



DEALING WITH DEMONS?

An exploratory study on post-conflict justice

Prashan Thalayasingam

September 2006

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The Centre for Poverty Analysis (CEPA) is an independent professional service provider promoting a better understanding of poverty related issues in Sri Lanka. CEPA's service orientation is concentrated on the four areas of applied research, advisory services, training and dialogue and exchange, which is extended to organisations and professionals working towards the reduction of poverty.

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This study is above all an acknowledgement, and a call to further acknowledgement of the fact that recovery from conflict means different things to different people, households and communities. It is a call to support the means of recovery that communities themselves wish to adopt. This study is dedicated to the communities that shared their deeply personal stories and helped substantiate this call for acknowledgement and change.

Abbreviations

GS	Grama Sevaka (local government official)
IDP	Internally Displaced Person
IIRO	International Islamic Relief Organisation
MOU	Memorandum of Understanding between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam in 2002.
LTTE	Liberation Tigers of Tamil Eelam

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Executive Summary

This study seeks to understand post-conflict 'justice' and what this means for conflict affected people. It also looks at the role that socio-economic status plays in the search for justice and whether this helps determine the form and timing of the justice accessed. In particular it examines how conflict affected people recover from their experiences and what role justice plays in this recovery.

The core hypothesis of the study is that socio-economic status influences the type of justice conflict affected people seek and the point at which they seek it.

The study deals with justice defined not as an end but as a process, something that affected communities and other stakeholders are constantly developing. It is seen as a set of social relations that is moving towards greater equity. It presents a more flexible, less prescriptive way of looking at what would otherwise be a rigid concept with a fixed set of associated meanings and ideas.

This paper provides a new perspective on some of the key terms used in post-conflict studies. The study was conducted at a time when communities were seen to be moving from a fragile 'negative peace' towards a potentially 'positive peace'. The research underlines the importance of this time of 'negative peace' and how it has impacted upon and continues to contribute to conflict recovery.

The study also highlights the inherent failings in the concept of 'human security'. Human security is becoming an increasingly influential concept in the area of post-conflict recovery and the study shows that as with 'justice' and 'reconciliation', 'human security' should not be viewed as an end in itself but as a slow process of social transformation. The research demonstrates the significance of the 'passage of time' and how it has played a large part in allowing people to move on from their experiences.

The research reveals that, in reality the way conflict affected communities seek justice and mediation to solve their problems is not greatly affected by their socio-economic status. The selection of justice systems for each of the communities is more closely linked to communities' collective experiences, identity, and the structures and institutions they know and respect. However communities' responses to how they think wealth, networks and status influences justice and access to formal justice mechanisms reveals a certain perception that the wealthy and well connected can access the court system and make representations to the police, but this is seen as an ideal situation or a representation of the 'other'. The research focuses on the choices they make within the structures available to them.

The interviews demonstrate that conflict affected communities don't necessarily think of justice as requiring a formal legal process but consider their issues to be a series of problems that can be addressed through more community-based institutions.

The paper suggests taking this discussion forward and recommends strengthening the institutions communities use to solve their own problems rather than attempting to replace them with other institutions. It also recommends bolstering project or programme based post conflict development initiatives, allowing communities to improve their livelihoods and through this to improve the context in which their recovery takes place.

The final recommendation is that information from conflict affected communities, ideas about how they have managed to recover and deal with their problems should be shared with communities facing similar challenges. What has emerged from the research is that parallel to the formal peace process between the two main conflicting parties and much

closer to the level of affected communities, a recovery process is taking place. This is aided by the community level institutions, enabled by the fragile negative peace that prevails, and contingent on livelihood recovery. The research calls for this process to be acknowledged by other stakeholders and actors in the peace process, and for it to be supported and augmented where possible by development related interventions.

1. Introduction & Rationale

This study seeks to understand post-conflict justice and what this means for conflict affected people. It also looks at the role that socio-economic status plays in the search for justice, and whether this helps determine the form and timing of the justice accessed. In particular, the study examines how conflict affected people recover from their experiences and what role justice plays in this recovery.

The core hypothesis of the study is that socio-economic status influences what types of justice conflict affected people seek, and the point at which they seek it.

The assumption that conflict affected people require some form of 'justice' as part of their recovery process is closely linked to this hypothesis and will also be critically examined in the research. The assumption is that without 'justice' the recovery process would be incomplete, and disaffection and frustration would remain, affecting the possibility of peace and long-term reconciliation and recovery.

"Societies shattered by the perpetration of atrocities (likewise) need to adapt or design mechanisms to confront their demons, to reckon with these past abuses. Otherwise for nations and for individuals, the past can be expected to infect the present and future in unpredictable ways. To assume that individuals or groups who have been the victims of hideous atrocities will simply forget about them or expunge their feelings without some form of accounting, some semblance of justice, is to leave in place deep resentments and the seeds of future conflict."

(Kritz N. 1997: pg 2)

The study will review how these "demons" have been "confronted" by conflict affected people of 3 selected communities in Mannar, Sri Lanka. The paper will critically review the idea that the past can affect the future in unexpected ways and the consequent need for external intervention and action to ensure that this does not happen.

The study rejects the disempowering view of "victims" in this definition and the implied view that in the absence of "some form of accounting" there is no way to deal with conflict related experiences, and that deep resentment and future conflict is the inevitable result. The people interviewed for the study had all experienced being caught in the crossfire of the conflict between the LTTE and the Sri Lanka army in different ways and are recovering from their experience. They are not victims in the sense that they do not display a passive acceptance of their fate. There is, instead, a very active process of recovery despite there being no formal accounting of what happened to them, nor any form of 'justice' outside their communities.

Why Mannar?

Mannar district was chosen for the study because of the particular combination of elements that characterise its experience of conflict and subsequent recovery. The area was affected by the conflict between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) with some sections under the control of the government and some under the LTTE. As a result the contested area is highly militarised. It was used as a staging area from which many refugees fled to India and is also an area where many IDPs and refugees have returned and resettled since the MOU was signed between the conflicting parties, allowing freer movement of persons to conflict affected areas. Despite this there is a marked lack of post-conflict development taking place in Mannar in comparison with other similarly affected areas. In addition there is a limited amount of research done in Mannar on issues of conflict-affectedness and recovery. This research was designed to yield new and potentially useful information that could be used to address critical issues.

