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Fixing the past, mediating the future? Human rights brokers in Nepal and Sri Lanka

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ABSTRACT

In this article we focus on human rights brokerage in Nepal and Sri Lanka – two countries undergoing different kinds of post-war crises, which opened spaces and demands for brokers. We zoom in on the lives of two individuals who became human rights brokers in these turbulent moments of change, and explore their positionalities, roles and effects as brokers. We seek to move beyond simplistic portrayals of such brokers as a dissembling, self-interested and professionalized class of gatekeepers, and instead focus on the brokers' narratives, understandings, and everyday practices. Based on detailed life history research, this article reveals a more complex picture of brokerage during crisis. It is argued that we need to take seriously the accounts of human rights brokers, how they understand their own positionality, actions and impacts on society. We focus on the complex temporalities surrounding human rights brokerage in post war contexts; how brokers mediate between a traumatic past (linked to human rights abuses and justice denied) and a desired future (involving restitution, access to rights and justice) in the context of an unstable present marked by violence, churning politics, and institutional inertia. Human rights brokers' ability to navigate these contested understandings of time is shaped by their own past histories and their current positionalities. Whilst being cautious not to generalize from the lives of two human rights brokers, our work offers a corrective to accounts of brokerage as a value-free, transactional activity; instead, we reveal how, for these brokers at least, ethics, values and political beliefs played an important role in driving their actions, even though declared goals were rarely met in practice.

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Introduction

This article explores how human rights brokers operate in turbulent post-war environments, examining how they navigate a volatile political landscape

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whilst negotiating competing understandings of past violence, and seeking to promote alternative visions of the future. In doing so, we aim to better understand how and why human rights brokers emerge, their experiences and vulnerabilities, their effects on the ground, and the complex temporalities that frame these processes. Our study contributes to the recent ‘temporal turn’ in writing on conflict and post-war transitions, which challenges dominant linear conceptualisations of time, and the idea of definitive end points – something that is captured in terms like ‘war to peace transitions’, ‘post war’ or transitional justice (Read and Mac Ginty 2017, Mac Ginty 2022).

This emergent work highlights the complex temporalities of ‘war to peace transitions’; they are rarely a clean break with the past, being characterized by continued volatility, ‘unsettlement’ (Bell and Pospisil 2017), moments of rupture and new forms of crisis and friction – central to which are competing understandings of, and entanglements between, the ‘past’, ‘present’ and ‘future’. Post-war transitions involve battles over different versions of time – when does the post-war period end? Who determines what should be remembered or forgotten? When is ‘closure’ reached? Which (and whose) visions of the future win out? The answers to these questions are linked to particular temporal narratives, which enable individuals and groups to make sense of their experiences (Read and Mac Ginty 2017), organizing the past, present and future in a particular order and into distinct categories – something that is always shaped by underlying power relations (Mcleod 2013).

Time, as well as being structured by power, is also inseparable from space, and in this article we focus on a particular kind of post-war space – the margins of the state, which we understand as being critical zones where contested narratives about time, specifically in relation to transitional justice and human rights, emerge, and often conflict with those at the centre. As we will see, these voices and demands from the borderlands do not constitute a united and coherent borderland perspective; instead, there is a cacophony of different and often discordant voices and stories.

To make sense of these volatile post-war spaces, we draw on Bräuchler *et al.*'s (forthcoming) framework for exploring the interconnections between crisis, brokers and temporalities. In doing so, we draw attention to the three temporalities highlighted in the introduction by exploring (1) how the rupture of war-to-peace transition creates demand for brokerage, (2) the tendency for crises to endure from wartime to post-war, and (3) the way in which brokerage relations can endure beyond moments of crisis by shaping post-war dynamics.

At the centre of our analysis are human rights brokers who emerge from the margins. We define human rights brokers as individuals who mediate across different legal codes and systems to support the human rights claims and demands of marginalized or excluded groups or communities. In this article, we are particularly interested in individuals who represent, or

work on the behalf of, borderland communities living on the edges of the state, whose claims for justice in post-war contexts are often silenced or ignored.

The 'fix' in our title, refers to brokers' efforts to provide solutions – a 'brokerage fix' (Meehan and Plonski 2017) – to points of contention, incommensurate demands, political or legal blockages. Their position and legitimacy as a broker, and their ability to provide 'fixes', depends upon being able to negotiate across contested boundaries in friction-laden post-war landscapes, and being able to respond to constituencies in both 'the centre' and 'periphery'.

We focus on two such brokers; 'Kumar', a transitional justice activist from the marginalized south-west Tarai region of Nepal, who draws upon international transitional justice discourses to address war-time abuses, but melds this to a more local agenda and narrative related to the long-standing exclusion of his Tharu community by political and economic elites.¹ Our second broker, 'Faiza' is a Muslim woman and feminist activist from Eastern Sri Lanka, who campaigns to reform the Muslim Marriage and Divorce Act (MMDA), a legal code that governs Muslims in Sri Lanka, an issue that has become more prominent and contentious in a febrile post-war environment. Both emerged as brokers in post-war crises, and for both, human rights brokerage involves a complex mix of individual and collective rights and justice issues, that span the pre-, during – and post-war periods. Both brokers operate in a context where there are tensions between transitional justice agendas that seek to prioritize war-time crisis and more long-standing forms of crisis or structural violence, namely discrimination and violence against the marginalized Tharu community in Nepal and against Muslim women and girls in Sri Lanka.

The paper draws on research conducted between 2015 and 2019 in Nepal and Sri Lanka. Over 250 semi-structured interviews were conducted in Colombo, Batticaloa and Hambantota in Sri Lanka and in Kathmandu, Bardiya, Saptari and Dolpa in Nepal. We conducted 20 life histories of brokers (including politicians, businesspeople, bureaucrats, and civil society activists) from frontier or borderland regions who played a role in mediating between the centre and the margins. Repeat interviews were conducted with these individuals and their accounts were triangulated with interview data from a wide range of key informants. Both individuals profiled in this article have been anonymised.

