan civil war. It was a violent demonstration of the Sinhalese claim to space, and it demonstrated the necessity of a political solution to the oppositional spatial imaginaries that existed in Sri Lanka.

Tamil space

In the post-independence period, Tamil spatial imaginaries have directly contested the unitary centralisation evoked by the Sinhala-majority government. In increasingly uncompromising terms, Tamil leaders have articulated an imagined Tamil homeland, *Eelam*, based in the north and east of the island, evoking the historical basis for this as the precolonial Jaffna kingdom. This spatial imaginary both fractures that of the *dhammadipa*, but has also at different times, reached out past the island's coasts to the south of India and beyond to Tamil diaspora communities. Wickramasinghe (2014) argues that the Tamil community has an enduring 'majority complex' that is at the heart of their political stands, stemming from the early twentieth century. Until the 1920s, the Ceylon Tamils insisted they were a majority community on the same footing as the Low Country Sinhalese and Kandyans. However, after the elections to the reformed Legislative Council in 1921, a rift opened up between the erstwhile amicable Sinhalese and Tamil leadership as thirteen Sinhalese were returned to territorial constituencies as opposed to just three Tamils, a dramatic change in the ratio of representation. Since then, they have viewed themselves as a beleaguered minority and sought to carve out a safe space for themselves.

Although it has been argued that Tamil nationalism was initially expressed through religious and cultural revivals directed against Christian hegemony in the nineteenth century, it was in the post-independence period that this nationalism hardened into a political force that threatened the Sinhala-Buddhist-dominated government. Although rapidly accelerating after perceived discrimination by the government in 1956, as early as 1951 the newly-formed Tamil Federal Party (FP) brought to the centre of political debate the concept that Sri Lankan Tamils constituted a separate 'nation'. This was based on the criteria of a distinct historical past, language, and territory of traditional habitation. By 1976, the FP and other Tamil political parties reconstituted themselves as the TULF and for the first time nominally committed itself to the establishment of a separate state. Although centred on Jaffna, the physical delineation of this social imaginary was vague with leaders resorting to ethnicising colonial maps, making colonial provinces represent ethnic groups. Later, the LTTE sought to articulate a 'Tamil' space more definitively, producing physical maps. These too relied on colonial divisions, creating Eelam primarily out of the Northern and Eastern Provinces and the Puttalam district in the Northwestern Province. The LTTE sought to undermine Jaffna's power in the region as part of the fight against the military's dominance over the city, thereby displacing it and the peninsula as the centres of an imaginary Tamil homeland. Instead, they focused on Nallur, capital of the last Tamil kingdom, and its outlying areas. Like the Sinhalese, they thus articulated space in terms of a glorious

ancient past. The war therefore led to profound respatialisations of power and de facto 'state reform'. The latter included changes in infrastructure, the introduction of a 'closed economy' (especially from 1990 to 2002), different tax, legal, and justice systems, the maintenance of the old time zone, and the adoption of a border tax. However, the territorial boundaries of this space were, in reality, not congruent with maps of Eelam or the combined Northern and Eastern Provinces. Rather, they resembled the liminal frontier regions of the precolonial galactic polities – subject to shifts based on military circumstance.

There also remained substantial incongruences between the social and physical aspects of this space. It lacked the ethnic exclusivity that the LTTE's ethnic state assumed, particularly at its peripheries. Many Sinhalese and Muslims inhabited the proposed area, complicating the homogenous spatial imaginary articulated by the LTTE. Rather than change the map, they sought to change the realities on the ground. The LTTE was responsible for four massacres of Muslims in the Batticaloa district between 1987 and 1990, and after the departure of the Indian Peace Keeping Force in 1990, they issued an eviction notice to all Muslims living in the northern districts of Mannar, Mullativu, Kilinochchi, and Jaffna – leave or be killed. The importance of Muslims' own spatial imaginaries are thus key in contesting the homogenous ethnic state conceived by the LTTE. Muslim leaders were strongly opposed to the idea of a merger between the Northern and Eastern Provinces as conceived by the LTTE and the 1987 Indo-Sri Lankan Accord. Muslims made up a third of the population of the Eastern Province and such a merger would reduce their strength from thirty-three per cent to seventeen per cent, making them an 'insignificant political minority' (M.H.M Ashraff cited in Wickramasinghe, 2014). Therefore, although the political discourse has been dominated by a supposed Sinhala-Tamil dichotomy of spatial imaginaries, it is important to complicate this simplistic picture with the realities of a plural society.

