7 Conclusion

Big questions sometimes present themselves in small form. The grand themes of Sri Lanka's contemporary history – its quagmire of nationalist politics, the hampered solution of provincial devolution and the incessant friction between constitutional, administrative and political realities – became manifest in the minutiae of a marginal bureaucratic problem when I was in Colombo in October 2019. For just a moment, all the central concerns of this book were folded into a discussion between a civil servant and a constitutional lawyer about a topic that would never have occurred to me as one of my research interests: the appointment of schoolteachers.

I was attending a seminar titled 'Thirty Years of Devolution' at the Galadari Hotel in the historical heart of the capital. Constitutional experts were launching a book (Amarasinghe et al. 2019) to an audience of civil servants: chief secretaries and legal officers from various provinces. The debate centred on the unresolved problems of the provincial council system three decades after its creation. Any talk of fixing devolution felt like a rear-guard battle, though. We all knew that the world outside our elegant conference room had moved on. Whatever had been left of the consultative process on constitutional reform, which had started with much excitement under the Sirisena–Wickremesinghe government in 2015, had been thrown off the rails by the constitutional crisis of 2018 (Welikala 2020). The governing coalition had become defunct. The country was now holding its breath for the presidential elections, which would be in two weeks. Until the race between Sajith Premadasa (United National Party, or UNP) and Gotabaya Rajapaksa (Sri Lanka Podujana Peramuna, or SLPP[1]) was adjudicated, all other political matters were on hold. Quite literally so at the provincial level: by now, all councils had been dissolved. Their term had expired, but new elections had been postponed time and again due to

a stalemate over electoral system reform. In effect, we had entered a new 'interim period' where the provinces were ruled by presidential appointees (the governors) rather than elected politicians (the provincial council and the board of ministers), not just in the north and east this time but in all nine provinces.

The intricacies of schoolteacher appointments arose when the keynote speaker wrapped up his talk on the constitutional challenges of provincial devolution and one of the participants raised his hand. The teacher nominations that his province was grappling with were explicitly mentioned on the 'devolved list' of the thirteenth amendment: the constitutional turf of the province. But without elected councillors, who could act on this prerogative? Would it be constitutional for the governor to appoint these teachers? After all, as a presidential appointee, he did not have a mandate from the provincial electorate. The central education ministry had gone ahead and appointed teachers at provincial schools and was now asking the province for consent, but who was there to give or withhold it? Several participants started leafing through their booklet copy of the constitution and the provincial council act. The initial spell of frowning and consternation soon gave way to agitated debate and snigging in small groups around the room. The trouble was that the constitution framed these prerogatives as a governor's decision based on the 'advice' of the chief minister (and the provincial board of ministers). But what did advice mean? The prevalent interpretation among constitutional experts was that this was a grandiloquent phrase for what in fact amounted to an order, but what if the governor interpreted this advice as just another opinion that he might heed or not?

'Even if the statute empowers the minister', one of the provincial officers interjected, 'we often see the governor taking decisions'. Her tone and gestures suggested that she thought that this was just how it was – why make a big fuss over it? 'But', the keynote speaker riposted, 'the drafters of the constitution never anticipated a situation where the councils are dissolved for such a long time'. One of the chief secretaries (the top provincial administrator) scratched his chin and suggested that the council's chairperson (an elected councillor with a role akin to speaker of the house) could be a possible way out: 'The chairman stays when the council is dissolved …' The keynote speaker paused to appraise this suggestion and then responded: 'But there may be cases where the chairman dies or faces disciplinary action. Then the chief secretary does not have the power to appoint teachers on behalf of the council, so who is there?' Chuckled laughter across the room. 'What does the constitution expect us to do if nobody is empowered to take disciplinary action against a teacher who engaged in misconduct?' More laughter. 'Why on earth does the thirteenth amendment specifically mention schoolteachers but not other officers?' asked

one of the participants. 'I don't know,' the constitutional expert replied with a smile, 'I did not write it'. Another civil servant sat up and asked with a slightly worried voice: 'Does this also apply to sport teachers?' A new spate of questions and concerns ensued.

My empirical account started with the institutional jungle across the frontline in Sampur, an east coast backwater, a decade before the end of the war. It ends with a debate between lawyers and civil servants in a boutique hotel in Colombo a decade after the war. Very different times, very different places, but many parallels. When we start dissecting the multitude of institutions that we call the Sri Lankan state, what emerges is a Gordian knot of constitutional principles, administrative structures, political interference and violent impositions. We encounter a lived reality that is shaped by all the official rules and stipulations but which at the same time diverges radically from the original institutional design. Deliberation on the adequate constitutional form for sharing the sovereignty of a diverse nation eventually results in bureaucratic tribulations over schoolteacher appointments. And vice versa, the workaday improvisation of marginal administrators complicates and compromises the manifestation of the state's constitutional composition.

This book has untangled some of these complicated institutional realities. I have taken a performative perspective on political contestation to show that the lived reality of political order is produced in friction with the legal and political architecture of the state. An analysis of separatist conflict should not be held hostage to these formal categories, neither should it simply surrender to militant claims. In navigating this epistemic battlefield, this book has shown that the Tamil nationalist movement encompasses several competing political repertoires. Among these, the Liberation Tigers of Tamil Eelam's (LTTE) sovereign experiment (Chapter 3) was dominant for two decades, but this effort interacted with other performative experimentation, particularly those emerging from within the Tamil-dominated bureaucracy (Chapter 5) and the democratic arena of Tamil nationalist parties (Chapter 6). Each of these parallel trajectories of political performativity had a probationary character. They advanced through improvised citational practice, bending state rationalities and gaining implied acceptance, and as such the status and significance of these performative experiments were always contingent and precarious. Junctures that opened new space for manoeuvre were followed by moments of rupture, curtailment or complete erasure. With the faltering of one experiment, others regained potency, causing the political centre of gravity of the Tamil nationalist movement to shift, thus yielding new constellations and performative adaptation.

