

# 5

## The Bureaucratic Evolution of Devolution

With the defeat of the Liberation Tigers of Tamil Eelam (LTTE), the experiment of establishing a de facto Tamil state had been violently erased. However, this was not the only institutional form created in pursuit of Tamil self-government. It had been dominant in the 1990s and 2000s, but there was a parallel institutional experiment, one that was premised on power-sharing within the framework of the Sri Lankan state: the North-Eastern Provincial Council (NEPC). The NEPC was created through the 1980s peace accord enforced by India, but it is part of a longer sequence of contested experiments with ethnic power-sharing in Sri Lanka, which dates to late colonial times and which continues to evolve. The central principle of these efforts is the devolution of government power from Colombo to sub-national levels. Ironically, the NEPC comprises an arrangement that none of the protagonists wanted, but which has nonetheless survived.

While the first part of this chapter takes stock of the NEPC's turbulent history, I will mainly focus on the postwar dynamics, when the council outlived the LTTE and emerged as the only remaining institutional legacy for some semblance of a Tamil government. My analysis zooms in on the day-to-day work of provincial bureaucrats. In a book about the grand historical themes of Tamil nationalism and Sri Lanka's civil war, it may seem unnecessary to become engrossed in bureaucratic processes, technical memos and departmental hierarchies. However, as I will elaborate in this chapter, the calm orderliness of the civil service and the turbulent conflict dynamics that engulfed provincial councils are not divorced realities. Civil servants enact the state, and the enactment of the state sits at the very heart of Sri Lanka's ethno-political conflict. The everyday work of neatly dressed bureaucrats with their paperwork, procedures and protocol, their tidy offices and stiff hierarchies (Photograph 5.1) is part of the same historical trajectory as the civil war and its aftermath.

**Photograph 5.1** Provincial civil servant

*Source:* Photograph by author.

*Note:* Senior civil servant at his desk at the Northern Provincial Council in October 2018. The orderly appearances of bureaucratic attire and office environment contrasted with the turbulence of postwar transition and the acrimonious debates in Vigneswaran's council at the time (see Chapter 6).

There is valuable scholarship about what Sri Lanka's provincial councils *could* or *should* be doing, based on a diagnosis of the constitutional arrangements and governance structure (Coomaraswamy 2003; Rupesinghe 2006; Welikala 2012a). There is much less analysis of about what they *are* actually doing.<sup>1</sup> This chapter helps redress that dearth with an ethnographically founded analysis of the Eastern Provincial Council<sup>2</sup>. My approach follows suit with the growing ethnographic scholarship on bureaucratic realities (Amarasuriya 2010; Bear and Mathur 2015; Berenschot 2010; Gupta 2012; Hansen 2001; Hull 2012a, 2012b; Kelly 2006; Mathur 2015; Murray Li 2005). This scholarship debunks the conception of the state as a coherent set of institutions that operates according to legal mandate and rational procedure and instead focuses on the everyday negotiation of order, procedure, documentation and institutional performativity. The discourse of rational governance, coherent policy and institutional mandates – central to the self-legitimation of state actors – is often more reflective of the way state conduct is represented than of the workaday functionality of administrative processes.

This chapter describes how bureaucrats try to keep distance from politics by hedging their decisions and standing their ground with a discourse

of ‘rendering technical’ (Murray Li [2005], drawing on Rose [1999]). Mitigating and regulating the forces of political interference is central to the bureaucratic endeavour. But for the provincial councils – which were created as an explicitly political platform to solve a fundamental political conflict over the nature of sovereignty with the devolution of political power to the peripheries – the preoccupation with keeping politics out is ironic. I will show that this tendency accounts for the tenacity of the provincial bureaucracy but simultaneously forces provincial councils to sacrifice the purpose they were meant to serve.

## Performing a provincial Tamil government

The trajectory of the NEPC runs like a political artery throughout Sri Lanka’s history of ethno-political conflict, but it is one of the island’s least studied, and arguably least understood, institutions. After the 2009 end of the war, the NEPC resurfaced as a political body. In the absence of the LTTE’s powerful experiment in staging Tamil self-determination, the provincial council was the only remaining institution that harboured a promise of Tamil self-government. The NEPC illustrates how an institution can assume a radically different political significance, depending on how it is enacted. The LTTE had violently opposed the NEPC after its creation in the late 1980s as a hostile Indian implant, but in the 1990s and 2000s, the movement adopted a more accommodative stance. I will briefly discuss the war-time evolution of the NEPC, before turning to its postwar struggles.

The NEPC was established through India’s coercive imposition of a political compromise. The 1987 Indo-Lankan Accord enforced the thirteenth amendment to the Sri Lankan constitution, which devolved significant powers to the provinces. To assuage Tamil nationalist demands, the Northern and Eastern Provinces were provisionally merged to create an exceptionally large province that effectively matched the aspired territory of Tamil Eelam (see Map 2.1). This merger surrendered the Muslim community (a major group in the east, a small minority in the north) to a Tamil-dominated region. India implanted an institutional fix that met several important Tamil demands: the NEPC reversed the trend of watered-down compromises and broken pacts that had prevailed since the 1950s.<sup>3</sup> However, the thirteenth amendment inserted a layer of quasi-autonomous provincial governance into a centrist political system and precipitated severe competition between minimalist and maximalist interpretations of what had been agreed.<sup>4</sup> As a result, the NEPC was drawn into a dynamic of competing projects of statecraft between the Sri Lankan central government, the Indian federal government and the LTTE.

By bestowing or withholding the performative qualities and resources needed to enact political potency, an institution with a flimsy legal basis can assume a major role, while one that is well anchored in law can be made impotent (Gilmartin 2020; Hansen 2004; Ruud 2009). The Indian government spared no effort in enabling the NEPC to perform as a credible, legitimate and resilient institution (Abraham 2006; Dixit 2003: 239–254; Jayatilleka 2000). With the LTTE turning its back on the Indo-Lankan Accord and all other Tamil militant groups crushed in the onslaught leading up to the agreement, the Indian government thus threw its weight behind the Eelam People's Revolutionary Liberation Front (EPRLF). With its radical Marxist ideology, 'low' caste profile, no serious political track record and its recent decimation by the LTTE, the EPRLF was an unlikely ally, but the Indian government had no better alternatives.

Varatharajah Perumal, a leading EPRLF figure, was fielded as the preferred candidate for the key post of northeastern chief minister. Without Tamil rivals on the ballot, the EPRLF triumphed in this hampered performance of democracy, winning fifty-three of the seventy-one seats; with seventeen seats for the Sri Lanka Muslim Congress (SLMC), the Muslims became a marginal fraction in the merged northeast, as they had feared<sup>5</sup>. As the chief minister of the North-Eastern Province, Perumal headed the first-ever elected government of a territory resembling the Tamil homeland, but it was an institution that only existed on paper. When I interviewed him in 2018 to reflect on that period, he explained:

There was nothing. Everything we had to [do ourselves]. Even the doormat ... we had to organise. Every secretary I had to search for. Whenever I got one ... the secretaries themselves started helping me to find other people.