The article proceeds as follows. The next section develops our theoretical framework for thinking about human rights brokers and post-war crises, which is structured around the concepts of power, space and time. Section three provides a comparative background of post-war transitions in Nepal and Sri Lanka. Section four focuses on the two human rights brokers – 'Faiza' and 'Kumar'. Section five concludes by drawing out comparisons

between the experiences of the two brokers and discussing some wider implications for our understanding of temporality, crisis, and human rights brokerage in post-war transitions.

Human rights brokers in post-war transitions

Brokerage as a response to crises

This article (and the special issue) is interested in brokerage in the midst of crisis, and we are concerned here with a particular kind of crisis setting: post-war transitions. It is counter intuitive in some ways to call this moment 'a crisis': surely the end of war marks the *ending* of a crisis, when a line is drawn between the disorder of conflict and the 'normality' of peace? But as post-war Nepal and Sri Lanka show, the wartime past continues to shape, and deeply unsettle, the present. Post-war transitions are often as much about the *reproduction* as the transformation of wartime orders and so the ending of war doesn't necessarily mean the end of 'the crisis' – more often, the crisis continues, only in a different form.

War-time violence may mutate into new forms of violence, contestation, and friction and this sets the conditions for an often churning, unsettled post-war politics. And rather than being a transitional phase towards a more orderly form of politics, this may instead become a precarious and always provisional equilibrium, marked by moments of rupture, where life for many is less predictable than in wartime.

What constitutes a crisis and how it is experienced are highly political, deeply subjective, and temporally specific. Firstly, the naming or labelling of a crisis is generative of practices of ordering and reordering. As noted in the introductory article of this SI, crises are terrains of action and meaning. In post-war nomenclature, the word 'transitional' marks out a particular time and space that is somehow 'special', requiring actions or measures that represent a diversion from the norm. Transitional justice regimes are justified because of perceived vacuums or deficiencies in domestic capacities to administer the rule of law and to effectively deal with the injustices of the past.

Secondly, post-war transitions have significant distributional consequences; like war, it creates winner and losers. For some, the transition offers new opportunities for accumulation and advancement, whilst for others 'peace' is experienced – particularly by those at the margins – as an ongoing and deepening crisis.

Thirdly, the post-war moment involves complex and convoluted temporalities – time can appear to accelerate in war to peace transitions (Rosa 2003). The fear of a return to violence can create a tyranny of urgency and a need to generate a quick and tangible peace dividend. The need to

respond to powerful constituencies who may turn violent, donor pressures to enact institutional and economic reforms, the attempts to accelerate processes of forgiveness or forgetting – all create imperatives to move quickly in key areas of policy.

This acceleration of time may be felt most acutely in borderland spaces, in the post-war rush to reintegrate the margins, by building connectivity through infrastructure and communications, the rolling out of political and cultural campaigns and programmes and the return of refugees from abroad. This may induce tensions and clashes between what Mac Ginty (2022) calls ‘political’ and ‘sociological’ time in the borderlands; communities may push back, attempting to ‘slow down’ or reverse temporal acceleration, manifest, as we see in Sri Lanka, in efforts to impose more conservative norms around women’s rights, or in the re-emergence of caste as a salient political and social issue. Therefore, the past – both pre-war and wartime – lies heavily on, and in many ways, overdetermines post-war societies.

Post-war transitions involve the tense co-existence of past and present, which shapes material day-to-day realities. The past lives on in the trauma and memories of violence and loss, and in the demands for justice and reparations, as well as nostalgia for a time that predates the conflict or even, for a time during the war when people felt empowered and free from state repression. Post-war societies are also future-oriented – there is a strong imperative to ‘leave the past behind’ and for political leaders paint an optimistic, indeed fantastical picture of the future – such as Mahinda Rajapaksa’s vision of Sri Lanka as the new Singapore (Goodhand and Walton 2022b).

Brokerage is a structural feature of post-war environments – because they are conflictual, unsettled and friction-laden spaces and periods, they generate both a need and a demand for brokers, who can navigate across a range of boundaries and fault lines (legal, territorial, political, socio-cultural, informational, temporal). The structural conditions of post-war also shape brokers’ capacities to empower marginalized communities (De Jong *et al.* 2023).

Brokers can be understood as ‘friction specialists’ – friction disrupts, slows down or prevents movement, flows or connections, whilst at the same time creating opportunities for brokers who act as go-betweens within and beyond the system, moving ideas, information, or resources across boundaries that others struggle to negotiate.² Not everyone can become a broker and there are usually significant barriers to entry: institutional and personal, cultural, linked to language, training and education/qualifications, or political contacts.

But the role of post-war brokers cannot simply be reduced to the management and mediation of legal or material resources. Post-war environments are highly charged, emotional spaces. Brokers need to be attuned to the politics, meanings, memories, and attachments that infuse post-war societies.

They must be able to connect across socio-cultural, religious, and political divides and to be attentive to the complex, everyday temporalities of such contexts. As we shall see in our broker studies, brokers are deeply embedded in post-war society and they too have experienced violence, loss, and trauma, which in turn impacts upon their role as brokers. In this article, we analyse human rights brokers using Goodhand's (2018) lens of *power, space and time*.

Power and brokerage

Peace settlements and post-war transitions embody difficult trade-offs between the logic of compromise and accountability, or between politics and law (Bell 2008). Law is entangled with social networks, politics and economics across time and space, and legal battles are particularly complex and intense in post-war contexts. Communities may be unclear about where to turn for redress and protection – during wartime populations may often seek 'justice' from non-state or anti state actors – for example the Maoists in Nepal or the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka – rather than the state. In contexts emerging from longstanding conflict, with pervasive human rights abuses, competing systems of public authority and legal frameworks, as well as a weakened state capacity to impose the rule of law, there is a demand and a need for legal and human rights brokers who can navigate and translate across these orders.

