

Confessionary Evidence and the State of Exception: A Conversation between Visakesa Chandrasekaram and Para Paheer

Vihanga Perera

School of Literature, Languages and Linguistics,
Australian National University,
AD Hope Building,
Ellery Crescent,
Canberra, ACT 2600, Australia

E-mail: vihanga.perera@anu.edu.au; owlgeorgeperera@yahoo.com

Abstract:

In an investigation of narrative representations that voice anomalies and irregularities in the prosecution of Tamil political prisoners in Sri Lanka, the paper sets in conference stories of torture and trial in Para Paheer's *The Power of Good People*, and Visakesa Chandrasekaram's *Tigers Don't Confess* and *The Use of Confessionary Evidence under the Counter-Terrorism Laws of Sri Lanka*. The paper investigates the judicial space in which these cases were tried as a corollary of the state of exception practiced in Sri Lanka resulting from long term use of emergency regulations and counter-terrorism laws. By drawing on constitutional changes and amendments from 1978 to the present – and by referring to the state's intimidation and undermining of the judiciary – I investigate the process by which exception was sustained as a governing philosophy in Sri Lanka, and locate the judiciary as an organ compliant of government. The paper also holds to discussion the fate of Tamil political prisoners eleven years after the conclusion of the Sri Lankan Civil War in 2009, the slow progress of post-war reconciliation, and the challenges they face in ongoing imprisonment.

Keywords: Political prisoners; Sri Lankan War; Exception; Torture; Judiciary

In 2011, having being saved from a capsized boat transporting illegal immigrants to Australia, Para Paheer (Paheertharan Pararasasingam) was delivered to Australian authorities and placed in an offshore detention facility. Since the end of Sri Lanka's Civil War (1983-2009) in May 2009, Paheer – an ethnic Tamil, married, and with a newborn son – had been living with a nagging sense of insecurity. He had already been “taken in” for questioning on two occasions and in the second instance he was severally tortured. In fact, in order to ensure a “fair hearing”, Paheer had had to bribe officials (Paheer 2017, 176). Following his release, Paheer left to India with his family and, later, paid human smugglers to find him passage on a boat bound to Australia. The journey was a precarious one and the boat was far from being seaworthy for a long journey. Close to Australian waters, when the boat capsized, thirteen passengers including two children were drowned. Twenty-odd were rescued and handed over to Australian authorities. For seven years, Paheer was in detention and it was not until 2017 when he was released to the Australian community where he was later joined by his wife and son.

Paheer's story is narrated in *The Power of Good People* (2017), which he wrote together in Australia with refugee rights activist Alison Corke. In the book, Paheer recounts a childhood and

young adulthood growing up in the war-affected Sri Lankan north, and a youth spent amidst a ceasefire which brought a fleeting promise of peace that lasted for four years (2001-2005). In 2006, as the cessation of hostilities caved in, war resumed and culminated in Mullaivaikkal, north-eastern Sri Lanka, in the total destruction of the Liberation Tigers of Tamil Eelam (LTTE). Its violent and decisive end, to date, has provided a controversial topic for human rights lobbies. In many respects, Paheer's story attempts to bring together the plight, lost hope, and despair of a generation of northern Tamil youth who, in the 1980s, was born to a war which was still in its infancy. This generation came of age in an environment shadowed by suspicion, incarceration narratives, abuse, torture, and imprisonment which became a part of its consciousness in the same way arbitrary killings, the display of dead bodies, and enforced disappearances became routine in the course of daily life.

As a witness narrative and a document of militarism, Paheer's biography is an affidavit of the circumstances that gave birth to desperate refuge-seeking in a universe dominated by conflict. The Sri Lankan Civil War by itself is an established discourse in literary representation and its complexity has been conveyed through an expanding corpus of refugee writing and narratives of forced migration. This includes numerous biographies, works of fiction, commentaries, graphic novels, and narrative forms that go beyond conventional generic boundaries (such as, for example, Shobasakthi's *Gorilla* and *Traitor*)¹ to which Paheer can be identified as a contributor. Paheer's daring journey to a land and a culture far removed from his own, at its most fundamental level, is an escape from the haunting fear of being caught and trapped within what Visakesa Chandrasekaram terms a "legal war". This "legal war" has to do with the complex battle strategy of the Sri Lankan government in fighting the LTTE, where Tamil men – taken into custody as suspects – were detained, prosecuted, and sentenced through trials without a jury. The men who were produced in court were often arrested arbitrarily, threatened or tortured, and prosecuted based on confessionary evidence. These men were brought to court already stigmatized as "Tigers suspects", and while some had no access to legal assistance (The Social Architects 2013), others faced trials heard in a language they didn't understand in a courtroom and a judge before whom they didn't feel confident of being justly represented.