The NEPC administration relied on the Indian military for its immediate survival, and it maintained close ties with Indian diplomats, most notably High Commissioner J. N. Dixit, who pressured, bullied and shamed the Sri Lankan government into taking action and resolving administrative blockages. Dixit's team devised workarounds to provide the council with resources that were not forthcoming from the central government: funding, training, vehicles (Dixit 2003: 268–285; Loganathan 2006: 84–100). These were needed not only to run an incipient administration but also to enact a new layer of government through idioms that people would recognise as such – four-wheel drive cars and prestigious office buildings are prerequisites for political potency in Sri Lanka. Much to the dismay of the central government, Perumal also insisted on referring to the whole of his institution as the provincial *government*, which then consisted of the elected legislature (the council) and the executive branch (the board of ministers), which commanded the provincial bureaucracy. This

prompted President Premadasa to issue directives to newspapers to ban the term 'provincial government' in all advertisements and amend it to 'provincial council' (Loganathan 2006: 90).

The NEPC was not given much time to demonstrate its capacity to govern. Perumal was inaugurated in December 1988. President Premadasa assumed power in February 1989, and by April, his government denounced the Indo-Lankan Accord and reached out to the LTTE. In Delhi, the Singh government entered office and prepared to withdraw the Indian military. The LTTE was lining up to fill the void and unfold its own experiment of insurgent Tamil state-building.<sup>6</sup> Anticipating a violent confrontation with the LTTE, the EPRLF joined hands with other militant groups to erect a paramilitary force known as the Tamil National Army, with direct support from the Indian military and intelligence services. These troops were legitimised as a police force to come but effectively resembled a militia of forcibly conscripted youth, designed to rival the LTTE (Loganathan 2006: 93–97). The two competing forms of Tamil statecraft were starting to swap repertoire: the LTTE insurgency started to emulate a government, and the elected EPRLF administrators began adopting insurgency tactics.

These last-ditch efforts could not turn the tide, however. When the Indian military pulled out, the EPRLF politicians abandoned their posts. In their final administrative move, they pushed the NEPC experiment to, and arguably over, its limit, by converting the council into a constituent assembly tasked to draft the constitution of the Eelam Democratic Republic (Jayatileka 2000: 126–127; Loganathan 2006: 98–100).<sup>7</sup> With this resolution, the EPRLF broke the bounds of devolution, and it discursively outmanoeuvred the LTTE, but it was a purely symbolic move that came at a high price, both for the EPRLF and for the provincial council. Days after its resolution, the EPRLF abandoned the offices of the NEPC and fled to India. Three months later, several EPRLF figureheads including party leader K. Pathmanabha were killed by the LTTE in Tamil Nadu. The institution of the provincial council lost out because the resolution prompted President Premadasa to amend the Provincial Council Act with a clause enabling the central government to dissolve a council that repudiated the constitution: yet another blow to the autonomy of provincial governance (Wickramaratne 2019: 19–20).

## **A devolution without politicians**

The spectacular creation of the NEPC was followed by a dramatic collapse. With the departure of both the Indian military and Perumal's administration, the NEPC appeared moribund in 1990. After the councillors had left, it

became a political void surrounded by enemies. Its buildings on Trincomalee's Inner Harbour Road were empty, and the administrative staff were awaiting the doom of an LTTE takeover. One of the senior bureaucrats, whom I will call Balasundaram, recalled that eerie period to me:

Everyone was leaving. The councillors, the EPRLF, but also UNP and SLMC. And also all the staff. They were afraid. I was one of the few who stayed. I told the LTTE I am not an EPRLF man, I am a civil servant.

When the EPRLF abandoned its offices, the LTTE moved in to seize the instruments of government. The council's newly funded vehicles, furniture, files and other equipment were readily captured by the LTTE to be redeployed for their own governance experiment – institutional bricolage at its crudest. Balasundaram recalled, 'The LTTE came and they took everything. All the furniture, the fridges, everything.... I was only looking.' Even when everything else had become defunct, the central government bookkeepers went about their work: 'The audit for the council came and all had left, only I was there. The Public Services Commission investigated me.' They asked critical questions, but he was acquitted – what could they have expected him to do?

With the flight of the first elected council in 1990, the NEPC entered a protracted interim period. No new council was elected until 2008 (in the east) and 2013 (in the north). As a result, the provincial administration comprised a minimal bureaucratic structure under the governor (a presidential stalwart).<sup>8</sup> Tamil nationalists had agitated for a form of political self-rule, but what transpired during this period was a set of civil service departments that enacted the minimal administrative requirements of provincial governance – a devolution without politicians. Bureaucrats considered the absence of politicians interfering with procedure a mixed blessing, but they had other pressures to deal with instead. While the NEPC degenerated into an institutional apparatus without political leadership, the LTTE asserted itself as a *de facto* sovereign actor with gradually expanding institutions. As a result, space opened up for some degree of convergence between what had been competing modes of Tamil government.

Life goes on, even in times of civil war. Teachers need to be paid and hospitals maintained. Cooperative structures and basic administration of livelihoods continued in the northeast despite the unrest. Some of these structures were in territories controlled by the government military, but others were in the territories where the LTTE had gradually started to enact its own state structures. Even so, the NEPC needed to get on with its responsibilities, I was told in interviews with a wide range of civil servants. And when the NEPC tried to carry out its work, the LTTE started to bring parts of the provincial civil

service into its orbit. I will reconstruct this phase of the evolving relationship between the NEPC and the LTTE by drawing on the accounts of three former provincial chief secretaries whom I will call Balasundaram, Sivankumaran and Rajasingham, all of whom were Tamil. I interviewed these top-level officers at various instances over the period 2010 to 2018. Balasundaram, whom I already cited earlier, worked with the council straight through the war:

We had to deal with cleared [government-controlled] and uncleared [LTTE-controlled] areas. We provided for schools, hospitals, fishery, agriculture. Those kinds of things. But only the minimum. Just the basic salaries, no projects. The basic services. We had no money [to do more].

Rajasingham explained:

The government was deeply suspicious of us. They thought we were with the LTTE. But still they were thankful we were working in those areas. A good number of my colleagues were killed. So the government was considerate. We had to manoeuvre between the LTTE and the government. They thought we were LTTE sympathisers, their henchmen. But that was also not fair. We were doing our job. Of course, we had sympathies for reasonable Tamil rights. We of course were also Tamil, but in the end, we are government servants.<sup>9</sup>

Provincial civil servants had a similarly convoluted relationship with the LTTE. Sivankumaran formulated it as follows:

The LTTE did not support the council [NEPC] because they saw it as a half solution.... But [after IPKF] an understanding emerged. The LTTE was contempted for killing innocent people. And they seemed to have reached a level of confidence....

With time, their stance changed because the council was a service delivery institution. Something the people needed. And they felt they should not cripple that any further. Also, they realised that when they would come to power, they needed some sort of mechanism. And they thought they could run a shadow administration. They took the council on remote control....

The LTTE had their own administrative setup. So they communicated with government servants with letters, or just called them on the phone. Or they would send somebody. But they would only interfere with things that had an immediate impact on the ground. At local level. They had no interest in overall policies or our procedures or that kind of thing. They did not recognise those things in the first place....