The extent to which brokers deploy 'rights talk' for progressive ends, whether they constrain or enable human agency is contested. Much of the literature on human rights brokers depicts them as being a socially disembedded, cosmopolitan elite, who lack accountability, and are part of a wider neo-colonial, NGO-based project (Merry 2006, Dezalay 2018). Human rights brokers' role is to placate 'cultural opposition to human rights' (Sadeh 2021), or to collect personal testimonies that convert speakers into victims (Schaffer and Smith 2004).

Both brokers examined in this paper are part of a wider transnational human rights assemblage, linked to a diverse set of institutions, people, narratives and affects. But we describe a messier and contested encounter where interventions mutate as they are brokered through chains of intermediaries before hitting the ground. Our two brokers straddle these different worlds and attempt to mediate and translate between them; they come from marginalized communities and they challenge national and international rights frameworks. Both are engaged in translating up and down (vernacularizing transnational discourses and translating local grievances to national or transnational actors). Both are also critical of dominant human rights narratives and both attempt to mediate between conflicting legal frameworks, everyday practices and norms and codes.

Brokerage has important ideational dimensions. Brokers mediate and intervene to construct or translate narratives and credible interpretations about what's happening and what should happen. They play a role in sense-making, and reframing crises (past, present and future) to draw attention to them. Crises are a call to action and invoking a crisis provides a platform for mobilizing groups, making claims on, and appeals to, authority.

Power is therefore linked to subjectivities and notions of legitimacy and public authority, morality, and authenticity. Human rights brokerage is a complex ethical, cultural, and moral space particularly, for borderland brokers, embedded in peripheral communities. On the one hand this embeddedness is the basis for their legitimacy as a broker, but on the other, it can limit their room for manoeuvre in mediating between different legal and moral/cultural codes and practices. Both Faiza as a Muslim women and Kumar as a Tharu man find themselves under pressure to conform to particular social norms and codes; these nuances are missed in accounts of brokerage that focus only on rational calculation or utility maximization.

Space and brokerage

The power dimensions of brokerage are deeply spatialized (Bräuchler 2019). Post-war transitions involve the recalibration of centre-periphery relations.³ Post-war reconstruction and constitutional change often involve re-integrating the margins into the national body politic, but these integrative processes may work against the interests of those in the borderlands.

Borderlands are often characterized by diversity, rapid change, innovation and improvisation.⁴ They are often places of legal pluralism, where local codes and practices may clash with those of the centre. Far from being isolated and disconnected, borderlands are deeply relational spaces, shaping power relations and development processes more widely.

This is reflected in transitional justice programmes, in which initiatives field tested in the margins may spark new demands and grievances which can influence the perceived legitimacy of the central state and international actors. The borderlands, then are not just the passive receptors of state power – they are agentic spaces, that 'make things happen'. We will see this in our case studies, with news discourses around transitional justice or women's rights, emerging from the margins to challenge policies, practices and legal frameworks at the centre.

Borderland human rights brokers occupy a critical 'in-between' position; they connect marginal spaces with the centre, and they are a point of convergence for different scales, which involves complex brokering relations, that often build on long-standing religious, trading, cultural and political networks. Both brokers examined in this paper reflect this geographical and

scalar complexity – they are multi-sited, travelling frequently between centre and periphery and have extensive local, national and transnational networks, mediating across different scales, geographical and socio-cultural spaces. This also involves brokering across different legal codes and regimes.

Time and brokerage

Temporality is inherent to brokerage, which involves trade-offs between short-term and long-term imperatives. Brokerage tends to provide urgent ‘fixes’ to problems, particularly in churning post war environments marked by uncertainty, precarity and anxiety about both the past and the future. As we will see from the life histories, transitional justice brokers are constantly bargaining and brokering between the past, present, and future; they seek to open pathways into the future by dealing with the past – whilst constantly having to mediate between contested understandings of the past and clashing visions of the future.

Temporal conflicts have spatial dimensions and there are clashing temporalities between the borderlands and centres, national and local levels. In part this is about mediating between efforts to ‘accelerate’ or to ‘slow down’ time, manifest in clashes around the introduction of, or resistance to post-war reforms. It is also about the tensions on the one hand between the lived or subaltern temporalities of borderland communities, and on the other, the institutional or official temporalities of those at the centre of power (Burkitt 2004). These may in turn be reflected in differing notions of transitional justice and different legal codes. Those living in conflict-affected areas may experience life as a recurring cycle of everyday crises. For them, overarching linear narratives of war and post-war, past and present may have little resonance.

Temporal hierarchies also reflect and reinforce broader political and socio-economic marginalization. Marginalized groups are made to wait for compensation or face social pressures to forget about the past. Those waiting for recompense and justice suffer from a perpetual disorientation and waiting can operate as a form of temporal oppression. Conflict victims are fixed in permanent liminality while the power to impose deadlines or to create historical narratives rests with powerholders. This situation frequently reinforces a long-standing borderland narrative of state abandonment (Georgi 2022). Crises can also generate ‘enforced presentism’ by resulting in an inability to plan or think about the future, or to forget about the past (Guyer 2007).

Our analysis is also attentive to the temporality of brokers’ lives – how their careers are shaped both by moments of rupture and by cyclical time. One key methodological challenge concerns the tendency for interlocutors to provide a teleological narrative arc that flattens the contingent character of people’s

lives. There is also a need to pay attention to individual's personal experiences of time and to be open to local and non-linear temporalities – there are multiple and co-existing lived experiences of time, which in the context of transitional justice leads to multiple forms of memorialization and meanings of transitional justice.

It is clear that power, time and space must be seen as relational, and indeed inseparable from one another; issues of post-war human rights and justice are meaningless, without concretizing them in space and time, and without an analysis of power. In this next section we attempt to show this through the experiences of our two brokers in Sri Lanka and Nepal.

