

# The Commons at War

## Fuzzy Property Rights and Ethnicised Entitlements in Sri Lanka\*

Benedikt Korf

Fachgebiet Ressourcenökonomie, Humboldt-Universität zu Berlin  
Luisenstr. 56, D-10099 Berlin, Germany; Tel.: +49 (0)30 2093 6430;  
E-mail: [pfudili@gmx.de](mailto:pfudili@gmx.de)

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### ***Abstract:***

This paper investigates how ethnic violence and civil war in Sri Lanka have affected the local institutions of property rights. Explaining institutional dynamics on local level is essential to derive policies in the aftermath of civil wars that build up local capacities for peace. My findings complement and substantiate recent insights from quantitative research on the incidence of civil wars and from anthropological studies on the functions and markets of violence. I investigate the history of competing claims and fuzzy property rights in the war zones of Sri Lanka that contributed to create ethnicised grievances. I then seek to understand the institutional connections and alliances between civilians and combatants in the emergent society of violence that shapes local communities in civil war affected areas. I employ an institutionalist perspective drawing on Knight's distributional theory of institutional change and conceptualise social and political capital as individual endowments in the notion of Bourdieu's politics of power. The empirical findings are based on qualitative case studies carried out in Trincomalee, an inter-ethnic hotspot of the war zones in Sri Lanka. I elaborate how civilians from different ethnic groups utilise social and political capital to secure property rights to natural resources. The research findings suggest that resource entitlements in Trincomalee are 'ethnicised' in the sense that opportunities and access to resources are unequally distributed among the three ethnic groups, because they are unequally endowed with political capital. This reiterates perceived grievances among the different ethnic groups and thus reproduces the conditions for ethnic violence. The paper concludes that promoting conditions for co-operative relationships in resource management are to be a fundamental part of conflict transformation strategies in civil wars and in the current post-war transition phase in Sri Lanka.

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## **1 Introduction**

Land, resources and property rights issues play an important role in many social change processes, in particular in economic and societal transition, be it from socialist to market economies (central and eastern Europe, Cambodia, Vietnam), from Apartheid regimes to democratic rules (e.g. South Africa, Namibia, Zimbabwe) or from civil war to peace (e.g. Mozambique, Cambodia, Sierra Leone, Sri Lanka).<sup>1</sup> It is the third notion that this paper will have a closer look into. The paper analyses the institutional dynamics of local property rights in the civil war of Sri Lanka. It does so using the perspective of the sustainable rural livelihoods frame, which analyses the life perspectives and opportunities of rural people in a holistic context.

Resource tenure is, of course, only one, but essential aspect of rural livelihoods. In civil wars, forced mobility increases dramatically, since people have to flee their homes or prefer to migrate in order to survive. This mobility increases the ‘fuzziness’ of endowments and entitlements to land resources, since, for example, land is abandoned and no one knows whether or not the owner of the land will return and claim the land in the future again. Sound institutional arrangements enforced through credible state or community institutions could offer temporary arrangements for making use of such dilapidated resources without losing sight of the owners’ potential claims. It is, however, a feature of protracted conflicts that exactly this credibility of key actors has vanished. The lack of credible civil governance institutions supports opportunistic behaviour and the rule of the fittest, in the case of war. The latter are mainly those sharing the oligopoly of military power.

The effects of war vary considerably for different ethnic and social groups. I argue that in situations of ongoing civil war, it is in particular the ‘ethnicisation of entitlements’, i.e. the perception that some (ethnic) groups benefit (or suffer less) from the war and can make use of their political networks to capture endowments and entitlements on natural resources, which is politically dangerous, because it steadily erodes cross-communal bonds and communication. While war entrepreneurs utilise their oligopoly of power to extract rents from the local population, local farmers themselves develop strategies to make use of this new institutional environment to stabilise or enhance entitlements to resources. Civilians thus become part of the game. Based on case studies from Sri Lanka, I will show that it is in the end this erosion of societal bonds across one’s own culture and the distortion of local institutions, which impede real peace building on a local level.

My findings complement and substantiate important insights from quantitative research on the incidence of civil wars (Collier and Hoeffler 2001; De Soysa 2002; Fearon and Laitin 2003; Berdal and Malone 2000), and from anthropological studies on the functions and markets of violence (Elwert 1997; Elwert et al. 1999; Goodhand and Lewer 1999; Goodhand et al. 2000; Jean and Rufin 1999; Keen 1998, 2000, 2002). My approach is based on the extended case method (Bulrawoy 1998) and analyses theoretically driven case studies from the civil war zones of Sri Lanka. I investigate the livelihood strategies of civilians, not the fighting parties, in the civil wars and seek to understand the institutional connections and alliances between civilian and fighting actors in a society of violence that shapes local communities in civil war affected areas. I

employ an institutionalist perspective based on the concept of social and political capital in the notion of Bourdieu's analysis of the politics of power.

Sri Lanka is a particularly interesting case, since, in contrast to other civil wars, the state has not completely collapsed in the war zones, but shows a, though weakened, presence. We can thus observe hybrid institutional structures with the state being officially present, but a powerful 'underworld' of war entrepreneurs (rebels, army, militant groups) have substantially altered the rules and the play of the games in their favor. An important point is furthermore, that the security situation in Sri Lanka still allowed qualitative studies to be undertaken, which is a more difficult and dangerous undertaking in many other 'hot spots' of civil wars in Africa and Central Asia.

