

# Universals in a World of Difference: Human Rights in Sri Lanka

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## Universals in a World of Difference: Human Rights in Sri Lanka

<https://www.e-ir.info/2012/01/04/universals-in-a-world-of-difference-human-rights-in-sri-lanka/>

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Human rights are not a universal, self evident truth, but are instead a socially constructed collection of norms that have been formed in a particular context for a specific purpose: the protection of the liberal conception of the self. Despite this, human rights are widely understood as a universal baseline of existence that should be promoted and protected by all 'good' governments. They increasingly inform policy, and are central to the international relations between states.

However, once such 'universals' come into contact with particular realities, the effects of this set of norms, and the practices they produce, become problematic. Human rights are not universally applicable to every specific context, it is unclear how they could be, and by being treated as such they can be used to justify coercion and violence. International Relations (IR) as a body of theories is complicit in this: it constructs human rights as universal, justifying their claim to an overarching morality.

This impacts on the way the international system works and how states interact. This effect then feeds back into IR as it continues to use flawed understanding to explain the world, reproducing flawed theories, justified by a flawed universal claim. Violence and suppression are perpetuated under the guise of helpful, disinterested concern for others. My critique of human rights focuses on the way the West uses them to define itself in opposition to a less civilised, inferior non-Western 'other', thus using human rights discourse to delegitimize and reject difference in the political realm.

This dissertation asks what effects of universal political ideals have on specific contexts, and what role IR plays in this. I will begin by outlining the widely accepted versions of human rights and liberalism present in the international community. Then I will look at how claims to the universal nature of human rights are justified. This will involve a postcolonial, constructivist critique of IR. I will highlight the tension between the universalism of human rights and the lived experience of the inhabitants of a non-universal, non-homogenous world filled with particularities through the example of Sri Lanka.

In Sri Lanka the international community has shifted from a position of positive backing of the Sinhalese dominated Government of Sri Lanka (GOSL) against the Liberation Tigers of Tamil Eelam (LTTE) to one of voiced disapproval of GOSL actions following the 2009 conflict. The way human rights language has been used to frame and understand this conflict by the international community, and the effects of the wider liberal project on Sri Lanka, will then be discussed. For this I will reference the liberal press, UN reports and other sources of commentary on international events, such as political speeches and international non-governmental organisation (INGO) reports.

The postcolonial struggle to build a Sri Lankan state formed a complex context, that the universal discourse of human rights has struggled to cope with, lacking as it does the ability to engage with particular realities. This has implications for the peacebuilding[1] and state-building efforts of INGOs and other actors post the 2009 conflict. Human rights language lacks the capacity to deal with particulars and through its insistence on universalism may exacerbate, or even cause, the problems it strives to prevent or avoid.

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## *Situating Human Rights and Power in a Postcolonial World*

The dominant understanding of human rights, liberalism and their place in the world has shifted in recent years, at least in part thanks to the actions of INGOs and International Organisations. One of the most established human rights INGOs is Amnesty International, and Amnesty International USA defines human rights as the “basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status” as detailed in the Universal Declaration of Human Rights (UDHR). [2] This is how human rights are generally understood, and indeed the Amnesty International UK website seems to think this self evident: it simply claims legitimacy from referencing the UDHR and fails to provide a definition of human rights.[3] The UDHR sets out the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family” as “the foundation of freedom, justice and peace in the world.”[4] The belief in a human rights ideal has become widely disseminated because they fit well with the liberal understanding of the world: they guarantee the protection of the individual, both from the state and by the state from other individuals, prioritising the individual as liberalism does. Human rights ensure the equality and autonomy of individuals and so seem to promise the fulfilment of the ‘liberal prescription for the good society’ in IR (Forsythe 2000:3). They have become the latest hegemonic utopian ideal (Moyn 2010:4) and the ‘realised myth of postmodern societies’ (Douzinas 2000:5-6). Further, human rights have been mapped onto disparate contexts because their universality is seen to make them applicable to any particular situation (Forsythe 2000:219). What this widespread viewpoint fails to understand is that no rigidly universal ideal can apply to any and all specific contexts; the world is composed of particular realities, not sweeping universal experiences.

The UDHR supports the liberal democratic expansionist project[5] by presenting the right to a liberal democratic governance structure as a fundamental baseline of existence.[6] The liberal West understands itself as a force for good and the source of a progression toward a universally better future because what ‘better’ means in terms of human experience became, in theory, universal constructs through the adoption of documents like the UDHR. This gave rise to theories for the achievement of this universal betterness in IR, such as the democratic peace thesis, which works to reproduce this Western self conception and shape policy and practice in the international. This is despite the inherent tension of liberal democracy as a concept: a democracy represents the individual as part of a larger whole, through an electoral system enabling their participation in the formation of the state (Hobson 2009:640. Barkawi; Laffey 1999:412) while liberalism seeks to protect the rights of the ‘atomistic’ individual (Hobson 2009:640), such as property rights (Doyle 1983:4). The difficulties of combining the principle of majority rule and that of individual freedom has resulted in a tendency in the West toward the ‘hollowing’ of democracy and the emergence of liberal elite rule (Mair 2006:29). IR has tended to ignore this tension, and its effects, just as human rights activists and proponents tend to ignore the discontinuity between the idea of democracy and the insistence on the protection of rights of the individual that human rights stands for (Chandler 2002:115). As a result liberal democracy is accepted as the best form of government, just as human rights are accepted as a self evident universal programme for the moral improvement of the global community: a teleological goal for which the international community is supposed to strive, or ‘the ideology at “the end of history”’ (Douzinas 2000:2).[7]

Human rights are not so easily understood or as universal as advocates claim,[8] and advocates tend to use ‘circular reasoning’ to substantiate human rights discourse (Chandler 2002:99). This, though, traps human rights in a tautology by ‘grounding human rights “solely in the fact of their recognition”’ (Chandler 2002:103), or the rights humans hold simply by being human (Chandler 2002:99. Brown 1999:107). This oversimplifies what it means to be human, and what human dignity means in particular realities. Even if there were some universal ideas in all ideologies, what constitutes ‘better’ would still be an area of difference if ‘better’ is understood through different contexts (Perry 1997:482). Human rights claims vary because they reflect what the claimant views as ‘better’ (Langlois 2002:485. Brown 1999:111) and some specific conception of the ‘good life’ always underwrites them (Hopgood 2000:2). Thus the UDHR runs the risk of rights being used to impose one idea of ‘the common good’ on one group of people by another, which is precisely what rights are supposed to prevent (Brown 1999:109). Further, because this progressivist, universal ideal was put in place and given primacy in the international realm by the UN, it has been put out of the reach of criticism, and its liberal, Western agenda goes un-interrogated.

Analysts substantiate the teleological hegemony of human rights by stating that some rights have become universal

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because they have been accepted by the international community, and that therefore they should be and are protected because enough people want them to be (Chandler 2002:14-15). Some understand human rights as a universal sense of ethics and justice common to all human experience 'The Golden Rule [...] is a precept in all societies'.<sup>[9]</sup> Others outline things assumed to be bad in all cultural contexts and universalise what rights should be protecting humans from (Perry 1997:483 referencing Stuart Hampshire. Chandler 2002:96). Indeed human wrongs, instead of human rights, are often assumed to be universal and from these specific rights that should be protected are extrapolated by human rights advocates (Chandler 2002:96). Ultimately there is no clearly defined definition of what a human right is (Forsythe 2000:30). Human rights remain a prescriptive list of progressive goals (Pieris 2009:233) and their very vagueness makes them hard to problematise.

Many advocates resist the questioning of human rights and see any interrogation of their origins, meaning or purpose as potentially harmful (Chandler 2002:14). Advocates who do allow questions to be asked tend to see this as an opportunity to strengthen human rights claims, rather than to explore their meaning and purpose (Parekh 2007:745-55. Brown 1999:104). Advocates thus search for a way to increase the weight and presence of human rights by seeking to enshrine them in their proper place in politics, law and even the broader idea of the social conscience (Parekh 2007:777-78). Human rights have become so deeply entrenched in international politics in recent decades that they are now seen as the teleological endpoint of politics, rather than a step that may be discarded as others were (Moyn 2010:9).