Until the end they were very hard on government servants. The way they would speak to us. Not politely or with respect. They would maintain that authoritative voice. That superiority attitude....

The LTTE did not really trust civil servants, but it was a different kind of distrust than you would find from Colombo. Because they knew: these people will not betray us. They knew to which faction we belonged. But we were neutral, and that dissatisfied the LTTE. We resisted their ways and did not approve of them. We were not damaging them, but we did not support their ways.

As discussed in Chapter 3, the peace process of the 2000s offered a conducive context to push political boundaries and expand institutional experimentation. The existing practice of the LTTE surreptitiously co-opting the NEPC evolved into a practice of open mingling. Enabled by the more permissive government stance, foreign donors started resourcing interstitial institutions like the NEPC as a deliberate means of indirectly engaging with the LTTE. The trickle of public funding that had previously reached the council was augmented with large grants from the World Bank and the Asian Development Bank, and the German and Japanese governments started significant capacity building programmes with the council. After the 2004 tsunami, a new suite of multilateral projects followed, but the 2006 resumption of the war curbed these opportunities soon after they had started.

## **The resumption of political normalcy**

The end of the war was a turbulent time for the provincial administration. In parallel to the government's military victory over the east in 2007, the North-Eastern Province was demerged when the Supreme Court – at long last – ruled the 1987 merger unconstitutional. Subsequent provincial elections in the east (2008) and north (2013) brought a normalcy of sorts to the two councils. The bureaucratic structures rapidly expanded, and reconstruction work was in full swing. At the same time, the politicians were back and so were the pressures of interference. The patronage machinery of the central government was working overtime, and the Rajapaksa administration was consolidating its control over the north and east with highly militarised means. Ethnic minorities were apprehensive about their postwar future.

When I interviewed senior Tamil bureaucrats in 2010, the fresh memory of the war and the tragic bloodshed in Mullivaikal overshadowed everything they had to say. Sivankumaran, one of the former provincial chief secretaries quoted earlier, had a habit of passionately gesticulating with his eyes twinkling when



he elucidated the savvier insights of wartime bureaucratic survival, but his eyes turned hollow when he talked about the civilians who had been slaughtered in the final months of the military campaign. As a civil servant with good access to data, he knew that public estimates of death rates were far off the mark. The government claim that there had been no civilian casualties at all was clearly preposterous, but the United Nations figure (7,000 civilian fatalities at the time) was not much better. Basic math with the original population size, humanitarian assessments of displaced communities and how many people eventually came out in the days of LTTE defeat yielded a figure closer to 80,000, he implored with an insistent, whispering voice. It was as if he was burning inside, struggling to live with the knowledge of what had happened: a tragedy so grave that it stifled one's ability to act yet also foreclosed the thought of not doing anything.

The militarised nature of the immediate postwar years was reflected in the functioning of the eastern council. Its offices were hidden behind a fortified barrier with security guards patrolling the complex on Trincomalee's Inner-harbour Road. The newly demerged northern council was still in interim mode, as elections were yet to be held. Awaiting a more conducive environment in the north, it was temporarily housed in a large new complex on the outskirts of town, amidst the scrub that had once marked the beginnings of LTTE-controlled territory. Major buildings with several storeys had been constructed for the newly appointed northern governor and a minimal administrative staff, and it looked like a military complex. The surrounding walls and gates were at least 4 metres tall, and there was a major security presence. For all the defensive measures, little was going on inside. The newly demerged northern council was standing by for its new future.

I returned to the exact same complex eight years later, in 2018. The northern council had moved to Jaffna, and the premises now housed the departments of the Eastern Province, including the planning secretariat where I occupied a desk to conduct a bureaucratic ethnography. Though the buildings had not changed, it was a completely different place. Some of the tall ramparts were still there, but the metal gates were always open and had rusted in their hinges. The empty watchtowers had become like neoclassical decorations of the quadrangular walls (Photograph 5.2). In what had been a vacant swath of razed weeds reminiscent of military roadside clearing, the agriculture department had started a sample gardening plot. Entrance security was cordial. A friendly smile and handwave sufficed to get through. Every working day at about eight in the morning, a flurry of scooters and motorbikes along with office vehicles for the most senior staff made its way from Trincomalee's various neighbourhoods – women in colourful dresses and shawls, men in black pants and neatly ironed

**Photograph 5.2** Walled provincial council



*Source:* Photograph by author.

*Note:* High security at the Northern Provincial Council complex in May 2010. The newly demerged northern council was still in ‘interim mode’ and provisionally housed at a walled compound outside Trincomalee.

white shirts, a tie or saree for heads of department and above. At the sun-sheltered bike stand, officers stored helmets, ruffled their hair, straightened jackets, checked cell phones and had a quick chat with colleagues before darting to their various departments to press their fingerprints onto the digital attendance clock.

While the political side of the council – the assembly hall, the assembly secretariat, the chief minister’s office and associated entities – were in the old complex in town, the administrative leadership was housed in this new complex. The main building had an unspectacular central stairwell and a tiny lift, with the chief secretary’s office right at the entrance. The provincial planning secretariat, my institutional home while I was there, was on the second floor and had the familiar lay out of a modern Sri Lankan office. Centrally located in the department was a separate office with a tinted glass door for the director of planning. Adjacent to it were slightly smaller offices, with shared air conditioning and a dividing wall that did not reach the ceiling

for the four officers who were one or two rungs lower in the hierarchy. For all the others, there were open office spaces, with small desks of dark-brown veneer, a computer screen and a large office phone. All the staff in the offices were men; the vast majority of those at the desks were women, with notable exceptions like the IT technician and the caretaker. This gender division was typical but by no means absolute – some departments were headed by female officers. All planning staff except one were Tamils and Muslims. Most of them spoke good English.

It was normally quiet, though there was regular traffic across the office with staff whispering at each other's desks to consult, check a formulation or a figure, get a file signed – or gossip. Every now and then there would be a visiting delegation from Colombo to have a discussion. On most days, the office had an easy-going routine. For lunch, the senior cadre, who had an office vehicle at their disposal, would eat with their families in town, while the junior staff – that is, the women at the desks – gathered in the small kitchen to have their homemade rice and curry or a lighter meal. The caretaker brought around milk tea mid-morning and mid-afternoon while managing fans and air conditioning in his intermediary rounds. The bright daylight was dimmed by blinds with red, brown and yellow stripes (perhaps incidentally the colours of the Sri Lankan flag, though without green). The reception, run by a female intern, had a small bouquet of fake flowers and right across it, at the department entrance, was a small religious corner with icons of three prominent Hindu deities and a kit with the essentials for a *puja* (worship ritual). A distinctly secular ritual would start about 15 minutes after entering the office, at 8:45 a.m. Unprompted by prior warning, the intercom would air the national anthem. Without a word or hesitation, everyone would instantly stand up to silently pay respect, only to pick up whatever they were doing 3 minutes later.