The paper will first elaborate the framework of analysis, which is based on insights from new institutional economics and the entitlement debate (Section 2). I conceptualise social and political capital as individual endowments that determine in how far households or communities can influence and access the rules and the play of the game that determines access to natural resources. In Section 3, I briefly summarise the case study method chosen. In Section 4, I discuss the implications of the civil war for local institutions, property rights and competing resource claims. I underline local strategies of civilian actors in using social and political capital to safeguard property rights to resources with reference to five case studies from Trincomalee, Sri Lanka. The paper concludes that promoting conditions for co-operative relationships in resource management are to be a fundamental part of conflict transformation strategies in civil wars and in the current post-war transition phase in Sri Lanka (Section 5).

## **2 Analytical Framework: Sustainable Rural Livelihoods**

Even under the conditions of civil war, people are not helpless victims in dire need of assistance, but dispose of (though) limited assets and opportunities to make use of them for survival. The notions of property rights and entitlements (2.1) as well as the one of social and political capital (2.2) are crucial to understand the functioning of livelihoods and the role institutions play in determining livelihood opportunities. Furthermore, in the specific context of civil war, one has to carefully analyze insights from anthropological research on the instrumental nature of ethnicity (2.3) and the economy of violence (2.4).

### **2.1 Property Rights and Entitlements**

In the light of new institutional economics, property rights are viewed as social institutions, including formal legal codes and informal social norms, which define and enforce the range of privileges granted to individuals with respect to specific economic resources. The contemporary debate on the evolution of and changes in property rights is dominated by two schools of thought, that is, the efficiency and the distribution school.<sup>ii</sup> In their core arguments, the efficiency school regards potential collective efficiency gains as an adaptation to changes in relative prices as the key factors that push property rights change (Demsetz 1967; Hayami and Ruttan 1985; Barzel 1997). While the efficiency school is quite powerful in predicting broad long-term trends in the evolution of property rights, it cannot explain why efficient regimes of property rights are the exception rather than the rule (North 1990; Eggertsson 1990). The distributional school, on the other hand, stresses distributional conflicts as the determinant force that drives and shapes the evolution of property rights. According to this view, it is not variations in relative prices

that drive change in property rights, but agents influence the formation of property rights while pursuing their self-interest. Distributional issues make the formation of property rights more complex and can block an efficiency improvement in the evolutionary process (Libecap 1989; Knight 1992).

Institutions are thus intimately bound up with the authority system of any social setting (Bromley 2000). The theory of bargaining and distribution considers social institutional change “as a by-product of strategic conflict over substantive social outcomes” (Knight, 1992: 107). This theory focuses on social interaction between actors that intentionally seek distributional advantages. In such accounts, if rules emerge as the result of distributional conflicts, the effects of institutions must consequently reflect the difference between the actors in terms of their distributional expectations and in terms of whatever kind of resources these actors have to put into play (Hanisch 2000). Institutions thus reflect the power and bargaining resource asymmetries of actors, credibility of their commitment, individual risk aversion, time preferences, information, sanction power etc. (see Figure 2).

[FIGURE 2 about here]

Then, rules of the game (institutions) are not neutral, but conflict of different actors about power lies at the center for explaining the emergence of social institutions. In coordination games, the strategic and powerful actor can bind the rational choice of the other actor by adhering to a strategy which means a distributional disadvantage for the latter (Knight 1992: 127). Repetition of such bargaining with other actors stabilizes

expectations and thus creates new informal institutions. In civil wars, it is reasonable to assume that the triggering forces for the evolution of local institutions are unequal bargaining power resources and thus, institutions reflect the prevailing power play between different actors in the conflict.

In addition, we have to specify what types of rights to resources are at stake. This has been mainly discussed in the 'entitlements' literature that was introduced into development economics by Amartya Sen (1981; 1999), in particular for famine and poverty analysis. At the time, he was predominantly concerned with legal ownership of commodities. Subsequently, Devereux (1996) criticised what he views as fuzziness in the understanding of Sen's entitlement approach and stressed the importance to clarify units of analysis (individual, household, community etc.) and property rights. He develops a hierarchy of claims or property rights over a resource or commodity, ranging from influence (weakest), access, control up to ownership (strongest). Control refers to rights of determining use and exclusion, access to possibilities of use, and influence is only a limited say over access and control. In this logic, ownership includes all influence, access and control rights.<sup>iii</sup>

Furthermore, Devereux (1996) distinguishes between endowment as ownership, control or access to the resource from entitlement, which is the ownership etc. of the benefits and utilities derived from a resource. Formal and informal institutional arrangements (structures and processes) shape the process of endowment mapping and help mediate the disputes which may arise between different resource claimants. The question is who ultimately gets the *effective* command over making actual economic use of a resource and its products. These entitlements are influenced by the interplay of

institutions (e.g. customary rules, division of labour, dispute resolution mechanisms) and often result from negotiations among social actors involving power relations and debate over meaning (Gore 1993). Seen in the livelihoods frame, local institutions can either promote or hinder the mobilisation of some endowments (e.g. social capital) that are necessary to make effective use of others (e.g. natural capital). The entitlements which are derived from endowments in turn enhance people's capabilities, i.e., what people can do or be with their entitlements (Leach et al. 1999).