Background to the broker studies

Nepal and Sri Lanka were both affected by long-running civil wars, which ended in 2006 and 2009 respectively. While war in Sri Lanka ended with a military victory for the government over the LTTE, the Government of Nepal's war with the Maoists ended with a negotiated settlement. The nature of the war ending has shaped post-war politics in the two countries. In Nepal, the Comprehensive Peace Agreement (CPA) provided more room for widespread constitutional reform, with a new constitution eventually agreed in 2015. The CPA also included provisions for addressing transitional justice, although these have been largely unimplemented and have been deprioritized by successive governments. An attempt in early 2023 to amend the Investigation of Enforced Disappeared Persons, Truth and Reconciliation Commission Act (2014) has been criticized for being ineffective and failing to consult conflict victims (HRW 2023b).

In Sri Lanka, the government's military victory over the LTTE limited scope for post-war grievances to be addressed, resulting in a 'victor's peace' where the ruling government under the leadership of Mahinda Rajapaksa further centralized power around the president and his family, and where the nationalist modes of political mobilization that had become more entrenched during war time were continued into the post-war period. Sinhala Buddhist nationalist groups flourished in the post-war period and the minority Muslim community (which constitutes around 10 percent of the population) came under increasing attack. Targeted hate campaigns claiming that Muslims were planning to take over the country and undermine Sinhala Buddhist traditions sparked widespread violence in 2014 and 2018 (Mihlar 2019). These attacks intensified following the Easter Sunday attacks of 2019, where Islamist extremists killed 269 people.

Politics in both countries has been characterized by sustained periods of volatility and instability (Goodhand and Walton 2022a). In Sri Lanka, a new coalition came to power in 2015 but after failing to push through its reform agenda, lost power to a new Rajapaksa-led party in the 2019 and

2020 elections. In Nepal, post-war politics saw the emergence of new grievances, most notably in the form of two violent uprisings from the Tarai region in 2007 and 2015 (Adhikari 2014, Goodhand *et al.* 2021). At a national level, there have been repeated collapses of government coalitions – since 2006, there have been 13 changes of prime minister.

The two brokers examined in this paper were drawn from the wider sample of 20 broker life histories and have been chosen for the different ways in which they engage in human rights advocacy in volatile post-war transitions. Both Faiza and Kumar use human rights and legal channels to address the grievances of marginalized groups – in Kumar's case Tharu conflict victims in Nepal, and in Faiza's Muslim women and girls in Sri Lanka. In doing so, they mediate both between these marginalized groups and the central state, and within their own communities, while navigating relations with international human rights networks and organizations. Both challenged dominant discourses about rights in their respective countries. Kumar has worked against top-down legalistic framings of transitional justice in Nepal, while Faiza has challenged the tendency for Muslim personal laws to be treated as a sensitive 'community issue' by re-framing these problems in terms of child and/or women's rights.

Examining the life histories of these two brokers sheds light on their strategic approach but it also draws attention to the contingent nature of their trajectories: their personal histories shape the roles they play, and they continually respond to dramatic shifts both in their personal lives and in the national political landscape. As will be examined below, both brokers benefit from periods of relative openness following key events such as the signing of a peace agreement or the election of a new government, while conversely both find that scope for influence can quickly diminish after post-war violence, or as established elites push back against reform efforts.

Faiza: navigating post-war cultural change⁵

Faiza is a lawyer and a feminist activist from Eastern Sri Lanka. Her work has sought to reform the Muslim Personal Laws (MPL), a legal code that applies to women's status and autonomy in the public and private sphere, campaigning particularly to reform the Muslim Marriage and Divorce Act of 1951. Activists have pushed for reform of MPL since the 1980s (MWRAF 2014). Campaigners argue that MPL discriminates against women and clashes with constitutional commitments to gender equality, while defenders of MPL (led by the All-Ceylon Jamiyyathul Ulama (ACJU), the leading religious body of Islamic theologians in Sri Lanka) view reform of the MPL as a threat to religious traditions and more widely to the Muslim community in Sri Lanka.

These debates intensified during the war when violence generated growing concerns about maintaining and policing group boundaries

(Spencer *et al.* 2015). Gender and the role of women became central to internal religious debates within the Muslim community, but the MPL was also weaponized in the post-war period by Sinhala Buddhist nationalists, who used the issue to highlight the potential threat posed by the Muslim community to Sinhala Buddhist traditions and culture (Mihlar 2019). The women's rights and feminist networks of which she was part were also subjected to attacks by Sinhala Buddhist nationalists. As a result, Faiza's advocacy takes place on a highly politicized and contested terrain and she negotiates multiple fault lines that predate the conflict but have been sharpened during wartime and in the post-war period. Her brokerage involves navigating tensions between modernity and tradition, patriarchy and feminism, cultural rights and women's rights, as well as negotiating moments of rupture, which create short-lived moments of opportunity for her to push for reforms. Her position as a Muslim woman who has roots in the East and strong ties in Colombo underpins her effectiveness as a broker, but her positionality also creates vulnerabilities.

Faiza was born in Akkaraipattu, a small, predominantly Muslim town in Ampara district, in the Eastern Province of Sri Lanka. Akkaraipattu has a history of inter-ethnic violence between Muslims and Tamils and wartime hardened boundaries between the two communities. The growing influence of conservative forms of Islam have not had such a large impact as in nearby towns with large Muslim populations such as Kattankudy, but the influence of a religious reform movement from India called the *Tabligh Jamaat* grew in the post-war period (Klem 2011).

Faiza comes from a mixed family background – her mother was from a Hindu family, while her father was an atheist from a Muslim background who later became an ardent believer of Sufism. He was less conservative than others – while he taught his children the importance of prayer, he never demanded that Faiza cover her hair or wear the hijab. While her father was free to travel and became a leading political figure, her mother was under pressure to conform in an increasingly conservative Muslim region. As Faiza told us: 'At first when she came, she was very scared ... she would take extra care in covering her hair and behave like a good Muslim ...'. Faiza's later interest in feminism and her activism were sparked during her Master's studies and subsequent research work where she observed the mistreatment of women and the predominant power held by men.

