11 The nexus of militarisation and corruption in post-conflict Sri Lanka

Zachariah Mampilly

Sri Lanka confounds much of the common wisdom about civil wars. A functional democracy with well-established government institutions, the country boasts a literate population, low birth rates and economic growth for much of the past four decades. There is a written constitution, a functional court system, regular elections and a competitive party system; most other post-conflict countries can only aspire to these formal institutional arrangements. Indeed, creating a bureaucracy that functions as well as Sri Lanka’s is often the end goal of many international peacebuilding efforts. Beneath the surface, however, the country’s institutional framework exhibits several severe pathologies that threaten to unleash a third round of domestic bloodletting. A closer look sheds light on how corruption can remain endemic and detrimental to peacebuilding efforts, even in contexts where the formal institutional setting is relatively robust.

Some 26 years after its official beginning, the brutal Sri Lankan war ended in early 2009 with the total victory of government forces over the Liberation Tigers of Tamil Eelam (LTTE). The optimistic view on civil war termination is that it will precipitate a broader transformation of society. It can be an opportunity to take stock and implement new institutional frameworks to prevent political disputes from turning violent (see Rose-Ackerman, p. 000). Immediately after the war many hoped that the country had left its violent past behind. However, knowledgeable observers were already raising alarms barely one year later (International Crisis Group 2010a).

Sri Lanka’s war did not end with an internationally mediated peace process, but rather through a brutal two-year siege over insurgent-controlled territory by government forces. Consequently, it did not trigger a broad transformation of the overarching political infrastructure. Rather than initiating a new political order, the end of the war represents an evolution of prior militaristic tendencies.

This chapter makes the case that corruption in post-conflict Sri Lanka must be understood as part of broader political and economic historical trends. I argue that the antecedents for the post-conflict dispensation – epitomised by the increasingly autocratic position occupied by President
Mahinda Rajapaksa – are traceable to changes in Sri Lankan state and society resulting from two decades of conflict.\(^1\) While Rajapaksa’s emergence as the most powerful political leader in the country’s history is frequently blamed for the spike in corruption, treating his rise as a distinct moment ignores the precedents established by his predecessors. Rather than personalising the country’s predicament, I situate the contemporary period within the broader political context from which it emerged. Using such an approach is the best way to understand the evolution of the majority Sinhalese position in the aftermath of the LTTE’s demise.

When considering the role that corruption plays in the post-conflict period, it is essential to assess the larger relationship between the state and society in Sri Lanka. I trace several political tendencies that emerged during the war and show how they contributed to the explosion in corruption. Specifically, I look at how the militarisation of the state during the conflict led to the centralisation of power in the presidency and to the closure of the democratic space, fostering distinct forms of corruption at every level of government. Contrary to other analyses that view corruption as a disease that can undermine legitimate authority in post-conflict settings (see Philp, this volume), I argue that corruption in this case is not the cause of dysfunction, but rather the most overt symptom of these broader pathologies.

I also examine the legacies of the war on the reconstruction process, arguing that the impact of the above transformations undermined the potential for building a durable peace. Sri Lanka demonstrates the limits of peacebuilding approaches that emphasise formal institutional structures in a post-conflict regime, without resolving the underlying political cleavages (Carothers 2007). I show how the territorial division that characterised Sri Lanka during the war continues to shape post-conflict realities, leaving the entire reconstruction process vulnerable to endemic corruption. Finally, I assess the transformation of the geopolitical context and its role in furthering corruption at the highest levels of Sri Lanka’s government in the post-conflict period. While the emergence of corruption in the 1970s was tied to pro-Western free market reforms, currently, it is the rise of Chinese influence that poses the greatest challenge to curtailing corruption.

**Background to the war**

The war officially began in 1983, following several decades of non-violent protest by the country’s minority communities in response to the gradual Sinhalisation of the state. Among various militant groups, the LTTE emerged as the dominant face of the armed resistance, frequently resorting to brutal violence to subdue competitors. Over time, the organisation arguably became the most sophisticated non-state fighting force ever with a military that included a navy, an air force and approximately 20,000
cadre. At its most powerful, the organisation controlled approximately one-third of Sri Lankan territory, establishing a complex governance system to administer its territory (Stokke 2006; Mampilly 2009).

The war against the Tamil insurgency was characterised by prolonged periods of intense fighting interspersed with negotiations that often came close to a settlement, but fell short due to the intransigence of one or both parties. The conflict shifted in 2005 with the defection of a top rebel commander and the election of Rajapaksa who campaigned on a platform to end the war. Eventually, Rajapaksa was able to defeat the LTTE using overwhelming force sanctioned by a wide variety of international actors (Uyangoda 2008).² Victory by the government was complete, killing up to 20,000 non-combatants during the final siege as well as the upper echelons of the rebel leadership, including many who died after attempting to surrender (International Crisis Group 2010a). Over the course of 26 years, 100,000 people lost their lives in the fighting. Many more were displaced, including 300,000 Tamils put into detention camps with tens of thousands remaining interned more than a year later.³

The central question of the war has always been whether Sri Lanka is populated by a single nation or whether it encompasses two distinct nationalities, each worthy of its own state. For most of the war, the latter was the basis for negotiation. Debate centred around two possibilities: dividing the country into two states or creating a bi-national state with appropriate political arrangements (Edrisinha and Welikala 2008). The end of the war has undermined support for Tamil-controlled structures, and increasingly, the political leadership has sought to position the country as a single Sinhala nation with a few dissatisfied minority voices, akin to Malaysia. Peacebuilding in this context faces severe hurdles, not least of which is the problem of corruption. A failure to make improvements in the performance of political institutions, especially with respect to corruption, could easily lead to another round of ethnic warfare.