II: Constitutional Proposals

1948

Wickramasinghe (2014, 169) likens constitutions to 'power maps that charted the laws governing both governors and governed while drawing circles of inclusion and exclusion in their distribution of rights to individuals and groups'. The demarcation of 'minorities' and their rights was a key issue in the run up to independence. The Soulbury Constitution, the independent state's first constitution, lacked a bill

of rights providing effective formal protection of minorities. Although provision was made for the protection of minority rights, and some mechanisms put in place to ensure that minorities would be represented, the assumption was that minority communities constituted a large and powerful enough bloc to be able to counter majoritarian initiatives. However, this assumed that these communities' representatives would act together. Nevertheless, one of the first actions of the new government was to disenfranchise Indian Tamils (twelve per cent of the population) through the Ceylon Citizenship Act of 1948. This was designed to rob the Left of its estate labour constituency base but was also predicated on conceptions of the Indian 'migrant' as a threat to the Sinhala peasantry. The minority safeguards put in place by the constitution were therefore almost immediately undermined. Subsequent pacts between Sri Lankan governments and India in 1964 and 1974 sought to repatriate many Indian Tamils to India even though the vast majority wished to stay in Sri Lanka. Following independence therefore, citizenship was positioned as a circle of belonging predicated on a spatial imaginary that prioritised descent. This was a clear persistence of the British discourse on the dichotomy between 'indigenous' and 'migrant'. At this time, the majority of Tamil politicians did not try to prevent this disenfranchisement as politics was concentrated along a left-right axis rather than around ethnicity. Their ethnic spatial imaginary was not cleared defined as yet, and certainly did not encompass Indian Tamils within it. However, a small section of the All Ceylon Tamil Congress, led by S.J.V. Chelvanayakam, broke away in 1949 as a result and formed the FP. This was later key to transforming the political debate so that it focused on the Tamils as a 'nation' rather than a simple ethnic minority.

Prior to independence, heated debates had taken place over whether the basis of political representation should follow communalist or territorial representation. Tamil parties wanted fifty-fifty representation, with only half of seats in parliament going to the Sinhalese who represented three-quarters of the population, and the other half to various minority communities, in an effort to prevent majoritarian rule. This was rejected however, and a Westminster-model was introduced based on territorial representation and a one man-one vote system that favoured the densely populated areas of the south dominated by the Sinhalese. Overall, 1948 did not radically change the Sri Lankan political system, rather the process of independence largely took the form of 'indigenizing colonial social and spatial structures' as Nihal Perera (2009, 118) argues. The country remained a British dominion and was distinctly postcolonial in its political and social character.

1972

The most important constitutional change to date came with the 1972 Republican Constitution. Portrayed as throwing off the final shackles of colonial subjugation, Asanga Welikala (2012, 29) argues it 'marked the triumphant ascendance of postcolonial Sinhala-Buddhist nationalism' with the entrenchment of its three major constitutional objectives. Firstly, the Constitution accorded the 'foremost place' for Buddhism, stopping short of declaring it the state religion, but granting the state an affirmative duty to protect and foster it. Other religions were only protected by the chapter on fundamental rights and were therefore subject to certain limitations. This clause invoked Buddhist spatial imaginaries that had been crystallising since the nineteenth century, evoking a past political relationship between Buddhism and the precolonial polity. It also suggested that the entire island's space was associated with Buddhism, cementing this spatial imaginary into the very fabric of the state.

Secondly, the Constitution made Sinhalese an official language, building on the 1956 Official Language Act and inscribing it into the essential rules of how the country was to be governed. Once again, the majority's ethnic spatial imaginary was made to seem a fundamental aspect of the country's being. Thirdly, the unitary character of the state was affirmed in the Constitution, closing out the possibility of the autonomy sought by the Tamil nationalist movement. This unitary centralisation combined with the two aforementioned clauses stemmed from and reaffirmed the spatial imaginary of Sri Lanka as a single, whole entity that catered to a specific Sinhala-Buddhist spatial imaginary. In this respect, Sinhalese nationalists were able to rely on the dominant colonial constitutional discourse that conceptualised the modern democratic nation-state as one based on singularity and the centralisation of political and administrative space. De Silva Wijeyeratne points out the irony of a Constitution that sought a break with colonialism placing an emphasis on the unitary state. This concept only entered Sinhalese nationalist discourse through the encounter with British colonial rule, displacing that of the galactic polities of the precolonial past. Yet many Sinhalese actively project this centralised nation-state into the precolonial past through the notion of *dhammadipa*. This becomes a means of delegitimising 'the separatism of the Tamil Other who seeks to fragment the *dhammadipa* from within' (de Silva Wijeyaratne, 2003, 229).

