2 Sovereignty, Performativity and Tamil Nationalism in Sri Lanka

This chapter establishes the theoretical underpinnings of this book and clarifies key concepts and ideas. More specifically, it reviews debates on the question of sovereignty and its murky status as the central referent of global political order, and it advances the perspective of performative politics to grapple with the contradictions and ambiguities that prevail in the context of sovereign contestation. The chapter then proceeds to apply this perspective to the Tamil nationalist movement in Sri Lanka. In doing so, it also provides the reader with essential contextual and historical background to the chapters that follow.

The notion of the sovereign state as the legitimate authority over people and territory is deeply inscribed in prevalent understandings of the world today – as the referent of law, authorised force, national citizenship, democratic rule and international order. It is embedded in a whole architecture of norms and claimed entitlements. However, this framework of legitimation is ultimately circular: sovereign states are sovereign because they are. This circularity becomes exposed when the fundamentals of a state are challenged (Pegg 1998, 2017). Such confrontations come in myriad forms – indigenous communities resisting settler states, such as in Australia (Schaap 2004), Canada and the United States (A. Simpson 2014); occupied territories with a government in exile, like Tibet (McConnell 2016) or Western Sahara (Alice Wilson 2016), or a constellation like the Syrian Interim Government (Gangwala 2015; Sosnowski, under review); governments with incomplete or faltering sovereign recognition, such as the Palestinian Authority (Feldman 2008; Kelly 2006), the Turkish Republic of North Cyprus (Bryant and Hatay 2020; Navaro-Yashin 2003), Transnistria (Bobick 2017), Abkhazia (Preltz-Oltramonti 2017), Kosovo (Krasniqi 2019; Van der Borgh 2012), Taiwan (Corcuff 2012; Friedman 2021) or Hong Kong

(Yep 2013); insurgent groups that demand reunification with a neighbouring state, as in Northern Ireland (Aretxaga 1997; Little 2014); or separatist movements as in Catalonia (Achniotis 2021; Bárcena 2020; Enguix Grau 2021), Kurdistan (Gunes 2012; Watts 2010), northeast India (Baruah 2007) and Myanmar (Brenner 2017) – and, as discussed in this book, in northeastern Sri Lanka.

By challenging the foundational premises of state sovereignty, these movements unsettle the self-referential cycle of analytical and normative claims that undergird the notion of legitimate state sovereignty. Once that cycle is interrupted, the established moral yardsticks for political order – what historical precedents impart, what the law prescribes, what the nation consents to – offer us little recourse because each of these categories is itself implicated by the prevalent conception of a particular state. Separatism thus confronts us with a combined normative and analytical problem. I will posit that the literature on performative politics lends us a helpful lens to navigate this problem. This enables us to approach the institutional framework established by an insurgent movement as a contingent sovereign experiment. Rather than placing upfront the prevalent criteria of validity and legitimacy (this is or is not a sovereign state, because …), this directs our attention to the way political assertions are put to practice in pursuit of sovereignty, what kind of de facto realities ensue, the spectacle and uncertainty around them, and how these interact with the question of normative status.

The second half of this chapter discusses the historical trajectory of Tamil nationalism and that of the Sri Lankan state and its failed attempts at sovereign power-sharing. While the basic tenets of this history will be familiar to many South Asianists, the perspective of performative contestation over sovereign claims places some elements of Sri Lanka's ethno-political conflict in a new light.

Sovereignty

The term 'sovereignty' is slippery because it means so many different things at once. It may denote a national right (self-determination), the status of a recognised state (state sovereignty), a violent potency (sovereign power), an individual with regal attributes (the sovereign) or the capacity to suspend the law (sovereign exception), to name the most salient examples – and these conceptions then yield more derivatives and combinations. I discuss a conceptualisation of sovereignty that draws on several of these meanings in relation to the phenomenon of a separatist insurgency. First, however, it is instructive to take a step back and consider the historical luggage vested in the modern discourse of sovereignty as the bedrock of the international order of legitimate states.

The institutional jungle of Sri Lanka's civil war may seem like an anomaly, but if we broaden our view – in both spatial and temporal terms – and place the political landscape of the Tamil insurgency in the context of South Asia throughout the twentieth century, this convoluted landscape is no longer so exceptional. Constellations with competing claimants to sovereign authority, convoluted layers of rule, permeable boundaries and fragmentary legal regimes look rather less exceptional. And more significantly, the conception of sovereignty – as a deceptive benchmark of legitimate statehood – itself emerges as a product of the colonial past.

Notwithstanding its rampant violence, colonial rule did not comprise an all-encompassing imposition, a European blanket of legal-political ordering that was rolled out through imperial conquest. The notion of colonial sovereignty as a systemic form of rule over people and territory was 'a performative ideal', Hansen (2021: 41) argues.[1] In practice, this historical process was characterised by contingencies, rough administrative edges, legal ambiguity, institutional competition, and continuous interaction between attempts at governance, push-back, unintended consequences and ground realities that kept shifting beyond the clasp of policy. The mercurial nature of colonial law stems from the unremitting challenge of having different kinds of law for different kinds of people and territory (Benton 2002, 2009; Chatterjee 1993). This multiplicity yielded ambiguity and friction because these differences were never watertight: human affinities and relationships blurred racial distinctions; human bodies, claims and entitlements crossed territorial divides (Benton 1999; Cooper 2014; Lombard 2020; Mongia 2018; B. Rutherford 2004). As a result, colonial rule (and postcolonial transition) offered an incessant flow of hazards and opportunities around the tensions and niches of legal pluralism. Customary authorities sought formal recognition and exploited legal ambiguities to redefine laws in their favour (Moore 1978). Overlapping forms of jurisdiction between the legal frameworks of the state, customary tradition and religion resulted in both forum-shopping and shopping forums (Von Benda-Beckmann 1981).

The so-called Westphalian notion of sovereignty did not simply come of age in Europe to then be imposed on colonies; it was itself shaped by the colonial encounter (Anghie 1999; Cooper 2014; Hansen 2021; Scott 1995). Colonial rule was propelled by sovereign experimentation, resulting in forms of order that were incomplete and subject to attempts at encroachment and adaptation. Empires comprised inconsistent, incomplete and indirect rule resulting from détentes and treaties with sultans, kings, religious jurisdictions, tribal councils or other forms of authority. India's 'princely states' within the British Raj were a salient example (Beverley 2013, 2020b; Gilmartin, Price and Ruud 2020; Purushotham 2015). Colonial administrations were riven by the

divergent trajectories of different tentacles of government, which prompted tensions and scuffles, for example, between the executive and the judiciary or between capitals and delegated authority. Colonialism was thus characterised by multiple, competing sources of legal authority, implicating the legal politics of colonisers and colonised alike (Benton 2002; Beverley 2020a; Cooper 2014; Mongia 2007, 2018; Mukherjee 2010).

The process of decolonisation harboured a similar set of tensions (Chatterjee 2005; Sherman, Gould and Ansari 2011). The formative moment of independence tends to feature in historical canons as a grand unifying struggle against European domination; at closer scrutiny, it was almost invariably shaped by conflictual encounters between competing aspirations of sovereignty and ruptures around the demarcation of a national *demos*. It was fragmented, and the resulting nations were composed of diverse fragments (Chatterjee 1993). Purushotham's (2021) recent effort to reinterpret India's transition 'from raj to republic' illustrates that the violent rearticulation of boundaries was not confined to the geopolitical strokes of independence and the partition. It also comprised intense struggles over ethnic, religious, ideological and patriarchal claims to authority, both within and across these national demarcations. Sovereign violence and sovereign exceptions abounded, not only in the encounter with colonial authority but also in subjugating the unresolved contradictions and unruly potentials within.[2] Purushotham illustrates that India's discourse of popular sovereignty and civic nationalism, enshrined in a federal democracy, emerged out of the violent conflicts inside the anti-colonial struggle. The competing imaginations of sovereignty were brought in line with violent impositions, and as such, 'India's liberal democracy was grafted onto an authoritarian state' (Purushotham 2021: 251). The foundations and demarcations of the political system were established through sovereign violence, which carved out space for a proud national tradition of democracy and the rule of law (Chatterjee 1986; Jalal 1995). Challenges to these sovereign delineations were placed out of bounds. Struggles about the nature of the state (for example, the Naxalite movement: Kunnath [2012]; Parashar [2019]; Shah [2013]; Suykens [2010]) and its territorial demarcation (for example, across India's borderlands: Baruah [2007]; Duschinski et al. [2018]; Shani [2007]; Vandekerckhove [2011]) persisted, but they were banished to extra-democratic spaces and dealt with accordingly – a dynamic that is also observed in other South Asian states (Chowdhury 2003; Gardezi and Rashid 1983; Gellner 2007; Jalal 1990; Lecomte-Tilouine 2013; Malik 2018).

The postcolonial moment marked a historical watershed where a particular sovereign constellation prevailed over its alternatives. Apart from establishing national boundaries, this juncture solidified the national foundation of law and concurrent delimitations of the sphere of legitimate politics. Yet it would

be misleading to present this watershed simply as the historical transit point between imposed colonial order and postcolonial self-rule, where European concepts of state sovereignty and national self-determination were imparted to the rest of the world (Anghie 1999; Beverley 2020a; Chatterjee 1993; Cooper 2002; Hansen 2021). This view would oversimplify the multifarious and splintered nature of colonial rule before independence; it would elevate a specific mode of government, steeped in a specifically European experience of national sovereignty, to become a general interpretative norm; and it would relegate the fractured and contentious nature of postcolonial sovereignty to the background. Postcolonial scholarship helpfully offsets the idealised image of the modern European state as the inevitable master frame of our analysis. Questions of sovereignty and sovereign power abound in this literature, but rather than validating the vestiges of the state, these terms denote unresolved tensions and contradictions. This contradictory character of sovereignty is no figment of the past or a watermark of political immaturity in the global periphery. It is inherent to sovereignty.