The communities that the study focuses on have experienced the conflict at many different levels. They were chosen because of their ethnic and religious representation and their relative levels of conflict affectedness.

The information that emerged from discussions with people in the study sites prompted a revisioning of the structure of the research project. It threw up new issues to explore and challenged the inclusion of other ideas. The new issues relate to the use of concepts such as human security in post conflict situations and ideas about justice, peace and reconciliation. The following section introduces these concepts. Some provide background to the study, others outline accepted ideas and 'prevailing wisdom' that the study will challenge.

2. Setting the Context

Definitions of justice

The study will use a definition of justice based on the views of Kriesberg who states that

"Justice (here) refers to a multi faceted, ongoing set of processes moving towards social relations that are regarded as equitable by the people engaged in them. Justice is never fully realised, involving as it does contradictory qualities and changing standards."

(Kriesberg 2001: pg 47)

The key element of this definition is the idea of justice as a process, and not a static event or achievement. It stands in contrast to other accepted definitions because it contends that justice is not something that will ever be arrived at or fully achieved. It is rather something that transforms society through a process based on various ideals and values. It allows room for the consideration that justice for one group, may not necessarily be justice for another. The "contradictory qualities and changing standards" are the many different ways in which justice can be defined and accounts for the possibility of there being many points of view in one justice process. Different demands, motivations, ideologies and value systems all seek different and often contradictory goals.

Justice, as a solution that affected communities arrive at, and a state that allows them to move on from their experiences and continue to live their lives, is central to the research project. It will not be seen as an abstract, perfect goal but as something that is developed by the people engaged in the process of recovery. It is not a prescriptive idea brought in by researchers to test in a community, or by donors as a condition for development assistance. Justice in this paper is something that the communities are continuing to develop within themselves and for themselves. The research will explore justice on the basis of the understanding of the concept within the communities studied. It does not necessarily refer to formal, legal, justice mechanisms and structures involving courts, local authorities and the police but also to other solutions that have been adopted by the communities to address their problems, to right wrongs and to address issues stemming from the conflict.

Definitions of peace

The non-war/non-peace situation that prevailed in the North and East during the time of the research enabled this study to be carried out, partly because relatively little danger was posed to the researchers. In this time the impact of the cessation of violence on each of the three study communities was significant and has influenced their perceptions of justice and recovery. It is worth noting, however, that there has been no political solution offered or agreed upon by the conflicting parties. The Ceasefire held, perhaps, because both parties had something to lose by resuming open warfare, or perhaps because there was little

political will on either side to take definitive action, whether towards war or peace. The absence of overt conflict cannot be called peace, but for the communities that were studied the removal of the threat of immediate physical violence has been significant. It has brought them a sense of security and allowed the free movement of people and goods. It appeared that the absence of overt hostilities was an acceptable level of peace for the communities, challenging the accepted concept of peace.

"Peace has a great variety of meanings, ranging from imposed order to loving harmony. It may refer to the absence of direct physical violence or to relations in which no group experiences structural violence, the former condition is often called negative peace and the latter positive peace. Negative peace then refers to an absence of war, it may connote order and security, but it may also connote suppressions of struggles to redress injustice. Positive peace refers to at least a minimal level of equity in the life conditions of the people in the same social system."

(Galtung 1996: 48)

This study was conducted as a fragile 'negative peace' prevailed in Mannar (and the rest of the country). The intensity of the conflict changed since the ceasefire agreement came into effect in 2002. There have been frequent violations of the agreement by both parties but the sense that prevailed among the study communities was that of a conflict that is slowly reaching a stage where a definitive conclusion may be possible. This is not to say that they assume that a lasting peace is inevitable. The feeling they convey is that there is a greater sense of hope of an eventual peace. While it may still be a while in coming, the socio-economic developments of the intervening years indicated that this may be more possible than at any other previous time.

The study is situated within a period of transition from a negative towards a positive peace. What is interesting is how seemingly durable negative peace is and how in the absence of structural change and amid increasing inequality people continue to rebuild their lives. This research challenges preconceived notions that this transition is necessary, and that positive peace is a desirable end. It does not question or debate the virtues of different types of peace but rather reveals how in the case of the study communities the establishment of negative peace seems to have been sufficient for the beginnings of conflict recovery. It further highlights that the absence of the minimum level of equity that positive peace demands.

The research was carried out in communities that were affected by conflict in a district, region and country that were all also affected by the conflict to different degrees. The conflict arose from the perception that living conditions in the country were not equitable. To arrive at this level of equity would require a massive social transformation. This is not to dispute that such a transformation is necessary, but it poses a great challenge and is still a distant goal in the present conflict recovery scenario. The research will also question whether recovery is contingent on this type of social transition.

Human security

The absence of overt violent conflict provides the study communities with a sense of security. It is challenging to believe that communities that experienced direct conflict in this way feel secure simply with the cessation of large-scale armed violence. This calls for a revisioning of the term 'security' and what it entails. This research challenges the concept of human security that is emerging in the conflict and development discourse. It questions various elements of the ideal state of security, including the presumption that it is holistic in the way that it appears to deal with all possible elements that can be considered in an environment that lacks security. The research reveals how such a tentative sense of security

is enough for people to begin a process of recovery. It questions the need for the development of new concepts such as human security and questions why the development discourse occasionally latches onto such concepts, and why social processes such as conflict recovery need to be seen through such a lens.

“Human security is a recognised form of safety with action, freedom from fear or harm, enjoyment of human rights protections and preservation of human dignity. The United Nations Development Programme (UNDP) Human Development Report of 1994 defined human security as encompassing two main aspects; Firstly safety from ‘chronic threats’ including hunger, disease and repression and secondly protection from sudden hurtful disruptions in the pattern of daily life “
(UNDP 1994: pg 23)

“Aspects of human security include that of economic, food, health, environmental and personal, community and political security and the interrelationship between them. Denial of one aspect implicates all others.”
(Thomson- Senanayake 2002: pg 10)

This implies a requirement for the human security discourse to play a part in conflict recovery. This is made more explicit in the extract below.

