

Voices for Justice from afar

Tamil diaspora activism in the Sri Lankan post-war context



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Abstract

This thesis aims to research Sri Lankan Tamil diaspora activism in the victor's peace context of Sri Lanka. In this regard, this thesis examines how the British Tamils Forum (BTF), a London-based Tamil diaspora group, uses collective action to engage in the transitional justice processes in Sri Lanka, from 2009 up to June 2016. BTF's activism in this context should be perceived in relation to the contested nature of transitional justice, where the victor's peace has led to diverging views between the Tamil diaspora and the Sri Lankan government on how to perceive 'justice' and achieve reconciliation in the post-war context. To examine how the BTF engages in collective action in relation to transitional justice, this thesis uses the analytical concepts of 'mobilising structures', 'framing' and 'political opportunities' to study BTF's 'iii-campaign', which strives for the establishment of an 'international independent investigation'. The findings of this thesis illustrate the strategical agency of the BTF in their collective action endeavours, in the way they restructured and 'legitimised' their organisation to gain access to the political establishment, constructed their own reality regarding the Tamil marginalisation and seized new supranational political opportunities to engage in the transitional justice processes and reposition themselves in the post-war context.

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List of abbreviations

APPG-T	All-Party Parliament Group for Tamils
BPS	Berghof foundation for Peace and Support
BTC	British Tamil Conservatives
BTF	British Tamils Forum
CJPD	Centre for Just Peace and Democracy
ECCC	Extraordinary Chambers in the Courts of Cambodia
EPRLF	Eelam People's Revolutionary Liberation Front
GTF	Global Tamil Forum
ICG	International Crisis Group
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for Yugoslavia
LLRC	Commission of inquiry on Lessons Learnt and Reconciliation
LTTE	Liberation Tigers of Tamil Eelam
MP	Member of Parliament
PLOTE	People's Liberation Organisation of Tamil Eelam
PTA	Prevention of Terrorism Act
SMO	Social Movement Organisation
TCC	Tamil Coordinating Committee
TELO	Tamil Eelam Liberation Organisation
TFL	Tamils for Labour
TGTE	Transnational Government of Tamil Eelam
TNA	Tamil National Alliance
UK	United Kingdom
US, United States	The United States of America
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council

Contents

- 1. Introduction and research design 1**
 - 1.1 Introduction 1
 - 1.2 Research design and methodology 3
 - 1.2.1 Research phases and methodology 4
 - 1.2.1.1 Data collection methods and analysis..... 6
 - 1.2.2 Sensitivity of the topic 7
 - 1.3. Chapter outline 8
- 2. Research context..... 9**
 - 2.1 Introduction 9
 - 2.2 The victor’s peace context..... 9
 - 2.2.1 The international community 10
 - 2.2.2 The diaspora 12
 - 2.3 The Tamil diaspora in the United Kingdom..... 13
 - 2.3.1 Characteristics of the Tamil diaspora 13
 - 2.3.2 Tamil diaspora organisations in the UK 15
 - 2.4 Conclusion..... 16
- 3. Analytical framework 18**
 - 3.1 Introduction 18
 - 3.2 Contention in the transitional justice context 18
 - 3.3 Analytical framework..... 20
 - 3.3.1 Social movement theory 20
 - 3.3.1.1 Mobilising structures 21
 - 3.3.1.2 Framing 22
 - 3.3.1.3 Political opportunities..... 23
 - 3.4 Conclusion..... 24
- 4. Mobilising structures 25**
 - 4.1 Introduction 25
 - 4.2 The internal structuration of the BTF 25
 - 4.2.1 Internal differentiation of the BTF 26
 - 4.2.2 Formalisation of the BTF 27
 - 4.3 The external structuration of the BTF 28
 - 4.3.1 BTF’s relationship with the British Government 29
 - 4.3.1.1 TFL and BTC 29
 - 4.3.1.2 The APPG-T 30
 - 4.3.2 BTF’s relationship with other SMOs 31

4.4 Action repertoires of the BTF.....	33
4.4.1 BTF’s action repertoires during the war.....	34
4.4.2 Action repertoires in the post-war context	35
4.4.3 Rationale of BTF’s action repertoire.....	36
4.5 Conclusion.....	37
5. Framing	38
5.1 Introduction	38
5.2 The genocide frame	38
5.2.1 The attributional component of the diagnostic frame.....	40
5.3 An ‘internationalised’ accountability mechanism	41
5.3.1 Powerfulness of the genocide frame.....	41
5.3.2 Frame resonance.....	44
5.4 The genocide frame and the contested nature of transitional justice.....	45
5.5 Conclusion.....	46
6. Political opportunities	48
6.1 Introduction	48
6.2 International context.....	48
6.2.1 The UNHRC.....	49
6.2.2 The ‘transitional justice’ discourse.....	52
6.3 The Sri Lankan political context	53
6.3.1 Threat as opportunity in the post-war context.....	54
6.3.2 Geopolitical considerations	55
6.4 Conclusion.....	57
7. Conclusion and discussion	58
7.1 Discussion	61
Bibliography	63
Primary sources	63
Secondary sources	65
Appendix I - The structure of the BTF.....	71
Appendix II – Protests during Genocide Remembrance day (18 May 2016).....	72
Appendix III – ‘Open your ‘I’s on Sri Lanka’ flyer.....	73
Appendix IV – ‘Stop Genocide of Tamils’ flyer.....	74

1. Introduction and research design

1.1 Introduction

‘Tamil protest ends after 73 days’ and ‘Thousands march for Tamil rights’, read some of the headlines covering diaspora activism during and directly after the final phases of the Sri Lankan civil war in 2009.¹ It is estimated that the civil war, which has affected the country since 1983, has cost approximately 70,000 lives and left 280,000 Tamils displaced (South Asia and Afghanistan 2009:320). Diaspora activism in the form of protests, marches, and hunger strikes took place amongst others in cities in the United Kingdom (UK) and Canada and were aimed at creating awareness for the actions committed by the Sri Lankan government during the last stages of the civil war. During these final months the Sri Lankan army defeated the ‘Liberation Tigers of Tamil Eelam’ (LTTE), making the case of Sri Lanka a clear example of a ‘victor’s peace’. This victor’s peace not only changed the power relations in Sri Lanka between the Tamil community and the Sri Lankan government, it also created a new environment for the Tamil diaspora, who no longer had a ‘strong power’ in Sri Lanka. The way the Sri Lankan Tamil diaspora² repositioned itself as political actors in the ‘victor’s’ peace’ context of the Sri Lankan civil war will form the essence of this thesis.

In particular, this thesis will focus on one Tamil diaspora organisation called the ‘British Tamils Forum’ (BTF). The BTF is a key diaspora actor in the United Kingdom, a country which holds the second largest Tamil diaspora population in the world.³ The BTF was established in 2006 with the aim to bring the numerous Tamil organisations – formal and informal – together, and function as an ‘umbrella organisation’. It claims to represent the ‘UK Tamil diaspora’ and provides this group with a voice on national and international level.⁴ Its mission entails working in three areas in parallel: 1) accountability 2) self-determination for the Tamils, and 3) rehabilitation, reconstruction and development (socio-economic empowerment) of the North and East of Sri Lanka.⁵ In the post-war context period, however, the area of accountability has been at the forefront of BTF’s endeavours. This involves establishing the truth and delivering justice for all victims of war in Sri Lanka through an international justice mechanism.⁶ This aim has been operationalised in one campaign, the ‘iii-campaign’, which was set up

¹ “Tamil protest ends after 73 days.” BBC, June 17, 2009. Accessed July 5, 2016. http://news.bbc.co.uk/2/hi/uk_news/england/london/8105879.stm; “Thousands march for Tamil rights.” BBC, June 20, 2009. Accessed June 13, 2016. http://news.bbc.co.uk/2/hi/uk_news/england/london/8110837.stm.

² Hereafter ‘Sri Lankan Tamil diaspora’ and ‘Tamil diaspora’ will be used interchangeably.

³ The diaspora in Canada is the largest, estimated 400,000 Tamils in the country. The Tamil diaspora in the UK is estimated around 300,000 (Nandakumar 2011:5).

⁴ Author’s interview on 9 May 2016 with one of the founders of BTF; BTF, ‘All Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016).

⁵ Author’s interview on 23 March 2016 with the General Secretary of the BTF.

⁶ BTF, ‘All Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016).

during the final stages of the civil war and focusses on the establishment of an ‘International Independent Investigation’ into the alleged crimes committed during the final phases of the war.⁷

The current objective of the ‘iii-campaign’ is the full implementation of the 2015 United Nations’ Human Rights Council (UNHRC) resolution (UNHRC 2015a).⁸ Alongside the establishment of a truth commission, reparations, and missing persons offices, the 2015 UNHRC resolution states that the Government of Sri Lanka should establish a ‘judicial mechanism’. The resolution affirms that a credible justice process should include independent judicial and prosecutorial institutions and emphasises the importance of foreign judges, defence lawyers and authorised prosecutors and investigators in this regard (UNHRC 2015a:17). The adoption of this resolution should be perceived in light of the transitional justice context which ‘moved’ the Sri Lankan post-war context to the international area. ‘Transitional justice’, is the component of peacebuilding which deals with the question on how to achieve justice and reconciliation after a transition to democracy and/or peace (UN 2004; Sriram 2007:585-586; Gready and Robins 2014:339).⁹ Although there is not one definition, a frequently cited definition is that of the UN which argues that transitional justice entails: “*the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation*” (UN 2004:4).

The specific focus of this thesis will be how the BTF, through ‘collective action’, is trying to engage in the transitional justice context of Sri Lanka in relation to the establishment of accountability mechanisms. In this respect, this thesis links three fields of study namely ‘diaspora studies’, ‘transitional justice’ and ‘social movement theory’. The objective of this thesis in this regard is that it further adds to the literature on the role of diaspora (activism) within transitional justice, and make linkages between legal theory and social science due to this focus on transitional justice. Moreover, by looking at the Tamil diaspora from a ‘collective action-lens’ this thesis also endeavours to add a transnational angle to, and further build on, social movement theory by studying the ‘Tamil diaspora’ as a social movement on its own. It is important to note that this thesis will not examine the actual *impact* of the endeavours of the BTF in this context. The following research question will be answered in this regard:

⁷ See paragraph 5.3.

⁸ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF; However, they mentioned this is a ‘compromise’. Their wish would actually be to see the report of the UN High Commissioner, which is more extensive, to be implemented (see UN 2015b).

⁹ Initially it was created to refer to ‘transitions’ from autocratic regimes to democracy, mainly in South America and the Soviet Union, but the concept has involved to now also include transitions from conflict to peace (Arthur 2009:324-327).

“How does the British Tamils Forum engage through collective action in the transitional justice processes in Sri Lanka in relation to the establishment of accountability mechanisms, from 2009 up to June 2016?”

The term ‘collective action’ will be operationalised through the analytical concepts of ‘mobilising structures’, ‘framing’ and ‘political opportunities’. These three concepts are derived from the literature on social movement theory and are analysed together to get a fuller understanding of the dynamics in social movements (McAdam et. al. 1996:7; King 2007:217). In this thesis, these three analytical concepts will thus be used to examine BTF’s development in the post-war period, specifically their endeavours in relation to the establishment of accountability mechanisms in the Sri Lankan transitional justice context. The claims made in BTF’s ‘iii-campaign’ will have a central place in this regard. This has led to the following three sub-questions:

1. What are the mobilising structures of the BTF, and how have they developed after the war to engage in transitional justice processes in Sri Lanka, in relation to the establishment of accountability mechanisms?
2. How does the BTF use the genocide frame to engage in transitional justice process in Sri Lanka, in relation to the establishment of accountability mechanisms?
3. In what ways do political opportunities in the international context facilitate or constrain BTF’s collective action with regard to their engagement with the transitional justice processes in Sri Lanka, in relation to the establishment of accountability mechanisms?

1.2 Research design and methodology

This thesis will perceive diaspora activists as actors with agency, purposefully interacting with formal (political) institutions, through which it tries to influence political institutional structures, such as Government policy and policy of actors in the international context. In this regard, this thesis follows the stance of structuration theory (Giddens 1984). This theory argues that there is no dichotomy between agency and structure, where structure is seen as limiting agency, but claims that they are mutually constitutive entities (Giddens 1984: xxi, xxvii). In this context, structuration theory will thus be used to study the political agency of the Tamil diaspora and their interaction with formal (political) institutions.

This thesis follows the view which perceives diaspora as an elite mobilised project, where ‘diaspora’ identity is constructed. This in contrast to the ‘monolithic view’ which perceives diaspora as a natural and automatic result of migration (Brubaker 2005:12; Baser and Swain 2010:39). ‘Diaspora’ will be therefore defined as follows: “certain members of migrant communities who maintain ties with the

homeland, and do so by actively participating in the political and social spheres of the host land, trying to affect decision making in both the home and the host countries” (Baser and Swain 2010:40). Hereafter, it will be discussed how ‘diaspora activism’ was studied for this research by respectively discussing the research phases and the methodology.

1.2.1 Research phases and methodology

This research roughly consisted of three phases¹⁰: 1) preliminary research in the Netherlands, 2) a first stage of field research which focussed on ‘mapping the field’ and 3) second stage of field research which focussed specifically on the BTF and the actors they engage with. The primary data collection techniques used during these phases were: content research of newspapers, books, digital media (social media/websites) and visual data, in-depth interviews with members of the Tamil diaspora¹¹ during my fieldwork in London, and participant observation during my fieldwork in London. As will further be discussed below, these main sources of information were used to triangulate my data from ‘different angles’; interviews would sometimes be used to triangulate data found on their website or during one of their events and vice-versa (Boeije 2010:176). In this sub-paragraph, the three research phases will be discussed separately, as well as the way the data collection techniques were used during these respective phases and how they were analysed. Finally, a separate sub-paragraph will discuss the ‘sensitivity’ of my research in relation to the LTTE, which is still a proscribed terrorist organisation in the UK.¹²

The first phase consisted of the preliminary research in the Netherlands. After deciding to focus on ‘political’ active Tamil diaspora groups, the United Kingdom was chosen as the area of research because of the large Tamil diaspora population here and the number of politically active Tamil organisations present (United Kingdom Home Office 2014:33; Vimalarajah et. al. 2011). Moreover, it has been argued that the UK was the most important site for LTTE’s overseas activity (Wayland 2004:419). The ‘politically active’ fractions of the London-based Tamil diaspora which were identified based on a list provided by the Berghof Peace Support (BPS) and the Centre for Just Peace and Democracy (CJPD) (Vimalarajah et. al. 2011:12-22).¹³ This was however only the starting point since the list was created in 2011, and thus could not provide a fully reliable indication of which groups were still active. Also, I created a ‘Twitter’ account and frequently looked on social media sites such as Facebook, to keep track on the current activities of these groups and determine what the most active groups were. From the

¹⁰ Excluding the ‘thesis writing’ phase.

¹¹ Although there are of course active ‘second-generation’ diaspora members, the vast majority of the persons encountered during my field research were first generation diaspora.

¹² United Kingdom Home Office. “Proscribed terrorist organisations [as at 15 July 2016].” Accessed July 14, 2016. http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509003/20160318proscription.pdf.

¹³ Indicators the BPS and CJPD used to define ‘politically active’ included lobbying, awareness raising, mobilisation of the Tamil Population in the United Kingdom, shaping the views of the Tamil population in the United Kingdom in relation to matters in Sri Lanka and investing in Sri Lanka towards shaping the political geography and economy there.

beginning, the research especially focussed on transitional justice and accountability mechanisms, because information gathered in this phase indicated diaspora activism in this field, as well as my personal background in criminal law and international law.

The second stage of this research approximately entailed the first three weeks of the field research in London (March – April 2016). During this period, the primary focus was to ‘map the field’. How is the Tamil diaspora structured? What are the main active groups? In what ways are they active? What are the key issues they are addressing? In order to answer these questions, non-probability (snowball sampling) was used to get in touch with the (very broad) category of ‘political active Tamils’, which initially included members of the UK branches of political organisations in Sri Lanka¹⁴, political active Tamil diaspora organisations, individual actors, and organisations working with these groups.¹⁵ During this period I gained a lot of valuable information regarding the questions as mentioned above, which were structured by ‘mapping the field’ through drafting mindmaps. The main finding in this respect was that the more – in some eyes ‘radical’ - politically active groups, such as the BTF, the Global Tamil Forum (GTF) and the Transnational Government of Tamil Eelam (TGTE) were more relevant for this research because of their specific focus on transitional justice.

After a first round of interviews with members of these aforementioned groups, I decided to focus this research on the BTF because of the following reasons: 1) the existence of all these different groups as mentioned in this section, would make it too complex for this research to focus on the ‘Tamil diaspora’ as a whole 2) lack of time resources made it possible to only focus on the UK; because the GTF and TGTE both have a ‘transnational’ element it would, therefore, be harder to get a complete picture of their endeavours with the given resources 3) The BTF has the largest base of popular support in the UK which makes them more interesting to research from a ‘mobilisation’ perspective. Because of the political context and based on the information provided during my first round of interviews this thesis will, as mentioned above, take the approach of McAdam and colleagues (1996) and focus on three factors: ‘mobilising structures’, ‘framing’, and ‘political opportunities’. As these three analytical concepts are already quite extensive on their own, I have decided to only focus on one specific campaign of the BTF with regard to transitional justice, the ‘iii-campaign’ as introduced above, to make sure this approach is feasible.

¹⁴ The UK branch of the ‘Tamil National Alliance’, which is the current political opposition party in Sri Lanka, and the branches of its member organisations: the Tamil Eelam Liberation Organisation (TELO), the Eelam People’s Revolutionary Liberation Front (EPRLF) and the People’s Liberation Organisation of Tamil Eelam (PLOTE). For this research they will, however, not be considered as relevant ‘diaspora organisations’ because, despite the fact that TELO, EPRLF and TNA have branches in the UK, they have their main organisation and origins in Sri Lanka.

¹⁵ *E.g.* the NGOs ‘Tamil Information Centre’ and ‘International Alert’ which both do extensive work with the Tamil diaspora in the UK.

The third phase was mainly focussed on the BTF and consisted of the remaining 1.5 - 2 months of the field research in London (April – May 2016). To make categorical claims on behalf of the BTF non-probability (snowball sample) was used, to focus primarily on founder members and current leaders of the BTF. The sampling was primarily based on two indicators: 1) their role in the executive committee (e.g. the persons responsible for ‘human rights’ and ‘advocacy’ were qualified as especially relevant) and 2) their active status within the BTF, which was determined through participatory observation. All the persons in the BTF I spoke to for this research were either in the ‘executive committee’ of the BTF or were in another way involved in determining the strategic direction of the BTF. In this regard, it is thus important to note that this thesis has focussed on the leadership of the BTF, and not on members of the BTF who were only passively engaged or other members of the UK Tamil community. This particular approach was chosen because of the relevance of the leadership of the BTF for this research and the limited time resource available.

During the third phase I also continued interviewing, as I called them, ‘context actors’. These persons were not directly engaged with the BTF, but as they were active in the same scene, they could provide valuable information for me to construct the ‘social reality’ in which the BTF operates as well as provide information on UK diaspora activism in general. These actors, for instance, included Member of Parliament (MP) with whom the BTF interacts and members of NGOs and academic researchers engaged with the Tamil diaspora. The sampling of these actors was also based on non-probability (snowball sample) on the basis of my information gathered during interviews and participatory observation during events organised by the BTF.

1.2.1.1 Data collection methods and analysis

The main data collection method during phase two and three were ‘semi-structured’ interviews.¹⁶ Because of the different nature of the interview in these two phases, different ‘topic guides’ were used (Boeije 2010:68-69); one with more general questions, regarding the Tamil diaspora and one specifically focussed on my research in relation to the BTF. Although time-consuming, all the interviews were transcribed because this helped with the initial analysis of the data. After transcribing an interview, the most relevant paragraphs were marked and subsequently coded in ‘open codes’, categorising them in one or more of the three analytical concepts.¹⁷ These formed the basis for the analysis. Hereafter the data was further segmented by further coding the data within these ‘analytical concepts’ into sub-categories (‘axial codes’), through which the gathered data could be reassembled again (Boeije 2010:96). To facilitate this analysis, immediately after every interview, memos were used to describe the key findings, which were also coded.

¹⁶ Due to practical reasons some of my interviews which actually should have been conducted in phase two, were conducted during phase three (e.g. interviewing a member of the ‘Tamil Coordinating Committee’).

¹⁷ ‘Mobilising structures’, ‘frames’ and ‘political opportunities’.

Besides interviews, participatory observation during events was used to gather data to determine BTF's 1) social network, 2) operative status of their mobilising structures and 3) the frames they used to convince their audience. Social media proved helpful to stay up-to-date as to when and where events took place. As mentioned above, these events were also used to determine which members were the main 'active' persons within the BTF, and to triangulate the data found during the interviews. A difficulty during the participatory observation events was the language. Although the majority of the events and posts on social media were in English, it did occasionally happen that events were in Tamil. Therefore, interviews, as discussed above, were also used to ask for further information about these events.

To enhance the quality of the data collected during the interviews as well as the participatory observation, I used documents of the BTF containing texts as well as visual images¹⁸, such as (online) press releases, folders and flyers gained during my (field) research as an important addition to triangulate my data. Moreover, at the end of the field research, a meeting was set up with four key members of the executive committee of the BTF, as well as the General Secretary of the BTF for the purpose of 'member validation' (Boeije 2010:177). Member validation was used for two purposes: 1) to see whether certain opinions were carried by all the leaders of the BTF in order to make categorical claims on their behalf and 2) to verify whether I interpreted the information they provided in a way which matched their 'social world'.

1.2.2 Sensitivity of the topic

Finally, it is important to note that due to the role of the Tamil diaspora during the civil war,¹⁹ diaspora activism is still perceived by certain actors as a 'sensitive topic'. This 'sensitivity' is related to the presumed link of the more radical organisations to the LTTE - which is, as stated earlier, still a proscribed organisation in the UK. Therefore, it was initially difficult to get into contact with these groups because of my Sri Lankan (Sinhalese) background. Some Tamil activists who were approached during this research admitted that they had to gain permission to speak to me from someone higher in the hierarchy, and some even mentioned that they suspected me of possibly being a member of the Sri Lankan intelligence. Fortunately, because of the contacts established during the second phase, and possibly also due to the fact that my grandmother was a Tamil and that I have visited the North of Sri Lanka, I managed to gain access to these groups.