In his *The Use of Confessionary Evidence under the Counter-Terrorism Laws of Sri Lanka*, Chandrasekaram identifies as an integral artery of the Sri Lankan government's war strategy "a legal battle using counter-terrorism laws to punish the Tigers in the courts" (Chandrasekaram 2018, 9). The standard approach in this "battle" was the use of confessions supposedly given by rebel "Tigers suspects" as evidence in court (Chandrasekaram 2018, 9). Within this "mass prosecution strategy" involving thousands of such suspects Chandrasekaram identifies a threefold process: arbitrary arrests followed by indefinite detention, the use of confessions recorded by the police as evidence, and the transfer of the burden of proof to the accused who would be challenged to disprove the "voluntariness" of their confessions (Chandrasekaram 2018, 9). By 2009, Paheer had already been arrested twice – both arbitrarily, and without a warrant. He had been tortured and treated with degradation (Paheer 2017, 171-177), and had had to bribe officials (whom he chooses not to disclose)

to earn a “favourable hearing” and a “fair verdict” (176). His traumatic experiences in custody and the fear of being further persecuted by the military and police, force Paheer to flee the country.

The first time Paheer was arrested the military surrounded his house in Mannar, in north-western Sri Lanka, at night and took him away in a van. However, through the intervention of a Catholic priest of the area Paheer was soon released and returned to his family. On the run up to the arrest, Paheer was insecure and felt as if “being watched” on and back from work. In the following year, he was arrested for a second time in Dehiwala – an outer suburb of the capital, Colombo – which resulted in him being tortured in custody. Being stripped and suspended against a wall, Paheer was beaten with metal bars and wires (Paheer 2017, 171). Chilies were smeared on his face. He was caged in a cell that was too small for a human where Paheer was forced to crouch at all times (171). The police questioned Paheer about activities during his student days at Jaffna University where he was the President of the Students Union. Paheer’s torture reached a disturbing high when an iron rod was introduced through his anal cavity which resulted in his losing consciousness (Paheer 2017, 174)². Referring to the bribes he had to offer, Paheer insinuates that such bribing was widespread – if not, routine – in the judicial system; specially so, in cases involving Tamils who were arrested as “Tigers suspects”. “Many of the prisoners had no one to help them,” Paheer narrates. “[Other detainees] kept telling me that I would be disappeared if I didn’t get out in twenty-eight days” (Paheer 2017, 177). The prisoners without financial means – Paheer seems to suggest – faced an uncertain future. In his book, Paheer questions a precarious territory expanding from arbitrary arrests by the police to documents presented in court that determine a verdict’s being “favourable” to the suspect (or not): a process that is corrupt in its being hinged on bribery and arbitrariness. The verdicts given at the end of this process carry prison sentences of varying lengths – including life terms – and are commonly understood and appreciated by society as fair, just, and determined by a rational process. Bribery, corruption, arrogance, or pre-determination are rarely attributed to or associated with these verdicts. In fact, such an attribution would grossly undermine the validity of edicts and regulations that govern the legal due process.

