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Maintaining Democratic Space in the Public Sphere

A Strategy for Sri Lankan Civil Society

Nishan de Mel, Gehan Gunatilleke & Sumith Chaaminda

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AUTHOR PROFILES

Nishan de Mel, Economist, B.A. (Hons) (Harvard), M.Phil. (Oxon), D.Phil. (Oxon) has held several governing, teaching and research positions, including as a lecturer in Economics at Oxford University. In Sri Lanka, he has served on the Presidential Committee on Tobacco and Alcohol, the National Steering Committee on Social Security and the Presidential Task Force on Health Sector Reform. Nishan is currently the Executive Director of Verité Research.

Gehan Gunatilleke, Attorney-at-Law, LL.B. (Hons) (Colombo), LL.M. (Harvard) is currently the Research Director at Verité Research. He teaches post-graduate courses in human rights, democratisation and development offered by the University of Sydney, the University of Colombo and the Open University of Sri Lanka. He is the author of 'The Right to Information: A Guide for Advocates' (SLPI/UNESCO: 2014) and a contributing author of 'Embattled Media: Democracy, Governance and Reform in Sri Lanka' (Institute of Commonwealth Studies: 2015).

Sumith Chaaminda, Political Scientist, B.A. and M.A. in Politics (Colombo), and Diploma in Federalism and Conflict Resolution (Fribourg, Switzerland) is Head of Politics at Verité Research. He has taught politics for the past decade at multiple Sri Lankan universities and regularly won fellowships at universities abroad. Sumith was also a researcher at the International Centre for Ethnic Studies (ICES) and has written in the Sinhala press regularly for the past decade. He is currently teaching Critical Theory at the Sri Palee campus, and a post-graduate course on Media Studies at the University of Colombo.

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EXECUTIVE SUMMARY

Civil society in Sri Lanka has maintained a complex relationship with political society. Over the years, the nature and extent of civil society space has been determined by the policies and ideologies dominant in the political sphere. Accordingly, transitions of power have been accompanied by radical transformations of civil society space. During the past decade, 'nationalist' civil society organisations (CSOs) enjoyed considerable space under the Mahinda Rajapaksa government. Most recently, the January 2015 victory of President Maithripala Sirisena, in which a wide cross-section of civil society actors played a decisive role, has regenerated space for 'liberal democratic' CSOs. The new political dispensation under the Sirisena–United National Party (UNP) government, following the August 2015 general election, has also proven conducive to the activity of liberal democratic CSOs.

The characteristic shifts in civil society space in light of political transitions point to three factors that determine the space for CSO activity on liberal and democratic issues:

1. **Patronage of powerful actors within government and political society.** The activity of liberal democratic CSOs is often conditional on the political patronage afforded to them. This factor also serves to discourage CSOs from criticising political actors or patrons perceived as being ideologically aligned.
2. **Public support, which doubles as a potential voter base for political actors.** This factor imposes political costs on actors seeking to restrict a CSO's activity, and incentivises their accommodation, or even the extension of open support. Liberal democratic CSOs have yet to develop sufficiently large public support bases to produce this incentive in the way nationalist CSOs have. Moreover, a strong liberal democratic discourse, within which such a support base can be built, is currently absent.
3. **International pressure on the government.** This factor contributes to a reluctant accommodation of certain 'high-profile' liberal democratic CSOs by the government, given the risks of international scrutiny and censure in the event of a crackdown on these CSOs. However, most CSOs lack the capacity to directly engage the international community. Moreover, international networks can become ineffective when the government is no longer responding to international pressure.

Liberal democratic CSOs that supported both Sirisena's campaign in January 2015 and the UNP's campaign in August 2015 are now faced with an existential crisis. Their current challenge is to evolve into a movement independent of political patronage. Accordingly, this paper suggests three strategic recommendations on how liberal democratic CSOs could secure more sustainable operational space in Sri Lanka.

Changing structures of engagement and influence

CSOs working on liberal and democratic issues must capture wider public support. This requires reimagining CSO structures to ensure more 'immersed' engagements at the community level to relate liberal and democratic issues to ordinary civilian life. The experience of the Indian Right to Information (RTI) campaign at the community level is worth studying further and replicating to the extent possible. Moreover, in order to establish an enabling environment for liberal and democratic engagements, broadening and

preserving an independent common space for public reasoning—through debates, discussions and dialogues on issues—is essential.

Working on tangible public issues

In the absence of ideological resonance, liberal and democratic discourses must relate to the day-to-day concerns and challenges of the people. Interventions on particular strategic issues are likely to create opportunities for liberal and democratic values to 'make sense' in terms of the public's thinking, and contribute to the development of these ideas in the public sphere. Three thematic interventions may be considered: rights to basic needs (such as water, housing and sanitation), socioeconomic rights issues (such as health and education) and the right to information.

Diversifying funding portfolio

Over-reliance on short-term donor funding leaves CSOs unable to engage in longer-term immersive public engagements that spread ideas and generate support bases for liberal and democratic values. Liberal democratic CSOs can explore two strategies in this regard. First, they could focus on convincing the donor community to extend core funding support, and also support long-term initiatives. Second, they could diversify their funding portfolios by developing local funding models to finance long-term initiatives. Such strategies will also help build greater local ownership of their activities.

Image courtesy of http://srilankabrief.org/2014/03/

BACKGROUND

Civil society actors in Sri Lanka can be described in terms of three strands. The first concerns 'Development-oriented' CSOs that design and deliver development programmes. 'Discourse-oriented' CSOs, which focus on specific issues usually of a public nature, constitute the second and third strands. Discourse-oriented CSOs may be classified in terms of their objectives and ideological leanings. One sub-group of such CSOs pursues liberal and democratic objectives, while the other pursues particular member-driven agendas. Sri Lankan CSOs falling within these three distinct strands have faced differing conditions over the years. Their freedom to function has largely depended on the government's policies, ideologies and tolerance towards dissent.

9 January 2015 marked the beginning of a fresh context for Sri Lankan civil society actors pursuing liberal and democratic ends. The new political dispensation under the Maithripala Sirisena—United National Party (UNP) government held the promise of much greater space for CSOs working on issues such as good governance, the rule of law, equitable development, peace and reconciliation and the promotion and protection of human rights. This promise has been further extended following the results of the General Election of August 2015.

Two factors may explain this ostensible alliance between the new government and CSOs working on liberal and democratic issues. First, there may be relatively greater ideological agreement between powerful actors within the present government and CSOs working on such issues. Second, the significant public campaigning by these CSOs for the transition from the Mahinda Rajapaksa government to the present one may have earned it the space it now enjoys.

These factors reflect the complex interrelationship between 'political society' and 'civil society' in Sri Lanka and signal the extent to which the former shapes the space and form of the latter. Political theoretician Antonio Gramsci describes political society as a sphere in which political institutions (such as law enforcement agencies and public authorities) and legal constitutional control exist and operate.[1] However, he argues that the distinction between political society and civil society is mostly conceptual, and that they often overlap to create hegemonic structures. He observes that politics is not a 'one-way process of political management' but, rather, that the activities of CSOs, political parties and state institutions condition each other.[2]

Understanding this interrelationship is critical in assessing the sustainability of an enabling democratic space for CSOs, given the possibilities of future political transitions. In this context, a critical question arises: is it possible for CSOs advancing liberal and democratic ends to maintain their space notwithstanding political transitions? This paper presents a thought process on how maintaining such space might be possible. It examines the strengths and weaknesses of CSOs working on liberal democratic issues, and proposes a strategy to maximise current opportunities and overcome future threats to maintaining democratic space.

This paper is presented in three parts. The first seeks to frame the issues at stake by mapping CSOs in Sri Lanka and explaining their complex relationship with political society. The second part analyses the driving factors that determine the sustainability of democratic space within which CSOs operate in Sri Lanka. The third part presents recommendations on how CSOs ought to respond to these driving factors and strategise in terms of maintaining democratic space, notwithstanding future political transitions.

UNDERSTANDING CIVIL SOCIETY

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Definitions

The definition and conceptual understanding of civil society has evolved significantly over time. G.W.F. Hegel's early conception of civil society focused on the interaction between the 'particularity' of the family and the 'universality' of the state. He argued that the combination of the two permitted the modern state to actualise freedom.[3] Political philosophers such as Karl Marx subsequently revised the Hegelian understanding of civil society to include economic activities of individuals. The later understanding of civil society—as a sphere of societal activism at the interface of state and marketplace—therefore amounted to a deviation from these early conceptions of civil society. As liberal political thought gained momentum, an understanding of civil society as a non-political space began to crystallise. Civil society became conceptually separate from political society.[4] Thus the idea that CSOs were essentially 'non-governmental' was eventually entrenched.