The institutional setting: a history of corruption and anti-corruption efforts

While Sri Lanka’s anti-corruption efforts began before the war, they were shaped in the crucible of three decades of fighting. Corruption became endemic after Junius Jayawardene was elected the head of the United National Party (UNP) in 1977.⁴ Jayawardene’s election marked the end of 17 years of unbroken rule by the Sri Lanka Freedom Party (SLFP), a left-leaning party aligned with the Soviet bloc.⁵ His policies initiated three long-term shifts to the Sri Lankan polity – the consequences of which are still being felt today.

First, Jayawardene became more nationalistic to undercut the UNP’s primary competitor, the SLFP, by depriving it of key supporters. This coalescing around an ethno-nationalist position resulted in Sinhala
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chauvinism becoming the de facto official position of the country’s two primary political parties.

Second, Jayawardene amended the Constitution, creating (and immediately claiming) the position of executive president. The mixed political system that resulted elevated the presidency to a position equal to that of Parliament – which historically had held constitutional power – setting the stage for recurring disputes over the extent of presidential power. In Sri Lanka, the president serves as head of government and commander-in-chief of the armed forces and controls all government procurements. Formally responsible to Parliament, there have been no instances of a president being called to account by the legislative body, underscoring how a strong presidency decreases accountability and promotes corruption (Gerring and Thacker 2004). In addition, Article 35 of the Constitution makes the president immune from prosecution (Wirithamulla 2008: 37). The president also appoints a cabinet of ministers, which is formally responsible to Parliament, though their loyalties remain with the more powerful executive.

Finally, Jayawardene came into office as a result of an economic crisis that undermined the UNP’s ability to continue its generous welfare programmes. In response, he pivoted the country’s geopolitical alignment away from the Non-Aligned Movement and the Soviet bloc towards the NATO alliance. Strategically located off the coast of India, Sri Lanka was a prize for the Western powers, most of whom had previously remained cool towards the country. By offering generous terms for international financing through the International Monetary Fund (IMF), the World Bank and the Asian Development Bank (ADB), Sri Lanka ambitiously replaced its state-centric economic policy with a more market-oriented approach (Bastian 2007). Credited with salvaging the country’s economy, Jayawardene’s decision to voluntarily implement structural reforms precipitated a period of rapid economic growth that contributed to his 1982 re-election victory (Richardson 2004: 45).

However, the economic reforms also triggered negative consequences, including corruption. The new regime lifted controls on the economy, purposely abrogating the state’s capacity to regulate the flow of foreign investment. In addition, the government borrowed heavily and foreign debt tripled between 1976 and 1982 (Richardson 2004: 52). Massive development schemes funded by international aid money and implemented by private corporations presented new opportunities for bribery and tax evasion. Capital transfers were deregulated in line with IMF prescriptions, unleashing a torrent of foreign money into the growing black market (Samarasinghe 2002: 270).

As early as 1979, complaints about government kickbacks in the awarding of contracts led to the creation of the Committee on Public Enterprises (COPE). COPE was comprised of MPs and reported to Parliament. It was designed to ensure fiscal discipline in public
corporations and other quasi-governmental bodies. But without the political impetus to hold government officials accountable, COPE did relatively little during its first three decades. Still, it represented the beginning of Sri Lanka’s anti-corruption system.

During three unbroken terms of UNP rule (1977–1994), a growing chorus of opposition figures and members of the media echoed the perception that the political leadership had improperly profited from economic liberalisation. Chandrika Kumaratunga, the head of a resurgent SLFP, made corruption a centrepiece of her parliamentary campaign, sweeping to victory in 1994 at the head of a centre-left coalition known as the People’s Alliance (Ponnamperuma 2002: 277–279).

Having promised to cut war expenditures and divert resources to development, Kumaratunga created a permanent anti-corruption body. Act 19 was passed, creating the independent Permanent Commission to Investigate Allegations of Bribery or Corruption (CIABOC) with wide-ranging powers to prosecute instances of corruption (K.M. de Silva 2002: 250). Accountable to Parliament, CIABOC was designed to look into corrupt government acts, gather information and initiate prosecutions of offenders. But the commission was only allowed to instigate investigations following formal complaints, denying it the ability to initiate investigations or follow up on press reports (de Mel 2007: 46; Wirithamulla 2008: 40). Furthermore, investigators were controlled by the police, dissuading many from coming forward since it was often police officers who were being accused (de Mel 2007: 46). By mid-1995, the commission began to run into more serious trouble with members claiming it was underfunded and understaffed (Ponnamperuma 2002: 285). More damningly, infighting and accusations of interference by high-ranking officials undermined CIABOC’s autonomy and effectiveness.

Meanwhile, an intense period of fighting resumed in 1995, derailing Kumaratunga’s plans for fiscal reform. Defence expenditures grew from 1.3 per cent of GDP at the start of the war to average between 5 per cent and 6 per cent of GDP (Shastri 2004: 77–83). In 2005, Kumaratunga’s former prime minister, Mahinda Rajapaksa, took over the presidency, winning broad support among rural Sinhalese voters for his hardline views on the Tamil insurgency. Rajapaksa immediately stepped up the war effort, cutting off negotiations and funnelling even more resources towards the military.