These observations resonate beyond the new-built houses of Sampur, the government offices in Trincomalee and the rally grounds in Jaffna. This final

chapter brings the different analytical threads of my analysis back together and discusses their broader merits and ramifications. The first two sections take stock of my findings to, first, revisit the theoretical problems of sovereignty and, second, review the merits of a performative perspective in addressing these problems. The third section appraises broader implications of my analysis for the scholarship on insurgent governance, on violent democratic politics and on the lived realities of war. I will close with a section to discuss whether devolution, as a constitutional antidote to conflict, has a future in Sri Lanka.

Revisiting sovereignty

Sovereignty is the ultimate mark of state power, and as such it is the notion through which states and national citizenship are legitimised, but it has no referent that lends itself to adjudication. International law (as codified in the 1933 Montevideo convention) premises the right to sovereign self-determination on the existence of a defined territory, a permanent population, a government and a capacity to enter into relations with other states, but these benchmarks offer little solace to sovereign aspirants. After all, such sovereign characteristics are typically a historical consequence, rather than a prerequisite, of state-building (Anderson 2006 [1983]; Anghie 1999; Benton 2009; Chatterjee 1993; Mukherjee 2010; Hansen and Stepputat 2005; Pahuja 2011; Purushotham 2021). The question of self-determination is not a matter of ground realities meeting the criteria; it is drenched in violent political struggles over making and interpreting ground realities.

Sovereign power is capricious. It does not merely harbour disciplinary force but also (*pace* Foucault 1997) excessive violence. It is encoded in the law but produced through violence, and (*pace* Schmitt 2005 [1922]) it ultimately centres on the sovereign exception of suspending the law. It is typically legitimised in a political idiom of state benevolence but (*pace* Kantorowicz 1997 [1957]) needs recourse to the transcendental to make sense. The central quality of sovereignty, as Gilmartin (2015, 2020) points out, is that its contradictions are inherently irresolvable. Sovereignty is intractable because it simultaneously constitutes the moral framework that legitimises the power, legal authority and violent capacities of the state *and* the ability to supersede this framework – to change the rules, to invent exceptions, to unleash violence. Rather than seeking to resolve or circumvent these tensions, this book has placed the unsettled nature of sovereignty at centre stage, thus making the book *about* the intractability of sovereignty, which then forces us to critically reflect on the way we understand and diagnose conflict.

Sri Lanka's postcolonial constitutional settlement and subsequent debates on the devolution of state power grappled with the notion of shared sovereignty, but these efforts crumbled in face of the contradictions inherent to that term: how to draft rules for sharing a kind of power that encompasses the ability to break the rules? Rather than serving as a framework of redress (mitigating ethno-nationalist conflict with an inclusive constitutional arrangement), Sri Lanka's constitution became a primary corrosive. The government's 'unilateral' constitution of the early 1970s definitively estranged the Tamil leadership, who demonstratively stepped away from this new legal framework and declared it invalid to the Tamil nation. With the escalation of political hoodwinking and violent confrontation in the 1970s and 1980s, contestation over sovereignty changed vessel, and the LTTE violently advanced the aspiration of Tamil separatism by gradually establishing 'de facto sovereign' structures.

In the 1990s, the LTTE established an elaborate institutional framework – grafted onto its violent control over Tamil society – to enact Tamil Eelam as an independent state in the making and then tried to sediment this disciplinary regime with self-authored legal underpinnings. This sovereign experiment was rife with tensions. The movement crafted new institutions by mimicking state departments but also co-opted existing state institutions. It emulated a procedural form of order with courts and departments but simultaneously remained unruly: recourse to ruthless violence was always a possibility, and the movement's *talaivar* (leader) Prabhakaran remained an ungraspable figure. While these tensions arguably apply to recognised states as well, they are especially stark with an insurgent movement like the LTTE. To bolster the territorial establishment of a de facto Tamil Eelam, the LTTE tried to appropriate external sovereignty by taking its sovereign performance to the international level during the peace process of the 2000s. The preparedness of the Norwegian mediators to treat the LTTE like a state – an entity on par with the Sri Lankan government – offered the LTTE an entry point into the circular logics of sovereign recognition. However, the apparent symmetry of the Norwegian peace effort was situated in a regional and global environment that considered the LTTE in staunchly asymmetrical terms. The peace process gave the LTTE an unusually conducive platform to vie for external sovereignty, but when that scaffolding collapsed, the downfall came with heavy repercussions: the sovereign erasure of 2009. The de facto LTTE state was wiped out, and its leader Prabhakaran, the ultimate referent of LTTE sovereign power, was killed. Acts committed in his name lost their validation. Any claim to insurgent legality became null and void. The government military victory reaffirmed Sri Lanka's unchallenged sovereignty and marked the triumph of an all-Sri Lankan nation concept over rival renditions of nationalism.

The notion of shared sovereignty suffered a slow death after the war – though one can never rule out a reincarnation. The regional autonomy arrangement of the provincial councils had once alluded to a compromised form of self-government, but the abilities of the councils crumbled precisely because they lacked the necessary sovereign underpinnings: control over land, bureaucracy, law-making, tax collection. As a result, provincial governance was legally truncated and starved of resources. In institutional terms, the councils were remarkably resilient throughout the years of war and the subsequent decade of highly centralised government. But in order to function, ironically, they needed to surrender the ambition they were created for: a form (however minimal) of self-government. The eastern council, in particular, eschewed playing an openly political role and thus degenerated into a regional welfare distribution scheme.