Defining sovereignty thus becomes an onerous endeavour. An initial definition would be the supreme right and ability to govern over people and territory without yielding to a purportedly higher external force. As such, sovereignty operates on the interstices of power (the supreme *ability* to govern) and legitimacy (the perceived *right* to do so). The heart of the problem, Gilmartin (2020) holds, is that worldly power cannot legitimise itself. It must source its moral authority from beyond the political community to which it pertains, often by alluding to transcendental or mythical registers. As a result, sovereignty is simultaneously conceptualised as an integral part of the society it claims authority over *and* as a register of power and legitimacy that stands apart from society. This dual quality of being both within and outside society generates a relentless contradiction, Gilmartin argues – not a contraction that is difficult to resolve but rather one that *cannot* be resolved.

At first sight, this conceptualisation appears at odds with a Wilsonian understanding of sovereignty, a term premised on the national right to self-determination. After all, this right is purportedly sourced from within. From this perspective, and its codification in international law (most obviously the 1933 Montevideo convention[3]), a nation's entitlement to self-rule, free from colonial occupation, derives from its internal character in terms of language, territory and political history. But this supposed internality is part of nationalism's fiction. Nations are political constructs that emerge from violent histories of nationalist contestation and state formation, *not* immanent political communities that offer a clear popular foundation for the state. A body politic may be depicted as an extension of kinship, where family serves as a trope for the nation. The definition of that family – its character, its internal composition and its

demarcations – is inherently contested. It consists of diverse human bodies that are categorised with ascriptions of race, purity (for example, in relation to caste) and sexuality. The historical emergence of a national community, with distinct cultural customs and virtues, thus pertains to the intimate sphere of kinship, sexuality, gendered bodies and kinship. The nation is an inherently gendered construct (Barker 2006; Chatterjee 1993; Cooper 2014; Jayawardena 1986; Parashar 2018; Spivak 1988). It is steeped in masculine and feminine renditions of origin, reproduction, guardianship, modernity and destiny. It is premised on differential forms of gendered subjectivity, where women adopt secondary roles. And as such, it is subject to tussles over the way gendered conduct is practised, depicted and policed (Chatterjee 1993; Parashar 2018; True 2018; Sylvester 2011; Yuval-Davis 1997).

As discussed in the context of the British Raj earlier, the discourse of self-determination offered no fitting template for the multifarious landscape of a colonial empire in demise with fierce and violent competition between monarchic traditions, the awakening of ethnic, religious, or linguistic communities, peasant uprisings, leftist mobilisation and nascent forms of civic nationalism (Chatterjee 1993; Purushotham 2021). The notion of sovereignty that the discourse of self-determination propels is thus not simply sourced from within, as a derivative of a community's national qualities. It is subject to a relational history between that community and its supposed others. National sovereignty invariably emerges from a genealogy of mixture and dissociation, settlement and mobility, autonomous authority and occupation, internal violence and external violence, because claims to self-determination are rarely singular. The reflexive prefix – self – tends to be subject to competing political interpretations of collective selfhood (G. Simpson 1996).

Democratic theory has difficulty adjudicating competing claims to self-determination. If the national demarcation of democracy, the *demos*, is contested, democratic principles offer no firm redress. A democratic system cannot resolve disagreements over its own boundaries, Whelan (1983) famously posited, because it is itself a function of that demarcation. After all, if one were to subject the demarcation of the people to a vote, who would be entitled to vote on it, and which majority would count? A referendum on the bounds of the people would itself require bounds. Moreover, every boundary has two sides, so those excluded from a particular rendering of the people should be entitled to have a say on it too.[4] A related theoretical reflection in legal scholarship may be found in Brilmayer's (1989) claim that the legitimate origins of law inevitably involve 'bootstrapping': law circularly reasons itself into being.[5] Sovereignty is ultimately a self-referential concept, Hansen and Stepputat (2005, 2006) underline. It is presented as the self-evident foundation of state power and legitimacy but ultimately has recourse only onto itself. Seen in this light,

the assertion of national sovereignty may be depicted as the original sin of the moral framework of constitutional democracy. It celebrates itself as a legal-political order beyond violence but originates from (and continues to be anchored in) the violent and illiberal crafting of its own prerequisites: the definition of a national community (and its internal norms and hierarchies), the demarcation of territory, the foundation of law and the state's mandate to govern.

The provenance of most sovereign states, including the European ones that are often held up as the implied model, is therefore caught up with sovereign power. In the European tradition, the referent of such sovereign power has historically migrated from god to king, to parliament and finally to the nation at large (Bartelson 1995; Kantorowicz 1997 [1957]). Similar, but different, sovereign genealogies may be found in South Asia (Gilmartin 2015, 2020; Heesterman 1985). Sovereign power is not simply supreme legal authority but the ability to bring legal authority into being or to take it away. Given that this is not just about the rules of political conduct but about the ability to change the rules or to declare exceptions (Agamben 2005; Schmitt 2005 [1922]), sovereign power is inherently caught up with violence: not only the predictable violence of the legal procedures of discipline but also the sublime violence of disregard for human life if it so pleases the sovereign (Hansen 2001). It is capricious. There are rules and rights. But they can change.

This was perhaps more visible during feudal or colonial times, when sovereign power was dispersed among a raft of lords, suzerainties, companies and private armies, which subjected populations and extracted economic value with a large degree of impunity. But arguably, many of these 'de facto sovereigns' are still with us, in the form of offshore border patrols and incarceration systems (Bilgiç 2018; Little, Suliman and Wake 2023; Mountz 2011), assemblages of remote warfare (Akhter 2019; Demmers, Gould and Snetselaar 2020; Hayat 2020), militias (A. Sen 2007; Verkaaik 2004), quasi courts (Buur 2005; Malik 2018) or political strongmen (Michelutti et al. 2018; Piliavsky 2014a). Hansen and Stepputat (2006: 269) define 'de facto sovereignty' as the ability to exercise 'discipline with impunity'. Phrased with a bit more detail: the ability to initiate rules and enforce them, if need be, with lethal violence (exercise 'discipline'), without yielding to a more powerful governing force ('with impunity').

Insurgent groups that supplant existing state institutions with their own, impose rules, enforce loyalty, levy tax, recruit cadres and foster legitimacy with minimal forms of service provision (Arjona, Kasfir and Mampilly 2015; Caspersen 2012; Klem and Maunaguru 2017; Mampilly 2011; Staniland 2012, 2014) may thus be categorised as de facto sovereign. Yet applying this term to a separatist insurgency gives the discussion an additional twist, because such movements differ from most of the political actors that feature in discussions on de facto sovereignty. First, the narrative of sovereignty as self-determination

comes back in. The de facto sovereignty of insurgent movements may have much in common with political strongmen or private companies, but it is embedded in a more encompassing aspiration of sovereign power and legitimacy – one that is not merely 'de facto'. Second, more thoroughgoing insurgent movements like the Liberation Tigers of Tamil Eelam (LTTE) blur the implied distinction between de facto and de jure sovereignty because they establish legal foundations in pursuit of a separate state. Even if these foundations are not recognised as official law, this arguably makes such movements de facto de jure sovereign as well.

To sum up, the apparent simplicity of defining sovereignty as the supreme right and ability to govern over people and territory succumbs to foundational complications around the meaning of the words 'right' and 'ability'. The sovereign *right* to govern is often encoded in a discourse of national self-determination, but rather than providing a firm conceptual basis, 'the nation' confronts us with contested interpretations, murky boundaries and gendered categories, violent genealogies, and recourse to the legitimating aura of gods, kings and other intractable figures. The conception that sovereignty offers a stable bedrock for the modern order of states is itself a product of a long history of conflict and occupation. There is no escape from the fact that the legitimating logic of sovereignty is ultimately self-referential. The sovereign *ability* to govern spawns similarly complicated queries. State capacity is typically conjugated with other forms of authority, and its supposed monopoly of violence often rests on more fragmented patterns of delegation and the countenance of de facto sovereign entities within its realm. Rather than simply denoting the authority to set the rules, sovereignty ultimately entails the ability to establish rule-setting authority. By implication, sovereign power also comprises the capricious ability to exempt, break or rewrite the rules.

Performative politics

Rather than seeking (or pretending) to resolve the tensions around the term 'sovereignty', this book endeavours to keep them intact by placing unsettling questions about the contested, self-referential nature of sovereignty at the heart of the analysis. The perspective of performative politics is helpful in navigating these questions. As a preliminary point, this approach requires a conception of politics that is not confined to the official trappings of elections, parliament and government policy. My understanding of politics is mediated by political anthropology (Banerjee 2014; Bertrand et al. 2007; Geertz 1980; Hansen 2001; Michelutti et al. 2018; Paley 2008; Ruud 2009) and the work of Spencer (2003, 2007, 2008, 2012) in particular. This scholarship takes

an expansive view of politics that traverses the broad canvas of the state, the nation, sovereignty and political potency, and the way these interacting notions are constructed, experienced and contested. Seen this way, politics involves antagonism and feuding, the moral drama of electoral dramaturgy, normative transgressions and violence, as well as humour, humiliation and awe. The realm of 'the political' encompasses carnivalesque rituals, drunken victory parties on election night, the thuggery of political big men, and the cults of sacrifice and martyrdom among armed insurgents. It involves contentions over honour, morality, pride and shame, and as such, it encompasses projections of masculinity and femininity.[6]

One of the foundational contentions in political anthropology is that this pastiche of practices across the permeable bounds of the political arena is no antithesis to Western modernity – to its bureaucratic rationality, its discrete institutional architecture or its preoccupation with secularism. Amalgamations of modern politics with religious or cultural repertoires may be found across the globe: the cult of adulation around the king in modern Thailand (Stengs 2008), the political energy of Indian deities (Singh 2012), the religious aura of the French president exhibited during rituals of inauguration and pilgrimage (Abeles 1988) or the public veneration of Lady Di after her fatal car crash (Watson 1997). All of these examples encompass potent political performance. The formal legal and political premises of these phenomena tell us little about what is going on and what it means politically. Without considering the performative aspects – the staged conduct, the customary scripts, the symbolic references, the interaction with the audience – they do not make sense.