Rajapaksa displayed little concern for anti-corruption institutions, despite signs that the anaemic system was finally beginning to stir. COPE, which was largely thought to be an irrelevant relic, released its first report in early 2007. It documented corruption affecting 26 state institutions that cost the country Rs.150 billion (~US$140 million) (COPE 2007a). A second report issued later in 2007 also documented billion-rupee losses at a number of state institutions (COPE 2007b). Both reports produced by COPE were referred to CIABOC, which had the mandate to open
investigations into cases of public malfeasance.\textsuperscript{10} Formally accountable
only to Parliament, CIABOC was ordered to update legislators every two
weeks on its investigations (Wirithamulla 2008: 4–12).

Even though he was not personally implicated in the COPE reports,
Rajapaksa undermined the autonomy of the commission. He transferred
the director of CIABOC, Piyasena Ranasinghe, after he refused to resign.
At the time, Ranasinghe was following up on the damaging reports pro-
duced by COPE as well as investigating a number of other illegal weapons
deals (Wirithamulla 2008: 12). After Ranasinghe’s departure, Rajapaksa
appointed his brother Basil to the commission, further undermining its
independence (Wirithamulla 2008: 5).

Though not meant to be conclusive, several indicators demonstrate the
minimal capacity of the anti-corruption system and the impact of the war on
fostering corruption. An influential Sri Lankan economist estimated that
the country’s growth rate lost 2 per cent annually as a result of corruption
during the war (Indraratna 2007). And according to Transparency Interna-
tional’s 2009 Corruption Perception Index, Sri Lanka scored 3.1 out of 10 at
war’s end, tying it with Liberia. Since 2002, the country has experienced a
steady decline in its CPI rating when it scored 3.7 (Wirithamulla 2009: 37).

Post-conflict legacies and their impact on corruption

Post-conflict politics in Sri Lanka now looks much like politics did during
the war years. The country’s political and social realms remain intrinsically
intermeshed with the militarisation of the state. Corruption has been mag-
nified as a result of these conflict-induced transformations. It exists across
the spectrum of governmental authority, from low-level kickbacks for local
administrators to ‘grand’ corruption in which entire branches of govern-
ment have been complicit in illegal revenue-generating schemes. As such,
corruption is merely a symptom of a broader disease that affects the Sri
Lankan body politic: the militarisation of the state. To understand how
corruption has become endemic, we must consider how the war trans-
formed both state and society. Three features of this transformation – two
internal and one external – gave rise to the conditions conducive to
corruption.

Centralisation of power and the militarisation of the state

Formally, the president shares a co-equal position to Parliament, however,
the war created an unwavering trend towards a greater centralisation of
power in the executive.\textsuperscript{11} As commander in chief of the armed forces, the
president is responsible for determining all military allocations, and hence,
from an institutional perspective, had the most to gain politically and materi-
ally in perpetuating the war. This dynamic has resulted in new opportunities
for corruption by reducing the accountability of the political leadership.
The conflict also massively increased military expenditures. In 1982, before the war began, defence expenditures were 1.4 per cent of GDP. According to a 2006 study, military expenditures had risen to 4.1 per cent of GDP. Proportionately, the military budget in Sri Lanka was the highest in South Asia, – higher than India (2.5 per cent), Nepal (2.5 per cent), Bangladesh (1.5 per cent), and even Pakistan (3.5 per cent) (cited in Reddy 2010). Notably, these figures do not include the military build-up that occurred during the final phase of the war. In fact, Rajapaksa increased defence expenditures dramatically in order to crush the LTTE. In 2008, the defence budget rose by 20 per cent (BBC News 2007). In 2009, it reached US$1.7 billion, about 17 per cent of overall government spending. And despite the end of the war, the government has made clear that it has no intention of reducing the defence budget (AsiaNews 2009).

By another metric, in 2006, Sri Lanka had 8,000 military personnel per one million people – this was the highest rate in South Asia.12 Again, during the final phase of the war, the numbers surged. Both the police and armed forces witnessed substantial increases in personnel. Even after the war ended, General Sarath Fonseka, the former Commander of the Army, launched a recruitment drive for 50,000 new soldiers (Agence France-Presse 2009b). The effect has been to double the number of citizens in uniform since 2006, from approximately one in 125 to an astonishing one in 66 in 2009 (AsiaNews 2009).

The impact of centralising defence decision-making has allowed corruption to flourish at the highest level of government. Indeed, corrupt regimes frequently utilise large weapons purchases to mask kickbacks from shady deals (Rose-Ackerman 2008: 329). For example, in 2008, Sri Lanka signed an agreement to procure four MiG-27 attack crafts from the Ukrainian government – the largest military contract in the country’s history. Touted as a government-to-government arrangement, it was revealed that the contract was actually signed with a private company registered in the United Kingdom. A select committee was appointed by Parliament to examine the details of the sale, but in 2008, the president suddenly and without any stated reason prorogued Parliament leading to the dissolution of the committee (Wirithamulla 2008: 6; Beling 2008: 46).