Moyn implies that this is a result of the way human rights are presented as teleological, through being linked to a long historical tradition, making them seem like a concept that has been in place and obvious to all right thinking people for hundreds of years (2010:214): the UDHR is often linked to the Enlightenment and the liberal idea of 'natural rights', which claims that all people, regardless of their context or culture are basically the same (Perry 1997:479. Young 2000:28. Langlois 2002:482). This forms the basis of the 'socially enforced homogeneity' of liberalism (Hopgood 2000:24), although actually the rights of man were about nation-state formation not universal freedoms (Moyn 2010:26). Indeed, human rights in their current form are a newer concept than is generally understood, and, despite the UDHR's provenance of 1948, it is only in recent decades that they have come to be so influential (Moyn 2010:7. Chandler 2002:89). In IR, though, the teleological claim of human rights is not interrogated, and they are instead understood as the source of a moral dimension that will take the discipline forward (Chandler 2002:90-91).

Human rights have thus been understood and accepted by the West as a discourse as good in effect as it is in intent (Hopgood 2000:7) because it guarantees the defence of the oppressed and voiceless. However, a number of critics have pointed to the way that human rights, far from being an apolitical tool that empowers 'victims', have become entangled in politics (Moyn 2010:227), enabling elites and those in power to gain credibility through their association with moral causes and moral politics (Chandler 2002:119). IR fails to question the justifications behind international norms and simply accepts them as the product of good intentions, making them good in effect (Gruffydd Jones 2006:7-8). IR does this through a process of silencing and idealising the past (Gruffydd Jones 2006:8). Krishna has termed this 'willful amnesia' (2001:401), but, intentions aside, it is the effects that are undeniable: those of continuation and bolstering of hegemonic, universalist discourse that in turn supports the hegemony of Western states in the international community. The 'vernacularisation' of human rights means that they have irrevocably entered and changed global politics (Moyn 2010:219. Chandler 2002:253-36) and they affect international relations, and in turn the domestic politics of states, especially those involved in the UN who have ratified human rights documents and agreements.

Rights language has been used in this to justify the expansion of a liberal democratic, capitalist, governance model and Western norms have been blindly accepted as universal ones (Darby 2004:7-8. Slater 2004:11), while the violence inherent in the dissemination and creation of these norms is ignored (Barkawi; Laffey 2006:343-4. Gruffydd Jones 2006:11). Drawing from postcolonial, constructivist theories I will question the central concepts of IR by challenging the way that the discipline is complicit in the perpetuation of the colonial subordination of the 'other' in the international state system because of the way it ignores the continued effects of the colonial project in the international system (Laffey; Weldes 2008:556. Gruffydd Jones 2006:4). There is also a lack of awareness of the relationship between liberal democratic projects and the history of imperialism (Gruffydd Jones 2006:5) meaning that IR suffers from blind spots that prevent an accurate understanding of the world (Laffey; Weldes 2008:572). This neo-

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colonialism is obscured by the process of abstraction that mainstream IR uses in its effort to explain and direct, rather than understand, the world (Gruffydd Jones 2006:7. Krishna 2001:401). Abstraction is a process of power, which risks being 'fetishized', rather than problematised, in IR (Krishna 2001:401). This affects the creation of IR theories (Laffey; Weldes 2008:557. Gruffydd Jones 2006:12) and, if we accept that this theory constructs the world (Smith 2004:500), there are consequences: 'the "collateral damage" of modern IR' (Gruffydd Jones 2006:4). IR accepts the current world order as the correct one, without seeing how the production of knowledge has constructed it (Laffey; Weldes 2008:558. Gruffydd Jones 2006:3. Nair 2004:258).

The acceptance of democracy as the only legitimate form of governance (Barkawi; Laffey 1999:421) is similar to the way human rights are understood as the only end goal of 'civilisation'. This has been justified through an idealistic belief in, and use of, the Democratic Peace Thesis by theorists and policy makers (Müllerson 1997:68), even though this thesis is not supported by empirical findings (Rosato 2005:471).[10] The interest in universal concepts in the globalised international community has meant that 'contemporary conceptions of global order' tend to exclude difference in a pursuit of 'oneness', rather than make an effort to incorporate it (Darby 2004:7-8). This entails a rejection of the non-Western 'other' as chaotic, irrational and dangerous; something to be feared as a potential contagion of Western civilisation, and subordinated as a result (Darby 2004:30. Chandler 2002:234. Žižec 2005:120. Müllerson 1997:117). The non-Western, chaotic world is punished for violating universal norms by the

Great Powers, reproducing colonial power structures: the ICC is currently only pursuing cases against 'failed' African states.[11] The hegemonic domination of international norms and the 'monopoly of virtue' held by the West (Gruffydd Jones 2006:14) means that theorists and policy makers are unable to imagine anything different to the 'liberal-modernist imaginary' (Gruffydd Jones 2006:9) created and upheld by IR (Laffey; Weldes 2008:558). For example, America's ambivalence about states that persistently offend against human rights norms demonstrates an inability to imagine how these states could really ever become modern, liberal democratic states on a par with the US (Nair 2004:269). Further, the prevalence of these universal discourses means that even non-governmental organisations are unable to imagine an alternative form of progress to the promotion of human rights (Nair 2004:258). This acceptance of universal doctrines by the global community has kept non-Western states in an inferior position in the international order; they are forced to catch up to the already established status quo of Western states (Donnelly 1995:134).[12] The idea of being at the end of history, and there being only one path to reach this goal, has been identified as a central problem of IR (Smith 2004:505. Barkawi; Laffey 2006:331) and theorists may dismiss any deviation from this path as irrelevant (Darby 2006:57). This leaves IR, and the world it creates, in a position of limited imagination and inflexible approaches: it lacks the vocabulary to address specific realities.

Despite this limitation, universals such as human rights discourse construct the international relations between states by affecting how they view and interact with each other (Nair 2004:255,281). Human rights enable the West to view itself as ethical in terms of its internal behaviour, and its foreign policy, via their use and dissemination in the international community of human rights discourse (Barkawi; Laffey 2006:335. Chandler 2002:221). The West's sense of self was shattered by World War Two and the Holocaust (Grovgoui 2004:48) and human rights are often claimed to have arisen as a reaction to this and a way to prevent such actions reoccurring (Moyn 2010:8. Müllerson 1997:117): a 'longing' for a new utopia emerged (Blackburn 2011:134). Human rights did not immediately become central to policy though, and only since the failures of alternative utopias, such as socialism (Moyn 2010:8), have they come to the fore. Liberal voices in the West use human rights discourse to re-imagine and understand the West reflexively, reaffirming its moral superiority (Chandler 2002:227. Grovgoui 2004:53. Nair 2004:266).[13] Human rights discourse is used to protect the West, through criticism of the rest, to build its sense of community and cohesion (Chandler 2002:226), although it is arguable how deliberate this effect is (Bell; Carens 2004:315). Still, in this way the West can see itself as a 'force for good in the world' (Barkawi; Laffey 2006:341) and its central ideologies go unquestioned in an assumption of their universal goodness.

This justifies the protection of the postcolonial subject by a patriarchal Western gaze: imperial power is enacted in the well-meaning Western representation of the oppressed 'other' (Chowdhry; Nair 2004:16).[14] Human rights claims must be made on the behalf of this 'other', who lacks the capacity to act in their own 'best' interest, by well-meaning Western voices (Relis 2011:528). The 'other' is denied agency, responsibility, and potentially even humanity as they are infantilised by the perceived need to protect them (Hopgood 2000:22. Bell; Carens 2004:327).

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This empowers some elites while 'pacifying' the rest (Barnett; Duvall 2005:65). Speaking for the voiceless does not give them back their voice or induct them into a wider moral community (Chandler 2002:231), and the continuing absence of subaltern voices in human rights discourse means that the 'other' is always spoken *for* (Relis 2011:528) and potentially *over*. [15] Thus human rights becomes complicit in strengthening the power of the powerful (Moyn 2010:227), and the perpetuation of Western hegemonic structures of colonial power in the postcolonial world (Nair 2004:269. Laffey; Weldes 2008:558).