A broad definition for the term 'civil society organisation' was presented at the 16th Annual Johns Hopkins International Fellows in Philanthropy Conference. This definition is currently adopted by the Global CSO Sustainability Index. According to this formulation, CSOs are defined as:

> Organisations, whether formal or informal, that are not part of the apparatus of government, that do not distribute profits to their directors or operators, that are self-governing, and in which participation is a matter of free choice.[5]

Both member-serving and public-serving organisations are included in this definition. Moreover, under this definition CSOs can take the form of 'private, not-for-profit health providers, schools, advocacy groups, social service agencies, anti-poverty groups, development agencies, professional associations, community-based organisations, unions, religious bodies, recreation organisations, [and] cultural institutions'.[6] The present paper adopts this broad definition, and proceeds on the basis that any non-governmental and non-profit organisation broadly falls within the ambit of 'civil society'.

Meanwhile, functional definitions of CSOs have been presented to explain the vital role they play in trans-

The terminology of 'civil society activism' emerged in Sri Lanka during the late 1980s and early 1990s when a number of non-governmental organisations (NGOs) were set up and expanded.

forming the status quo. In this context, CSOs may be divided into two broad classes: (1) development-oriented CSOs, and (2) discourse-oriented CSOs.[7] These CSOs may also be classified by their geographic scope of operations i.e. national level CSOs and local or grassroots level CSOs.

The terms 'development' and 'discourse' may not always neatly fall into separate categories. For instance, broad conceptions of human development incorporate factors such as social equity and civil and political rights, which necessarily contain discourse-oriented dimensions including rights promotion and advocacy. Moreover, some CSOs, including economic and development policy think tanks such as the Marga Institute and the Centre for Poverty Analysis invariably operate within a 'development discourse' paradigm. Thus development orientation and discourse orientation cannot always be described as a dichotomy. Bearing this definitional limitation, the present paper classifies all CSOs engaging in development programming outside any discourse paradigm as 'development-oriented CSOs'. Another way of understanding such CSOs is to explain their 'support' function. These CSOs essentially support state apparati by delivering services and capacities that the state is usually expected to deliver to the public. Organisations engaging in service delivery, housing and infrastructure development, livelihoods and economic skills development, market and technological support and micro-credit fall within this category. Thus, from a functional perspective, all remaining CSOs—those that engage in research, advocacy, lobbying, mobilisation, training and capacity building—are considered to be discourse-oriented CSOs.

The geographic scope of operations is often linked to the types of work undertaken by CSOs. For instance, most development-oriented CSOs tend to have a community (mostly rural) focus. Discourse-oriented CSOs focusing on research, policy advocacy and lobbying tend to be based in urban areas, and often have a 'national' focus. These organisations coordinate their efforts with CSOs that work at the local level in areas such as community mobilisation, training and capacity building. Occasionally, certain larger CSOs, such as the National Peace Council (NPC), undertake a broad range of activities and are capable of engaging at both levels. Meanwhile, crosscutting areas such as human rights reporting have both national level and local level dimensions. Hence organisations working in such areas also tend to work at both levels.

The scope of this paper is entirely limited to discourse-oriented CSOs. The paper sets out to (a) examine the driving factors that determine the space for these types of CSOs, and (b) offer a way forward in terms of how to galvanise and maintain that space.

Discourse-oriented CSOs play a vital role in any society in terms of creating space for debate and dialogue. They also act as conduits for individuals to organise and mobilise towards transformation. These CSOs therefore occupy 'a public space between the state, the marketplace and the ordinary household, in which people can debate and tackle action'.[8] According to the World Bank, such CSOs include: 'community groups, non-governmental organisations (NGOs), labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations.[9]

The terminology of 'civil society activism' emerged in Sri Lanka during the late 1980s and early 1990s when a number of NGOs were set up and expanded. This emergence was enabled and complimented by the new global development paradigm within which dominant funding agencies preferred supporting the non-governmental sector in the Global South. As a result, in Sri Lanka, 'civil society' became a term mostly associated with NGOs that were foreign-funded. The NGOs that relied on local funding and that aligned with nationalist aims were considered to be outside the realm of 'civil society', notwithstanding the fact that they also occupied a space of citizen activism between the state and the marketplace. In other words, the predominant understanding of discourse-oriented CSOs in Sri Lanka at present appears to be biased towards foreign-funded NGOs that champion liberal and democratic values and concerns. This paper suggests that we revisit this understanding to include all actors involved in making and shaping public opinion. In this context, there are at least two main categories of discourse-oriented CSOs in Sri Lanka—namely 'liberal democratic CSOs'[10] and 'nationalist CSOs'.

Ideology & Intervention

Discourse-oriented CSO are usually influenced by three distinct but overlapping considerations when they select their intervention areas: (1) interest and expertise; (2) relevance; and (3) donor priorities.[11]

Interest and expertise

Many CSOs have areas of interest that relate to that particular CSO's agenda. A CSO's agenda is usually

articulated in an organisational vision statement complemented thereafter by a mission statement. These articulations often reveal an organisation's ideological leanings. For instance, the vision of the Centre for Policy Alternatives (CPA) is simply a 'liberal democratic Sri Lanka'.[12] Similarly, the ideological leanings of the Law & Society Trust (LST) may be discerned by its mission statement, which is to 'improve respect for the universality, indivisibility and inter-dependence of human rights, thereby securing justice for all.'[13] Moreover, the Women & Media Collective (WMC) has a stated mission to 'bring about a transformative change, based on feminist principles, within a rights framework, through media, advocacy, research and coalition building, for an inclusive, equal and non-discriminatory society that is free from violence and militarisation.'[14] Such organisations overtly adopt an ideology based on liberal democratic values. These values fundamentally influence the selection of intervention areas and give content to organisational programming.

If liberal democratic values are placed on an ideological spectrum, the question arises as to where organisations such as Sarvodaya may be placed on that spectrum. Despite the fact that Sarvodaya's stated philosophy is terminologically distinct from Western liberal thought, its ideology is not antithetical to liberal democratic values. The philosophical writings of founder A.T. Ariyaratne are replete with references to concepts such as human worth and dignity, and related notions of loving–kindness, equanimity, compassion and equality.[15] These ideals underscore the organisation's development programming, which is heavily focused on social equity. However, it may still be difficult to neatly classify such organisations on the discourse front.

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At the other end of the spectrum lie organisations that seek to advance member-driven agendas. These agendas vary greatly, and range from trade unions that focus on collective bargaining on behalf of their membership, to ethno-nationalist organisations that focus on advancing the interests of a particular community. Such organisations also have diverse ideological leanings. Ethno-nationalist CSOs in particular have strong religious and nationalist ideologies that underpin their intervention areas and work. For instance, the *Bodu Bala Sena* (BBS) has a stated mission to 'lead the nation in protecting, safeguarding and sustaining Buddhist social values in the face of dynamic global trends of changes'.[16] This mission statement has translated into a programme of work heavily focused on the promotion of Sinhala-Buddhist nationalism alongside simultaneous campaigns targeting ethnic minorities. Organisations such as BBS play a significant role in shaping public discourse and make potent interventions in terms of influencing public thought. Such organisations, while falling squarely within the definition of CSOs, remain antipathetic to liberal democratic values. In essence, these CSOs are the ideological opponents of CSOs that advance liberal and democratic aims.

Specific areas of interest may eventually lead to specialised knowledge and expertise among CSOs. Organisations such as CPA, LST and Rights Now have developed strong expertise in policy research and advocacy. Moreover, liberal democratic values such as free expression have prompted initiatives such as *Groundviews*, a website for citizen journalism, which pioneered progressive alternatives to state controlled media. Organisations such as WMC, Women in Need and the Women's Development Centre have developed expertise in women's rights and empowerment. These organisations play a vital role in advocating against gender-based violence, and promoting equality and non-discrimination. Meanwhile, several organisations have developed strong expertise in grassroots awareness raising and mobilisation. For example, Sarvodaya has island-wide networks that conduct social equity programmes, while Viluthu conducts awareness-raising and capacity building programmes through women's study circles, mainly in the North and East.

Organisations such as the All Ceylon Buddhist Congress (ACBC) have focused their attention on preserving Buddhism and advancing Buddhist interests. These objectives have translated into media campaigns such as the campaign undertaken immediately following the anti-Muslim riots in Aluthgama and neighbouring areas in June 2015. The campaign sought to transform the discourse—which up to that point negatively portrayed Buddhist organisations as having instigated the riots—and to shift the blame to the Muslim community.[17] The ACBC has also campaigned against what it describes as 'unethical conversion' of Buddhist adherents to Christianity through the use monetary incentives. The organisation has developed an expertise of sorts in this area and has advocated for legislative reform to prevent such conversions.[18]

Relevance

Relevance has often shaped the interventions of CSOs operating within a particular ideological frame. Sri Lanka's three-decade long civil war and poor human rights record has compelled a large number of organisations to work on issues of reconciliation, peace-building, good governance and rights protection and promotion. Within this context, a number of organisations have defined their scope of work in relation to the issues that were considered most relevant to the times. Three recent civil society campaigns that responded to a particular liberal democratic need may be worth noting.