Faiza's engagement in activism was informed by her background in other ways. Her father was a lawyer and an important political figure in the East. As will be discussed below, this background opened some doors which helped in her advocacy work.

Although Faiza's engagement in human rights work did not respond directly to war-time abuses, the religious trends she works against were heavily shaped by the war. Muslims were side-lined during the peace

process, undermining the community's 'sense of national identity and inclusion' (Mihlar 2019). As Faiza herself stated in an interview: 'During this period – the community became very secluded. They want to share everything only with the community – they wouldn't go outside'.

This seclusion was partly about self-protection, but it was also linked to the growth in transnational influences linked to the war and labour migration. A growing number of Muslim clerics received training and funds from Gulf states, which contributed to the rise of reformist movements originating from Saudi Arabia and India (Spencer *et al.* 2015). These groups embarked on a purification project, which campaigned against the more polytheistic traditions of the *sufi* movement (Hasbullah and Korf 2013). Religious change was most visible in women's dress – which shifted from Indian influenced sari and *salvar kameez* to the Arabian style *abahaya* and *hijab* (Mihlar 2019).

At the age of 10, Faiza's family moved to Colombo. She excelled at school and went on to pursue a law degree at the University of Colombo, following in her father's footsteps. A few years later she enrolled in a master's degree where she began to read feminist texts. This radically altered her understanding of her experiences to date and, as she wryly put it, marked 'the end of her "happiness"'.

While engagement with feminism prompted self-reflection, it also established links with feminist activists and created opportunities to conduct research on MPL. This research 'got me reading extensively on all related topics (to MPL) and was an important formative experience'. During this time, she concluded that there was no prohibition inherent to Islam against changing the MPL. As her engagement in this research work deepened in the early 2010s, she began to travel to the North and East regularly to discuss the impact of MPL with local communities. She encountered women and girls affected by poverty, marginalization, social exclusion, and physical abuse during or after (child) marriage and she established 'an emotional connection with the affected woman'.

Faiza became embedded within activist networks through regular participation in gender training workshops. Working within these networks, she became a key figure who moved between affected communities in the East and politicians and civil society actors in Colombo. Unlike most other activists in her network, Faiza had strong connections both in Colombo and in the East, where she had family, spoke the local vernacular, and felt a sense of belonging. This helped her to build trust with marginalized women affected by the MPL. Faiza used insights from her discussions with women in the East to support campaigns to reform the MPL.

By campaigning on MPL she was addressing an inflammatory issue in an increasingly closed and patriarchal system. The Muslim enclaves in Batticaloa district where Faiza worked are highly patriarchal spaces with male controlled

institutions such as Mosque Federations closely monitoring activists. During this time, Muslim women's rights activists were accused of working for western interests. In one instance an announcement was made over the mosque speakers that they were working against Islam by mobilizing woman against MPL. Faiza (together with other activists in the East) were attacked and threatened via social media platforms and the nature of her work became 'an issue' in her family due to safety concerns. The personal risks are particularly acute for Muslim women activists who are doubly marginalized – both as members of a minority group that has been further ostracized in the post-war period, and as women in an elite-dominated, patriarchal political culture (Tegal 2023).

Faiza's position as a Muslim woman operating in highly patriarchal space has shaped the modes of brokerage available to her. Faiza works through a close network of 'friends' based on confidentiality and trust, meeting one-on-one in private homes. This not only maintains confidentiality but also controls the flow of sensitive information – a larger group may attract more attention and increase the chances of information leaks. Her activism is also underpinned by relative autonomy from international donors. Faiza's work is largely self-funded – she supports her advocacy work through research consultancies. She and her colleagues have preferred not to set up an NGO, providing flexibility to pursue their own strategy. This allows them to evade attacks from opponents and neutralizes claims from conservative forces in the Muslim community that their campaign is driven by western donors.

Faiza takes up a variety of cases. One case that was personally important for her was a young girl, who was sexually assaulted by a neighbour. Others in the area interrupted the assault and dragged both the man and the girl directly to the village mosque committee who ruled that the two must be married the same day. When trying to raise the profile of such cases, Faiza and her fellow activists have frequently sought to frame them as child rights or women's rights cases. In doing so, she has faced opposition from within the Muslim community: 'Then the Muslim community started to question us? Why are they taking it out of the community?'

National-level rights bodies have generally seen legal issues affecting the Muslim community as outside their ambit. Faiza's group brought child brides to meet the chairperson of the Human Rights Commission to underline the need for urgent intervention but 'her answer was to get the consent from the ACJU!'. Faiza's group has had a more receptive audience from international bodies such as UNICEF or the UN Minority Rights representative, who has brought up the need for MPL reform in her speech at Geneva. The EU included the need to amend the Muslim Marriage and Divorce Act (MMDA) in the European Union's Trade partnership deal – the GSP+, a move that can be at least partly attributed to the work of activists like Faiza.

Faiza has lobbied the ACJU directly, being granted more space and acceptance because she wears a *hijab*, unlike most of her Muslim colleagues. While she noted that ACJU members appeared both surprised and sympathetic towards girls and woman victims and verbally agreed to certain forms of compensation to women in case of divorce, these commitments were not followed up in terms of any action. Faiza explained ‘they are worried if they allow reform of MMDA, they will lose the Muslim personal law’.⁶

Faiza has also used her father’s political status to reach out to elite Muslim (and non-Muslim) politicians. She claims most Muslim leaders are supportive of reform but reluctant to move against the ACJU for fear of upsetting them or undermining support from their political base. While Muslim women’s issues have generally remained low on the list of priorities for political stakeholders during the time of the coalition government, these issues were instrumentalized by the Rajapaksas following the Easter Sunday attacks through a ‘One Country, One Law’ campaign, which involved the appointment of a presidential task force to investigate legal reform. MMDA reform has been largely viewed by successive governments as an ethnic issue to be dealt by Muslim religious and political elites. Nonetheless, Faiza and her colleagues continue to push both political and religious elites in Colombo, and to lobby international donors and rights organizations.