This hierarchy of knowledge at work in IR delegitimizes and dismisses the subaltern voice as only a step on the way to, or worse a distraction from, the ultimate achievement of society: the liberal democratic West (Grovgui 2004:53). The West continues to represent and therefore create the 'other' in a way that maintains the West in a position of 'power over', even as it seems to be protecting the access to 'power to' of the subaltern 'other' (Chowdhry; Nair 2004:16). The realist understanding of power as hard power or 'power over' has dominated IR (Barnett; Duvall 2005:40), but recent strands of 'critical' IR, such as feminism, have tried to focus more on 'power to', or agency (Chowdhry; Nair 2004:2). However, 'critical' theory does not interrogate power in the international enough: postcolonial critiques are necessary to reveal underlying power structures that continue to restrict the 'power to' of individuals (Chowdhry; Nair 2004:3). This has implications for universal human rights: if a subject lacks the power to protect their human rights, and these are seen as the baseline of human existence, then, potentially, they cannot be viewed as 'human' in the same way as a subject whose rights are ensured (Žižek 2005:127). It is in this way that the productive power of human rights has created a world populated by 'subjects normalised as human rights victims, human rights monitors, human rights violators, and human rights protectors' with those in certain roles enjoying more agency and 'power to' shape their existence (Barnett; Duvall 2005:61). Discourses shape subjects via the way in which they produce the modern world (Barnett; Duvall 2005:48), as such human rights discourse can be understood as a form of socially constituting discourse, and the power and intent behind it should be critically examined.

The hierarchies of power in the international, linked to human rights discourse and its use by activists who seek to disseminate their norms globally (Barnett; Duvall 2005:60), are justified by the way human rights is believed to be a universal discourse of inalienable, indivisible and unquestionable rights (Moyn 2010:6. Chandler 2002:94). Postcolonial theory addresses this universal hegemony of liberal ideals: it can frame 'counter-narratives' that may interrogate and challenge teleological concepts by revealing their history, and through this their politics and power structures (Chowdhry; Nair 2004:26). Postcolonial analyses may also open a space in the political imaginary for different conceptions of progress, maybe even moving beyond the need to pursue it in its currently valued form (Grovgui 2004:54).

As part of this we must consider human rights in specific locales, and understand their effects on such particulars. They are not universal because of their liberal, Western provenance and when the UDHR is looked at in detail many of the Articles show a particular cultural source.[16] The claim to universal morality has created 'criteria for just Humanitarian Intervention' in other nation-states when, they fail to respect human rights (Farer 2003:388), challenging sovereignty in a way supposedly no longer possible in the postcolonial world of states (Donnelly 1995:115). The peacebuilding, democratic expansionist project owes much of its legitimacy in the international community to the use of human rights language to justify itself: the best political system for the protection of human rights is assumed to be democracy, for example (Howard-Hassmann 2005:1). This Western sense of responsibility grows from human rights' universal hegemonic status of assumed benevolence (Hopgood 2000:7). Human rights advocacy means that the only solution many can imagine to domestic conflicts is international intervention (Bandarage 2008:202); the West cannot just 'stand by' while atrocities are committed and indeed INGOs often convey a sense that only the West can save the rest (Bell; Carens 2004:327) for they cannot be trusted to help themselves in the right way. Thus human rights networks have helped in the shift from a sense of responsibility to protect to that of a duty, even right, to intervene (Pieris 2009:243-44). There has been a shift in the international community from respect for the inviolability of sovereign states to a call for an 'internationalization of the human conscience' through the expansion and dissemination of Western, liberal values (Bandarage 2008:206): "civilising the natives" (Hopgood 2000:3).

Human rights are thus used as a universal political discourse to outline a 'morality of the globe' (Moyn 2010:43) and encourage 'global policy development' (Bell; Carens 2004:302). The increased interest in humanitarian intervention,

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and the way human rights are used to legitimate the imposition of democracy by the powerful (Blackburn 2011:236. Hurrell 1999:279), stems from the way universal human rights have shifted from being about an awareness of citizenship rights at home to identifying and criticising suffering abroad (Moyn 2010:12. Bell; Carens 2004:301). Blackburn maintains that 'cynical attempts' to manipulate and make use of human rights language for specific ends will eventually 'backfire' (Blackburn 2011:136) but human rights discourse justifies one viewpoint by claiming it as self evidently true: 'If only human beings could choose, under ideal conditions, this is what they would choose' (Hopgood 2000:10). In practice the liberal universal nature of human rights works, and has worked, to excuse Western interventionism. [17] By failing to be open to interrogation human rights are vulnerable to being co-opted as the potentially dominating and coercive politics of human rights, rather than the politics for them (Baxi 2006:xiv-xv). Human rights must begin to engage with particulars rather than hiding behind an unsubstantiated universal claim (Bell; Carens 2004:308) to deserve its claim to moral validity.

Further, at sites of human rights abuses and the accompanying Western critiques, the Western gaze remains blind to its own complicity (Chowdhry; Nair 2004:17). The colonial project directly affected the shape of postcolonial states, and as such any understanding of their present must include an awareness of their colonial past and how this interacts with the spread of liberal democracy and human rights (Moyn 2010:28-30). The UDHR was adopted by the United Nations General Assembly at a time when many countries remained colonies of Western European powers (Perry 1997: 485). Central to the UDHR is a sense of entitlement to dignity, equality and the implied right to self determination (Article 21).[18] The struggle for rights was linked to a project of new nation-state creation globally, to end imperialism and rebuild after World War Two (Moyn 2010:212). However, anti-colonial sentiment only allowed for the independence of territorially-based nations rather than communities or groups (Bandarage 2008:207). Sri Lanka is a key example of the negative effects this has had, and its internal conflict should be understood as the flawed product of colonial and postcolonial efforts to form a nation-state on Western, liberal lines.

## ***Universal Human Rights in Context: Sri Lanka and Liberal Democracy***

Independent Sri Lanka was constructed as a majoritarian democracy based on universal suffrage by the Donoughmore Reforms, which were put in place by the departing British administration (Scott 1999:164-165). Prior to the British colonisation the island had not been unified as one state-like body: there was no 'national' identity (Peebles 1990:36). The colonial project had instead produced a territorially tied national identity, linked to Sinhalese religious identity (Kemper 1991:196-200. Obeyesekere 2006:156) and the corresponding need to protect the unified, Buddhist island of Sri Lanka (Obeyesekere 2006:143). This led to policies that worked against the Tamil minority and effectively excluded them from the state (Srisikandarajah 2002:16-17). As a result of this exclusion a militarised movement arose, which consolidated into the LTTE. In the 1980s their limited insurgency shifted to all out civil war (Hoole 2009:121), because of apparently state-sponsored anti-Tamil riots, precipitated by an LTTE action against GOSL soldiers (Tambiah 1992:74-75. Hoole 2009:122. Wayland 2004:413). Peace efforts with the LTTE have been challenging because the GOSL cannot appear to endanger the unity of the Sri Lankan state (Tambiah 1992:76-79). Even limited decentralisation of the Sri Lankan state has long been resisted by Sinhalese elites as a threat to this unity (Tambiah 1992:77). The impossibility of a power sharing system is also exacerbated by secessionist Tamil discourse; unable to imagine how a majoritarian democracy could protect minorities, they seek instead a nation-state where they would form the majority (Stokke 2011:9-10).

Democracy in Sri Lanka looks 'robust' (Goodhand; Korf 2008:4) and 'strongly democratic',[19] but since 1948 the Sinhalisation of politics has combined with widespread professionalisation and criminalisation of politics (Orjuela 2011:97. Kapferer 2001:39. Manor 1979:25-29). This has helped to create what is in effect one-party rule in the guise of a multi-party democratic system: the United National Party and the Sri Lankan Freedom Party dominate Sri Lankan politics and represent Sinhalese interests (Orjuela 2011:96). There is no 'national' party to represent Sri Lankan plural interests, and it is not seen as a 'mature' democracy by liberal critics (Matthews 2009/10:578-79). Communalist politics has become entrenched, despite the colonial Donoughmore Reforms that aimed to rationalise communalism away (Scott 1999:172). The introduction of majoritarian democracy without minority protection has forced the Tamil community into a position of oppositional minority (Goodhand 2010:343). There is a vested interest in political elites representing the Sinhalese at the expense of the Tamils (Moore 1992:73): Bandaranaike originally stirred Sinhalese nationalism in 1950s to mobilise a larger number of voters (Stokke 2011:7). This majority of

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Sinhalese voters has effectively disenfranchised minority group voters; if a policy is not in the majority's interest then political elites in such systems have little interest in supporting it (Scott 1999:176. Moore 1992:73).