¹⁸ Especially visual images on these documents were used for the 'framing' chapter, see appendix III.

¹⁹ See paragraph 2.2.2.

With regard to the quality of my data, it is important to mention in this context that despite this ‘sensitive context’ I did deliberately decide to record every interview and also explicitly asked permission to do this. The benefits of recording - higher quality (and guarantee) of the data collection (and analysis) (Boeije 2010:72) - were more valuable for me than the argument that I would – possibly - get more ‘sensitive’ information from the people I interviewed without recording. Fortunately, I noticed that after time had passed I did gain a sufficient degree of trust to collect relevant data for my research. Although I was *e.g.* not able to attend all of their meetings (those for BTF members only), I was invited to their ‘open’ events and their head office. Moreover, the individual members of the BTF answered all my questions. Overall, despite this sensitive context, I am confident that the individual members of the Tamil diaspora, and in particular the members of the BTF, did provide me with sufficient relevant data to base this thesis on.

1.3. Chapter outline

As mentioned in paragraph 1.1 of this first introduction chapter, this thesis will link three fields of study; diaspora studies, transitional justice, and social movement theory. The second chapter shall provide the research context of thesis. It will do so by first of all discussing Sri Lankan victor’s peace context. Second, it will discuss the findings of the ‘first phase of the field research’ in the way it will map the field in which the BTF operates: the Tamil diaspora in the UK. The third chapter will discuss the ‘analytical frame’ and build on the second chapter in the way it will link the features of the Tamil diaspora to social movement theory. The third field of ‘transitional justice’ will be discussed in both these chapters, because it provides for the overall post-war context of this research. Hereafter, the empirical chapters will follow, which will focus specifically on the BTF and respectively their mobilising structures, frames and political opportunities in the post-war context. The fourth chapter will discuss the ‘mobilising structures’ of the BTF. Here BTF’s internal structuration, links with other Tamil diaspora organisations as well as their strategy will be discussed. This chapter will specifically focus on how their structure and action repertoires have been influenced by the victor’s peace in 2009. The fifth chapter will discuss the way BTF has used the genocide frame to gain support from the British government and the international community for their ‘iii-campaign’, and how it has influenced their view of the transitional justice process. In the final empirical chapter, the political opportunities will be discussed, and how they facilitate or restrain the BTF in the post-war transitional justice context. ‘Political opportunities’ will not be used in this chapter to explain how the BTF emerged, but how they were able to sustain themselves in the post-war context. This chapter will mainly focus on the international transitional justice context as well as the Sri Lankan context which directly influences the strategic interactions in the international context. Finally, the seventh chapter will provide for a conclusion in the way it will assess the findings of the thesis and discuss its implications in the wider theoretical context.

2. Research context

2.1 Introduction

Being a diaspora organisation the BTF is attached to ‘two’ contexts; the Sri Lankan context as well as the context in the United Kingdom. The purpose of this chapter is to elaborate on the aspects of these two contexts which are relevant for this research. This chapter will first of all elaborate on the Sri Lankan context by discussing the ‘victor’s peace’, which determined the dynamics of Tamil diaspora activism in relation to transitional justice (paragraph 2.2). In this regard, the response of the international community to this victor’s peace as well as the role and relevance of the diaspora within transitional justice will also be elaborated on. The paragraph hereafter will discuss the more ‘narrow’ context in which the BTF operates, by discussing the ‘Tamil diaspora’ in the United Kingdom (paragraph 2.3). The main characteristics of the UK Tamil diaspora will be elaborated on as well as the main other relevant Tamil diaspora organisations which are engaged in political activism in the transitional justice context.

2.2 The victor’s peace context

On May 19, 2009, the Sri Lankan military announced the defeat of the LTTE, a Tamil militant organisation fighting for an independent state called ‘Tamil Eelam’ in the North and East of Sri Lanka. The LTTE claimed they represented the Tamil community in Sri Lanka, which form a minority in contrast to the Sinhalese majority. Tensions between these groups were already present during the British rule which provided the Tamil community with the top government positions as part of their ‘divide and rule’ strategy (DeVotta 2009:1025). These tensions exacerbated after Sri Lanka’s independence in 1948, when the Sinhalese gained governmental control and introduced certain discriminatory laws such as the ‘Citizenship Act’ of 1948, depriving the Plantation Tamils of their citizenship, the ‘Sinhala only Act’ in 1956, making Sinhala the only official language, and the ‘Standardisation Act’ of 1971, which required higher standards from Tamils than Sinhalese to gain access to university education.

Several Tamil militant (youth) groups emerged, from which the LTTE became the largest and most powerful. The LTTE managed to capture a substantial part of Tamil Eelam and ran a de-facto state between 1990 and 2009 (Höglund and Orjuela 2008:24). A military campaign, started in 2005 and led by the new Sinhala-nationalist President Mahinda Rajapaksa, meant the beginning of the end for this de-facto state and the civil war. In a full military offensive, framed as part of the ‘war on terror’, Rajapaksa defeated the LTTE, which led to a ‘victor’s peace’ for the Sri Lankan government (Höglund and Orjuela 2011:24). In this context, the International Crisis Group (ICG) stated in 2010 that “*within*

Sri Lanka, the LTTE has stopped functioning. Its leadership is mostly dead and thousands of former fighters and suspected supporters are in detention camps” (ICG 2010a:8).

The victor’s peace resulted in the ‘Sinhalization’ of former Tamil-dominated areas in the years after the war, through confiscation of Tamil lands and militarisation of Tamil dominated areas (ICG 2012b:i, 22; ICG 2012a:17-22; DeVotta 2011:142-143). In this regard, it has been argued that the post-war policies of Rajapaksa have ‘deepened rather than resolved the grievances that generated and sustained LTTE militancy’ (ICG 2010b:1). However, the victor’s peace not only resulted in the worsening of Tamil rights within Sri Lanka it also affected the whole of Sri Lanka due to the autocratic tendencies of Rajapaksa’s rule (ICG 2010b). Only a few years after the war the Rajapaksa family controlled all the major state institutions, and amended the constitution to remove the bar of the President being able to serve only two terms of six years as well as giving the President full control over the judiciary, police and the civil service (DeVotta 2011:133,137-138, 142, 150; Höglund and Orjuela 2011:25).²⁰

Rajapaksa’s control over post-war Sri Lanka came to an end after the 2015 Presidential elections were won by Maithripala Sirisena. Sirisena is a member of the same political party as Rajapaksa, the Sri Lanka Freedom Party, and has had important positions under the Rajapaksa rule, where he occasionally acted as defence minister during the final stages of the war, and as health minister in the post-war regime.²¹ Despite of the similar background, the 2015 elections are referred to as a ‘regime change’ in the way President Sirisena pledged for socio-economic and political transformation and promised reform in which ethnic and religious reconciliation will be the priority.²² Thus far it has been argued that while initial steps towards these goals have been made - especially in relation to constitutional reform - progress towards reconciliation has been slower than expected (ICG 2016; Weikala 2015). In this respect, it has been argued that “*Tamils in the north and east voted overwhelmingly for Sirisena but are increasingly doubtful he will fulfil his reconciliation and justice promises.*” (ICG 2016:i).

2.2.1 The international community

As mentioned in the introduction chapter, the transitional justice context ‘moved’ the Sri Lankan post-war context to the international area. Only a few weeks after the end of the civil war, the UN Human

²⁰ “Sri Lanka’s parliament boosts presidential powers.” The Guardian, September 8, 2010. Accessed on July 18, 2016. <https://www.theguardian.com/world/2010/sep/08/sri-lanka-parliament-mahinda-rajapaksa>; “Sri Lanka’s constitutional amendment; Eighteenth time unlucky.” The Economist, September 9, 2010. Accessed on July 18, 2016. <http://www.economist.com/node/16992141>.

²¹ Ministry of Defence, Sri Lanka. “President Maithripala Sirisena.” Accessed on July 18, 2016. http://www.defence.lk/main_abt.asp?fname=President.

²² Perera, Chaminda. “A crusade for socio-economic and political transformation.” Daily News, Sri Lanka’s National newspaper, January 10, 2015; Sirisena, Maithripala. “The Inaugural Address of President Maithripala Sirisena from the Hollowed Precincts of the Most Sacred Sri Dalada Maligawa in Kandy.” Accessed on July 18, 2016. <http://www.president.gov.lk/speeches/the-inaugural-address-of-president-maithripala-sirisena-from-the-hollowed-precincts-of-the-most-sacred-sri-dalada-maligawa-in-kandy/>.

Rights Council adopted a resolution which ‘welcomed’ the “*conclusion of hostilities and the liberation by the Government of Sri Lanka of tens of thousands of its citizens that were kept by the Liberation Tigers of Tamil Eelam against their will as hostages, as well as the efforts by the Government to ensure the safety and security of all Sri Lankans and to bring permanent peace to the country*” (UNHRC 2009). This perception of the UNHRC on the conflict, however, drastically changed in the years after. In the following resolutions, the international community started condemning the Sri Lankan government for the disproportionate violent ending of the war as well as the repressive post-war regime (UNHRC 2013; UNHRC 2014). Especially, the report of the ‘Panel of Experts on Accountability in Sri Lanka’²³, shed light on the atrocities which took place during the final stages of the civil war as well as the way the victor’s peace context left no space for investigations into the human rights violations as allegedly committed by both the LTTE and the Government of Sri Lanka (UN 2011:49-51, 121-122). As the report states:

‘The war in Sri Lanka ended tragically, amidst controversy. Many Sri Lankans and others around the world were relieved that the Liberation Tigers of Tamil Eelam (LTTE), renowned for its brutality, was defeated and that 27 years of armed conflict had come to an end. However, many people in Sri Lanka and elsewhere were deeply disturbed about the means used to achieve the victory by the country’s armed forces. They had watched for months, with increasing alarm, as hundreds of thousands of Tamil civilians became trapped between two highly determined warring factions, unable to flee, as the LTTE was forced into a small corner of the Vanni, on the north-east coast of the country. The toll of civilian casualties, both killed and wounded, rose dramatically. Civilians were caught by shelling from the Government side; when they attempted to escape the area, many, including women and children, were shot by the LTTE’ (UN 2011:1).

A few years after the report of the Panel of Experts - which recommended that the UN Secretary-General should immediately proceed to establish an independent international mechanism - a resolution was adopted in 2014 which called for a comprehensive investigation into alleged serious violations committed between 2002 and 2009 (UNHRC 2014). The reason for this was that there were “*international and national concerns about the absence of a credible national process of accountability to address the extensive atrocities – including allegations of war crimes and crimes against humanity*” (UNHRC 2015b:5). This resolution provides an insight into the acts which the report found to have been committed by the Sri Lankan government. These include unlawful killings, enforced disappearances, torture, sexual and gender-based violence, denial of humanitarian assistance and the deprivation of

²³ The Panel of Experts was appointed in 2010 by the United Nations Secretary General, and mandated to advise him on the issue of accountability with regard to any alleged violations of International (human rights) law during the final stages of the war by the Sri Lankan government as well as the LTTE (UN 2011).

liberty of internally displaced people (UNHRC 2015b:219-229).²⁴ In this context, the aforementioned '2015 UNHRC resolution' was adopted, which was co-sponsored by the United States of America (US, United States) and Sri Lanka under the rule of President Sirisena. While this resolution has acknowledged the importance of international involvement, Sri Lanka has argued that it will never allow international involvement.²⁵ This contention between Sri Lanka's view and BTF's view on transitional justice will be further elaborated on in paragraph 3.2 when the analytical frame will be introduced.

2.2.2 The diaspora

In relation to Sri Lanka's civil war, the role of the Sri Lankan Tamil diaspora has been caught in the debate whether they should be perceived as either 'warmongers' or 'peace builders' (Østergaard-Nielsen 2006; Orjuela and Sriskandarajah 2008; Brinkerhoff 2011). This debate should be viewed in light of the role of the Tamil diaspora during the war. It was argued they 'fuelled' and 'funded' the war by spreading LTTE propaganda and raising funds for the LTTE through organising charities, but also extorting Tamil families and store owners (HRW 2006; Chalk 2008; Wayland 2004; ICG 2010a:i). However, because of their role and influence during the war, in the post-war context several projects were set up to see whether the diaspora could also be potential 'drivers for change' in the field of peacebuilding (International Alert 2015; Vimalarajah et. al. 2011).

This role diaspora (can) play in the post-war context has also received attention in the transitional justice literature, in which diaspora are being acknowledged as relevant actors (Shain 2002; Haider 2014; Young and Park 2009). As a result, also the more normative question has been raised whether diaspora *should* engage in this transitional justice processes. Arguments which would plea in favour of this are that there would be more diversity, it would bring more international awareness and that it could also diminish possible tensions between groups in the diaspora community (Haider 2014:218). Arguments which would plea against diaspora involvement are that it could cause resentment by home populations towards the diaspora, and more practical, that there can be a lack of coordination between diaspora and the home populations and that it can be challenging to set up a mechanism to include the diaspora (Haider 2014:218).

²⁴ Because BTF mainly focusses on the alleged conducts of the Sri Lankan government, acts of the LTTE are not discussed in this section. However, it is important to note that the OHCHR was also mandated to look into their conducts. The report condemns the LTTE for *i.a.* unlawful killing, controlling the movement of civilians, abduction and forced recruitment of adults as well as children (UNHRC 2015b:219-229).

²⁵ Ameen, Azzam. "Sri Lanka president wants 'internal' war crimes court." BBC, January 21, 2016. Accessed on July 18, 2016. <http://www.sundaytimes.lk/160529/columns/alleged-war-crimes-pm-announces-probe-will-be-domestic-no-foreign-judges-195284.html>.

Although it would go out of the scope of this thesis to analyse this normative question in detail in the context of the Tamil diaspora, in the present case, it can be argued that the inclusion of the Tamil diaspora in the transitional justice processes is relevant for two reasons. First, the involvement of ‘conflict-generated’ diasporas in transitional justice can be perceived as important because many members of the (first generation) Tamil diaspora have been directly affected by the war. Therefore, they can be possible victims of the human rights violations which the transitional justice mechanisms seek to address (Haider 2014:216; Bala 2015:33).²⁶ Second, in the case of Sri Lanka, it can be argued that the involvement of the diaspora is necessary because the Tamil community in Sri Lanka does not have the freedom to act themselves. This is due the oppression of the Tamils in the victor’s peace context as mentioned above, especially under the Rajapaksa regime. In this regard, it can be argued that the diaspora can be a possible ‘voice for the voiceless’. As one of the members of the BTF stated:

‘The diaspora can only do certain things, but certain things we can do far better than people back home, for the simple reason that we have freedom, we have knowledge, we have contacts. So which we will be using, I don’t think we are going to be quiet.’²⁷

2.3 The Tamil diaspora in the United Kingdom

As mentioned in paragraph 1.2, ‘diaspora’ in this thesis will not be perceived as a bounded entity but as a ‘political project’, consisting of members of the Tamil migrant community who maintain ties with the homeland, and do so by actively participating in the political and social spheres of the host land. To provide a further understanding of the ‘Tamil diaspora’, this entity will hereafter be discussed in relation to their ‘dispersion’, ‘homeland orientation’ and ‘boundary-maintenance’, which have perceived as the three core elements of the diaspora concept (Brubaker 2005:5). Moreover, the heterogenous character of the Tamil diaspora will be touched upon.

2.3.1 Characteristics of the Tamil diaspora

With regard to the first element, this thesis will focus Tamils ‘dispersed’ in the UK as discussed before.²⁸ The second element of ‘homeland orientation’ is defined as an “orientation to a real or imagined ‘homeland’ as an authoritative source of value, identity, and loyalty” (Brubaker 2005:5). In the case of the Tamil diaspora this ‘homeland orientation’ mainly relates to ‘Tamil Eelam’, which they perceive as ‘real’ and having a legitimate claim to. This claim is based on historical grounds, by arguing that before

²⁶ Author’s field notes March – May 2016.

²⁷ Author’s interview on 17 March 2016 with one of the founders of the BTF. In this regard, it should however be noted that the aspirations of the Tamil diaspora do not have to be necessarily in line with those of the community within Sri Lanka. This especially relates to the concept of ‘long-distance nationalism’, coined by Benedict Anderson, which argues that diasporas tend to be more extreme than the communities living inside the homeland (Anderson 1988 in Bala 2015:18).

²⁸ Paragraph 1.2.1.

the colonialization, Sri Lanka consisted of three kingdoms; one Tamil – ‘Tamil Eelam’ in the North and East of Sri Lanka - and two Sinhalese (Venugopal 2003:3; Fair 2005:126; Hennayake 1992:542).²⁹ The third element of ‘boundary maintenance’ enables one to speak about a distinctive community, held together by active solidarity, relatively dense social relationships that “cut across state boundaries and link member of the diaspora in different states into a single ‘transnational’ community” (Brubaker 2005:6). Within the Tamil diaspora these dense social relationships are clearly visible through the diverse set of social institutions which exist in the Tamil diaspora community such as Tamil schools, temples and Tamil community centres (Orjuela 2008:441).³⁰ Another salient feature of the Tamil diaspora in this respect is that they have organised themselves in various countries, such as Canada, the US, Australia and Norway, through transnational organisations which will be discussed further in this paragraph.

When talking about a ‘diaspora’ it is important to note that they are intrinsically heterogeneous (Baser and Swain 2010:40).³¹ In the context of the Tamil diaspora, this first of all relates to the fact that there were different ‘waves’ of migration; the Tamil diaspora in the UK consists of members who came to the UK in the 1960s/1970s - to *e.g.* pursue their studies or due to the riots in the 1950s/1970s - to the diaspora who came to the UK from 1983 – 2009 due to the civil war.³² However, this heterogeneity not only applies on an individual level, but also on the level of the Tamil activist organisations. The most salient characteristic of the Tamil diaspora found during the field research is that the Tamil activist organisations all have the same goal, but different strategies to achieve this goal (Vimalarajah et. al. 2011).³³ As one Tamil activist stated:

‘With any community, we also have our various organisations, who all want to achieve (...) the same; peaceful resolution for the Tamil question, accountability, justice, those are the key goals everyone is working towards. And you know, in terms of what the final solution may be, there may be differences between organisations, but essentially we are all working towards the same thing. But of course, any community from anywhere in the world, there are different opinions on how you are going to achieve it.’³⁴

²⁹ Author’s field notes March – May 2016.

³⁰ Author’s field notes March – May 2016.

³¹ Author’s field notes March – May 2016.

³² Author’s field notes March – May 2016, Author’s interview on 22 March 2016 with one of the directors of GTF on 22 March 2016 (example of a ‘first wave’ diaspora member who came to the UK in the 1960s) and Author’s interview on 19 May 2016 with the Project and Research Manager of the ‘International Truth & Justice Project Sri Lanka’ (works with conflict generated diaspora from 2009 – now).

³³ Author’s field notes March – May 2016.

³⁴ Author’s interview on 10 May 2016 with Tamil activist who has been active within Global Tamil Forum, British Tamils Forum, British Tamil Conservatives and Tamil Youth Organisation.

Besides the tensions which exist what the best strategy is to achieve the above mentioned goals, there are also tensions between the groups over who is 'radical' and who is 'moderate', who had links with the LTTE, and who really represents the Tamil community.³⁵ However, there are two salient goals to which all Tamil diaspora organisations relate to: (some form of) self-determination, as well as accountability for the Tamil community in Sri Lanka in the post-war period. The following paragraph will discuss three Tamil diaspora organisation which are, besides the BTF, politically active in the United Kingdom.

2.3.2 Tamil diaspora organisations in the UK

The victor's peace resulted in the diversification of the Tamil diaspora through the emergence of new (transnational) organisations, with the aim to unite the global Tamil community and Tamil activist organisations. An example of an organisation which aspires this latter aim is the 'Global Tamil Forum'. The GTF was created by the BTF in 2009 with the intention to unite the Tamils in the world and form a global organisation to link all activist organisations.³⁶ The BTF would naturally be the UK representative of the GTF. However, due to internal differences on communication and decision making the BTF in an explicit statement distanced itself from the GTF, and two organisations are now no longer linked.³⁷ The GTF has strong links with the Tamil National Alliance (TNA)³⁸ and is the only group discussed in this paragraph who directly works with the Sri Lankan government. They claim to represent six Tamil organisations worldwide which include, Canadian Tamil Congress, US Tamil Pact, and Australian Tamil Congress.³⁹ They work according to a 'four-pillar' structure, which consists of the search for accountability and justice through an independent, international inquiry into crimes committed on both sides of the war; consensus of the Tamils in Sri Lanka and the Tamils in the migrant community to articulate their political aspirations; engaging without prejudice with civil society on the Island and, finally, addressing the socio-economic needs of the people living on the Island.

Another international initiative is the 'Transnational Government of Tamil Eelam' (TGTE). The TGTE was set up in 2010, to take the struggle forward after the war in a 'peaceful and political way' and bring

³⁵ A distinction which is often made is between 'moderate' diaspora (focussing on a federal structure/ internal self-determination) and 'extreme' diaspora (focussing on a true separate State through secession and thus external self-determination).

³⁶ Author's interview on 16 March 2016 with the General Secretary of the BTF; author's interview on 22 March 2016 with one of the directors of GTF; "Grass roots organisations form GTF." TamilNet, July 23, 2009. Accessed on 18 July 2016. <http://www.tamilnet.com/art.html?catid=13&artid=29840>.

³⁷ Author's interview on 16 March 2016 with the General Secretary of the BTF; author's interview on 22 March 2016 with one of the directors of GTF; BTF. "Statement on BTF's relationship to Global Tamil Forum [January 24, 2014]." Accessed on 18 July 2016. <http://tamilsforum.co.uk/2014/01/statement-on-btf%e2%80%99s-relationship-to-global-tamil-forum/>.

³⁸ See footnote 14.