The academic origins of performative thought lie with research on everyday social interaction. Goffman's (1959) classic analysis used dramaturgical metaphors to describe how people adhere to the unwritten strictures of cultural expectation when they present and comport themselves in front of others. In its original form, this approach implies a clear distinction between the personal identity of social beings and the way they conduct themselves in public: 'behind Goffman's analyses of interaction lies an active, prior, conscious, and performing self' (Gregson and Rose 2000: 433). The influences of post-foundational thought (Featherstone 2008; Marttila 2016) and feminist scholarship (Butler 1990; Cockburn and Omrod 1993) have obscured this distinction. Men and women do not merely perform predefined scripts of masculinity and femininity; they continuously shape that script. The social routines and strictures of traditionally dominant cis-hetero schemata are challenged and rearticulated by people with identities that diverge from these trappings, be it through their everyday conduct, or in more expressly political ways (Aretxaga 1997; Bosia 2018; Haraway 1997; Leigh and Weber 2018).

Through these performative practices, the supposed character that people perform blurs with who they are, or who they consider themselves to be. There is – to borrow Butler's well-known paraphrasation of Nietzsche – no doer behind the deed. An intersubjective understanding of the social world unmoors the notion of fixed identities and deliberate conduct: rather than a distinct agentic self and performative practice, both are reproduced through performativity. This complicates questions of performative veracity and authenticity – rather than simply shrugging aspirational political conduct aside as fake (Chandler 2000), it warrants more fundamental reflection. Performative action may comprise elements that are clearly and deliberately fictional or truthful, but the boundary between the two remains contingent, opaque or subject to slippage. Absurd imitations may become accurate when social reality evolves and starts matching this absurdity. Authentic performative conduct can become farcical when the political setting changes. The distinction between actor and character becomes equally blurry, when performative acts implicate the self-perception and social position of the person acting: actor and character converge, masks become faces, an imaginary script becomes a lived habitus.

A performative perspective has intuitive relevance to studying politics and state conduct. Public authority – as a relational form of legitimate power – may in part be derived from official mandates, but it becomes manifest in the way it is practiced (Klem and Suykens 2018). Institutional frameworks are shaped by a continuous interaction between formalised foundations and enactment in practice. Institutions are no hostage to their statutes. Their role, ability, legitimacy, reach and perceived significance derive in part from how they feature in everyday life. This may take shape at the level of routine institutional practices (for example, the reproduction of authority in the bureaucracy: Hull [2012a]; Jeffrey [2013]; Mathur [2015]), and it can assume the form of a spectacularly staged performance (for example, an election rally, inauguration ceremony, staged political visits to symbolic places: Bertrand, Briquet and Pels [2007]; Hansen [1999]; Kuttig and Suykens [2020]; Paley [2008]; Spencer [2007]; Strauss and O'Brien [2007]).

The contingency around these institutional practices and performances opens up intellectual space to explore how the perceived nature of an institution can change over time, even when its formal structures remain in place. Moreover, institutions continuously interact, and this creates new opportunities for redefining their role. Their significance and legitimacy can expand or demise. They are subject to 'institutional bricolage' (Cleaver 2012; Douglas 1987), and they may function like 'twilight institutions' (Lund 2006). In a similar vein, political performativity can enable an institution, ideology or person to change vessel – to become unhinged from one arena and be embedded in another. For example, it has the capacity to enact a repertoire as explicitly

political, and as such it can add gravity to societal symbols of class, ethnicity, locality or religion. It may elevate a leadership figure to become a person who commands state potency. Conversely, political performativity may propagate a repertoire of 'anti-politics' (Hansen 1999; Spencer 2008), by seeking a puritan dissociation from the dirty tricks, underhand deals and scolding of the political arena. Such discursive framing commonly serves to construct a platform in the name of 'the people', 'the nation' or a particular cultural or religious orientation as 'anti-political'. Inevitably, this involves the ironic double bind that any claim to *not* be political is itself political. After all, the repertoires of anti-politics lend themselves for highly political ends (Spencer 2007).

Political repertoires are never invented completely anew. For audiences to recognise the staging of might, mischief, disruption or solemnity, it needs to look sufficiently like the repertoires people are familiar with. In fact, sometimes the script of a political action is driven by the expectations of the spectators, rather than by the intent of the political protagonist. Danilyn Rutherford (2012: 7–10) beautifully illustrates this point in her book on sovereignty and audience in West Papua with a George Orwell fragment about a colonial police officer in British Burma who is called in to take care of a marauding elephant. He is determined to let the poor animal be but feels obliged to shoot it once faced with the large crowd waiting for the spectacle to happen. In other words, the scripts of performative politics – and the stage, the symbols, the props – are steeped in public consciousness. Performative politics may be understood as an exercise in citational practice (Weber 1995, 1998). It hinges on references to earlier political activity, and it often comprises elements of mimicry (Bhabha 1994). It evolves through repetition, but such repetition creates scope for slippage and mutation. Citational practice reiterates prior conduct but places it in a new context, thus shifting its meaning and opening space for deliberately ambiguous references or dog whistles. Mimicry, similarly, is a performative act that yields a 'duplicate but not quite', and as a result, the character and impact of political mimicry can be slippery: the lines between docility, compliance, camouflage and mockery may be thin (Bhabha 1994: 85–92; see also Klem and Maunaguru 2017: 632–633). Wedeen's (1999) work on the personality cult around Syria's Hafez al-Assad illustrates this well. She describes how citizens practice camouflaged repertoires of compliance, despite their scepticism of the president's supposed stature, omniscience and benevolence. They engage in 'as-if politics' to show their colours to a political repertoire that is effectively a state religion, but rather than merely a charade, this repertoire is a crucial part of the way Syrians navigate and reproduce their own society.

In a different context, such performative pretence can assume a subaltern meaning. State propaganda can be undermined with humour or satire (Bhungalia 2020; Fluri 2019; Sörensen 2016), and the notion of 'as-if politics'

can be turned on its head. By staging a political outlook that is suppressed or criminalised, make-belief repertoires can take an aspirational form and make the unimaginable thinkable (Navaro-Yashin 2012; Watts 2010). Performative bodily conduct or protest may challenge or ridicule prevalent gender norms (Haraway 1997; Leigh and Weber 2018). The malignity and malfunction of migration management policies can be exposed by staging refugee bodies and through performative activism, as we saw in Australia and elsewhere (Hodge 2018; Little, Suliman and Wake 2023). And state denial of a separatist national community can be unsettled by staging that national community in a self-declared referendum, as in Catalonia (Achniotis 2021; Enguix Grau 2021).

The perspective of performative politics offers a helpful conceptual vantage point to understand the liminalities of governments in exile (McConnell 2016; Alice Wilson 2016), militant democratic parties (Watts 2010) and unrecognised states (Bobick 2017; Bryant and Hatay 2020; Dimova and Cojocaru 2013). As I will illustrate in the chapters to come, it helps us come to terms with the tensions and frictions around the term 'sovereignty', and it lends us an analytical idiom to describe a nationalist movement that is defined by being both similar to and different from a recognised state. Instead of assessing reality in terms of implied norms – seeking to adjudicate the Tamil right to self-determination or the legitimacy of the Tamil insurgency – a performative perspective directs our attention to the way normative eligibility and entitlement are contested on the ground through the experimentation with institutional form.

The terminology that I use in this book thus steers clear of depicting sovereignty as a status or condition and instead comprises concepts that denote an activity, a process, a yearning or an ambition. I use the term *sovereign aspirations* to connote a collective desire and a claimed entitlement to be recognised as an independent state, a claim that is typically legitimised with reference to the right to self-determination. The pursuit of such aspirations may encompass a fake-it-till-you-make-it approach, whereby sovereign aspirants engage in *sovereign performance*: practices that emulate those of recognised states to assert an implied form of the supreme right and ability to govern. This may include violent conduct (disciplining subjects, eliminating traitors, warding off contenders), institutional practices and the deliberate performative staging of political authority, judiciary power, celebration or commemoration. One may distinguish between the performance of internal sovereignty (aimed at supposed subjects of rule) and external sovereignty (valorising performative conduct towards states, including the 'mother' state, a 'patron' state, other 'third' states or other sovereign aspirants) – though the two are arguably never completely detached.

When these practices and performance comprise a sustained and accumulative effort, as was the case with the LTTE in the 1990s and 2000s,

I refer to them as a *sovereign experiment*. This term highlights the provisional and probationary character of insurgent performativity. Improvised institutional conduct serves to test boundaries and explore possibilities, to find out what works and what one might get away with, which then offers a basis to gradually solidify a governing apparatus in pursuit of sovereign aspirations. Such an experiment does not only involve the staging of institutional autonomy and territorial dissociation but also *sovereign encroachment*: the practice of gradually percolating and co-opting previously existing institutions, such as the government bureaucracy, rather than opposing and supplanting them. This engenders deliberate blurring and tactical restraint, but ultimately sovereign experiments are necessarily backed up by the ability to deploy violence and coercion to impose authority and stand one's ground. Here I draw on Hansen and Stepputat's (2005, 2006) term 'de facto sovereignty' to describe the ability and self-claimed right to enforce discipline among a subject population without yielding to a higher or external force. Finally, I refer to the defeat of the LTTE's sovereign experiment and the wrecking of its symbols, institutions and territorial markers as *sovereign erasure*.