The end of the war brought the plight of Tamil nationalism full circle to the legal-political tensions around sovereignty of the 1970s, if in even starker form. The LTTE defeat left the Tamil nationalist movement in a precarious position. From the early 2000s Ilankai Tamil Arasu Kadchi (ITAK) (and its wider political platform, the Tamil National Alliance [TNA]) had positioned itself as a democratic extension of the LTTE struggle, a political placeholder for a Tamil state to come. After the LTTE defeat, this no longer made sense. ITAK had no recourse to the de facto sovereignty of the LTTE, and it struggled to project a credible pathway to a future sovereign Tamil state. It had difficulty presenting itself as a state-like representative of the Tamil nation because Tamil politics had once more become a diverse arena. To retain political relevance, ITAK was forced to engage in intra-Tamil party politics and run for office. In that context, it could no longer defer the fundamental contradiction between the Tamil nationalism it propagated (which rejected the sovereign underpinnings of the Sri Lankan nation and state) and the Sri Lankan democratic framework through which it tried to do so (which embroiled ITAK in the sovereign constellation it opposed).

The literature on Sri Lanka's ethno-political conflict attends to these issues (Edrisinha et al. 2008; Ludsin 2012; Saunders and Dziedzic 2012; Spencer 2007; Welikala 2012a; A. J. Wilson 2000), but the question of sovereignty is rarely confronted head on. My account underlines the need to explicate the intractability of sovereignty. Skimming over this yields a whole range of imbalances and omissions. For example, the question of sovereignty underlines that government recourse to the law (branding the LTTE as illegal, rejecting proposals as unconstitutional) is self-referential. Conversely, the Tamil nationalist claim to self-determination follows a systematic but similarly circular reasoning. Ultimately, it pivots on a question that is impossible to

adjudicate, for both lawyers and social scientists: Do the Tamils constitute a nation, and is the northeast of Sri Lanka their homeland? The de facto state institutions created by the LTTE projected their own self-referential logic of national demarcation, law, institutions and violence. It was de facto sovereign in its capacity to autonomously exercise discipline, but the qualification de jure sovereignty spawns more questions: What basis do we have to judge the legal, political and moral underpinnings of a sovereign Tamil state? Both international law and democratic theory are implicated by the circular logics between the definition of a national community, moral claims to self-determination, the legal and political codifications of sovereign statehood and the political dynamics of international recognition.

The absence of a firm normative or analytical framework to resolve these questions deserves reiteration because this fundamental problem is often clouded in the discursive projections of democracy, the rule of law and institutional legitimacy. This became especially obvious after the war. To understand the reservations of Tamil nationalists about postwar power-sharing, autonomy, minority protection and development, we must confront the fact that such proposals are contingent on the bootstrapping logics of the Sri Lankan constitution, and these derive from the sovereign power of the Sri Lankan state. And as such, these purported compromises are ultimately steeped in the violent assertion of sovereignty on the battlefields of the Vanni, where the massacres of the war's final offensives took place. To recognise the self-referential nature of sovereignty is to face the analytical swamp beneath our feet: our inability to adjudicate the fundamental questions underpinning the demarcation of sovereign states, the justification of democratic consent and the foundation of law. It cautions us to be more transparent about how the intractability of sovereignty raises questions that we tend to avoid, and how the analytical choices we make tend to stabilise the order and knowledge systems of recognised sovereign powers at the cost of sovereign aspirants that seek to challenge them.

Insurgent performativity

The empirical shape that government institutions and interventions take in practice may radically diverge from the way they are supposed to look from an official standpoint. Some institutions assume a role that differs from their legal mandate: some have a powerful mandate but become irrelevant; others do not have an official mandate but play a big role. The practices and performances of an institution are thus no derivative of its legal authorisation; rather, they are

in constant interaction with this authorisation. This is an important analytical premise because a large body of scholarship has been dedicated to identifying suitable constitutional designs and institutional architectures for conflict-ridden societies. Constitutional reform with a new institutional architecture for power-sharing may be a prerequisite for an inclusive settlement of some sort (Bastian and Luckham 2003; Choudry 2008; Reynolds 2002; Rothchild and Roeder 2005; Stern and Druckman 2000), but however brilliant a constitutional design the negotiators come up with, its actual shape and functionality will likely change beyond recognition when exposed to the forces of politics. A steadfast focus on defining institutional mandates sits uneasily with the widespread realisation that politicians routinely break the rules. Many South Asians would consider such transgressive practices normal politics (Klem and Suykens 2018; Michelutti et al. 2018; Mines 1994; Piliavsky 2014a; Price and Ruud 2014; Ruud 2009; Spencer 2007; Witsoe 2013). Setting norms is not the exclusive domain of those who write the lawbook or bargain over a new constitutional settlement. It is also shaped by the way conflict belligerents enact the political landscape in everyday reality.

I have therefore turned to the rich literature in political anthropology (Bertrand, Briquet and Pels 2007; Hansen 2001; Michelutti et al. 2018; Paley 2008; Siegel 1998; Spencer 2007; Wedeen 2003) and related fields (Gregson and Rose 2000; Haraway 1997; Harriss, Stokke and Törnquist 2004; McConnell 2016; Leigh and Weber 2018). This scholarship places official mandates aside and instead explores institutions through their everyday enactment (Geertz 1980; Goffman 1959; Hansen 2009; Rutherford 2012). It is often through symbolic performativity and spectacle that political institutions assume meaning in society. Such performance is not a mere façade to an otherwise rational order of the state – this staging of power and authority, so the argument goes, is what the state *is* (Abrams 1988 [1977]; Geertz 1980; Gilmartin 2012; Hansen 2001; Mitchell 1991). Many political entities are in fact 'twilight institutions' (Lund 2006); they may be subject to 'institutional bricolage' (Douglas 1970), and they are often replicated through 'citational practice' (Weber 1995) or 'mimicry' (Bhabha 1994).