³⁹ Author's interview on 22 March 2016 with one of the directors of GTF.

the global Tamil community together as a ‘coherent force’.⁴⁰ Their foremost aim is justice for genocide of Tamils through an international independent inquiry.⁴¹ The TGTE works in a transnational ‘democratic way’, and has Members of Parliaments (MPs)⁴²- 95 in total - in 12 countries elected by the diaspora community.⁴³ In 2016 the TGTE has established a ‘Monitoring Accountability Panel’ which consists of six independent panellists with the aim “to provide independent monitoring, advice and recommendations on the transitional justice mechanisms in Sri Lanka after the end of the war in 2009”.⁴⁴

Although they are not as politically active as the BTF, GTF, and the TGTE, the ‘Tamil Coordinating Committee’ (TCC) should be mentioned because of their international links as well as their links with the Tamil community in the UK. The TCC has existed for over 30 years and was perceived to be the main front organisation for the LTTE in the diaspora, responsible for collecting money during the war to fund the LTTE.⁴⁵ It has branches in 14 countries, some of which may overlap with the organisations the GTF claim(s)ed to (have) represent(ed)s.⁴⁶ They believe in a truly ‘separate’ state with complete self-rule and argue that the Tamil community needs justice for the committed genocide by the Sri Lankan Government.⁴⁷ The TCC argues to be a ‘grass roots’ organisation, which only works with the people on the ground. Contrary to the BTF, the TCC is more engaged with organising remembrance days - such as heroes day’ on the 27th of November – rather than being very openly engaged in lobbying the government.⁴⁸

2.4 Conclusion

BTF’s post-war activism should be understood in a context where the victor’s peace caused a Sri Lankan regime with authoritarian tendencies and oppression of the Tamil community. The international community responded to these events through several critical resolutions which ultimately resulted in

⁴⁰ Author’s interview on 2 April 2016 with UK representative of the TGTE (Minister of ‘Human Rights and actions against genocide and other mass atrocities’); TGTE. “About TGTE.” Accessed on July 18, 2016. <http://tgte.org/about-tgte/#>.

⁴¹ Author’s interview on 2 April 2016 with UK representative of the TGTE (Minister of ‘Human Rights and actions against genocide and other mass atrocities’).

⁴² To be nominated as a Member of Parliament you have to be 1) an (former) inhabitant of ‘Tamil Eelam’, 2) Born from parents who are/were inhabitants of ‘Tamil Eelam’ or 3) Married to a person who is/was an inhabitant of ‘Tamil Eelam’, Author’s interview on 2 April 2016 with UK representative of the TGTE (Minister of ‘Human Rights and actions against genocide and other mass atrocities’).MPs communicate through a teleconference once a week, interview TGTE.

⁴³ So far there has been only one election in 2010. The MP from the UK I interviewed argued that the reason for this is that the diaspora community is afraid to get involved with the TGTE since it is still a banned organisation under Sri Lankan law, and this can affect the diaspora community when they want to go back to Sri Lanka.

⁴⁴ TGTE, MAP flyer, obtained by author on 24 April 2016.

⁴⁵ Meeting with individually political active Tamil diaspora members and a member of TELO (UK branch) on 4 March 2016; Author’s interview on 8 April 2016 with Tamil activist.

⁴⁶ Author’s interview on 12 May 2016 with UK member of the TCC responsible for advocacy and media.

⁴⁷ Author’s interview on 12 May 2016 with UK member of the TCC responsible for advocacy and media.

⁴⁸ Meeting with individually political active Tamil diaspora members and a member of TELO (UK branch) on 4 March 2016; Author’s interview on 27 April 2016 with the CEO of IBC Tamil Media.

the adoption of the 2015 UNHRC resolution, which should be seen in the transitional justice context. The inclusion of the Tamil diasporas in this transitional justice can be perceived as relevant because members of the Tamil diaspora directly affected by the civil war can be victims the transitional justice mechanisms seeks to address. Moreover, they can be a possible ‘voice for the voiceless’ due to the discussed repression of the Sri Lankan Tamil community in Sri Lanka. Within the UK context, the victor’s peace resulted in a diversification of Tamil diaspora organisations, where new organisations emerged after the war all with their own strategies and claiming to represent the Tamil community. The ‘victor’s peace context’ and the ‘Tamil diaspora’ will be further elaborated in the next chapter. Here they will be discussed in light of the transitional justice context through which the analytical framework will be introduced.

3. Analytical framework

3.1 Introduction

In this chapter, the analytical framework will be discussed in more detail. As aforementioned, the analytical framework consists of three core analytical concepts: ‘mobilising structures’, ‘frames’ and ‘political opportunities’. These are derived from ‘social movement theory’ which is aimed at understanding the social mobilisation in a society. Before discussing these three analytical concepts, the claims the Tamil diaspora makes in relation to transitional justice will be discussed in order to understand how social movement theory relates to the Tamil diaspora in this post-war context (paragraph 3.2). Hereafter, the three analytical concepts will be examined in more detail, and how they will be operationalised for studying BTF’s endeavours in the post-war context (paragraph 3.3).

3.2 Contention in the transitional justice context

‘Transitional justice’ has been introduced as the component of peacebuilding which deals with the question on how to achieve justice and reconciliation after a transition to democracy and/or peace. Although there is not one definition, a frequently cited definition is that of the UN which argues that transitional justice entails “*the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation*” (UN 2004:4).⁴⁹ It has been argued that transitional justice has emerged as a ‘global project’ where local, national and international actors interact, and the question no longer is “*whether something should be done after atrocity, but how it should be done*” (Nagy 2008:267, 278).

Because there are different understandings and perceptions on what ‘justice’ and ‘reconciliation’ entails, and which ‘mechanisms’ are needed to achieve these goals, transitional justice can be perceived as a ‘contested process’; open for debate and choice as to its precise definition, what kind of mechanism and what form of justice should be established, and how this should be linked to the ultimate goal of creating reconciliation and positive peace within a state. Contrary to national justice procedures, in which procedures are ‘fixed’, a ‘special’ feature of transitional justice is thus that there is a choice between different mechanisms on how to deal with alleged committed atrocities. In this regard, it has even been argued that transitional justice mechanisms are a ‘key site of ongoing struggles in the battle for the nature and direction of the transition’ (Bell 2009:25). That this is especially the case in Sri Lanka’s post-war context will be elaborated on hereafter.

⁴⁹ Examples of ‘transitional justice processes’ are: criminal prosecutions, reparations, institutional reform of abusive State institutions and truth commissions, related ‘mechanisms’ are truth and reconciliation commissions, criminal courts (e.g. the International Criminal Court, hybrid tribunals and domestic courts), reparation programmes etc.

As discussed, the case of Sri Lanka provides for a clear example of a ‘victor’s peace’. This had the consequence that, although there might have been a ‘transition’ from war to peace, there has been no transition – in the sense of a power shift - within the government. This has affected, and is still affecting, the transitional justice processes in Sri Lanka. Because defeat of the LTTE is justified by the Sri Lankan government in terms of discourses on the ‘war on terror’, there is no legitimate ‘other side’ to reconcile with (Höglund and Orjuela 2011:24). As Sri Lanka’s former representative to the UN stated a few months after the war: “*there isn’t one instance where a winner of a war has been tried before a Tribunal. They have always been set up for losers.*”⁵⁰

This victor’s peace context has resulted in contention in post-war Sri Lanka between the Sri Lankan government and the Tamil diaspora on how ‘justice’ should be perceived. Sri Lanka’s narrative in the post-war period can namely be characterised as based on ‘restorative justice’ (ISS 2010:70; Gunatilleke 2015:91). In contrast to ‘retributive justice’, which focusses on punishment, restorative justice focusses on healing and forgiveness through active participation of the community through ‘victim-offender mediation’ and participation of the community in truth-telling processes (Sullivan and Tift 2006:1-2, 23-40). The establishment of a ‘Lessons Learned and Reconciliation Commission’ (LLRC) by the Sri Lankan government in 2010 is a clear illustration of this approach focussed on restorative justice.

There were indications that the ‘new regime’ in Sri Lanka, under President Sirisena, had deviated from above mentioned narrative on transitional justice, by co-sponsoring the 2015 UNHRC resolution which calls for a - retributive – judicial mechanism. However, as mentioned, this year President Sirisena has stated he will “never accept international involvement”, has cast doubt on a foreign-experts role and claimed the military was never accused of war crimes (ICG 2016:27).⁵¹ This focus on restorative justice, a *domestic* accountability mechanism and denial of alleged crimes committed by the Sri Lankan government is in stark contrast with the calls from the Tamil diaspora which are focussed on retributive justice through the establishment of an *international* accountability mechanism (Bala 2015, Laffey and Nadarajah 2012:415; UNHRC 2015a). These different perceptions of justice between the Sri Lankan government and the Tamil diaspora has led to contention in the post-war context.

⁵⁰ “Winners are never tried for war crimes, says Colombo’s foreign secretary.” TamilNet, August 21, 2009. Accessed on 15 June 2016. <http://www.tamilnet.com/art.html?catid=79&artid=30056>.

⁵¹ Ameen, Azzam. “Sri Lanka president wants 'internal' war crimes court.” BBC, January 21, 2016. Accessed on July 18, 2016. http://www.bbc.com/news/world-asia-35376719;_The Prime Minister of Sri Lanka, Ranil Wickremesinghe, has underlined this statement in May 2016, “Alleged war crimes: PM announces probe will be domestic, no foreign judges.” Sunday Times, May 29, 2016. Accessed on July 18, 2016. http://www.sundaytimes.lk/160529/columns/alleged-war-crimes-pm-announces-probe-will-be-domestic-no-foreign-judges-195284.html_

3.3 Analytical framework

This thesis will discuss the claim making of the BTF with regard to the contention which exists in the transitional justice context in Sri Lanka. The ending of the war and the subsequent emergence of the ‘transitional justice’ context can in this regard be perceived as a new ‘episode of contention’ in the words of the ‘contentious politics literature’ (Tilly 2007:36-38). This new episode of contention is characterised by the victor’s peace, and has led to a claim making regarding the question how to achieve justice and reconciliation in Sri Lanka. Contentious politics can be defined as “*interactions in which actors make claims bearing on someone else’s interest, leading to coordinated efforts on behalf of shared interests or programs*” (Tilly and Tarrow 2007:4). It occurs when ‘ordinary people’ – often in alliance with influential citizens and changes in public mood - join forces in a confrontation with elites, authorities, and opponents (Tarrow 1999:6). These ‘joined’ forces can be manifested in the creation of a ‘social movement’. This thesis argues that the Tamil diaspora can be perceived as a social movement, because despite their different strategies. as discussed in paragraph 2.3, the Tamil diapora is engaged in a “*sustained campaign of claim making [self-determination/accountability], using repeated performances that advertise that claim [mainly demonstrations and lobbying], based on organisations, networks, traditions and solidarities that sustain these activities [the ‘Tamil identity’ and organisations such as the BTF, GTF, TGTE, TCC – but also in other countries such as the Canadian Tamil Congress and the Australian Tamil Congress]*” (Tilly and Tarrow 2007:8; Amarasingam 2015).

Viewing the Tamil diaspora as a social movement adds an international dimension to this analytical framework, because the Tamil diaspora makes claims through which it tries to change governmental policy not in its *own* State - the United Kingdom - but in a State which is located halfway across the world. There is thus an international component, which is conceptualised in ‘transnational politics’, being, “*various forms of direct cross-border participation in the politics of their country of origin by both migrants and refugees, as well as their indirect participation via the political institutions of the host country (or international organisations)*” (Østergaard-Nielsen 2001:262).

3.3.1 Social movement theory

The essence of this analytical framework will be formed by ‘social movement theory’. Since the 1960s, several paradigms have influenced the literature on social movement theory. In the 1960s and early 1970s, a number of scholars emphasised social psychological aspects of movements as articulated by the ‘relative deprivation’ theory. This theory sees grievances, deprivation, as a cause for social unrest, and focusses on the catalyst between frustration and aggression caused by a perceived discrepancy between expectations and reality (Gurney and Tierney 1982:34; Gurr 1970). During the 1970s two new important other paradigms, which did not explicitly focussed on grievances, evolved within social movement theory: ‘Resource Mobilisation theory’ in the US and the ‘New Social Movement’ approach in Europe (Tarrow 1988:423). While the former focusses more on rational perspectives of individual

attitudes and the organisational aspects of the groups that organise mass protest (how do groups get the resources to act and sustain themselves collectively?), the latter focusses more on structural causes of social movements such as politics, culture and ideology, and looks at sources which define collective identity of social movements (why do groups form around a specific issue?) (Tarrow 1988:432; McCarthy and Zald 1977:1215; Buechler 1995:442).

The scholars McAdam, McCarthy and Zald argue that scholars representing different theoretical traditions, all emphasise the importance of three broad sets of factors: 1) the structure of political opportunities and constraints confronting the movement, 2) the forms of organisation (formal and informal) available to insurgents and 3) the collective processes of interpretation, attribution and social construction that mediate between opportunity and action (1996:2; see also King 2007; Benford and Snow 2000). Therefore, instead of focussing on one theory, they argue for a synthetic perspective of social movement theory. This thesis will mainly follow this synthesis, and thus not explicitly focus on one of the paradigms, but analyse the contentious collective action of the BTF through the three sets of factors as mentioned above. For the purpose of the structure of this thesis, the ‘mobilising structures’ will be first discussed, thereafter ‘framing’ and finally the ‘political opportunities’. Although these factors will be presented in the following paragraph as different components, it is important to note that they all influence each other (McCarthy 1996:149).

3.3.1.1 Mobilising structures

Mobilising structures are ‘those collective vehicles, informal as well as formal, through which people mobilise and engage in collective action’ (McAdam et. al. 1996:3). It has been argued that ‘Social Movement Organisations’ (SMOs) constitute the ‘crucial’ building blocks of the mobilising structures of a social movement (Kriesi 1996:152). An SMO is a “*complex or formal organisation that defines its goals with the preferences of a social movement or a countermovement and attempts to implement those goals*” (Zald and McCarthy 1987a:19-20). Compared to other organisations, ‘SMOs’ endeavour to mobilise their constituency for collective action towards a political goal; to obtain some collective good or avoid some collective ill from the authority (Kriesi 1996:152).

‘SMO’ is a concept which has its origin within resource mobilisation theory which, as mentioned above, focusses more on the organisational aspects of social movements. One of the ways this can be illustrated is the importance of the interaction between SMOs and other organisations – other SMOs and/or the authorities – and the way they compete (McCarthy and Zald 1977b:1234). Moreover, resource mobilisation theory argues that social movements are rarely ‘unified affairs’; they can be linked to various segments of supporting constituencies (institutional and individual), sometimes unified and sometimes in an ‘all-out’ war against each other (Zald and McCarthy 1987b:161). This relates to what was discussed before in relation to the Tamil diaspora, because, while this thesis will mainly focus on

the BTF, it is important to note that it does not act in a vacuum, but interacts with other SMOs in the Tamil diaspora – such as the GTF, TGTE, and the TCC. In this regard, it is thus important to acknowledge that social movements are mostly represented by more than one SMO (Zald and McCarthy 1987a:21).

To analyse the BTF as an SMO this thesis will use some of the parameters, as proposed by Kriesi, which are designed to study the organisation development of an SMO (1996:154-157). In this thesis, these parameters will be used to study the development of the BTF as an SMO in relation to the 2009 victor's peace. First, the *internal structuration* of the BTF will be discussed. This relates to the processes of formalisation, internal differentiation, and integration. In other words; the ways in which the BTF has structured themselves internally to have success in the long run. Second, the *external structuration* of the BTF. This will focus on BTF's relation with its constituency, its allies and the authorities. For this thesis, this section will thus discuss BTF's links with the UK political establishment and other diaspora organisations. The third parameter contains the *goals orientations and action repertoires* of the BTF. Here it will be examined how BTF's action repertoires have changed and developed after the war.

3.3.1.2 Framing

The concept 'frame' refers to 'schemata of interpretation', which allows its user to 'locate, perceive, identify, and label a seemingly infinite number of concrete occurrences defined in its terms' (Goffman 1974:21). This analytical concept of Goffman has been used by Snow and his colleagues to deal with a central problem within the field of social movements, namely how SMOs gain support for, and participation in, their endeavours (1986:464). They argue that a central concept to analyse this is 'frame alignment'; the linkage of individual and SMOs interpretive orientations, such that some set of individual interests, values and beliefs are congruent and complementary to the activities, goals, and ideologies of the SMO (Snow et. al. 1986:464). Namely, by rendering events as meaningful, frames can function to organise experience and guide action, whether individual or collective. An important concept which explicitly links social movement theory and frame analysis is 'collective action frame'; the action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of an SMO (Benford and Snow 2000:614).

Snow and colleagues perceive frame alignment as the 'conceptual bridge' between the social psychological and resource mobilisation paradigms of social movement theory, where the strategic action pursued by SMOs in their resource mobilisation efforts are influenced by their interpretative work of grievances and 'other ideational elements' such as values and support beliefs (1986:464, 466). Frame analysis, therefore, does not emphasise whether or not the absence or presence grievances and/or resources are important indicators for mobilisation, but they stress that it is important to analyse how these issues are being interpreted and argue that this is a necessary condition for movement participation.

'Framing' can thus be perceived as an active, dynamic process which implies agency and contention at the level of reality construction to gain support, in the way that SMOs are actively involved in differentiating from, and sometimes even challenging other frames (Benford and Snow 2000:614, Snow and Benford 1988:189).

Frame analysis will be used to analyse how the BTF gains support from the actors they try to influence through their lobby efforts for their 'iii-campaign'. The 'genocide' frame, as widely used by the Tamil diaspora in the post-war context will form the core of this analysis (Walton 2015; Bala 2015:9; ICG 2010:15). The 'core framing tasks' of diagnostic framing (problem identification and attribution), prognostic framing (articulation of a solution/plan) and motivational framing (why should people act) as elaborated on by Benford and Snow, will serve as a framework for this analysis (2000:615-617). In this context I will especially look at the way how the BTF has used the genocide frame (the 'diagnostic frame') to gain support for their 'iii-campaign' (the 'prognostic frame') and how this relates to the contested nature of transitional justice.

3.3.1.3 Political opportunities

The final concept which is part of the synthetic approach is 'political opportunity'. Political opportunities can be defined as 'consistent – but not necessarily formal or permanent – dimensions of the political environment or of change in that environment that provide incentives for collective action by affecting expectations for success or failure' (Tarrow 1994:163). The key recognition of this concept is thus that the advancement of the claims and influence of the social movement is context-dependent (Meyer 2004:126). As McAdam, McCarthy and Zald argue: "*social movements and revolutions are shaped by the broader set of political constraints and opportunities unique to the national context in which they are embedded.*" (1996:3). There are four main dimensions of political opportunities which have been emphasised in the literature: (1) the relative openness or closure of the institutionalised political system; (2) the stability or instability of that broad set of elite alignments that typically undergird a polity; (3) the presence or absence of elite allies; and (4) the state's capacity and propensity for repression (McAdam et. al. 1996:27).

This analytical concept has however received a lot of critiques, *i.a.* for being too broad, vague and neglecting the importance of agency (Gamson and Meyer, Jasper in Meyer 2004:126). In this respect, it has been argued that a shift should be made from 'political opportunity structure' to 'strategic arena', which allows more room for agency in the way it incorporates strategic interaction between the involved actors (Goodwin and Jasper 2012:18). This approach also has 'structural component' in the way 'arena' refers to 'institutional political structures' (Jasper 2012:12). Based on the four 'opportunities' as identified by McAdam, Jasper argues for the following three opportunities in a 'strategic language': 1) openness of the arena, which deals with the question which players are allowed in what arenas according

to the official rules, 2) choices made by other players that help or hinder protestors⁵², and 3) the state's capacity for repression which consists of two nested factors; resources and propensity for repression which reflects the strategic decisions and perspectives of those with the capacity (2012:21).

In line with 'structuration theory', this thesis will follow this approach, and include agency within the 'structural' concept of political opportunities. The use of the term 'strategic agency' and 'arena' namely fits the description of diaspora activists as actors with agency as well as the view of 'transitional justice as a contested process' where a broad range of actors interact in an international arena all with their own political agendas. A platform for this interaction is formed by the UNHRC as will be further discussed in paragraph 4.4 and 6.2. The interactions in this platform are, however, directly influenced by the Sri Lankan political context; the main stakeholders in the debate on transitional justice. When discussing political opportunities, this thesis will therefore mainly focus on the Sri Lankan political context and the international context which is formed by the UNHRC.

3.4 Conclusion

Transitional justice can be perceived as a 'contested process'; open for debate and choice as to its precise definition, what kind of mechanism and what form of justice should be established, and how this should be linked to the ultimate goal of creating reconciliation and positive peace within a state. This 'contested nature' of transitional justice is clearly visible in the Sri Lankan transitional justice context, where there is contention between the restorative vision of justice of the Sri Lankan government and the retributive vision of justice of the Tamil diaspora. In this regard, this thesis argues that the Tamil diaspora should be perceived as a 'social movement', engaged in a sustained campaign of claim making regarding accountability, by using repeated performances to advertise that claim, based on organisations that sustain these activities. This research will focus on one of these Tamil organisations; the BTF. To study this group, this thesis will use the 'synthetic approach' of social movement theory provided by McAdam and colleagues (1996), which studies 'mobilising structures', 'frames' and 'political opportunities'. In the following three (empirical) chapters, these concepts will be separately discussed in relation to the endeavours of the BTF in the contentious Sri Lankan transitional justice context.

⁵² Jaspers argue that 'elite alignment' and 'potential allies', respectively the second and third factor of political opportunity as identified by McAdam, are difficult to distinguish (Jasper 2012:21).