Tamil nationalism in Sri Lanka

As we move from the first half of this chapter to the second, we change tack. The broad canvas of the conceptual discussions makes way for the specificities of the Sri Lankan context (readers less familiar with Sri Lanka will find more detail in elaborate endnotes to the second half of this chapter). As I attend to particulars of Sri Lanka's history of ethno-political conflict, I will highlight the performative politics of citational practice, mimicry and institutional bricolage. While this does not overhaul the existing scholarship on Sri Lanka, it does intervene in established historiography by placing different accents and highlighting citational cadences that cut across phases and realms that are normally kept separate. As a result, the emphasis and narrative sequencing differ from much of the existing scholarship (though see Sumathy [2001] and Thangarajah [2012], who both develop a line of thought that resonates with mine). For one thing, it is less conventional to start with Tamil nationalism, rather than with, say, the overall character of the Sri Lankan state, but in view of the aforementioned reflections, I believe this is a useful analytical gesture.

In its contemporary form, Tamil nationalism is premised on a Wilsonian conception of sovereignty, which conceives of the Tamils as a nation endowed with the right to self-determination by virtue of it being a political community with distinct linguistic and cultural characteristics and a territorially delineated historical homeland in the northeast of the island. This view aligns broadly with

the criteria defined at the 1933 Montevideo conference, the central reference point for declarative interpretations of state sovereignty in international law (though it would clearly fail the 'saltwater test'[7]). From this perspective, the assertion of Sri Lankan sovereignty comprises the foundational problem of Sri Lanka's constitutional order. In short, the Sri Lankan government cannot reject Tamil separatism on the count that it lacks democratic legitimacy and violates the law because both these moral yardsticks of the Sri Lankan state must derive their validity from the popular consent of the Tamil people, which is historically lacking (Guruparan 2016; A. J. Wilson 1994b; for further discussion, see Edrisinha et al. 2008). This political stance centres on 'the Tamil people' as a self-evident national reference point. However, defining and demarcating this community as a national *demos* raises a raft of ambiguities and contentions, which have significantly shifted over time. As a twentieth-century phenomenon, the discourse of Tamil nationalism projects firm claims about racial, linguistic and territorial distinction and pegs these to modern conceptions of the state. Yet that discourse is itself a consequence of Sri Lanka's embattled political history, and it bears influences from concurrent struggles elsewhere.

Tamil identity politics has a long and turbulent history – what it means to be Tamil and what that implies in terms of collective political aspirations has changed significantly in the course of history. Some of the key antecedents of Tamil political history date back to the Nallur kingdom on the northern Jaffna peninsula (thirteenth–seventeenth centuries), a region that continued to be ruled as a distinct entity under Portuguese and Dutch rule, even after the kingdom had succumbed to colonial occupation. Although their exact nature and significance is debated, the emergence of Tamil administrative practices and customary law (especially the northern *thesavamalai*) stand out as important historical precedents for the Tamil nationalist discourse (Gunasingam 2016; Guruparan 2016; Hellmann-Rajanayagam 1994a; Wickramasinghe 2006). Under British colonial rule, the concentration of missionary schools in the north turned Jaffna into an educational powerhouse bolstering both Tamil literary culture and white-collar employment (Arasaratnam 1994; Sitrampalam 2005). The concurrent awakening of Tamil identity in the mid-nineteenth century was premised on caste, religion and language. A movement pioneered by the Hindu revivalist Arumuga Navalar propagated a Tamil version of Hinduism, countering the influence of both colonial Christianity and India's 'Brahmanical' Hinduism. Within this *saiva siddhantam* (Saivite philosophy), a prominent place was reserved for the Jaffna Vellalas (the dominant caste of land-owning cultivators). Being Tamil was thus premised on a caste position (Vellala), religious orthodoxy (Saivism), patriarchy, and language (Tamil) – not (yet) on being part of an ethnic group or a nation (Cheran 2009; Gunasingam 2016; Hellmann-Rajanayagam 1994b;

Sitralega Maunaguru 1995; Rogers 1994; Wickramasinghe 2006; A. J. Wilson 2000). Later incarnations of Tamil identity politics explicitly challenged the Vellala-dominated caste hierarchy, most obviously in the campaign against 'low' caste exclusion from 'high' caste Jaffna temples in the 1960s (Pfaffenberger 1990; see also Jayaweera 2014: 139–150), but also through opposition to gerontocratic hierarchies and gendered strictures. The associated tensions within Tamil nationalism – whether to eschew internal difference or take issue with it – would continue to stir emotions in years to come. Until today (as discussed in Chapter 4), we can discern a conservative strand of Tamil nationalism (premising Tamil nationalism on the preservation of tradition and social hierarchy) and an emancipatory strand (combining Tamil national liberation with the ambition of liberating society from intra-Tamil forms of discrimination) – and lots of hedging in between.

When a political campaign for the advancement of Tamil rights and aspirations gathered pace in late colonial and early postcolonial times, the political demarcation of the Tamil community remained contentious (Cheran 2009; Sumathy 2001; Vaitheespara 2009; Wickramasinghe 2006). At its narrowest, it effectively catered to the upper-class Vellala elite in Jaffna and Colombo, even if it paid tribute to the Tamil masses in legitimating its claims; at its broadest it encompassed not only the category now known as Sri Lankan Tamils (with all its sub-categories of class, caste, religion and region) but also all Tamil-speaking populations, thus including the Muslims ('Islamic Tamils') and *malaiyaha* Tamils ('Indian Tamils').[8] A related distinction concerns the regional divergence between the north ('Jaffna Tamils') and the east ('Batticaloa Tamils'), which embody distinct histories, dialects, caste delineations and cultural practices. The north, which has always had an overwhelming majority Tamil population, has been the main locus of Tamil nationalism; the east, which has a multi-ethnic composition (see Map 2.1), has by and large been placed in a subservient role.

In sum, the emergence of Tamil nationalism was initially quite far removed from a campaign for sovereign self-determination, but through the experience of escalating conflict over the past hundred years, the politics around Tamil identity itself transformed. Rather than an assertion that accrued from historical criteria around homeland, culture, race and language, the Tamil claim to self-determination came of age through the interaction with Sri Lanka's process of state formation.[9] This deserves some emphasis because it relates to the central focus of this book. The diverse performative politics of Tamil nationalism are not competing renditions of an inert mother script of Tamil nationalism that is staged and projected in different ways. Rather, the dynamics around this long history of competing renditions have transformed the tenets of Tamil nationalism and the lived experience of being Tamil. The cornerstones of

Tamil identity have shifted through the encounter with nineteenth-century Hindu revivalism, the global circulation of nationalist ideas, the birth of the postcolonial state and, perhaps most of all, the intensification of the ethno-political conflict and the 2009 defeat of the LTTE (Cheran 2009; Sumathy 2001; S. Thiranagama 2011; Wickramasinghe 2006).

These historical transformations of the Tamil nationalist script co-evolved with – to stick with the theatrical idiom – changes in the performative cast. I will briefly elaborate on this: apart from illustrating this point, it will offer readers less familiar with Sri Lanka a simplified aide-memoire with key names and acronyms of the Tamil nationalist movement. In the nineteenth century, the key protagonist (Arumuga Navalar) may perhaps best be categorised as a public intellectual who staged lectures and wrote scholarly texts and pamphlets. In the late colonial era, the key characters comprised an elite of English educated lawyer-politicians from affluent high-caste backgrounds, who worked from within Sri Lanka's national parties. Around the turn of independence, these gentlemen politicians established their own political vehicles. Key acronyms to remember are ACTC (the first Tamil party, founded in 1944), ITAK (which became the foremost Tamil party, founded in 1949), the TULF (the joint platform of Tamil nationalist parties, founded in 1976) and the TNA (a political reincarnation of the TULF, created in 2001, arguably in the service of the LTTE).[10] Parliament was the primary arena for all these parties, but they also performed non-violent protest campaigns and advocated during court proceedings.

These parliamentary voices were relegated backstage when Tamil youth militants assumed a dominant role in the 1970s and 1980s. Constitutional bargaining and political rallies made way for hit-and-run attacks in the northeast. These youths represented diverse social backgrounds, and their mobilisation instigated a welter of armed groups, which were prone to rifts and rivalry, yielding a concurrent alphabet soup of names, including TELO, EROS, LTTE, EPRLF, PLOTE.[11] In the mid-1980s, the LTTE annihilated its rival militants and declared itself the sole protagonist. As discussed in the chapters to follow, subtle shifts took place in the 1990s and 2000s, when the movement countenanced docile fellow protagonists, both in parliament and within the state bureaucracy, as extensions of its sovereign experiment. These actors then assumed new roles in articulating the Tamil nationalist script with the military defeat of LTTE in 2009.

My nutshell historiography of Tamil nationalism is inevitably truncated. To summarise the historical background of the ethno-national conflict on Sri Lanka is to traverse a discursive battlefield where rival canons of grievance, valour and legitimation beckon the author to adopt their preferred diagnoses, chronologies and terminology. To describe a conflict is to intervene in it.

Accrediting all alternative renditions of Sri Lanka's modern or ancient history is neither feasible nor helpful, but two critical counter-narratives must be acknowledged, because they have intimately affected the Tamil social and political arena: the first concerns the Muslim community, the second a feminist critique of Tamil nationalist thought.