This perspective opens the door for sovereign aspirants, of which the LTTE was but one example, to stage their authority in forms that people recognise as state-like – and lay the legal foundations afterwards (Klem and Maunaguru 2017; McConnell 2016; Watts 2010; Alice Wilson 2016). They are 'rehearsing the state', to use McConnell's (2016) phrase, in aspiration of a future status. They engage in 'make-belief' politics (Navaro-Yashin 2012) and a subversive variant of 'as-if' politics (Watts 2010) to instil probationary subjectivities and project political imaginaries. The implied logic of the institutional design

literature suggests that legal foundations define what is normal, and institutions are shaped on that basis. Insurgencies and unrecognised states remind us that this logic may be reversed: institutions are performed to make them look normal, which then enables them to grow legal roots.

Yet, when sovereign aspirants unfold their own institutional landscape, the performative effort of depicting this apparatus as real and authentic embodies its own denial. It is simultaneously factual and factitious (Bryant and Hatay 2020: 20–21, 269–271). The state-like institutions of an insurgency derive significance from their transgressive character – the very fact that they exist is a source of amazement. And because of their aspirational outlook and their backdrop of unresolved grievances, these institutions inevitably exhibit their own incompletion and ambivalence. They must be provisional to be credible. Sovereign experimentation, as I have argued in this book, comprises contingent and precarious institutional performance, which is invariably conjugated with the institutional frameworks that it seeks to quash, supplant, subjugate or co-opt.

Examples of creative institutional performance – with varying degrees of transgression – abounded throughout this book. The 1970s Bandaranaike government transformed parliament (a body *conferred by* the constitution) into a constituent assembly (a body *conferring* a new constitution). Provincial Chief Minister Perumal in 1990 replicated this legal gambit – though with much less impact – when he declared the provincial council authorised to draft the constitution of an independent Tamil state. Tamil nationalists engaged in demonstrative walkouts, marches and sit-ins, each part of a transgressive repertoire that uses public state arenas to contrarian ends. As an extension of this repertoire, they shifted the political significance of elections by discursively turning them into constitutional plebiscites or by boycotting them to voice political dissent. Understanding the significance of these institutions – and the manoeuvring around them – is clearly not just a matter of consulting the lawbook to verify their official status.

During the war, performative innovation went well beyond legal finesse and institutional tweaking. LTTE performativity set out to rewrite the political landscape altogether. To enact a de facto state, the movement founded departments without a legal basis (or rather, it founded the legal basis along with the departments), and it co-opted elements of state bureaucracy to work towards its separatist aim. Institutional mimicry and encroachment were central to this performative practice. The LTTE enacted state institutions in ways that its subject population could easily recognise as such: they closely resembled the institutions of the Sri Lankan state, which they were supposed to supplant. At the same, the awe and excitement about the LTTE's conduct underlined

that its normalising performance was not in fact so normal at all. After all, the movement's institutional framework was underpinned by a martial cult of devotion, sacrifice and martyrdom, and it established a cadre of boys and girls that lopsided many of the traditional norms and hierarchies of Tamil society. And when it managed to sustain itself, despite government attacks, 'the boys' (the masculine vernacular euphemism for the LTTE) put on suits and travelled to distant countries to be received by foreign dignitaries. During the ceasefire period in the 2000s, the LTTE boosted its state performance in the Vanni and expanded its performative repertoire to international diplomatic circles, giving rise to a radical experiment in political theatre. The movement dispatched diplomatic teams to other continents, started formalising its borders with customs officers and hosted foreign delegations with measured diplomatic pomp to showcase its emerging state.

Boundaries were tested and pushed from all sides. The LTTE's theatrical experiment raised excitement precisely because it was precarious: it was not so clear what the LTTE would get away with and for how long. The moment of truth could not be averted indefinitely. The peace process collapsed and, in the resulting showdown, the LTTE was rapidly pushed on the defensive. Its performative action on the international stage lost its validating stage and audience and was at risk of impressing as farcical. Its elaborate institutional architecture in the Vanni crumbled. When the movement finally perished, the government put Prabhakaran's corps on photographic display and built ostentatious victory monuments to lay claim to the land.

In parallel to the rise and fall of the de facto LTTE state, the everyday institutional practices of state departments continued. In contrast to the spectacular performativity of the insurgency, these bureaucratic efforts were a story of procedural hedging, compromise and institutional tenacity. The civil service adapted to the shifting tectonic plates of the war. Government bureaucrats continued to work in LTTE-held territory, and the LTTE started percolating into the purportedly adversarial institutions of the government. This was particularly poignant in the provincial council. The North-Eastern Provincial Council (NEPC) has received little serious public or scholarly attention but embodies a unique crumble zone between competing assertions of sovereignty. It was used by Indian peacemakers to enact a moderated version of Tamil self-government in the 1980s and was then subjected to the institutional encroachment of the LTTE in the 1990s. During the peace process of the 2000s, the NEPC emerged as a nucleus for experimenting with informal shared governance between the LTTE and the government, bankrolled by development donors. After the war, the LTTE's remote control over provincial bureaucratic apparatus was replaced by a different kind of interference: the tricks and trades

of democratic patronage politics. To shield themselves from these pressures, bureaucrats reverted to a similar strategy of keeping politics out by technical and procedural means. To expose attempts to appropriate resources for narrow political ends, civil servants invented new databases, paper trails and unofficial oversight bodies. State institutions were remarkably resilient because of their pliability. Frontlines came and went, a de facto sovereign LTTE state was established and then erased, peace processes took off and then collapsed, and bureaucratic institutions persisted throughout, including highly contentious ones like the NEPC.