## **2.2 Social Capital, Political Capital and the Capture of Institutions**

The livelihood concept stresses the concept of capital assets. A key capital assets of households to influence and access property rights are social and political capital assets. Up to now, in the broad discussion on 'social capital' in rural development (e.g. Collier 1998; Grootaert 1998; Ostrom 1994; Sorenson 2000), the concept has remained fuzzy and has been contested amongst social scientists (Hariss 2002; Fine 2001). In the various approaches to understanding and defining social capital, I distinguish an individualistic approach (Bourdieu 1992) and a collective or aggregated perspective (Putnam 1993).<sup>iv</sup> Bourdieu (1992) understands social capital as the potential and actual resources associated with networks and relations an individual can mobilise for his or her benefit. Bourdieu's approach looks particularly at the exclusionary forms of social capital. Putnam (1993) claims that social capital in the aggregate sense understood as networks of civic engagement is instrumental for a society to solve social dilemmas. Social capital is conceptualised by Putnam as the bonds that keep a society together.



What is striking is the widespread perception that social capital, understood in the collective view, is something *per se* positive, (cf. e.g. Putnam 1993, Ostrom 1994). Hariss (2001) hypothesises that the normatively positive terms social capital and civil society are so attractive, because they offer a somewhat peaceful picture of democracy without accepting the contestational politics and clashes of ideas and interests, which are equally part of democratic societies. One main problem of the collective view of social capital is that it tends to fall back into promoting the ‘myth of community’ (Pretty and Scoones 1995; Guijt and Shah 1998), i.e. assuming communities as homogeneous social entities which they are not.

In the subsequent analysis, I follow an asset-based approach and understand social and political capital as individual endowments and entitlements that determine the individual person’s access to and influence on property rights and local institutions. Social and political capital assets determine the ability to make use of certain resources to carry out livelihood strategies and to achieve outcomes. The social capital assets of an individual is the asset to make use of family, clan and neighbourhood support in a community. Social capital therefore looks at the social entitlements of an individual on a horizontal level. Political capital, on the other hand, determines the access to and influence on larger institutions in society, particularly the administrative, political and military power holders. Political capital is thus a vertical link and looks at how individuals are able to capture resources and political advantages through patronage networks on a horizontal level.<sup>v</sup> This approach follows Bourdieu (1992) in that it looks at the micro-politics of power that govern the use of social and political capital within

community boundaries and beyond. It is also in line with how the distributional school of property rights conceptualises the evolution of institutions.

### **2.3 The Instrumental Nature of Ethnicity**

The civil war in Sri Lanka is typically understood as 'ethnic conflict', however, it might be more appropriate to call it an 'ethnicised conflict'. In contrast to outdated conceptions of a primordial nature that describe ethnic identities and sentiments as overpowering, ineffable and 'given', the instrumentalist school of thought in anthropology conceptualise 'ethnicity' as a highly malleable social, political and cultural resource that can be mobilized by various groups. These scholars emphasise that ethnic identity overlaps with other kinds of social identity and that people can assume various identities in different situations (Banton 1983, 1994, Hechter 1978, 2000; Wimmer 1997). Horowitz (1985) stresses the socially constructed nature of ethnicity and the leverage of individuals and groups to develop their own identity from a variety of cultural heritages. This paper follows the instrumentalist school of thought and conceptualises 'ethnicity' as a social and political construct that has been utilized as a political power tool.<sup>vi</sup> Ethnicity is understood as a resource for political mobilization that is based on imagined group identity anchored in the belief of a common origin and expressed in cultural terms in the form of language, religion, history (Wimmer 1997). In civil wars, conflict parties often successfully construct exclusive notions of ethnic communities as an instrument to direct social grievances towards the 'ethnic other'.

## 2.4 Functions of Violence

Recent anthropological and political economy literature has illustrated how markets of violence can evolve in civil wars (Elwert 1997; Elwert et al. 1999; Keen 1997, 1998; Collier 2000; Azam and Hoeffler 2002), where predatory formations extract economic rents through violence, and hence, do not have a real, ‘honest’ political agenda (e.g. social justice) for fighting the war. This has become famous as the ‘greed’ argument in the research on civil wars (Collier and Hoeffler 2001). Jean and Rufin (1999), however, have warned to reduce civil wars to economic functions and stress that the causes of conflicts largely remain political, but that, due to the protracted duration, rebel groups would have to search for viable income sources to fund their activities and organisation. Greed might be essential to sustain warfare, but the original causes of conflict are still largely political. In this line, Keen (2000) argues that rather than stressing the dichotomy of either greed or grievance, it would be essential to understand the interactions and synergies between both.

What is important from this debate for our analysis of property rights in civil wars is that rebel groups use networks of social and political bonds, based for instance on clans or ethnicity, to build group identity and cohesion. Collier argues that conflict needs to actively create divisions (Collier 2000). Rebels generate grievances and the associated groups. Ideology is utilised as tool of a rent-seeking strategy for predatory leaders, perhaps. In many cases, conflict entrepreneurs integrate existing social networks in their ideology and war economy. Goodhand (2001: 26) indeed notes that they appear to have ‘an extremely nuanced understanding of community dynamics and how social capital [networks] can be mobilised for [their] perverse outcomes’. Keen (1998) distinguishes

top-down economic violence, incited by political leaders and entrepreneurs, from ‘bottom-up’ violence, which is embraced by ‘ordinary’ people (civilians and low-ranking officers), which, according to his analysis of civil wars in Africa, is triggered largely by deep social and economic exclusion, absence of strong revolutionary organisation, and impunity for violent acts.

### **3 Case Studies Method**

In this section, I will illustrate empirical findings of qualitative, comparative case studies that investigate how property rights have been altered by the civil war in Sri Lanka and what strategies local farmers adopt to secure their entitlements to natural resources. Recently in February 2002, the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) have signed a ceasefire agreement. Peace negotiations are ongoing. It is important to note that the field research of this paper has been carried out prior to these developments (in 2001) and represents the situation during war, not the current post-war situation, where a new phase of institutional change is taking place.