First, following the conclusion of the war in May 2009, wartime rights violations committed by both security forces and the Liberation Tigers of Tamil Eelam (LTTE) prompted CSOs to work on accountability issues. This campaign was multifaceted and witnessed a variety of CSOs involved at different levels, and at times, pursuing aims that were similar but not identical. For instance, organisations such as the National Peace Council (NPC) framed the post-war issues in terms of peace building and reconciliation, while organisations such as CPA drew attention to violations of international law and the need for a credible mechanism to investigate alleged crimes. The campaign also branched off into dealing with certain egregious post-war rights violations, including enforced or involuntary disappearances, land grabs, militarisation and restrictions on free speech.

Second, CSOs responded to the spate of attacks on religious minorities during 2013 and 2014. Organisations such as the National Christian Evangelical Alliance of Sri Lanka (NCEASL) and the Secretariat for Muslims recorded and reported violations and advocated for the state to adopt preventive measures and curb impunity.[19] These organisations were supported by CSOs such as CPA,[20] LST[21] and the International Centre for Ethnic Studies (ICES).[22]

Third, CSOs responded to a rapid rise in state corruption and a serious breakdown in good governance and transparency under the Mahinda Rajapaksa government. This issue gained ascendency in 2013 and 2014 and culminated in a powerful anti-incumbency slogan '*yahapalanaya*' ('good governance') during campaigning for the presidential elections in late 2014. New civil society movements such as *Purawasi Balaya* (Citizen's Power) and *Aluth Parapura* (New Generation) alongside older movements such as Platform for Freedom rallied around the good governance rhetoric and supported the common-opposition candidate, Maithripala Sirisena. This CSO coalition played a crucial role in the successful campaign for a change in the 'regime'. The same groups were later involved in the post-election campaigns on constitutional reform, which were largely based on President Sirisena's election promises.[23]

Meanwhile, nationalist CSOs also responded on the axis of relevance, even if the response has been quite different, due to the difference in their ideological framework. Sri Lanka's three-decade long civil war served to entrench the insecurity of Sri Lanka's majority Sinhala-Buddhist society. This insecurity has been variously articulated and manifested in the discourses and campaigns carried forward by nationalist CSOs. For instance, in the late 1980s the discourse on 'imagining the nation' (*Jaathika Chinthanaya*)—and doing so in the shape of a Sinhala-Buddhist country—had a powerful impact. This discourse has retained significance and increased momentum over the years.

The state and military, being unable to contain violent Tamil nationalist resistance, tended also to limit the conducive space for the nationalist CSOs. During the violent conflict, the government was keen to make the argument that all ethnic communities were treated as equals in Sri Lanka, and the discourse agenda of some Sinhala nationalist CSOs were inconvenient to that narrative. But the last stages and end of the war marked a new phase for nationalist CSOs. When the

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Sri Lankan government gained the upper hand in the violent conflict this also released nationalist CSOs from self-imposed or externally placed constraints in vigorously advancing the nationalist discourse. This change of circumstances caused previously latent campaigns to become much more public. An apparent increase in the population of Muslims over the last three decades,[24] in combination with evangelical initiatives to propagate Christianity, prompted certain Sinhala-Buddhist organisations to agitate vocally on the need for restrictions to be imposed on both minority communities. At the extreme end, the BBS for instance ran several campaigns against the Muslim community, the most prominent of which was the 'anti-*halal*' campaign in 2013.[25] The campaign was largely successful and resulted in the All Ceylon Jamiyyathul Ulama withdrawing *halal* certifications from products meant for the local market.[26]

Donor priorities

Many of the CSOs that work for liberal and democratic objectives rely heavily on donor funding, which mostly originates from international aid agencies. By contrast, nationalists CSOs usually receive funding from internal sources or Sri Lankan Diaspora groups. The nature of funding plays a crucial role in shaping the programmes and agendas of these CSOs.

In a recent study conducted by Verité Research, civil society representatives observed that donor priorities often affected the nature and extent of a CSO's programme of work.[27] Donor cycles often determine funding for and consequently the financial viability of most interventions. Due to the fact that CSOs tend to respond either to contracted consultancies or calls for funding proposals, priorities are often set by donor agencies and not by CSOs themselves. Where donor priorities shift from a particular thematic area, CSO work in relation to that area is at risk of losing funding, and therefore momentum. Such shifts are also influenced by state cooperation with the donor community. For instance, in 2013, the United States announced a 20% cut in aid.[28] The cut was largely seen in light of the deteriorating relationship between the Rajapaksa regime and the U.S. government.

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Donors have, however, prioritised themes such as good governance, accountability, reconciliation and human rights fairly consistently. Hence discourse-oriented CSOs working on liberal and democratic issues have generally received the support of the donor community. In this sense, the interests of donors and such CSOs have been aligned for the most part. However, as explored later in this paper, typical donor cycles of three to five years are not always conducive for discourse generation. This vulnerability is particularly relevant to discourse-oriented CSOs looking to generate new discourse on a particular liberal or democratic issue, which may require sustained, long-term efforts as opposed to short-term programmes. Hence there are occasions in which short-term 'results-driven' approaches—often shaped by donor priorities—have limited the potency of CSOs. The campaign on RTI is a good example of the dire need for long-term strategic interventions. In 2003, CSOs were heavily involved in the drafting of an RTI Bill and in advocating policymakers at the national level to enact the Bill.[29] However, the campaign was unsuccessful due to the early dissolution of Parliament in 2004 and the failure of the subsequent government to consider the Bill. The matter was revisited following the presidential election of January 2015. Once again, CSO initiatives remained largely at the national level and included high-level consultations on the draft Bill and public seminars on its contents. However, the engagement of grassroots communities on the need for RTI was extremely limited during this period. The Bill was not presented in Parliament, which was eventually dissolved in late June 2015. The recurrence of unsuccessful campaigns—despite momentary political will—reflects the need for long-term initiatives. It is clear that in the absence of grassroots demands,[30] which tend to animate political will, advocacy campaigns often lose momentum. Given the relatively short timeframes of donor cycles, the ability for CSOs to engage in such public opinion formation through sustained, long-term engagement is limited. In fact, CSOs working on liberal democratic issues seem to have, over time, shaped themselves to shy away from this challenge, and focus on influencing the decision makers rather than public opinion. Hence the strong alignment of CSOs with donor priorities has been a double-edged sword. On the one hand, it has sustained funding for liberal and democratic initiatives. On the other, it has not been conducive in enabling CSOs to engage in long-term public opinion formation.

Civil Society & Political Society

Sri Lankan civil society has maintained a close relationship with political society—to the extent that the line between the 'civil' and the 'political' has been blurred at times. The two ideological factions within civil society have to some extent found patronage among corresponding ideological factions within the political sphere. While civil society ideologues often overestimate the convictions of their political patrons, the space enjoyed by civil society has largely depended on which political actors are in power.

The last two decades witnessed considerable fluctuations in civil society space alongside transitions of power. The Chandrika Bandaranaike Kumaratunga government accommodated liberal democratic voices, and afforded significant space for CSOs with such ideological leanings. The constitutional reform project during the mid 1990s relied heavily on the inputs of

civil society actors, and national institutions dealing with human rights contained a strong civil society presence. For example, the Sri Lanka Human Rights Commission initially comprised members with strong civil society backgrounds. Moreover, the several Presidential Commissions of Inquiry dealing with disappearances have included experts from civil society. This space occasionally wavered under the weight of national security concerns during the late 1990s while the war between the government and the LTTE continued. Yet the government remained largely accommodative of liberal democratic CSOs throughout this period. The Ceasefire Agreement (CFA) of 2002 between the two warring parties opened up new space for liberal democratic CSOs to work on peace building and political reconciliation. However, the Agreement collapsed in 2006, by which time a radical political transition had taken place.

The Mahinda Rajapaksa government that swept into power in 2005 had strong ideological links to the Sinhala-Buddhist nationalist voices of the time. The relationship between the regime and certain nationalist civil society voices was multifaceted. On the one hand, nationalist rhetoric resonated with the immediate agenda of the government, which was intent on terminating the CFA and pursuing a military solution to the ethnic question. Nationalist voices therefore aided the government's cause and helped it gain public support for its strategy. Hence the government saw alignment between its immediate agenda and nationalist sentiments. On the other hand, nationalist rhetoric contributed to the process of establishing a permanent support base for the Rajapaksas. Thus the government of the time recognised the importance of listening to and strengthening nationalist civil society voices. Prolific writers such as Nalin de Silva and Gunadasa Amarasekara were accepted as crucial opinion formers and were provided significant space to shape public opinion on nationalist lines.