4. Mobilising structures

4.1 Introduction

The British Tamils Forum was created in 2006 by twelve members of the Tamil community who believed that a ‘political force’ was needed for the Tamils to take the struggle forward.⁵³ One of the founding members in this regard argued that the BTF’s aim was to complement the LTTE with an ‘international lobby compartment’, to gain international support for the Tamil cause.⁵⁴ In order to achieve this goal, the BTF brought together approximately 80 Tamil organisations in the UK, varying from Tamil schools, temples and community centres, under the credo ‘let us unite to win our rights’.⁵⁵ This chapter will discuss the organisational development of the BTF after the victor’s peace, in which it tried to position itself as a grass roots organisation representing the UK Tamil community as well as an advocacy organisation lobbying the UK, and the ‘new’ international, political establishment. In this regard, this chapter argues that BTF has engaged themselves in a process of ‘institutionalisation’, which implies a whole set of transformations, such as the formalisation of the internal structure of an SMO and the moderation of its goals, through which an SMO can position themselves as legitimate actors in a political context (Tarrow 1999:212; Kriesi 1996:156; Rucht and Neidhardt 2002:22; Meyer and Tarrow 1998). This chapter will first discuss the internal structuration of the BTF, and how it has changed to adapt to the new post-war environment (paragraph 4.2). Hereafter, BTF’s external structuration will be elaborated on where its relationship with the British political establishment and other SMOs will be discussed (paragraph 4.3). Finally, the way BTF’s action repertoires have changed and developed after the war will be discussed (paragraph 4.4).

4.2 The internal structuration of the BTF

The BTF perceives the ‘Tamil struggle’⁵⁶ as a struggle which should be fought through political means. In this perspective, they argue that to take the struggle ‘forward’ actually means taking the struggle ‘back’; back to the political arena, to the period before the war in Sri Lanka when the Tamils fought for their rights through political, rather than violent, means.⁵⁷ From its creation advancing Tamil rights through engaging with the political establishment was, therefore, the main goal of the BTF. While this main goal has not changed after the war, a new goal did emerge in the post-war period; to become the

⁵³ Author’s interview on 19 April 2016 with one of the founder members of the BTF; BTF information booklet, 2012, p. 1 (obtained by author on 26 April 2016).

⁵⁴ Author’s interview on 9 May 2016 with one of the founder members of the BTF.

⁵⁵ Author’s interview on 19 April 2016 with one of the founder members of the BTF; author’s interview on 8 April 2016 with the General Secretary of the BTF; BTF membership form (obtained by author on 24 March 2016).

⁵⁶ Usually used in connection with the ‘struggle’ for self-determination, but in the post-war context it can also refer to the call for justice.

⁵⁷ Author’s interview on 8 April 2016 with the General Secretary of the BTF; an important actor in this period was *e.g.* the political party ‘Tamil United Liberation Front’, which was created in the 1970s and had considerable success in the Sri Lankan politics (Venugopal 2003:5).

full representative body of the Tamil community. This should be perceived in the victor's peace context as discussed in paragraph 2.2. This context, and thus the defeat of the LTTE, namely meant: 1) the Tamil struggle for independence no longer had power and a strong representation *in* Sri Lanka and, 2) there was no longer a visible group which claimed to represent the Tamil community in and outside of Sri Lanka. This post-war context can thus be perceived as a new environment for activist groups, in which they had to legitimise themselves as a separate entity from the (securitised) LTTE (Laffey and Nadarajah 2012:413). Such a 'change in environment' requires adaptation and can result in changes in the internal arrangement of the organisation (Zald and Ash 1987:122). This is also what happened within the BTF; the end of the civil war directly caused a change in the internal structuration of the BTF.⁵⁸ As the General Secretary of the BTF stated:

*'Pre-2009, the struggle was carried out on the ground [Sri Lanka], the leadership [LTTE] was there, the role played by BTF and organisations was a supportive role. Even now the struggle has to be carried out on the ground, but the TNA⁵⁹ cannot open up certain things. Most of the initiatives are done at the diaspora. All of a sudden diaspora was much more important than before.'*⁶⁰

4.2.1 Internal differentiation of the BTF

To adapt to this new post-war environment, the BTF decided to re-strategise and become the 'complete representative body of the Tamils in the UK', calling themselves a 'non-partisan grass roots community organisation'.⁶¹ This new strategy especially influenced the 'internal differentiation' of the BTF - which relates to *i.a.* the territorial decentralisation (Kriesi 1996:154) – in the way the BTF made decision-making open for everyone in the Tamil community through participation in 'local forums'.⁶² The local forums are perceived by the leaders of the BTF as the 'building blocks' of the organisation inspired by a similar 'participatory' structure of the LTTE, which used such local forums to achieve mobilisation of the Tamil community in Sri Lanka.⁶³ Throughout the UK there are currently 21 local forums which are established to lobby local politicians, mobilise the Tamil community, communicate to the Tamil community what the BTF is doing and give feedback to the executive committee, who deals with the 'day to day business'.⁶⁴ BTF members in the 'local forums' can run for election, which are held annually,

⁵⁸ See appendix I for an overview of the structure.

⁵⁹ The main political party in Sri Lanka representing the Tamil community, see also footnote 14.

⁶⁰ Author's meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

⁶¹ 'All-Party Parliament Group for Tamils – Annual reception 2016' booklet (obtained by author on 23 March 2016).

⁶² Also referred to as 'Constituency Tamils Forum', see appendix I.

⁶³ Author's interview on 8 April 2016 with the General Secretary of the BTF.

⁶⁴ The executive committee is composed of nine members of several 'teams' which were also created after 2009. These *e.g.* include a 'mobilisation team', 'human rights team' – dealing with the UNHRC – and an advocacy team. The executive committee is headed by the 'General Secretary- the only person who works fulltime in the BTF, see appendix I.

and become the representative of their local forums through which they can participate in the ‘national assembly’ and directly influence the strategic directions of the BTF.⁶⁵ The BTF mobilises people to participate in these local forums through organising ‘workshops’ during which the Tamil community is educated on issues regarding the history of the conflict and on the meaning of genocide.⁶⁶

A bottom-up structure governed by principles of a participatory democracy are key characteristics of the mobilisation efforts of the BTF.⁶⁷ These efforts are closely related to BTF’s lobby strategy which will be discussed in paragraph 4.4. Through these local forums the BTF namely endeavours to ‘mobilise the Tamil people to mobilise others’.⁶⁸ A concrete example of this is that members of the local forums lobby their local MPs on Tamil issues. It was argued by a BTF member that the mobilisation of the Tamil community in this regard is especially important to keep BTF’s lobby endeavours more sustainable and influential.⁶⁹ Related to this is another aspect of internal differentiation; the functional division of labour. Together with establishing these local forums, nine ‘teams’ were formally set up after 2009 in which members of the local forums can also contribute to different tasks - from mobilisation to finance and advocacy.⁷⁰

4.2.2 Formalisation of the BTF

Besides internal differentiation, another aspect which has gained prominence after 2009 is the ‘formalisation’ of the BTF. ‘Formalisation’ refers to the introduction of formal membership criteria and formal statutes and procedures, and is perceived to be an important component of ‘institutionalisation’ (Kriesi 1996:154-155; Tarrow 1999:212). The BTF changed the constitution to include above mentioned formal structure and in order to gain more transparency and legitimacy as an organisation they registered themselves as a ‘limited company’ (BTF 2013:3).⁷¹ They strengthened this ‘legitimacy’ by explicitly framing their organisation as legitimate, by arguing it adheres to the principles of ‘democracy’ and ‘non-

⁶⁵ BTF, ‘All-Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016); the field research conducted for this thesis cannot make claims as to whether all the 21 forums work effectively in practice. While one member for instance argued he was actively engaged in his local forum (Author’s interview on 26 April 2016 with a member of the BTF), another member expressed his displeasure in the way it was not easy for his local forum to come together at least one a month (author’s interview on 23 May 2016 with a member of the BTF). What can be derived from my three months of field research is that the National Assembly does meet every month, and that the executive committee is very active on a weekly and sometimes even daily basis.

⁶⁶ Author’s interview on 8 April 2016 with the General Secretary of the BTF.

⁶⁷ BTF, ‘All-Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016); BTF information booklet, 2012, p. 1 (obtained by author on 26 April 2016).

⁶⁸ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

⁶⁹ Author’s interview on 26 April 2016 with a member of the BTF.

⁷⁰ Author’s interview on 6 April 2016 with a member of the BTF; the other teams are: ‘human rights’, ‘international relations’, ‘communication’, ‘back office’, ‘strategy’, ‘media’, and ‘relief, rehabilitation, reconstruction and development’.

⁷¹ Author’s interview on 24 April 2016 with a member of the BTF.

violence'.⁷² Furthermore, official membership registration was introduced, which made it mandatory to pay a certain fee to become a member of the BTF.⁷³ From a 'resource mobilisation' perspective, it can therefore be argued that the process of 'formalisation' placed the BTF in a better position to gain vital resources – in this case especially legitimacy and money – to achieve their political goal (McCarthy and Zald 1977:1220).

The internal differentiation and the formalisation of the BTF are thus aimed at enabling BTF's re-positioning in the victor's peace context. This strategy made the BTF develop and frame themselves as an organisation with multiple 'fluid' identities. BTF's identity as an organisation is namely strategically constructed by themselves to, on the one hand, be the representative body of the Tamil community and, on the other hand, facilitate participation in the (international) political context in which they are operating. Although they perceive themselves as essentially being a 'democratic grass roots organisation' for the Tamil community, nationally they act as an advocacy and lobby organisation and internationally they present themselves as an NGO (BTF 2013).⁷⁴ Through framing the BTF either as an 'grass roots organisation', 'advocacy group' or 'NGO', by the leaders of the BTF, they have been able to situate themselves between the various relevant sets of actors by attributing to them characteristics that suggest specific relationships and lines of action in the relevant (political) contexts (Benford and Snow 2000:632). As one member of the BTF noted:

*'We are a grass roots organisation utilising several roads, avenues, structures, in order to achieve our objectives (...). There are different things we do, so the persons who are looking at us from different areas, see us from a different light. But all of those help us to get us what we want to.'*⁷⁵

4.3 The external structuration of the BTF

The main characteristics of BTF's external structuration – the integration in its 'organisational environment' - are closely linked to above-mentioned development of BTF's internal structuration which is aimed at positioning itself as a legitimate political actor to represent the Tamil community in national (British) politics and international fora. This thesis will to a certain extent modify the parameters as described by Kriesi to study the external organisation of an SMO, to adapt it to *diaspora* activism (Kriesi 1996:154-157,174-177). First of all, BTF's relationship with its constituency – the Tamil

⁷² Author's interview on 8 April 2016 with the General Secretary of the BTF; 'United Kingdom Home Office. "Proscribed terrorist organisations [as at 15 July 2016]." Accessed July 14, 2016. http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509003/20160318proscription.pdf.

⁷³ Author's interview on 23 May 2016 with a member of the BTF; BTF membership form (obtained by author on 24 March 2016).

⁷⁴ Author's meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

⁷⁵ Author's meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

community in the UK - will not be discussed because my research did not focus on this relationship as mentioned in paragraph 1.2.1. Therefore, this paragraph will only discuss the relationship of the BTF with regard to the 'authorities' – the UK political establishment - and its 'allies' – other SMOs in the Tamil diaspora (Kriesi 1996:154-157).

4.3.1 BTF's relationship with the British Government

BTF's relationship with the British government is crucial for the BTF to change British foreign policy on Sri Lanka, and also to gain support from the international community due to UK's important role in global politics. The most important characteristic of BTF's strategy in this respect is that the BTF does not limit itself by having one party preference, but in its mobilisation as well as its advocacy efforts focusses on all major political parties as well as on the foreign and commonwealth office. This is of course linked to the fact that the BTF was not born from a certain political ideology⁷⁶, and that members of the BTF itself all have their own political preferences in the UK.⁷⁷ Since its creation, the BTF has therefore managed to gain access to the British political establishment by setting up, and playing a vital role in, three important organisations: Tamils for Labour (TFL), British Tamil Conservatives (BTC) and the 'All-Party Parliamentary group for Tamils' (APPG-T).⁷⁸

4.3.1.1 TFL and BTC

TFL and BTC were both created by the BTF in 2008 for the purpose of advancing Tamil issues within specific political parties, and building the Tamil communities support for the parties.⁷⁹ The role of the party support groups is two-fold: they are a campaigning group providing votes and funding for their respective political parties as well as an advocacy group, advocating for Tamil rights within these political parties.⁸⁰ It is important to note that because of their role as party support group they are now formally independent from the BTF.⁸¹ Nevertheless, they still have links with the BTF in the way the (ex) members of the BTF play important positions within the TFL as well as the BTC, and members of the BTF who are conservative or labour join respectively the BTC or the TFL and vice versa.⁸² One

⁷⁶ In contrary to maybe some social movements which are clearly linked to either leftist or right political ideologies (e.g. Kriesi 1996:174).

⁷⁷ Author's field notes; meeting organised by Tamils for Labour in the Parliament on 11 April 2016; annual diner organised by British Tamil Conservatives on 24 April 2016.

⁷⁸ To be complete, it is important to note that there is also one other party support group for the liberal democrats called 'Tamil friends of Libdem'. Because this political group is substantially less represented in British Politics and during the conducted field research the 'Tamil friends of Libdem' did not seem to be as active as the TFL and the BTC, this thesis will only focus on these latter groups.

⁷⁹ Author's interview on 5 May 2016 with chair BTC and senior member BTF; TFL. "About." Accessed on June 13, 2016. <http://www.tamilforlabour.org.uk/about>.

⁸⁰ Author's interview on 5 May 2016 with chair BTC and senior member BTF.

⁸¹ See appendix I.

⁸² The current chair of the TFL was one of the founder members of the BTF and the chair of the BTC is a senior member of the BTF (author's interview on 17 March 2016 with chair of TFL and one of the founder members of BTF; author's interview on 5 May 2016 with chair and senior member BTF).

member of the BTF in this regard argued that the BTF should be perceived as the ‘central’ organisation where all Tamils can meet – regardless of their party preferences.⁸³

TFL, BTC, and BTF have a ‘mutual beneficiary’ relationship in two ways: on the one hand BTF’s local forums provide an instrument for the BTC and TFL to lobby their MPs and on the other hand, the BTC and TFL provide valuable access for the BTF to high ranking officials within both parties. These include numerous MPs, the Minister of State at the Foreign & Commonwealth Office – being responsible for issues concerning Sri Lanka - and the leader of the Labour as well as the Conservative party.⁸⁴ Moreover, having both TFL and BTC provides a guarantee for the BTF to have access to the Prime Minister’s office regardless which party wins the election. Although it is not possible, based on the collected data, to make any claims regarding the actual *impact* of these groups on furthering their cause and influencing decision making of the British Government, the following quote of one of the Labour MPs may shed some light on this specific issue:

‘The lobbying and engagement work of the Tamil community proved instrumental in ensuring the Labour party took the lead in raising international awareness of the treatment of the Tamil people, particularly during the final weeks and months of the conflict. The manner in which diaspora groups have brought evidence to light of alleged war crimes and crimes against humanity has helped to build the case and support for the UN Human Rights Council’s resolutions on Sri Lanka. In addition, senior representatives from GTF, BTF, Tamils for Labour and other diaspora organisations had the opportunity to lobby the Prime Minister directly, before he travelled to Sri Lanka for the Commonwealth Heads of Government Meeting in 2013.’⁸⁵

4.3.1.2 The APPG-T

The third important organisation, which links the BTF, BTC and the TFL, is the ‘All-Party Parliamentary Group for Tamils’ which was established in 2007 with the aim to “*promote in Parliament peace with justice and dignity for Tamils in the Island of Sri Lanka and advance their development so as to recognise their legitimate socio-political aspirations*”.⁸⁶ An ‘All-Party Parliamentary Group’ is an ‘informal cross-party group’ which provides a platform for members of Commons and Lords to come

⁸³ Author’s interview on 6 April 2016 with a member of the BTF.

⁸⁴ Meeting organised by Tamils for Labour in the Parliament on 11 April 2016; annual dinner organised by British Tamil Conservatives on 24 April 2016; author’s field notes April – May 2016.

⁸⁵ Author’s e-mail correspondence between 17 and 25 May 2016 with Labour MP and vice-chair of the APPG-T Joan Ryan.

⁸⁶ All-Party Parliamentary Group for Tamils, United Kingdom Parliament. “Register of All-Party Groups [as at 30 July 2015].” Accessed on June 13, 2016.
<http://www.publications.parliament.uk/pa/cm/cm/llparty/register/tamils.htm>.

together, discuss and act on issues which are of common interest.⁸⁷ As the current chair of the APPG-T, MP James Berry, argued:

‘The APPG has been fantastic in sending members like myself (...) out to Geneva to talk to civil society groups, to speak to [Tamil] survivors, to speak to diplomats, to try and shape UN Human Rights Council resolutions, in that work we have learned a lot and we have been actually able to achieve things.’⁸⁸

Although they are run by and for Members of the Commons and Lords, they may choose individuals and organisations from outside Parliament for administration and activities. For the APPG-T this position is currently held by the BTF.⁸⁹ This function includes the sponsoring the APPG-T and organising its events. A recurring event is the annual reception or dinner of the APPG-T, organised by the BTF, where the members of parliament can express their support for Tamil issues and members of the BTF - being the secretariat – can voice their concerns and create awareness for specific issues.⁹⁰ These events are also being used by the BTF for a ‘performative function’, by making photos with important figures in British politics and obtaining their signatures for certain important campaigns, they can showcase the world their influence within the British political establishment. Moreover, these events are used by the BTF to bring together MPs and other members of BTF’s social network such as NGO’s and other persons actively engaged with Tamil issues.⁹¹

4.3.2 BTF’s relationship with other SMOs

BTF’s strategy to position itself as a legitimate actor in the post-war context to lobby the (international) political establishment also resulted in a strategic moderation of their stance as will be depicted below. This can be perceived as ‘co-optation’, another feature of ‘institutionalisation’, which means that

⁸⁷ United Kingdom Parliament. “All-Party Parliamentary Groups.” <http://www.parliament.uk/about/mps-and-lords/members/apg/>. You have two types of APPGs: based on a specific country (‘country groups’), or based on a specific subject (‘subject groups’). Although the APPG-T officially falls within the subcategory of ‘subject groups’ it is one of few APPGs especially set up for the interests of a particular ‘ethnic’ group; ‘United Kingdom Parliament. United Kingdom Parliament. “Register of All-Party Parliamentary Groups [as at 3 June 2016].” Accessed on June 13, 2016. <http://www.publications.parliament.uk/pa/cm/cmhallparty/160603/contents.htm>.

⁸⁸ Speech of MP James Berry during APPG-T annual reception on 24 March 2016.

⁸⁹ BTF, ‘All-Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016); annual Reception of the APPG-T on 23 March 2016 in Parliament; All-Party Parliamentary Group for Tamils, United Kingdom Parliament. “Register of All-Party Groups [as at 30 July 2015].” Accessed on June 13, 2016.

⁹⁰ BTF. “Annual Reception for the All-Party Parliamentary Group for Tamils successfully hosted by the British Tamils Forum, UK Prime Minister David Cameron sends his wishes [March 17, 2016].” Accessed on June 13, 2016. <http://tamilsforum.co.uk/2016/03/annual-reception-for-the-all-party-parliamentary-group-for-tamils-successfully-hosted-by-the-british-tamils-forum-uk-prime-minister-david-cameron-sends-his-wishes/>; BTF.

“The All-Party Parliamentary Group for Tamils and the British Tamils Forum Host Annual Dinner 2015 in London BTF [January 30, 2015].” Accessed on June 13, 2016. <http://tamilsforum.co.uk/2015/01/uk-all-party-parliamentary-group-for-tamils-and-btf-host-annual-dinner-in-london/>; ‘All-Party Parliament Group for Tamils – Annual reception 2016’ booklet (obtained by author on 23 March 2016); BTF, ‘All-Party Parliament Group for Tamils – Annual diner 2015’ booklet (obtained by author on 26 April 2016).

⁹¹ All-Party parliamentary Group for Tamils meeting on 24 March 2016.

challengers alter their claims and tactics to ones which do not interrupt the normal practice of politics (Meyer and Tarrow 1998:21; Tarrow 1999:115). The moderation of their stance, however, influenced BTF's relationship with other SMOs in the Tamil diaspora, in the way BTF distanced itself from more 'radical' positions, which SMOs perceived as undermining their claim to represent the Tamil community. This can be illustrated by the 2016 'Genocide Remembrance day', during which the BTF and the TCC had a direct clash, as well as by the relationship between the BTF and the TGTE.

The clash between the TCC and the BTF was triggered by the question whether or not the 'Tamil national flag' - a flag which closely resembles the LTTE flag - should be carried and hoisted during the protest.⁹² Whereas the BTF argued that they would not do this during this event - where British MPs would also speak - because it could affect their legitimacy and thus limit their access to the political establishment, the TCC argued that carrying and hoisting the flag was important because 'they did not want to lose their identity'.⁹³ It was argued by a member of the BTF that this issue was causing problems for a longer period of time, but this year reached its height.⁹⁴ Ultimately, this resulted in two protests with two stages separated by only a few meters.⁹⁵ Although only one stage was filled with Tamil National flags, on both stages the message on the banners were the same: justice for Tamils for the committed genocide. Similar problems also exist between the BTF and the TGTE. While they do meet each other - the TGTE *e.g.* also uses the APPG-T to lobby British MPs⁹⁶ - the TGTE openly expresses their 'separatist agenda'.⁹⁷ This is something the BTF wants to distance themselves from, by explicitly arguing they do not want separation but 'self-determination'.⁹⁸ Similar to the issue with the Tamil National flag, making explicit claims towards 'separation', can namely also be directly linked to the LTTE agenda and undermine their advocacy efforts.

The relationship of the BTF with above-mentioned organisations underlines the argument which is made in resource mobilisation theory in relation to the coherence of social movements; they are rarely unified affairs. Different SMOs are linked to various segments of supporting constituencies sometimes unified in ad-hoc coalitions and sometimes in an all-right war against each other (Zald and McCarthy

⁹² The difference is that the LTTE flag has the name of the LTTE (in Tamil). Other than this, the flags are the same (red colour, tiger and two black guns). While 'promoting and encouraging' terrorist groups banned under UK law is prohibited, it is not clear for the BTF whether waving and hoisting the Tamil National flag falls under this prohibition - 'it is a grey area'. In any case it seems that the authorities 'tolerate' them during the demonstrations; field notes 18 May 2016, author's interview on 26 April 2016 with a member of the BTF.

⁹³ Author's field notes 18 May 2016; telephone conversation on 17 May 2016 with a member of the BTF.

⁹⁴ Author's field notes 18 May 2016.

⁹⁵ See appendix II.