The 1972 Constitution therefore 'consolidated majority identities through protective measures' (Wickramasinghe, 2014, 182). As Wickramasinghe (2014) notes, this led many to remark on the minority complex of the majority Sinhalese. Here, rights mechanisms used by liberal states to engineer equality of opportunity for minorities were paradoxically utilised by successive governments to shore up the dominance of the Sinhala-Buddhist majority. Buddhists were perceived to have suffered from

an equal status under colonial secularism and Tamils promoted above the Sinhalese in education and the civil service. Furthermore, although a charter of fundamental rights was included in the Constitution, it contained a provision of limitation effectively denying individuals in society their essential rights if these rights conflicted with government policy. Minorities also lost out due to the lack of a separation of powers, which effectively made Parliament a body to ratify the decisions of the Cabinet rather than where the government and opposition sought to accommodate each other. Power was concentrated in the Sinhala-dominated legislature and the first-past-the-post electoral system lent itself to being a majoritarian democracy. As constituencies remained based on colonial administrative boundaries that ignored communal divisions but assumed homogeneity and social cohesion, the majority ethnic group within these boundaries gained complete control of state power. Hallie Ludsin (2012, 296) argues that the 1972 Constitution therefore adopted 'sovereignty in the majority' rather than in all of the people. Many commentators, including Welikala (2012, 29), Radhika Coomaraswamy (2012, 130), and Ludsin (2012, 292), argue that the 1972 Constitution was a key watershed in Tamil nationalism, transforming demands for federal autonomy to armed secessionism. By 1976 all Tamil political parties had united under one banner calling for the separate state of Tamil Eelam. They had defined their own spatial imaginary to contest that of the dominant Sinhala-Buddhists.

1978

The 1978 Constitution attempted to address the question of citizens' rights through a Bill of Rights guaranteeing a system of individual-based fundamental rights. However, this did not consider the rights of the community. Additionally, the Constitution was simultaneously overridden by practices of the state that promoted Buddhism in new ways: a number of institutions fostered Buddhism quite forcefully such as the Ministry of Cultural Affairs, and President Jayawardene consulted with the monkhood when his government was trying to push forward a planned devolution of power to District Councils in the early 1980s. The Constitution itself reaffirmed the 1972 commitment to accord Buddhism the 'foremost place'. The 1978 Constitution was also highly centralising, establishing an Executive Presidency that concentrated political power in the President's office. Instead of a Prime Minister directly responsible to the legislature, the President became the highest authority of the state, standing above all social, political, and economic institutions of the country. This inevitably constrained meaningful devolution of power to the provinces.

In addition to being a response to Tamil secessionist demands, this transformation was driven by J.R. Jayawardene's wish to push through economic reforms without parliament. This is why Coomaraswamy (2012, 126-7) argues that constitution-making in Sri Lanka was considered a partisan affair as constitutions carried 'the aura of a party programme' and thus often lacked the legitimacy to become the fundamental law of the land. In this case, both economic and religious-ethnic spatial imaginaries drove constitutional change, exacerbating the centralisation of the state. De Silva Wijeyeratne (2003, 222) therefore argues that the root cause of the failure to bridge the growing enmity between Sinhalese and Tamil communities in this period was 'The more 'Sinhalese Buddhist' the state became, the weaker it became in terms of its capacity to protect its legitimacy in the Tamil-dominated areas of the north and the east'. This accords with a statement made by the Tamil National Alliance (TNA) in 2012 which cites the 1972 and 1978 Constitutions as playing a substantial role in the start of the ethnic conflict. Wickramasinghe (2014, 164) is thus correct when she states that at the core of the conflict lies conflicting notions of rights of the Sinhalese and Tamils. These conflicting notions create 'parallel imaginaires of democracy: one grounded in the link between state and Buddhism, the other in the right of self-determination for communities pushed to the periphery by an uncaring state.' Constitutional changes based on the religious-ethnic spatial imaginary of the majority excluded Tamil spatial conceptions from the national narrative, causing many to resort to violence to defend their spatial legitimacy.