Campaigning on the MPL issue remains a waiting game where political opportunities for progress are typically short lived in the context of longer periods of stasis. One such moment occurred in 2021 when the cabinet approved reforms to the MMDA Act but then failed to present these to parliament, possibly under pressure from conservative forces (HRW 2023a). The economic crisis that came to a head in 2022 compounded the vulnerability of Muslim families, creating a renewed sense of urgency amongst campaigners (Tegal 2023). This pattern of openings for reform facing repeated pushback from vested interests (Muslim men or Muslim political parties in this case) has parallels with the dynamics described in Kumar’s story from Nepal below.

Existing research on human rights brokerage has emphasized that human rights brokers typically need to ‘placate cultural opposition to human rights’ (Sadeh 2021), either by translating down (vernacularization) or translating up to make local grievances legible to international bodies. Faiza’s lack of reliance on international funders, and the informal organizational structure in which she works helps to neutralize some of these normative challenges, however, she still struggles to negotiate how the issues she campaigns on are framed by the state and by different communities. Rather than navigating tensions between international and local framings that characterize most human rights brokerage (Merry 2006), she is confronted by a divide between the established view which frames these struggles in terms of collective or cultural rights of the Muslim community, and her approach, which frames the issue as one of women’s rights. Her efforts to address the

long-running or structural crisis facing Muslim women and girls have generally struggled to gain as much traction or attention as the more immediate and high-profile crisis narrative of transitional justice.

Faiza's experience highlights the temporal complexity of post-war transitions. Her brokerage navigates Muslim leaders' efforts to slow down time by resisting reform and asserting community autonomy. While contestation around modernity and tradition are also central to MMDA debate, the temporal dimensions of these divides are not straightforward see (Maqsood 2014). The 'traditions' relating to women's exclusion that Faiza and other rights activists challenge have grown out of the Saudi-inspired reformist movements that emerged during wartime and are therefore relatively modern (Spencer *et al.* 2015). The more 'traditional' rural Islam in Sri Lanka was in many ways more flexible and less dogmatic.

Finally, Faiza's positionality both constrains and advances her brokerage work. As a Muslim woman she is doubly marginalized and is subjected to public attacks because of her work. Her brokerage creates vulnerabilities which limit her capacity to empower the marginalized communities she represents. At the same time, her ability to operate as a broker and to navigate legal and geographical boundaries relies on her legal training, her political and family ties, and English language skills.

Kumar: brokering post-war justice and memory⁷

Kumar is a Tharu transitional justice activist from Bardiya district in the south-west Tarai, a lowland region of Nepal that has an open border with India. The Tharus have campaigned for land rights since the 1990s, protesting against a feudal system where large numbers of Tharus became bonded labourers (Adhikari 2006).⁸ Bardiya had one of the highest rates of disappearances during the war, with over 200 disappearances estimated to have taken place (OHCHR 2008). Wartime also led to a flourishing of new forms of social and political organization – Maoist structures challenged existing traditional feudal structures, promoting more inclusive forms of governance, and heightening the salience of ethnic representation (Fujikura 2013). While some of these transformations were reversed in the post-war period as established elites reasserted their position of dominance, these changes created opportunities for brokers like Kumar to challenge traditional norms and institutions.

Kumar's work provides an example of how brokers may challenge dominant crisis narratives. In his case, he contests dominant narratives about transitional justice by prioritizing the material needs of conflict victims and situating their struggle in the context of long-standing marginalization of the Tharu community. In doing so, he also challenges dominant temporal understandings of the post-war transition in Nepal by emphasizing how

more long-standing structural inequalities underpin war-time violence and continue to shape the everyday lives of conflict victims. Finally, whereas Faiza is embedded in both Colombo and the East and uses her legal training to navigate legal boundaries, Kumar is more firmly rooted in Bardiya and his lack of English skills limit his ability to engage with networks and institutions at the centre.

Kumar comes from a political family: his uncle, brother and sister-in-law were members of a Maoist political party. Inspired by the Maoists' message of fighting oppression against the dominant feudal system, Kumar joined the party's student wing and worked for a Tharu group set up by the Maoists. He worked underground to educate people about politics, encouraging them to play their part in the revolution. Kumar explained how this message inspired and consoled him: 'Rather than dying without being able to eat or live properly, it is better to die fighting for the liberation (mukti) for the poor. That was the belief I had. So that made me forget all the troubles I had'.

In 2001, Kumar's brother and sister-in-law were stopped and searched by the army who found a diary containing revolutionary songs and arrested them on suspicion of being Maoist sympathizers. After their arrest, they were reported to have been detained in army barracks and then subsequently disappeared. Following the arrest, Kumar was unable to return home. His family began to engage with international and local human rights organizations and the National Human Rights Commission to report the incident. Kumar quit the Maoists around this time (because of an internal party rift) and returned home to live as 'an ordinary citizen'.

In the same year as his brother and sister-in-law were disappeared, he joined an organization established by families of the disappeared in Bardiya. Every month, these victims' families collected 20 rupees each, which was spent travelling to organizations like Office of the United Nations High Commissioner for Human Rights (OHCHR), International Committee of the Red Cross (ICRC), and Informal Sector Service Centre (INSEC). At this point, he was unfamiliar with the NGO discourse of transitional justice: 'Our only demand was: Making public the disappeared people. We didn't know the term "sankramakalin nyaya" (transitional justice) then. But the human rights community was raising the same voice. The human rights community also wanted to be together since that would strengthen their work'.

Several years later, officials from OHCHR, ICRC and INSEC (Nepal) came to see him and provided training. The OHCHR started to support them and in 2007 a new organization was established: the Conflict Victims Committee (CVC), which served both families of the disappeared and families of people killed in the conflict. Kumar was the secretary of this organization and later became head of the CVC office in Gulariya, the district centre.