Visakesa Chandrasekaram is a legal practitioner, a creative artist, and an academic whose work synthesizes and engages with the use of confessionary evidence. In his novel *Tigers Don’t Confess* (2011) – a narrative set around the trial of a Tamil youth who had been arrested and charged in court as an LTTE gunman – Chandrasekaram reflects on the torture of suspects in custody and the police’s use of fabricated confessions as evidence. At one level, *Tigers Don’t Confess* collaborates with and is informed by Chandrasekaram’s academic work and human rights activism: in particular, his *The Use of Confessionary Evidence under the Counter-Terrorism Laws of Sri Lanka* (2017). Through a study of twenty eight confessions obtained by the police from “Tigers suspects” between 1993 and 2004, Chandrasekaram works towards addressing the gaps between these “confessions” and the truth behind each sentenced Tamil man and woman. In the process, Chandrasekaram takes an interest in characterizing the political and legal conditions that are conducive to and encourage the manufacture of such fabrications. *Tigers Don’t Confess* dramatizes the trial of a Kumaran

Mylvaganam: a young Tamil university student who had been arrested and prosecuted as a member of the LTTE pistol-squad, and the author of several high profile killings. Customary of LTTE-related cases, Kumaran's trial was held on the discretion of a single judge, and without a jury (Chandrasekaram 2011, 130). Resonant of cases against Tamil political prisoners, Kumaran's "confession", too, had been recorded and his case was prosecuted in Sinhalese (Chandrasekaram 2011, 132-153): a language the majority of the Tamil prisoners were ill-proficient in.

Kumaran's defense is hinged on a medical report which brings to light torture inflicted on the defendant's body: a brutalization that preceded his supposedly voluntarily and unforced confession (Chandrasekaram 2011, 218-222). Torture inflicted on Kumaran included his being beaten with wooden poles and PVC pipes filled with dried concrete, of being burned with cigarettes, and of his fingers, toes, and genitals being exposed to electricity (219). On occasion, Kumaran's head was forced underwater, and was forced in a bag that had been filled with petrol (219). Among the torture positions he was put through, the "Palestinian suspension method" (in Sri Lankan parlance, the "Dharma-chakra method") – admittedly a harsh form of torture that caused disorientation – had been used on Kumaran (219). While these characterizations corroborate with overarching patterns of bodily torture often represented in survivor narratives by Sinhalese and Tamil political prisoners, they also collaborate with Paheer's prison experience as a visceral trajectory.

Sellapulle is a "Tigers suspect" who, based on a "confession" he supposedly made to the police, had been convicted and sentenced for life. When Chandrasekaram met and interviewed Sellapulle, he had already spent fourteen years of his long sentence. In *The Use of Confessionary Evidence under the Counter-Terrorism Laws of Sri Lanka*, Chandrasekaram reproduces Sellapulle's "confession" which, in October 1994, had been used as evidence in court:

... the LTTE was recruiting members from my village and other adjacent villages. Later, I went to the LTTE office at Vandaramullai to join the LTTE. I met Vengan, the local leader, and gave my personal information to him. I stayed there and later went for training at Pondukulchenai camp. There were about 250 young men receiving training. First I received physical training and then training in arms and battle tactics. There, I also received training in using SLR, SMG, G3, M-70 weapons and hand grenades. At the end of this training, I was given the nickname Sujee and I was told that my membership number is 514. Also, all those who have received our training were called Batticaloa 12. First of all five of us including myself were sent to the camp in Kiran village. A person called Ruban held the leadership there. Here I received an M-70 type weapon, a magazine with ammunition and a cyanide capsule. Meanwhile, in 1990 the LTTE movement captured several police stations in Batticaloa. I too participated in that event (qtd. in Chandrasekaram 2018, 12).

Based on this "confession", Sellapulle was found guilty of conspiracy, receiving military training from the LTTE, taking part in military operations against the government forces and abducting police officers. In July 1995, he was sentenced to rigorous imprisonment. Speaking to Chandrasekaram, Sellapulle claimed that he was tortured at the Criminal Investigation Department in

Batticaloa, in the Eastern province. He denied having given a confession, and claimed that he was forced to sign a paper typed out in the Sinhalese language. Sellapulle was unable to read or write in Sinhalese (Chandrasekaram 2018, 12). It was only when his indictment was served that Sellapulle learnt about the contents of his “confession”, and of its being false and malicious (12-13)³.