While many pin the upsurge in militarisation and corruption to the rise of Rajapaksa (for example, in appointing military men to high-level diplomatic and administrative positions (Abeywickrema 2011)), it is more useful to understand the current situation as a culmination of historical trends. Indeed, scholars and civil society leaders have long bemoaned the militarisation of state and society in Sri Lanka (de Mel 2007). Parliament has passed two constitutional amendments to weaken the executive with little effect. The Thirteenth Amendment was drafted with the intent of decentralising power to the provinces, but none of the specific provisions have been implemented.
Meanwhile, the Seventeenth Amendment created a constitutional commission to depoliticise appointments to key posts. The goal was to mitigate nepotism and cronyism in high-level appointments, thereby reducing the power of the executive. In September of 2001, Parliament certified the amendment and a Constitutional Council was established comprising of the prime minister, the Speaker of the Parliament, the Leader of the Opposition and a number of appointed members including one selected by the president. However, in 2005, the council’s term expired and no new appointees were made. Instead, Rajapaksa took on the powers of the commission for himself (Wirithamulla 2008: 38). Since then, high-level positions including the Auditor General, the Attorney General, the Chief Justice, the Inspector-General of Police and the Secretary General of Parliament have been appointed by the president in direct contravention of the Seventeenth Amendment (Beling 2009: 14).

**Closure of democratic space**

Corruption thrives in closed environments. Governments seeking to cover corrupt practices have frequently restricted information flows in the name of national security (Arunatilake et al. 2002: 1487). In Sri Lanka, the government has gone to extreme lengths to limit coverage of its activities. In government-controlled areas and in LTTE-controlled areas, citizens have had minimal opportunity to challenge political authority. In the words of a leading anti-corruption advocate, ‘for 30 years, there has been no environment to ask questions’.13

Save for a few brief periods during peace negotiations, Sri Lanka has been under a state of emergency since the late 1970s. Emergency regulations were promulgated under the Public Security Ordinance which combined with the Prevention of Terrorism Act (PTA)14 to give greater powers to the police, the military and the executive to closely monitor internal criticism. In August 2005, additional emergency regulations came into force, permitting the Minister of Defence to unilaterally order the detention of persons for up to one year without charge. Taken together with the country’s perpetual state of emergency, these new measures allowed key constitutional safeguards to be bypassed on the basis of alleged national security concerns, undermining government transparency and accountability and restricting freedom of expression (Beling 2009: 7–8).

Indeed, the government has always exerted significant control over the media through direct ownership of English and vernacular newspapers and control over television and radio broadcasts.15 A censor board remains vigilant and the government has consistently refused to pass a Right to Information Act, despite the efforts of pro-democracy activists. Many ordinary Sri Lankans understand that such efforts have little to do with national security and are more a cover for government malfeasance. As one scholar put it, there was a widespread perception among civilians that...
'censorship relieved the government of its responsibility to account for its use of public funds, and intimidation suppressed critical voices in the press' (Gambard 2004: 155). As a result, evidence of government corruption is difficult to produce and distribute openly.\textsuperscript{16} Still, independent media such as the \textit{Sunday Leader} among others have bravely sought to document multiple instances of corruption, despite the censorship they face.

In 2008, during the final assault on the LTTE, the government made clear the costs of dissent. Stating that ‘criticism in a time of war is dissent’, Secretary of Defence Gotabaya Rajapaksa, another brother of the president, issued a warning to critics of his regime, branding them traitors to the country (Beling 2008: 51). This was not simply bluster.

Journalists who have documented bribery in the purchasing of military equipment have been threatened by state agents or been put in detention without trial. In addition, beyond the institutional regime that restricts effective investigation of government corruption, the state has orchestrated extrajudicial attacks on government critics. After Rajapaksa’s election, extrajudicial killings of journalists became disturbingly common. During the last five years of the war, 34 journalists were killed. None of these cases have been solved and no arrests made (Beling 2009: 13). Initially, such killings targeted Tamil opponents to the regime, including the prominent Tamil journalist Dharmaratna Sivaram. But, gradually, these attacks expanded to target internal Sinhala critics, such as the noted government critic, Lasantha Wickramatunga, whose spine-tingling self-authored obituary is a must read for anyone interested in the chilling effect of militarisation on a society’s democratic space (2009).

Many of the journalist killings, including the assassination of Wickramatunga, occurred in broad daylight in close proximity to police and military checkpoints. Despite the creation of a Presidential Commission of Inquiry in 2006 to investigate the killings, the president dissolved the commission in 2009 before the investigation was completed.\textsuperscript{17}

\textit{Geopolitical manoeuvring}

The regime has been especially astute in navigating broader geopolitical rivalries. By playing off India, China and the United States against each other, Rajapaksa has managed to avoid unwanted international scrutiny (Raman 2010). Since 1977, Sri Lanka has been heavily subsidised by development aid. International financing has often been a lifeline for the government, and historically, previous regimes had gone out of their way to assuage their foreign patrons, particularly around the conduct of the armed forces (Bastian 2006; Mampilly 2009). But in recent years, the regime has become less responsive to outside actors. The strategic manipulation of the US–China–India rivalry to control the Indian Ocean shipping lanes has allowed top government officials to fully engage in corruption without needing to worry about penalties (Uyangoda 2008:...
The geostrategic importance of the shipping lanes has also allowed the government to ignore other demands made by India and the United States, including concerns over recent conduct during the war as well as broader issues of governance.