The decade that followed witnessed a radical shift within civil society space. Liberal democratic voices that had previously enjoyed some level of space to function were now suppressed and marginalised. The term 'NGO' became synonymous with CSOs that identified with liberal and democratic voices, and such CSOs were quickly stigmatised as treacherous and unpatriotic. These CSOs were continuously monitored and frequently harassed. The defence establishment spearheaded the initiative to restrict these CSOs. For example, in 2014 it issued a circular to all CSOs to refrain from holding training workshops for journalists. This circular resulted in widespread disillusionment and even the suspension of CSO programmes.[31] Meanwhile, nationalist CSOs enjoyed remarkable space during this time to carry out their campaigns. Organisations such as BBS and associated groups received significant publicity in the media and began to mobilise aggressively, and many times even violently, against the Muslim community with what seemed to be the acquiescence of the government. They often invited high-level political actors to attend their events, and appeared to wield considerable influence over these actors.[32]

Meanwhile, with the defeat of the LTTE in 2009, a separate strand of civil society voices appeared in the North and East during the post-war era. The Tamil Civil Society Forum emerged in this context and has remained an important voice, particularly within intra-Tamil politics.

The two ideological factions within civil society have to some extent found patronage among corresponding ideological factions within the political sphere. While civil society ideologues often overestimate the convictions of their political patrons, the space enjoyed by civil society has largely depended on which political actors are in power.

Given the ideological heterogeneity of civil society space, it would be misleading to claim that the Rajapaksa government was hostile to CSOs. Instead, there appeared to be a shift in terms of which CSOs enjoyed space to function freely. Liberal democratic CSOs—despite the lack of space—agitated vigorously against the government. Organisations such as CPA, Rights Now, Right to Life and Transparency International Sri Lanka (TISL) continued to carry out important interventions particularly on human rights, the rule of law and good governance, despite the huge personal risks that accompanied such work. Leading rights activists including Paikiasothy Saravanamuttu, Nimalka Fernando and the late Sunila Abeysekera were routinely admonished in the state media for their work, particularly on the state's accountability for gross violations of law during the war. Nationalist civil society actors supported the government's agenda by describing such activists as traitors and terrorist sympathisers. Importantly, however, these liberal democratic organisations and activists survived the government's crackdown on dissent, while many others including prominent journalists Lasantha Wickramathunga and Pageeth Eknaligoda were not as fortunate. The possible reasons for why some survived while others did not are worth considering, and are

examined in the next section of this paper.

The January 2015 triumph of Maithripala Sirisena prompted the latest shift in the dynamics of civil society space in Sri Lanka. Liberal democratic CSOs joined forces with anti-incumbency voices of various ideological leanings and campaigned for what was finally a remarkable political transition. In mid 2014, few political commentators were willing to acknowledge the possibility of President Rajapaksa not winning the bid for his third term as President. Yet in the space of six weeks between mid November 2014 and early January 2015, a 'Black Swan'[33] event was engineered to challenge the incumbent President. The Rajapaksa family's hold on political power collapsed in just over a month to a campaign and contender that was based on re-establishing principles of good governance in Sri Lanka.

The decisive role played by civil society actors in this political change, alongside genuine liberal democratic sympathies within the UNP leadership, ensured that liberal democratic CSOs would regain their space. These CSOs currently enjoy the patronage of powerful actors within government. By contrast, nationalist voices are no longer prioritised and have been compelled to compete for space. At present, these voices have rallied around two political actors. The older nationalist voices have sought to galvanise a support base for former President Rajapaksa and his close associates, who now seek a comeback. Meanwhile, other nationalist voices have sought to influence President Sirisena and have aligned themselves to the *Jathika Hela Urumaya* (JHU)—an ultra-nationalist political party that fell out of favour with the Rajapaksa regime and actively supported the regime change. In this context, civil society space following the general elections in August 2015 remains somewhat precarious. While liberal democratic voices have regained their ground, nationalist CSOs remain ever present and vocal.

Image courtesy of http://lawandsocietytrust.blogspot.com/2015/07/the-nineteenth-amendment-climax-or.html

DRIVING FACTORS OF CIVIL SOCIETY SPACE

The past two decades of radical shifts in civil society space reveal a number of factors that appear to drive the nature and extent of that space. This section discusses three such factors: (1) political patronage; (2) public support; and (3) international pressure.

Political Patronage

As discussed in the previous section, ideological convergences with political actors have largely determined the nature and extent of civil society space in Sri Lanka. Liberal democratic CSOs are accommodated when prominent actors in government have liberal democratic convictions or sympathies; likewise, nationalist CSOs thrive when those actors have strong nationalist tendencies.

It is worth noting certain features of the two ideological factions within civil society that might further explain the nature of their alignment with political actors. Liberal and democratic interests tend to be articulated through the language of principles and values, which then resonate with progressive policies that are inclusive, transparent and counter-majoritarian. By contrast, nationalist interests tend to be articulated along communal lines. This articulation often resonates with political actors who advance policies that are majoritarian and somewhat parochial. Yet the January 2015 elections proved that nationalist voices are not necessarily tolerant of corruption or bad governance. The Rajapaksa regime's penchant for self-enrichment and nepotism caused a fissure in its nationalist support base. While ultra-nationalist civil society voices such as BBS continued to support the Rajapaksas during the election campaign, other more moderate nationalist voices such as the Venerable Maduluwawe Sobitha Thero had begun to agitate for change. The JHU's decision to support the opposition candidate—though perhaps unrelated to Sobhita Thero—was also prompted by this split in the nationalist support base. Hence it is important to avoid a reductive narrative of nationalist CSOs. While these CSOs clearly support majoritarian politics, they are also, for the most part, opposed to corruption or bad governance.

It is the case that liberal democratic CSOs have depended on political patronage to secure 'unhindered space'. However, it is difficult to maintain that such CSOs were entirely prevented from operating under the nationalist administration of Rajapaksa. As discussed later in this section, there are other factors that have helped these CSOs retain some space for their activities even in ideologically hostile environments. Yet it must be acknowledged that the extent of their operations depends greatly on the degree of state interference. For instance, TISL was certainly able to operate even within the hostile environment under the Rajapaksa administration. It continued to publish reports on governance and conduct independent investigations into allegations of corruption. However, it did not have the space to hold training programmes for journalists. On one occasion in June 2014, a training programme in Colombo was interrupted by a mob of unidentified persons, who were not brought under control by law enforcement officials.[34] In such circumstances, it would be reasonable to assume that the government instigated—or at least acquiesced to—the harassment. Confirming such involvement, the Defence Ministry soon after issued a letter to all CSOs instructing them to refrain from holding training workshops for journalists. Similarly, government officials routinely intimidated and harassed CSOs working on human rights issues.[35]

> Since unhindered space for CSO activity depends to a large extent on political patronage, a strong incentive structure gradually builds around the phenomenon.

The change that occurred through the January 2015 presidential election was that the political leadership became more accommodative of liberal democratic discourse (while not necessarily acting on it). Therefore, liberal democratic CSOs have begun to enjoy unhindered space.

Since unhindered space for CSO activity depends to a large extent on political patronage, a strong incentive structure gradually builds around the phenomenon. Though there is no empirical data to test this structure, it is possible to offer a reasonable hypothesis on how the structure might shape the thinking of CSOs. If CSOs rely heavily on political actors to afford them unhindered space, these CSOs are incentivised to be less critical of ideologically aligned or sympathetic political actors even when such actors violate principles and values of that particular ideology. Such suspension of criticism was evident in the BBS's decision not to vocally oppose what became known as the 'Casino Bill'[36] put forward by the Rajapaksa government. The Bill was ultimately set aside due to pressure from other Sinhala-Buddhist nationalist groups.[37] It is possible to speculate that BBS's unhindered space was heavily contingent on the patronage they received from the Rajapaksa family, which arguably stood to gain from those casino related ventures. Thus the BBS tactically avoided critiquing the government's investment concessions to casino related ventures notwithstanding its incompatibility with stated Sinhala-Buddhist values.

Likewise, liberal democratic CSOs are similarly incentivised to tactically avoid criticising the post-Rajapaksa government's failings, notwithstanding their incompatibility with liberal democratic values. Two examples of this phenomenon may be cited.