⁹⁶ Author's interview on 2 April 2016 with UK representative of the TGTE (Minister of 'Human Rights and actions against genocide and other mass atrocities'); annual reception of the APPG-T on 23 March 2016 in Parliament.

⁹⁷ Author's interview on 2 April 2016 with UK representative of the TGTE (Minister of 'Human Rights and actions against genocide and other mass atrocities').

⁹⁸ Author's interview on 16 March 2016 with the General Secretary of the BTF. Self-determination is different from 'separation' in the way it can *e.g.* also be achieved through a federal structure or more power for elected government officials in the North-East in Sri Lanka; in this sense it is thus more 'moderate'.

1987b:161). As mentioned above, the reason for this lies in the ‘tactic differentiation’ between the SMOs – the different strategies and goals they have adopted (Zald and McCarthy 1987b:166). In contrast to organisations such as the TGTE and the TCC, the BTF seems to focus more on the British establishment, and, therefore, has an interest in distancing themselves from more ‘radical positions’. The BTF in this regard thus attaches themselves to less comprehensive versions of change (*e.g.* ‘self-determination’ in contrast to ‘separatism’) to strengthen their advocacy efforts (Zald and McCarthy 1987b:168). This is to gain a valuable ‘resource’ for them; legitimacy.

However, it is also important to note that there is not only competition, but also some form of ‘cooperation’. First, it is not the case that above mentioned groups are never on the same line. BTF and TGTE did, for instance, share the same - more ‘hard line’- critical position regarding the 2015 UNHRC resolution and they do use some of the same ‘facilities’, such as the APPG-T (Bala 2015:12; Nadarajah and Laffey 2012:408; Walton 2015:964). In this respect, it can be argued that there are certain areas where there is ‘domain consensus’, where cooperative relations do exist (Zald and McCarthy in Zald and McCarthy 1987b:170). Second, the fact that on an executive organisational level the BTF thus does not directly cooperate with above-mentioned organisations, is not the same for all the members of the BTF. Whilst the field research conducted for this thesis did not particularly focus on this aspect, there were members of the Tamil diaspora who were active in more than one Tamil SMO.⁹⁹

4.4 Action repertoires of the BTF

This final paragraph will discuss the influence of the post-war context on BTF’s action repertoires after the war. This should be seen in relation to the change in the internal structuration – the processes of internal differentiation and formalisation - as well as the way the BTF has managed to integrate into the British political establishment as discussed above. This new structure is perceived by the leaders of the BTF to enable them to ‘mobilise the Tamil community to others’.¹⁰⁰ As elaborated on in paragraph 4.2 from its creation the BTF’s main goal has been to further the Tamil rights through engaging with the political establishment. The most important action repertoire which corresponds with this goal orientation is naturally ‘lobbying’. However, the way in which this action repertoire was used by the BTF in their advocacy endeavours did change seen from the perspective of its increased importance after the war. This was strengthened by the transitional justice context, which opened up a new international political ‘arena’, the United Nations Human Rights Commission, through which the BTF could lobby the international political establishment as will be further discussed in chapter six.

⁹⁹ Author’s field notes April-May 2016; author’s interview on 10 May 2016 with Tamil activist who has been active within GTF, BTF, BTC and Tamil Youth Organisation; author’s interview on 23 May 2016 with Tamil activist who is a member of the BTF but also engaged with the TCC and the TGTE.

¹⁰⁰ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

4.4.1 BTF's action repertoires during the war

Besides lobbying, from 2006-2009 another action repertoire proved to be very important in BTF's endeavours; demonstrations.¹⁰¹ Especially during 2009 – the crucial final stages of the civil war and directly after the war – the BTF was able to mobilise more than 100.000 people to participate in their demonstrations, which included protests and marches.¹⁰² One of the protests even lasted 73 days, which included hunger strikes, mass sit-ins blocking central London roads and people throwing themselves into the River Thames.¹⁰³ Moreover, the BTF used 'boycotts' when it advocated banning the use of the government-owned Sri Lankan Airlines, cricket, and Sri Lankan products in 2008 (ICG 2010:16).¹⁰⁴ The use of these actions repertoires during the war period can be explained by the fact that between 2007 and 2008 the BTF was able to mobilise a lot of people due to the atrocities committed during these final stages of the war, or as the General Secretary of the BTF stated 'because of the highest form of oppression'.¹⁰⁵ Although in the post-war period these action repertoires are still being used – especially during the annual genocide remembrance day and during visits of the Sri Lankan President to the UK to 'satisfy' the Tamil community¹⁰⁶ – BTF feels it is not able to mobilise as many people as before because of the lack of trust in the international community.¹⁰⁷ As one BTF member argued:

*'The number of people who came out in 2009 that is not possible to sustain. The people [who] came out in 2009 came out because people were dying, they saw the people dying. They heard from the people back home how the war has been handled. So those are the reasons they came out. But they will not come out, you know.'*¹⁰⁸

¹⁰¹ Author's interview on 19 April 2016 with one of the founder members of the BTF.

¹⁰² Author's interview on 19 April 2016 with one of the founder members of the BTF; "Tamils blockade London's Parliament Square." TamilNet, April 21, April. Accessed on 14 June, 2016. <http://tamilnet.com/art.html?catid=13&artid=29117>; "100.000 Tamils march in London over Sri Lanka's concentration camps." TamilNet, June 21, 2009. Accessed on 13 June 2016. <http://tamilnet.com/art.html?catid=79&artid=29625>; BTF information booklet, 2012 (obtained by author on 26 April 2016); See also BPS and CJPD 2011b for the Tamil Diaspora in the UK in general.

¹⁰³ "Tamil protest ends after 73 days." BBC, June 17, 2009. Accessed on July 5, 2016. http://news.bbc.co.uk/2/hi/uk_news/england/london/8105879.stm.

¹⁰⁴ BTF. "Sri Lankan Cricket the case for a boycott [June 19, 2016]." Accessed on June 14, 2016. <http://tamilsforum.co.uk/2013/06/the-case-for-a-boycott/>.

¹⁰⁵ Author's interview on 8 April 2016 with the General Secretary of the BTF. See further paragraph 6.3.1 where 'oppression' will be discussed in the context of political opportunities.

¹⁰⁶ Author's interview on 6 April with a member of the BTF; BTF information booklet, 2012, p. 9-17 (obtained by author on 26 April 2016); author's field notes 18 May 2016; author's field notes 12 May 2016 (see also: "President Sirisena arrives in London amidst protest." Ceylon News, May 12, 2015. Accessed on June 14, 2016. <http://www.ceylonews.com/2016/05/president-sirisena-arrives-in-london-amidst-protest-video/>); Author's interview on 16 March 2016 with the General Secretary of the BTF; Facebook site BTF.

¹⁰⁷ Author's interview on 26 April 2016 with a member of the BTF; author's interview on 24 April 2016 with a member of the BTF; author's interview on 8 April 2016 with the General Secretary of the BTF.

¹⁰⁸ Author's interview on 26 April 2016 with a member of the BTF.

Moreover, relating to why lobbying was less used during this period than during the post-war stages, is the fact that during its first few years after its establishment, the BTF was more an ‘ad-hoc’ organisation, without a clear structure.¹⁰⁹ Structures such as the BTC, TFL, and APPG-T were only set up in 2007-2008 and of course needed time to develop themselves.¹¹⁰ Moreover, the stigma of the LTTE – especially during the war - also limited their access to the political establishment.¹¹¹ As one of the founder members of the BTF recalls: ‘*all people saw were the three T’s: Tamil, Tiger, and Terrorist*’.¹¹² The aforementioned development of BTF’s internal and external structuration, the new international post-war political context, as well as the fact that the BTF was not able to mobilise the same amount of people after the end of the civil war, led to the ‘conventionalisation’ of BTF’s action repertoire in the sense that lobbying was perceived as increasingly important in contrast to demonstrations.

4.4.2 Action repertoires in the post-war context

After the war a new lobby strategy was constructed around the new structure of the BTF as well as their access to the international context through the UNHRC.¹¹³ A ‘multi-level approach’ was born, which is argued to be a common strategy of SMOs in democratic settings (Passy 2009:152). This multi-level approach, which includes national as well as international actors, is referred to by the BTF as their ‘two-fold strategy’.¹¹⁴ The first element of this approach is what the BTF calls a ‘bottom-up process’ which starts at the local forums. They lobby the MPs, who can in their turn lobby the cabinet and the foreign office to change the foreign policy on Sri Lanka in favour of the Tamil cause: justice through accountability for the Tamils. This foreign policy can then influence bilateral relations between the UK and Sri Lanka as well as determine UK’s position in international fora such as the UNHRC. The second strategy starts at the UNHRC. BTF members go directly to the UNHRC themselves and lobby the representatives of the governments. These representatives can then go to their respective governments and lobby them to change their foreign policy on Sri Lanka.¹¹⁵

The two-fold strategy of the BTF resembles the ‘boomerang pattern’ as described by Keck and Sikkink (1998a). They argue that when channels between the state and its domestic actors are blocked, these

¹⁰⁹ Author’s interview on 8 April 2016 with the General Secretary of the BTF.

¹¹⁰ Author’s interview on 9 May 2016 with one of the founder members of the BTF; author’s interview on 19 April 2016 with one of the founder members of the BTF; author’s interview on 6 April 2016 with a member of the BTF; Author’s interview on 8 April 2016 with the General Secretary of the BTF.

¹¹¹ Author’s interview on 8 April 2016 with the General Secretary of the BTF.

¹¹² Author’s interview on 9 May 2016 with one of the founder members of the BTF; the ICG for instance qualifies the BTF as a ‘pro-tiger’ group in its 2010 report (ICG 2010:16) see also: Walton 2015:962-963.

¹¹³ See chapter 6.

¹¹⁴ Author’s interview on 24 April 2016 with a member of the BTF; author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF; BTF information booklet, 2012, p. 1 (obtained by author on 26 April 2016).

¹¹⁵ Author’s interview on 24 April 2016 with a member of the BTF; author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF; BTF information booklet, 2012, p. 1 (obtained by author on 26 April 2016).

actors bypass their state and directly seek out international allies to bring pressure from outside (Keck and Sikkink 1998a:12). These international contacts can amplify the demands of the SMOs, open deliberative space and echo the demands back to the domestic arena (Keck and Sikkink 1998a:13). However, it only ‘resembles’ the boomerang pattern since in the case of the BTF – being *diaspora*, thus not *domestic* actors – the boomerang does not have to ‘come back’ to the UK, but ‘go’ to Sri Lanka. The core idea behind the boomerang pattern is, however, the same – influencing a target state through outside allies – the UK government and the UNHRC - because their own access is ‘blocked’.

4.4.3 Rationale of BTF’s action repertoire

After elaborating on BTF’s action repertoire as well as the ‘boomerang’ pattern, an important question which follows is: why is the access of the BTF to the Sri Lankan government blocked? Or, in other words, why does not the BTF directly engage with the Sri Lankan government? Keck and Sikkink argue that when a government violates or refuses to recognise rights, ‘domestic’ groups often do not have recourse within domestic political or judicial areas (Keck and Sikkink 1998a:12). The victor’s peace context in Sri Lanka, of course, had an important role to play in the refusal to recognise the rights of the Tamil community in Sri Lanka, but also affected the access of diaspora groups such as the BTF in the transitional justice context. Moreover, engagement with the Sri Lankan government was also directly obstructed by the terrorist ban of 16 diaspora organisations – including BTF but also the TCC, TGTE and GTF - and 424 individuals by an order of the Government of Sri Lanka on the 20th of March 2014.¹¹⁶ Although the BTF – and the GTF - have been removed from the list in 2015, direct engagement still seems not possible due to fear to be arrested in Sri Lanka under the ‘Prevention of Terrorism Act’ (PTA).¹¹⁷ One member of the BTF in this regard argued that de-proscription is just a ‘figment of our imagination’, and that if he were to go to Sri Lanka tomorrow he could be easily be arrested under the PTA.¹¹⁸

Besides the fact that it is difficult for the BTF to engage directly with the Sri Lankan government, another reason for their two-fold strategy is based on the argument that they did not trust the repressive Rajapaksa regime, and still do not believe that the current Sri Lankan Government is willing to implement the 2015 UNHRC resolution. BTF namely does not perceive the new Government under President Sirisena to be more open towards reconciliation and justice, especially due to his role under

¹¹⁶ “The Gazette of the Democratic Socialist Republic of Sri Lanka [21 March 2014].” Accessed on June 15, 2016. https://www.colombotelegraph.com/wp-content/uploads/2014/04/sl_banned_names.pdf.

¹¹⁷ “Ban on several ex-LTTE front groups lifted.” The Colombo Gazette, November 22, 2015. Accessed on 15 June, 2016. <http://colombogazette.com/2015/11/22/ban-on-several-ex-ltte-front-groups-lifted/>; The PTA has been criticised for violating human rights since it would allow for indefinite detention without any charge or trial; “Sri Lanka: Enforce Commission Directives on Terror Detainees, speed Up Repeal of Prevention of Terrorism Act.” Human Rights Watch, June 13, 2016. https://www.hrw.org/donate-now?promo_id=1006.

¹¹⁸ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

the Rajapaksa regime during the last stages of the war as discussed in paragraph 2.2.¹¹⁹ The BTF, therefore, perceives international pressure as their only option to ‘move’ Sri Lanka, because they do not trust the Sri Lankan government to solve their problem without a third party involved.¹²⁰ This brings us back to their main reason behind their ‘iii-campaign’ which calls for an *international, independent* investigation. As one member of the BTF argued:

‘Even the current Sri Lankan government, BTF does not trust them, because the current, so called new Sri Lankan government, was formed by the ex-war criminals. They have all taken part, in a different time, but they have all taken part in war crimes or genocide, how can you work with that? (...) We do not say we are not going to engage [with the Sri Lankan government] (...) because in the end of the day Tamil and Sinhalese, we need to sit down and talk to each other. But this time, we are not going to talk to each other without the international mediation there. (...) it is not only the colour of the skin, we want a proper officer who is credible in [the] UN system.’¹²¹

4.5 Conclusion

By studying the internal and external structuration of the BTF, as well as BTF’s action repertoire, several developments in the post-war period have been crystallised: the formalisation of the organisation, its integration in British political establishment, the moderation of its stance compared to other SMOs in the Tamil diaspora and the conventionalisation of their action repertoire. As mentioned in the introduction, these developments can be qualified as elements of a larger process called ‘institutionalisation’. In the present case, this process was the result of the victor’s peace context in which the BTF had to reposition itself as a legitimate political actor as well as the representation of the UK Tamil community. These organisational development facilitated BTF’s engagement in transitional justice processes because it strengthened their ‘two-fold strategy’ in the way the BTF mobilised the ‘Tamil community to mobilise others’ as well as legitimised their organisation to engage with the (international) political establishment. This is especially important for the BTF in the way they do not directly engage with the Sri Lankan government. In the following two chapters, it will be discussed how the BTF used the genocide frame in their lobby efforts as well as how the new post-war context provided an opportunity for the BTF to internationalise their lobby efforts to further their ‘iii-campaign’.

¹¹⁹ Author’s interview on 6 April 2016 with a member of the BTF; BTF. “British Tamils Forum response to the election results and the new government [January 9, 2015].” Accessed on June 15, 2016. <http://tamilsforum.co.uk/2015/01/british-tamil-forum-response-to-the-election-results-and-the-new-government-in-sri-lanka/>.

¹²⁰ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF; author’s interview on 26 April 2014 with a member of the BTF; not every Tamil diaspora organisation has the same approach. The GTF for instance does work directly with the Sri Lankan government, author’s interview on 22 March 2016 with one of the directors of GTF.

¹²¹ Author’s interview on 6 April 2016 with a member of the BTF. With ‘ex-war criminals’ he refers to the fact that there are Sri Lankan government officials who were also a part of the Rajapaksa government during the civil war. See also paragraph 2.2.

5. Framing

5.1 Introduction

The main frame used by the BTF as well as the other discussed Tamil diaspora SMOs to ‘construct’ their reality of the Tamil marginalisation in Sri Lanka is the ‘genocide frame’.¹²² The use of the genocide frame by the BTF is not only limited to the final stages of the war and the post-war period, it was already used during the war. In February 2008, the BTF for instance organised a photo exhibition themed ‘60 years of Genocide operation against Tamils’ which was held in Westminster London.¹²³ It was however during the height of the atrocities in 2009 and in the post-war period that the BTF explicitly started linking this frame to the ‘iii-campaign’, which has been at the forefront of BTF’s endeavours in the post-war period. In this regard, this chapter argues that genocide frame is a ‘powerful’ frame in the present case in the way it automatically provides for a strong ‘call of arms’ which relates to the main aim of the ‘iii-campaign’, the establishment of an (internationalised) accountability mechanisms. In this regard, the BTF uses this frame to argue that an (internationalised) accountability mechanism is the only relevant transitional justice mechanism. In this chapter, first, ‘genocide’ as diagnostic frame will be discussed (paragraph 5.2), and hereafter their call for an (internationalised) accountability mechanism as prognostic frame, through the ‘iii-campaign’ (paragraph 5.3). In the final paragraph the implications of BTF’s use of the ‘genocide’ frame will be elaborated in relation to BTF’s views on transitional justice mechanism (paragraph 5.4).

5.2 The genocide frame

BTF’s interpretation of the word ‘genocide’ in essence entails the actions of the Sri Lankan state, which betray ‘a coherent strategy for systematically eradicating Tamil cultural, religious, political and ethnic identities from the island’.¹²⁴ Important to note is that these ‘State’s actions’ are not only situated *during* the war period, but also in the period *before* as well as the period *after* the war. In this context, the BTF first of all argues that from 1948 onwards there has been a ‘historical genocide’.¹²⁵ Acts which the BTF perceives as ‘genocidal acts’ in this context have been discussed to a certain extent in paragraph 2.2,

¹²² Author’s interview on 2 April 2016 with UK representative of the TGTE (Minister of ‘Human Rights and actions against genocide and other mass atrocities’); author’s interview on 12 May 2016 with member of the TCC; author’s interview on 22 March 2016 with one of the directors of GTF; author’s field notes 18 May 2016; This frame is also used by the Tamil political establishment in Sri Lanka, the Northern Provincial Council. In 2015 they published the ‘genocide resolution’, which provides for an overview of the evidence demonstrating ‘successive Sri Lankan governments’ genocide against Tamils’, Northern Provincial Council. “Resolution: Sri Lanka’s Genocide Against Tamils.” Accessed on June 21, 2016. <http://www.tamilguardian.com/files/File/NorthernProvincialCouncil/NPC%20resolution%20genocide%20of%20Tamils%20by%20GOSL%2010%20Feb%202015.pdf>.

¹²³ Author’s interview on 16 March 2016 with the General Secretary of the BTF; BTF information booklet, 2012, p. 4 (obtained by author on 26 April 2016).

¹²⁴ BTF information booklet, ‘Reconciliation in Sri Lanka’, p. 2 (obtained by author on 26 April 2016).

¹²⁵ BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 2 (obtained by author on 22 May 2016); Author’s interview on 16 March 2016 with the General Secretary of the BTF.

and include: State-aided Sinhalese settlements in Tamil homelands (from 1948 onwards), depriving plantation Tamils of their citizenship through the 1948 citizenship act, State-sponsored riots against the Tamils (especially in 1956, 1958, 1977 and 1983), the ‘Sinhala only act’ (1956) which made Sinhala the only official language in Sri Lanka (BTF 2008:8-33).¹²⁶

The BTF argues that ‘genocidal acts’ continued during the war, through the torture and murder of civilians, rape as mean of suppression during the war, the killing and obstruction of Tamil political leadership, human rights activists and aid workers and the suppression and violence against the media (BTF 2008:8-33).¹²⁷ The BTF argues that the ‘climax of the genocide’ is situated during the final phases of the war, and entails the unlawful killings of 40.000 Tamils and disappearance of 146.676 Tamils by the Sri Lankan army through the systematic shelling of the hospitals on the frontlines, the use of weapons of mass destruction on innocent people, point-blank executions of Tamils, and disappearances of the people in the internally displaced people camps.¹²⁸ These acts are perceived by the BTF as the main focus of their ‘iii-campaign’ as will be further discussed below. Finally, the BTF perceives that the genocidal acts also take place in the *post-war period*, through the militarisation of the North-East, the ‘imprisonment’ of internally displaced Tamils in internment camps, the ‘Sinhala colonialization’ of the North-East (land of Tamils given to Sinhalese by the state).¹²⁹ In their view this leads to ‘cultural genocide’; the erosion of the Tamil culture through which the war ‘continues in other methods’.¹³⁰ As the General Secretary of the BTF argues:

‘From 1948 onwards, systematic genocide. Now, even though the war has stopped, structural genocide takes place. Occupying our lands, even blocking the livelihood, in so many ways, even building new war memorials, Buddhist temples (...) somewhere were no Buddhists exist.’¹³¹

In their use of the ‘genocide frame’ the BTF distinguishes between ‘acts of documented genocide’ - which in their perception covers all the above-mentioned historical acts of genocide as well as the acts committed during the war - and ‘structural genocide’. ‘Structural genocide’ entails Government actions

¹²⁶ BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 1-3 (acquired by author on 22 May 2016).

¹²⁷ BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 1-3 (obtained by author on 22 May 2016).

¹²⁸ Appendix IV (Flyer BTF, ‘Open your ‘Is’ (eyes) on Sri Lanka’ (obtained by author on 22 May 2016), the flyer also emphasises that over 80.000 widowed and 25.000 children orphaned);

BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 3-4 (obtained by author on 22 May 2016); Author’s interview on 8 April 2016 with the General Secretary of the BTF.

¹²⁹ BTF pamphlet ‘Stop genocide of Tamils’ (obtained by author on 22 May 2016); see paragraph 2.2.

¹³⁰ Author’s interview on 8 April 2016 with the General Secretary of the BTF; author’s interview on 24 April 2016 with a member of the BTF; BTF information booklet, ‘Reconciliation in Sri Lanka’, p. 16 (obtained by author on 26 April 2016; BTF. “Diaspora Grass roots organisations meet with cross section of Norwegian Parliamentarians, Urges immediate attention to military occupation and settlements in Tamil homeland [July 5, 2013].” Accessed on June 21, 2016. <http://tamilsforum.co.uk/2013/07/diaspora-grassroots-organizations-meet-with-cross-section-of-norwegian-parliamentarians-urges-immediate-attention-to-military-occupation-and-settlements-in-tamil-homeland/>.