For example, during the final phase of the conflict, which coincided with the global financial crisis that began in 2008, the regime turned to the IMF for an emergency loan after depleting its foreign reserves due to massive military spending. Initially, the foreign secretaries of the United Kingdom, France and the United States sought to have conditions placed on the loans with respect to the treatment of Tamil civilians caught in the warzone (Agence France-Presse 2009a). However, Sri Lanka rebuffed these attempts, negotiating a US$2.5 billion loan with zero conditions, demonstrating that the country no longer feels obligated to its Western patrons (Lanka Business Online 2009). Indeed, the leadership frequently criticised Western efforts to link international aid to good governance as ‘neo-colonial’.

Through such geopolitical manoeuvring, the country has been able to avoid many of the costs that can befall corrupt regimes. Corruption is often thought to reduce capital inflows and foreign direct investment resulting from the weariness of investors to enter such markets (Rose-Ackerman 2008: 332). However, competition between the Asian giants has allowed the regime to nimbly position itself to enjoy the benefits of foreign investment while openly accepting kickbacks. The president’s efforts to develop ties to China have paid off handsomely – doubling investment to over US$1 billion in government-to-government contracts in just the past five years (Gunawardena 2009; Raman 2010).

China has been aggressively moving into the region, forming partnerships and directing investments towards countries that India historically has claimed as part of its sphere of influence – a strategy of encirclement evocatively referred to as the ‘string of pearls’ in a 2004 CIA report. The United States has sought to support India in this Asian tug of war by providing military advice and selling arms. Chinese efforts include a billion-dollar port project in Hambantota that will nearly quadruple Sri Lanka’s total cargo handling capacity from six million containers annually to close to 23 million (Rabinowitz 2008).

Deals between Sri Lanka and China are not tendered through a competitive bidding process, but instead result from direct government negotiations. Using state-to-state contracts allows the regime to limit Chinese exposure to demands for kickbacks from low-level government officials though payoffs to higher levels of power are considered standard. In contrast, Indian investment in Sri Lanka tends to be directed through private enterprise. As a result, Indian businessmen are more exposed to demands for bribes from all levels of the Sri Lankan bureaucracy and have limited their investments as a result.

There are a number of effects on corruption resulting from the recent shift in geopolitics. Notably, China has a demonstrated record of tolerating...
high levels of corruption with its trading partners. China also has a policy of non-intervention in domestic affairs, and has proven willing to use its veto to prevent a Security Council investigation of Sri Lanka’s conduct during the final phase of the war (Lee 2009). In response to Chinese competition, India and the United States have toned down their criticism of the Sri Lankan government despite facing pressure from domestic constituencies regarding the treatment of Tamils. Both countries also avoided making the issue of corruption a central determinant of their respective bilateral relations with Sri Lanka out of a fear of pushing the country further into the Chinese camp.23

Corruption and post-conflict reconstruction

To understand how the nexus of corruption and militarisation has shaped the reconstruction process, it is essential to grasp the tripartite territorial division of the country during the war (Figure 11.1). These divisions produced three distinct politico-economic formations that governed daily life on the island. In the southwest, including the capital Colombo, the government exerted complete control. Within the northern province, the LTTE controlled a vast territorial enclave. In the eastern province, control was divided between the government, which controlled most of the main towns such as Batticaloa and Trincomalee, and the insurgency, which operated mostly in the rural areas just beyond the city boundaries. Over time, the institutional framework came to reflect these divisions, with areas in the north and east interacting with the government in vastly different ways than the southwest – with important consequences for the reconstruction process.

The goal of this territorial and institutional division was to isolate the nefarious effects of the war economy and to prevent these effects from spreading to the rest of the economy (Bastian 2006). Driven by a need to retain foreign aid flows into the country, the SLFP administrations created a tripartite economic system tethered to the political actor in control of a particular territorial space. In areas under uncontested government control, economic life centred on Colombo. This area remained the preferred face of the pro-Western political leadership, despite the occasional bombings and suicide attacks that periodically disrupted economic activity. By tying Sri Lanka’s economic health to the global economy – the result of two decades of liberal economic policies pursued by both parties – the government was able to ensure steady growth. Led by the southwest, the country achieved remarkable rates of real growth, averaging over 5 per cent during the 1990s (Shastri 2004: 88–89).

The northern province, governed by the LTTE rebels had a vast territorial enclave under its control, where political and economic life revolved around the insurgent civil administration. Economic activity in Tamil Tiger areas was largely delinked from the broader economic system of the country. Mirroring the transnational funding strategy of the Colombo
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The mapped areas of control are only rough approximations. Many areas change hands often.

Figure 11.1 Map of Sri Lanka during the war.

government (which relied on labour remittances as a source of foreign exchange and domestic investment) (Shastri 2004: 88), the Tamil insurgency also created an ‘open economy’ in areas under its control. By exploiting the country’s liberal financial rules, the insurgency was able to launder money from international NGOs, affiliated businesses and most importantly, from diasporic contributions (International Crisis Group 2010a).
Meanwhile, the eastern province languished between government-controlled urban zones and rebel-controlled rural zones. Unlike the south-west and the north where control was not contested, residents of the east experienced life within a war economy, bereft of effective government administration and unable to move freely or participate fully in the local economy (Mampilly 2007). The rules and norms that existed in each of these three zones during the war were quite distinct.