The case studies have been carried out by an interdisciplinary German-Sri Lankan research team in summer 2001. The research team interviewed key resource persons (such as government officials, NGO staff, elders, politicians, journalists) as well as a number of villagers. In addition, the team facilitated focused group discussions with farmers, women and youth to understand the differences in perceptions of different social groups. While the team followed a checklist of questions based on the livelihoods frame, the interviews were kept flexible in flow. This was necessary, because the researchers had to react sensitively to situations where informants felt unsafe or uncomfortable

talking about politically sensitive issues.<sup>vii</sup> Each case study was investigated by two sub-teams that discussed and cross-checked data collected at each field day. The approach followed largely the principles of rapid rural appraisal (RRA).<sup>viii</sup> Triangulation of information from different data sources was essential to counterbalance the sometimes small sample size of interviews.

This research provides a bottom-up perspective to the conflict in Sri Lanka, a view that Goodhand et al. (2000) claim, is often missing in the literature on this civil war. While this research provides a comparative perspective, it can only provide some snapshot at a particular point or period in time. Retrospective information is mostly distorted by the present experiences of war and intimidation and thus, pictures of the past are often reframed by people according to later events and experiences.

When we look at the specific situation in the Trincomalee district, the war has seriously harmed the access to resources and the economic opportunities to make use of those which are still accessible. The five case studies analyzed in this paper are all geographically close, but ethnically, socially and economically diverse. All locations are geographically close to the so-called borderline between areas under control of the government and areas controlled by the rebels, which are spaces of high risk, uncertainty and violence. However, the impacts of war on property rights bear significantly different livelihood outcomes depending on locations, ethnic affiliation and other factors. I argue that it is in particular the endowment with social and political capital assets that make a difference for specific individuals and for village communities. Ethnicity is an important determinant of the relative bargaining power and thus of the endowments in social and

political capital. This explains, this paper argues, the variation in property rights across the different case studies.

#### **4 The Politics of Property Rights in the War Zones of Sri Lanka**

It is essential to understand the ethnicised conflict in Sri Lanka as a multi-dimensional phenomenon, or a *conflict cocktail*. Social and political cleavages occur at various levels along many lines of dissent. The fundamental issue of the macro-conflict is the grievance between the Tamil minority and the Sinhalese-Buddhist majority which has escalated into a war between the Liberation Tigers of Tamil Eelam (LTTE) and the largely Sinhalese armed forces. In addition to this major line of dissent, there are other social, political and ethnic cleavages between and among the three major communal groups (Sinhalese, Tamils and Muslims), e.g. clashes between Muslim and Tamil communities in the East, the recent troubles between Sinhalese and Muslims in the more peaceful zones of the country, and finally two Marxist youth insurrections in the South in 1971 and the late 1980s as an escalated intra-Sinhalese conflict.<sup>ix</sup>

In the war-affected east of Sri Lanka, competing claims and disputes over land exist between the Tamils and the Sinhala, the Tamils and the Muslims, as well as the Sinhala and the Muslims. These rival claims to land, often by different ethnic groups, are rooted in the memory and perception in the context of the politics of ethnicity and colonisation in Sri Lanka. Many Tamils have perceived the expansion of Sinhala settlements in the northeast as an act of political and geographic 'colonisation of traditional Tamil areas'. The Sinhala saw it as an expansion into areas that they had abandoned in ancient times. In the context of the ethnicised conflict, the politicisation of land use rights, vested

interests of armed actors and the link between land use rights and the causes of conflict make it difficult for administrators and decision-makers to enforce the rule of law.

The case studies are located in the Trincomalee district in the east of Sri Lanka. The district has been subject to communal violence between the three dominant ethnic groups, Sinhalese, Muslims and Tamils. The Trincomalee district provides a good example for the complexity of the Sri Lankan civil war, since it is a cocktail of various intertwined conflicts. The dominant feature is the civil war between the Sri Lankan armed forces dominated by the Sinhalese, and the Liberation Tigers of Tamil Eelam (LTTE). Apart from this war, which shapes and dominates everyday life (fighting, army road blocks, security restrictions), there are resource conflicts mainly between Tamil and Muslim villagers, and between Tamil and Sinhalese farmers. Land use for agricultural production has been severely affected by the conflict, because some people had to abandon their land or cannot access it due to the war. The current volatile and fuzzy land entitlements seriously threaten the societal bonds across communal boundaries, constrain development efforts and contribute to confirm old and create new socio-political cleavages among the communal (ethnic) groups in the district.

#### **4.1 Distorted Local Institutions**

Much of the greed and economy of war literature has been preoccupied with the analysis of state failure in Africa and the Balkans. The Sri Lankan civil war is a specific case in point, because the state has kept a strong presence throughout the country with the exception of a few enclaves in the east and the Vanni areas in the north that are controlled by the Tamil rebels. Goodhand et al. (2000) argue that in the Sri Lankan case, one cannot

dismiss the grievance argument: The rebels and the army are oriented towards changing (or retaining) the laws and administrative procedures, i.e. the institutions, of society. The state continues to provide important sources of public entitlements for the war-affected population in the North and East. Basic welfare programmes (food stamps) mitigate some of the effects of the conflict (O'Sullivan 1997), while this was part of the political strategy of the President to win 'the hearts and minds of the Tamil people'. At this point, Keen's argument comes in that instead of stressing the dichotomy of greed versus grievance, we need to analyse how both interact (Keen 2000: 23).