Sri Lanka's Muslim community, and the Muslims of the northeast in particular, has much in common with the Tamil community. Their language, cultural practices, kinship structures and the history of minority grievances are similar, and even if religion is their primary distinctive marker, Islamic practices in Sri Lanka have historically been shaped by their interactions with the island's other religions (DeMunck 1998; Klem 2011; McGilvray 2008; Nuhman 2002; Spencer et al. 2015). As a discrete ethnic category, rather than a religious sub-group of Islamic Tamils (alongside Hindu and Christian Tamils), the Muslim community is an anomaly, and this anomaly is itself a product of Sri Lanka's history of ethno-political conflict. While the Muslim community has a distinct genealogy in the arrival of Arab (and South and Southeast Asian) traders, their self-identification as a separate ethnic group gained currency in response to the hardening of Sinhala and Tamil ethno-nationalism in the 1970s and 1980s, with 1990 as the definitive breakpoint. In that year, the LTTE purged the entire Muslim community from the north. In the east, praying Muslims were gunned down in a sequence of mosque attacks (Hasbullah 2001; S. Thiranagama 2011: 106–182).

The emergence of a distinctive Muslim politics and the rise of the Sri Lanka Muslim Congress (SLMC) as the premier Muslim party were directly connected to the escalating civil war (Ameerdeen 2006; Ismail 1995; Johansson 2019; Knoerzer 1998; Nuhman 2002). This violent dynamic gave buoyancy to the eastern Muslim community (previously a peasant hinterland to the Muslim elite in Colombo and Kandy) as a central locus of Muslim aspirations, and it yielded increased contentions over gendered practices, orthodoxies of piety and religious sites (Haniffa 2008; Hasbullah and Geiser 2019; Heslop 2014; Klem 2011, 2014; Mihlar 2019; Spencer et al. 2015). The ascendency of a Muslim discourse of collective rights, autonomy and even self-determination – which reached its apex during the Norwegian-facilitated peace process of the early 2000s – has implicated the narrative and bargaining position of the Tamil nationalist movement (Lewer and Ismail 2011; McGilvray and Raheem 2007; Schonthal 2016b). A Tamil nationalism without Muslims makes no territorial sense (see Map 2.1).

The feminist critique of Tamil nationalist thought unearths the (often implicit) gendered premises underpinning the historiography of the Tamil nationalist movement that I have summarised earlier. From Arumuga Navalar's Hindu revivalism of the mid-nineteenth century through to the

caste contentions over temple entry, the post-independence grievances over franchise, land ownership, university quotas and employment opportunities, the growing preoccupation with Tamil cultural purity, the staging of political protest and the escalation of violent militancy – gender politics is present every step along the way (Coomaraswamy and Perera-Rajasingham 2009; De Alwis 2002; De Mel 2001; Sitralega Maunaguru 1995; Satkunanathan 2012; Sumathy 2016b). The inherent tension within Tamil nationalism between cultural preservation and liberation comes out in stark relief here. On the one hand, the Tamil leadership has historically professed a conservative stance on Tamil cultural traditions and patriarchal views on the role of women in Tamil nationalism (Coomaraswamy and Perera-Rajasingham 2009; Satkunanathan 2012). From this perspective, women are essential for the reproduction of the values, customs and purity of the Tamil nation, and they are considered innately connected to land and soil. On the other hand, a discourse of ethnic liberation cascaded into other emancipatory agendas, where liberation from caste oppression, class inequality and gender discrimination converges with national liberation. This opened space for new forms of female leadership, and it gave rise to the martial femininity of women warriors, whose perceived feminine virtues yielded a distinct military prowess (De Mel 2004; Sitralega Maunaguru 1995; Samuel 2003; Sumathy 2016b).

The escalation of violent conflict in the 1970s and 1980s added new gravitas to female sexuality, and it gave new impetus to (attempts to) control it, be it through scorning of ethnic mixture, the cultural policing of female dress and conduct, the enforced celibacy of (male and female) cadres and social consequences of wartime rape (De Mel 2007; Hyndman and De Alwis 2004; Satkunanathan 2012; Sumathy 2016a). Let me close with two examples that illustrate the important dimensions that feminist scholarship adds to the established junctures of Tamil nationalist historiography. The first concerns the Muslim Eviction from the north in 1990. This violent act of purported purification also affected Tamils who were seen to deviate from cultural custom, such as transgenders (Sumathy 2016b). Subsequent killings under LTTE rule and postwar tussles over sexual practices may be considered in a similar light. The second concerns the 1991 assassination of former Indian prime minister Rajiv Gandhi, widely considered an LTTE reprisal for India's brutal counterinsurgency on the movement. A feminist reading of this attack highlights that the suicide bomber who self-detonated on Gandhi's body was herself a rape victim of Indian soldiers and may thus be understood as a woman who not only revenged herself and her nation but also purified her supposedly polluted body by turning it into a weapon that simultaneously killed and self-sacrificed (Sitralega Maunaguru 1995: 170–171).

Map 2.1 Sri Lanka's ethnic and political geography
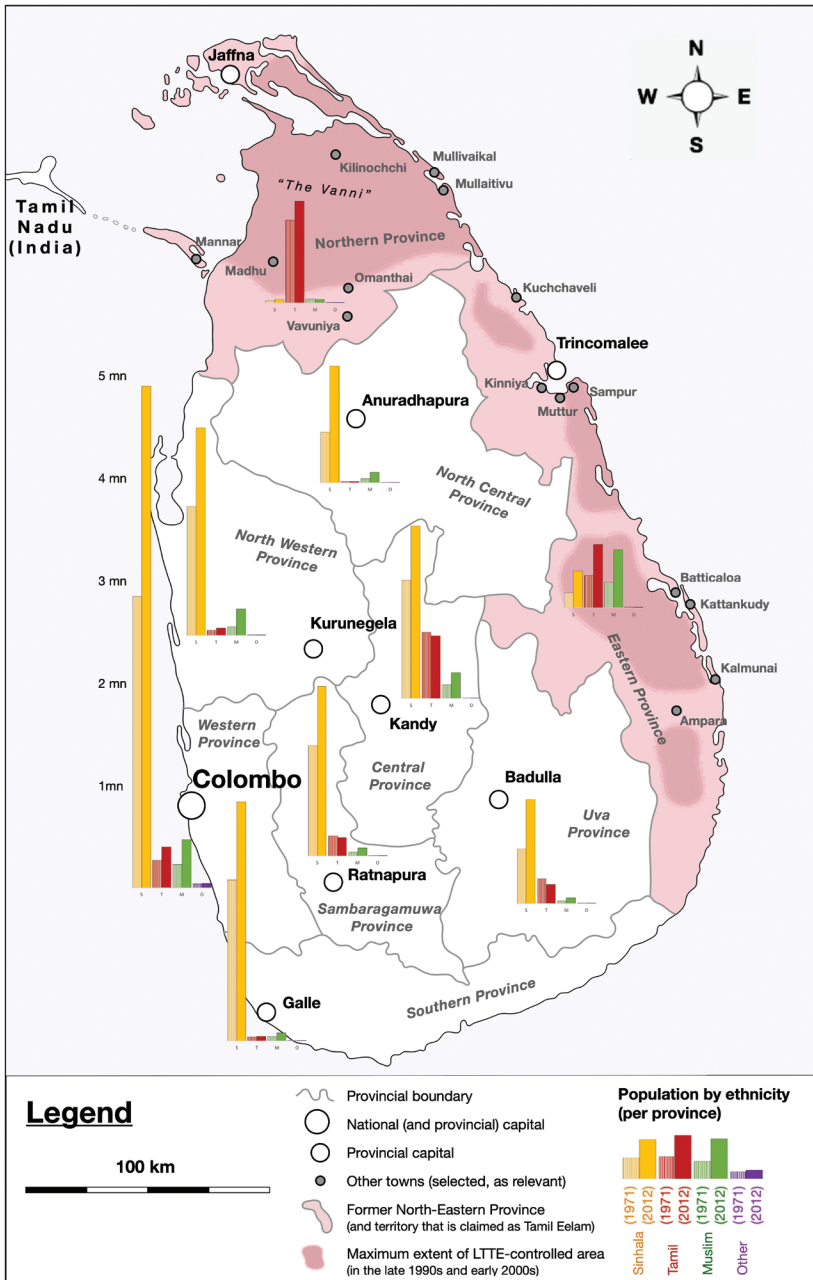
Source: Map by author based on Sri Lankan government censuses (1971 and 2012) and field observation (LTTE area).

(*Contd*)

Map 2.1 (*Contd*)

Notes: Maps are spatial representations. They embody political choices and have political consequences. Map 2.1 serves to give readers a basic impression of Sri Lanka's ethnic and political geography, but through its selection of data and categories, it inevitably intervenes in the core analytical and normative concerns of this book: the territorial demarcation of political order and the spatialisation of national and/or ethnic communities.

To depict the ethnic composition per province, I have used data from two censuses, one before the war (1971) and one after the war (2012), to capture both an overall picture and a sense of change over time. The wartime censuses were all incomplete. I have simplified the ethnic categories used in these censuses (which are in turn based on self-identification). More specifically, I have collated low-country Sinhalese and Kandyan Sinhalese (a distinction still made in the 1971 census) as simply Sinhalese; Sri Lankan Tamil and Indian Tamil as Tamil; Sri Lankan Moor, Indian Moor and Malay as Muslim; and Burghers, Veddahs, Chetties and several smaller communities as Other.