Understanding the war-induced territorial division is essential for understanding the variation in corruption in the post-conflict period. In the northern and eastern provinces, where the bulk of fighting actually took place, corruption was a normal by-product of the war economy. Commissions and kickbacks were standard practice in awarding defence contracts and arms purchases. Illicit profiteering by officials and private businessmen was also common as residents of the two regions sought to acquire goods banned by extensive sanctions that drove up prices to exorbitant levels (Shastri 2004: 89). Corruption also trickled down to lower levels. Soldiers were often accused of pilfering small arms and weaponry and selling them to Tamil militants (Gambard 2004: 155), reflecting the relatively dire conditions that characterised their service in the national army.

Corruption often bedevils reconstruction efforts. When the fighting ended in May 2009, new political alignments came to the fore accompanied by new opportunities for predation in the post-conflict social order. Resources resulting from a peace dividend – whether from savings in military spending or an increase in international aid – can flood into these new political arrangements, enticing government officials (see Cheng and Zaum, and von Billerbeck, this volume). In Sri Lanka, the government has had to deal with three interlinked challenges, each prone to corruption in varying forms: resettling Tamil IDPs, allocating lands appropriated by the insurgency and ensuring community participation in the reconstruction process.

Resettlement camps

During the final siege, 300,000 Tamils were pushed out of rebel territory and placed in vast internment camps (Human Rights Watch 2010). The government claimed that keeping Tamils in ‘welfare camps’ was necessary since many had connections to the insurgency and needed to be separated out from the broader population. But these efforts were not systematic and tended towards collective punishment of non-combatants rather than targeting those most likely to be involved in future militancy.

This dynamic became evident as reports leaked out regarding the steady flow of Tamils leaving the camps without permission (International Crisis Group 2010a). Those with sufficient resources, including many mid-level members of the insurgency, were able to bribe their way out, paying
approximately US$3,000 to camp guards to secure their release. This was a
continuation of similar practices embraced by soldiers during the war.25
Money for bribes sometimes came from the diasporic networks that the
LTTE had developed (International Crisis Group 2010a). Ironically, this
meant that those with the closest ties to the organisation were best able to
pay, leaving those with the least resources to languish behind barbed wire.
Close to 100,000 Tamils remained in the camps for a year, though the
government did resettle many after considerable international pressure
(Gowrinathan 2009).26

The resettlement process of Sri Lanka’s Muslims, many of whom were
forcibly expelled from areas under insurgent control in 1990, has also
been plagued by corruption (International Crisis Group 2010a: 6). As a
result, tensions between the two minority communities have been exacer-
bated, especially since neither community has felt that the resettlement
process has properly addressed their needs.27

**Land allocation**

During more than two decades of fighting, large tracts of land in the two
provinces were taken over by the military or were under insurgent control.
When the war ended, the government was forced to decide how to allo-
cate these lands. This question has become particularly contentious as
powerful interests jockey for position.28

The eastern province, which encompasses 15 per cent of Sri Lankan ter-
ritory, came under government control following the defection of the
LTTE’s top eastern commander in 2005. The province is home to the
world’s largest natural harbour in Trincomalee, a particularly strategic and
profitable concern (Bulathsinghala and Parakrama 2009: 74). The northern province, which constitutes 13.6 per cent of the land area, only came
under government control after the war. Both areas are also being touted
as tourist destinations.29

Formally, two ministries – the Ministry of Nation Building and Estate
Infrastructure Development, and the Ministry of Social Services and Social
Welfare – are responsible for reconstruction and development of conflict-
afflicted areas. Both are controlled by the Rajapaksa family, with the pres-
ident himself serving as the minister of the former and his brother Basil
controlling the latter (despite a Tamil politician, Douglas Devananda,
nominally occupying the minister position).30 Reports of high-level graft
in both ministries are common.31 Rumours abound of the president’s
family purchasing land near the coast in order to take advantage of the
hoped for surge in tourism.32

Even beyond individual culpability for accepting kickbacks, the
broader reconstruction process has also been rife with accusations of cor-
rupption. This is a direct result of the top-down and opaque nature of the
reconstruction process. Pakiasothy Saravanamuttu, a leading critic of the
government, stated that reconstruction has been highly ‘Colombo-centric’ with ‘very little or no consultation with people on the ground’. As Transparency International researchers note, the reconstruction process lacks both downward accountability and transparency, and invariably culminates in various forms of wastage, inappropriateness, or corruption. The risk of corruption is exponentially greater in this context because of the large sums involved, the lack of local accountability or even participation of beneficiaries, and the excessive centralization of decision-making.

(Bulathsinghala and Parakrama 2009: 81)

**Concerns about local administration**

Reflecting the militarisation of civilian administration during the war, retired military officers have been put in charge of local governments in the former war zone. Payoffs to government officials are a frequent requirement for those hoping to take advantage of the extensive development plans for the war-affected regions. According to a Transparency International report, ‘lack of accountability in tender processes and award of contracts to friends and family have become more the rule than the exception’ (Bulathsinghala and Parakrama 2009: 79–80).

Anti-corruption researchers who have tried to gather concrete information on the allocation of land in the former rebel-controlled areas have run into intransigent government officials. Government reports and work plans for the two provinces, including updated costs and contract details, are treated as classified information. To give just one pertinent example, resettlement plans for the 300,000 Tamil IDPs remained a state secret for six months after the war (Bulathsinghala and Parakrama 2009: 74).