In the civil war of Sri Lanka, local institutions are distorted due to the influence of violence in society and the political economy of war (Goodhand and Lewer 1999; Goodhand et al. 2000; Silva 2003; Korf et al. 2001; Korf 2003):

- Uncertainty and risk of survival increase dramatically due to repeatedly occurring escalations of violence and fighting leading to uncertain expectations about the future and a high discount factor of the future.
- Social networks are reshuffled and eroded, especially inter-ethnic political and economic exchange networks. Social bonds are more confined to the closer family network than wider community linkages, because of lack of trust.
- Hybrid governance structures evolve in a political economy of violence: formal state institutions and regulations co-exist with the rule of an underworld of violence governed by war entrepreneurs (rebels and army). In addition, in the uncleared, i.e. rebel copntrolled, areas, the LTTE has established its own state machinery with a court system which coexists with the government machinery.



In such times of uncertainty and distress, people might rather concentrate on short-term survival than on the sustainable management of natural resources. Opportunistic and free-riding behaviour and moral hazards might become more prominent, partly due to the short-term horizon, and partly due to the decline of social bonds. In the war zones of Sri Lanka, conflict entrepreneurs combine both, a rent-seeking war economy, and ethnicised ideologies and grievances, which they use as an instrument to stabilise their realm of power. They play a fundamental role in determining entitlements to resources. They often patronise their own clientele (their own ethnic group) and thus reinforce intra-ethnic identities and inter-ethnic grievances. Especially displacement seriously distracts social bonds and thus the social capital of individuals. Furthermore, the deterioration of social safety nets can also be the result of a conscious strategy of war.

#### **4.2 Competing Claims and Fuzzy Property Rights**

Local conflicts over resources often intensify during civil wars, mostly because the resource stock becomes more scarce, in particular the resource stock which is accessible and can be utilised. Property rights to land are an issue of utmost complexity, since several layers of disputes, claims and grievances superimpose each other. The main argument of the paper is that property rights to land and water are fuzzy (i.e. volatile and unclear) and ethnicised (with powerful actors supporting and enforcing claims of their particular ethnic community). The ideologised arguments that all conflict parties utilize to justify claims to land and space are mirrored on inter/communal disputes (meso-level) and on the micro-level. In particular, we find (Korf 2003):

- Fuzzy property rights (absentee landlords, illegal encroachment of land, destruction of land titles).
- A gap between formal and effective property rights emerges, because entitlements to land are seriously altered due to displacement and land seizure (encroachment). The hybrid governance structures at local and regional level seriously undermine the enforcement of the rule of law.
- Violent actors restrict the accessibility to certain areas, that have been under cultivation or other use prior to the escalation of the war (security restrictions of the army, LTTE's order on the use of jungle resources). In addition, people are reluctant to access those areas that are remote and often subject to military confrontations.
- Politicised administrative structures and blurred institutional responsibilities allow political actors to exercise pressure on administrators. This creates ethnic biases and a lack of accountability in administrative decisions.

Influential bodies and actors in both parties have developed ideological underpinnings for the respective claims for land and space in the northeast, based on constructing the past and delineating historical claims for land. Scholars from both sides have attempted to justify the politics with numbers and maps. While Tamil scholars have enumerated the 'change in population ratios' in the eastern province, in particular in Trincomalee and Amparai districts (e.g. Tambiah 1986; Balasundarampillai 2002; Manogaran 1987), nationalist Sinhala scholars have often argued that the colonisation schemes largely touched unoccupied land, and thus did not expell Tamils from any land (e.g. Peiris 1991, 1994; Hennayake 1985). One could argue that even though Sinhala

settlers were largely settled in only loosely populated areas, the change in population ratio (and thus electoral powers) were substantial and thus undermined the political claims of Tamils over their 'homeland'. It is exactly in this line that many Tamils in the northeast perceived the Sinhala colonization schemes as a threat to their political aspirations and the security of their ethnic integrity.

Various studies from international scholars and consultants underline the Sinhala nationalist rhetoric of the colonization schemes, which were even officially promoted in project booklets and by high-ranking officials (Bastian 1995; Klingebiel 1999; Mallick 1998; Peebles 1990). This rhetoric was part of what Moore described as 'peasant ideology' in the Sinhala constituency (Moore 1989). Land colonisation and allocation was a crucial ingredient of the populist democratic state in Sri Lanka (Dunham 1983). The capture of colonisation schemes by politicians and the politicisation of land issues is thus not confined to the areas subject to ethnicised disputes, but are a general feature of the political system in Sri Lanka.

In addition to this dichotomous ideological battle between Tamil and Sinhala people, the Muslim community must not be forgotten as a major stakeholder in the east and some parts of the north. Mostly originating from settlers and traders that arrived at the coastal strips some 500 years back, Muslims in the east are largely involved in farming, fishing and trading. Since they have the highest population growth rates and tend to live in congested areas, their demand for land and space has constantly increased in the last decades. Some Muslim politicians have demanded an own independent Muslim homeland or administrative entity, however, without underpinning these with the same ideological basis than Sinhala and Tamil political leaders have tended to do.

The inter-ethnic competition over land and water resources is one of the core issues at stake in the civil war and is therefore emotionalised and ethnicised in thinking and utilised as ideological tool to create grievances. Nevertheless, local farmers have to cope with the situation and continue to utilise natural resources. For this, they have to secure certain forms of entitlements to natural resources, and they do this with various political strategies. In the remaining part of the paper, I will present case studies from the war zones of Sri Lanka that underline how the local population attempts to secure their entitlements to resources and how they make use of their social and political capital assets in this process. I will show how the livelihood options vary along ethnic lines because political bargaining power varies according to ethnic affiliation leading to *ethnicised entitlements* that determine the livelihood opportunities of local people in the northeast of Sri Lanka.