Since 1977 the attempts of the state to reform itself along liberal, capitalist lines has only served to bolster Sinhalese ethnonationalism (Stokke 2011:13), entrenching the conflict more deeply. The supposed, and long-remembered, colonial 'advantage' of Sri Lankan Tamils justifies discriminatory policy (Obeyesekere 2006:139). The removal of the Tamil minority from a place of 'false' parity with the Sinhalese majority under colonial rule, to a position of oppressed minority, has thus been seen as natural for more than one reason: a triumph of the liberal rationality of number (Scott 1999:172-75) and the 'sāsanaisation' of the nation (Obeyesekere 2006:152) in order to reclaim an idealised cultural past (Kemper 1991:199-200). Further the deliberate creation and use of Sinhalese nationalism as a political tool has left the GOSL unable to negotiate with Tamil groups: if they try they risk criticism from the opposition (Venugopal 2006:226. Stokke 2009:937) and the reactions of extremist Sinhalese nationalists, such as the JVP uprising (Krishna 1999:194). A combination of matching ethnic and religious divisions[20] has made the conflict extremely difficult to reconcile (Sriskandarajah 2002:5) as ethnonationalist sentiment has become entrenched, and broken free of the original elite control that fostered its creation (Stokke 2011:11).[21]

The international community has pushed for decentralisation and devolution via power sharing with the Tamil community as the only hope for lasting peace in Sri Lanka (Uyangoda 2010:105-106). However, the triumphal nationalism of Sinhalese politics has been consolidated by the 2009 'victory', and the lack of international involvement in post-war reconstruction, which has instead been controlled by the GOSL through the Lessons Learnt and Reconciliation Commission (LLRC) (Uyangoda 2011:136).[22] This has placed the GOSL in a position of self-congratulatory power and legitimacy wherein Sinhalese nationalism has been strengthened (Orjuela 2011:97). The GOSL has used this to consolidate its centralised power: in September 2010 the 18<sup>th</sup> Amendment was passed, which concentrates power into the hands of the President (Uyangoda 2011:136-137). A tendency to authoritarian dynastic rule has been identified in the GOSL since 2009 (DeVotta 2009:1050-51. Uyangoda 2011:137) and it seems that the Sinhalese-dominated state has ignored all calls for power sharing, remaining fixated on its own solution to the conflict: Tamil suppression to destroy the LTTE.

## ***The Effects of Liberalism and Human Rights on Particular Locales***

Current triumphant Sinhalese nationalism makes any system that implicitly accepts the pluralist nature of society in Sri Lanka, such as agonistic liberalism and political settlements, unrealistic (Scott 1999:183-5). Despite this, concrete actions and solutions that involve power-sharing have been advocated by some theorists and voices in the international community (Uyangoda 2010:105-106. Stokke 2009:937).[23] However, some postcolonial analyses, such as that of David Scott, seek to understand and suggest possibilities, rather than explaining and directing (Scott 1999:160). Scott's suggestions are grounded in the colonial roots of the current conflict and situation of minority subordination in Sri Lanka. He uses the case of Sri Lanka to show the need to question and doubt the hegemonic assumptions that underpin two of the influential liberal assumptions of IR: that democracy is the most egalitarian and legitimate form of governance and that the nation-state is the only form of organisation for a rational political community (1999:161). He advocates a search for new vocabulary and new understanding in contexts where the liberal, democratic form has demonstrably failed to work, such as Sri Lanka (1999:161). The interest of the international community in the conflict that results from these universal standards (Stokke 2011:4) can be understood as Western states combating 'their own historical legacy run amok' (Žižec 2005:116). However, in this attempt by external powers to solve Sri Lanka's problems there is a blindness to the way in which this historical legacy produced, and continues to reproduce, the violence being addressed (Stokke 2011:4). Thus a new language, and a new way forward is not found, instead the progressivist liberal democratic path is doggedly stuck to as democracy, and the rule of the majority, have been irreversibly normalised (Scott 1999:173).

The language of human rights was a part of this normalisation process, and has been used by Sri Lankan actors to achieve certain ends: the LTTE has presented its struggle in terms of access to equal rights and self determination (Palihapitiya 2007:6) and the GOSL termed the 2009 conflict a 'humanitarian rescue operation' to rescue civilians trapped by the LTTE.[24] Further, the international community's response to the situation has been framed in terms of human rights (Wickramasinghe 2008:193-4), particularly the protection of those of Sri Lankan Tamils.[25] Liberal

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peacebuilding efforts in Sri Lanka have tended to focus on the strengthening of democratic norms through measures such as the political inclusion of the LTTE (Stokke 2006:1037) because democracy is promoted internationally and understood as the best protection for human rights (Howard-Hassmann 2005:1). The GOSL's apparent lack of respect for human rights during the conflict means it has been discredited in the eyes of many: it has been compared with the LTTE in terms of its human rights abuses, making it seem like an authoritarian, bullying regime rather than a democratic government (Peiris 2009:231). However, the political elites of this apparently 'robust' democratic state, do not seem to have felt that risking loss of status in the international community was too large a price to pay for peace, showing that international norms have more limited positive effects for individuals inside states than human rights advocates might like to admit (Peiris 2009:232).[26] Human rights has done more to alter discourse than it has to alter the experience of 'victims' (Moyn 2010:9); human rights all too often remain simply rhetoric, and fail to engage with 'real experiences' (Relis 2011:529). The hegemonic domination of human rights discourse has limited the ability of the international community to react to particular contexts.

Further, the application of universal ideology to specific contexts is often counterproductive. Sri Lankan loss of status in the international community has led to increasing linkages between assistance to Sri Lanka and the promotion of liberal, democratic ideals, including human rights as well as media freedom (Uyangoda 2010:107-108). The GOSL tends to see human rights as propaganda being used to discredit them, rather than something worth defending (Wickramasinghe 2008:194). By pushing their liberal agenda, under the guise of universals that all civilisations should aspire to, Western peacebuilders have damaged human rights in Sri Lanka. The increasing bureaucracy and lack of imagination as well as the domination of INGOs can undermine and even stifle grass roots organisations and support for human rights (Moyn 2010:219). Further, they have undermined their relationship with the GOSL and pushed it to strengthen its ties with powers that do not necessarily value Western norms, such as China (Uyangoda 2010:108. Goodhand, Korf 2008:2. DeVotta 2009:1045). The peacebuilding process has also been seen as imposed from the outside, meaning it lacks local ownership, exacerbating nationalist resistance to it (Goodhand 2010:344). This wider tendency for peacebuilding projects to lack contextual awareness and fall short of what is required has been identified by analysts (Newman *et al* 2009:4) showing how over-reliance on universal theories does not work in practice.

The Norwegian peace process is one example of this; in 2002 it seemed to be the start of a bright new future in Sri Lanka, and Sri Lanka was, briefly, the model of liberal peacebuilding (Goodhand; Korf 2008:2) and a good test case for others to follow (Stokke 2011:1). The parties to the conflict were felt to be stuck in a 'multidimensional' (Venugopal 2006:226) 'hurting stalemate' (Stokke 2011:2) and therefore likely to be both ready and willing to negotiate for peace (Höglund; Svensson 2003:106. Stokke 2006:1022, 2011:2). Further, both sides apparently asked for help from a third party (Höglund; Svensson 2011:63). It was also felt that the international community was less sympathetic to the aims of the LTTE after 9/11,[27] meaning that they were compelled to seek a peace deal (Höglund; Svensson 2003:107). In combination with a 'war weariness' among the population this all seemed favourable, and a good time to implement liberal peacebuilding initiatives (Uyangoda 2008:22). Development crises also forced both the LTTE and the Sri Lankan state to enter the peace process with an eye for development goals and addressing the humanitarian fallout of the conflict (Stokke 2009:936).