First, CSOs that were engaged in critiquing the previous government for its policy on militarisation refrained from critiquing the new government for its slow progress on demilitarisation. The former President was in the habit of issuing monthly proclamations calling out the armed forces to exercise police powers under Section 12 of the Public Security Ordinance, No. 25 of 1947. With the end of the war and the restoration of normalcy throughout the country, there was little justification for the military to be deployed to carry out law enforcement activities. The Bar Association of Sri Lanka publicly criticised this practice and called for its discontinuation.[38] However, former President Rajapaksa continued to call out the armed forces. On 2 January 2015, he deployed the armed forces notwithstanding the impending presidential election.[39] Election observers in fact reported that the military was involved in campaign activities and was intimidating voters, particularly in the North and East.[40] Yet, when the proclamation came up for renewal on 2 February 2015, President Sirisena extended it for a further month.[41] Surprisingly, no CSOs initially came forward to criticise the move. Instead, the Frontline Socialist Party, a leftist political party, launched a campaign against the continued deployment.[42] Though the subsequent fundamental rights application before the Supreme Court was unsuccessful,[43] the campaign drew public attention to the issue. The Bar Association, following strong criticism in the media for its initial silence, eventually called on the President to end the practice.[44] On 2 March 2015, the President decided to discontinue the practice of calling out the armed forces to exercise police powers.

Second, civil society engagement with respect to the Nineteenth Amendment to the Constitution (19A) was somewhat incongruous with liberal democratic values of public consultation and transparency. 19A sought to reduce the executive powers of the President and to restore the independence of public institutions. While the outcome of the process was perhaps reasonably positive given the broad objects of the amendment, the process itself was shrouded in secrecy; much of the discussions on the Bill took place within exclusive circles and were not accessible to the public. Moreover, public consultation on the final version of the Bill was virtually absent. Eventually, approximately 60 revisions to the original 19A Bill were made at the Committee Stage of Parliament, and a heavily watered-down version of the Bill was enacted into law. The precise nature of these revisions remained concealed for a further three weeks before 19A was finally gazetted and published. While certain constitutional scholars, such as Rohan Edrisinha and Asanga Welikala, offered criticisms of this process,[45] a strong critique on the absence of consultation and transparency was genuinely lacking among civil society actors. This silence might be explained by a general hesitance among liberal democratic CSOs to be critical of political actors they saw as ideologically aligned.

Public Support

Even after the January 2015 transition, Sinhala-Buddhist nationalist movements have maintained significant public support. For example, one nationalist social media group named 'Sinhala Buddhist' has a Facebook following of over 400,000 users. Likewise, social media

groups that are more openly hostile to minorities have enjoyed considerable followings before being suspended or disabled for violating user policies on hate speech.

While it is the case that the space for CSOs can depend on the alignment they have to the governing political establishment, CSOs that have a strong public support base, especially among the majority community, can sometimes create the converse dynamic as well. In such cases governing political actors could create space for such CSOs and even align with them, expecting those CSOs to expand their voter base.

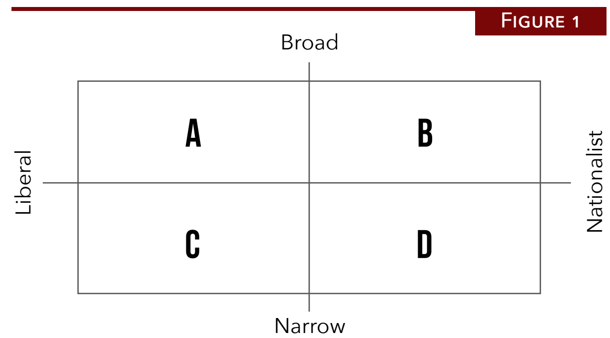
The relationship between the Rajapaksa regime and the BBS for instance reflects this co-dependence. The BBS, through its resonant grassroots and national level campaigns, was able to win a fairly large support base within a short period of time. The Rajapaksa government detected the potential benefit in accommodating and even actively supporting the movement. In this context, actors within the current Sirisena–UNP administration may be incentivised to accommodate nationalist civil society groups with large followings. Consequently, these groups will continue to enjoy some level of operational space—though perhaps not to the extent enjoyed under the Rajapaksa government.

However, even a co-dependent relationship can compromise the CSO's activity. The BBS in several instances seemed to be choosing the interest of its political patrons over the natural concerns of their support base. In this context, political actors are able to secure the silence of these groups even when state policy runs contrary to the central ideology that was originally promoted. The previously cited example of the 'Casino Bill' and the silence of the BBS is a case in point.

While it is the case that the space for CSOs can depend on the alignment they have to the governing political establishment, CSOs that have a strong public support base, especially among the majority community, can sometimes create the converse dynamic as well.

CSOs promoting liberal and democratic ideals are yet to succeed in developing sufficiently large public support bases to incentivise political actors to accommodate them, with an eye on elections. Community mobilisation and public awareness programmes of these CSOs are yet to translate into broad-based social movements. Therefore, at present, grassroots liberal movements are virtually non-existent in Sri Lanka.

Figure 1



Past efforts such as the *Sudu Nelum* movement succeeded to some extent in promoting ideas of power sharing among the general Sinhala-speaking public. Yet the movement faded away as the violence escalated between the state and the LTTE, and motivating military recruitment from the Sinhalese community was incongruent with the *Sudu Nelum* movement. However, the *Sudu Nelum* initiative is certainly worth revisiting in the post-war era, where a strong liberal democratic discourse—let alone social movement—is currently absent.

Because political actors at present simply do not view the public support bases of liberal democratic CSOs as potential vote bases, they are not incentivised to provide space to and accommodate these CSOs in the same way they are incentivised to accommodate nationalist CSOs. Figure 1 explains the relationship between the extent of a CSO's public support base and the point at which political actors might be incentivised to afford unhindered space. The vertical axis of the quadrant represents the extent of public support for the CSO, ranging from broad to narrow. The horizontal axis represents the ideological leanings of the CSO, ranging from liberal to nationalist.

Political actors are prompted to afford space to CSOs when their public support base is broader. Thus CSOs located in the upper sections of the quadrants (sections A and B) are likely to enjoy operational space regardless of ideological convergences with political actors. Given the large support bases enjoyed by nationalist CSOs, they are usually located in the upper right section of the quadrant (section B). These CSOs are usually afforded space under any government. More radical nationalist CSOs that begin to lose public support may move to the lower right section of the quadrant over time (section D). If this happens, political actors who are not ideologically aligned to these CSOs may afford them less space. For example, BBS may be denied operational space as it loses public support and the present government continues to hold power.

Liberal democratic CSOs are usually confined to the lower left section of the quadrant (section C). Hence

these CSOs are usually reliant on ideologically aligned political actors to afford them significant operational space.

International Pressure

International pressure may operate as a separate and unrelated driving factor that skews the usual outcomes of political patronage and public support for CSOs. Notwithstanding low levels of patronage and public support, a CSO may secure for itself some extent of operational space if its 'high-profile' status enables it to capture the attention and support of international actors.

A watershed event in 2012 provided the contextual background for this driving factor. The United Nations Human Rights Council (UNHRC), for the first time, adopted a resolution on the human rights situation in Sri Lanka.[46] The resolution called upon the government to implement the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC).[47] It also called upon the government to take additional measures to ensure the accountability of those who committed international law violations during the war. Importantly, the resolution empowered the Office of the High Commissioner for Human Rights (OHCHR) to play a role in monitoring the progress of the government and report back to the Council. The resolution in 2012 was followed by two further resolutions in 2013 and 2014. The latter resolution in fact empowered OHCHR to conduct its own inquiry into Sri Lanka.[48] The significant international scrutiny that Sri Lanka came under created a new driving factor that secured space for certain types of liberal democratic CSOs. Those that possessed the capacity to engage the international community were provided some degree of operational space by the government—albeit reluctantly—due to the close scrutiny of Sri Lanka's situation. For instance, activists from CPA who travelled to Geneva, Switzerland to lobby Council members on Sri Lanka's situation in 2013 and 2014 did not face the types of harassment that would usually be expected from the Rajapaksa government. The high-profile nature of these engagements compelled the Rajapaksa government to begrudgingly permit organisations such as CPA to continue its operations. The government was intent on proving to the international community that the situation in Sri Lanka did not warrant an international investigation into rights violations and international crimes. This intent forced political actors to somehow accommodate certain high-profile critical voices.

In March 2014, the defence establishment in Sri Lanka began to arrest prominent CSO activists notwithstanding the impending resolution on Sri Lanka at the UNHRC. The move appeared to be counterintuitive. However, it demonstrated the heterogeneity of opinion within government and the possibility that some quarters were acting independently of one another. The Defence Ministry clearly acted in a manner that was contrary to Sri Lanka's diplomatic aims at the time—to showcase improvements in the human rights situation in the country. Yet the high-profile status of some of the arrested activists—as opposed to others who were arrested—ultimately determined their treatment. For example, the government quickly released Ruki Fernando, a well-known activist who had directly engaged the international community for many years. By contrast, it detained Balendran Jeyakumari—an activist who was protesting enforced disappearances—under the Prevention of Terrorism Act, No. 48 of 1979.[49] She was released almost a year later in March 2015 following the transition in power. The episode reflects how international pressure, and particularly international recognition, might intervene to create and maintain space for a limited group of civil society actors.