Quite in contrast to the report in the “confession”, Sellapulle had been captured by the army and the police when his village had been sieged in September 1993:

All the villagers were summoned and paraded before a spotter who was covering his face with a gunnysack, hiding his identity. There were two holes in the sack so the spotter could see us. He nodded his head identifying me as a Tiger...When I was produced before the court, even before the trial began, the judge said, ‘I will give you 30 years’ conviction’. I was convicted wrongfully. I have been in prison for nearly 15 years. My life has gone. I don’t have a future. I have given up. Now I am 30 years old and I have been in the prison for 14 years already. (qtd. in Chandrasekaram 2018, 15).

From the perspective of justice, the judge’s exclamation “I will give you 30 years’ conviction” is both disturbing and revealing. Even though Chandrasekaram clarifies that “Sri Lankan judges are known for making these types of comments in the open court” (Chandrasekaram 2018, 16) the flippancy and the arrogance of the statement, as a symptom, suggests a preconception of the defendant’s guilt to govern the hearing. It articulates a prejudice and a lack of impartiality of the judicial system which, in turn, seems to discriminate against the defendant. The statement demonstrates a conceited undermining of the key foundational ethics of justice – that of one’s being “equal before the law” and “free until proven guilty” – and, as a mask falls off unexpectedly to show the face of an actor, it betrays the court proceedings as a necessary performance of the state’s “legal war”.

The arrogance with which the judge presides over Sellapulle’s case, as well as the bribery referred to in Paheer’s prison experience are both important symptoms of the law enforcement and prosecution machinery in Sri Lanka. I identify them as overarching, long-term negative outcomes resulting from a state of exception which has been practiced and perpetuated in Sri Lanka through the conflict years: a deployment which, in turn, fostered a complex environment in which the law enforcement actors and officers of the judiciary have been implicated within a system predominated, monitored, and even subverted by the sovereign. Effected through extraordinary laws, acts of indemnity and impunity, and mass prosecutions, this state of exception has been enacted by the state to maneuver and control ground conditions, to curb opposition, and to execute swift operations against dissidents within and outside zones of political conflict. By graying the boundary between what is legal and what is not – by making the limits of the law fluid and permeable – it also provided the state with leverage to cultivate and maintain sites such as secret safe-houses and torture camps: facilities that exist outside the reach of ordinary law, but which can be justified and rationalized under “exceptional circumstances”.

Introduced at first in the late-1970s, Sri Lanka’s Prevention of Terrorism Act (of 1979), its subsequent amendments, and other emergency regulations were in place for the greater part of the

three decades from 1979 to 2009. They were admittedly used in curbing rebellion in the majority-Sinhalese districts by the Marxist Janatha Vimukthi Peramuna (JVP) between 1987 and 1990, and in the northern and eastern districts where the conflict against Tamil liberation fighters took place (1983-2009). The state also curbed dissent, mass protest, trade union and student activism during this thirty year period by using clauses of these extraordinary laws. The exceptional circumstances these laws helped to foster made searches and arrests without warrants, the swift disposal of bodies, and prolonged detention both feasible and efficient. A country in which emergency regulations and counter-terrorism laws overreached the ordinary law for three decades develops its own symptoms. These post-1970s deployments of exceptional laws were concurrent with the rise of the Sri Lankan state's use of terror which human rights activist Basil Fernando asserts went to "primitive and abominable proportions" (Fernando 2005, 161).

The perpetuation of a state of exception results in law enforcement and the judicial space being absorbed and redefined as a full or partial extension of the exception in practice. Reflecting on the state of exception as a prerogative of sovereignty, Giorgio Agamben, identifies as sovereignty the capacity to declare exception to established rule of law: a situation where the sovereign, by being outside the law, declares that "there is nothing outside the law" (Agamben 1998, 15). This, in turn, blurs the line between violence and law, as it enables a corridor where "violence passes over into law, and law passes over into violence" (Agamben 1998, 32). I argue that the politico-legal and juridical system in which Sellapulle and Paheer were victimized is a chronic condition that demonstrates the state of exception becoming the rule; where, resonant of Agamben's characterization of the birth of the camp, exception becomes "a permanent spatial arrangement" which "remains outside the normal order" (Agamben 2005, 168-169).