The Norwegian peace process was about crafting a liberal peace: one that encouraged, indeed relied on, democracy, human rights and market liberalisation (Höglund; Svensson, 2011:65). This imposed agenda helped to foster misunderstandings (Uyangoda 2008:29). Peace was pursued for different ends on either side: the GOSL and the LTTE had different understandings of what the federal state structure they were discussing would look like and hoped to gain incompatible advantages from the process (Uyangoda 2008: 29). Both sides may even have deliberately pursued peace to give them time to recover from the mutually hurting stalemate (Stokke 2009:935), rather than from a real interest in lasting peace (DeVotta 2009:1037. Höglund, Svensson 2003:116). Norway's role was at once overly invasive, imposing as it did universal liberal norms, and yet not invasive enough, as it failed to police the peace it implemented (Höglund; Svensson 2011:70-71). The insistence on liberal peacebuilding criteria meant Norway could only understand both parties to the conflict as state-like bodies that were democratic, pluralistic and stable and expected them to keep their promises without needing to police transgressions (Höglund; Svensson 2011:64-73). The complexity of the context was not understood and addressed: Norway mapped assumed Western universals onto a particular situation, leading to mistakes in implementation that resulted in failure (Uyangoda



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2008:19).

The assumption that a liberal peace would require the integration of Sri Lanka into the international system of human rights respecting states (Höglund; Svensson 2011:64) may have further worked to undermine its effectiveness. This looked like a challenge to the sovereignty of the state and left the process open to accusations of neo-colonialism (Höglund; Svensson 2011:65), already a risk when external powers were involved. Despite this, analysts maintained that external input was a necessary precondition of any lasting peace being brokered in Sri Lanka, and often called on the UN to do more to ensure it as it began to fail (Bouffard; Carment 2006:171-173. Höglund; Svensson 2003:117). Thus, instead of new ideas, there were simply calls to strengthen external liberal peacebuilding methods, and the way the Norwegian peace process had worked to push the LTTE back to war for fear of getting stuck 'in a peace trap' was not understood (Goodhand; Korf 2008:1. DeVotta 2009:1037). In this way badly managed interventions may make the situation worse and engender resentment (Peiris 2009:239); the election of a more 'hardline' President in 2005 resulted from the frustration experienced at the breakdown of yet another peace accord, initiated by the political elite and mismanaged by an external power. [28] Rajapaksa was elected on the promise of being tougher on the LTTE.[29] Furthermore, the LTTE, according to some analysts, simply used the period of ceasefire to rearm, continuing to consolidate its authoritarian control of the North-East areas in which it operated (Hoole 2009:129). Perhaps the failure of this last externally produced peace before the 2009 war explains the hostility of the GOSL to outside influence; it was tired of failure and had identified its own solution: war for peace (Goodhand; Korf 2008:2). Sri Lanka's reputation as 'an exemplar of liberal peacebuilding' (Goodhand; Korf 2008:2) was created and then lost because liberal peacebuilding failed to deliver what it promised.

This loss of status has perhaps driven the West's subsequent desire to punish Sri Lanka; it has too clearly shown the failures of liberal peacebuilding. Only by punishing this former favourite,[30] can the international community reassure itself that it was the fault of the GOSL and the LTTE that the peace failed, not the fault of peacebuilding initiatives and liberal philosophies more generally. The shift that Rajapaksa's administration has undergone, from crafting a liberal peace to consolidating a victor's illiberal one since the brutal end of the conflict (Stokke 2009:937), has probably intensified this. In the push for a liberal peace the ends justify the means for Western powers so far as their own actions are concerned (Goodhand, Korf 2008:3), but when non-Western powers, such as Sri Lanka, decide that peace at any cost is preferable to continued war and insurgency (DeVotta 2009:1050) the West defends its position of moral superiority by pursuing judgement on human rights grounds after the fact. This has been reinforced by the way that the GOSL has resisted not only outside influence in a post-conflict setting, but also effectively excluded external observers during the conflict (DeVotta 2009:1045).[31] Sri Lanka's crimes must therefore be punished to clear the conscience of the West, which just 'stood by' as these human rights abuses took place. Thus human rights abuses that resulted, at least in part, from the way in which the international created Sri Lanka and from the effect of its colonial heritage on the structure of the state are not understood as the result of Western construction and involvement. Rather they are seen as the fault of a non-Western and authoritarian regime: this latest attempt by the GOSL to consolidate the nation-state has been 'othered' and reviled as war-crime, and even genocide.[32]

However, international concern has not produced any great effect and the actions taken have been minimal,[33] constituting the ejection of Sri Lanka from the UN Human Rights Council in 2008 (Wickramasinghe 2009:65), and the ending of the EC special trade incentive in 2010 (predicted in Wickramasinghe 2009:63) to pressurise the GOSL to address human rights shortcomings.[34] That these measures were more likely to damage ordinary Sri Lankans than the GOSL[35] was ignored as, again, the ends justify the means in the drive to disseminate universal Western, liberal ideals. Sri Lanka has become a case study for a public that now expects the

West to act to protect human rights, and demands this of Western governments.[36] Feeding this is the fear, expressed in the liberal press and proclaimed by human rights INGOs, that if human rights are not protected everywhere they will not be protected anywhere: "One country's ability to bury the evidence of war crimes endangers how civilians are treated in all other conflicts. A single failure of international justice is also a collective one".[37] Callum Macrae wrote that "If the UN fails yet again, the message to every tyrant and repressive government will be clear: if you want to kill your own people with impunity, you will probably get away with it".[38] Thus ostensibly to protect itself, and more definitely its understanding of itself, the West has to act.

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The continuing interest among international actors in pursuing a liberal peacebuilding agenda in Sri Lanka has ignored the realities of the conflict, blinded by the liberal insistence that people will want to accept each other's differences and coexist peacefully together (Langlois, 2002:483). This ignores the way that Western, liberal democratic states were created through exclusionary nation-forming projects that involved population 'cleansing' (Mann 2005:55).[39] Indeed it is unclear how a national narrative and consensus not based on an oppressive narrative can be reached in nation-forming, especially in a post-conflict situation.[40] Despite this, the expectation among Western powers is that having apparently perfected the nation-state system themselves, they are obliged to pass it on to other nations, who should then be able to implement it perfectly in different contexts without needing to go through these negative stages: thus the campaign to establish globally the universal 'betterness' of human rights ties into a liberal democratic homogenisation project. This can be seen in the way democratisation has been central to US foreign policy in the post Cold War era: Clinton called it 'the 'third pillar' of his foreign policy' (Owen 1994:116). In Sri Lanka, though, there seems to have been more emphasis on eliminating difference, similar to that involved in the creation of European states: competing Sinhalese and Tamil nation-forming projects have worked against each other (Uyangoda 2008:17).

The civil war could be understood as the actions of an elected government trying to consolidate its national identity both internally and externally (Uyangoda 2008:17). Prior to this conflict, when the Norwegian peace was breaking down, some voices had even called for the international community to take a step back and allow one side to win (Bouffard; Carment 2006:173 referencing Edward Luttack). The international community could have intervened in Sri Lanka, as it has most recently in Libya, to limit the extent of the 2009 conflict, but it didn't.[41] It seems hypocritical to step in and demand accountability after the event: Sri Lankan politicians even claim it could be counterproductive and disrupt the fragile peace that exists.[42] However, in liberal peacebuilding initiatives the need to reinstate the rule of law by an accountability process after the fact is considered fundamental for lasting peace, so an inquiry is advised.[43] This adds weight to the argument that the West pursues a human rights agenda to imagine itself as better, or to pursue power, rather than as a way to pursue and implement real changes towards the universal 'better' on the ground. The Norwegian peace process, for example, has been widely seen as an opportunity for Norway to create its identity on the international stage: creating itself as more powerful (Höglund; Svensson 2011:66. Palihapitiya 2007:4). The application of universal human rights and liberal peacebuilding in Sri Lanka looks like a failed experiment (Goodhand, Korf 2008:13). However, despite these failed peacebuilding projects, Western voices in the international community still view the situation post-2009 in terms of liberal rights and opportunities for peacebuilding, particularly emphasising the need for reconciliation to consolidate the fragile peace.[44]

However, Sri Lankan politicians, and even the UN in the past, understood the conflict as part of the global "war on terror" (Wickramasinghe 2008:194).[45] If the state was engaged in a legitimate war on terror, trying to protect itself and its citizens, then this judgement of its actions is harder to criticise as other UN states have similarly ignored human rights norms in the