Political performance often takes place in pursuit of normalisation – even if this normalcy is premised on its own denial, as discussed earlier – but the reverse may also occur. Aspirational performativity may explicitly exhibit a state of incompletion, of being stuck, of insufficiency, or even absurdity. The anti-political performance of Tamil nationalist parties comprised an effort of counter-normalisation. Expanding on its opposition to the prevalent democratic system in Sri Lanka in the 1970s (with self-declared referenda and electoral mandates for secession), Tamil nationalist parties continued to unsettle the purported normalcy of government institutions after the war. ITAK, the main Tamil party, engaged in oath-of-allegiance politics, providing its constituents with symbolic articles of faith to attest being part of a Tamil nation with unfulfilled aspirations. It also engaged in political abstinence through electoral boycotts to discredit the institution on the ballot during the Eastern Provincial Council elections in 2008. And when it could no longer afford to do that (that is, when it ran for the northern council in 2013), ITAK engaged in the performance of institutional deficiency, governing the northern council so as to demonstrate that the 'leaky boat' of provincial devolution fell short of a solution for the Tamil problem. These three repertoires debunked the legitimacy of Sri Lanka's democratic arena (and the provincial councils in particular) and they imbued ITAK (and their broader TNA alliance) with a heightened level of political significance and authority. However, the line between looking authoritative and losing face can be quite thin. ITAK's anti-political repertoires came under increasing strain after the war, partly because of the increased competition from other Tamil parties. This became most visible with the implosion of the Northern Provincial Council in the period 2016–2018. The crisis within ITAK and other constituent parties of the TNA culminated in a humiliating affront. The council could literally not sit because it had six people for five seats as a result of the schisms between Tamil political factions: a political version of the game of musical chairs. Rather than exhibiting the deficiency of provincial devolution in Sri Lanka, what was on display was the inability of the Tamil leadership to govern.

Broader implications

Some of the political skulduggery and transgression that I describe are routinely mentioned in historical accounts (Edrisinha et al. 2008; Spencer 2007; A. Wilson 2000), and the de facto LTTE state has received academic attention (Hellmann-Rajanayagam 1994b; Korf et al. 2010; Mampilly 2011; Provost 2021; Stokke 2006; Terpstra and Frerks 2018; Trawick 2007). My analysis deepens these insights by highlighting the historical chains of citation and mimicry and the ramifications of such transgressive institutional bricolage. These observations resonate with broader scholarly debates across several fields and disciplines. I will review some pertinent implications and merits by discussing the three fields of study that I started out with in the introductory chapter, respectively: on rebel governance, on violent democratic politics and on the everyday realities of war.

My analyses, especially the observations in Chapter 3, corroborate the broad strokes of the rebel governance literature (Arjona 2016; Arjona, Kasfir and Mampilly 2015; Mampilly 2011; Mampilly and Stewart 2021; Staniland 2014; Provost 2021; Stokke 2006; Terpstra and Frerks 2018). The sophisticated institutional array erected by the LTTE matches the central contention of this literature that insurgent movements are capable of establishing meaningful bureaucratic and judicial institutions. This body of work describes insurgent forms of governance, sometimes in meticulous empirical detail, to refute the narrative of war as anarchy, the reductionism of the terrorism paradigm and the concurrent juridical orthodoxy that no legal thing can emerge from an illegal entity. While my account readily endorses this line of argument, it also points to limitations in the rebel governance literature and offers complementary insight.

Let me illustrate this with reference to the two academic pieces that analyse the LTTE in greatest detail, Mampilly's (2011) account of the LTTE administrative system and Provost's (2021) discussion of the LTTE judiciary. Both are comparative books with a lengthy chapter on Sri Lanka that offers a more detailed overview of LTTE institutions than I have given: the different administrative levels and divisions are listed, the array of departments reviewed, and the framework of laws and courts unravelled. To aid the reader's comprehension of these fine-grained structure, both authors include organograms that depict institutions in different shades and connect them with solid or dotted lines (Mampilly 2011: 117; Provost 2021: 223, 225). Provost even adds table with the complete three-year curriculum of the LTTE law college (Provost 2021: 240), and Mampilly reviews the effectiveness of LTTE governance with indices such as the proportion of underweight babies, the number of completed court cases and school drop-out rates (Mampilly 2011: 110,

118, 123). These analyses, based on interviews and online documents, offer a rich empirical discussion, and they convincingly argue that an insurgent movement can establish effective administrative order (Mampilly 2011) and that it is imperative to countenance rebel jurisdiction in the margins of international law (Provost 2021).

These merits notwithstanding, there is something uneasy about the overriding tidiness of these accounts.[2] The rundown of institutions and the graphs depicting mandates and hierarchies instil a narrative that this is simply how it was: these were the laws, these were the courts, these were the duties of the education council, this is where they were in the hierarchy and these were their accomplishments. But in each of these assertions, the affirmative verb 'were' stands in the interpretative place of a Shakespearian question: 'To be or not not to be?' An overly formalistic rendition of LTTE institutions shrouds the central socio-political dynamic around this institutional framework (not least among the supposed Tamil subjects), which was one of awe and excitement, anticipation and suspense, perturbation and dismay. The LTTE's boldness in presenting its institutional architecture as normal derived political energy and significance from the fact that it was in fact not so normal at all. In short, the rebel governance literature is at risk of offering an academic replication of the LTTE's institutional framework, thus presenting the neat landscape of courts and departments as a discrete phenomenon that is severed from the capricious character of the movement.[3] We know that a rational, instrumental conception of the political arena misses crucial dimensions of politics in well-established democracies like the United States or India (Banerjee 2008, 2014; Spencer 2007) or authoritarian regimes like Syria or Yemen (Wedeen 1999, 2003). It suffers from similar limitations in the context of a separatist insurgency. Projections of legitimate government must be understood as contingent, especially in the context of coercion and violent conflict.