#### **4.3 "Ethnicised Entitlements": Local Politics of Property Rights**

The five case studies show that even though they are geographically close, the vulnerability context and the institutional setting lead to very different livelihood opportunities in the various localities. The ongoing war and inter-communal riots in the late 1980s and early 1990s have substantially undermined the trust between different ethnic groups. This allowed war entrepreneurs to use the notion of ethnicity as an ideological tool to construct support among their clientele. This political economy of war has also created an institutional environment where the political capital assets are largely determined by ethnicity as an important factor determining social and political bargaining power.

[TABLE 1 about here]

Table 1 highlights the key findings of five case studies on property rights, entitlements and resource conflicts in the war-affected areas of Trincomalee. All five research locations were in contested areas close to the borderline between cleared (i.e. government controlled) and uncleared (i.e. rebel controlled) area. However, such a clear distinction masks the dynamic nature of spatial control. Mostly, the rebels control most of the rural areas during night while the government forces are in control of those areas belonging to 'cleared' area during the day. Those areas located in proximity to the borderline are particularly affected by fighting, violence, intimidation and instability.

The first two case studies (Ithikulam, Kumpurupitty), both Tamil villages, underline how the civil war can lead to entitlement failure and how this forces farmers to change their livelihood strategies. Ithikulam is a settlement in uncleared area of very recent origin arising when civilians from nearby villages were displaced because of army attacks. They had to find a new livelihood and started to cultivate highland that they informally acquired. This land ownership is informally assured by the rebels, but villagers also seek to obtain land titles from the government to be on the safe side regardless of the further advance of the war. All in all, while villagers were economically quite successful in re-establishing their livelihoods, their social and political capital remains very weak. There is currently no function community organisation and villagers have to obey te strict rules of LTTE and bribe army soldiers when passing checkpoints. They thus remain in a very vulnerable position.

In Kumpurupitty, we can observe a radical change in socio-economic structures: paddy fields, once the main income source for farmers, are currently not accessible due to security restrictions, since most fields are located close to jungle areas. In addition, they cannot use common-pool resources such as those derived from the jungle, lagoon or sea, because of these restrictions. The area is highly contested by the two conflict parties and this has created an atmosphere of intimidation and fear. Local leaders are thus reluctant to expose themselves because this could put them into trouble. Many local leaders and wealthy farmers have opted to migrate to more secure places leaving the poor behind to fight it out. Since the village has been displaced several times and due to the continuing unstable situation, social bonds within the community are very weak. Government agencies are reluctant to enforce the rule of law, e.g. against land encroachers, because this could create trouble for them with either of the conflict parties. In effect, we can observe a serious economic entitlement failure and a deterioration of civic institutions.

The other three case studies look at the management of irrigation water and paddy land in the context of inter-ethnic troubles and violence. These mirror the larger competing claims to land, space and resources. On local level, these competing claims are constantly reproduced and this deepens inter-ethnic grievances on the community level. In the case of Behethkewawewa Tank, a strong Sinhalese local leader uses his political capital assets and clientele networks with powerful administrators, military and police to acquire land under a rehabilitated tank for his own community. Since the tank has been abandoned for a long time, the land title holders are difficult to be figured out by the administration. Pressure from the powerful allies intimidates administrators to follow the prescribed government guidelines. What places this case of power politics in the context

of the civil war is the claim of the Tamil rebel that the land under this tank belonged to Tamil owners who have been displaced or migrated out. The rebels thus used this case to demonstrate how the central government (dominated by nationalist Sinhalese) constantly undermined the resource claims of the Tamils. They thus threatened to attack the tank whenever the land would be alienated to Sinhalese farmers without proper administrative procedures to identify the proper owners. The Sinhalese farmers in this border village have been attacked several times by the LTTE, and those remaining in the village, are very alert of future violence and fighting. They thus seek an even stronger alliance with their political and military patrons. Clearly, this case of land alienation has become a 'symbol' of the nationalist rhetoric of both parties.

Similarly, the land dispute at Menkamam tank has been incorporated into the ethnicised discourses of Tamils and Sinhalese. In Menkamam tank that provides irrigation water to paddy fields belonging to a Tamil village, some Sinhalese peasants from an adjacent settlement, have encroached parts of the tank bed land. When the Tamil farmers want to store water in the tank, this would subvert the Sinhalese farmers land. Thus, the Sinhalese farmers organise themselves, and under the protection of police and army, they cut the tank bund that the water is drained off the tank. This allows them to cultivate their fields but leads to water shortage for the Tamil cultivators. This dispute has continued for several decades, but with the civil war, the alliances of the farmers of both communities have changed.

Obviously, in this case, the Sinhalese farmers are in a stronger position, because they are able to safeguard their property rights through the assistance of police and army. The administration that would have to order the vacation of the encroachers, is reluctant

to interfere because of the political alliances of the farmers with the police and army. Also, the two villages belong to different sub-districts, one governed by a Tamil divisional secretary and one by a Singhalese one. In the ethnicised perceptions of any administrative decisions, these two hardly will cooperate to find a solution to the problem. The rebels obviously are not powerful enough to fight it out with the army. In particular, they would not be able to provide protection for the Tamil farmers after an attack. This situation leads to a feeling of powerlessness among the Tamil farmers, but this is not confined to the particular village, rather Tamils from the whole area make reference to this case to underline how the central government would discriminate against them. At the same time, the Singhalese farmers complain that the LTTE would enforce taxes upon them, otherwise threatening them with violent action. Thus, again, we find ethnicised discourses of grievance reproduced on the local level.