“In the context of transitional justice, the restoration of all aspects of human security is essential to reconciliation and the establishment of a vibrant democratic society. In societies seeking to emerge from periods of intense internal conflict or repression, various aspects of human security such as that of political personal and community security take on a heightened importance. Yet, the restoration of one’s place in the world also incorporates economic, food and health security which ensures basic everyday human needs are met.”
(Thomson- Senanayake 2002: pg 10)

The research challenges this idea. It challenges the implied necessity of the restoration of “all aspects of human security”. It reveals the real concerns and aspirations of conflict-affected people which do not necessarily include reconciliation or the establishment of a vibrant democratic society. The research reveals a community for whom reconciliation is a distant eventuality and the establishment of a vibrant democratic society is simply not a consideration. The findings therefore challenge the relevance of such concepts and reveals how their integration into post conflict development discourse creates artificial expectations and expresses artificial needs. The little that people actually need to begin and sustain their process of recovery challenges the dominant concepts of recovery which perpetuate misconceptions about what is required.

Definitions of reconciliation

In challenging the relevance of the human security concept the research also highlights a different understanding of the concept of ‘reconciliation’. Reconciliation is formally defined as;

“Reconciliation encompasses a moment in the transitional justice process in which concerns about the past and recognition of those concerns are acknowledged as inextricably linked to concerns about and aspirations for the future.”
(Thomson- Senanayake 2002: pg 11)

The research findings reveal that this “moment” may be a long one. Reconciliation, much like justice, is not something that will one day be achieved but is instead something to be worked towards. The process of working towards that ideal also has a great transformative impact on society.

The definition deals with a certain progression of events that are encapsulated in the “moment” of reconciliation. The study findings indicate that this progression does not always occur, that there is a continual recognition of the concerns from the past, and a realisation that these concerns impinge upon the future. The research finds however that much of this realisation occurs at the level of the community, away from the larger national level where reconciliation must also take place. At a national level these concerns are manipulated to bring about desired political ends, often leading away from reconciliation towards renewed or prolonged conflict.

In societies which have been subject to severe repression or conflict, reconciliation may depend on issues including physical security and a recognised end to the threat of further violence. It may require

“attention to structural inequalities and basic material needs of victimized communities; the existence of natural linkages in society that bring formerly opposing parties together or most simply (though often overlooked) the simple passage of time”

(Hayner 2002: pg6)

The “simple passage of time” emerges from the research as an important factor influencing recovery and setting the stage for reconciliation among affected communities. The way they speak of time reveals that perhaps it is not so simple. The time they spent following the conflict, the time they began to rebuild their livelihoods and the time living in the absence of the pervasive threat of violence has been an invaluable part of their recovery process. In this time the establishment of physical security, the recognition that the shaky ceasefire offers an end to the threat of further violence, and the existence and further development of community organisations and institutions are all important contributory factors in the process of recovery and reconciliation.

Conclusion

This section intended to situate the research within current debates on post conflict justice and recovery and to introduce some of the issues that will emerge in more detail later in the paper. The definition of justice as a process and not as an achievable end will be used extensively through the paper. It presents a more flexible, less prescriptive way of looking at what would otherwise be a rigid concept with a fixed set of associated meanings and ideas. The definition of peace used in this paper highlights the fact that the project is being conducted at a time when the study communities may be moving from a fragile negative peace towards a potentially positive peace. The research underlines the importance of this time of negative peace and how it contributes to conflict recovery.

Human security is becoming an increasingly important and influential concept in post-conflict recovery work. However, this research highlights the inherent failings of many elements of the concept; as with ‘justice’ and ‘reconciliation’, ‘human security’ should not be viewed as an end in itself but as a slow process of social transformation. This demonstrates the significance of the ‘passage of time’ in this research, a theme that is core to this paper.

3. Study Communities

The study communities were selected because they represent the ethnic and religious composition of the district being researched, and because they have experienced conflict in different ways and are at different stages of the recovery process. In addition to

demographic and conflict related factors the communities also have different socio-economic characteristics.

*KRI*¹

KRI is a semi urban area with easy access to Mannar town. It is a largely 'middle-class' community. Its ethnic composition is largely Tamil – and the main religion of the community is Hinduism. About 90% of the people in the community are IDPs from the North and the East. They have resettled in the area and have been living there for many years.

MSL

A rural community in the LTTE controlled area of Mannar. The community is not easily accessible due to bad road conditions, unavailability of public transport and isolation from existing main roads. The ethnic composition is Muslim and the main religion is Islam. 70 families from the three villages are recent resettlers and came into the area a few months before the study was conducted. Some of the people who had returned to the village had their ancestral lands in the area. Other people came into the community because of marriage and other social relationships. It is very deprived economically and there is very little infrastructure in place to support the families who are resettling in the area. It is a chiefly agricultural community but irrigation systems and other livelihood related infrastructure have been adversely affected by the conflict. They receive very little outside assistance.

NNT

NNT is a semi-urban community some distance from Mannar town but with easy access to main roads. It is a largely Tamil, Roman Catholic community. From 1990-1993 some of the people in the community were displaced to Madu in Mannar district or to South India. They returned to the area after 1994. They were displaced during the conflict but resettled about 10 years before the research took place. The main livelihood sources are farming and small business.

4. Methodology

The study used a purposive sample. The sample communities were selected with the assistance of a local organisation in Mannar. The sensitive nature of the themes being explored in the study required that a basic introduction to the community was made by representatives of a local organisation that the people knew and trusted. Two Tamil communities and one Muslim community were selected to represent the degree of ethnic variance in the district. The study also captured varying degrees of conflict affectedness based on displacement and return. One of the communities that contributed to the study had returned to the area a few months before the study was conducted. Another community experienced displacement but had returned to their area about 10 years before the study was conducted. The other community was close to Mannar town and had not experienced significant displacement.

In the communities, households were chosen to capture maximum variance in socio-economic conditions based on indications from representatives from the local organisation and physical assets. This was validated early in the interview. The subsequent categorisation of respondents into high, medium and low socio-economic status was also made on the basis of this information and the households own assessment vis à vis their own community.

¹ No names of communities are given in this paper so as to maintain the anonymity of the respondents.

Information from these communities was collected using a semi structured interview format developed by the study team. The data was collated and analysed within CEPA. The resulting working paper has been peer reviewed prior to final publication.

A policy of not identifying individuals and communities has been followed in this study. Extracts from interviews are referenced with the respondents gender, age and community. The information the study is based on is sensitive and this is done to avoid any potential negative repercussions on the participant communities.