The juxtaposition of the properties that define a state of exception and the juridical-legal apparatus of a society built on democratic values is an alarming realization. Then, on the other hand, the fostering of conditions necessary to encourage the politico-legal machine under probe is an improbable task if not for the willful and systematic erosion of norms of democratic rule. In the Sri Lankan case, the experiment for an absolute rule within the superficial frame of a democratic atmosphere – a system where the distribution of powers between the judiciary and the legislative, through the establishment of an executive presidency, was revised and curtailed – was tried out in 1978. Using an invincible 5/6 majority in parliament which he won in the 1977 general election, President Junius Jayewardene engineered a constitution which placed him – as a presidential executive – superior to both the legislative and the judiciary: a model in which "every aspect of rational government will be killed by the one authority at the helm" (Fernando 2005, 178). Between 1978 and 1984, Jayewardene used his unlikely mandate to amend the constitution to the benefit of his office and that of his government led by the United National Party (UNP). The powers were used to neutralize political opposition and, in 1982, to bring laws that prolonged the life of the house without holding elections that were due that year. In 1983, following the anti-Tamil riots in July and August Jayewardene proscribed three Left political parties under a false charge of their being

involved in the violence. While the ban was subsequently lifted for two parties, the proscription of the JVP – which, by then, was emerging as the most prominent among Marxist parties and a frontline critic of Jayewardene’s government – was kept in place indefinitely, forcing them underground. The JVP unsuccessfully attempted to have its ban revoked on numerous occasions. The insurrection they launched in July 1987 capitalized on the unpopularity of the Jayewardene government, while it seized on the mass discontentment over growing Indian influence in Sri Lanka’s political sphere. In 1990, when the state finally crushed the rebellion, it resulted in the deaths of 60,000 including the JVP’s rank and file (Senaratne 1997, 103; Wickremereetna 2016, 15). The events of these turbulent two and a half years strengthened the state of exception taking root in Sri Lanka, thereby adding to the political centralization initiated by Jayewardene’s regime a crucial legal and military arm. The closing years of the 1980s offer a demonstration of what Agamben terms as the “growing disassociation of birth (bare life) and the nation-state” (Agamben 2005, 175) which, in turn, resulted in a state-engineered and maintained legal and moral vacuum.

The 1978 constitution in Sri Lanka gave birth to the separation of powers along three parallel pillars – the executive presidency, the legislative parliament, and the judiciary – while it wrested on the executive exceptional provisions to overreach the other spheres. This can be identified as provisional grounds for the executive to step outside the law and undermine the constitution and the integrity of the judiciary. An example for this can be found in the president’s office being conferred with provisions to pardon a person convicted and sentenced by a court of law. As recently as 2019, the president of Sri Lanka handed over a “special presidential pardon” to a Buddhist monk serving a six year sentence for contempt of court (Dissanayake 2019) and to a person serving a death sentence for a murder committed in 2005 (BBC 2019). In 2020, a “presidential pardon” was given to Sunil Rathnayake, an army officer, who was on death row after being convicted of the murder of eight Tamil civilians 2000, which included a five year old child (Vidarshana 2020). The sentencing of Rathnayake was a rare instance in Sri Lankan judicial history where an army soldier was convicted for the killing of Tamil civilians during the war.

Within the first decade of the 1978 constitution, indemnity laws were set in place which, during the state’s crackdown of JVP rebels in 1988 and 1989, resulted in thousands of disappearances of youth in the Sinhalese-majority districts of the country (Bush 1990, 41-42; Thomson-Senanayake 2014, 116-129). While dead bodies were kept on display in public places, after having been tortured in safe-houses run by the military, police, and private armies, others were burnt or disposed into rivers or the sea (Amnesty International 1990, 3). In the Southern Province – where rebel activity was high – human rights lawyer Prins Gunasekara opened a Center for Human Rights in the Galle district (Gunasekara 1998, 667-668). Gunasekara and his junior associates represented the families of hundreds of “missing persons” and filed habeas corpus applications in court. In his *A Lost Generation: Sri Lanka in Crisis: The Untold Story* (1998), Gunasekara attempts to locate the post-JVP insurrection violence of 1987-90 within the larger political and constitutional crisis in the country which he traces back to the 1978 constitution. Key to his analysis, Gunasekara investigates the state’s deployment of

