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Mini
Negotiation
Simulation



SRI LANKA: TRANSITIONAL JUSTICE

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LAWYERING PEACE

Mini-Negotiation Simulation

Sri Lanka Transitional Justice

The purpose of this negotiation is to identify and address the complex challenges related to providing for transitional justice in post-conflict states. The intention is to explore the potential points of agreement or disagreement among the negotiating parties. Through the simulation, the participants will debate their positions, learn negotiation techniques, identify points of conflict, and discuss potential solutions.

The simulation will tee up the conversation in the remainder of the class time focusing on the question of providing for transitional justice in peace agreements, and draw from the relevant chapter in *Lawyering Peace* as well as the supplementary material, if any, provided on the class website.

The Sri Lankan Civil War was a decades-long conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE), seeking an independent Tamil state in the northern and eastern parts of Sri Lanka. The war resulted in widespread human rights violations, displacement, and loss of life on both sides. After years of negotiation and a final military offensive, the conflict ended with the defeat of the LTTE. Now, as the country moves towards peace, the focus shifts to establishing mechanisms of transitional justice to address the past atrocities and promote reconciliation among the different ethnic groups.

Parties

- Government of Sri Lanka
- Tamil Minority Leaders
- International Mediators

Time Allotted: 45 minutes

Instructions: Prior to negotiations, each delegation will meet for 5 minutes to discuss negotiation strategies and their positions with respect to transitional justice in Sri Lanka. You may assume that any other issues are on the agenda for a later session and will be addressed in subsequent negotiations.

Agenda

- Individual Delegation Meetings (5 minutes)
- Plenary (15 minutes)
- Individual Delegation Meetings (5 minutes)
- Plenary (20 minutes)

Conflict Background

Sri Lanka is an island nation in South Asia with a diverse population comprising various ethnic and religious groups. The majority Sinhalese community and the minority Tamil community are the two most prominent ethnic groups. Tensions between these communities arose due to historical grievances and perceived inequalities.

The conflict escalated in the early 1980s when the Liberation Tigers of Tamil Eelam (LTTE), a militant separatist group seeking an independent Tamil state called Tamil Eelam, initiated an armed insurgency against the Sri Lankan government. The LTTE, often referred to as the Tamil Tigers, used both guerrilla tactics and conventional warfare.

The civil war resulted in widespread violence, including terrorist attacks, suicide bombings, and military operations by both the Sri Lankan armed forces and the LTTE. Human rights abuses, including forced disappearances, extrajudicial killings, and displacement of civilians, were reported from both sides. The international community grew concerned about the escalating violence and human rights violations. Attempts were made to mediate and broker peace talks, but these efforts often faltered due to mistrust and continued violence.

The civil war came to a dramatic end in 2009 when the Sri Lankan government launched a major offensive against the LTTE-held territories. The government declared victory in May 2009, effectively eliminating the LTTE leadership. However, the end of the conflict was marked by allegations of war

crimes and atrocities committed by both sides (See Reuters Article as Annex 1 for a summary of the brutal end of the conflict).

After the conflict, Sri Lanka faces the challenge of reconciliation, justice, and reconstruction. The Tamil community is seeking accountability for war crimes and justice for victims. The government has struggled to address these issues while also focusing on rebuilding the war-ravaged areas.

- *Ethnic Tensions*: The ethnic tensions were fueled by disparities in economic, social, and political opportunities between the Sinhalese and Tamil communities. Tamils often claimed discrimination by the Sinhalese-majority government in terms of jobs, education, and representation.
- *Language Policies*: Language policies that favored Sinhala over Tamil aggravated these tensions, as the Tamil-speaking population felt marginalized and their cultural identity threatened.
- *Nationalism*: Growing Sinhalese nationalism, driven by a desire to preserve the cultural and political dominance of the Sinhalese community, further intensified ethnic divisions.

Issue for Negotiation

The primary point of contention in this round of negotiations is the proposal by the LTTE to create an international tribunal to prosecute those responsible for atrocity crimes committed during the war in Sri Lanka, and in particular to prosecute the alleged crime of genocide. The parties must decide on whether they will create a tribunal, or use domestic courts, or enact a blanket amnesty, or some other mechanism of “transitional justice”. If they agree upon a mechanism they must outline the mandate and composition of that mechanism.