¹³¹ Author’s interview on 8 April 2016 with the General Secretary of the BTF.

leading to ‘genocide’, but, in contrast to aforementioned acts, in a ‘slow but systematic’ manner (BTF 2008:36). In their perception this includes the destruction of the infrastructure in the ‘Tamil homeland’ from the 1970s onwards, the economic embargo of the North-East of Sri Lanka which commenced in the 1980s and led to starvation of the Tamil community, the maltreatment of the ‘internally displaced people’ and the violation of various human rights – including the right to freedom and the right to food and access to medicines (BTF 2008:36-47).¹³²

5.2.1 The attributional component of the diagnostic frame

The ‘genocide frame’ can clearly be perceived as an ‘injustice frame’ – injustices committed by the Sri Lankan government. A salient feature of the ‘attributional component’ of this injustice frame is the way the BTF focusses on the intent of Sri Lanka’s government of perpetrating above-mentioned acts; the genocide is perceived as being conducted in a ‘systematic, structural and intentional’ manner.¹³³ In BTF’s perception the reason behind this genocidal intent is the ‘Mahavamsa mindset’ of the Sri Lankan government. The ‘Mahavamsa’ is an ancient chronicle which is perceived as the foundation upon which Sinhala nationalism is built. It contains the story of the Sinhala prince Dathagamani, who fought and won a long war against the Tamil ‘usurper’ Elara (Venugopal 2003:14-15). In BTF’s vision this mind set has led to the idea that any war against Tamils can be ‘propagated in a way that it seems to have a just cause’ whereas the BTF argues that in reality any such war is a war committed with ‘genocidal intent’ (BTF 2013:42). As the General Secretary of the BTF argued:

‘They [Sinhala Buddhist Monks] say they have the right to protect Sinhala language and Buddhist religion. (...) We call that the Mahavamsa mindset, this is the fundamental issue that blocks all the reconciliation efforts taken by the Tamil community and the international community: they [‘Sinhalese’ political institutions] still believe that the island belongs to the Sinhala Buddhists.’¹³⁴

While it goes outside the scope of this thesis to elaborate on whether or not the aforementioned alleged conducts in combination with the alleged ‘intent’ of the Sri Lankan Government can be – legally – qualified as genocide, it can be determined from the above that the use of the word ‘genocide’ by the BTF encompasses a wide range of conducts. Moreover, it illustrates that the BTF not only uses the word ‘genocide’ to describe the atrocities allegedly committed by the Sri Lankan government during the last

¹³² Author’s interview on 16 March 2016 with General Secretary of the BTF; author’s interview on 9 May 2016 with one of the founder of the BTF; BTF. “Publishing Reports after Reports will not stop the continuing structural genocide of Tamils in Sri Lanka [November 16, 2012].” Accessed on June 21, 2016. <http://tamilsforum.co.uk/2012/11/publishing-reports-after-reports-will-not-stop-the-continuing-structural-genocide-of-tamils-in-sri-lanka/>.

¹³³ Author’s interview on 16 March 2016 with the General Secretary of the BTF; author’s interview on 24 April 2016 with a member of the BTF; BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 1 (obtained by author on 22 May 2016).

¹³⁴ Author’s interview on 16 March 2016 with the General Secretary of the BTF.

decade of the civil war - a period on which the international community mainly focusses (UN 2015b) – but uses it to cover a ‘historical genocide’ from 1948 onwards, as well as a ‘continuing genocide’ in the post-war period.

5.3 An ‘internationalised’ accountability mechanism

The establishment of an ‘internationalised’ criminal accountability mechanism is BTF’s solution to achieve justice for the, in their view, committed genocide.¹³⁵ The BTF has been advocating for the establishment of such a mechanism through their ‘iii-campaign’. The General Secretary of the BTF claims that the BTF was the organisation to ‘coin’ this need for an international independent investigation and that all the major mobilisation and other campaigns initiated after the civil war by the BTF rallied around the ‘iii-campaign’.¹³⁶ The campaign was initiated during the final stages of the civil war in 2009, based on the stories collected during this period on what happened to the families in Sri Lanka of the UK Tamil community, as well as against the back drop of the ‘historical genocide’.¹³⁷ The ‘investigation’ element of the ‘iii-campaign’ relates to an investigation on the crimes as committed during the final stages of the civil war in 2009 in Mullivaikal, which BTF frames as the climax of the genocide as mentioned above.¹³⁸ As aforementioned, the current objective of the ‘iii-campaign’ is the full implementation of the 2015 UNHRC resolution.

The relevance of the ‘international’ element as advocated for in the ‘iii-campaign’ is that the BTF does not trust the Sri Lankan government due to the lack of a power shift after the first few years of the victor’s peace, as well as the way the BTF does not perceive the Sirisena government to be more trustworthy as mentioned in paragraph 4.4.3. Moreover, the establishment of an (new) ‘international independent investigation’ can be perceived as important because the BTF does not have another ‘legal opportunity’ to establish criminal accountability as will be further discussed in paragraph 6.2.1. Hereafter, the motivational frame will be discussed as well as the frame resonance of the diagnostic and prognostic frames.

5.3.1 Powerfulness of the genocide frame

The powerfulness of the ‘genocide’ frame in this case lies in the way it ‘automatically’ provides a strong legitimate ‘call to arms’, or a rationale for engaging in collective action, which directly relates to the aim of the ‘iii-campaign’, namely the establishment of an international judicial mechanism (Benford

¹³⁵ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

¹³⁶ Author’s interview on 8 April 2016 with the General Secretary of the BTF.

¹³⁷ Author’s interview on 8 April 2016 with the General Secretary of the BTF; BTF. “67th Sri Lankan Independence day and the plight of Tamils in Sri Lanka [February 6, 2015].” Accessed on June 22, 2016. <http://tamilsforum.co.uk/2015/02/67th-sri-lankan-independence-day-and-the-plight-of-tamils-in-sri-lanka/>.

¹³⁸ BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 3-4 (obtained by author on 22 May 2016).

and Snow 2000:617). Based on previous cases, it can namely be argued that the recognition of genocide in a case can be perceived by the international community as an important, even mandatory, obligation to set up such an (international) judicial mechanism. In this regard, the International Criminal Tribunal for Rwanda (ICTR, 1994), the International Criminal Tribunal for Yugoslavia (ICTY, 1992) and the Extraordinary Chambers in the Courts of Cambodia (ECCC, 2006) can serve as examples.

Because of the powerfulness of the genocide frame – the diagnostic frame – the ‘agency’ perspective of the motivational framing task is less visible in the present case. The ‘construction of appropriate vocabularies of motive’ is namely not necessary in the way the concept of ‘genocide’ itself, ‘shocks the conscience of mankind’ and is therefore a ‘matter of international concern’, as the UN resolution laying the foundation of the Genocide convention states (Benford and Snow 2000:617; UN 1946). In this respect, it has been argued that the genocide frame can be perceived as especially powerful given the emotional and historical resonances of the term, and that issues involving ‘bodily harm’ resonate with liberal ideologies of the western world, since it is a component of the basic idea of ‘human dignity’ (Epstein 1997:416; Keck and Sikkink 1998b:224). As one member of the BTF argued: ‘*when countries acknowledge genocide they have to act*’.¹³⁹ However, Agency of the BTF can be seen in the way the BTF strategically uses the ‘historical resonance’ of the concept of ‘genocide’ by *e.g* spreading flyers which compare the camps of the internally displaced people in Sri Lanka to Nazi concentration camps.¹⁴⁰ Moreover, agency of the BTF can be illustrated by the way they strategically frame the injustices in term of ‘human rights violations’ and ‘duty to act’.¹⁴¹ In this regard, the BTF uses the support of the ‘Tamil people’ to persuade the international community to act, by arguing that:

*‘The Tamil people still possess a sliver of hope that – despite five years of slow progress and over 60 years of conflict – the international community may at last act to serve justice. We urge the Member States not to disappoint them, lest a whole population become disenfranchised from the international community.’*¹⁴²

Because of the powerfulness of the genocide frame, it can be argued that this frame is instrumental to convince a wider audience of the necessity for a utility of collective attempts to address social injustices (McCarthy, Smith and Zald 1996:291). This ‘duty’ or even ‘moral responsibility’ to act in the case of

¹³⁹ Author’s interview on 6 April 2016 with a member of the BTF.

¹⁴⁰ See appendix III (Flyer BTF, ‘Stop genocide of Tamils’ - obtained by author on 22 May 2016); “100.000 Tamils march in London over Sri Lanka’s concentration camps.” TamilNet, June 21, 2009. Accessed on June 22, 2016. <http://tamilnet.com/art.html?catid=79&artid=29625>.

¹⁴¹ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

¹⁴² BTF. “BTF welcomes explicit call for investigation, but proposed resolution still has far to go [March 18, 2014].” Accessed on June 22, 2016. <http://tamilsforum.co.uk/2014/03/btf-welcomes-explicit-call-for-investigation-but-proposed-resolution-still-has-far-to-go/>.

genocide however also has a downside; because it is such a powerful frame which mandates action when acknowledged, states will be cautious to actually acknowledge a case as genocide. Moreover, acknowledging 'genocide' will also place blame on the international community for not having prevented it, which is argued to be a responsibility of the international community.¹⁴³ By framing these actions as part of the genocidal agenda of the Sri Lankan government, the BTF is, therefore, actively constructing their version of reality in the way it is differentiating from the existing frames on these atrocities (Benford and Snow 2000:614, Snow and Benford 1988:189). In this context, the UN High Commissioner has argued that "(...) [*genocide*] is not something that we perceive at this stage (...) that is not to say that at a subsequent stage that is implausible".¹⁴⁴ And a spokesperson of the Officer of the High Commissioner of Human Rights later added: "*The crime of genocide requires specific objective and subjective elements. On the basis of the information we were able to gather, we did not come to the conclusion that these elements were met.*"¹⁴⁵

The international community perceives the crimes committed during the final stages as 'crimes against humanity' and 'war crimes' (UNHRC 2015b:219). War crimes entail 'grave breaches of the Geneva conventions' which includes the prohibition against wilful killing as plan or policy or as part of a large-scale commission of such crimes.¹⁴⁶ Crimes against humanity prohibits – *i.a.* - the widespread or systematic killing of a civilian population, with knowledge about the wider campaign (Wald 2007:624).¹⁴⁷ Genocide requires more than this, namely that the act of killing must be committed against a racial, religious, national or ethnic group with the specific 'genocidal intent' of destroying the group in part or as such (Wald 2007:624).¹⁴⁸ This definition relates with BTF vision of the state's action as

¹⁴³ UN. "Background Information on Preventing Genocide." Accessed on June 23, 2016. <http://www.un.org/en/preventgenocide/rwanda/about/bgpreventgenocide.shtml>; Global Justice Center Blog. "Justice in Sri Lanka Must Include Investigations of Genocide Allegations." Accessed on June 23, 2016. <http://globaljusticecenter.net/blog/316-justice-in-sri-lanka-must-include-investigations-of-genocide-allegations>; Ignatieff *e.g.* argues in this regard that: "*In 1994, the UN Security Council stood by and did nothing while hundreds of thousands of Tutsis were massacred by a concerted, organized, and centrally directed plan of genocide organized by the Hutu-dominated government of Rwanda. Failing to intervene in Rwanda has proved even more damaging to the standing and credibility of human rights principles than late and partial interventions in Iraq, Bosnia, and Kosovo.*" (Ignatieff 2001:39).

¹⁴⁴ Office of the High Commissioner of Human Rights - Press conference on Sri Lanka Report, Geneva, 16 September 2015. Available via UN Web TV (<http://webtv.un.org>).

¹⁴⁵ Ramakrishnan, T. "UN defends 'silence on genocide' in Sri Lanka war crimes report." *The Hindu*, September 21, 2015. Accessed on June 23, 2016. <http://www.thehindu.com/news/international/south-asia/un-defends-silence-on-genocide-in-sri-lanka-war-crimes-report/article7674861.ece>.

¹⁴⁶ Article 8 Rome Statute; the term "genocide" is not used in the Geneva Conventions or in their Additional Protocols. However, the International Coalition for the Red Cross argues that it is 'nevertheless obvious that all the acts that constitute genocide are grave breaches of the Geneva Conventions and represent war crimes if they are committed in the course of an international armed conflict.', ICRC. "Genocide, a "serious crime": the 1948 Convention." Accessed on June 22, 2016. <https://www.icrc.org/eng/resources/documents/misc/5xfp5a.htm>.

¹⁴⁷ Article 7 Rome Statute.

¹⁴⁸ Article 6 Rome Statute; The most widely used definition of the term is enshrined in Article 2 of the UN Convention on Genocide (UN 1948), which defines it as:

"any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical

mentioned above entailing; ‘a coherent strategy for systematically eradicating Tamil cultural, religious, political and ethnic identities from the island’.

5.3.2 *Frame resonance*

The frame resonance relates to the way a frame seems to be effective with its target audience (Benford and Snow 2000:619). Two aspects of ‘frame resonance’ will be discussed: the empirical credibility of the frame and the credibility of the claim-makers. The empirical credibility of the genocide frame – the fit between the frame and the events in the world – has been discussed above to a certain extent. The international community for now namely seems to frame the events as war crimes and crimes against humanity, and does not recognise the ‘genocidal intent’ of the Sri Lankan government. The question: can the frame be empirically verified, is difficult to answer with regard to the ‘genocide frame’ because although legal concepts may seem static, they are all subject to interpretation. Although there are numbers of the fatalities during 2009 which can be pointed to as evidence to substantiate the genocide frame, in the end it comes down to an interpretation whether there was ‘genocidal intent’ or not. In this regard, it can also be argued that in this case it is maybe not only about whether or not the segment of adherents – the international community – finds the frame credible, but also whether or not they are *willing* to accept the frame as being credible because of the implications it may have.

In contrast to the empirical credibility of the diagnostic frame, it can be argued that the resonance of the prognostic frame is higher, seen from emphasis on ‘accountability’ in the Sri Lankan transitional justice context. This can be illustrated by the inclusion of a (internationalised) ‘judicial mechanism’ in the 2015 UNHRC resolution.¹⁴⁹ This disconnect between the resonance of the ‘diagnostic’ and the ‘prognostic’ frame can thus result in the establishment of an international judicial mechanism, without this mechanism actually addressing ‘genocide’. Although it can technically be argued that BTF’s aim of the ‘iii-campaign’ has been reached, this situation can still be perceived as unfavourable for the BTF because the ‘genocide frame’ is not only used to strengthen their aim in the ‘area’ of accountability, but also in their aim of gaining a form of ‘self-determination’ (BTF 2013:38).¹⁵⁰

A second aspect of importance is the credibility of the claim makers, since this can have implications for the persuasiveness of the claim (Benford and Snow 2000:621). In this respect, ‘framing’ of the SMOs itself, can be an important way to achieve this credibility (McCarthy 1996:149). As elaborated on in paragraph 4.2.2, the BTF has ‘framed’ the organisation as ‘democratic’ and ‘non-violent’ and formalised

destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”

¹⁴⁹ The reason why BTF’s retributive justice resonates with the visions of the international community on transitional justice will be further elaborated on in paragraph 6.2.2.

¹⁵⁰ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

the organisation by registering it as a limited company in the post-war period to gain this credibility, and positioning themselves as legitimate actors in the British and international political establishment. Moreover, the leadership of the BTF has also constructed different ‘identities’ to gain credibility as a relevant actor within different (political) contexts.

5.4 The genocide frame and the contested nature of transitional justice

The link between the diagnostic frame – genocide committed by the Sri Lankan government – and the prognostic frame – and international independent investigation – has important implications for BTF’s view on transitional justice (mechanisms). As mentioned in paragraph 3.2, ‘transitional justice’ is a contested process, the concept of ‘justice’ and ‘reconciliation’ and can be interpreted in multiple ways resulting in different arguments as to which transitional justice mechanism should be set up. These can range from the establishment of a ‘truth and reconciliation commission’ – with the focus on ‘restorative justice’ - to the creation of special courts – with the focus on ‘retributive justice’. In contrast to the Sri Lankan government, which has so far favoured the restorative justice approach by *e.g.* the creation of the LLRC, the ‘iii-campaign’ of the BTF thus clearly shows BTF’s focus on retributive justice approaches.

It has been argued that this difference of the expectation of justice correlates with the different perception on the ‘legitimacy’ of the context of the war (Gunatilleke 2015:98). In this regard, it has been argued that “*those who deny the contextual legitimacy of their loss tend to demand accountability. Second, those who accept the context as legitimate tend not to show a strong interest in accountability*” (Gunatilleke 2015:99). Although this idea has been based upon narratives gathered from Sinhalese and Tamils who lost family in the war based in Sri Lanka, it can be argued that this idea can be translated to the this case as well. Framing the war as a ‘genocide’ namely directly creates an ‘illegitimate unjust context’, calling for accountability, in contrast to the Sri Lankan narrative, which framed the war as being part of the legitimised ‘war on terror’ context.

The BTF uses the genocide frame to legitimise an ‘accountability mechanism’ as the only transitional justice mechanism in several ways. The first way is by emphasising the intent of the Sri Lankan government in ‘systematically and structurally’ conducting the genocide as mentioned in paragraph 5.2.1, this ‘intent’ strengthens the call for ‘criminal accountability’ which is an important facet of BTF’s perception of justice, and strengthens the call for an accountability mechanism in contrast to other restorative mechanisms.¹⁵¹ This ‘intent’ of the government is further strengthened by the BTF though

¹⁵¹ Author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF.

linking it with the ongoing nature of the genocide in the post-war period.¹⁵² In this regard the BTF explicitly rejects a restorative approach by arguing that a truth and reconciliation commission will be used by the Sri Lankan regime to continue its structural genocide against the ‘Tamil nation’.¹⁵³ Moreover, the BTF uses this ‘continuing genocide’ to strengthen their call for the ‘iii-campaign’ by further enforcing the attributional element of this diagnostic frame and therefore their call for an international independent investigation. As the former advocacy officer of the BTF has argued:

‘We are in the 4th year after the bloody end to the Civil War in Sri Lanka. During and after this war numerous crimes against the Tamil people were committed by the Sri Lankan state and these crimes continue to be committed with absolute impunity (...) How can we know the “intent” of these crimes without an international independent investigation?’¹⁵⁴

A second way how the BTF uses the genocide frame in relation to legitimise the need of accountability mechanisms in contrast to other restorative mechanisms is the lack of the power shift in the post-war period. When asked the opinion about a ‘truth and reconciliation commission’ this lack of power shift was mentioned as another reason for why accountability rather than a ‘truth and reconciliation mechanism’ should be set up.¹⁵⁵ One member of the BTF argued that:

‘In Sri Lanka (...) the oppressors themselves are going to be doing the truth and reconciliation, so what have you got, [is a] load of rubbish. (...) That is why [the] South African model¹⁵⁶ is not relevant to Sri Lanka, because it is up-side down. In order for Truth and reconciliation to take place the victims should be running the show, in Sri Lanka it will be the oppressors running the show.(..) It is like asking a robber to investigate its own crime.’¹⁵⁷

5.5 Conclusion

BTF’s interpretation of the word ‘genocide’ in essence entails the Sri Lankan state’s actions, which betray ‘a coherent strategy for systematically eradicating Tamil cultural, religious, political and ethnic

¹⁵² BTF folder, ‘Sri Lanka, what you cannot hide is genocide’, p. 5 (obtained by author on 22 May 2016); Speech General Secretary of the BTF during APPG-T meeting on 24 March 2016.

¹⁵³ BTF. “BTF calls on the international community to denounce Sri Lanka’s ‘reconciliation’ deception [December 24, 2013].” Accessed on June 23, 2016. <http://tamilsforum.co.uk/2013/12/btf-calls-on-the-international-community-to-denounce-sri-lankas-%E2%80%9Creconciliation%E2%80%9D-deception/>.

¹⁵⁴ BTF. “Publishing Reports after Reports will not stop the continuing structural genocide of Tamils in Sri Lanka [November 16, 2012].” Accessed on June 21, 2016. <http://tamilsforum.co.uk/2012/11/publishing-reports-after-reports-will-not-stop-the-continuing-structural-genocide-of-tamils-in-sri-lanka/>.

¹⁵⁵ Author’s interview on 24 April 2016 with a member of the BTF; Author’s interview on 6 April 2016 with a member of the BTF; Author’s interview on 16 March with the General Secretary of the BTF.

¹⁵⁶ One of the most famous examples of a ‘truth and reconciliation commission’ was the one set up in South Africa to help deal with what happened under apartheid. It was established by the Government of National Unity, when Nelson Mandela was the President of South Africa, South African Truth and Reconciliation Commission. “About.” Accessed on June 24, 2016. <http://www.justice.gov.za/trc/>.

¹⁵⁷ Author’s interview on 24 April 2016 with a member of the BTF.

identities from the island'. They use this genocide frame not only to frame the marginalisation of the Sri Lankan Tamil community during the war, but also before the war, by arguing there has been a 'historical genocide', and after the war, by arguing that there is still a 'continuing' genocide. The powerfulness of the genocide frame is that it 'automatically' relates to their prognostic frame in the way it can be argued that the recognition of genocide in a case can be perceived by the international community as an important, even mandatory, obligation to set up such an (international) judicial mechanism. The BTF uses this strength of the genocide frame to further legitimise the need of an accountability mechanism by emphasising the intent of the Sri Lankan government in the conduct of these crimes, the perceived ongoing nature of these crimes in the victor's peace context, and the lack of power-shift to argue that an 'accountability mechanism' based on retributive justice is the only relevant transitional justice mechanism. In the following chapter, it will be discussed how the BTF can diffuse this frame in the international political context, by elaborating on political opportunities.