1987

The Thirteenth Amendment to the Sri Lankan Constitution was passed in November 1987 prompted by the signing of the Indo-Sri Lankan Peace Accord less than four months earlier. The Accord was the first official document signed by a head of state in Sri Lanka to accept the multi-ethnic character of Sri Lankan society. This sought to correct some of the favouritism rendered to the Sinhala language, making Tamil an official language too. Most importantly, it established Provincial Councils in the country's nine provinces in an attempt to devolve power. Under Article 2.1, the Accord proposed the unification of the Northern and Eastern provinces under a single North-Eastern Provincial Council. It stated that 'the northern and eastern provinces have been areas of historical habitation of the Sri Lankan Tamil-speaking peoples' while at the same time sharing 'this territory with other ethnic

groups'.[1] This attempt at devolution was thus specifically based off a Tamil spatial imaginary that claimed the North and East as a Tamil 'homeland'. Unification of the provinces was only meant to be a temporary measure however, and subject to a referendum in the Eastern Province. This was put off repeatedly and the province was formally de-merged in 2007. Opposition to the Accord was led by the Sri Lankan Freedom Party (SLFP), the Buddhist United Front, and the Movement for the Protection of the Motherland, who portrayed these measures as tantamount to the dismemberment and division of the *dhammadipa*, thus directly invoking an explicitly Buddhist spatial imaginary. However, even with the establishment of the Provincial Councils, the centre retained much of its power. Any legislation passed by Provincial Councils had to be approved by the provincial Governor appointed by the President, Parliament retained the power to legislate in all of these areas, permitting it to override provincial legislation at will, and above all, Provincial Councils depended on the central government for their finances. The absence of unanimity among Tamil political forces, on whether this devolution package should be accepted or not, made the new system less effective, particularly as the LTTE was its main detractor. Nevertheless, the establishment of Provincial Councils has proved vital as a basis of future devolution packages including those being discussed today. Such devolution had previously been considered as a way to widen the ethnic foundations of the Sri Lankan state in 1957 and 1965 but failed due to widespread Sinhala nationalist opposition. However, the drafting of legislation explicitly based on a Tamil spatial imaginary exacerbated the entrenchment of a bipolar identitarian discourse, as it negated others that contested this. Identities and spatial imaginaries that cut across these bipolar divides were thus pushed into the shadows. It is also interesting to note here that although constitutional reforms have been based around two methodological nationalisms, the most significant development thus far was instigated by foreign intervention, highlighting the importance of transnational political relationships.

1987- the present: significant moments

Between 1987 and 2001 there were multiple attempts to improve upon the Thirteenth Amendment to secure an effective devolution of power. The most important of these were the 1995 proposals put

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[1] Full text is available here: https://peacemaker.un.org/sites/peacemaker.un.org/files/IN%20LK_870729_Indo-Lanka%20Accord.pdf

forward by Chandrika Bandaranaike Kumaratunga's government. These proposed the establishment of Regional Councils for every province which would possess legislative jurisdiction over law and order, the administration of justice, education, agriculture, energy, rural development and urban planning, the media, social security, and limited forms of taxation. The existing boundaries of the North-Eastern province were to be re-demarcated with a view to reconciling Sinhala, Tamil, and Muslim interests. De Silva Wijeyeratne (2003, 226) argues that these proposals 'attempted to fundamentally reorder centre-periphery relations in a manner that echoed the power and administrative dynamics of the precolonial polities'. Although the structures of the modern state preclude a wholesale return to the galactic polities of the past, they remain a useful reminder of the possibilities of devolution. However, the proposals sought to simultaneously retain the religious-ethnic spatial imaginary of the Sinhala-Buddhists that demanded a unitary state by describing Sri Lanka as an 'indissoluble Union of Regions', prohibiting the alteration of the names and boundaries of regions, and re-declaring the paramount status of Buddhism. Thus, a persistent issue in any constitutional reform concerning the devolution of power has been the need to balance the conflicting spatial imaginaries of Sinhala-Buddhists, Tamils, and other minority communities. Despite being the most progressive constitutional reforms offered by this point, they were rejected by the LTTE in 1996.

Between 2002 and 2006 a ceasefire agreement was established and negotiations between the Sri Lankan government and the LTTE took place, mediated by the Norwegian government. The peace process's entrenchment of a bipolar identitarian discourse became particularly apparent after the 2004 tsunami when in June 2005, the government signed a Memorandum of Understanding (MOU) for aid distribution to affected areas, giving the LTTE wide powers in the North and East. This ignored the increasingly fractured nature of the conflict and the fact that Muslim and Sinhala communities each formed a third of the population of the Eastern Province. The LTTE however, viewed the Post-Tsunami Operational Management Structure (P-TOMS) as critical to re-establishing its authority and legitimacy in the Eastern province. P-TOMS was eventually scrapped by the government due to criticism by the JVP (Janatha Vimukthi Peramuna) and other political parties, as well as challenges to its legality in court.