5. Conflict Related Experiences

The conflict affected each community and each household differently. However, the similarities of the conflict experiences for each of the study communities are striking despite the differences in ethnic composition, location and socio-economic status. This section draws together some of the common threads and presents a unified picture of conflict sensitivity as a foundation for examining the recovery process.

Conflict experiences - KRI

"We went to India due to the conflict. From 1985 to 1989 we lived in a refugee camp in India. In 1989 we came back to Mannar by sea. In 2001 Sri Lankan army has burnt some houses in our village, a few villagers were also killed by the navy"
(KRI F 37)

The conflict experiences in this community are characterised by periods of displacement and resettlement into the area followed by direct attacks and overt experiences of violence.

"We have lost our properties and we were displaced from Jaffna in the 1990's and my children's education was affected. They were unable to continue their studies properly due to the conflict. We were displaced from our own village and lived in the Manippai refugee camp for more than 4 years. After that from there we came to Puthukkudiyiruppu refugee camp and finally we came to Mannar"
(KRI F 57)

"I lost all my assets during the riot in 1983 and we were displaced to Batticaloa. I slowly developed my business. They suspected me as an LTTE sympathiser and I was punished severely by the intelligence unit of the army. I left that place and then migrated to Mannar"
(KRI M 55)

"We went to India due to the conflict. From 1985 to 1989 we lived in a refugee camp in India. In 1989 we came back to Mannar by sea. In 2001 Sri Lankan has burnt some houses in our village, few villagers also killed by the navy"
(KRI F 37)

Both individuals and communities were highly affected by their periods of displacement. Individual experiences fed into the collective experience of the community. It is remarkable how much these communities have been able to move past their experiences and rebuild their lives.

Conflict experiences - MSL

MSL was the most deprived of the study sites. Many families had resettled in the area relatively close to the time the study was undertaken. This stands in contrast to the other communities which have a longer history of resettlement. The impact of their recent

resettlement on the individual households emerges from discussions about the conflict related experiences in MSL.

“We lost all our assets during the war. We went out of this village only with the clothes that we wore. Some people could not continue their education and had to abandon it. We lost our respect and they called us refugees. We are completely ignored by the government and the society. We don’t even get the chance to vote after we resettled here. We kept on moving every time they attack this village. We did not get any help. There were no organisations to help us. IIRO built 5 houses. We are tired of giving information to others about our situation. Everyone is getting details but we don’t get anything out of it. The road connecting Puttalam and MSL is closed. It is very difficult to go to a town. If this road is open we can easily do our business. That’s a short cut to go there.”

(MSL 7 Key informant)

“We lost our rice mill and the supplementary income sources including livestock. Our houses are completely damaged. We lost our respect and the people called us refugees. We faced a lot of hardships when we were displaced. Our family was very wealthy before the war. We were displaced to several places and finally settled in Kalpitiya in 1990. We lived there till 2002 and came back here after the MOU. Only positive change is that our family’s education level has gone up after the displacement. We have resettled after the MOU. We are happy to return to our own land but still nothing is better than before. We are still in a bad situation. We are still under the control of the LTTE. We still have to pay tax to LTTE. All the houses are damaged. Some houses are completely destroyed. Roads are damaged. All the families were displaced after the war and they are slowly getting back after this MOU.”

(MSL F 30)

The stigmatization of IDPs is evident in the information the community provides about their experiences and it is clear that there is much bitterness and resentment about their situation. This resentment and the sense of stigma are common to the communities, however the contrast between the accounts of KRI and MSL is also significant. While the experiences are similar it is apparent that the community at KRI is further along in the recovery process. Their sense of resentment is more muted and the shared stigma of being IDPs has been buried or dealt with. For the community in MSL these issues are still current and of immediate concern. The contrast between the two community experiences demonstrates how important the passage of time is and how over time communities begin to cope and to adapt to the changes caused by conflict.

Conflict experiences – NNT

The experiences of the community in NNT stand in contrast to the other study communities despite the fact that the incidents that affected the community were the same or very similar. The community lived in the same conflict environment, experienced direct and indirect violence and some households were displaced and subsequently resettled in the community.

However, the degree of affectedness is very different. The intensity of their conflict experiences appears to be weaker than both other study communities. This may be due to the fact that many of the households were not forced to leave their homes because of the conflict or because the conflict did not affect their livelihoods to the extent that it did in the other communities.

Like the community in KRI, NNT has had a longer recovery period, which may also contribute to the relatively higher sense of security and well-being. The assistance provided by the army (due in part to a Brigadier who shared the Roman Catholic faith of the community) may also have gone some way towards changing their perceptions of the conflict and contributed to their greater sense of recovery.

“When the problem started in 1990, we had to go to Uirthadasan kulam, which is next to our village. There our church gave us safety. We became IDP’s. Then we went to Madhu. One day I came to village since my father was fallen ill. I got caught by the Army. We happened to settle down here. We could even settle down before that, if we had come here. During the conflict time one army group had a problem with another Army group. We got scared and wanted to move back to Madu. But Army didn’t allow us to move. They said they provide us security not to move. The brigadier who was in charge then was a nice man. We settled down. But had problems of selling our produce .I used to sell eggs in the market. There was no proper transport. No bus service for us. The army provided us a bus to take our produce to market in Mannar town. We didn’t have any food shortages. We always had something to eat. We continued with our work. After some time Army left our villages. While they were here they helped us.”

(NNT M 56)

“In 1990 the problems started. Mannar, NNT, Uilangulam, Adampan, Thallady, all these areas got caught to the Army round up. Two years these areas were under their control. During 1990-1992 we didn’t have any problem. Army didn’t give us any problem. Water supply was stopped. Because tank was in the LTTE controlled area engineers were not going for work so we didn’t get water. We cultivated vegetables and other stuff in our gardens and took them to Mannar town. Army provided us a bus to transport them to Mannar town. We didn’t get affected by the conflict badly.”

(NNT 7 M 54)

The relationship the community had with one of the parties involved in the conflict went some way to mitigating the more adverse impacts.

General trends of conflict affectedness can be identified in each of the study communities, but these trends do not take into account the internal complexities and different levels of affectedness which can only be examined at an individual level. Conflict affected each of the people in each of the communities differently. The study attempts some broad strokes characterisations of conflict affectedness but does not seek to deny the internal complexity of individual conflict experiences.