The senior cadre was part of the Sri Lankan planning service and prided itself in an *esprit de corps* of dedication, integrity and efficiency. But even the development officers, who were not part of the public service corps (and thus had modest roles and career prospects), took their jobs very seriously. This was obvious from the way they engaged with me that they sought to emulate a modern kind of governance in service of the people. They were apologetic about delays in bureaucratic procedure and duplication between departments, and they did not want to be seen wasting time. They were keen to tell me about how they had improved transparency with a new website where all key documents were publicly available, and an internal database gave them a good overview of all the ongoing projects. Their institution was stiffly hierarchical, and they referred to their seniors with reverent respect, but they clearly respected some of their colleagues more than others. Some directors are 'completely flat',

one member of the planning secretariat told me in private. He used his hands and face to underline his point. 'When they go to a meeting, all they worry about is the colour of their tie or saree. The public sector would be better off with half the people who earn double the salary and are recruited on merit. But that can't be changed.'

Other colleagues were admired, especially people of incorruptible character who stood up to anyone meddling with procedure, who had archival memories and therefore could never be cheated, who had the skill and perseverance to get things done and the experience and foresight to anticipate threats and problems early. Some of these people had been transferred precisely because of these abilities, for pushing back against the governor or politicians, but they were fondly remembered, and their former colleagues saw it as their task to continue the work in the same spirit. Senior and upcoming officers would not fail to mention their educational credentials. Many of them inquired about possibilities for further study. More than a few of their colleagues had left the service to become consultants. They had gained new skills and networks through the big World Bank and Asian Development Bank grants for the NEPC in the 2000s, and now they were advising their former colleagues and running workshops or evaluations – a life with less nuisance and the kind of salary needed to sustain a family in Colombo with children attending a moderately reputed school.

The orderly world of the provincial administration's offices contrasted with the society they were supposed to serve – the hot and often dusty towns and villages of the province, where people could only dream of working in a room with spotless tiles and the luxury of generator-powered air conditioning. Unlike frontline state entities, such as the divisional secretariats, the planning secretariat was not a place visited by civilians seeking redress for their problems, requesting registrations or filing complaints. It was a place of bureaucratic distance (Mathur 2015), a back office to the provincial administration, which was in charge of balancing funds and activities across all departments. Despite this distance, the harsh realities of the society around them, the suffering during times of war and anxieties of the postwar era, were very much present in the minds of these officers. They had all lived through the civil war for the biggest part of their lives – the younger ones had grown up in this context. They all remembered people who had been forcibly recruited, tortured or killed, and the 2004 tsunami had taken many more loved ones. Everyone knew colleagues, friends or relations who had gotten on an overloaded fishing boat after the war to escape their plight, sometimes to never give a sign of life again. Such tragedies and the plethora of smouldering conditions undergirding them were not abstract governance issues to provincial bureaucrats – these were life stories that were intertwined with their own.

One of the officers I came to know – I will call him Suren – had been stationed in Mullaitivu, the last major LTTE stronghold at the end of the war, to provide rudimentary government services for large groups of displaced people. Their means were very limited and there was a continuous threat of bombing. ‘It was very difficult to work there. Very difficult’, he told me and squinted his eyes to give expression to these arduous circumstances. ‘But I was satisfied with my work. We were working for very poor people. And we were working at the ground level, directly with those people. Now I am sitting here, inside.’ He pointed his arms at the calm office around us. Another phone call interrupted our chat. He made an apologetic gesture as he picked up the receiver with the typical, mutedly cautious ‘hello’. ‘These calls from other departments are a real challenge’, he went on after hanging up. They were usually officers who were senior to him and there was always something else that needed doing. And then they had to reckon with the *kachcheri*, the district administration that was an extension of the central government apparatus. ‘They are much more powerful than us... They get four or five times the budget for one district that we have for a whole province. Their own funding plus the resources of line ministries who implement through the *kachcheri*.’

As he went on to talk about the stress and frustration of his job, Suren’s voice started to break up. His eyes were watery. He took out his handkerchief and was struggling not to cry. A few years ago, he explained, a brain haemorrhage had put him in a coma. He pointed a finger to the temple of his head and groaned: ‘when stress is coming now, it is intolerable’. His breakdown had occurred after several years of working around the clock in Mullaitivu. He was lucky to survive, but now he suffered from headaches and dizziness. He wanted to be strong and deliver good work, and he needed the salary to sustain his family and pay his mortgage, but it was difficult to sustain himself. All these calls from seniors and requests from juniors did not make it any easier.

## Provincial finance: Enduring starvation and preserving insulation

To celebrate Navarathri, a ten-day Hindu festival in October dedicated to the universal mother figure, the meeting room in the rear section of the planning secretariat had been converted into a shrine of sorts. All tables and chairs had been removed. One of the staff members had spent hours pouring a large colourful mandala on the floor and there was a small make-do altar on a desk. It displayed a range of offerings including a small sample of bundled office files, which were to be consecrated as well. A Hindu priest had been invited

to conduct the rituals. Having received his blessing, we sat back down on the floor along the walls with sacred white ash on our foreheads and a sequence of festive delicacies was passed around. I sat next to one of my close collaborators in the department, whom I will call Mansoor. He was Muslim but joined the festivities for collegial reasons. I had been away for a week and we were catching up on the latest news.

The calm devotion of the ceremony and the relaxed atmosphere of this get-together stood in stark contrast to the seasonal turmoil that had struck the council this week. October is the height of the eastern monsoon – just the day before, the downpour had been so heavy that flooding had brought Trincomalee to a standstill. There would be some clearing and reconstruction work to be done. More significantly in terms of governance, October marks a moment of truth for anyone concerned with public finance. The finance commission in Colombo had released the so-called *impresst* yesterday, Mansoor told me, as we were chewing on a gluey sweet with cardamom seeds. The *impresst* was a figure that informed them how much money the council would be given for the current year – this time about 70 per cent of what they had budgeted. They always anticipated such a cut, but one could never be sure of the exact amount, Mansoor explained. The planning machinery jolted into operation the moment the *impresst* was released, and the chief secretary immediately called a meeting with the planners and the key officers from all sectoral ministries and departments. This was always a tricky moment when the rivalry between provincial departments collided with the centre-periphery dynamic. It required a kind of bureaucratic finesse that not everyone could muster.

The catch in this whole dynamic hinged on a small piece of accountancy logic. Instead of simply transferring the whole sum, the finance commission would only cover the costs for ‘bills in hand’ – for activities that had been implemented, invoiced and paid by the provincial department. If a department spent money now without getting the invoices before the closure of the fiscal year, the costs would move to the following year and could create a liability for the next year’s budget. If they expedited the work, finished it and had the ‘bills in hand’, it would be covered under this year’s budget. But if all departments steamed ahead to generate such bills, they would risk exceeding the total *impresst*, and some of their spending would not be covered at all. Vice versa, if they all decided to cease expenditure, they would underspend and get less money, with possible negative knock-on effects for the future. And then of course, there were bookkeeping tricks: splitting activities in two and getting contractors to submit bills in hand for part of the work; or expediting procedures by getting on a motorcycle to physically collect bills from the ground level and

personally run them by all the various desks where they would otherwise be at risk of getting stuck on a pile; or relabelling activities as recurrent expenditure, so they could be placed under a different funding channel. But this was all tinkering at the edges. The central challenge was to create an outcome where 70 per cent of this year's activities were completely finished and not a rupee was spent on the remaining 30 per cent. This required careful coordination and an accurate assessment and what really *needed* to be done and what *could* realistically be done.