Once the civil war was ended militarily in 2009, the Rajapaksa regime sought to consolidate the centralised state. Since the LTTE had been defeated militarily, Tamils in the North and East were left in a weak position to contest this. The Eighteenth Amendment to the Constitution enabled the further centralisation of power and presidential control over the state, in effect curtailing the power of the

Provincial Councils. Consolidation also occurred through economic means with a return to the earlier process of colonisation, incorporating the North and East into the process of capitalist development.

However, the toppling of the Rajapaksa regime in 2015 hailed a new period of attempted constitutional reforms. The Eighteenth Amendment was repealed, and a Steering Committee set up to discuss the devolution of power. The 2017 Interim Report of the Steering Committee suggests that many progressive changes have been discussed, most of which build on previous recommendations such as the 1995 proposals and the Mangala Moonesinghe report of 1993. The 2017 report called for 'maximum devolution', safeguards to be implemented to prevent the Centre from taking power away from the provinces, a reformed electoral system, and the abolition of the Executive Presidency as it exists today. However, it is emphasised that 'Sri Lanka should remain one undivided and indivisible country' and the report still accorded Buddhism 'the foremost place', while suggesting that the rights of other communities also be emphasised. The Steering Committee thus sought to accommodate the demands of unitarists while seeking devolution to satisfy the federalists. However, the challenges in implementing this middle ground are illuminated by the comments by various parties on the proposed constitutional changes. These were completely rejected by the Joint Opposition, the biggest non-government group in Parliament, and Sinhala-nationalist parties. The government's commitment to implementing such proposals was always questionable. To do so would certainly have jeopardised the coalition's tenuous hold on government. Furthermore, no efforts were made to mobilise support for these changes (in contrast to Chandrika's attempt at devolution in the mid-1990s). It thus remained highly unlikely that the Sinhala-majority electorate would support a political transformation that would splinter their spatial imaginary of Sri Lanka as a Sinhala-Buddhist-dominated, centralised, unitary state.

Conclusion

The British colonial and post-independence periods have seen the crystallisation of competing spatial imaginaries. These have entailed different ideas of the state and the territory that make up the island of Sri Lanka. Such spatial imaginaries have both moulded, and been moulded by, constitutional changes that demarcate space in particular ways. Sinhala-Buddhist spatial imaginaries and the unitary centralisation inherited from the British were key influences behind the 1972 and 1978 Constitutions which conceived Sri Lanka as a unitary space, overwhelmingly Sinhala-Buddhist in character. These

constitutional reforms in turn, along with other state practices, caused a hardening of a specific Tamil nationalism that articulated a spatial imaginary which fractured that of the Sinhala-Buddhists' *dhammadipa*. These competing ethnic-religious spatial imaginaries became the underlying drivers behind the ethnic conflict that ravaged the island for over thirty years. Subsequently, the war itself engineered a fundamental shift in the spatialisations of power, particularly in the North and East of the island. The reconciliation of these competing ethnic-religious spatial imaginaries is at the heart of attempts to come to a lasting peace settlement as exhibited by the 1987, 1995, and contemporary constitutional proposals.

Despite supposedly being diametrically opposed, these imaginaries have much in common because of the theoretical and ideological frameworks they use. They both make explicit references to 'the past' to explain and justify current nationalist sentiments and practices, portraying their own nation as a primordial unit revolving around fixed points of language, religion, ethnic origin, and territory. Arguments about seniority and antecedence are couched as the basis for legitimacy, despite the fact that neither of these imaginaries, with their articulations of political boundaries, accurately reflect the reality of precolonial galactic polities. Both Sinhala-Buddhist and Tamil spatial imaginaries are in fact very modern creations in terms of their fixedness and lack of fluidity. Although these debates appear insular and constrained by methodological nationalisms, it is important to highlight the transnational connections and influences that continue to shape them. Past colonial influence, a globalised world, Tamil diaspora communities, NGOs, international mediators like the Norwegian government, and international organisations such as the United Nations, all play a part in moulding political and social relations in Sri Lanka.

The contemporary constitutional debate thus continues to revolve around the opposition between unitary centralisation and federalist de-centralisation, buttressed by the competing spatial imaginaries of Sinhala-Buddhists and Tamils. However, it is important to remember the plurality of Sri Lankan society. A strictly bipolar identitarian discourse threatens the political rights and voice of other communities – the biggest of which is the Muslim community. Contemporary efforts at constitutional reform remain focused on the devolution of power to the Provincial Councils. However, this must be balanced with a continued commitment to at least partially uphold the Sinhala-Buddhist imaginary of Sri Lanka as the *dhammadipa* so as to avoid a severe backlash. A compromise between the two must be reached. Such a compromise is, as yet, highly unlikely due to the political reality in Sri Lanka and the lack of support for devolution among the country's populace.

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