6. Political opportunities

6.1 Introduction

The post-war context changed the scope of BTF's endeavours in the way the transitional justice context opened up an important new 'international context' for the BTF to advocate their claims. This chapter will discuss this new international context from the perspective of 'political opportunities', and look at how it has enabled and restrained BTF's collective action in the post-war context. In this regard, this thesis will use the concept of 'strategic arena', which allows for more agency in the way it incorporates strategic interaction between the involved actors (Goodwin and Jasper 2012:18; Jasper 2008:140-170). In line with this approach, this chapter will discuss the UNHRC as a 'sub-arena'¹⁵⁸ of the larger 'United Nations arena', in which different actors interact on the question how to deal with justice and reconciliation in the post-war context of, in this case, Sri Lanka (Bob 2015). It will be argued that the inclusion of NGOs and the 'transitional justice' discourse serve as an important opportunity for the BTF to respectively access and advocate in the UNHRC arena, while the strategic interaction between the actors is highly influenced by geopolitical considerations related to Sri Lanka's political context. First, the UNHRC arena will be discussed, where the BTF's access to this arena and 'transitional justice discourse' will be discussed as, respectively, important 'supranational' and 'discursive' opportunities for the BTF to further their 'iii-campaign' (paragraph 6.2). The following paragraph will focus on the Sri Lankan political context, and how this influences the strategic interaction between the players in this arena (paragraph 6.3). In this context, the relationship between 'opportunity' and 'threats' will be discussed in light of the 2015 Sri Lankan regime change, as well as the important role of geopolitics.

6.2 International context

BTF's endeavours in the post-war context substantiate the claim that transitional justice is a 'global project' where local, national and global environments interact (Nagy 2008:267). This should be seen in the larger context of globalisation, which essentially entails the stretching process, in so far as the modes of connection between different social contexts or regions become networked across the earth's surface as a whole (Giddens 1990:64). This process of globalisation has created new global public fora, such as the UN, where civil society actors, international states and international bodies such as the UN Human Rights Commissioner all strategically interact regarding a diverse range of issues in the field of human rights and security. Although the UN and its bodies are not as powerful as nation states - mainly because of enforcement restrictions - their policies do have symbolic value and political influence (Bob 2015:205). As elaborated on in paragraph 4.4.2, the UNHRC has been incorporated as an important new element of BTF's 'multi-level' two-fold strategy in the post-war context. As the General Secretary of the BTF argued:

¹⁵⁸ Hereafter also referred to as 'arena'.

*'Then in 2009, after the war, we [BTF] completely changed the strategy to win over the countries, in the sense to get more friendly countries, more friendly institutions, not only advocacy, the strategy has been changed to win most friends of countries, institutions and individuals (...) and also in 2008¹⁵⁹ we chose the Human Rights Council as another tool to open up another chapter. We always represent [the BTF at] every UNHRC session, our team will be there.'*¹⁶⁰

6.2.1 The UNHRC

The UNHRC is an intergovernmental body within the UN, which is responsible for 'promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner' (UN 2006:2). While all the States in the UN are involved in the work of the UNHRC, only 47 states can make decisions. The UNHRC comes together at least three times per year, and can in addition hold special sessions when needed. In the case of Sri Lanka, a special session was held after the ending of the war in May 2009 (UNHRC 2009). Besides Member States of the UNHRC, 'observers' can participate in the sessions. 'Observers' are NGO's which have been accredited by the UN Economic and Social Council with consultative status.¹⁶¹ These include inter-governmental organisations, national human rights institutions and NGO's.¹⁶² Although they are not allowed to vote, observers can attend and observe all proceedings¹⁶³, submit written statements to the UNHRC, make oral interventions, participate in debates, interactive dialogues, panel discussions and informal meetings and organise 'parallel events' on issues relevant to the work of the UNHRC.¹⁶⁴

The UNHRC can be perceived as a 'supranational opportunity' for the BTF to further their claims in addition to the British national context (Passy 2009).¹⁶⁵ Because of the inclusion of civil society in the UNHRC, the BTF can gain access and actively lobby influential actors through speaking rights during

¹⁵⁹ During the war the BTF also went to the sessions of the UNHRC, mainly to raise awareness on issues related to the war. It was only after the end of the war that the BTF became actively engaged in lobbying and calling for resolutions (author's meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF).

¹⁶⁰ Author's interview on 16 March 2016 with the General Secretary of the BTF.

¹⁶¹ UNHRC. "NGO Participation in the Human Rights Council." Accessed on July 5, 2016. <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoParticipation.aspx>.

¹⁶² UNHRC. "NGO Participation in the Human Rights Council." Accessed on July 5, 2016. <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoParticipation.aspx>.

¹⁶³ With the exception of the UNHRC deliberations under the 'Complaints Procedure'.

¹⁶⁴ UNHRC. "NGO Participation in the Human Rights Council." Accessed on July 5, 2016. <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoParticipation.aspx>.

¹⁶⁵ It is important to note that the UNHRC is not the only 'supranational' opportunity for SMOs, there are also other supranational opportunities such as the European Union (see e.g. Marks and McAdam 2009). However, the BTF is not engaged with them due to resource issues, as well as the fact that in relation to the establishment of 'accountability mechanism' this supranational opportunity is less relevant than the UNHRC seen from the perspective of the 2015 UNHRC resolution (interview on 24 April 2016 with a member of the BTF).

the sessions and organise ‘parallel events’ where they can advocate their claims.¹⁶⁶ This relates to the first ‘dimension’ of political opportunity as reformulated in a ‘strategic language’: the openness of the arena, or in other words, the players which are allowed in which arena according to official rules (Jasper 2012:21). In this respect, it should be noted that the BTF does not have ‘observer status’ themselves, but joins the delegation of an Indian NGO called ‘Pasumai Thayagam’, which has this status. Also, the BTF gets access to the UNHRC through the British political establishment arranged by the APPG-T.¹⁶⁷

Although official access is thus granted, it is still important that the BTF positions itself as legitimate players in the UN sessions and ‘parallel events’ to lobby the political establishment. As elaborated in paragraph 4.2.2, the way the BTF ‘framed’ themselves after the war was an important strategy to gain this access also in relation to the international context. This supranational opportunity can be therefore perceived as another important incentive for an SMO to ‘institutionalise’ themselves by formalising and framing their organisations in a particular way and moderating their claims (Smith 1992:134). ██████████
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██████████ Moreover, in the case of the BTF inclusion of the UNHRC for their advocacy purposes has also been a source of disagreement between the BTF leadership and the BTF members/Tamil community; while the BTF leadership chose to seize this new supranational opportunity in the post-war context, they saw this strategy was not welcomed by everyone on the grass roots level. In this respect, it is first of all important to note that operating in a supranational space removes an SMO from its

¹⁶⁶ BTF. “BTF Human Rights Team follows up on the HRC resolution in Geneva [June 19, 2014].” Accessed on July 5, 2016. <http://tamilsforum.co.uk/2014/06/btf-human-rights-team-follows-up-on-the-hrc-resolution-in-geneva/>.

¹⁶⁷ Author’s field notes 24 April 2016; author’s meeting on 22 May 2016 with the General Secretary and four members of the executive committee of the BTF; author’s interview on 29 April 2016 with an editor of the Tamil Guardian.

¹⁶⁸ Author’s interview on 16 March 2016 with the General Secretary of the BTF.

constituencies in national and local context (Morgan 2007:281). Moreover, in this case, the reason for this disagreement was that members of the Tamil diaspora felt betrayed by the international community when they did not intervene during the final stages of the war as discussed in paragraph 4.4.1.¹⁶⁹ This resulted in a severe decrease of support after the end of the war, especially when compared to the number of Tamils who supported the cause during the final stage of the war in 2009.¹⁷⁰ As one of the members of the BTF argued:

*'After 2009 we were all fed up. We have done everything we could. We spent three months outside the parliament, protesting and shouting. Even some days we did not come home, we slept outside the Parliament. So we were really exhausted and we could not believe in the [international] system because we lost thousands of thousands of people's lives (...) Nobody really looked after us [Tamil community] and cared for us. So we lost trust in everybody. Ban Ki-Moon went to Sri Lanka, he could have prevented further killing, he did not. (...) All these countries in the UN, in a way, ignored or could not prevent the killings (...) Because no one really helped, lots of people left from BTF.'*¹⁷¹

The strategy change of the BTF, in which it decided to include the UNHRC, was thus a difficult choice for the BTF because it caused tension between two new perceived 'roles' in the post-war context: a grass roots organisation representing the UK Tamil community, on the one hand, and an advocacy organisation, on the other hand.¹⁷² Despite this tension, it can, however, be argued that the lobbying the UNHRC was a 'necessary evil' to continue their political struggle because their 'legal opportunities' are limited.¹⁷³ The concept 'legal opportunity' refers to 'litigation' as action repertoire for SMOs, in response to the rejuvenation of national or supranational courts that many countries experienced after democratisation (Wilson 2006:327). Seen from the perspective of their 'iii-campaign', which focusses on an 'investigation' and criminal accountability, this would be a logical step for the BTF. However, in the case of Sri Lanka, national as well as international litigation is a difficult step to pursue. Sri Lanka does not have the appropriate national justice system to facilitate national litigation for the alleged crimes committed, and this avenue might be obstructed due to 'immunity' provisions as well as the fact that the BTF as a diaspora group has less access to Sri Lanka's national litigation system.¹⁷⁴ Furthermore,

¹⁶⁹ "Tamil protest ends after 73 days." BBC, June 7, 2009. Accessed on 5 July 2016. http://news.bbc.co.uk/2/hi/uk_news/england/london/8105879.stm; author's interview on 16 March 2016 with the General Secretary of the BTF; author's interview on 6 April 2016 with a member of the BTF.

¹⁷⁰ See paragraph 4.4.1.

¹⁷¹ Author's interview on 6 April 2016 with a member of the BTF.

¹⁷² See paragraph 4.1.

¹⁷³ Author's field notes 3 April 2016.

¹⁷⁴ It has been argued by the UN High Commissioner of Human Rights that Sri Lanka does not have a credible victim and witness protection system and the security sector and justice system have been 'eroded and corrupted' by decades of emergency, conflict and impunity (OHCHR - Press conference on Sri Lanka Report, Geneva, 16 September 2015, Available via UN Web TV, <http://webtv.un.org>).

international litigation before the International Criminal Court is not possible because Sri Lanka has not ratified the Rome Statute.

6.2.2 The ‘transitional justice’ discourse

Transitional justice has positioned itself within the global ‘UN arena’ as the discourse which essentially argues that human rights law requires accountability in transitions, rooted in the discipline of the rule of law (UN 2004:4). This focus on accountability resonates with the western liberal tradition which emphasises the importance of retributive justice in criminal cases. Throughout the 1990s this discourse broadened to include a range of legal regimes and accountability mechanisms, which focussed on the establishment of post-conflict accountability evidenced by the establishment of international ad hoc judicial mechanisms – e.g. ICTY, ICTR, and the ECCC - and the International Criminal Court (Bell 2009:5,8). This ‘retributive’ approach has especially been visible in the Sri Lankan case, in the way the UN has delegitimised solely ‘restorative’ approaches to justice in favour of retributive responses. As the report of the earlier mentioned¹⁷⁵ Panel of Expert argues:

‘As an initial matter, a de facto decision not to hold accountable those who committed serious crimes on behalf of the State during the final stages of the war is a clear violation of Sri Lanka’s international obligations and is not a permissible transitional justice option. While there is some flexibility on the forms of punishment under international law, investigations and trials are not optional, and the creation of a commission such as the LLRC does not in itself fulfil the State’s duty in this case’ (UN 2011:79).

While the inclusion of civil society in the UNHRC as ‘arena’ can be seen as a ‘supranational opportunity’ for the BTF to further their claims in an international context, the prevailing – retributive - ‘transitional justice’ discourse can be perceived as an discursive opportunity to diffuse their claim within this arena. Discursive opportunities can be defined as the aspects of the public discourse that determine a message’s chances of diffusion in the public sphere (Koopmans 2004:202). Important to note is first of all the ‘relative autonomy’ of discursive opportunities. This means that discursive opportunities should be perceived as such and acted upon. In other words: ‘opportunities should be sensed and seized’ (Bröer and Duyvendak 2012:242; Koopmans 2004:201). In contrast to the more structural accounts of political opportunity, this also implies agency in the way SMOs can interpret situations differently and strategically choose whether or not to act. By aligning their ‘iii-campaign’ with the dominant transitional justice discourse and the 2015 UNHRC resolution, it can be argued that the BTF has both ‘sensed’ and ‘seized’ this opportunity.¹⁷⁶

¹⁷⁵ See paragraph 2.2.1.

¹⁷⁶ BTF. “Sri Lanka must fulfil commitments under UNHRC resolution’ – reneging on international involvement is unacceptable- British Tamils Forum.” BTF January, 31 2016. Accessed on July 6, 2016. <http://tamilsforum.co.uk/2016/01/sri-lanka-must-fulfil-commitments-under-unhrc-resolution---reneging-on-international-involvement-is-unacceptable-british-tamils-forum/>.

A first important aspect of discursive opportunities is the resonance of the discourse; a certain political policy discourse compromises opportunities and limitations for political action (Bröer and Duyvendak 2012:241). In the case of the transitional justice discourse in the Sri Lankan context, this can be illustrated in the way the western liberal tradition or ‘culture’ of accountability legitimises retributive approaches to justice, and de-legitimises restorative approaches as being the only response, as depicted above (Bröer and Duyvendak 2012:241). This underlines the argument of discursive opportunity that the openness of the institutionalised political system as an indicator for political opportunity is not enough, but also the extent to which their claims and identities relate to prevailing discourses in the public domain (McAdam 1996:27; Giugni 2009:364; Hilson 2002:242). In other words, political opportunity should not only be seen in terms of *access* to the institutionalised political system – inclusion of civil society in the UNHRC - but also the political *receptivity* of the claim – resonance of BTF’s claim within this arena.

Another important aspect of ‘discursive opportunities’ is the political legitimacy of actors (Koopmans et. al. 2005:219-224). As elaborated on in paragraph 5.3.2, this is closely related to the aspect of resonance in the way the political legitimacy of actors can influence the persuasiveness of actors’ claim. The way the BTF positioned themselves after the war as an officially registered company adhering to the principles of ‘democracy’ and ‘non-violence’, can be seen as an important aspect influencing the chances of the diffusion of BTF’s claim in the public sphere.¹⁷⁷ Related to the political legitimacy is also the way they present themselves to the outside world, in this case, the international community. Illustrative for this can be how the BTF presents itself within the UN as an: “*autonomous, independent non-governmental, non-partisan and non-profit making human rights organisation registered as a company limited by guarantee without share capital under the Companies acts in England and Wales*” (BTF 2013:3).

6.3 The Sri Lankan political context

So far, the access of the BTF to the arena as well as the resonance of their claims within this arena has been discussed. This paragraph will focus on the Sri Lankan political context, because, although the BTF does not directly engage with Sri Lanka as examined in paragraph 4.4.3, the Sri Lankan context does directly influence the strategic interactions of the BTF within the arena. In this regard, it is important to note that the concept of ‘arena’ presumes a form of ‘symmetry’ between players, namely that states look for strategic opportunities just the way as protestors do (Jasper 2012:20). The UN arena, is thus far from ‘neutral’, but composed of several players (Bob 2015:207). In this paragraph, the importance of 2015 regime change will be highlighted, especially from the perspective of ‘geopolitical’

¹⁷⁷ See paragraph 4.2.2.

considerations. This relates to the second and third ‘dimension’ of political opportunity as reformulated in a ‘strategic language’: the choices made by other players – allies/elites - which help or hinder protestors (Jasper 2012:21).

6.3.1 Threat as opportunity in the post-war context

Sri Lanka was considered a ‘model colony’ by the British; the Sri Lankan population was given universal suffrage in 1931 and the transition to independence in 1948 went in a non-violent manner (DeVotta 2011:139). Although in the years after independence Sri Lanka’s democracy can be characterised by being dominated by Sinhalese Buddhist hegemony based on the ‘Mahavamsa’ (Tambiah 1986:70-71),¹⁷⁸ it was under the rule of Rajapaksa regime (2005-2015) that the Sri Lankan democracy regressed fully to the point of (soft) authoritarianism (DeVotta 2011:131). As discussed in paragraph 2.2, the Rajapaksa family controlled all the major state institutions around 2011, intimidated media and civil society and amended the constitution to gain more power (DeVotta 2011:133,137-138, 142, 150; Höglund and Orjuela 2011:25). This authoritarian turn deteriorated Sri Lanka’s relationship with the West, which was further affected by the strong alliance Rajapaksa formed with China as well as the way the Rajapaksa regime was accused of violating the human rights of the Sri Lankan Tamil community (DeVotta 2011:141; Walton 2015:960; ICG 2012b:i).

Rajapaksa’s control over post-war Sri Lanka came to an end after the 2015 Presidential elections. As earlier discussed, the new President, Sirisena, promised reform in which ethnic and religious reconciliation will be the priority.¹⁷⁹ While it is important to note that President Sirisena has been criticised by not honouring all his promises – especially relevant for this case *e.g.* that he has stated that contrary to the 2015 UNHRC resolution he wants no international involvement in an investigation¹⁸⁰ - President Sirisena did change something important; he brought immediate changes in Sri Lanka’s foreign policy orientation, by balancing relations between the East and the West (Welikala 2015:253; ICG 2016). As argued by a representative of the Secretary of State for South and Central Asian Affairs: “*The January 2015 Sri Lankan presidential election ushered in a new political era and opportunity for renewed U.S. diplomatic and development engagement to support the country’s ongoing reforms*”.¹⁸¹

The change in ‘repression’ from Rajapaksa to Sirisena and the improved relationships between the new Sri Lankan government and the West, in BTF’s perception, negatively influenced their strategic

¹⁷⁸ See for ‘Mahavamsa’ paragraph 5.2.1.

¹⁷⁹ Sirisena, Maithripala. “The Inaugural Address of President Maithripala Sirisena from the Hallowed Precincts of the Most Sacred Sri Dalada Maligawa in Kandy.” Accessed on July 18, 2016. <http://www.president.gov.lk/speeches/the-inaugural-address-of-president-maithripala-sirisena-from-the-hallowed-precincts-of-the-most-sacred-sri-dalada-maligawa-in-kandy/>.

¹⁸⁰ See paragraph 3.2.

¹⁸¹ U.S. Department of State. “US Relations with Sri Lanka [6 April 2016].” Accessed on July 5, 2016. <http://www.state.gov/r/pa/ei/bgn/5249.htm?docid=5249>.

interaction in the UNHRC. In this regard, it is important to note first that the BTF is very critical about this regime change, and have not seen it as an opportunity to build direct relations with the Sri Lankan government. After the election results, the BTF has argued that both candidates - Sirisena and Rajapaksa – have rejected the UNHRC mandated international investigation, and both have refused to put a stop to the continuing genocide of the Tamil people.¹⁸² From a BTF's perspective the 2015 regime change thus only limited their chances in the UNHRC, because it has improved the relations between Sri Lanka and the West at the expense of the justice for the Tamils. As the General Secretary of the BTF argued:

*'Western involvement [for justice for Tamils] took place not because of the sake of Human rights, but also because the Rajapaksa government became uncontrollable. They were parading with the Chinese. Which is a strategic issue for the western government. (...) Once the regime change happened the international community has given up everything, slowing down everything. It is really a farce, you can see that you know. It is not justice.'*¹⁸³

While one might think that the electoral defeat of Rajapaksa also positively influenced the 'iii-campaign' of the BTF because the new government is perceived as more moderate, this is paradoxically not the case. Besides providing the BTF with important leverage to mobilise the Tamil community as discussed in paragraph 4.4.1, the 'threat' posed by the Rajapaksa regime to the human rights of the Tamil community as well as the western values of democracy also gave the BTF important allies for strategic interaction during the first years in the transitional justice process; the West (Höglund and Orjuela 2012:9). More openness in Sri Lanka's political context has thus lead to smaller opportunities of the BTF in the UNHRC arena. This finding underlines the theory that repression as a threat does not always reduce the opportunity – by e.g. limiting access to state institutions – but that threats can lead to increased opportunity for mobilisation and advocacy. In other words, the concept of 'threat' is not always the 'flip side' of opportunity, but it can shape them as well (Tilly and Goldstone 2001:181).

6.3.2 Geopolitical considerations

The influence of the change in repression is closely related to an aspect underlying the strategic actions in this international context; geopolitical considerations. Sri Lanka's position in the Indian Ocean, right in the middle of the important sea route between the Middle East and East Asia, as well as the increasing powers of Asian states, makes Sri Lanka an interesting partner for states to form alliances with (Höglund and Orjuela 2011:25).¹⁸⁴ As mentioned above, the relationships between the West and Sri Lanka

¹⁸² BTF. "British Tamils Forum response to the election results and the new government [January 9, 2015]". Accessed on July 5, 2016. <http://tamilsforum.co.uk/2015/01/british-tamil-forum-response-to-the-election-results-and-the-new-government-in-sri-lanka/>.

¹⁸³ Author's interview on 16 March 2016 with the General Secretary of the BTF.

¹⁸⁴ U.S. Department of State. "Joint Statement From the U.S. Department of State and the Ministry of Foreign Affairs of Sri Lanka on the Inaugural U.S. - Sri Lanka Partnership Dialogue [February 29, 2016]." Accessed on

improved after the regime change in 2015. Although the 2015 UNHRC resolution, co-sponsored by Sri Lanka and the United States, acknowledges the importance of foreign involvement in an investigation, it has been argued that the renewed relationship between Sri Lanka and the United States resulted in a softening of the United States' stance regarding this matter.¹⁸⁵ A possible explanation for this is that too much emphasis on justice for the Tamils could mean President Sirisena would lose important votes of the Sinhalese population, while Rajapaksa is remobilising support in the South for the new presidential elections (ICG 2016:18).¹⁸⁶ Seen from the perspective of the international community a softening stance on justice could be a trade they be willing to make when it prevents Rajapaksa from coming to power again.¹⁸⁷ Contrary to what the 'iii-campaign' so explicitly calls for, namely an *international* investigation, the United States has backed Sri Lanka's wish for an *internal* investigation.¹⁸⁸

Although the direct influence of geopolitical considerations on this matter is difficult to determine, for this research it is important to note that the BTF perceives geopolitics as constraining the supranational opportunity the UNHRC provides them, by placing politics before human rights.¹⁸⁹ The (perceived) influence of geopolitical considerations in the case of Sri Lanka does underline an important observation when it comes to viewing the UNHRC from a – agency - 'strategic area' perspective. It namely illustrates that not every actor has as much power to 'strategically interact' in an arena: although players might be symmetrical in the sense that every player is looking for strategic opportunities, they are not equal (Jasper 2012:21). Although the UNHRC does provide for an instrument for the BTF to address their demands and challenge the decisions of the Sri Lankan government, international interests such as economic and diplomatic relations with Sri Lanka can overshadow the power of these demands and claims of the BTF, which has been illustrated by the softening of the stance on justice for the Tamils after the 2015 regime change.