The performative perspective adopted in this book thus complements the rebel governance literature by situating the institutional framework of insurgent rule within a broader arena of contingent performative practices around competing claims to sovereignty. Insurgent experimentation with governing institutions must be considered in conjunction with the inherent uncertainty and unruliness stemming from the transgressive and capricious nature of sovereign performativity. Institutional logics matter, but rather than adopting them as our analytical categories to describe what an institution 'was', they must be understood as part of a performative script. LTTE courts and departments were subject to the probationary character, the dubious status and the uncertain permanence of the movement's sovereign experiment. Institutions could mingle with and encroach on other institutions, or create new offspring;

they could emerge in one era or arena and end up in another. Tamil nationalist parties like ITAK preceded the militancy, were subverted by the LTTE in the 1980s and 1990s, then became its parliamentary mouthpiece in the 2000s and struggled to claim its political inheritance in the 2010s. The NEPC was violently subdued, then co-opted as an interstitial institution and then outlived the LTTE as a resilient but politically moot power-sharing apparatus. What an institution 'was' thus remained uncertain: it could change, sometimes rapidly, and it could assume new meaning and potency, or lose it. As I have shown, the experimentation with institutional bricolage, twisting political entities and self-appropriated legal mandates did not start with the LTTE. These transgressions have a long history – one that escalated with the legal and political hoodwinking of the 1970s and militarised with the pogroms, violent skirmishes and India's military intervention of the 1980s. Similarly, the significance of the LTTE's sovereign experiment did not perish with their 2009 defeat in Mullivaikal. The symbolic repertoires, the institutional precedents *and* their subsequent violent erasure continue to shape the Tamil political consciousness and lend themselves to new forms of citational practice.

Second, the literature on violent democratic politics (Arias and Goldstein 2010; Hagmann and Péclard 2010; Hansen 1999; Hansen and Stepputat 2001, 2005; Michelutti et al. 2018; Peabody 2009; Piliavsky 2014a; A. Sen 2007; Spencer 2007; Witsoe 2013) resonates closely with the malleable institutions, the fluid boundaries and the political trickery that I have described in this book. The pre-war staging of Tamil dissent, the wartime courts and cults of the LTTE and the postwar projection of subversive aspirations all have cognates elsewhere. The most obvious South Asian parallels may be drawn to the political strongmen, revolutionaries and thugs of what Michelutti et al. (2018) describe as 'Mafia Raj'. While many of these figures operate in the democratic arena and the state bureaucracy, they also muster the 'de facto sovereign' (Hansen and Stepputat 2006) capacity to instil their own variant of public discipline: they impose rules, extract resources, adjudicate disputes, mete out penalties, wield armed violence and propagate leadership cults (Hansen and Stepputat 2005; Malik 2018; A. Sen 2007; Spencer 2007; Witsoe 2013).

However, the aspiration of nationalist self-determination distinguishes the LTTE's sovereign experiment (and the Tamil nationalist movement more widely) from the political strongmen that prevail in South Asia's democratic landscape. This bold ideological outlook complicates the relationship with state institutions, and it heightens the significance of international audiences. It necessitates the performance of parity vis-à-vis the state and thus deepens the schizophrenia of operating in a democratic landscape that one rejects on principle grounds. Broadly in the spirit of Hansen and Stepputat's attempt to

place diverse manifestations of political authority and de facto sovereignty into one conceptual frame (Hansen and Stepputat 2001, 2005, 2006), the preceding chapters have straddled the spheres of violent insurgency, democratic politics, constitutional law and bureaucratic administration. The NEPC trajectory illustrates this well: it was framed and constrained by Sri Lanka's constitution and administrative structure, but it was deployed to project rival interpretations of sovereignty by the Indian government (in the late 1980s), the LTTE (in the 1990s and 2000s) and the TNA (in the 2010s).

By placing specific episodes of strong-arm politics, insurgent governance and political protest on the broader trajectory of Sri Lanka's ethnopolitical conflict, the tremors of routine political contestation – a fight won, an election lost, patronage wrested or ceded – become connected to the much larger ruptures of the state's tectonic plates that occur when a violent insurgency escalates, transforms and ends. Consider ITAK's postwar repertoires of performative anti-politics. The party engaged in transgression, but as a political outfit, it comprised the inverse of 'Mafia Raj', the rule of the strongmen described in the literature in violent politics in India (Berenschot 2011; Michelutti et al. 2018; Piliavsky 2014a; Witsoe 2013). These strongmen may have great political potency and an ability to project force, but they do not typically have aspirations of establishing a new state. ITAK made every effort to retain that aspiration but lacked political muscle. India's political bosses have a sovereign capacity but no ambition of formal sovereign status; ITAK has the ambition but not the capacity. As a result, ITAK's political performativity did not project the agentive ability and intractable power that political strongmen (and the LTTE) are known for, but rather enacted repertoires of dissent, subversive allegiance, suffering and victimhood. These performative efforts embed ITAK's present political weakness in the *longue durée* of the Tamil struggle, thus drawing potency from a past of thwarted rebellion (with references to the 'genocidal' end of the war, the military feats of the LTTE and the legitimating narratives of the pre-war Tamil nationalist movement) and a future of aspiration (parrying awkward questions about the internal fissures, the ageing leadership and the lack of results with promises of a state to come). Seen in this light, parallels emerge between ITAK's postwar politics and the broader South Asian repertoires of commemorating collective hardship, adulating slain leaders, glorifying sacrifice, staging victimhood and prophecies of new kingdoms to come (Das and Poole 2004; A. Sen 2007; Shah 2019; Singh 2012; Spencer 2007).