Because of this, the day before had been packed with tense meetings. As Mansoor and I decided to give the next plate with snacks a miss, he told me today was a quiet day for the planners because the departments were consulting internally to strategise their actions. Next week, it would all have to be hammered out. He explained:

The problem is, many officers don't really get the dynamic, so they start fighting for their budget, or they think: 'anyway I will get my salary, so I'll just let activities run and take the receipt at the end and then we'll see'. So I have to tell them very clearly: 'if you do this or if this happens, you will not get the money. We'll have to take it off next year's budget, and there will be other consequences.' Even if I am junior to all of them, I have to mediate and tell them firmly what to do.

The underlying problem was that the impresst was only one of a sequence of steps in the funding cycle, and at each step provincial funds would lose out. Mansoor explained, 'It is very clear that the government wants to weaken the provincial council. They do this with constitutional means and with financial means. They are trying to starve the council.' The bulk of public funding was allocated to central ministries or the centralised institutional hierarchy that passed from Colombo to the *kachcheri* to the divisional secretaries, thus bypassing the province. To make matters worse, there was a long tradition of creating new authorities, which would then bypass not only the provinces but everyone else as well, to create a direct patronage channel between the grassroots and the very top of the political hierarchy.<sup>10</sup> This was driven by sinister motives, Mansoor explained. By starving the province while letting the work of central ministries flourish, the government created a situation where 'people themselves will ask for certain responsibilities to be moved to the centre'. Such requests from the public were not driven by ethnic chauvinism or political positioning for or against decentralisation. They just wanted the best facilities for their local school, market or clinic. Base hospitals, for example, could be under either the central ministry or the province, but the former group typically received more funding. 'Now there is a campaign in Kantale and Kinniya', Mansoor explained. Both these rural

towns in Trincomalee District had a base hospital administered by the eastern council. ‘They want the base hospital to be moved from provincial to central control because it would strengthen the way it is resourced. But with that logic, what is the point of having a provincial council?’

The eastern council (like the other provinces, except perhaps the Western Province) had become almost completely dependent on the impress of the finance commission. Its own ability to collect revenue, which had been envisioned to be a significant part of Sri Lanka’s tax base at the outset, had shrunk to negligible proportions.<sup>11</sup> During the peace process and the tsunami response, donor-funded projects had supplanted the provincial budget, but this was no longer possible now that donors had moved on to poorer countries. There had been various initiatives to reach out to the diaspora community to generate funding (though this was much more pronounced in the north than the east), for example by creating a chief minister’s fund into which foreign parties could pledge, but such schemes had been obstructed by the centre.

As a result, the provincial council faced a permanent funding deficit, and it was poorly positioned to compete with national line ministries or the district administration in the *kachcheri*. This made it all the more important to plan and administer provincial funds meticulously and to prevent central and provincial initiatives from overlapping or working at cross-purposes. To do this, the provincial planners had come up with a suite of administrative creations, such as a meticulous database to scrutinise needs and a so-called provincial planning commission to push back against politicians interfering with procedure and prevent public resources from being hijacked by a patronage agenda that would invariably privilege one constituency, locality, ethnic group, or party block vote over another one.<sup>12</sup>

Remarkably, these mechanisms had no clear legal basis. As I discovered, they had not been formally created but rather been made into an established practice that instilled particular principles. They can be thought of as modest bureaucratic attempts at creating de facto institutions, which can be used to claim turf and push back against rivals. Through these de facto institutions, civil servants insulated public resources from political strongmen, as if to extend the blessings of a devolution without politicians that they had experienced during the interim period. Bureaucratic performativity was deployed as an antidote to patronage politics. The institutional repertoires of the civil service were far removed from the symbol-infused performances of the Tamil nationalist movement and the martial cult of the LTTE. To the extent that they engaged with ethnic identity, bureaucrats treated it as a distributional codifier. Ethnicity featured as a technical category to secure an equitable allocation of public resources, one that was *protected* from the sway of ethno-nationalism.



## Provincial legislation: Stalled and diluted statutes

The provincial councils differ from line ministries, central authorities, district *kachcheris* and local government in the sense that they can legislate. Like parliament, they are empowered to write new law – a legislative entitlement originating from India's 1980s intervention in Sri Lanka's constitution. Provinces are thus licenced to acquire new kinds of executive authority and claw back terrain from the centre. More specifically, the thirteenth amendment mandates the councils to pass provincial laws, so-called statutes, about issues on either the provincial list or the concurrent list (shared competencies between province and centre). This includes sensitive matters like revenue collection, land control and law enforcement, but these powers are subject to a constitutional caveat that they do not infringe on the sovereignty of the Sri Lankan parliament. On an administrative level, this limitation was maintained by the governor, who assumed a gatekeeping role, and several adjudication mechanisms vis-à-vis the national legislature which work in parliament's favour.<sup>13</sup> Moreover, parliament had a significant head start in terms of claiming 'concurrent' turf, because the northeastern council was on hold for nearly two decades: without elected legislators, no statutes. Now that the eastern and northern council had regained their legislative capacity, they were trying to catch up.

The holy grail of statutes in the north and east concerns the creation of a chief minister's fund, which would give the province a financial framework to bring in foreign funding from donors, diaspora or investors and reduce its dependence on the centre. This was the one significant statute that Perumal's northeastern council passed in the late 1980s, but the fund never materialised. The newly inaugurated eastern and northern councils initiated a similar statute, but the proposal got stuck in a constitutional loophole. If there were concerns about the constitutionality of a proposal, the governor could refer it to the president and the attorney general, who might then present it to the Supreme Court for a verdict, but there was a procedural catch: the laws did not specify a time limit for this, so the president or attorney general could also decide to *not* refer it to court, whereby the statute proposal ended up sitting on their desk indefinitely. Both the eastern and the northern statute for a chief minister's fund got stuck in such legal no man's land (Wickramaratne 2019: 47).<sup>14</sup> But several other statutes had been passed in the north and east, often replicating the statutes of the other seven provinces, which had started acting on these powers since the late 1980s.

To scrutinise the political and administrative dynamics around provincial statutes, I catalogued all the statutes initiated by the eastern council (including the ones that never made it through the legal process), and for a select sample I

then adopted a method of ‘following the statute’ from its initial draft through the various revisions and blockages to the final text and the concrete results it yielded. I will focus here on the eastern tourism bureau statute, which attracted some attention for reasons explained below, but the basic dynamic and outcome were similar for other the statutes I studied.<sup>15</sup>

As with so many things in northeastern Sri Lanka, the tourism statute is not just about the whatever it says on the cover (a flourishing tourism industry) but also about sovereign claims to the territory on which it takes place (control over land) and about sovereign power (the authority to levy tax). As I have discussed in some detail elsewhere (Klem 2014), there was a scramble for land in the immediate aftermath of the 2009 LTTE defeat. Lots of people were on the move, returning to lost property or looking for new opportunities. Big swaths of land had been cordoned off by the military (as with Sampur’s special zone, discussed in Chapter 4), and similar forms of enclosure were imposed in the name of development. In late 2009 and early 2010, the government initiated a tourism zone along the coastal strip of Kuchchaveli, north of Trincomalee town (see Map 2.1), a process spearheaded by three entities: the nation-building ministry (controlled by Basil Rajapaksa, brother of the president), the urban development authority (which had been moved to the defence ministry, controlled by another presidential family member, Gotabaya Rajapaksa), and the then government agent (head of district, in the *kachcheri*), retired army general T. T. Ranjith de Silva, who was known for his ruthless tirades against civil servants – or anyone else who dared to get in his way.