CVC engaged in a range of activities with the support of donors including the ICRC, the UN, the British Embassy, and INGOs. These included collecting data about conflict victims, registering cases with the police, filing writs with the Supreme Court, meeting with political leaders to advocate on behalf of conflict victims, and organizing gatherings and protests for the disappeared. CVC also delivered several development projects providing livelihoods and educational support to victims' families. CVC was 'both trusted and perceived to have been of concrete benefit to families; almost all families interviewed were involved, demonstrating the mobilizing power of a strong active local association' (Robins and Bhandari 2012).

Just as was the case with Faiza, Kumar's brokerage creates risks and vulnerabilities, which are related to his identity as a member of a marginalized group. His position as a former Maoist cadre also helped to make the post-war period a dangerous time – he faced threats to his life from rival political parties. His neutral stance – supporting both families affected by state and Maoist violence – helped him to navigate these risks ('If I maintained a balance, I could reduce risks'). He used the physical presence of foreigners, and his close ties with them to bolster his physical security: 'So people thought that since I was travelling in a UN motor, I must be a strong person'. He also spoke regularly to the media, which he felt discouraged groups from attacking him.

Kumar had a mixed relationship with the international bodies that funded his work. While he supported their goal of strengthening the rule of law in Nepal and praised the efforts of some Nepali rights organizations to generate documentation to support conflict victims, he also felt they sought to make money which 'benefits them not us (as conflict victims)'. He was also critical of the tendency for some Nepali rights groups to become too closely affiliated with political parties, undermining their independence.

Kumar has been critical of dominant crisis narratives relating to transitional justice and has consistently advocated for an approach to transitional justice that prioritizes the material needs of conflict victims over prosecution of perpetrators. He argues that the voice and agency of victims have been neglected by dominant approaches to transitional justice pursued by international rights organizations, who have adopted a legalistic approach and prioritized prosecutions and accountability for killings above social and economic rights ('Only killing people is taken as violation of human rights. In this way, human rights activists ... do not speak for those who live a life with a hungry stomach on the roadside') (Robins 2012). Kumar's stance reflects his Tharu identity and his personal experience as a conflict victim and critiques understandings of time dominant in transitional justice discourse. Tharus' history of marginalization means that they recognize how long-term social exclusion and marginality lies at root of wartime human rights abuses as well as the endurance of post-war violence, and therefore addressing marginalization and poverty is prioritized.

Kumar is also critical of transitional justice commissions established in 2013 – the Truth and Reconciliation Commission and Commission of Enforced Disappeared Person. Although both organizations visited Bardiya and collected many cases, there have been no discernible benefits for the victims, and little national-level progress. In 2023, the international community exerted some renewed pressure on the new government to address transitional justice issues, but little progress has been made since. This follows a post-war pattern where new governments commit to progress on transitional justice but fail to deliver (Ghimire 2023).

As the transitional justice process has faltered and as international funding declined, Kumar's relevance gradually diminished. He struggled to maintain a decent income through his transitional justice work and in 2017 he was considering a move abroad to earn money. Kumar later returned to politics, putting himself forward to stand as a Maoist candidate in the 2022 general elections, but ultimately failed to be selected. His fluctuating fortunes as a broker closely tracked the wider post-war trajectory in Nepal, where demands for justice and accountability from the state margins initially came to the fore but were undermined as established elites at the centre pushed back and re-consolidated power.

Conclusions

The following reflections aim to bring out some of the commonalities and differences between the two brokers with reference to our earlier reflections on brokerage in post war crises.

Faiza and Kumar, though they share some common experiences and characteristics – their political family backgrounds, their experience of conflict and trauma, their roots in minority borderland communities, the roles they have taken on as human rights brokers and their positionality within a broader human rights assemblage – have been shaped by very different sets of social and political forces and personal experiences, and they are very different kinds of brokers.

Faiza, in part because of her education and professional training, is a classic legal broker, which she combines with her role as a feminist activist. Her class background, legal training and political networks are part of a wider pattern in Sri Lanka, where there has historically been a strong inter-connection between political and legal careers. Her training and networks enable her to move confidently, and navigate within, the wider human rights assemblage, but also to broker within and across the Muslim community. At the same time her position as a Muslim woman, renders her vulnerable in the face of patriarchal structures within the Muslim community and powerful male-dominated Muslim organizations at the centre, as well as to growing anti-Muslim sentiments in the wider national community. This

means that she chooses often to work in liminal, under-the-radar spaces to avoid attracting attention to herself and those she seeks to represent. Her brokering focuses on the denial of rights to Muslim women and children in the present. At the same time, growing conservatism, amongst the Muslim community, is strongly shaped by the violence experienced during wartime, and changes wrought by the growing connections forged with Gulf states and religious networks during this period.

Kumar plays a very different brokerage role as a human rights advocate and community mobilizer, who focuses on justice for conflict victims. His positionality and politics are shaped by his background as Tharu man from the Tarai, and a former Maoist, who has suffered personal tragedies during the war. He finds in the post-war moment, that the transitional justice agenda, resonates with his personal and political subjectivities. However, partly because he lacks the professional and English language background that Faiza commands, his encounter with the transitional justice assemblage is more localized and limited – he is less at ease with the networks and fora in Kathmandu and beyond. Instead, he spends more time in the borderlands where he grew up, and seeks to further a local framing and interpretation of rights and justice which prioritizes the material challenges of the present, over retribution or criminal accountability for the past – which sometimes puts him at odds with the wider human rights community. He brokers and navigates tensions between these international and local framings, as well as managing tensions between the Tharu community and other social and ethnic groups voicing demands and grievances in the post-war period. Unlike Faiza, he tends to pursue a politics of recognition in public spaces and fora to exert pressure on decision makers and influencers.