6. Justice and Recovery

A vital component of this research is to examine whether a household’s socio-economic status contributes to their understanding of justice and influences their search for it. This section uses extracts from interviews to demonstrate how the communities perceive justice, categorising the respondents along socio-economic lines. The distinction between high, medium and low socio-economic status is used in order to test the core hypothesis that social economic status affects community ideas of justice and recovery. This is an artificial separation simply employed for this purpose. Each community has a range of households with different socio-economic conditions living in it and the research findings reveal that trends can be drawn across this range on choices and reasons for choices of justice mechanisms. The separation is made to substantiate this idea of a range of socio economic

levels and to show that households provide complementary information on justice issues at different points along this range.

The research reveals that while respondents in households in each of the socio-economic categories had different ways of understanding justice, a common factor was that none of them sought access to formal justice mechanisms (defined as the court system and civilian police). They were more likely instead to access justice mechanisms that either grew out of their own community or, very infrequently, from the lowest level of government officials who often live within the community or in close proximity to it. The understanding of justice held by the communities and people of different socio-economic levels was not always linked to traditional ideas of formal legal justice, but was more closely related to resolving problems by whatever means available. Even respondents whose status would allow them better access to these mechanisms chose not to do so. The paper will suggest some potential reasons why community solutions appear to be accessed more readily than formal mechanisms.

Low socio-economic status:

Households were ranked in this category based on a lack of physical assets and their own descriptions of their socio-economic situation. This section introduces the ideas of justice which are held by the households in this category.

"If anybody does a wrong thing for an innocent person it is a "Kuttram". We had to lose our properties and became displaced. We are innocent. During the conflict we had to suffer and we still suffering without doing any harm to anybody. It is a "Kuttram" according to me.

We have financial problems now. I don't have any problem to seek justice from anybody. If I have any problem I go to my mother and tell her. My mother goes to other people in the village (good and kind people, elders who are reputed among us)

So far we haven't faced any problem after we settled in KRI. Because we live here peacefully without doing any harm to others. Others are also the same. All are affected by conflict.

We are helpless innocent people. If something happens we don't want to take it further. Because we don't have money and respect. We have to think about the future. We have to live in this village. If a rich man faces a problem he takes it further and goes to courts."

(KRI F 17)

This interview typifies the attitude that many of the respondents hold, that they were innocent of any crimes and were unwittingly drawn into the conflict, and had to suffer as a result. It also highlights the perception that socio-economic status may increase the avenues by which people could get their problems addressed. This particular understanding is heavily influenced by the respondents' perception of her family's own status. It is an expression of how the 'other' accesses justice. The different situation faced by people of a higher socio-economic status with its associated higher degree of social influence is not one necessarily people emulate or aspire to, but the example simply describes the perception of the other, a view of another external way of life in different circumstances.

The interview also reveals that one of the reasons such problems are not taken further is to maintain the sense of community and the families acceptance within the community. The community is their support structure and as such is worth maintaining. While this means that breaking out of community structures and increasing families socio-economic status

may provide different avenues for addressing their problems, this is an ideal based on a perceived situation that may not have an impact on the immediate options available to this household. The research suggests that these problems be addressed within the context of each community and each household within it: a context that limits some possibilities and offers others.

The extract below details how the household was affected by the conflict and gives an insight into how these experiences coloured their ideas of justice.

“Our first place of living was Thiruketheeswaram. My parents were farmers. My parents were continuing the agricultural work in Nakathalvoo. We had a permanent house. My mother says we became displaced in 1990, and went to India and lived in Palani. We had lived in a camp. My father used to drink after the displacement and apparently there were disputes between my father and mother. There was no family unity. In 1992 we had returned from India according to my mother. Only the IDP allowance helped us to live. My father didn't get a permanent income. My mother says the government gave them dry rations. We didn't have toilet facilities and water facility. My mother had to suffer a lot. My father's behaviour made her try to commit suicide. She took poison once because she was so distressed. Psychologically she is affected by the past incidents.”

(KRI F 17)

The idea that they don't have 'any problems' since the cease fire and the resulting absence of direct violence is echoed in many of the interviews. The study communities see their own historical experiences as lying beyond the scope of the type of justice they have access to. This emerges as a general trend through the interviews with these communities, regardless of their socio-economic condition.

A strong sense that the community is affected collectively emerges from the research, exemplified by phrases such as “others are also the same”, and “all are affected by the conflict.” All the affected communities that contributed to the study highlighted collective experiences and collective means of coping with them. The community based justice mechanisms which were adopted reflect this stance.

“Justice should be equal for everybody. We must have understanding to feel justice. We must respect all religions and races. We don't face any serious justice related problems. Our major problem is to find money for improvement. Some instances we go to the GS and solve our problems. There is no one to listen to our problems.”

(KRI M 50)

It is interesting to note that the respondent's understanding of justice and justice related problems is separated from economic issues. The 'problem' the people in this socio-economic category face in particular is the rebuilding of their livelihoods and their daily survival. This reveals how integral socio-economic recovery is to the process of recovery in a wider, more holistic sense, and highlights the fact that sometimes the issue of justice for past experiences is relatively unimportant.

“No we are not going to make big issues on any thing. In our life we suffered a lot. So we solve it within ourselves. Or else just bear it. Now we don't have any serious problem. So we live peacefully. If it is a serious problem we go to Podiyans and tell them. They tell us what to do. We are not going beyond it. We don't go to Police/Courts.”

(MSL F 32)

Another significant element common to both extracts is that their problems are told to either the GS, the lowest level government representative working within the community, or the 'podiyans' or LTTE. The courts and the police are not brought into it.

"I don't know what to say. But I have experienced much suffering in my life. We had to leave our homes. We were running with our children from place to place. My husband couldn't get us anything to eat. We suffered for nothing. We didn't do any harm to any one. All these are crimes. In this village nobody does any harm to anybody else. In the daytime the men are going for work. They are coming back in the evening or night. Children go to school. This is our church (pointing). We all live before it. We have our elders, lebbes here. So we don't have serious problems. Now we have a Rural Development Committee. If we have problems we tell it to lebbes. They discuss it at the committee. You see we few families are here. We need each other. So crimes are not happening here. Not even family disputes. We abide by the Kuran. We are self disciplined. We follow Kuran "valikattu" (guidance). It talks about peace and harmony. We have a lot of faith in our religion. Small problems are settled by the Mosque in a meeting of both parties in the dispute and other villagers. Rich people can spend money for anything. They can go to big places. They can go to courts."