'war on terror' (Kumar 2006:777).[46] America, for example, has practiced torture and taken part in 'illegal' wars for the same end: peace.[47] Some have claimed that the GOSL could do little but try and prevent the deaths of civilians in a war where, ultimately, any and all Sri Lankan Tamils could pose a security threat: the LTTE has used male, female and child soldiers and suicide bombers (Hoole 2009:123) and the LTTE's use of civilians as human shields may have unavoidably put them in the firing line (Orjuela 2011:91).[48] It is unclear why the means justify the ends for some powers and not others. This seems to show a potential for the use of human rights discourse to protect a certain political agenda. Rather than being a neutral, universal language it is vulnerable to use by the powerful to support their own power and privilege to act as they see fit, free from the threat of damaging criticism in the international community. In this way intervention in Libya and Iraq seems viable, while the actions of the Sri Lankan state to secure its own power in its territory are not – though the brutal methods and the potential danger to civilians is not that different to those found in the wars in Iraq and Afghanistan,[49] where one side has an equally large technological advantage to that of the GOSL over the LTTE in 2009.[50]

Trapped by the hegemonic claims of universal human rights, and the interventions this justifies, the West is unable to imagine a legitimate alternative form of governance to liberal democracy and human rights protection. China's

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legitimacy as a nation-state is undermined by the West's view of it as a power that fails to uphold human rights, and the now closer relationship between Sri Lanka and China is viewed with suspicion by human rights advocates.[51] Further, where the state has been seen to work actively against and in violation of citizen's rights it seems inevitable that human rights will dominate Western conceptions of how to resolve the conflict (Goonatilake 2006:193-195).[52] As human rights norms have widened into a global moral force of individuals acting for other individuals (Hopgood 2006:vii), so too the need to protect individuals from states has widened to excuse the preventative use of influence over governments seen to be failing, and even direct interventions such as those in Iraq, Afghanistan and Kosovo (Goodhand, Korf 2008:4). These interventions are justified by the acceptance of human rights as a universal that can and must be protected, despite the challenges such protection raises to state sovereignty and the right to self determination.

Such protection efforts are supposed to be undertaken by neutral non-state organisations, such as the UN, and this neutrality is the basis of their legitimacy. However, how neutral bodies like the UN, and others involved in peacebuilding efforts in Sri Lanka, have actually been is less clear (Goodhand *et al* 2009:684). This is because human rights can never be the apolitical, universal language it is widely understood as in the liberal West, as it inevitably contains, and therefore promotes, a specific agenda, meaning it is not neutral in effect (Bandarage 2008:213). In the 2009 escalation of the conflict the affect of this agenda was that INGOs and other non-state actors were excluded, so aid was not made available to civilian victims,[53] probably at least partly because the GOSL did not trust INGOs to behave neutrally in the situation.[54] Aid has also been tied to the fulfilment of human rights agreements (Wickramasinghe 2009:63) meaning it is withheld from those it is designed to help, paradoxically in order to help them.

Further, INGOs have not been seen as neutral in their representation of the conflict: some analysts have pointed to the way in which they ignored or overlooked LTTE abuses and concentrated more on GOSL ones (Hoole 2009:130). This may, to an extent, be justified by the fact that, though the LTTE has perpetrated abuses, it is not a democratically elected government, which makes the abuses perpetrated by the Sri Lankan state look worse by comparison.[55] However, if human rights are a universal value, and INGOs are neutral, then any transgression should be equally highlighted and punished.[56] Further, INGOs and the international community did not take the violence of the LTTE's internal power struggles seriously enough, and the way this worked to confuse legitimate dissent with paramilitary actions (Hoole 2009:131) idealising the LTTE as a liberation army rather than a paramilitary, even terrorist, organisation.[57]

This effect may have been intensified, and the conflict prolonged, by the actions of the Sri Lankan Tamil diaspora: by funding and publicising the conflict they have kept the LTTE's struggle in the international eye, generated funds for it, and helped to create an impression of the LTTE as a body engaged in a legitimate struggle (Wayland 2004:418). This has worsened the situation as analysts and contemporary voices in Sri Lankan politics feel that the GOSL and the Sri Lankan people have forgotten that the LTTE does not speak for the Sri Lankan Tamils as a united group,[58] and instead understands it as the only legitimate voice of the Sri Lankan Tamils (Wayland 2004:416). This may explain the way the GOSL continues to target Sri Lankan Tamils, seemingly innocent of any crime except their ethnicity.[59] Sri Lankan Tamils, though, are not a united group, but have disparate concerns, and many of the LTTE's human rights abuses were atrocities committed against dissenting voices inside the Sri Lankan Tamil community rather than against Sinhalese targets (Hoole 2009:122, 131). The inability of peace activists in the 1990s to grasp the true nature of the conflict has also contributed to this problem: their treatment of the LTTE as a force that could and should be included in the democratic process reproduced the LTTE's demands as reasonable, giving them credence and legitimacy through this recognition by outside actors (Hoole 2009:128). This also raised the LTTE to the level of leaders and defenders of the Tamil people in the international imagination, when actually they showed totalitarian tendencies.[60] Through failing to understand the actual nature of the LTTE the international community has given them recognition and legitimacy on the international stage.[61] Hence the LTTE felt justified in requiring the GOSL to treat it as an equal actor in peace negotiations, even during the negotiation of the first externally managed ceasefire: the Indo-Sri Lanka Accord (Tambiah 1992:79).

## Conclusions

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The hegemonic nature of Western universal ideals in international discourse means that international organisations and INGOs cannot imagine the possibility that not everyone is simply the same underneath, and that 'human' refers to a variety of viewpoints and realities, not one underlying universal experience. The international community is fixated on the protection of human rights, and sees only one route to do this: the expansion of liberal democracy. Human rights legitimate most interventions and peace initiatives, and the excuse of protecting civilians from their own governments/states owes much to the way human rights as a political language has created a global consciousness and responsibility to protect.

It is important to interrogate human rights and their universal claims because this will aid a more nuanced understanding of the real power structures at work in the international relations between states. If this is not done then IR risks the production of flawed theories from positions of blinkered abstraction. There is a need for IR theorists to recognise their role in constructing the world of the international, meaning they should 'write carefully' (Scott 1999:160). There is 'no view from nowhere' (Smith 2004:500) and there is no view that goes nowhere; all theories, flawed or not, have some effect if they gain attention. Theorists should be more comprehensive, careful and wide-eyed in their analysis of the world. Their inability to imagine a way forward that is not liberal and democratic, and their inability to include difference, combined with a pursuit of homogeneity in a world filled with particular realities, has caused and perpetuated violence. Theory has become trapped in the teleology of the end of history.

There is a need for understanding rather than explanation, which might find alternatives to the 'liberal-modernist imaginary' (Gruffydd Jones 2006:9), finding other ways forward, or at least exploring them as viable alternatives. Part of this would be a more open recognition of processes of adaptation and change through seeing how far things have changed already: human rights is not a timeless, apolitical discourse but the product of a certain time and viewpoint. It should pass or change, just as other political ideals and languages have, but, by insisting on universality, its ability to adapt, change and be more useful in understanding the world is limited (Moyn 2010:226-27).

The way in which Western governments failed to act during the Sri Lankan conflict in 2009, means that their post-conflict search for accountability rings hollow. Accusations of neo-colonialism seem well-founded in the light of the inconsistent application of apparently universal human rights in disparate contexts. The West's interest in propagating and disseminating liberal democratic models globally, produced the conditions for conflict to break out in Sri Lanka. The liberal insistence on human rights, and the protection of democracy as their best defence, has perpetuated this conflict. The conflict was ended by the actions of the GOSL, but the GOSL's methods did not fit with liberal peacebuilding objectives and norms, nor has it capitulated to international pressure to conform to human rights norms since the end of the violence. Thus the Western dominated international community has 'othered' and rejected the Sri Lankan state. This, ultimately, damages human rights and their promotion, as it alienates Sri Lanka, identifying human rights with neo-colonial influence in the postcolonial world, rather than as something relevant and worthy of defence.

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## Appendix

An image used in a German human rights campaign: the caption translates as “Oppressed women are easily overlooked. Please support us in the fight for their rights.”

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<http://muslimahmediawatch.org/2011/04/just-ugh/> (accessed 14/04/11).