The international community has remained powerless to change the dynamics on the ground, despite substantial contributions to the reconstruction process. Drawing on strategies honed to control the massive influx of aid after the 2004 Asian Tsunami (Uyangoda 2005), the regime has politicised reconstruction by restricting access to the former conflict zones, allowing in only those foreign NGOs willing to comply with the government agenda. This was a practice used to devastating effect during the war itself (Gowrinathan and Mampilly 2009). As a leading civil society figure explained: ‘The use of the visa as a weapon was very effective and so they [INGOs] were willing to play by the script.’ Geopolitical rivalries have also contributed to the weakness of good governance norms. China has stepped in to replace reluctant Western powers, most obviously in the eastern province which has witnessed a spate of infrastructure projects by Chinese firms.
Corruption, legitimacy and the 2010 elections

It is a central axiom of corruption studies that corrupt governments will eventually face a crisis of legitimacy (see Philp, this volume). The argument is that trust in government declines when citizens no longer feel that their political representatives have their interests at heart. However, in an immediate post-conflict setting, this logic may not hold. Traumatised by war, many Sinhalese were willing to overlook government corruption, instead rewarding the Rajapaksa regime for subduing the LTTE. There is a sense, both within the regime and among its supporters, that certain payoffs were the rightful reward for the Rajapaksas. The post-conflict presidential elections illustrated this dynamic, despite the opposition’s best efforts to document the excesses of the regime (Fonseka 2010; International Crisis Group 2010a: 2).

Interestingly, during the election run-up, the country experienced a rare moment of political openness, unique during the entire Rajapaksa presidency. A robust debate about corruption emerged in the local press, with government-owned media devoting space to rebut charges against the president (Ivan 2010). Civil society leaders and academics openly called for a change of regime, falling short of endorsing General Sarath Fonseka, but embracing the relative openness that his candidacy produced. Yet rather than opening up the political space, elections allowed Rajapaksa to settle old scores with opponents, provide benefits to his rural southern Sinhalese constituents, and pay off politicians both within his own party as well as those from other Sinhala and Tamil parties. In January of 2010, Rajapaksa easily won re-election over Fonseka, his one-time top military commander, who was backed by a coalition of ten opposition parties from across the political spectrum. Fonseka’s overwhelming defeat and subsequent arrest shattered the weak opposition coalition, leading to the shutdown of whatever political space had briefly opened.38

The question now is what does Rajapaksa’s victory mean for corruption and the exercise of political power in Sri Lanka? Having rebuffed critics and increased his base of popular support, Rajapaksa openly acknowledges his desire to form a political dynasty in the country. He has systematically sought to put family members or close allies into every important state institution, including those designed to promote autonomy from the state and the depoliticisation of government appointments. These appointments have allowed the president to violate the Constitution with impunity, effectively institutionalising unethical practices (though not technically corrupt by the letter of the law).39 The president’s kin have frequently ratcheted up tensions within numerous ministries since they have often wielded more power than the nominal minister. This mechanism of indirect control has allowed the Rajapaksa brothers to control, directly or indirectly, two-thirds of the budget.40 Though public resentment often lingers below the surface, the family views itself as being no different than other South Asian family dynasties (Velloor 2010).41
Parliamentary elections held in 2010 produced a two-thirds majority for the SLFP. While most corrupt practices in Sri Lanka are illegal according to the country’s penal code, the SLFP’s parliamentary power allows it to amend the Constitution in ways favourable to the executive. The first step the party took was to allow Rajapaksa to run for a third term.

Conclusion

This chapter has argued that to understand the current political crisis in post-conflict Sri Lanka – a crisis that has allowed corruption to flourish throughout all levels of government – it is necessary to examine the broader evolution of the political and economic system through two decades of war. Conflict economies do not simply dissipate after the fighting stops. Rather, they continue to affect the post-conflict political and social order in often nefarious ways.

This chapter examined the ways in which multiple institutional pathologies have determined the scale and scope of post-conflict corruption. In this chapter, I focused on three separate conditions. First, Sri Lanka’s centralisation of power has proceeded in lockstep with the increasing militarisation of state and society, thereby undermining parliamentary controls over budgetary expenditures and fuelling a culture of corruption. Second, the state of emergency and the closure of the democratic space provided ideal conditions for corrupt officials to avoid the scrutiny of the media and civil society. And third, the Rajapaksa regime has taken advantage of geopolitical rivalries between India, China and the United States, allowing it to avoid international scrutiny regarding its corrupt practices.

So whither Sri Lanka in the post-conflict period? The country serves as an example of an extensive and durable bureaucracy that is unable to curtail metastasising corruption. Rajapaksa has successfully manipulated the genuine security concerns of average Sinhalese to enconce his own family in power while ignoring basic democratic norms. Without a violent challenger, it is unlikely that the regime will back down in the face of non-violent challenges by civil society or the international community. The country has become a paradigmatic example of ‘state capture’ in which a regime is able to subvert the political process and restructure the legal framework to render corrupt gains legitimate.42

Notes

1 Research for this chapter was conducted primarily during a visit to Sri Lanka in January of 2010. Previous field visits to the country between 2004 and 2007, encompassing both the conflict period as well as the aftermath of the war, also figure into the analysis.

2 India, Pakistan, Iran, Israel, China and the United States all contributed arms and other direct support.
3 Though the government claims that the Tamils were put in camps for their own safety, the camps have widely been condemned by international observers. Inmates’ daily activities are monitored by the military and mobility is restricted (HRW 2010b).