Party Positions

Government of Sri Lanka Delegation

Key Considerations:

- Upholding national sovereignty by resisting the internationalization of transitional justice.
- Avoid the creation of an accountability mechanism given that key potential defendants remain members of the Government and the

military; and that nearly all the key Tamil potential defendants were killed in the war.

- Avoid a long drawn out truth process that might undermine the legitimacy of the government and counter the narrative of a humanitarian victory over the LTTE.

Goals:

- Utilize the domestic criminal courts for any atrocity crime prosecutions.
- Establish a lite truth and reconciliation commission to promote healing and dialogue.
- Propose reparations for victims while considering economic feasibility.
- Advocate for a general forgive and forget amnesty approach, e.g. the Spanish model.

Tamil Minority Leaders Delegation

Key Considerations:

- Seeking justice for Tamil victims and acknowledgment of their suffering.
- Safeguarding the rights and autonomy of the Tamil minority.
- Ensuring fair representation in transitional justice mechanisms.

Goals:

- Advocate for the establishment of an international tribunal for war crimes.
- Push for comprehensive reparations for victims, especially in Tamil-majority areas.
- Support the idea of a non-amnesty based truth commission, but emphasize the importance of recognizing Tamil grievances.

International Mediation Team

Key Considerations:

- Striking a balance between international justice norms and local needs.
- Fostering cooperation between the Government of Sri Lanka and the Tamil minority.

- Ensuring the credibility and effectiveness of transitional justice mechanisms.

Goals:

- Facilitate negotiations and bridge the gap between the two delegations.
- Recommend a hybrid tribunal combining international and domestic elements for accountability.
- Emphasize the importance of victim participation and consultation in the design of mechanisms.

Additional Resources - Not Required Reading

United Nations Office of the High Commissioner for Human Rights (OHCHR) - Sri Lanka: [OHCHR Sri Lanka](#)

International Center for Transitional Justice (ICTJ) - Sri Lanka: [ICTJ Sri Lanka](#)

Human Rights Watch - Sri Lanka: [Human Rights Watch - Sri Lanka](#)

International Crisis Group - Sri Lanka: [International Crisis Group - Sri Lanka](#)

Asia Justice and Rights - Sri Lanka Transitional Justice Case Study: [AJAR Sri Lanka Case Study](#)

The Sri Lanka Campaign for Peace and Justice: [Sri Lanka Campaign](#)

Transitional Justice Database - Sri Lanka: [Transitional Justice Database - Sri Lanka](#)

BBC News - Sri Lanka Profile: [BBC News - Sri Lanka Profile](#)

Annex 1: Over 20,000 said dead in Sri Lanka rebels' defeat
By Reuters Staff May 29, 2009

LONDON (Reuters) - More than 20,000 Tamil civilians were killed in the final days of Sri Lanka's military operation to defeat Tamil Tigers rebels, The Times newspaper reported on Friday.

Sri Lanka's authorities say their forces stopped using heavy weapons on April 27 in a no-fire zone where an estimated 100,000 Tamil civilians were sheltered and blame civilian casualties on rebels hiding among the civilians, the paper said.

Citing confidential U.N. documents it acquired, The Times said the civilian death toll in the no-fire zone soared from late April, with around 1,000 civilians killed daily until May 19. That was the day after Vellupillai Prabhakaran, leader of the Liberation Tigers of Tamil Eelam (LTTE), was killed.

The final civilian death toll could be more than 20,000, said the paper. U.N. High Commissioner of Human Rights Navi Pillay has said the LTTE recruited child soldiers and used civilians as human shields during the conflict, while the military had indiscriminately shelled areas packed with civilians. Both sides have denied the allegations.

Sri Lanka has called a Western-led push for a rights and war crimes probe hypocrisy and a violation of its right to destroy the LTTE, which is listed as a terrorist organization by more than 30 countries.

The United Nations estimates that between 80,000 and 100,000 people died in what was one of Asia's longest modern wars, erupting in earnest in 1983 when the Tigers began to fight for a separate state for Sri Lanka's minority Tamils.
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