Politically significant cartographic choices relate to historical delineation (adding an older census would, for example, show the relative increase of Sinhalese in the Eastern Province as part of government-sponsored irrigation schemes; Manogaran [1994]) and the politics of scale: it makes a political difference whether we aggregate data at a national-, provincial-, district- or ward-level basis. I have chosen to highlight the provincial level, given that the provincial council system is one of this book's central concerns. Also, it helpfully reveals the divergent composition of the (Tamil-dominated) north versus the (multi-ethnic) east versus the (Sinhala-dominated) rest of the country. However, as a result of this, the Muslim community is rendered inconspicuous because it mostly lives in concentrated localities and has no provincial majority anywhere. A ward-level overview would, for example, highlight some very clear green pockets, especially in towns along the east coast.

I have depicted all nine provinces and coloured the merged North-Eastern Province, which existed from 1987 to 2006. This area then broadly converges with the claim to a Tamil homeland and the aspired territory of an independent Tamil Eelam (occasionally Puttalam District, the western coast between Mannar and Colombo, is included as well), though it is clearly peculiar for a separatist claim to premise itself on the administrative boundaries of the state it rebels against. As a result, ironically, some areas that the government had earlier added to the Eastern Province (like the excision of Dehiattakandiya, west of Batticaloa) to thwart Tamil separatism by artificially increasing the Sinhala presence in this minority-dominated region thus became a part of Tamil separatist claims.

The delineation of LTTE-controlled areas is based on my own observations across the span of my fieldwork in the 2000s. This raises political questions about lending credit to insurgent claims (cf. Sarvananthan 2007) by depicting the lay of the land at what was arguably the height of the LTTE's power (late 1990s and early 2000s), though this results in the exclusion of Jaffna (which was LTTE controlled in the early 1990s). It also raises interpretative questions: On what basis do we colour an area as LTTE controlled when clear boundary demarcations are lacking? If the movement operates in a forested area without significant settlements, what does control imply? I have therefore chosen to blend these areas in by using blurry delineations.

Sri Lanka's tribulations with shared sovereignty

The life cycle of Tamil nationalism cannot be understood in isolation from the evolution of the Sri Lankan state. The attrition of Sri Lanka's constitutional settlement and the majoritarian forcefields of its democratic framework spurred the transformation of the Tamil nationalist movement from a moderate democratic body with an agenda of power-sharing and minority rights protection into a violent insurgency demanding a separate state. There is a formidable tradition of scholarship on Sri Lanka's history of ethno-political conflict, covering the history of the constitutional framework (Amarasinghe et al. 2019; Bastian 1994; Coomaraswamy 2003; Schonthal 2016a; Welikala 2012a; Wickramaratne 2014: 137–250), the majoritarian government policies in the fields of language, education, religion, employment and land allocation (De Silva 2005; DeVotta 2004; Harris 2018; Herring 2001; Jayasundara-Smits 2022; Korf 2006, 2009; Peebles 2006; Rasaratnam 2016; Uyangoda 2007; Venugopal 2018; Wickramasinghe 2006) and the failures of successive pacts with the Tamil leadership (Edrisinha et al. 2008; Sampanthan 2012; A. J. Wilson 1994b, 2000).

Rather than rehearsing this well-established history, I will review these dynamics through the prism of sharing and contesting sovereign power. Doing so places the inherent contradictions of shared sovereignty at the heart of the analysis. This is a controversial conceptual angle in Sri Lanka,[12] but I posit it is warranted. Much of the scholarly debate has focused on the distribution of power within the Sri Lankan state – mainly through the so-called devolution of power from centre to peripheries – without confronting the contested sovereign foundations of the postcolonial state at large. This has propelled a focus on institutional design, federalism, decentralisation, regional autonomy and electoral systems (Amarasinghe et al. 2019; Bastian 1994; Coomaraswamy 2003; ICES 1996; Rupesinghe 2006; Thiruchelvam 2000; Welikala 2012a, 2016; Wickramaratne 2014: 137–250) – as well as meticulous debate on the many forms devolution could take.[13] Such a focus sits uneasily with the transgressive nature of Sri Lankan politics. Studying the island's tryst with power-sharing from a purely legalistic perspective misses the point. After all, we have defined sovereignty as the power to invoke or suspend law and authority over people and territory, a form of power that does not yield to outside interference and is ultimately steeped in violence. How to draw up the rules for sharing a kind of power that is defined as the ability to (violently) change the rules? It follows that shared sovereignty is not simply about the constitutional distribution of sovereign powers but about the full range of political instruments used to effect sovereign power. To understand how such power is distributed, it does not

suffice to analyse the constitutional settlement. We must also contend with all means available to amend, override, twist, reinterpret or simply break the official rules.[14] In other words, the political trick book cannot be shrugged aside from the analysis as improper political practice – these are the means through which sovereign power is shared, distributed, wrested or fragmented.

The performative perspective advanced in this book expands our focus from formal attempts of sharing state power to the way such power is distributed in practice, through validating repertoires, political trickery, twisted idioms and violent contestation. This is important because it places wartime institutional transgressions and experiments in a historical perspective. There were precedents of institutional transgression to the LTTE's experiment of inventing, reorienting and co-opting legal and political institutions (described in Chapter 3). The movement's self-declared courts and departments may be understood as a radical iteration of older repertoires of changing and bending the law through institutional practice and performance. The competing forms of sovereign experimentation during the war years have subtle precursors in the transgressions of the pre-war decades. To study the history of Sri Lanka's conflict as an escalating dynamic of contesting, enacting and wresting sovereignty requires us to blend the realms of constitutional law, politics, governance and armed conflict, which are normally kept separate. After all, the analytical and normative distinctions between these spheres are themselves a function of the contestation that we seek to understand.

Contentions over the accommodation of ethnic minorities – and the Sri Lankan Tamil community in particular – date back to the very origins of Sri Lanka's history as a constitutional democracy. The overall trend from 1931 (Donoughmore constitution, the advent of democratic politics), to 1947 (Soulbury constitution, which marked Sri Lanka's independence) to 1957 (pact between Prime Minister Bandaranaike and Tamil leader Chelvanayakam) to 1965 (Senanayake–Chelvanayakam pact) is one of attrition. In terms of power-sharing and minority rights, the proposed compromises became ever more watered down. Section 29 of the Soulbury constitution encoded minority protection but offered a feeble defence against majoritarian politics; the pacts of 1957 and 1965 eschewed fundamental issues and remained unimplemented.

The constitutional reforms of the early 1970s comprised a decisive turning point in Sri Lanka's trajectory of ethno-political conflict.[15] The 1972 republican constitution marked the completion of Sri Lanka's decolonisation process. It was drafted alongside the first uprising of the Sinhala leftist revolutionary movement (the Janatha Vimukthi Peramuna [JVP]), and it enshrined Sinhala-Buddhist nationalism and linguistic chauvinism.[16] As such, it sparked the transformation of Tamil nationalist politics into violent separatism and ensnared

the constitution itself at the heart of the conflict dynamic. Transgression followed on transgression, and foundational logics of legality and political legitimacy were turned on their head. The 1972 constitution was promulgated with some convocational creativity. Having secured a landslide victory with the United Front (a coalition around the Sri Lanka Freedom Party [SLFP]) in 1970, Prime Minister Srimavo Bandaranaike confronted the bootstrapping problems of constitutional authorship by declaring parliament a constituent assembly mandated with drafting a new, autochthonous constitution to free the country from remaining colonial entanglements (Edrisinha et al. 2008: 232–253; Welikala 2012b), thus violating constitutional safeguards against majoritarian law-making.[17]

In response to this experiment in unilateral constitution-making, we see the first signs of a state-like posture by the Tamil leadership, an incipient kind of sovereign mimicry.[18] The main Tamil party, ITAK, abandoned the constituent assembly in protest and rejected the resulting constitution. ITAK leader Chelvanayakam demonstratively resigned his seat in the new parliament (premised on the new constitution) and declared the subsequent by-election for his electorate a referendum on the new constitution (Sampanthan 2012; A. J. Wilson 1994b: 123–125). In parallel, the Tamil leadership shifted from advocating federalism to demanding a separate state, based on the Tamil homeland and the right to self-determination (A. J. Wilson 2000: 101–110). In 1976, the Tamil political parties established a joint platform (the TULF) to propagate their stance in the so-called Vaddukoddai resolution, which promulgated more legal manoeuvring and a fascinating court case. The government had outlawed opposition to the constitution and in effect criminalised the dissemination of the Vaddukoddai resolution (Edrisinha et al. 2008: 261). The main Tamil leader A. Amirthalingam[19] was arrested on this ground and prosecuted for sedition in a special tribunal mandated by the emergency provisions of the 1972 constitution. However, Amirthalingam's defence used the tribunal as an elevated public stage to publicly amplify Tamil dissent – the very act for which Amirthalingam was on trial – by challenging the legal validity of the constitution on the count that it lacked the consent of the Tamil nation. Given that the tribunal derived its mandate from an invalid constitution, it was itself a nullity, Amirthalingam's counsel claimed (Edrisinha et al. 2008: 261–262).[20] This subaltern politics from within the state's own arena continued during the 1977 parliamentary elections, where the TULF campaigned with an explicit agenda of seeking plebiscitary endorsement from the Tamil people for the Vaddukoddai resolution. The landslide victory in all Tamil-dominated electorates of the northeast (and 18 out 168 parliamentary seats) was held up as popular affirmation of its separatist course.

These transgressions heralded more trickery. The unilateral constitutional reset of 1972 was replicated when the rival United National Party (UNP) regained power and instated its own constitution (1978) with an all-powerful president and more red tape around separatist politics.[21] Upon expiry of its electoral mandate, the UNP extended its super majority with an extra six years by holding an election in the shape of referendum.[22] In short, the 1970s and early 1980s witnessed a definitive escalation of the stand-off between the Sinhala-dominated government and the Tamil political leadership into no-holds-barred confrontation. The deliberation of constitutional bounds and political antagonism in the democratic arena of the 1950s and 1960s transformed into a dynamic of legal skulduggery and transgressive political performativity. Parliament, an institution mandated by the constitution, declared itself an institution authorised to rewrite the constitution; elections were performed as national referendums; a referendum was held in lieu of elections; new powers and tribunals were established as exceptions; and a court against separatism was performatively turned into a platform to advocate it.