This tourism zone in Kuchchaveli would cover a large section of the shoreline, thus blocking entrance to the sea for coastal fishing communities and it stoked fears of ethnic colonisation and military occupation.<sup>16</sup> The zoning plans arranged for a whole suite of so-called five-star or boutique hotels in what had until then been a rural backwater.<sup>17</sup> A mammoth real estate scheme in a remote hinterland like Kuchchaveli clearly was not just about capitalising on regional tourism potential. It was pushed through the bureaucratic chain with coercive pace. The procedural correspondence, which officers working in the locality concerned leaked to me, churned out the key phrases about no objections being raised in the necessary consultations, the environmental impact assessment yielding no concerns and the necessary tender processes and land leases progressing smoothly. The dates on these letters revealed an unusual efficiency. Successive layers of government had provided accordance for a large and highly contentious scheme within a matter of weeks, sometimes days. I also met some of the people whose signatures adorned these letters – faced with full might of the Rajapaksa political machinery (including their

boss De Silva, the militaristic head of district), they had seen no option but to underwrite these texts.

In constitutional terms, tourism is a concurrent subject upon which centre and province share power. Land appropriation is, technically, by and large a provincial subject (Amarasinghe and Selvakkumaran 2019b; Bastian 1996; Hasbullah and Geiser 2019). And the Kuchchaveli tourism zone was unfolding at the doorstep of the Eastern Provincial Council, which was in its first term under the leadership of a Tamil politician allied to the Rajapaksa: Chief Minister Sivanesathurai Chandrakanthan, alias Pillayan (whom we will encounter again in Chapter 6). Unsurprisingly, one of the first statutes initiated by the provincial administration was on tourism. The paper trail at the assembly secretariat, a messy bundle of folders which I consulted in 2018, dated back to mid-2010, when a first draft was sent to parliament for consultation. The draft statute evolved in parallel to a tug of war over the Kuchchaveli zone with gazettes, statements and threatening letters from Basil Rajapaksa's ministry and the national tourism authority. The provincial statute was delayed due to various procedural obstacles (such as the Tamil and Sinhala translations of the text) and vaguely worded objections.<sup>18</sup>

These procedural deadlocks were broken in 2015, when a new national government under President Sirisena came to power and the provincial council was reshuffled. A more accommodative governor (Austin Fernando) was appointed, and a team of constitutional experts from Colombo offered their services to the provincial legal officers to straighten out the finer juridical issues. Within half a year, by March 2016, the statute had cleared all the procedural steps – governor recommendation, the assembly passing it, governor assent and public announcement through a gazette. The Eastern Province Tourism Bureau had now come into legal assistance, but this breakthrough had less to do with provincial political prowess or constitutional erudition than with the enabling political environment of a collaborative central government and a conducive governor.

In order to pass the statute, however, its key components had been sacrificed. The initial draft of the statute of September 2010 endowed the proposed tourism bureau with two key powers, buried in quite a long list of more trivial matters: to 'take appropriate action' when land that had been alienated to a company for tourism purposes was not actually used for that purpose, and to generate revenue by mandating the bureau to 'levy fees or charges' from tourism accommodation, with the exception of hotels registered by the national tourism authority. Through the various drafts, both these powers were severely watered down. The power to act on land grabbing under the guise of tourism was diluted to a mandate to 'notify' the central ministry about such issues.

And the power to levy tax on hotels was curtailed to exclude accommodations that were under the local authority and pilgrim's rests under the religious ministry. Most significantly, the province's fiscal prerogatives excluded 'any premises which has [*sic*] more than five rooms'. If the plan of the province was to make money, this final proviso clearly nipped that in the bud.

When I interviewed a civil servant who had played a leading role in revising the statute, he readily agreed that final statute had been heavily diluted. 'Parliament wanted those limitations inserted. And we need their approval... So we decided to accept that. That way, at least we have *something*. And perhaps it can then be amended later.'<sup>19</sup> Interestingly, the Kuchchaveli tourism zone, which had played a central role in triggering the tourism statute in 2010, had become moribund when the statute was finally passed. It only housed one major hotel, a luxury resort named Jungle Beach, while the rest of the zone's fences and signposts were rotting away (Photograph 5.3). The foundational structures that had been laid for two other hotels looked ever more like wartime ruins. This was entirely unrelated to the tourism statute or the provincial council: the business case for such a major development in a far-flung corner of the island had not been informed by a sound market assessment. Moreover, it was said that the Rajapaksa government had been intent on plenshing its coffers and had levied such high rates on the leases that investors had recoiled. The provincial tourism bureau was not empowered to resist the Kuchchaveli zone but realities on the ground had brought the megalomaniac plan to a halt. The result, however, was precisely the scenario the province had meant to counter: land had been allocated, but it was lying idle. Bushes were growing but the plots could not be freed for more productive purposes. All that could be done was notify the central authorities about a situation they probably knew all too well and were unlikely to act on.

Even with the key teeth taken out, the statute empowered the Eastern Provincial Council to have a tourism bureau with its own staff and a legal mandate to engage in business ventures, promote the region as a tourist destination internationally, accept grants, purchase property, protect tourist attractions and promote employment opportunities. In practice, the tourism bureau was stillborn. Two years after the statute was passed, the bureau comprised a director who held the post alongside his regular role at the provincial health ministry and as director of the newly created housing authority. His supposed assistants had not been released from their home departments. The hard-fought tourism bureau had no actual office and no resources. The province's tiny projects aimed at the tourism sector matched this pitiful impression.<sup>20</sup> At the same time, grand new plans were being developed without any input from the province. Glossy reports commissioned to foreign consultants were circulating

**Photograph 5.3** Overgrown tourism zone



*Source:* Photograph by author.

*Note:* Signpost demarcating the tourism zone on the coast of Kuchchaveli, north of Trincomalee. The zone blocked the local community from a large part of the coastline and was vehemently opposed. The eastern council tried to pass a law against the zone but failed. In the end, almost all land was lying fallow, because hoteliers did not see sufficient business prospect.

about the glamorous future of the so-called Trincomalee metropole as a hub of eco-tourism, modern industry and a top-grade harbour. The artist's impressions looked attractive, but they were completely out of touch with the Trincomalee region that I knew.<sup>21</sup>

On paper, provincial councils have the constitutional right to make law, an entitlement reflecting the ambitions of the Indo-Lankan Accord to appease Tamil separatists with a compromise premised on shared sovereignty in all but name. In practice, these legislative powers were crippled by parliament's prerogatives and administrative pushback. What thwarted the militarised land-grabbing of the Kuchchaveli tourism zone was not the law-making power of the Eastern Province but the botched business case of the Rajapaksa government and their eviction from power via national elections.