(MSL F 39)

Even when past experiences are thought of as crimes, the issue of redress or justice for them is not brought out. Respondents would always focus on their current situations and their current problems, as if there was little point in focussing on the past as it had been dealt with and they had moved on, or because there was little hope of dealing with it any other way.

The strong sense of community based on their mutual need for each other is very strong and influences the way in which disputes are settled. Significantly, disputes are settled using a structure emerging from the communities' own identity. Such a structure already has a great deal of legitimacy and acceptance and is internal to the life of the community. As such it is connected to the community and affected by the same experiences of conflict. These factors combine to produce a community solution to the 'problems' of justice. A strong sense of injustice is evident in the interview, people feel that they are innocent and have done no wrong, but are being punished regardless. Their recent resettlement and the lack of opportunities to establish their lives and livelihoods, coupled with their present hardships and difficulties improving their lives may add to the sense of injustice

Medium socio-economic status:

Households fall into this category based on whether they have a definite steady income source, and own a certain amount of economic assets, as well as the respondents' own categorisation. Their ideas of justice also carry a strong sense of being based in a community and dealing with 'problems' as a community.

"Mannar was not peaceful. Soon after the 1983 riots we had problems. One day I had gone to town. I saw a boy getting shot. This is my experience. My husband was taken into custody, he was kept in the custody for one day and next day they released him. Nobody from our family or known to us, lost their lives.

We had to live in a fearful situation. Nobody knew what happened in the next moment. After we left to India our house was demolished completely and the bare land was remaining. My husband was doing well his fishing job. He lost all his fishing nets, and other equipments

So many crimes are happening in this world. For me if somebody disturbs some other's life, if any body does something which is not to be done, or a wrong act, it is a crime.

Normally we don't go to courts or police to solve our problems. Other thing is we don't have big problems here to take to courts. Here we have small problems. We have the village committee here to get solutions. We go there and discuss. Wealthy people and people who have power deal with problems fearlessly because they have everything."

(KRI F 43)

The respondents view justice in the context of their conflict affectedness. It is important to stress that conflict trends across all the study communities are reasonably similar and any differences in experiences are not considered to have a significant impact on the way justice is perceived.

The village committees' function as a source of mediation is representative of the way many people in this category seek redress for 'problems' relating to justice.

"This village is very united. We don't have problems. We all are Tamils except two three Muslim families. Most are Roman Catholics and relations to each other. Whatever problems comes the village committee solves it. Before the MOU, people used to tell their grievances to LTTE. They gave us solutions. People accepted it. They have committees called "makkal sabbai", "innakka sabbai (People's committee, Mediation Committee). Now we refer problems for this village committee. They take sometimes six months time to give us settlement. There is a "Prijaikal Kulu" we go to this forum if there is human rights violation, or a disappearance. Or even a major crime. They take it first at their regular meeting and if there is a serious issue they take it to Mannar Bishop, father Rayappu Joseph. Then he decides whether he should refer it to courts. If necessary he speaks to the MP of the area. If it is an issue of an unlawful detention of a person he visits the prison. He helped a guy in our village before 1990. He got a complaint from this guy's family saying he is disappeared. Father was searching him for two years and finally found him."

(NNT M 56)

The Communities' own identity and circumstances shape the structure within which they have to deal with issues of justice. These structures are dynamic and reflect the changing power balances and levels of influence in the area. The predominance of community based religious mediation systems is particularly significant. In MSL this was organised around the mosque and the Muslim religious leaders in their community, and in NNT it was organised through the hierarchy of the Catholic church. It is important to note that these structures would have far more acceptance and legitimacy within the communities than other political, government or military structures which are considered to be parties to the conflict and instrumental in the suffering the community experiences.

"Presently we have a village committee where our Father (priest from the local church) is the head. If we refer any of a personal matter Father and the committee take decision after inquiring it. This decision is powerful. Since we all are Roman Catholics we listen to it. And I'm the secretary to the Rural Development Society. There are 20 Hindu families even they seek solutions through this committee for their problems. They believe our Father."

(NNT M 54)

This highlights another aspect of community systems of justice. It details how even a system based on the dominant identity of the majority of the community can be used by other members who don't necessarily ascribe to the same religion. It demonstrates that these community systems are not divisive along identity lines. This is important in a situation where such identities have been used as the basis for furthering conflict. The inclusion of the Hindu members of the community in this process, and their apparent acceptance of the system goes some way to working towards positive social relations. On a micro level it helps challenge the ideas of otherness that the conflict is built up on, and helps to create a sense of solidarity in communities between survivors rebuilding their lives together.

High socio-economic status

The households in this category have more than one steady permanent source of income and better assets than each of the preceding categories. The ideas of justice held by some of the respondents in this category provide a different perspective on community based solutions.

"The crowd that lives in this community is not educated. They are innocent. They don't make issues big. They always try to solve them within themselves. We are also used to this. If people take the issues out from the community it brings a bad reputation for the family and the community as well. We bring problems to our Fathers. (Church) Bishop Rayappu Joseph is highly reputed in this District. All our Fathers are working with his guidance. I think it is an alternative. Because some matters are family secrets. We can't take them to Courts or anywhere. If you do so you face problems of bad reputation about your family. For example take a family dispute between husband and wife we go to the Father. He does family counselling. If you take it to courts it goes to the outside world.

Justice means different things for an educated man and an uneducated man, for rich and poor, for a cultured man and a man who doesn't have a culture." (KRI F 51)

This different perspective highlights how communities prefer to deal with their problems within the community. It contrasts with some of the other responses given about the ways communities choose to deal with these issues and highlights the concern that this may not be a real choice, that it may not be a process of considering two alternatives and simply adopting the one that seems best suited to the situation. It raises the question of whether peoples' choice to use community based and faith based systems is simply because they don't know any better or because they lack the education to use any other avenues for mediation. It also reveals that the poorer communities do not have the social networks to go beyond their own structures when seeking justice.

It also explains some of the social reasons for peoples' unwillingness to access more public mediation and dispute resolution systems. The reluctance to let essentially private problems become public knowledge may have contributed to the emergence and continuing use of community based justice systems.