These chains of transgressive citational practice continued in a more violent and rupturing manner in the 1980s. This was the decade where political antagonism transformed into a full-blown, internationalised armed conflict that ravaged Sri Lankan society. In the context of the deepening political crisis, the Tamil political leadership was relegated to the margins by a raft of proliferating Tamil youth militias. The traumatic watershed of 'Black July' 1983, where the government condoned anti-Tamil pogroms, sparked further escalation and prompted the Indian polity in Chennai (Tamil Nadu) and Delhi to adopt a more interventionist stance. India's involvement, which was riddled by divergent interests (Krishna 1999), comprised a two-pronged strategy: covert support for Tamil militants to thwart an overly assertive Sri Lankan government[23] and a diplomatic process aimed at negotiating a moderate political compromise on the ethnic minority issue. Both interventions initiated long parallel chains of consequences, with blowback effects that harmed all players involved. Political negotiations and military escalations alternated in rapid succession in the mid-1980s, with the so-called All Party Conference in 1984, the Thimpu talks in 1985 and backchannel diplomacy in 1986 culminating in the 1987 Indo-Lankan Accord.[24] In parallel to this turbulent sequence of negotiations, the LTTE responded to India's divide-and-rule tactics towards the diverse Tamil militant groups by attacking and eradicating its rivals and declaring itself the sole voice of the Tamils – a violent turning point with enduring consequences for the Tamil nationalist movement (Bose 2002; Hellmann-Rajanayagam 1994b; Rajan Hoole 2001; S. Thiranagama 2010, 2011; A. J. Wilson 2000).

The 1987 Indo-Lankan Accord arguably comprises the historical counter-cadence of the 1972 and 1978 constitutions. In the 1970s, the Sri Lankan government had used its legal and political dominance to unilaterally shape a unitary state architecture. In the 1980s, the Indian government used its military dominance to impose a constitutional framework of shared sovereignty in all but name. The Indo-Lankan Accord aimed to settle the Tamil question with a compromise solution of regional autonomy – the provincial council system. The north and east were merged to create the NEPC, thus establishing a degree of regional autonomy for an area that effectively matched the homeland aspired by Tamil nationalists (see Map 2.1). The Indian Peacekeeping Force (IPKF) was deployed to safeguard the new constellation and disarm the Tamil militants, but it was soon drawn into an unsuccessful counter-insurgency campaign against the LTTE.

The Indo-Lankan Accord implanted an institutional fix that met some important Tamil demands (a degree of self-rule for the northeast), but one that was embedded within Sri Lanka's sovereign framework. The thirteenth amendment, the constitutional ratification of the accord, inserted a layer of quasi-autonomous provincial governance into a constitution that was characterised by an enormous central concentration of executive power within a unitary state.[25] The resulting constitutional settlement was rife with ambiguities and subject to divergent expectations. It had been presented to Tamil nationalists as a form of shared sovereignty, or at least a stepping stone towards it (Balasingham 2004: 97–110), but that was clearly not what the Sri Lankan government signed up to, and the actual accord text steered well clear of that terminology. The insertion of provincial devolution into an otherwise unitary constitution yielded so many tensions and paradoxes that the framework became legally schizophrenic, and provincial autonomy was compromised from its inception.[26] The constitutional settlement of devolved governance that the Indian government thrust on Sri Lanka with military might was subsequently scuttled by legal and administrative pushback. What started with a show of force by the Indian military was neutralised by minute insertions in the law books and the slow grind of bureaucratic procedure.

The Indo-Lankan Accord did not yield one experiment in performing government but several competing ones. Before the violent escalation of the 1980s, Sri Lanka had experienced a spiral of legal trickery and transgressive politics from within the democratic arena. What ensued after India's intervention was a veritable onslaught between three competing projects of statecraft, based on divergent interpretations of sovereignty. The Sri Lankan government (which was simultaneously threatened by the second revolt of the Sinhala leftist JVP) strove to repair Sri Lanka's singular sovereignty of a unitary state by curtailing

the NEPC and undermining the IPKF (to then fight the LTTE afterwards). The Indian government propped up the NEPC to boost its performative effort as a 'Tamil Provincial Government' (Dixit 2003: 283–284) for the northeast, thus effecting a maximal form of shared sovereignty within the existing legal constraints.[27] The LTTE rejected the NEPC altogether and started fielding its own institutional apparatus as a separate state premised on Tamil sovereignty. Going by the formal standards of Sri Lankan law, the first effort was the norm, the second was dubious and the third was illegal, but that tells us little about the actual governing capacities of these competing institutional forms or about the understandings and perceptions of legitimacy among the people governed by them.

Conclusion

Sri Lanka's history of contestation over political identity and power-sharing cannot be understood from a purely constitutional or institutional perspective. The infringement on legal frameworks and institutional mandates is central to the phenomena we seek to understand. The country's tribulations with ethnic power-sharing are embedded in a more fundamental set of questions about how sovereignty is defined and how the nation (and the *demos*) is demarcated. In line with the literature on the self-referential underpinnings of legitimate government (Beverley 2020a; Gilmartin, Price and Ruud 2020; Hansen 2021; Hansen and Stepputat 2006; Spencer 2012), a political compromise on the ethno-nationalist conflict raises questions about the validity and provenance of the constitutional foundations of the Sri Lankan state and about whether or not the Tamils are defined as a distinct nation. As a result, it becomes difficult to clearly delineate legitimate and illegitimate forms of political contestation. After all, the foundations on which such delineations are based are themselves core elements of the conflict.

A performative perspective – drawn from authors like Bertrand, Briquet and Pels (2007), McConnell (2016), D. Rutherford (2012), Spencer (2007), Weber (1998) and Wedeen (1999) – helps expand our focus from the distribution of powers in the constitutional architecture to the way such power is distributed in actual practice. These practices include the full repertoire of the political trick book, including political deception, legal skulduggery, twisted idioms, administrative subversion, transgressive institutional bricolage and the deployment of violence. Competing efforts to shape Sri Lanka's political landscape have shifted vessel over time. The realms of law, politics, bureaucracy and violence became entangled, and in the process the dynamics and protagonists changed. What started as a consultative debate on constitutional design in the

late British era yielded a cycle of legal hoodwinking in the 1970s and then escalated into armed insurgency and international military intervention, which then circled back to the constitutional settlement.

With the 1987 Indo-Lankan Accord, India forced a corrective implant into Sri Lanka's constitution, spearheaded by a compromised form of shared sovereignty through the provincial apparatus of the NEPC. The escalation of Sri Lanka's ethno-political conflict thus comprises a history of contesting, enacting and wresting sovereignty, which eventually resulted in violently competing forms of sovereign experimentation in the late 1980s and early 1990s. The rise and fall of the LTTE's de facto state institutions (discussed in Chapters 3 and 4) must be seen in this light. The provincial apparatus of the NEPC (discussed in Chapters 5 and 6) may seem marginal and obscure, but it derives significance from the fact that it embodies the crumble zone between these rivalrous forms of statecraft.

Notes

1 This performative ideal engendered 'an aspiration toward effective on-the-ground authority, ownership (whether legal or symbolic), and de facto impunity that states, private corporations, rulers, private armies, and many other "de facto sovereigns" strive to project and maintain' (Hansen 2021: 41). The presumed contrast between precolonial traditions of authority relying on theatrical conduct and modern states relying on a bureaucratic apparatus disguises the fact that performativity was a crucial aspect of the colonial endeavour too (Bertrand, Briquet and Pels 2007; Hansen 2021; S. Sen 2002).

2 Purushotham (2021) reviews the profound contestation around Hyderabad, the foremost 'princely state' within the British Raj and a monarchical, Islamic space at the heart of Indian territory, which was eventually reined in with large-scale militarised violence. He highlights the ambiguities and interstitial spaces resulting from the division of Punjab. And he points to the peasant uprising of Telangana as a contrarian effort delineating the populace and their cause – one articulated with a global class struggle rather than the ethno-religious composition of the nation – which was violently crushed.

3 Self-determination has been codified in international law on the basis of empirical characteristics: a defined territory, a permanent population, a government and a capacity to enter into relations with other states. These four criteria form the heart of the 1933 Montevideo conference, which is the central reference point for *declarative* interpretations of state sovereignty in international law. The alternative, *constitutive* interpretation of state sovereignty centres on recognition by other sovereign states.

4   Contemporary scholars (Arrhenius 2005; Bloemraad 2018; Little 2008; Ochoa Espejo 2020) have adopted less rigid approaches to the 'democratic boundary problem' – in a hybrid, mobile and globally interconnected society, demarcations are never static and never final: a *demos* may transform and *demoi* may overlap. However, contestations over these transformations and overlaps have yielded precisely the dynamics that the postcolonial literature describes.

5   As a critic of consent-based theories of law, Brilmayer argued that the juridical authority of the state over its people cannot originate from consent, because such consent presumes the existence of the state to which one can consent. For more recent reflections on concurrent interpretative dilemmas, see Barnett (2004); Michelman (1998); Zurn (2010).

6   Claims to political legitimacy often draw on tropes of protective, virile men and chaste, caring mothers, daughters and wives. Conservative renditions of gendered morality may then invoke a counter-politics that exposes the hypocrisies and silences (Aretxaga 1997; Coomaraswamy and Perera-Rajasingham 2009; Enguix Grau 2021; Parashar 2019; Satkunanathan 2012; True 2018).