Unlike nationalist ideologies, liberal democratic values find resonance among a host of international actors including states and international institutions that identify with those values. Thus a CSO that is able to access and build networks within the international community is more likely to secure its own protection from hostile political actors. In this context, certain liberal democratic CSOs have a lifeline of sorts through the international networks that they leverage as a countervailing force to the disapproval of government.

CONCLUSION

The foregoing analysis reveals that CSOs working on liberal and democratic issues such as good governance, the rule of law, equitable development, peace and reconciliation and the promotion and protection of human rights rely on at least three factors to secure operational space: patronage, people and pressure. For a vast number of such CSOs, the patronage of ideologically aligned political actors is the main determinant of that space. When ideologically aligned political actors come to power, the space for these CSOs broadens; when such actors lose power and are replaced by political actors with nationalist leanings, these CSOs are suppressed and marginalised. Thus liberal democratic CSOs have become somewhat dependant on political patronage for their survival. In this context, these CSOs have demonstrated willingness to be less critical of their political patrons in order to maintain the space.

Almost no CSOs working on liberal democratic issues have managed to secure sufficient public support to actually incentivise political actors to grant them space regardless of ideological convergence. Liberal and democratic social movements such as *Aluth Parapura* are likely to receive political backing from certain political actors. But such backing will be governed by ideological alignment, rather than by the public support these movements enjoy. Thus political actors who have alternative ideological leanings are unlikely to permit such groups any space. By contrast, political actors accommodate certain Sinhala-Buddhist nationalist groups regardless of ideological alignment, simply due to the immense support bases such nationalist groups possess.

A limited number of liberal democratic CSOs have succeeded in establishing strong linkages with the international community. These CSOs, regardless of political patronage or public support, will continue to enjoy operational space, provided the government is animated to some extent by international pressure. As long as the government wishes to maintain positive diplomatic relations with liberal democratic states and international institutions, CSOs with strong relationships with such states and institutions are likely to enjoy some degree of space as a result. Indeed, even such organisations like CPA faced threats and harassment during the Rajapaksa administration. Yet it would be reasonable to suggest that the administration was also more cautious in responding to such CSOs due to their relationship with the international community. The same administration was not bound to exercise such caution in dealing with the majority of CSOs that lacked international visibility.

It is clear from the outset that relying on ideologically aligned political actors to afford space is the least sustainable option for liberal democratic CSOs, given the tendency for cyclical political transitions in Sri Lanka. Moreover, most CSOs simply lack the capacity to directly engage the international community and build international networks. Additionally, securing space through such means is dependent on the government's foreign policy and approach to international scrutiny. For instance, if the government is no longer responding to international pressure, such networks may prove futile. Thus international pressure is not always a feasible or effective means of securing operational space.

Liberal democratic CSOs that supported both President Sirisena's election campaign in January 2015 and the UNP's campaign in August 2015, are now confronted with an existential crisis given the clear signs of backsliding by the President and the government. Their challenge at this juncture is to evolve as an independent influential movement directly appealing to the people's

demands for democratic rights without relying on the patronage of political actors. In such a context, this paper concludes by suggesting three strategic recommendations on how liberal democratic CSOs could secure a more durable and sustainable operational space in Sri Lanka.

Changing structures of engagement and influence

CSOs working on liberal democratic issues need to engage and maintain wider public support in order to secure sustainable space. This shift not only requires greater engagement at the community level in order to relate liberal democratic issues to ordinary civilian life, it also requires a systemic change in the way liberal democratic CSOs operate. Grassroots movements seeking to advance liberal and democratic values have succeeded elsewhere. For example, CSOs worked with grassroots communities in Rajasthan, India to support these communities in their conscientisation of the right to information. The grassroots demand soon translated into a demand for legislative reform—first at the state level, and eventually at the national level. Importantly, political actors—who perhaps stood to lose out as a result of greater transparency with respect to their actions—were compelled to support these movements regardless of ideological convergence. As a result, the right to information in India has become entrenched in its socio-political life.

The success of the movement on the right to information in India cannot merely be credited to the *substance* of the work undertaken by the CSOs involved. The success can also be put down to the *form* of engagement. The CSO activists involved lived and worked within the communities, and established an active community membership in the movement. Hence public support for the campaign was ultimately organic and locally rooted.

CSOs such as NPC, Rights Now and TISL currently work towards building public consensus around important issues concerning peace building, human rights and good governance. For instance, TISL recently implemented grassroots level programmes to build public demand for the right to information. Yet liberal democratic CSOs are finding it difficult to demonstrate much success in the grassroots discourse space. By contrast, nationalist movements are relatively more successful in the grassroots. Community opposition, sometimes violent, against new and growing local Christian churches, and even against longstanding Muslim mosques are frequently activated through the discourse created by nationalist CSOs regardless of government patronage.

Almost no CSOs working on liberal democratic issues have managed to secure sufficient public support to actually incentivise political actors to grant them space regardless of ideological convergence.

The ability of liberal democratic CSOs to broaden their influence is ultimately hampered by two factors that need to be addressed.

First, liberal democratic CSOs tend to engage communities through projects and programmes with specific timeframes and measureable outputs such as workshops and community awareness events.[50] Such engagements do not always connect with the organic manner and rooted sources through which discourse is created and nurtured in local communities. As a result they fail to generate legitimacy and understanding in the communities with regard to liberal and democratic values. These engagements may be sharply contrasted with the 'immersive' nature of CSOs' engagement at the community level during India's RTI campaign. They may also be contrasted with the organic rather than programmatic mode in which nationalist discourse is spread, working through the localised structures of respect, relationships, and religious and community leadership.

In this context, liberal democratic CSOs may need to consider transforming their structures and approaches to sow groups that are enamoured with the ideas, rather than incentivised by compensation for participation. Such groups can become active membership movements at the community level working to develop and spread the discourse from that rooted context.

We note that community-based organisations already exist in the development sector. Yet discourse-oriented CSOs in Sri Lanka have tended to be regional or national level CSOs. Public participation in discourse engagement has largely been confined to participation in events-based projects and programmes. These projects and programmes are inspired and driven from the regional or national level, rather than emerging from within, or in response the perceived needs of, the local community. We also note that donor-funded projects and programmes are probably too short term in both their conceptualisation of indicators and durations of engagement to enable effective engagement by discourse-oriented liberal democratic CSOs.

Second, the work of liberal democratic CSOs is not anchored on corresponding national ideological discourses. There is no liberal counterpart to nationalist ideologues such as Nalin de Silva, who regularly appears in the Sinhala press and updates his blog. Thus,

in contrast to liberal democratic CSOs, nationalist CSOs have quickly captured audiences by relating their agendas to historical, cultural and societal values that have broad national and historical resonance and national level champions. Nationalist thinkers have been adept in nurturing an ideology that galvanises their support bases. For example, Mahavamsian narratives are constantly used to buttress ideas of Sinhala-Buddhist entitlement. Such ideological narratives fuel the initiatives of these CSOs. By contrast, liberal and democratic discourses that seek to capture the imagination of people, though 'pushed' by CSOs working at a national level, are not 'pulled' by ideological movements that have gained significant national resonance in the vernacular.

In terms of establishing an enabling environment for liberal and democratic engagements, broadening common spaces for public reasoning through debates, discussions and dialogues on issues is imperative. The concept of the 'public sphere' might be more suitable in conceptualising this idea—partly because civil society in the country has already been politicised and divided along ideological lines. Proponents of liberal democratic civil society tend to perceive nationalism as threatening to civil society activism, as if 'nationalism' by definition is outside 'civil society' space. Nationalists criticise liberal civil society activities claiming that they are nothing but strategic constructions of Western imperial powers that legitimise 'anti-patriotic' activities. As discussed in the first section of this paper, both groups work very closely with their aligned political actors, especially in election times. Therefore, transitions in government often translate into shifts in the power balance within the civil society sphere. This specific style of using political and state power to promote civil society activism has diminished the influence of public reasoning as a whole. The importance of maintaining a common space for using public reason has largely been ignored by all parties.

The challenge therefore is not merely to broaden space for liberal democratic politics but to broaden and preserve a public sphere within which liberals, nationalists, socialists and others can exercise the power of reason in a manner that is independent of the systems of power and finance.

Working on tangible public issues

Capturing public support may require a further shift in the thematic interventions of CSOs. At present, interventions on the rule of law and the protection and promotion of civil liberties have not translated into social movements. There are perhaps two explanations for this perceivable gap. First, these issues have not resonated with any existing ideological discourse. Second, the issues have not always resonated with the day-to-day concerns and challenges faced by communities. It is for the latter reason that the good governance rhetoric of the anti-incumbency campaign during the 2015 presidential election resonated so well with the public. The corruption and wastage of the previous regime were characterised as 'costing' the country both in economic and reputational terms. Hence a liberal democratic value of good governance began to ostensibly capture the people's imagination—as it connected with the concerns of abusive governance practices that could be seen at every level—which eventually fuelled the transition. There is perhaps an important lesson here. In the absence of ideological resonance, it is important for liberal democratic discourse interventions to relate their message to the lives of the people and their day-to-day concerns and challenges.