4 Sri Lanka has a long history of institutional efforts in curtailing corruption, starting as early as 1883 with the colonial penal code. In 1954, a Bribery Act was passed. Along with related amendments, it forms the backbone of Sri Lanka’s modern corruption law (H.L. de Silva 2002: 245–249).

5 Political parties in Sri Lanka tend to be highly leader-centric with little internal democracy so it is appropriate to speak of Jayawardene’s policies as UNP policies (interview with R. Edrisinha, head of the Legal and Constitutional Unit, Centre for Policy Alternatives, 5 January 2010).

6 He earned himself the nickname ‘Yankee Dickie’ as a result.

7 Several factors linked to Jayawardene’s package of economic reforms exacerbated ethnic cleavages on the island (Shastri 2004: 74). Furthermore, structural adjustment resulted in a rapidly declining defence budget, falling from an already low 2.5 per cent of government expenditure in 1977 to 1.4 per cent by 1982 (Richardson 2004: 53). These conditions proved ideal for the Tamil insurgency to take root.

8 By law, the commission consists of three members, two of whom are drawn from retired judges of the Supreme Court and a third person selected for his/her wide experience in law enforcement.

9 Rajapaksa hails from a different social class than Kumaratunga, who was part of the long-dominant Colombo elites. His origins in the rural south and association with the Janathā Vimukthi Peramuna militants rendered him anathema to the traditional political elite, who attempted to prevent his rise through their positions in anti-corruption institutions.

10 COPE is a parliamentary commission that may refer cases to CIABOC, which is an independent commission accountable to Parliament.

11 Due to concerns about the negative impacts of a powerful presidency, both the UNP and the SLFP have promised to abolish the presidency, only to abandon such attempts once in power (interview with R. Edrisinha 2010).

12 The corresponding figure for Pakistan is 4,000; Nepal 2,700; India 1,300; and Bangladesh 1,000 (Reddy 2010).


14 No. 48 of 1979.

15 Personal interview with P.K. Balachandra, Indian Express, 3 January 2010.

16 Interview with J.C. Weliamuna.

17 Such overt threats have continued. In early 2010, a watch list produced by state intelligence units included prominent pro-democracy voices such as Pakiasothy Saravanamuttu and J.C. Weliamuna of the Centre for Policy Alternatives and Transparency International respectively.

18 Sri Lanka serves as a strategic shipping hub between Europe and Asia.

19 Even the withdrawal of a preferential trade agreement with the EU had little influence on the government’s behaviour, something many analysts attributed to China’s increased economic power.

20 Interview with J.C. Weliamuna.

21 Interview with P.K. Balachandra.

22 Sinhala nationalism has always had two related strands. The anti-Tamil version is well-known to international observers, but there is also a virulent anti-Indian undercurrent that shapes the nationalist project (interview with Ponnambalam 2010).
23 Realistically, it is unlikely that Sri Lanka can simply push away the Indians and the Americans. Sri Lanka is too reliant on India and the United States to turn its back despite the bluster of the Rajapaksa regime.

24 According to Gambard (2004: 154), villagers compared the relationship between the war and corruption to a ‘beggar’s wound’. They recognised that for those who profited, allowing the open sore of the conflict to fester was more profitable than allowing it to heal.


26 An additional 10,000 former cadre remain in a special camp for former LTTE members, but these tend to be mostly younger recruits that were coerced into the organisation during its final days. Interview with P.K. Balachandra.


28 Interview with P.K. Balachandra.

29 Recently, both the New York Times and National Geographic ranked the country among the top international destinations for tourism, providing a massive endorsement quickly embraced by the government.

30 Interview with P.K. Balachandra.

31 Informants familiar with reconstruction efforts claim that Basil Rajapaksa pockets between 10–15 per cent of the total for any given project. Interview with R. Edrisinha.

32 Ibid.

33 Interview with Pakiasothy Saravanamutu. Executive Director, Centre for Policy Alternatives, 5 January 2010.

34 Interview with J.C. Weliuma.

35 Tamils in both the eastern and the northern province remain suspicious that the government will try to ‘Sinhalise’ these areas. See interview with Rajaram Mohan, the Tamil Chair of the Trincomalee Chamber of Commerce (Polgreen 2009).

36 Interview with Pakiasothy Saravanamutu. Executive Director, Centre for Policy Alternatives 5 January 2010.

37 Interview with P.K. Balachandra.

38 Elections were generally considered free and fair. Turnout was above 70 per cent across the country. However, in Tamil areas, where multiple violent incidents occurred, turnout was under 20 per cent, and almost all for Fonseka. Following his defeat, Fonseka was dragged kicking and screaming into military custody, and was convicted in September 2010 for corruption (Haviland 2010).

39 Interview with R. Edrisinha. A family tree circulating in Colombo provides evidence of the depth of the Rajapaksa family’s political and economic involvement in Sri Lanka. It identifies over 25 family members and their occupation of leading positions in government and industry. I have no independent verification of its accuracy. I am grateful to Arthur Rhodes for sharing it with me.

40 Interview with P.K. Balachandra.

41 Interview with R. Edrisinha. Widespread accusations proliferate that the family has used its political power to expand its financial position on the island (interview with M. Reddy). Rumours abound about state lands and lands once controlled by the LTTE being parcelled out by the president and his brothers, often to members of the extended Rajapaksa family. These accusations of nepotism and corruption by the first family were well documented in the run-up to the election, but did not undermine Rajapaksa’s support (interview with J.C. Weliamuna).

42 On state capture, see Hellman et al. (2003).