7   The dominant reading of UN General Assembly resolutions in relation to the Montevideo Convention restricts the right to self-determination to the decolonisation of overseas territories of former European empires, though this saltwater test is increasingly criticised (G. Simpson 1996).

8   'Tamils of recent Indian origin' is arguably the best term. The alternatives could be seen as pejorative ('plantation Tamils'), too geographically limited ('upcountry' or *malaiyaha* Tamils) or misleading ('Indian Tamils', since the long history of the 'Sri Lankan Tamils' is traceable back to India as well; moreover, these supposedly 'Indian' Tamils are now Sri Lankan citizens).

9   In this connection, Tamil nationalism has been denoted as a 'defensive nationalism' (Nithiyanandan 1987). However, to depict Tamil nationalism as merely a response to a Sinhala majoritarian state would be to underestimate the political agency and energy vested in the insurgent movement (cf. Wickramasinghe 2006: 253).

10   In full: All Ceylon Tamil Congress (ACTC), Ilankai Tamil Arasu Kadchi or Federal Party (ITAK), Tamil United Liberation Front (TULF) and Tamil National Alliance (TNA).

11   The key groups in the 1970s were the Tamil Eelam Liberation Organisation (TELO), the Eelam Revolutionary Organisation of Students (EROS) and the LTTE, with two additional factions emerging in the early 1980s: Eelam People's Revolutionary Liberation Front (EPRLF, split from EROS) and People's Liberation Organisation of Tamil Eelam (PLOTE, split from LTTE).

12   The dominant legal and political understanding, certainly among Sinhala nationalists but also among constitutional scholars, is that Sri Lankan sovereignty is indivisible. However, from a Tamil nationalist perspective, the principle of

devolution only has merit if it comprises the devolution of *sovereign* power. This disagreement conjures up the demarcation problems and bootstrapping dilemmas that have riddled political and legal theorists, as discussed in the first half of this chapter.

13 Sri Lanka's devolution debate has mainly revolved around three sets of issues. First, the parameters of devolution, which include the unit of devolution (the whole northeast or smaller, less politically significant entities), the degree of devolution (emulating regional self-government or merely distributing public services and resources) and the question of symmetry (a uniform system for the whole country or a special arrangement for the regions of ethnic minorities, most obviously the Tamils). One can set these three parameters in such a way to let devolution fulfil Tamil nationalist aspirations (a powerful arrangement for the whole northeast) or to effectively frustrate or thwart them (with a country-wide system of district-level bodies that serve as extension schemes for centrally controlled state largesse).

The second key aspect of devolution concerns the legal status of a power-sharing arrangement: an interim arrangement, an act of parliament, a constitutional amendment or something else. This determines the robustness of a devolved system of government against attempts to stifle or overturn it with executive orders, new legislation, constitutional reform, emergency powers, budget cuts, political trickery or extra-constitutional measures. A third important aspect of Sri Lanka's devolution lexicon concerns the language and performative dimensions of devolution. As we will see, devolved units may be aggrandised with the terminology of government or trivialised with more technical-sounding terms, and they can be granted the potency of patronage or starved into political impotence.

14 One significant exception, which *does* think in a direction that resonates with the perspective taken here, is the collection edited by Jayadeva Uyangoda and Neloufer de Mel (2012), especially the chapter on the poetics of state government in eastern Sri Lanka by Yuvi Thangarajah (2012). For a related line of reasoning, more squarely focused on constitutional law, see Schonthal's notion 'pyrrhic constitutionalism' (2016a).

15 Arguably, this historical juncture is cognate to the multifarious struggles around India's constitutional settlement in the 1940s, though the scale and the levels of violence are evidently different.

16 The 1972 'republican' constitution apportioned a 'foremost place' to Buddhism, despite also alluding to secularism (Coomaraswamy 2012; Schonthal 2016a), and it introduced several Sinhala nationalist measures like a Sinhala language policy and the name Sri Lanka. Perhaps most significantly, it bolstered the executive by weakening checks and balances and enabling wide-ranging emergency powers (Edrisinha et al. 2008: 232–253).

17 More specifically, the SLFP-dominated assembly brushed aside the protections against majoritarian law-making in section 29 of the Soulbury constitution (Ludsin 2012; Sampanthan 2012; Wickramaratne 2014: 75–95; A. J. Wilson 2000: 104).

18 Arguably, V. Navaratnam's 'Thamil Suya Aadchi Kadchi' in the late 1960s was a precursor to this, given its insistence on a sovereign Tamil stance. Navaratnam was a founding member and theoretician of ITAK but fell out with the party over its decision to join the 1965 Senanayake government (A. J. Wilson 2000: 95).

19 Amirthalingam had been an ITAK member from the start, initially as its youth wing leader. At his 1976 arrest at the Jaffna bus stand (along with three other Tamil front men), he was the secretary-general of the newly founded TULF. After Chelvanayakam's death in 1977, Amirthalingam became the ITAK/TULF leader.

20 This claim confronted the court, in a very direct and concrete way, with the complicated legal conundrum of navigating the bootstrapping problem of law: asserting the legal authority to assess its own legality would result in circular reasoning. The court eschewed a verdict on the constitution as a political matter and referred the question of its own validity to the Supreme Court. These legal proceedings were overtaken by events: the government decided to abandon the case, as it had itself become a platform for advocating separatism (Edrisinha et al. 2008: 261–262).

21 Reminiscent of the dynamics around Amirthalingam's trial, and in the immediate aftermath of Black July in 1983, the Jayawardena government pushed through a constitutional amendment to outlaw separatism by forcing parliamentarians to swear an oath of allegiance. Tamil parliamentarians forfeited their seats in protest.

22 The UNP held a parliamentary majority that was so vast that new elections could only lower his numbers. When parliament's term expired, President Jayawardena held a plebiscite on extending that term by another six years (Spencer 2007: 72–95). This enabled him to preserve an 83 per cent majority (the composition of Parliament) with only 55 per cent of the votes (the result of the referendum). In formal terms, this was a popular referendum, but in terms of its political significance one could just as well argue that it functioned like a parliamentary election with very skewed math, or – more to the point – a political scam.

23 This covert support programme was complicated by internal differences: the secret service mainly supported non-LTTE groups, which then prompted Tamil Nadu Chief Minister M. G. Ramachandran to bankroll the LTTE (Balasingham 2004: 62).

24 The initial mediation attempt (Annexure C, 1983–1984) comprised an expansion of previous deals: like the 1965 DC Pact and the district development councils created in 1981, it took districts as a point of departure but empowered them to be amalgamated into larger regions. The next iteration of Indian mediation (the December 1986 proposals) scaled up to provinces as the unit of devolution, but it tried to tinker with the delineation of provincial boundaries, mainly by taking Sinhala-dominated areas out of the Eastern Province (Balasingham 2004: 49–54; Dixit 2003: 22–23; Edrisinha et al. 2008; Loganathan 2006; TULF 1988: 50–141). During this poorly publicised phase, detailed negotiations over power-sharing and regional autonomy through a revised constitution took place between the Jayawardena government and TULF, the joint platform of

Tamil political parties (TULF 1988: 83–146). This resulted in what has been referred to as the 'December 19 proposals' (1986), which carved out a middle ground between secession and unitarism by devolving power to the provinces, a solution modelled on India's own state structure (Bose 1994; Dixit 2003: 41–65; Loganathan 2006). The proposal was arguably the inverse of an accord: the text was not made public, and none of the parties embraced it. But interestingly, it had a lasting impact – in hindsight, Sri Lanka's present system of devolved governance stems from this proposal. The final package (the Indo-Lankan Accord of 1987) further upgraded this model by warranting the provisional merger of the Northern and Eastern Provinces, a unit of devolution that matched the aspired Tamil homeland, though this was an interim measure subject to a future referendum in the Eastern Province.

25 This was a feat in itself: a blockage of the thirteenth amendment on the grounds that it violated the unitary character of the state and the indivisible nature of parliamentary sovereignty was narrowly averted in the Supreme Court with a vote of five to four (Thiruchelvam 2000: 206; Wickramaratne 2019: 1–12).

26 First, the thirteenth amendment constrained provincial competencies by adding annexes with special provisions and a blanket stipulation that 'national policy' on devolved subjects remained with the centre, thus opening an administrative Pandora's box. The centre also retained control over the civil service (in terms of hiring, training, pay, promotion, discipline). Key gatekeeping power over provincial finance, staffing and legislation was given to a presidentially appointed governor. In addition, the thirteenth amendment left ample space for the centre to restrain the provinces through procedural stalemates and inaction: provincial land powers, for example, were contingent on the delineation of provincial lands by a commission that was never created (Coomaraswamy 1994; Shastri 1990; Thiruchelvam 2000; TULF 1988).

Second, the northeast merger (a cornerstone of the Indo-Lankan Accord) was created through the emergency powers of the public security ordinance, rather than a constitutional clause, which severely weakened its legal robustness and eventually resulted in the 2006 Supreme Court verdict to 'de-merge' the north and east (Wickramaratne 2019: 12).

Third, the provincial councils were outmanoeuvred by a whole suite of institutional tentacles drawing power back to the centre. Local government officers (divisional secretaries) were further empowered in a hierarchy that allowed them to bypass the provinces and an array of new authorities and presidential schemes also circumvented the provincial council system (Coomaraswamy 1994; Thiruchelvam 2000).

Provincial tax revenue, finally, was truncated to negligible proportions (Gunawardena 2019).

27 Neither the Indo-Lankan Accord nor the thirteenth amendment use the language of shared sovereignty, but they work to assuage Tamil secessionism with a compromise in that direction.