## Conclusion

The turbulent history of the NEPC illustrates how a single institution can be enacted in dramatically different ways to serve diametrically opposed political interests. Its constitutional foundation, the thirteenth amendment, has not changed a word, but the political meaning, significance and utility of the council shifted significantly throughout the years of war, peace efforts and postwar transition. In its first stage, the NEPC was propped up by India to perform like a Tamil government of the northeast. With the military, diplomatic and budgetary back-up of a regional guardian (precisely what the LTTE had lacked during the 2000s peace process), Perumal's NEPC could make furore despite its minimal institutional and political clout, but when India pulled out, this bravado deflated like a balloon. In a second stage, the NEPC functioned in interim mode with a stripped core of administrative capacities. Its resources and institutions were redeployed as extensions of the LTTE's sovereign experiment. Furniture and fridges were carried over to LTTE offices, and the bureaucracy was brought under 'remote control'. These practices gained significance during the Norwegian-facilitated peace process, when foreign donors pumped resources and opportunities into the NEPC as way to indirectly engage with the LTTE. After the war, finally, a purported normalcy returned to the now de-merged northern and eastern councils. The politicians were back, and so were the hazards of a hostile central government. Administrative, budgetary and legal restraints reduced the performance of the councils to a politically impotent sideshow.

One of the startling things about the provincial councils is the very fact that they still exist. As a coercive implant of what was effectively an Indian military invasion, they were loathed and sabotaged by both the Sri Lankan government and the Tamil nationalists. They endured two decades of civil war and a powerful postwar Rajapaksa government that vehemently opposed devolution. The political environment for provincial governance was unconducive, even hostile, every step along the way, but the councils survived – partly because the little bit of pride that remained of India's involvement in the war was arguably invested in the provincial council system. The endurance of the councils is testament to the tenacity of bureaucratic institutions. Civil servants generate their own logics and precedents. Unmaking bureaucratic institutions leaves the kinds of loose ends that state entities are averse to. If the provincial councils were abolished, something would have to come in its place, which then would open up a whole new range of political conundrums – best not to pick at a wound.

Instead of abolishing the councils, they were curtailed. To endure the competing pressures, the NEPC constructed compromise on top of compromise

and absorbed contestation in institutional forms and technical procedures. When a supposed political normalcy returned to the councils after the war, they continued to face competing pressures. The Sri Lankan government effectively starved the provincial councils. Provincial tax revenue had been stripped, and the disbursal of government funds favoured central ministries and authorities over the provinces. Planners and administrators scrambled to make the best of the trickle given to them with the tactics I have discussed (for example, by maximising the impresst by having 'bills in hand' for the right kinds of activities). Financial shortfall did not only impede the service delivery of the provinces; it also contributed to the continued erosion of a devolved system of government. When people want the administration of their base hospital, school or other public facilities to be taken from the province because anchoring it in a central line ministry makes for better resourcing, the provinces continue to lose ground.

The legislative power of the provinces was similarly compromised. In the conception of Sri Lanka's system of devolved governance, the ability of the councils to make law was a central part of the bargain. In practice, the provincial council system has fallen well short of any notion of shared sovereignty, as the tourism bureau statute illustrates. This proposed provincial law faced formidable opposition from both the governor and parliament. When it finally passed, this was not because of the devolved powers of the province but because of a political shift in Colombo. Moreover, the statute only materialised after it had been severely watered down: key provincial competencies over revenue and land were taken out. The tourism bureau convocated by the statute was a moot institution deprived of facilities, staff capacity and funding.

The tenacity of the council stems partly from the bureaucratic inclination to use technical procedures and institutional performances to mitigate political hazards. During the war, civil servants used bureaucratic rationales to legitimise and de-politicise their manoeuvring between government and LTTE. After the war, they tried to ward off attempts at political interference, from both central government institutions and their 'own' provincial politicians. The planning secretariat came up with databases, guidelines and a newly invented planning commission to safeguard an equal distribution of state resources insulated from the imperatives of patronage politics. The administrators I have described enact a performative repertoire that we may call a devolution without politics. This has yielded an apparatus that is not only institutionally resilient but also politically impotent. The hallmarks of a sovereign state – the ability to levy tax, regulate land, make and enforce law and control state officers – are scrupulously withheld from the provinces. The provincial bureaucracy has learned to circumvent these political challenges to sustain itself. What is left is

the bureaucratic reproduction of the Indo-Lankan Accord's institutional legacy: an ironic outcome that none of the parties wanted and that serves no rational purpose but that nonetheless persists. Yet, as the NEPC's trajectory illustrates, institutional bricolage is never final. There is always some remaining potential for an institution to be resurrected when the political winds change.

## Notes

- 1 For exceptions, though strongly focused on legal and constitutional dimensions, see Amarasinghe et al. (2019) and Welikala (2016). Thangarajah's (2012) chapter also touches on the real-life workings of the NEPC, but given the scope of his chapter, this discussion remains quite short.
- 2 This chapter draws on my engagement with bureaucrats in and around Trincomalee since the early 2000s. The main empirical foundation of this chapter comprises fieldwork visits in 2018 and 2019, when I was allowed to formally embed myself in the planning secretariat of the Eastern Provincial Council for several weeks at the time.
- 3 This 1957 Bandaranaike–Chelvanayakam Pact envisaged a pseudo-federal arrangement with regional councils that would have moderate powers, but it had no legal anchoring and was never implemented. Subsequent agreements offered more diluted versions of devolution: no constitutional underpinning, pitched at the micro level and ambiguous prerogatives. The 1965 Senanayake–Chelvanayakam Pact sufficed with vaguely defined local district councils, and the 1980 bargain on district development councils placed devolution firmly in the terrain of subsidiarity and decentralised development management (Edrisinha et al. 2008; Matthews 1982; A. J. Wilson 2000).
- 4 The provincial council system has been likened to a 'white elephant' – an impractical gift that one cannot get rid of (Amarasinghe et al. 2010). Despite its sobering results, the Indo-Lankan Accord fundamentally redefined Sri Lanka's devolution debate: since the late 1980s, the debate has arguably been more preoccupied with fixing the problems of the solution (the throes of the thirteenth amendment) rather than with finding new solutions to the original problem (Wickramaratne and Marasinghe 2010). More ambitious attempts to augment Sri Lanka's system of power-sharing, such as President Kumaratunga's 'devolution package' of the late 1990s (ICES 1996; Thiruchelvam 2000), have demised. As a result, the governance system that Sri Lanka has today is a direct legacy of Indian peace efforts in the 1980s.
- 5 The first NEPC elections (19 November 1988) were boycotted by the main opposition party (SLFP) and the Tamil political leadership (Ilankai Tamil Arasu Kadchi [ITAK]/Tamil United Liberation Front [TULF], as well as Tamil Eelam Liberation Organisation [TELO] and People's Liberation Organisation of Tamil



Eelam [PLOTE]), and the LTTE violently opposed them. In the northern districts of Vavuniya, Mullaitivu and Kilinochchi, EPRLF ran under the umbrella of the Eelam National Democratic Liberation Front (ENDLF) – once a joint platform of EPRLF, TELO and PLOTE, but with the latter two boycotting the polls, ENDLF effectively became a shell for EPRLF. The EPRLF proper gained forty-one seats and ENDLF twelve. The United National Party (UNP) gained one seat from Ampara, where the turnout in Sinhala divisions was very low; SLMC gained seventeen seats from Ampara, Batticaloa and Trincomalee.