Allai Extension is a large-scale irrigation scheme established in the 1950s that provided land to Singhalese settlers from outside the district as well as Tamil and Muslim peasants. As such, it was part of the wider peasant colonization ideology of the central government (see above). The hydraulic layout and allocation of land plots has favored Singhalese farmers that received the land in the upstream area of the scheme. Water disputes between upstream and downstream farmers and collective action failure that might be present in many irrigation schemes, becomes an 'ethnicised' stance in the perceptions of the local farmers. The geographical location and the political capital assets have created a differentiated system of entitlements to water: the Singhalese upstream farmers have the strongest position, since they can easily block the water supply to downstream farmers. They often divert more water than is allocated to them in order to



cultivate encroached paddy fields. This leads to water shortage on fields belonging to Tamils and Muslims.

Most affected in this scheme seem the Muslim farmers because they are at the tailend and this hardly receives water. In addition, fields belonging to Muslims and Tamils are dispersed and located adjacent to each other. Many Muslim farmers have to pass through Tamil villages to access their fields. In times of ethnic troubles or security incidences, they are afraid to go to their fields. If such incidences happen during crucial times of the cultivation season (e.g. harvest), they might lose their whole harvest and investment. Some Muslim land owners have thus leased out their land to Tamil farmers, often to unfavorable conditions. Some Tamil farmers also refuse to pay their land lease and threaten to inform LTTE would the Muslim land owner involve police to receive his money. In addition, some Muslim paddy lands are situated in uncleared area and the rebels do not allow Muslims to enter these areas to cultivate their land. Thus, Muslim farmers face a serious entitlement decline.

Muslims are not all losers in the war. In much of Muthur areas, where Allai Extension Scheme is situated, it is Muslim traders that dominate commerce because Tamil traders face trouble with the army when passing checkpoints. Thus, Muslims, who are not suspected to collaborate with the LTTE, can easily form informal alliances with army officers, bribe them and carry out their trade business. However, they also have to pay taxes to the rebels. Most of the Tamil paddy cultivators thus depend on the services of Muslim traders. Suffice to say that this, again, has created grievances among Tamil farmers, claiming that Muslim traders would buy their produce at low prices.

In conclusion, these case studies suggest that political capital assets, viz. the ability of a household or community to access political, administrative or military power holders, largely determine the access to important economic resources, such as natural resources and marketing networks. However, even though political capital assets are often ethnically determined, one has to be cautious to make sweeping generalizations about the ethnic nature of such politically derived entitlements. In effect, we observe an emerging system of patron-and-client-based political economy of ethnicity. Ethnicity has become a bargaining resource that shapes the evolution of local informal rules of the game. However, apart from ethnicity and the close alliances of certain ethnic groups with their respective conflict party, there are also significant differences in political capital assets within ethnic groups, as the example of Muslim farmers and Muslim traders underlined: While the former have lost substantial property rights to their livelihood resources, the latter could even expand their business in the advance of the war.

The patronised system of property rights that we could observe in the war zones constantly reproduces the lines of ethnicised dissent that are orchestrated in the civil war, on the local level. Grievances occur because politically and ethnically biased informal property rights deepen social cleavages along communal lines and undermining civic engagement and the accountability of government institutions, and thus trust in governmental decisions and arrangements. This contributes to reduce social bonds and civic engagement on community level, which discourages collective action, since farmers seek individual alliances with power holders rather than co-operative solutions.

## **5 Conclusion: The Use of Social and Political Capital Assets**

The concept of social and political capital assets is important to understand to what degree and how individuals can influence property rights arrangements. The research findings from Sri Lanka suggest that access to and priority claims for resources are critical in determining differences in coping strategies between villages in complex emergencies and in peaceful areas. The freedom of choice is seriously restricted in the conflict zones due to limited access to resources because of the security situation. Furthermore, in the multi-ethnic context of Trincomalee, the conflict is based on competing claims between different (ethnic) community about access to resources and to state support. The research findings confirm that resource entitlements in Trincomalee are 'ethnicised' in the sense that opportunities and access to resources are unequally distributed among the three communal groups, which reiterates perceived grievances among those who feel at the losing end.

The political system in Sri Lanka, though labeled a 'democratic' one, has created wide-spread incentives for clientelism. In exchange for support, political candidates promise direct benefits (jobs, welfare) to their supporters. Dunham & Kelegama (1997) characterize Sri Lanka as a weak state in which patronage, clientelism and populist policies prevail. In the war zones, this clientelistic system of patronage and favoritism has deteriorated in a complex system of greed and grievances, creating ethnicised entitlements in village livelihoods: the affiliation to an ethnic group becomes an essential determinant of the political capital of an individual or even a whole community that allows the informal (often illegal) capture of property rights to resources. Thus, one can conclude that the war has deepened and further ethnicised the clientelistic system. In the

complex interplay of grievance and greed (Keen 2000), greed is not confined to the conflict parties, but certain segments of the civil population might also take profit from the war, such as those farmers that use the alliance with the army and police to impose illegal property rights on land. This ethnicised clientelism creates a large gap between formal property rights guaranteed by Sri Lankan laws and *effective* property rights created by powerful patrons, namely the armed actors and their allies.