Our case studies highlight the three temporalities highlighted by Bräuchler et al ([forthcoming](#)). First, in both Nepal and Sri Lanka, the rupture of the post-war period created a demand for human rights brokers who could navigate across competing legal frameworks and connect marginalized communities with national and international human rights actors. Second, both brokers examined in this paper addressed crises that span the contested transition between ‘wartime’ and ‘peacetime’. In Nepal, Kumar sought restitution for Tharu communities affected by wartime violence and disappearances by situating these experiences within a longer history of marginalization. While Faiza’s efforts to reform Sri Lanka’s Muslim Personal Laws were controversial wartime, this debate escalated still further after the end of the war when the Muslim community became a key target for Sinhala nationalists. Third, our cases have illustrated how brokerage relations endure by adapting to changing conditions and demands. Faiza and her fellow activists maintained a flexible and agile approach, waiting for opportunities to push their agenda forward in a context of political ‘unsettlement’. Kumar also had to adapt

his approach in a fluctuating political landscape, switching from the civil society realm to party politics and back again.

As both cases show, post-war transitions are characterized by risk and volatility, but their dynamics vary. This leads to differing types of, and spaces for brokerage. In Nepal a negotiated settlement, followed by the Maoists' entry into mainstream government generated more political space for transformative social change and institutional reform, including the substantive decentralization of power through the introduction of federalism – at the same time there was a limited political commitment to transitional justice, since both parties who were responsible for most of the abuses remained powerful and resisted efforts to promote accountability. In contrast, in Sri Lanka, the government's military victory left little space for institutional reform, the state becoming more centralized with the accumulation of executive powers, whilst a heightened militarized and nationalistic climate, meant that all minorities, and increasingly Muslims, were scapegoated and excluded. The question of the rights of Muslim women was largely overshadowed by the higher profile and contentious battle over accountability for war crimes and abuses during the conflict.

These contrasting environments set the boundaries for the agentic potential of brokers. In Sri Lanka the ever-present threat of violence – from both state and societal actors – partly explains Faiza's strategy to occupy liminal spaces, as well as to use higher level brokers to decrease her exposure. At the same time, personal agency remains an important part of the story. Faiza's training and expertise, means that she can leverage the power of the law to further the interests and enhance the agency of individuals and communities affected by restrictive norms and practices. Clearly this does not apply in all post war environments where the legal system lacks the capacity and independence to speak truth to power.

Our accounts show the complex motivations and roles of human rights brokers. At the tactical level, they tend to muddle through and compromise, but at the strategic level there is a level of consistency linked to a moral vision and set of principles (De Certeau and Rendall 2004). This stands at odds with the traditional image of the broker as a 'dalal' or a 'wheeler dealer', always on the lookout for opportunities to make a profit or to increase their power (Kern and Müller-Böker 2015). While both brokers exploit links to more powerful actors, they maintain a degree of distance from domestic and international politics to avoid becoming sullied by the vagaries of party politics or associations with a 'neo-colonial' transnational human rights regime.

Both brokers position themselves as the advocates of politically marginalized and geographically peripheral communities. Their legitimacy and effectiveness as brokers is derived both from their embeddedness in these communities, allied with an ability to move between the margins and the

metropole. Faiza benefits from strong family and personal ties to both Colombo and the East, which she leverages in her advocacy. Kumar is more deeply embedded in the margins, which limits the extent to which he can operate autonomously in his engagement at the centre. Kumar's work in the transitional justice field requires him to work across the transnational, national and local scales, while Faiza's work has a stronger domestic focus and navigates contestation between different domestic legal codes.

Finally, we have highlighted the temporal complexity of brokerage. Brokers negotiate between competing narratives and experiences of time that exist between different sets of actors, for example between conflict victims and international transitional justice organizations, or between more religiously conservative Muslim communities and more progressive groups. Human rights brokerage in post-war transitions centres on managing different understandings of time, generating temporal fixes which manage the complexities of post-war transitions when the past, present and future clash into each other.

The acceleration and the slowing down of time is an important feature of this temporal complexity. Rapid post-war change generates an urgency to get things done and growing pressure for accountability. At the same time, post-war often produces a slowing down of time as conservative forces reassert themselves and exploit anxieties to slow down reform efforts or justice mechanisms, which often ends up assigning marginalized groups to a waiting room of constantly deferred justice.

Our accounts of brokers have highlighted the discontinuous, non-linear nature of post-war time. Their stories are punctuated by moments of rupture and our brokers must deal with the constant churn of the political landscape, whilst trying to find fixes and remain relevant in their roles as brokers. Finally, the broker stories in this article also emphasize the need to historicize our understanding of post-war crises. The problems brokers are dealing with and the narratives and grievances linked to these problems often have long-term roots, which extend well beyond the life times of the brokers and of the conflicts they have lived through.

Notes

1. Transitional justice refers to processes designed to promote justice, accountability, and reconciliation in relation to war-time repression or human rights abuses.
2. We draw here on Anna Lowenhaupt Tsing's (2005, p. 4) concept of friction: 'the awkward, unequal, unstable, and creative qualities of interconnection across difference'.
3. It is recognized that notions of 'centre' and 'periphery' are historically contingent, fluid and contested; Jaffna city for example is in some ways a remote

periphery, vis-à-vis Colombo, but it has also long been an urban centre and political hub for Tamil nationalism. We therefore adopt a processual and relational understanding of these terms, in which centres and margins are shifting and fuzzy, and in a relationship of co-production with one another (Das et al. 2004, Cons and Eilenberg 2019).

4. The dynamism and hybridity of borderland regions has been extensively covered in relation to a range of contexts and historical periods (Van Schendel 2004, Jones 2018, Ballvé 2019, Goodhand 2021).
5. This study presents quotations from interviews conducted with Faiza in Colombo and Batticaloa in December 2016, September 2017 and November 2017.
6. Muslim Personal Law is a wider body of law that governs marriage, divorce and inheritance.
7. This study presents quotations from interviews conducted with Kumar in Bardiya district in June 2016, May 2017 and February 2018.
8. The Tharu include several communities living across the Tarai and make up around 6.6% of the population of Nepal. A common Tharu identity only emerged in the mid-twentieth century (Guneratne 2002).

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