- 6 While the NEPC was supported by the federal Indian government (a backing that was now waning), the LTTE enjoyed the support of Tamil Nadu's polity, most explicitly from Chief Minister Karunanidhi (from the Dravida Munnetra Kazhagam, or DMK).
- 7 In its last sitting on 1 March 1990, the NEPC formulated an ultimatum with nineteen demands to the central government. The resolution has entered the history books as a unilateral declaration of independence, though that wording was not explicitly used. When I asked Perumal, he admitted: '[the resolution] was a last-minute decision. Everybody had rejected our points. Everybody was telling us to dissolve the council. I said no. I won't dissolve. So last-minute, when we passed it, we had to put some emphasis.' One of Perumal's assistants phrased it more frankly: 'They did it as an affront to the LTTE. They had nothing to lose. Nobody was with them. Not that their statement was going to be effective. It was just not to be losers.'
- 8 This yielded one of the many ironies in the history of the provincial council system: the other seven provinces (which had never asked for autonomy) set out to institutionalise provincial devolution by exercising their powers and holding regular elections. But in the north and east (the region for which the whole setup had been created) the system was politically paralysed.
- 9 Despite these concerns, the central government did not want to completely cut these regions off. Such a move would imply that these were no longer Sri Lankan citizens, a tacit resignation to the LTTE's claim of sovereign rule. When I asked former president Chandrika Bandaranaike Kumaratunga about this, she explained the government did this, so that 'the Tamil youth began to see that a Sinhala government was doing things for them. And they started wondering, "Why should we kill ourselves for Prabhakaran?"' (Interview, London, 5 June 2011).
- 10 There are countless authorities of this kind. One of the oldest and most powerful ones is the Mahaweli authority. A salient intervention in the postwar Rajapaksa years was the attempted creation of a Divineguma authority, which would have created a patronage highway from the very top of the government to the grassroots, bypassing the provinces. It was defeated in the Supreme Court and then rolled out in more modest form.
- 11 Since the creation of the provincial council system in 1987, the central government introduced new taxes and marginalised or overhauled provincial taxes.

By 2017, the provincial share in Sri Lanka's overall fiscal revenue had shrunk to 4.4 per cent of national revenue; the revenue levied by the Northern and Eastern Province comprised meagre 0.33 per cent of national revenue (based on Gunawardena [2019: 237, 252]).

- 12 The provincial planning secretariat's database covered all constituent parts of the province: the three districts, the 45 divisions and the hundreds of village level units below them. It listed the basic characteristics of all these units – surface area, population, level of poverty – and quantified these with a set of coefficients to generate a baseline of neediness. It also factored in ethnic demography to prevent any group from losing out. This gave the planners procedural ammunition against the politicians seeking to divert benefits to their voters. A newly created provincial planning commission (consisting of the key planners, the chief secretary and other senior administrators) assessed the distribution of funds to assure adequate prioritising and balancing based on this database. Though created as an informal coordination mechanism – it had no official status – the commission had become an established forum and it sought concurrence for its decisions from the finance commission, the country's peak body overseeing public funding.
- 13 The schizophrenic nature of Sri Lanka's constitution and the thirteenth amendment becomes apparent here. While the amendment contains elements of provincial autonomy (which was the whole rationale of the Indo-Lankan Accord), they are embedded in a purportedly unitary constitution. Hence, the Supreme Court ruled that the provincial councils cannot perform 'sovereign legislative functions' and must be consistent with the constitution. As such, provincial statutes are considered subordinate law (Amarasinghe and Selvakkumaran 2019a: 191).
- 14 When I interviewed the eastern governor in 2010 about this statute (which had gotten stuck in 2009), he said he had to refer it to the president because the thirteenth amendment prohibits the council from getting foreign funds and because it excludes civil servants from the chief minister's decisions over funding allocation. This legal reasoning, which appears shaky at best, was not used to reject the statute, though; it was simply shelved.
- 15 The following statutes of the eastern council successfully gained governor assent: finance (2008), rules and procedures (2008), the road passenger transport board (2009, amended in 2014), the bureau of preschool education (2010), the emergency fund (2010), stamp duty (2010), court fines (2010), the housing authority (2014) and the tourism bureau (2016) (Overview drafted by the EPC legal unit). The northern council gained assent for the following statutes: finance (2014), stamp duty (2014), health services (2015), education (2015), preschools (2015), child day care (2016), child development (2016), the road passenger transport authority (2017), the department of probation (2017), court fines (2017), mineral tax (2017), the tourism authority (2018), indigenous medicine (2018) and pawn brokers (2018). Two more were pending: the co-operative employee statute and the business name statute (Overview NPC Chief Secretary's Secretariat).

- 16 The extensions of the Mahaweli scheme (Weli Oya) were just interior from the tourism zone, and Mullaitivu District with all its military installations was just to the north.
- 17 At the time, there was only one tourism venue of significance: the Nilaveli Beach Hotel. It had been known for the coral around the neighbouring Pigeon Island (until the tsunami destroyed it), but during the war it was a run-down facility catering to humanitarian expats and an occasional backpacker for giveaway prices.
- 18 To illustrate this point, a parliamentary sub-committee sent the statute back after a 10-minute meeting in January 2011, saying that it ‘has not been prepared as per standard procedure’ without specifying the supposed irregularities. Three months later, the parliamentary legal draftsman’s office summoned the province to ‘send an officer conversant with the subject as there are certain issues that need clarifying’. The statute then got stuck in a procedural stalemate when the governor withheld his assent. The next provincial council tried to restart the process in 2013, but further disagreements over translation and procedural requirements prevented the statute from moving forward.
- 19 The key legal obstacle to the statute, he explained, was the parliamentary Tourism Development Act passed by the Wickremesinghe government in 2005: ‘That expanded the powers of the Sri Lankan Tourism Authority. According to the thirteenth amendment, they need to consult with the provinces to do that, but in 2005 there was no council in the northeast.’ A signature of the then-governor sufficed, and now it was difficult to redress the balance.
- 20 From 2013 to 2017, the budget for tourism activities was fixed at about 58 million rupees per year (roughly 300,000 US dollars). The 2015 creation of the tourism bureau had no effect on the expenditure. Moreover, many projects appeared to be driven by a general development impetus, rather than an attempt to nurture tourism-led growth and employment. Funds had been allocated to the improvement of pilgrim’s rests in provincial outposts like Thennamaravadi and Dehiyathakandiya, and to lagoon shore beautification and peddle boats in Kinniya and Eravur – not exactly the sites that would boost the tourism industry.
- 21 To give one example, a new eco-tourism hub in Thopur had been slotted to generate 1,000 jobs – but the Thopur that actually existed was a small Muslim farmer’s town with only a few rudimentary food stalls, where I had never seen a single tourist.