In this extract there is an interesting reference to the fact that family status is an important feature of injustice for this group. The other socio-economic groups saw 'crime' as being external to their personal and family groups, but the highest socio-economic level saw it differently. Maintaining their status therefore becomes an important factor in the search for appropriate justice mechanisms.

The final part of the extract is significant as it restates the importance of education and 'culture' and how it influences ideas of justice. 'Culture' can be taken to mean exposure,

awareness of things outside the community, and knowledge of social norms and situations. It could also be taken to mean certain conventional social norms and levels of adherence to them. Culture is used here to make a social distinction and to introduce a hierarchy which is said to correspond to understandings of justice. The community member from the high socio-economic status category seeks to underline her standing in the community and introduce an implicit sense of stratification.

It introduces the idea that perhaps if people in these communities had more exposure to the rest of society, they would choose differently and seek other forms of justice and redress. It allows for the possibility that this new perspective may even make communities re-examine their own situations and seek justice for the things that they have experienced. It is important that communities are engaged in a recovery process of their own making, shaped by their own levels of education, their own networks, and based on structures they respect.

What is striking about the extract is that the respondent also includes herself in the comments "(we are also used to this)". This is significant because while she is able to identify some of the more critical aspects of the community choosing a particular type of mediation system, she recognises that she is part of this community so also chooses this system. It is a valuable critical reflection from a person who still thinks that this is the best option for the community. For the purposes of the study it helps to balance the otherwise blanket advocacy of the community based system.

Testimonies from other people in this category echo the same views as other members of their communities. The respondent from KRI speaks of the priests and their involvement in mediation and the respondent from NNT speaks of the priests and the Grama Sevaka (GS) and their role.

"Justice should be equal to everybody in the country. We should not consider ethnicity, caste or the religion. We go to the priest for justice. They solve our problems."
(KRI M 55)

"We don't face any serious problem to talk about the justice. GS solves if there is any problems arise. Priests are also involved in these negotiations."
(NNT F 44)

Early conclusions

The research reveals that while justice is seen by the conflict communities to be connected with socio-economic status, in reality the way they seek justice and mediation to solve their problems is not greatly affected by their status. The selection of justice systems is more closely linked to communities' collective experiences, identity, and the structures and institutions they know and respect.

The communities' responses to how they think wealth, networks and status influences justice and access to formal justice mechanisms demonstrates an overwhelming perception that a wealthy and well connected person can access the court system and make representations to the police.

However, despite this view none of the respondents, even those who are better off, seemed to want to access the formal justice system. They were content to continue with their own community's solution.

For these conflict affected communities using a formal justice system, seen to be owned by the Sri Lankan government which plays a key role in the conflict, may not seem the best option.

The extracts from interviews demonstrate that conflict affected communities don't necessarily think of justice as requiring a formal legal process but consider their issues to be a series of problems that can be addressed through more community-based institutions.

7. Revisiting the Context

Definitions of justice

The definition of justice used in the study sees it as a continuous process and the information from each of the communities reveals just how far this process has gone in relation to the injustice that the communities experienced. The idea of justice as something fair that communities can live with is connected to the community's beliefs about the unfairness of their experiences and is far removed from the idea of justice through formal legal mechanisms. For example, the research finds that even though some of the respondents considered their conflict experiences as crimes committed against them, they had still moved on and now only dealt with the problems they face at present.

This has to be considered in the context of the limitations and structural restraints the communities faced, and how this influenced the type of justice they sought. The research aimed to test the hypothesis that socio-economic status was a significant factor influencing how and when communities sought justice. However, it was apparent from the field research that this hypothesis does not capture the complex reality of the study communities' situations. The research found that a spectrum of households with different socio economic types lived in each community. Because of this the separation into the three categories seemed a very artificial division to make. What can be offered from this research is that despite this range of socio economic types and conflict affectedness that communities seemed to prefer to use their own trusted mechanisms to deal with their own conflict related problems, within the wider context of their recovery process. While some conflict affected people may perceive socio-economic status as an influential factor, in practice other considerations such as contact with the community, levels of trust and acceptance, resonance with moral and social attitudes and customs played a more significant role in choosing mechanisms and institutions to aid the resolution of community problems. Those with high socio-economic status were still more willing to choose community centred mediation options. Socio-economic status was also not an important factor in the way communities experienced the conflict, people's experience were fairly uniform and everyone lost people and property. Therefore the research can conclude that socio-economic status did not substantially impact on either the initial injustices, or the subsequent search for justice.

Definitions of peace

The research also challenges the notion of a transition from negative to positive peace. The ceasefire between the government and the LTTE does not constitute a positive peace and at the macro level there little has been done to ensure political stability. There has been no movement towards more equitable social relations and the structural issues that led to the conflict have not been addressed. Political posturing continues as tensions rise and violence is threatened repeatedly in order to gain political mileage. However, the affected communities that contributed to the research are simply content to hope that the ceasefire will hold. Their future aspirations rely on this situation continuing and becoming more stable over time.

"I want to finish my education and find a job. It is my duty to look after my mother, brother and sister. We have to build our own house. My mother is still paying the loan she took from her employer. Army had captured our places. We would like to go back. If this peaceful situation continues we can think about it at least. "

(KRI F 17)

"We don't expect anything from anybody. If there is peace we can continue with our work, our children will be continuing with their studies, & jobs. We want to lead a harmless life. We believe in our strength (as a family). If this peaceful situation continues we can keep hopes."

(KRI F 51)

"Children are going to school. Not like our days, sending children to schools costs a lot. If we give good education they will not suffer. They will get good jobs. For that we need money. We like to build this house nicely. I don't know whether this Samadanam (peaceful situation) will last. If so it is good."

(MSL F 26)

"We want to live peacefully. If peace lasts we don't have problems."

(NNT M 54)

It is significant that all of the affected communities see the prevailing situation as a peace that is adequate for their current needs. They have hope for the future on the basis of the fragile peace that prevails. All the future aspirations expressed had a socio-economic dimension but were rooted in a reliance on continued peace.

This reveals that for the communities in question a negative peace was 'positive' enough to continue to build their futures on, and that the wider political issues were actually more relevant to external parties than these communities.