[1] This is a vague term, but for the purposes of this dissertation I will define it as efforts on behalf of the international community to limit conflict before, during and after the fact and 'go beyond shorter-term peacekeeping to include elements of longerterm postconflict economic, social, and political development" (Fortna; Howard 2008:285).

[2] <http://www.amnestyusa.org/research/human-rights-basics> (accessed 07/09/11).

[3] <http://www.amnesty.org/en/who-we-are/accountability/statute> (accessed 07/09/11).

[4] <http://www.un.org/en/documents/udhr/index.shtml> (accessed 23/06/11).

[5] There is a risk of conflating these terms, but this conflation is something routinely practiced by voices in the international: the difference being perhaps that a liberal democracy is understood as incorporating rights protection by the state, and not all democracies are seen as 'liberal' because of this (Zakaria 1997:22). Indeed the interest in disseminating democracy globally shows blindness to the difference between benign elite liberal rule and the realities of democracy and the increasing illiberality of many democracies (Zakaria 1997:24).

[6] Article 21.3: 'The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures' <http://www.un.org/en/documents/udhr/index.shtml>(accessed 23/06/11).

[7] 'THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.' UDHR Preamble <http://www.un.org/en/documents/udhr/index.shtml> (accessed 23/06/11).

[8] There is little questioning of their origins, source and purpose: they are accepted as 'good' (Hopgood 2006:vii).

[9] Kennedy, Helena, 'Ethics in a changing World', The Annual President's Lecture 3/3/11, SOAS, London.

[10] 'The democratic peace continues to be an empirical finding in search of an explanation' (Rosato, 2005:471).

[11] <http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Cases/> (accessed 18/08/11).

[12] Although Western states fall short of their own ideals: human rights activists also campaign to improve rights access in the West (Bell; Carens 2004:307-308).

[13] Suren Surendiran "Humanity Failed in Sri Lanka," *Guardian*, 12/07/2009: quoting Barack Obama 'when ethnic cleansing is happening somewhere in the world and we stand idly by, that diminishes us,' <http://www.guardian.co.uk/commentisfree/2009/jun/12/sri-lanka-war-crimes?INTCMP=SRCH> (accessed 02/08/11).

[14] See appendix.

[15] Aime Cesaire called this 'thingification' and it formed a central part of the colonial project (Chowdhry; Nair 2004:17). Such degradation and dehumanisation of the subject is reflected in the wider effect of human rights: to dehumanise humanity by concentrating on its most inhuman acts and aspect (Chandler 2002:231-32, 235-36).

[16] For example the right to protect the 'family' as 'the natural and fundamental group unit of society' (Article 16.3) and the right to form and belong to trade unions (Article 23.4), <http://www.un.org/en/documents/udhr/index.shtml>

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(accessed 23/06/11).

[17] While Moyn fails to reach this conclusion (Blackburn 2011:130), and other theorists have claimed that few 'illegitimate coercive interventions' have been undertaken on human rights grounds alone (Donnelly 1995:118), recently human rights, and democracy promotion, have been used to justify intervention: David Cameron, London Conference on Libya, 29/03/11 'All our efforts must support the building blocks of a democratic society [...] human rights and the rule of law. These aren't values that belong to any one nation. They are universal.' <http://www.newstatesman.com/2011/03/libya-help-humanitarian> (accessed 04/09/11).

[18] UDHR preamble <http://www.un.org/en/documents/udhr/index.shtml> (accessed 23/06/11).

[19] US Dept. Of State, "Background Note: Sri Lanka," 06/04/2011, Bureau of South and Central Asian Affairs <http://www.state.gov/r/pa/ei/bgn/5249.htm> (accessed 06/09/11).

[20] Although it is important not to oversimplify these matching boundaries between Sinhalese Buddhists and Tamil non-Buddhists (Goodhand *et al* 2009:681). Further, the Muslim minority have been completely excluded from the notice of the international community by this more obvious clash of ethnic communities, any individuals who do not fit into either camp risks being labelled a traitor, or ignored (Orjuela 2011:97).

[21] Ethnonationalism is hard to control, often resulting in sectarian violence (Snyder; Ballentine 1996). This effect is not unique to the Sri Lankan context.

[22] Giacomelli, Daniel C., 3 January 2011, "Sri Lanka prohibits UN war crimes investigation," [http://www.opendemocracy.net/opensecurity/security\\_briefings/030111](http://www.opendemocracy.net/opensecurity/security_briefings/030111) (accessed 09/09/11) on GOSL rejection of a UN war crimes investigation into the conflict. A UN panel called the LLRC a 'political sop' (Gordon Weiss, "With Truth About Sri Lankan War Crimes Emerging, We Need A Proper Inquiry," *Guardian*, 26/04/2011, <http://www.guardian.co.uk/commentisfree/2011/apr/26/sri-lanka-war-crimes-inquiry/print> [accessed 02/08/11]) and the "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31/03/2011, called it 'deeply flawed' (p.v), [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf) (accessed 05/08/11).

[23] For example, the International Crisis Groups' Report, "Reconciliation in Sri Lanka: Harder Than Ever," 18/07/11, which gives detailed instructions to the Government of Sri Lanka, the UN and its Member States and Sri Lanka's international partners.

[24] "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31/03/2011, p. 48 [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf) (accessed 05/08/11). Also see the acceptance by the UN Human Rights Council of this label for the 2009 conflict: "Colombo Hails UN 'Diplomatic Win'," *BBC News*, 28/05/09, <http://news.bbc.co.uk/1/hi/8071661.stm> (accessed 09/09/11).

[25] "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31/03/2011, [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf) (accessed 05/08/11).

[26] Nair 2004 on the inability of the international community to affect Burma. See also Bell; Carens 2004:318 and others on the negative side-effects of aid.

[27] Members of the Tamil diaspora that supported secession were more likely to be classed as terrorists (Orjuela 2011:103).

[28] "In the context of an elitist peace process, excluded political elites and socially excluded intermediate

Sinhalese classes came together in vocal opposition to the peace process, the government, and the international actors, bringing down the government at the general elections in 2004." (Stokke 2009:937).

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[29] "Hardliner wins Sri Lanka election," *BBC News*, 18/11/2005, [http://news.bbc.co.uk/1/hi/world/south\\_asia/4447794.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4447794.stm) (accessed 08/09/11).

[30] Donors supported pro-peace governments (Stokke 2011:2).

[31] "Sri Lanka's Killing Fields," 2011 [TV documentary] Channel 4, 14/06/11. Directed by Callum Macrae: testimony of Gordon Weiss, former UN spokesman in Sri Lanka. See also Sam Zarifi, 15/06/11, "Sri Lanka: Confronting the Killing Fields," <http://livewire.amnesty.org/2011/06/15/sri-lanka-confronting-the-killing-fields-2/> (accessed 31/08/11).

[32] "Sri Lanka's Killing Fields," 14/06/11: the title is a reference to the Cambodian genocide. The Sri Lankan Tamil diaspora termed it genocide in their global protests (Orjuela 2011:91). See also Peter Bouckaert, Human Rights Watch Emergencies Director, "Uncovering Sri Lanka's War Crimes," *Guardian*, 21/01/10, <http://www.hrw.org/news/2010/01/22/uncovering-sri-lankas-war-crimes> (accessed 11/09/11).

[33] Castillejo, Clare, "Sri Lanka: the Failure of EU Human Rights Sanctions," FRIDE Policy Brief, 63, January 2011, [www.fride.org/download/PB63\\_Sri\\_Lanka\\_Eng.pdf](http://www.fride.org/download/PB63_Sri_Lanka_Eng.pdf) (accessed 26/06/11).

[34] [http://www.europa-eu-un.org/articles/fr/article\\_9505\\_fr.htm](http://www.europa-eu-un.org/articles/fr/article_9505_fr.htm) (accessed 14/08/11).

[35] Farah Mihar, Minority Rights Group International, speech at the Minority Voices Conference, Budapest, May 2010 [http://minorityvoices.org/news.php?action=view&id=452&media\\_id=1397](http://minorityvoices.org/news.php?action=view&id=452&media_id=1397) (accessed 15/08/11).