Third, my analysis resonates closely with the scholarship on everyday realities of societies at war (Kelly 2008; Lubkemann 2008; Pettygrew 2013; Richards 2004; Spencer 2007; S. Thiranagama 2011). These ethnographic accounts unsettle established master narratives of conflict (its assumed causes,

dynamics, parties, and phases) and instead adopt the vantage point that lived realities are self-reflexive: the material realities of a society at war shape their interpretation, and vice versa. Violent conflict has epistemic effects. The boundaries of gendered conduct are redrawn, subjectivities are rearticulated, the abnormal becomes the norm, the normal becomes exceptional. And as a result, what the conflict is about is itself subject to transformation. Tamil nationalism is a central component of Sri Lanka's ethno-political conflict, but what it means to be Tamil has changed through the experience of escalating conflict and civil war. The resultant reworking of boundaries, repertoires and political positioning affected the whole range of subjectivities – ethnicity, gender, age, religion, region, class, caste, *kudi* (Sitralega Maunaguru 1995; S. Thiranagama 2011; Winslow and Woost 2004).

As shown in Chapter 4, this process did not stop with the end of the war. Postwar Sampur was rife with confusion and struggle over the cultural fibre of Tamil society. Attempts to reconstitute a 'pure Tamil space' after the war conjured up anxiety and discord. Any attempt to define or demarcate the Tamil community after three decades of suffering, displacement and mixture conjured up new problems and divisions. With the dissipating clasp of wartime dispositions, Tamil boundaries, virtues and hierarchies were all in flux, and as a result, it appeared as if the very essence of being Tamil was slipping away, leaving people to feel disoriented and 'singular'. Efforts to reinstate traditional caste and *kudi* hierarchies, affirm Hindu space and police cultural practices were met with opposition and rival interpretations of postwar Tamil identity (similar observations were made in Jaffna; Geetha 2020; Silva 2020). These fissures and scuffles transposed to the political arena, where the culturally conservative leadership of the TNA was confronted with the renewed buoyancy of intra-Tamil struggles over social emancipation and the concurrent re-emergence of rival political parties. My analysis does not fundamentally challenge Thiranagama's (2010, 2011) work or related scholarship (McGilvray 2008; Walker 2013; Whitaker 1997). Rather, it complements this literature with observations on more recent postwar dynamics and by extending the perspective of everyday social realities to the spheres of the Tamil bureaucracy (Chapter 5) and Tamil nationalist politics (Chapter 6).

This extension of temporal scope brings questions about the postwar condition into the purview of this scholarship. The 2009 LTTE defeat marked a watershed moment that heralded a process of fundamental change, but the resultant shifts and struggles are completely embroiled with the conflictual past. This ambiguity is embodied in the ambivalence of the prefix 'post'. The 'post' in postwar transition does not mark a 'definitive after' but a 'continued struggle against legacies of'. It denotes a societal process that is shaped by attempts to

diverge from the recent past while being in a state that continues to be marked by it. Postwar transition does not denote a fresh start. It comprises a transition away from what was – war – but this involves a continued struggle against and over the enduring implications of that past. The ethnography of war literature retains its relevance after war ends. Many cultural repertoires, forms of authority, the crafting of social spaces beyond conflict and norms of gendered conduct remerge in the postwar era – if often in rearticulated form. As I have argued elsewhere (Klem 2018), parallels could be drawn here between the postwar condition and the postcolonial condition. In both contexts, the impact and legacy of the recent past leaves an imprint in the categories of knowledge, which in turn shape identities and subjectivities. And the foundational violence that preceded the new sovereign order curtails the bandwidth of legitimate politics. Not dissimilar to newly declared post-colonies, Sri Lanka's violent apotheosis of 2009 precipitated the postwar political order. The experience of the preceding years heavily shaped the militaristic inclinations, the closure of political space, the unbounded potency of the ruling family and the imposition of a 'peace without ethnicities' wherein President Rajapaksa's Sinhala nationalist outlook declared ethnic identity irrelevant.

Whither shared sovereignty?

Is there hope for Sri Lanka's provincial council system? Can anything be done to fix its faults? Can it serve as a compromise to assuage ethno-nationalist conflict? To end this book with firm projections or prescriptions would go against its foundational analytical premises. My chapters have shown that breezy attempts to predict the trajectory of Sri Lankan politics invariably capsize, and recommendations for an institutional fix yield unforeseen outcomes. It is possible, though, to take stock of how the provincial council system has evolved and to identify what space it leaves for meaningful regional autonomy and power-sharing.

The provincial council system has failed to deliver on the rationale of resolving or even palliating Tamil nationalist aspirations and the grievances of Sri Lanka's ethnic minorities more widely. It was stifled, sabotaged and starved from the outset and remained a marginal layer of government after the war. To retain the little capacity that they have, provincial councils compromised their autonomy by finding allies in Colombo and by steering clear of controversial political issues. Effectively, they have become a framework for distributing a trickle of welfare services across the island's diverse regions, but that is not what the provincial councils were created for, and one does not need provincial councils to secure balanced regional development.

At the same time, the councils have proven remarkably tenacious. They were created amidst an escalating war, and they were fiercely opposed from all sides. Yet their institutions held out. The postwar political climate was marked by unprecedented centralisation of power and minimal political space for dissent or minority protection. The constellation could hardly have been less conducive for devolved governance, but the provincial councils survived the postwar Rajapaksa years. The victory of the Sirisena–Wickremesinghe 'good governance' government in 2015 raised new hopes, but these were short-lived. Within two years, the coalition crumbled. In 2018, President Sirisena tried to replace his prime minister (Wickremesinghe) with former president Mahinda Rajapaksa but was forced to reverse his decision. This aborted 'self-coup' prompted a constitutional crisis that made the skulduggery of the 1970s look tame: unprecedented transgressions followed in rapid sequence.