July 8, 2016. <http://www.state.gov/r/pa/prs/ps/2016/02/253775.htm>. U.S. Department of State. "Strengthening the U.S.-Sri Lanka Partnership for Human Rights and Lasting Peace, remarks John Kerry [May 2, 2015]." Remarks John Kerry, 2 May 2015, <http://www.state.gov/secretary/remarks/2015/05/241421.htm>.

¹⁸⁵ Author's interview on 15 April 2016 with research director of Verité research and UN consultant to the Sri Lankan foreign ministry.

¹⁸⁶ In this regard, it has been argued that the Sri Lankan politicians depend mainly on a Sinhalese constituency to stay in power and hence have little to gain from giving in to minority demands (Höglund and Orjuela 2011:25).

¹⁸⁷ Author's interview on 15 April 2016 with research director of Verité research and UN consultant to the Sri Lankan foreign ministry.

¹⁸⁸ U.S. Department of State. "Strengthening the U.S.-Sri Lanka Partnership for Human Rights and Lasting Peace, remarks John Kerry [May 2, 2015]." Remarks John Kerry, 2 May 2015, <http://www.state.gov/secretary/remarks/2015/05/241421.htm>; "US backs Sri Lanka internal war investigation." Al-Jazeera, August 26, 2015. Accessed on July 8, 2016. <http://america.aljazeera.com/articles/2015/8/26/us-backs-internal-sri-lanka-war-crimes-investigation.html>.

¹⁸⁹ Author's interview on 17 March 2016 with one of the founders of the BTF; BTF. "Once again the UN system has failed a people on its own mandate [March 23, 2013]." Accessed on July 8, 2016. <http://tamilsforum.co.uk/2013/03/once-again-the-un-system-has-failed-a-people-on-its-own-mandate>.

In this respect, the question arises whether the discussed arena is a ‘fake arena’; namely, one which only allows for the expression of discontent or provide a feeling of participation, but where the BTF can never have actual influence (Jasper 2008:168). This statement can be *e.g.* underlined by the discussed importance of geopolitical considerations as well as the fact that ‘observers’, in contrary to member states, do not have actual voting rights in the UNHRC.¹⁹⁰ Despite of these characteristics, it can be argued that the UNHRC as ‘sub-arena’ is not a fake arena, because international relations based on geopolitical considerations can be perceived as ‘windows of opportunity’ in the international arena which can close, but also open again (Goodwin and Jasper 2012:12). Moreover, even when the ‘windows are closed’ for the BTF, and despite the lack of voting rights, it can still have influence by strategically interacting and lobbying country representatives, form alliances with other actors – *e.g.* (Tamil) diaspora organisations in other countries and NGO’s – and through organising parallel events through which it can continue to create awareness for their ‘iii-campaign’ (Bob 2015:221).

6.4 Conclusion

The post-war context has opened up important new political opportunities for the BTF to strengthen their claims in the international context, provided for by the UNHRC. The UNHRC can be perceived as a ‘supranational’ opportunity for the BTF to further their ‘iii-campaign’ in the transitional justice context in the way it allows for the inclusion of civil society actors in its endeavours, and provides the BTF with a platform to engage with international actors in additions to the British political context. Although this strategy to seize this opportunity has caused tensions between the leadership of the BTF and the BTF members, it can be perceived as a ‘necessary evil’ for the BTF to engage in transitional justice processes in the way the legal opportunities are limited. While the inclusion of civil society in the UNHRC as ‘arena’ can thus be seen as an important ‘supranational opportunity’ for the BTF to engage in the transitional justice processes, the prevailing – retributive - ‘transitional justice’ discourse in this arena can be perceived as an discursive opportunity to diffuse their claim in relation to the establishment of accountability mechanisms. The Sri Lankan political context has, however, illustrated some global constraints to these opportunities. In the post-war period, Sri Lanka experienced a change from a more repressive government, which posed a ‘threat’ to democracy and the Tamil community, to a more moderate government. Paradoxically, the ‘loss’ of this threat has in BTF’s perception resulted in a constraint of their political opportunities because it changed the international relations between actors responsible for implementing the transitional justice process. The change in the international relations is further influenced by geopolitical considerations which the BTF perceives as the cause for support for an *internal* investigation by placing politics before human rights.

¹⁹⁰ See paragraph 6.2.1.

7. Conclusion and discussion

This thesis has examined how the British Tamils Forum, a London-based Tamil diaspora group, has used collective action to influence the transitional justice processes in Sri Lanka, in relation to the establishment of accountability mechanisms. The BTF has been perceived as part of the social movement consisting of the Tamil diaspora, who are engaged in a sustained campaign of claim making regarding self-determination and justice for the Tamil community in Sri Lanka. Because the focus of this research entails the establishment of accountability mechanisms, this thesis has focussed on this latter component of 'justice' through examining one specific campaign of the BTF; the 'iii-campaign'. The 'iii-campaign' can be perceived as contentious when seen in relation to Sri Lanka's restorative vision on the war. The aim of the 'iii-campaign' is namely the full implementation of the 2015 UNHRC resolution, which includes the establishment of an 'international, independent, investigation' into the alleged crimes committed during the final phases of the Sri Lankan civil war. This thesis has examined this 'iii-campaign' by operationalising 'collective action' through a synthetic approach by using the analytical concepts of 'mobilising structures', 'framing' and 'political opportunities', to answer the following research question: *"How does the British Tamils Forum engage through collective action in the transitional justice processes in Sri Lanka in relation to the establishment of accountability mechanisms, from 2009 up to June 2016?"*

BTF's endeavours in the post-war should be understood in the 'victor's peace context' which resulted in the defeat of the LTTE. This resulted in a 'power vacuum' which meant 1) the Tamil struggle for independence no longer had power and a strong representation in Sri Lanka and, 2) there was no longer a visible group which claimed to represent the Tamil community in and outside of Sri Lanka. This post-war context can thus be perceived as a new environment' for activist groups, in which they had to legitimise themselves as a separate entity from the (securitised) LTTE. This led to the diversification of the Tamil diaspora, with the creation of new Tamil diaspora organisations. Moreover, it made the established organisations, such as the BTF, to pursue new strategies to sustain themselves and generate legitimacy in the new post-war era. BTF's new post-war strategy essentially entails establishing themselves as a grass roots organisation, representing the UK Tamil community, as well as an advocacy organisation, advocating for justice for Tamils in the post-war context.

To facilitate BTF's new strategy after the war and engagement in the transitional justice processes, the BTF restructured its organisation to become a 'participatory organisation' representing the UK Tamil diaspora. This can be perceived as the mobilisation strategy of the BTF. Furthermore, they endeavoured to gain more legitimacy as an advocacy organisation by engaging themselves in a process of 'institutionalisation' through formalising the organisation, integrating it into the British political establishment through creating, and playing a vital role in the TFL, BTC and APPG-T, as well as

moderating its stance and distancing themselves from more ‘radical’ SMOs in the Tamil diaspora. Essential in this regard is the way the BTF ‘framed’ their organisation as ‘democratic’ and non-violent’. Moreover, the BTF strategically combines different ‘identities’ to engage themselves with the Tamil community as well as the (international) political establishment by framing their organisation as either an ‘grass roots organisation’, ‘advocacy group’ or ‘NGO’ through which they have been able to situate themselves between various sets of actors in different relevant contexts.

These roles can be perceived as vital for BTF’s main action repertoire: lobbying the political establishment. While lobbying was the main action repertoire of the BTF from its establishment in 2006 onwards, it gained importance after the war because grass roots support for demonstrations diminished and lobbying the UNHRC proved to be an important new political opportunity for the BTF to engage in transitional justice processes. The mobilization of the Tamil community and the advocacy efforts of the BTF are linked in the way the BTF’s lobby strategy entails: to ‘mobilize the Tamil people to mobilize the others’, as illustrated in their multi-level ‘two fold strategy’. This essentially entails the ‘boomerang pattern’ (Keck and Sikkink 1998a) through which the BTF lobbies (inter)national allies to pressure the Sri Lankan government to establish accountability mechanisms from outside, because the BTF does not engage with the Sri Lankan government themselves. This is naturally related to their wish for an *international* independent organisation on which the ‘iii-campaign’ focusses

During their lobby endeavours, the BTF uses the ‘genocide’ frame to further their ‘iii-campaign’ in relation to the establishment of accountability mechanisms. The powerfulness of the genocide frame lies in the way it provides for a strong legitimate ‘call to arms’, which is immediately linked to the establishment of their ‘iii-campaign’. It can namely be argued that the recognition of genocide in a case can be perceived by the international community as an important, even mandatory, obligation to set up such an internationalised accountability mechanism. BTF’s interpretation of the word ‘genocide’ in essence entails the Sri Lankan state’s actions before, during and after the war, which betray ‘a coherent strategy for systematically eradicating Tamil cultural, religious, political and ethnic identities from the island’. This frame is their own construction of reality in the way it differs from the existing frames of ‘crimes against humanity’ and ‘war crimes’. The BTF uses the strength of the genocide frame to further legitimise the need of an accountability mechanism by emphasising the intent of the Sri Lankan government in the conduct of these crimes, the perceived ongoing nature of these crimes in the victor’s peace context, and the lack of power-shift to argue that an ‘internationalised’ accountability mechanism for which the ‘iii-campaign’ pleads is the only relevant transitional justice mechanism.

The restructuring and ‘institutionalisation’ of BTF’s organisation as well as the use of the genocide frame to emphasise the importance of the creation of an accountability mechanism, should also be perceived in the way BTF’s new *multi-level* two-fold strategy strategically incorporates a new

international context in their lobby endeavours; the 'UN Human Rights Council'. Through its inclusion of civil society actors, the BTF can further their 'iii-campaign' through actively lobbying in a new international context, in addition to the British political context. The prevailing 'retributive' transitional justice discourse in the case of Sri Lanka, can be furthermore perceived as a discursive opportunity to diffuse their claim within the UNHRC. However, the strategy of the BTF leadership to include this international arena in their endeavours also caused tension between the perceived roles of BTF as an advocacy organisation on the one hand and a grass roots representative on the other hand, in the way the Tamil community did not welcome this strategy after feeling betrayed by the international community during the final stages of the war. The choice of the BTF to seize this opportunity should be perceived in the light of the lack of 'legal opportunity' in the case of the BTF to further their 'iii-campaign'; options for national and international litigation are very limited.

The opportunities for the BTF in this international context to engage in the transitional justice processes are directly influenced by the Sri Lankan political context. By viewing the UNHRC as an arena where actors 'strategically interact', it has been illustrated that BTF's collective action in the transitional justice context are negatively affected by developments in this political context. In the post-war period, Sri Lanka experienced a change from a more repressive government, which posed a 'threat' to democracy and the Tamil community, to a more moderate government. Paradoxically, the 'loss' of this threat has in BTF's perception resulted in a constraint of their political opportunities because it changed the international relations between actors responsible for implementing the transitional justice process. The change in the international relations have been further influenced by geopolitical considerations which the BTF perceives as the cause for support for an *internal* investigation by placing politics before human rights.

To conclude, this thesis has looked at 'mobilising structures', 'framing' and 'political opportunities' to study BTF's collective action in relation to the establishment of accountability mechanisms in the transitional justice context. It has illustrated the strategical agency of the BTF in the way they have restructured and legitimised their organisation, constructed their own reality regarding the Tamil marginalisation and seized new supranational political opportunities to engage in the transitional justice processes. Moreover, it has illustrated that these three sets of factors must be seen as interrelated in the way the restructuration and legitimisation of the organisation by the leaders of the BTF has led to access to the international and political establishment through which they could diffuse their claims and emphasise the need for an accountability mechanism 'within' these political opportunities. In this regard, it should be noted that while the 'iii-campaign' has been set up as a means to achieve justice for the Tamil community, it has also provided a means for the BTF to sustain themselves as legitimate actors in the post-war period.

7.1 Discussion

This research has linked three fields of study in the way it has looked at a diaspora activism, in a transitional justice context through the lens of social movement theory. This final paragraph will discuss the findings of this thesis in the wider theoretical context of these three fields. With regard to the first field of diaspora activism, this thesis has emphasised the agency of these actors in transnational politics. Diaspora actors can overcome geographical constraints through the creation of new strategies which can provide them with access to (international) political actors. Diaspora actors can in this regard become especially important in a (victor's peace) context where the community in the homeland is still oppressed. Diaspora actors as 'voice for the voiceless', as well as their 'victim' status, brings us to the connection between diaspora and transitional justice. This research has illustrated that transitional justice has indeed become a 'global project' (Nagy 2008) where local, national and international actors interact. 'Local' in this sense could thus be perceived as including the community in the 'homeland' as well as the diaspora. This research thus further builds on the literature which argues that diaspora actors are relevant in the field of transitional justice (Shain 2002; Höglund and Orjuela 2012; Haider 2014; Young and Park 2009), and it at the same time illustrates that the transitional justice context can construct diaspora activism.

By perceiving the diaspora as a social movement 'on its own', this thesis has researched a specific transnational angle in social movement theory, in which actors make claims towards authorities in *another* country. This research has illustrated the relevance of 'supra-national opportunities' in this regard, and how this can extend the (lobby) action repertoires of SMOs. By focussing on a 'strategic arena' perspective, this research has, however, also depicted the limitations of these supra-national opportunities and 'strategic interaction' of SMOs by the inclusion of geopolitical considerations (Jasper and Goodwin 2012; Jasper 2008; Duyvendak and Jasper 2015). This finding also adds to, and should be seen in relation to, the field of transitional justice in the way it shows that the contested nature of transitional justice is not only based on principal considerations concerning different views of justice, but also on (geo)political considerations. In this regard, this thesis focussed on the relation between legal theory and social science in the field of transitional justice, by emphasising the importance of 'framing' and the 'politicisation' of international criminal law.

A final note regarding further research. As mentioned in paragraph 1.2.1 this thesis has mainly focussed on the 'leadership' of the BTF. For further research, it could thus be interesting to study the view of the UK Tamil migrant community in relation to the diversification of the diaspora organisations and the change in their strategies in the post-war context. In this regard, the focus could be on how the

transitional justice context has influenced the relationship between these ‘two’¹⁹¹ actors, especially seen from the perspective that the transitional justice context seems to have partially replaced the call for self-determination with the call for criminal accountability. Moreover, further research in this respect can focus on how this - changed? - relationship has influenced the techniques which these different Tamil diaspora organisations use to mobilise the Tamil community for collective action in this post-war context. Finally, future research could be comparative, by focussing on how the perceptions of the Tamil diaspora regarding transitional justice relates to the views of the Tamil community in Sri Lanka. This can provide insight into to which extent the diaspora is ‘a voice for the voiceless’.

¹⁹¹ The leadership of the BTF is also part of the ‘Tamil migrant community’; this divide has been made in this paragraph to stress the difference between the politically active Tamils (diaspora) and the non-politically active Tamils (migrant community). See also paragraph 1.2.

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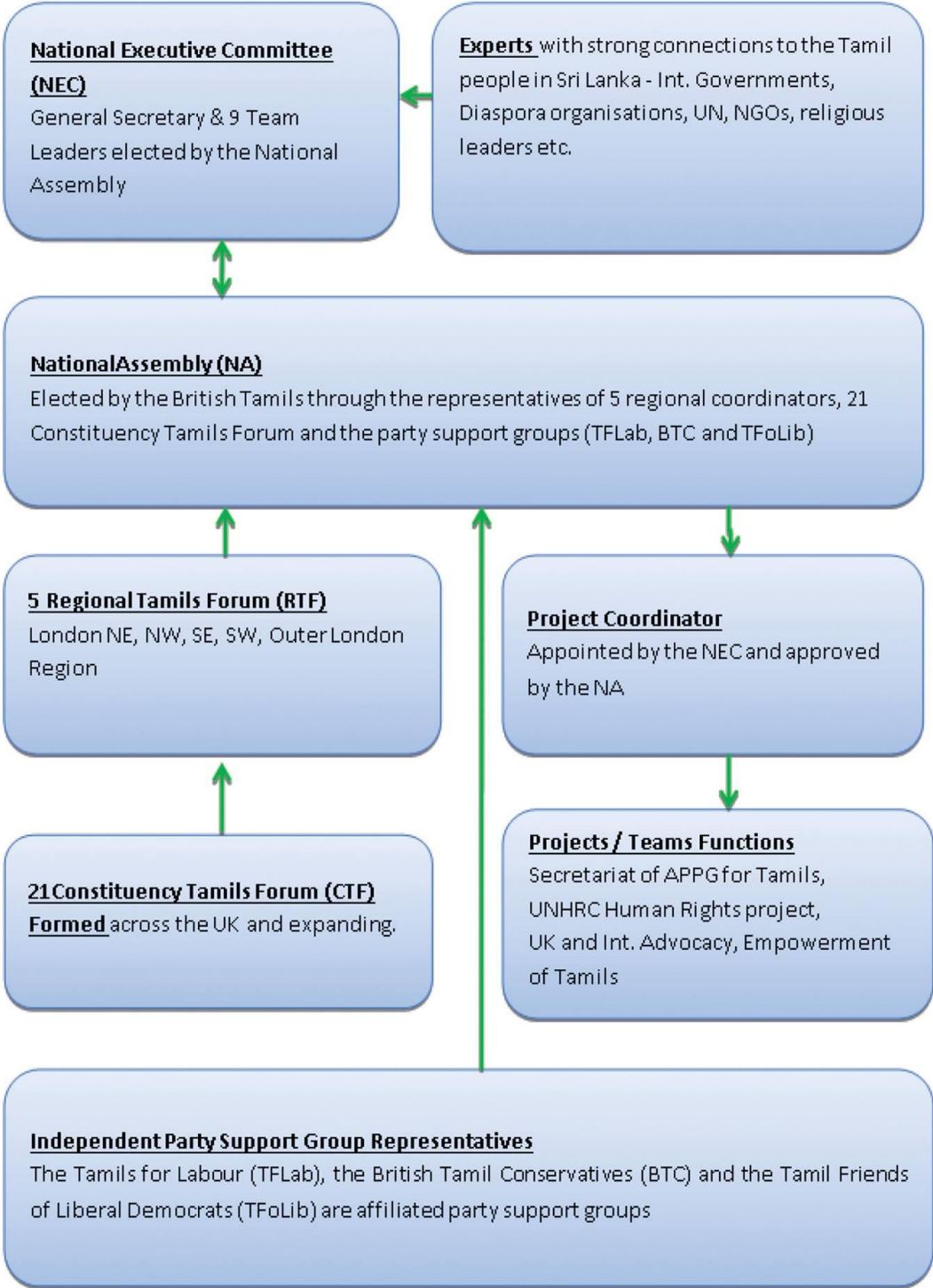
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Appendix I - The structure of the BTF¹⁹²

The structure of the organisation



¹⁹² From: All Party Parliament Group for Tamils, Annual reception 2016’ booklet. Note that ‘Constituency Tamils Forum’ is a different term for ‘local forums’. The term ‘local forums’ was deliberately used in this thesis because it was the term used by the BTF members during the interviews as well as during the events of the BTF.

Appendix II – Protests during Genocide Remembrance day (18 May 2016)



Picture (made by author) of the two separate rallies on 18 May 2016 during Genocide Remembrance Day. Left, the BTF (group in black) right the TCC (with the ‘Tamil National flags’). The stages were separated by a few meters (not visible in the picture). See paragraph 4.3.2.

Appendix III – ‘Open your ‘I’s on Sri Lanka’ flyer¹⁹³

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in Sri Lanka

Open Your *I*^s on Sri Lanka
In 2009
over 40,000 killed
146,679 Tamils unaccounted for
Over 80,000 Widowed, Over 25,000 Children Orphaned

We Demand
International **I**ndependent **I**nvestigation
Now!


 British Tamils Forum

Contacts - 020 8808 0465
admin@tamilsforum.com
www.tamilsforum.com

¹⁹³ Used by the BTF in during their advocacy endeavours around in 2011 and the years after (see especially paragraph 5.2 and 5.3).

Appendix IV – ‘Stop Genocide of Tamils’ flyer¹⁹⁴


STOP GENOCIDE OF TAMILS



1943 – Nazi concentration camps

The Government of Sri Lanka has systematically persecuted Tamil civilians for over 60 years through education and employment followed by rape, abduction, torture and murder. Last month, by using indiscriminate aerial bombardment, chemical weapons, heavy artillery fire and banned cluster bombs, it claimed victory over the Tamil Tigers. In reality, this was a war without witnesses waged on innocent Tamil civilians.

- ▶ 20,000 Tamils died in 'hidden massacre' - *The Times* 29/05/09
- ▶ Leaked UN report says UN Secretary General Ban Ki-moon's chief of staff was warned that the final figures 'would without doubt exceed 20,000 dead' - *France24* 29/05/09



2009 – Internment Camp, Chettikulam, Sri Lanka.

The Sri Lankan Government set up internment camps, imprisoning over 280,000 civilians. The camps, described 'as the worst he has ever seen' by Ban Ki Moon (UN Sec. Gen.), lack water, food and sanitation. Human rights groups have reported several cases of rape, abduction and torture.

- ▶ Reports of 'women separated from families and even sexual abuse' and dead bodies lying unclaimed inside the camps – *Channel 4 news* 05/05/09
- ▶ 'Elderly grandmothers, infants, pregnant women, wounded father... trapped in a state of incarceration' – *The Observer* 14/06/09
- ▶ Children are 'being kidnapped' from camps – *The Daily Telegraph* 21/05/09

¹⁹⁴ Used by the BTF in their advocacy endeavours after June 2009. See paragraph 4.3.1.