At present, interventions on the rule of law and the protection and promotion of civil liberties have not translated into social movements.

Three thematic interventions perhaps fit this requirement. First, the people's rights to basic needs such as water, housing and sanitation have been largely left to the development sector to promote. Discourse-oriented CSOs have an important role to play in advocating for such rights and creating public discourse on the subject, particularly from a rights-based perspective. At present, basic needs have been framed as developmental issues and have not entered into the national discourse framework of 'rights' that citizens are entitled to in Sri Lanka (the only exception to this general observation is perhaps the framing of access to land and livelihoods in the post-war context as 'rights' issues). However, discourses elsewhere—particularly in India, South Africa and Latin America—have focused on the rights dimension of these developmental needs. In South Africa for instance, the right to housing is constitutionally protected and has been the subject of broad civil society campaigns, often culminating in progressive judicial pronouncements. Similar movements have been almost entirely absent in Sri Lanka, except perhaps for sporadic social movements that emerged in response to the displacement of people from their lands in the Eppawela phosphate mining case and the Southern Expressway case.

Second, socioeconomic rights issues such as health and education have not become the basis for sustained advocacy campaigns in Sri Lanka. Once again, sporadic campaigns have emerged in the past, such as the

campaign on education spending led by the Federation of University Teachers Associations (FUTA). A certain level of public support was created through this campaign for greater government investment in education. Meanwhile, there has been a worrying absence of advocacy on the right to quality public sector healthcare. Public campaigns on the adequate availability of life-saving treatment are yet to gain momentum in Sri Lanka despite the high prevalence of ailments such as diabetes, chronic kidney disease and cancer. Liberal democratic CSOs therefore have an important role to play in advocating for these rights, and reinforcing the indivisibility and interdependence of socioeconomic rights and civil and political rights.

There is strong potential for CSOs in Sri Lanka to work at the community level and create a vibrant discourse on the right to information through community level activism based on accessing information.

Finally, CSOs have an opportunity to generate critical discourse on the right to information. It is reiterated that this right has found strong resonance in other societies including rural societies in India, Nepal and Bangladesh. The reason for such resonance is perhaps its demonstrated applicability in the day-to-day concerns of citizens. In India, right to information campaigns demonstrated that poor communities could hold their government and local authorities accountable. The rights discourse was rooted and developed through applying the ideas and values to local level activism, and the successful outcomes that became tangible to local communities.

Hence there is strong potential for CSOs in Sri Lanka to work at the community level and create a vibrant discourse on the right to information through community level activism based on accessing information. Organisations such as TISL may already be experimenting with this model, which needs broad replication for a social movement to eventually emerge.

Liberal democratic CSOs therefore need to strategically engage the public on issues that relate to and resonate with their day-to-day lives. Such resonance is likely to create opportunities for liberal democratic values to 'make sense' to public thinking and contribute to the spread and development of these ideas in the public sphere.

Diversifying funding portfolio

Securing public support and working on public issues require sustained engagement that perhaps goes beyond the limited timeframes of most donor-funded programmes. As suggested in the first section of this paper, over-reliance on donor priorities has been one of the major vulnerabilities of liberal democratic CSOs in Sri Lanka. The paradox that has befallen such CSOs is that the strategic shift needed to secure liberal democratic space is somewhat incompatible with their reliance on donor funds. As long as donor-driven projects and programmes define and guide the work of these CSOs, they will be unable to break into longer-term immersive public engagements that spread the ideas and generate the support bases of liberal democratic values.

The second section explained that these CSOs rely on political actors to afford them space, either through ideological alignment or external pressure from the international community. This too is an approach that might also be driven through donor funding programmes that tend to ascribe stronger impact measures to the engagement of politically powerful decision-makers, rather than the non-decision making public. Thus over-reliance on short-term donor funding remains an impediment to a CSO's strategy to overcome its reliance on ideologically aligned political patrons or on international pressure.

In this context, liberal democratic CSOs could explore two strategies. First, they could attempt to convince the donor community to support long-term initiatives, where results are not necessarily visible in the short term. The terminology of 'results-driven' or 'outcome-oriented' programming can be extended to accommodate longer-term goals. This would involve a renewed commitment among donors to core funding on the basis of institutional integrity and track record. Second, these CSOs must diversify their funding portfolios, particularly when international donors remain unwilling to shift to longer-term funding models. While continued engagement through regular, short-term donor-funded projects and programmes is inevitable, these CSOs could also develop local funding models to finance long-term initiatives. Fund-raising initiatives may need to target local philanthropists and expatriates who are ideologically aligned to the aims of an organisation. The notion of a 'local donor' is not inconceivable, given the high volume of disposable income that is presently accumulating among the upper-middle class in Sri Lanka. In this context, CSOs have an opportunity to re-think their funding strategies and build greater local ownership of their programmes. Organisations

such as CPA are already exploring alternative models with some limited success. 'Crowd-funding' initiatives, for example, have been received positively and have generated significant funds. Such initiatives could free, and even encourage, CSOs to consider radical changes in their structures to enable more sustained, immersive engagements with local communities, hence enabling them to work on longer-term initiatives that could broaden their sphere of influence and capture public support. Thus a critical break in the current financial models of CSOs is necessary to unlock the potential for greater impact.

This paper has explored certain fundamental questions of civil society space and has sought to present a strategic view on how liberal democratic space can be sustainably expanded in the future. The first section of the paper sought to define civil society in Sri Lanka and provide some degree of understanding with respect to the factors that currently motivate their areas of intervention: interests and expertise, relevance, and donor priorities. The second section of this paper dealt with certain driving factors that govern the nature and extent of civil society space in Sri Lanka—essentially, political patronage, public support and international pressure. Finally, the concluding section outlined a rationale for why liberal democratic CSOs must look to engage wider public support (over narrower political support) in order to secure operational space in the long run. To do so, it is recommended that these CSOs pursue a three-pronged strategy of changing structures of engagement and influence, working on tangible public issues and diversifying their funding portfolios. We conclude by reiterating the need for a public sphere in Sri Lanka that engages with liberal democratic ideas, resonates with the needs of the people and is funded and owned—to the extent possible—by those who have chosen to make their home in Sri Lanka.

Image courtesy of http://pencilrobot.net/page5.htm

END NOTES

[1] Quentin Hoare & Geoffrey Nowell Smith (eds.), *Selections from the Prison Note Books of Antonio Gramsci*, (1999), at 145.

[2] Anne Showstack Sassoon, *Gramsci and Contemporary Politics: Beyond Pessimism of the Intellect* (2000), at 70.

[3] Georg Wilhelm Friedrich Hegel, Philosophy of Right (1821), §260-271. Also see Z. A. Pelczynski, The State and Civil Society (1984), at 55.

[4] Immanuel Kant was perhaps the first philosopher to suggest a conceptual distinction between civil soci-ety and the state. Later political thinkers such as Alexis de Tocqueville also emphasised this separation. Theoreticians such as Antonio Gramsci accepted the conceptual distinction between civil society and po-litical society, but also critiqued the distinction as unconvincing in terms of its practical application—particularly in terms of the manner in which hege-monic structures were actually established. See H. S. Reiss (ed.), *Kant: Political Writings*, (2nd Ed. 1991); Pawel Zaleski, *Tocqueville on Civilian Society. A Romantic Vision of the Dichotomic Structure of Social Reality* (2008), at 50; Hoare & Smith, *op. cit.*, at 145.

[5] Toward an Enabling Legal Environment for Civil Society, Statement of the 16th Annual Johns Hopkins In-ternation-al Fellows in Philanthropy Conference, Nairobi, Kenya. *The International Journal of Not-for-Profit Law*, Volume 8, Issue 1, November 2005.

[6] *Ibid.*

[7] This classification is adapted from the paper: David Lewis, 'Civil Society and the Authoritarian State: Cooperation, Contestation and Discourse', *Journal of Civil Society* (2013).

[8] See 'What Is Civil Society?', *BBC World Service*, at http://www.bbc.co.uk/worldservice/ peo-ple/highlights/010705_civil.shtml. The same definition is endorsed elsewhere including: Paulos Milkias, *The Role of Civil Society in Promoting Democracy and Human Rights in Ethiopia* (Paper presented at the Ethiopian Americans Council Conference in July 2006).

[9] The World Bank, *Defining civil society* (July 2013), at http://go.worldbank.org/4CE7W046K0.

[10] The authors are mindful of the possible ambiguity in using the terms 'liberal democratic' to describe certain types of CSOs. It may be noted that these terms are used to describe *both* CSOs that have overt ideological leanings towards liberal democratic values, and those that undertake work on liberal and democratic issues in purely programmatic terms.