Human security

The research also challenges the concept of human security and its usefulness in post-conflict environments. Mannar district was greatly affected by the conflict, but despite their vulnerability to "chronic threats" and "sudden harmful disruptions of daily life" they were largely unprotected. Can the concept of human security explain why so little attention was paid to these victims of war? Is it valid to argue that if operational agencies and local governments were more educated about the concept then post-conflict development and the recovery experiences of the study communities would be different? There is a danger that such a wide and all-encompassing concept would merely provide yet another checkbox framework related to social values and socio-economic status in a context where this is no longer relevant or timely

For the concept of human security to have any relevance to post-conflict situations it should be applied in the critical time period following the incidents of conflict that affect communities. If it is to be meaningful at the local level it must become the basis of action at the time when communities are most insecure, and not a method of studying them after they have established their own security.

Mannar district and the three communities that contributed to the research can be considered societies moving towards transition. The political stability that is a pre-condition for a real transition towards peace to take place has not been established, but they are on the long road from serious conflict affectedness towards a sustainable and acceptable peace. The solutions the communities have adopted for their own dispute settlement and

mediation reveals the way democracy is active within these communities. Thompson-Senanayake states that

“In the context of transitional justice, the restoration of all aspects of human security is essential to reconciliation and the establishment of a vibrant democratic society. In societies seeking to emerge from periods of intense internal conflict or repression, various aspects of human security, such as that of political, personal and community security take on a heightened importance. Yet, the restoration of one’s place in the world also incorporates economic, food and health security which ensures basic everyday human needs are met.”

(Thomson- Senanayake 2002 pg 10)

The research helps to establish a context for these ideas. The research concurs that in the context of transitional justice all aspects of human security must be restored. But it demonstrates that transitional justice and recovery begin immediately after the conflict experience. Communities do not wait for an acceptable political solution to the conflict to begin this period of transition. While the term transitional justice refers to the transition from a war affected society to one where peace is a possibility, the research suggests that perhaps the pre-transition stage should also be considered significant. Transition demands a certain political stability but a great deal of the pre-transition recovery happens before this stability is established. The three communities profiled are working towards restoring their own place in the world and ensuring that their economic, food health, livelihood and security needs are met despite the fragility of the cease fire situation.

Thompson-Senanayake, however, reflects a different view, expressing the widely held assumption that conflict affected communities must be reconciled with their past in order to move forward;

“Reconciliation encompasses a moment in the transitional justice process in which concerns about the past and recognition of those concerns are acknowledged as inextricably linked to concerns about and aspirations for the future.”

(Thomson- Senanayake 2002 pg 11)

This view of reconciliation is not compatible with the findings of this research which suggest how important the pre-transitional stage is. For the communities and people involved in the research, concerns about the past are not linked to concerns about the future. Their level of acknowledgement of these concerns is minimal and they are able to move on from their past and look towards the future. The moment of reconciliation that Thompson Senanayake refers to may have already been reached without the concomitant acknowledgement and recognition of past events.

This discussion seeks to highlight that the concepts, usually applied to post-conflict situations, are not particularly useful or applicable in the for the communities that contributed to this research. These concepts may allow experts from outside the conflict environment to categorise the communities’ experiences and catalogue the failures of various institutions and make recommendations for the future, but they do not reflect the reality of the situation on the ground. This research provides much needed critical reflection on concepts of human security, peace and reconciliation, and leads to some key recommendations for future work in this area.

8. Taking the Discussion Forward

Strengthen the structures that communities use for dispute resolution

It is apparent from their choices that communities respect the institutions which they use locally and that they have a high level of legitimacy and acceptance among the communities. These mosque committees, village development committees and church groups should receive the support they require from central government, from local government and from non-governmental institutions. This could take the form of improving links between these groups and local government offices, improving infrastructure such as community meeting places and, if requested, supplying training and information on dispute resolution techniques and arbitration skills. In addition links could be developed between these institutions and others which have similar ideas and methods of work. It is important that the knowledge and the skills acquired by these groups is transmitted to other such groups and community organisations. The flow of information should not only be towards these institutions but also emanate from and between these institutions as there is much knowledge to be gained by tapping into the experiences of these community groups.

Implement more formal development projects in conflict affected areas

Another issue that emerges from the research concerns the lack of Post-conflict infrastructure and livelihood development taking place in the affected areas. Each of the study communities would benefit from livelihood support projects, micro-credit schemes and infrastructure improvement programmes. The community in MSL, for example, needs special help in areas of irrigation, housing, water and sanitation and connectivity. If human security is to be enhanced even at this late stage these communities need to be supported and made less vulnerable to external shock and development challenges.

Share the lessons and experiences of the conflict affected communities

The research only scratches the surface of the knowledge available within these communities. There are lessons from their resilience from the determination to rebuild their lives and their undiminished hopes for peace that can be conveyed to the rest of the country and many other conflict affected communities. The lessons learned from this research reveal the value of learning and sharing with these communities. There is much more to be done in this regard.

9. Revisiting the Concept of Post Conflict Justice

Following these conclusions it is fitting to revisit Kritz's ideas of the place of justice in post-conflict recovery;

"Societies shattered by the perpetration of atrocities likewise need to adapt or design mechanisms to confront their demons, to reckon with these past abuses. Otherwise for nations and for individuals, the past can be expected to infect the present and future in unpredictable ways. To assume that individuals or groups who have been the victims of hideous atrocities will simply forget about them or expunge their feelings without some form of accounting, some semblance of justice, is to leave in place deep resentments and the seeds of future conflict."

(Kritz, 1997 pg 2)

The communities that contributed to the research were shattered by the conflict and it seems that they have adapted and designed mechanisms to confront their demons. These

mechanisms grew out of the communities and were based on things they are familiar with and the things they trust. Some time has elapsed since the conflicts and while the research did not seek to uncover the deep hidden resentments of the communities, the responses indicate that they have confronted some of their demons and no seeds of future conflict remain. It is possible to surmise that one of reasons the community was able to do this was that they were able to choose their own mode of recovery; determining which institutions played a part and what methods were adopted.

The research does not in any way advocate that abandoning communities to their own systems of recovery is the best course of action. Instead it tries to demonstrate that communities are capable of generating and maintaining their own recovery processes and that these could be supported and enhanced by other actors. These actors could play a vital role in livelihood recovery and infrastructure rebuilding and contribute to the overall process of conflict recovery. This will provide the substantive basis from which communities can continue own process of recovery.

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