police and paramilitary agents who, while acting as an organ of the government, undermined the legal establishment and the judiciary. This included the threatening and killing of lawyers (Wickremereetna 2016, 804-806) including the murder of Wijedasa Liyanarachchi who was abducted by the police on 25 August 1988 outside the Colombo courts (Fernando 2015, 5). Liyanarachchi was known as a young lawyer who represented the families of “disappeared” persons in court. On 3 September, Liyanarachchi’s lifeless body was delivered to the hospital (Gunasekara 1998, 629). A post-mortem revealed 96 injuries in Liyanarachchi’s body (Fernando 2015, 19-31). In 1989, “unidentified gunmen” shot and killed Charitha Lankapura (Gunasekara 1998, 643-47) and Kanchana Abeypala (Gunasekara 1998, 630), who acted in litigation on behalf of families of “disappeared” men and women. By March 1990, with the exclusion of the Northern and Eastern provinces, 2000 habeas corpus cases had been filed in courts (Wickremereetna 2016, 804), while fifteen lawyers – out of which eight were known to represent the “disappeared” – had been killed by “unknown gunmen” (Wickremereetna 2016, 805-17). These killings can be characterized as intimidations of the law and attempts by the sovereign to appropriate the legal establishment within its overreaching agenda of power and control.

Sellapulle’s arrest and conviction takes place five years after the aforementioned killing of 15 lawyers. In a different war – one against “Tamil Tigers” – the state had already harmonized the judiciary as an organ of its “legal battle”. Reminiscent of Joseph K. in Franz Kafka’s *The Trial*, Sellapulle is already implicated of the crime he is accused of even before the trial has commenced. Both Sellapulle and Kumaran realized “the very concepts of subjective right and juridical protection no longer made any sense” (Agamben 2005, 170) and that “fact and law [had become] completely confused” (170). For them, the court room had morphed and shared with the camp the coinciding of sovereign and bio-power; where, as a site, the room they occupied as defendants had become a junction between the juridical-institutional and bio-political model of power. Writing from the position of law being “a site of political struggle” in its formulation and its interpretation and application, Derek Gregory reinforces Agamben’s notion that exception is a “vacant space limned by the ‘emptiness of law’” (Agamben 2005, 6, 86; Gregory 2010, 63): where the law has been adopted by the state as an ally to an act of power – an act within which torture, incarceration, and forced and /or fabricated “confessions” are known to occur, tolerated, and enforced.

The cases of Kumaran and Paheer provoke discussion of the theoretical intersection between the captive body and torture as an act of power. Foundational thinkers in Trauma Studies such as Elaine Scarry, who reflect on torture as its being an act of inflicting physical pain to its being a “translation of the attributes (of pain) into the insignia of the regime” (Scarry 1985, 19), attempt to map the implications of torture as power. In particular, Scarry’s assessment of torture as a symbolic “translation” of the regime’s power from the sovereign to the person informs my reading of the judiciary and the law enforcement process in the narratives of Sellapulle, Kumaran, and Paheer. In these instances, in its designated “role”, it is not in the judiciary’s interest to have knowledge of torture and coercion that was commonplace in the police as leverage to force out “confessions”. It is

a process that “attacks personhood, suspends the rules” and “unmakes the world of the victim by turning it into a strange and terrifying place” (Taylor 2007, 710). It undermines the limits and conventions of what Taylor terms as “enlightenment distinctions between the human and inhuman” and “agreements differentiating between the legitimate and illegitimate use of force” (Taylor 2007, 711). While giving purchase to this proposition, the singular conversation between Paheer – a refugee who, for a dangerous crossing, left behind the family he loved – and human rights activist Chandrasekaram brings to conference two ends of a spectrum which, at first glance, seems distant and far removed from each other: the trajectory set off by a president’s desire to exercise sovereignty through the concentration of power in an executive office, his banal use of exception and its normalization over ordinary law and – as a corollary – the juridical-legal warp caused by exception as a long-term implement.