[11] A similar set of considerations was uncovered during a recent study conducted by Verité Research, which involved consultations with 22 civil society actors. See Amita Arudpragasam, 'Sri Lanka: Domestic Workers and Civil Society – In Sight but out of Mind', *Decent Work for Domestic Workers: Report No.3* (Verité Research: December 2014).

[12] See http://www.cpalanka.org/about.

[13] Law & Society Trust, *Annual Report 2009-2010* (2010), at http://www.lawandsocietytrust.org/ PDF/Annual%20Re-port%20-%202009-10.pdf.

[14] See http://womenandmedia.org/who-are-we/about-us.

[15] See http://www.sarvodaya.org/about/philosophy/collected-works-vol-1/introduction.

[16] See http://www.bodubalasena.co/about-us.html.

[17] See '23 Sinhala Buddhist organizations reveal the 'truth' about clashes in Aluthgama', *Ceylon Today*, 9 July 2014, http://www.ceylontoday.lk/90-67842-news-detail-23-sinhala-buddhist-organizations-reveal-the-truth-about-clashes-in-aluthgama.html..

[18] See All Ceylon Buddhist Congress, *Revealing the Report of Unethical Conversion of Buddhist in Sri Lanka*, at http://www.acbc.lk/index.php?option=com_content&view=article&id=17&Itemid=110

[19] See Sri Lanka Muslim Congress, *Religious Violence in Sri Lanka: January 2013 – December 2013*. The primary sources of information for the data used in this report were the NCEASL and the Secretariat for Muslims. The data was later cited by the United Nations Office of the High Commissioner for Human Rights. See Oral update of the High Com-missioner for Human Rights on promoting reconciliation and ac-countability in Sri Lanka, A/HRC/24/CRP.3/Rev.1,

25 September 2013; Promoting reconciliation and ac-countability in Sri Lanka: Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/25/23, 24 February 2014 ('2014 Report of the OHCHR').

[20] Centre for Policy Alternatives, *Religious Violence in Post-war Sri Lanka – Incidents and Attacks* (September 2014), available at http://groundviews.org/2014/09/16/infographic-religious-violence-in-post-war-sri-lanka.

[21] Farzana Haniffa, Harini Amarasuriya & Vishakha Wijenayake, *Where Have All the Neighbours Gone? Aluthgama Riots and its Aftermath: A Fact Finding Mission to Aluthgama, Dharga Town, Valipanna and Beruwela*, Law & Society Trust (2015).

[22] ICES currently conduct capacity building and training programmes that focus on community-based solutions for religious conflict.

[23] See Manifesto of the New Democratic Front (December 2014).

[24] There is an apparent increase in the overall population share of Sri Lankan Moors since 1981—an increase from 7% to 9.3% of the total population. See Department of Census and Statistics, *Census of Population and Housing 2012* (2012).

[25] See Dharisha Bastian, 'This is a Sinhala country, Sinhala Government": Bodu Bala Sena' *Daily FT*, 18 February 2013, at http://www.ft.lk/2013/02/18/this-is-a-sinhala-country-sinhala-government-bodu-bala-sena.

[26] See Kelum Bandara, 'Govt. to formulate new Halal mechanism'. *The Daily Mirror*, 14 March 2013.

[27] Verité Research, 'In Sight but out of Mind', *op. cit.*

[28] 'John Kerry proposes 20% cut in US aid to Sri Lanka', *The Economic Times*, 15 August 2013, at http://articles.economictimes.indiatimes.com/2013-04-15/news/38555812_1_sri-lanka-maldives-state-john-kerry.

[29] See Gehan Gunatilleke, *The Right to Information: A Guide for Advocates, Sri Lanka Press Institute*; UNESCO (2014).

[30] *Ibid.* at 69. The author notes the Indian experience where a grassroots demand for RTI was created be-fore national advocacy campaigns took place. He concludes that a similar social movement is needed in Sri Lanka for the RTI campaign to be successful.

[31] International Federation of Journalists (IFJ), *Sri Lanka muzzles NGOs and bans media-related activities*, 9 July 2014, http://www.ifj.org/nc/news-single-view/backpid/33/article/sri-lanka-muzzles-ngos-and-bans-media-related-activities.

[32] See Rohini Mohan, 'Sri Lanka's Violent Buddhists', *The New York Times*, 2 January 2015, at http://www.nytimes.com/2015/01/03/opinion/sri-lankas-violent-buddhists.html?_r=0.

[33] The theory of a 'Black Swan event' was proposed by Nassim Nicholas Taleb to describe an event that comes as a surprise, has a major effect, and is often inappropriately rationalised after the fact to the benefit of hindsight. See Nassim Nicholas Taleb, *The Black Swan: The Impact of the Highly Improbable* (2007).

[34] See Transparency International Sri Lanka, *Annual Report 2014-2015* (June 2015). Also see International Federation of Journalists (IFJ), *Sri Lanka muzzles NGOs and bans media-related activities*, 9 July 2014, http://www.ifj.org/nc/news-single-view/backpid/33/article/sri-lanka-muzzles-ngos-and-bans-media-related-activities.

[35] See United Nations Human Rights Committee, *Concluding observations on the fifth periodic report of Sri Lanka*, 21 November 2014, CCPR/C/LKA/CO/5, at para.21. Also see International Service for Human Rights, *Sri Lanka: Investigate and remedy violations against human rights defenders, say UN experts*, 31 October 2014, at http://www.ishr.ch/news/sri-lanka-investigate-and-remedy-violations-against-human-rights-defenders-say-un-experts.

[36] See Orders dates 24 April 2014 and 25 April 2014 under the Strategic Development Project Act, No. 14 of 2008. The Orders list two casino related ventures as strategic development projects and grant certain tax concessions to these projects.

[37] 'Sri Lanka coalition parties scuttle casino tax breaks plan', *The Standard*, 22 October 2014, at http://www.thestandard.com.hk/breaking_news_detail.asp?id=42206.

[38] Bar Association of Sri Lanka, *Sri Lanka Transforming into A 'Crypto Military and Authoritarian State' Says BASL*, July 2014, at http://basl.lk/index.php/services/archives/39-editor-s-choice-blocks/139-sri-lanka-transforming-into-a-crypto-military-and-authoritarian-state-says-basl.

[39] Gazette Extraordinary No.1895/24 dated 2 January 2015.

[40] Centre for Monitoring Election Violence, *Presidential Election 2015: CMEV Interim Campaign Report* (January 2015); Centre for Monitoring Election Violence, *Presidential Election 2015: Statement at the Conclusion of Polling*, 8 January 2015.

[41] Gazette Extraordinary No.1900/4 dated 2 February 2015.

[42] See Duminda Nagamuwa v. Mahinda Rajapaksa SC (F.R.) Application No. 16/2015. Also see 'SC issues notice on MR', *Daily Mirror*, 19 February 2015, http://www.dailymirror.lk/64185/sc-issues-notice-on-mr.

[43] 'FR Case Against MR Dismissed', *Ceylon Today*, 1 April 2015, at https://www.ceylontoday.lk/51-88951-news-detail-fr-case-against-mr-dismissed.html.

[44] 'Sri Lanka Bar Association asks President to withdraw call for armed forces to maintain public order', *Colombo Page*, 9 February 2015, at http://www.colombopage.com/archive_15A/Feb09_ 1423423722CH.php.

[45] See for example, Asanga Welikala, *The Nineteenth Amendment is a constitutional milestone in Sri Lanka's ongoing political development*, 21 May 2015, at 'http://constitution-unit.com/2015/05/21/the-nineteenth-amendment-is-a-constitution-al-milestone-in-sri-lankas-ongoing-political-development.

[46] UN Human Rights Council Resolution 19/2, 'Promoting reconciliation and accountability in Sri Lanka', adopted at the 19th Session of the UN Human Rights Council, 3 April 2012, A/HRC/RES/19/2.

[47] Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011).

[48] UN Human Rights Council Resolution 25/1, 'Promoting reconciliation and accountability in Sri Lanka', adopted at the 25th Session of the UN Human Rights Council, 26 March 2014, A/HRC/25/L.1/Rev.1, operative paragraph 10.

[49] Asian Human Rights Commission, *Sri Lanka: Ms. Balendran Jayakumari and Daughter Illegally Detained And Held Without Charge*, 8 April 2014, http://www.awid.org/Library/Sri-Lanka-Ms.-Balendran-Jayakumari-and-daughter-illegally-de-tained-and-held-without-charge

[50] For a useful insight into the culture of projects and programmes, see Chandrasena Maliyadde (Former Secretary, Ministry of Plan Implementation), 'Foreign Aid- Behind the Curtain', *The Island*, 24 June 2013, at http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=82105

A | No. 5A, Police Park Place, Colombo 5
T | +94 11-2055544
E | reception@veriteresearch.org
W | www.veriteresearch.org