The November 2019 elections broke the resulting political paralysis. Mahinda's younger brother Gotabaya Rajapaksa (SLPP), former defence secretary and self-claimed architect of the military victory over the LTTE, became president. Ethnic minorities braced themselves for newly unleashed bouts of Sinhala-Buddhist nationalism, authoritarian measures and military-style governance. It was in the eerie calm before this storm that I found myself at the Galadari Hotel attending the seminar on devolution described in the first paragraphs of this chapter. The position of the yet-to-be elected provincial councils (polls continue to be deferred) was more constrained than ever. It was too early to conduct a post-mortem on the provincial council system, but it certainly impressed as terminal. And yet, the tenacity of the provincial apparatus suggests that it will salvage a residual spirit of autonomy in delivering public services and resources. In terms of *realpolitik*, this is what maximal devolution entails in the present constellation.

In *constitutional* terms, maximal devolution would honour a veritable sense of shared sovereignty and thus ease the excessive legal, financial and administrative constraints on provincial councils. As many studies, reports and public consultation mechanisms have argued before me (Amarasinghe et al. 2019; Bastian 1994; Coomaraswamy 2003; Edrisinha et al. 2008; Thiruchelvam 2000; Welikala 2012a, 2016; Wickramaratne 2014), it would involve rationalisation of devolved subjects, with clearly delineated central and provincial roles and no concurrent list (currently a smorgasbord of shared central and provincial prerogatives). It would safeguard Sri Lanka's national interest by giving the centre authority over security, foreign affairs, major natural resources and strategic maritime matters but make the province responsible for police, land, taxation and the ability to attract investment. It would also empower provinces to release themselves from the clutches of the constitutional clause

that national policy prevails on all subjects, and it would bolster provincial autonomy in terms of staffing and resources. Provincial prerogatives would have to be constitutionally protected and a balanced mechanism for legal redress would need to be in place to adjudicate disputes between centre and province. It would require a conception of citizenship that reflects the diversity of Sri Lankan society, for example by framing popular sovereignty in plurinational terms. This would yield a democratic constellation of complementary *demoi* that transcend provincial boundaries and a bill of rights (Samararatne 2019) to protect all individuals and minorities from state misconduct at both central and devolved level. Finally, to comprise a geography that makes political sense (that is, one that comprises regions with a reasonable coherence and a distinct historical, cultural and socio-economic signature), the geographical conception of the provinces would need to be redefined to create a smaller number of entities that are larger in size: for example, some version of the (Tamil- and Muslim-dominated) northeast, some version of the ('Rajarata') northern flatlands, some version of the ('Kandyan') upcountry, some version of the south ('Ruhuna') and some arrangement around the national capital.[4]

All of this would elicit major political, legal, ethical and, frankly, sovereign problems. It would require a new constitution, probably a constitution with unamendable foundational clauses. It raises questions – some would say forgone conclusions – about political viability. It raises issues of legitimacy, and it conjures up the fundamental problems I started out with. What political community/communities, demarcated on what basis, would be entitled to decide on this? How to regulate sovereign power if that power is premised on the ability to supersede regulation? How to prevent a framework to assuage ethno-nationalism from inadvertently fuelling it? How to endow ethnic minority regions with autonomy without giving them the autonomy to impose majoritarian rule over their own regional minorities? In other words, a framework of maximal devolution would not resolve the central theoretical problems of this book; they would come up in different, possibly starker, forms.

Yet, given the perseverance of Tamil nationalism over the past century and the resilience of devolution (in terms of both discourse and institutions), we should not write off the possibility of a new settlement of some sort to emerge in ten or twenty-five years. Institutional performance never reaches a static end stage, and thus there always remains a potential for subtle or radical shifts in the political landscape due to new repertoires – or old repertoires that assume different meanings in a new context. If a new settlement materialises, it is unlikely to be completely new. Hardly anything ever is. All the bargains and debacles, alliances and fissures, escalations and de-escalations that we have seen over the past decades have rearticulated existing components into

new configurations. They reassembled legacies rather than shedding them. Any future bargain would likely be shaped by the institutions and idioms of provincial devolution. And as such, any future settlement would be indebted to the struggles, the tenacity and the innovations of many of the people I have described in this book.

Notes

1   The SLPP, or the Sri Lanka People's Front, was the newly created political vehicle of the Rajapaksa family after they failed to wrest their original political home base (the Sri Lanka Freedom Party, or SLFP) back from President Sirisena. The SLPP was created in 2016 as a reassembly of an earlier Sinhala-Buddhist nationalist outfit: Ape Sri Lanka Nidahas Peramuna (Our Sri Lanka Freedom Front), which was in turn a reincarnation of the Sri Lanka Jathika Peramuna (Sri Lanka National Front).

2   Both authors, though mainly Provost, acknowledge some rough edges around this tidy organisational structure. For example, in Provost's (2021: 243) discussion of the LTTE's 2006 Child Protection Act, which prohibited child recruitment, he highlights that there was an element of window-dressing to the international community and that LTTE military practice did not yet match this commitment in practice (Provost 2021: 243).

3   As mentioned in Chapter 3, this issue fuelled fierce academic debate. When Stokke (2006) discussed the sprawling of LTTE institutions after the 2002 ceasefire, Sarvananthan (2007) accused him of taking LTTE propaganda at face value and thus lending it academic credibility, a claim that Stokke (2007) firmly rejected.

4   While this is extremely controversial, it has been suggested that a division along these lines would match historical precedents of Sinhala kingdoms and the graduated impact of colonial rule (Perera 1997). The devolution package of the 1990s proposed a similar model of a union of regions (Thiruchelvam 2000).