In May 2019, Sri Lanka marked the tenth year since the end of the Civil War. In spite of numerous programmes designed and launched in the hope of post-war reconciliation – which, in 2010, included a Lessons Learnt and Reconciliation Commission (LLRC) – the question of Tamil political prisoners remained neglected and insufficiently addressed. As a means of maintaining its electorate, post-war Sinhalese nationalism often promoted the idea of a possible “LTTE resurgence” which turned popular opinion against discussions of freeing Tamil prisoners who had been detained during the war-years. Based on interviews covering 1786 households in Sri Lanka’s Tamil-dominated Northern, Eastern and Central provinces, a survey from 2012 indicated that 385 respondents claimed to have had a member of their family arrested by the army or the police (The Social Architects 2013). Of these already socially and politically marginalized families, 65% of the arrestees had been indicated as being the main income generator. Only 5% of the families of arrestees had been compensated by the state. 3.5% of them had received livelihood assistance (The Social Architects 2013). An alarming 43.5% of the arrestees were forced to give “confessions” under duress of which 53.5% had not received legal assistance (The Social Architects 2013).

In October 2015, 223 prisoners who had been detained as “LTTE suspects” launched a hunger strike in four prisons in Colombo, Anuradhapura, Jaffna, and Kandy. They had been detained under counter-terrorism laws of whom 144 were pending trial. 60 of these prisoners were yet to be charged while some were in detention from as early as 1997 (BBC 2015). The prisoners on strike demanded their trials to be held, or for them to be given freedom. The United Nations Council for Human Rights claimed that Sri Lanka held 258 such political prisoners of whom only 54 have been convicted (Iyengar 2015). In spite of strong opposition from Sinhalese nationalist platforms, human rights activists in Sri Lanka have lobbied for the rights of political prisoners who, after a decade since the defeat of the LTTE, are wasting away in prisons with no hope for their futures. For instance, the National Movement for the Release of Political Prisoners organized a petition in 2016 to effect the release of prisoners held under “false charges and without trial” (Perera 2016).

In a groundbreaking report issued in September 2018, Heleen Touquet documented sexual abuse and rape of male Tamil political prisoners in detention: a practice which Touquet claimed as

“massive and widespread” and had occurred “throughout the conflict and the post-conflict period” (Touquet 2018, 46). Touquet concluded that genital mutilation, rape, and gang rape were common and sexual abuse was widely used in obtaining confessions and interrogation (46). Touquet’s study is fresh in its approach to the issue of male Tamil political prisoners from a perspective of gender and gendered violence; and in drawing attention to ongoing violence on political prisoners in spite of the prospects of peace which the Sri Lankan state has declared after the end of the war. More than it being a matter of national security, the release of these political prisoners is a question of electoral politics and of maintaining the electorate along ethno-nationalist lines. For the politician who seeks favour in the country’s majority Sinhalese, the detention of Tamil political prisoners offers leverage and rhetoric in a bid for a further term.

Endnotes:

1. Shobasakthi often uses an experimental frame that brings together elements of biography, fiction, journalistic tropes, embellishments and pseudo-academic flair (which includes playful use of footnotes). His writing is a textbook example for what Michael Rothberg terms the use of “traumatic realism”: where, in the conveying of trauma, the narrative is built on a model that transcends conventional “realist” or “anti-realist” frames.
2. Chandrasekaram’s inquiry problematizes the “mass prosecution” strategy of the state. The high volume of confessionary evidence gathered by the police casts suspicions over the credibility, fairness, and legality in recording them. Chandrasekaram demands the rationale of the purported “voluntary confessions” by the suspects which amount to willing self-incrimination in court.
3. Sexual abuse and rape of male political prisoners in Sri Lanka is an under-represented scholarship. See, Heleen Touquet’s *Unsilenced: Male Survivors Speak of Conflict Related Sexual Violence in Sri Lanka* (2018) and Daya Somasundaram’s *Scarred Minds: The Psychological Impact of War on Sri Lankan Tamils* (1998). Perhaps, the most powerful biographical representation of rape of male prisoners is found in Rohitha Munasinghe’s *Eliyakandha Wadha Kandhawura* (Eliyakandha Torture Camp) set against the JVP Insurrection of 1987-90 (p. 23, 99).

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