[36] Borger, Julian, "A no-fly zone over Libya? The case for and against," *Guardian*, 15/03/11, <http://www.guardian.co.uk/world/2011/mar/15/no-fly-zone-over-libya> (accessed on 15/08/11): 'By upholding the principle of the international community's responsibility to protect civilians around the world, a no-fly zone will deter other embattled dictators from massacring their opponents as a way of clinging to power.'

[37] "Sri Lanka: No Enquiry Zone," editorial, *Guardian*, 27/04/11, <http://www.guardian.co.uk/commentisfree/2011/apr/27/sri-lanka-inquiry> (accessed 12/06/11).

[38] Callum Macrae, "Lifting the Lid on Sri Lanka's War Crimes," *Guardian*, 13/06/11, <http://www.guardian.co.uk/commentisfree/2011/jun/13/sri-lanka-war-crimes> (accessed 28/07/11).

[39] The creation of the community of a state is by definition one of inclusion and exclusion as the 'other' or 'outside' is identified though the labelling of what constitutes the 'inside' (Bloemraad *et al* 2008:156).

[40] Lischer, Sarah K., "Voices of the Living, Voices of the Dead: Narratives of Atrocity and Post-Conflict Peace Building," SOAS, University of London, 15/07/2011.

[41] This was despite world-wide protests among the Sri Lankan Tamil diaspora calling on the UN to intervene (Orjuela 2011:91).

[42] [http://www.srilankahighcommission.co.uk/index.php?option=com\\_content&view=article&id=124:false-allegations-will-be-laid-to-rest-with-the-factual-analysis-report-secretary-defence-&catid=1:news&Itemid=95](http://www.srilankahighcommission.co.uk/index.php?option=com_content&view=article&id=124:false-allegations-will-be-laid-to-rest-with-the-factual-analysis-report-secretary-defence-&catid=1:news&Itemid=95) (accessed 02/08/11). Although the Secretary of Defence has a vested interest in preventing an investigation that would undoubtedly indict him, hence the widespread condemnation of the LLRC, such as "When Will They Get Justice? Failures of Sri Lanka's Lessons Learnt and Reconciliation Commission," Amnesty International Report, 07/09/2011, [http://www.amnesty.org.uk/uploads/documents/doc\\_21824.pdf](http://www.amnesty.org.uk/uploads/documents/doc_21824.pdf) (accessed 07/09/11). Elaine Pearson, "There Must Be An Authoritative Sri Lankan War Crimes Inquiry," *Guardian*, 26/11/10 <http://www.guardian.co.uk/commentisfree/2010/nov/26/sri-lanka-war-crimes-inquiry?INTCMP=SRCH> (accessed 02/08/11).

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- [43] International Council on Human Rights Policy, "Negotiating Justice? Human Rights and Peace Agreements," 2006, p.75, [http://www.ichrp.org/files/reports/22/128\\_report\\_en.pdf](http://www.ichrp.org/files/reports/22/128_report_en.pdf)(accessed 31/08/11).
- [44] "Sri Lanka's Killing Fields," 14/06/11. "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31/03/2011, p.75, [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)(accessed 05/08/11).
- [45] "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31/03/2011 [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)(accessed 05/08/11) p. 12 for how it was linked to the US "war on terror" and p. 13 for the international recognition of Sri Lanka's right as a sovereign state to pursue counter-terrorism in its territory.
- [46] Sri Lanka has recently introduced anti-terror legislation ("Sri Lanka Introduces New 'Anti-Terror' Legislation," *BBC News*, 31/08/11, <http://www.bbc.co.uk/news/world-south-asia-14735405> [accessed 07/09/11]) not that dissimilar to British anti-terrorism laws ([http://www.amnesty.org.uk/news\\_details.asp?NewsID=15061](http://www.amnesty.org.uk/news_details.asp?NewsID=15061) [accessed 07/09/11]).
- [47] "Iraq War Illegal, Says Annan," *BBC News*, 16/09/04 <http://news.bbc.co.uk/1/hi/3661134.stm> (accessed 07/09/11).
- [48] "Sri Lanka's War-Fighting Seminar: The Heavy Guns Stayed Silent," 3/06/2011, *The Economist*, <http://www.economist.com/blogs/banyan/2011/06/sri-lankas-war-fighting-seminar>(accessed 27/06/11).
- "LTTE's trapping of civilians, most shocking violation of international law," 03/03/2009, *Sri Lanka Guardian* <http://www.srilankaguardian.org/2009/03/lttes-trapping-of-civilians-most.html>(accessed 07/09/11).
- [49] Although high profile rape and torture cases have been investigated in Iraq and Afghanistan, while the evidence of the 'war crimes' of GOSL soldiers in the documentary "Sri Lanka's Killing Fields," 14/06/11 has not been accepted or acted on by the GOSL. Tran, Mark and agencies, "Sri Lanka Rejects UN Execution Video Claims," *Guardian*, 08/01/10, <http://www.guardian.co.uk/world/2010/jan/08/sri-lanka-rejects-un-execution-video-claims> (accessed 12/09/11).
- [50] "Sri Lanka's Killing Fields," 14/06/11, criticises the fact that the GOSL army had greater resources than the LTTE, without making clarifying why it is wrong for the state government to have more defence resources than a non-state military body.
- [51] Clare Castillejo, "Sri Lanka: the Failure of EU Human Rights Sanctions," FRIDE Policy Brief, 63, January 2011, [www.fride.org/download/PB63\\_Sri\\_Lanka\\_Eng.pdf](http://www.fride.org/download/PB63_Sri_Lanka_Eng.pdf) (accessed 26/06/11).
- [52] Criticism on the grounds of lack of press freedom, disappearances and other totalitarian practices has been levelled: DeVotta 2009:1042-43, Matthews 2009/10:577, Human Rights Watch Country Report: Sri Lanka, January 2011 [http://www.hrw.org/sites/default/files/related\\_material/srilanka\\_4.pdf](http://www.hrw.org/sites/default/files/related_material/srilanka_4.pdf) (accessed 01/09/11).
- [53] Tran; Chamberlain, "Red Cross Forced to Suspend Aid to Civilians in Sri Lankan Former War Zone," *Guardian*, 20/05/09 <http://www.guardian.co.uk/world/2009/may/20/red-cross-unrestricted-access-sri-lanka>(accessed 08/09/11).
- [54] Increasingly INGOs face accusations of partiality, and even direct violence, because they are no longer understood as neutral: they have become inextricably linked to the invasive outsider of the 'humanitarian intervention' (Bell; Carens 2004:319).
- [55] Surendiran, Suren, "Humanity Failed in Sri Lanka," *Guardian*, 12/06/2009: 'atrocities perpetrated by both sides

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have been condemned equally, even though one side is a state signed up to various international conventions and charters. The other is a terrorist organisation’.

[56] “Sri Lanka’s Killing Fields,” 14/06/11, Steve Crawshaw, International Advocacy Director, Amnesty International: “crimes by one side don’t give *carte blanche* to the other side”.

[57] Although ‘terrorist’ can be an unhelpful label – see Sriskandarajah 2005 for defence of the LTTE as a political project rather than a terrorist organisation.

[58] Chandrika Bandaranaike Kumaratunga, “Justice Palakidnar Memorial Oration: Economic Development, Inclusive Societies and Peace,” Justice Palakidnar Memorial Oration, Colombo, Sri Lanka, 24/07/2011: ‘the Sinhala community must comprehend that the Tamil civil community is different to the LTTE – which is an extremist outgrowth of the long unresolved Tamil problem’ <http://blogs.geegain.com/post/16862/justice-palakidnar-memorial-oration-economic-development-inclusive-societies-and-peace>(accessed 04/08/11).

[59] Asian Human Rights Commission Report, 26/08/11, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-148-2011>(accessed 02/09/11).

[60] Hoole accuses the LTTE of imprisoning, not representing, the Sri Lankan Tamils and states that grass roots activists in Sri Lanka feared an impending human rights disaster unless human rights were included in the peace process (2009:129). Civilians died under government fire in 2009 because the LTTE used them as human shields (Orjuela 2011:91).

[61] INGO interaction risks giving legitimacy to those they cooperate with (Bell; Carens 2004:322).

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Written at: SOAS, University of London  
Written for: Mark Laffey, MSc dissertation  
Date written: 15/09/2011