Is political capital as such something to be perceived negatively? It is a common feature in democratic societies that groups try to bargain for their interests among political actors in order to reach cooperative solutions. Such venture is, however, politically dangerous if it takes place in a political system of patronage and nepotism, where power is utilized for the advantage of close political and ethnic allies and clans. In the case of Sri Lanka, we can observe how such clientelistic political system seriously endangers movements towards peace building on a macro-level, since the logics of the ethnic conflict are constantly reiterated on local and regional level, which undermines the trust of people in the functioning of local governance. Conflict transformation theories therefore point to the importance of so-called 'track III' strategies on community level and the logic of local empowerment (Heinrich 1999; Miall et al. 1999; Reimann 2001; Bigdon and Korf 2002): While social conflict can become a positive agent for change, it is essential to support *local* struggles for social justice and *local* capacities (actors) for peace, and promote conditions for co-operative relationships.

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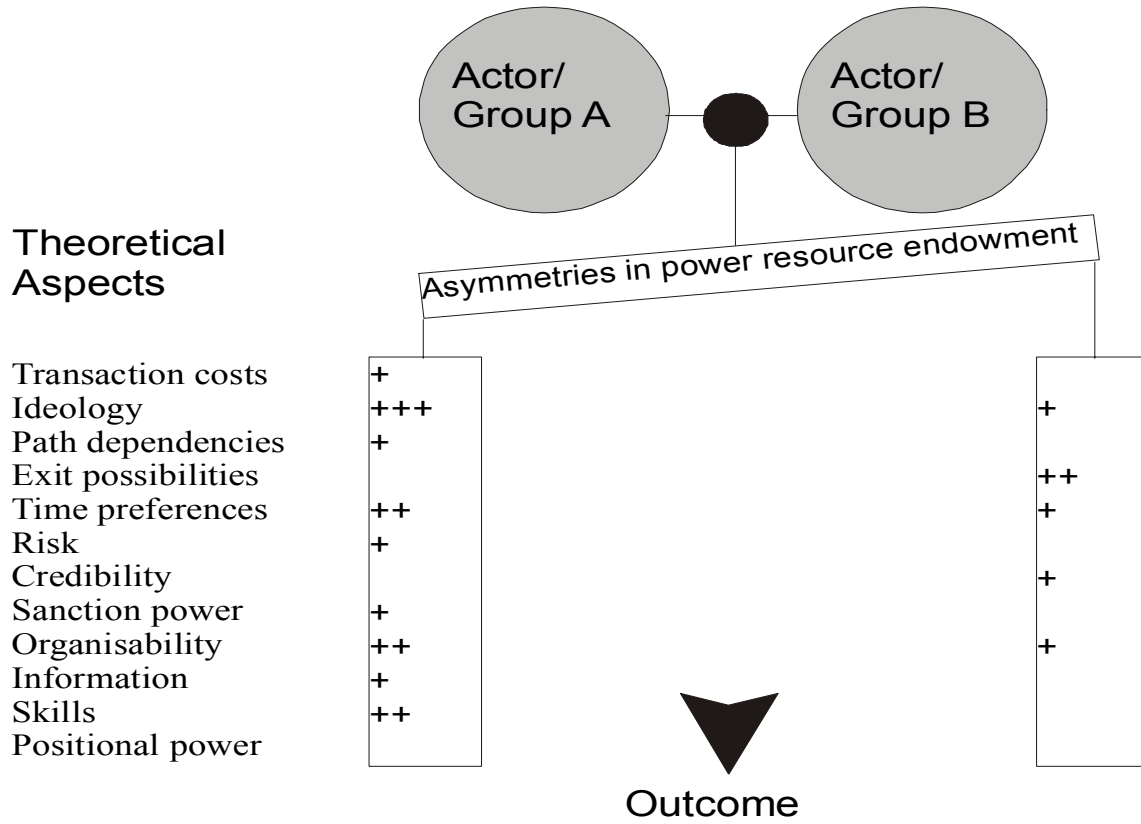
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**Figure 1: Distributional Bargaining**



Source: Schlüter 2000

**Table 1: Using Social and Political Capital to Secure Property Rights**

<b>CASE</b>	<b>ITHIKULAM</b> TAMIL; UNCLEARED	<b>KUMPURUPITTY</b> TAMIL; SEMI-CLEARED	<b>BEHETHKEWAWA TANK</b> SINGHALESE; BORDER VILLAGE	<b>MENKAMAM TANK</b> TAMIL (T)-SINGHALESE (S); CLEARED	<b>ALLAI EXTENSION SCHEME</b> SINGHALESE (S), TAMIL (T), MUSLIM (M); CLEARED
<b>Background</b>	<ul style="list-style-type: none"> <li>• People fleeing from their village, settled down informally and engage in highland cultivation and wage laboring.</li> </ul>	<ul style="list-style-type: none"> <li>• Returning villagers living in very unstable security environment, but have economic potential for profitable onion boom.</li> </ul>	<ul style="list-style-type: none"> <li>• Land rights on rehabilitated, formerly abandoned tank nearby a Sinhalese border village are highly contested</li> </ul>	<ul style="list-style-type: none"> <li>• Longstanding dispute over encroachment of tank bed land (S) that affects the water supply to paddy fields (T).</li> </ul>	<ul style="list-style-type: none"> <li>• In major irrigation scheme, water sharing is ethnically biased and disadvantages the tailenders (T, M) over the upstream farmers (S).</li> </ul>
<b>Rules and behavior</b>	<ul style="list-style-type: none"> <li>• Powerful rebels enforce collective action and 'rule of law' (the 'strict but just' rulers);</li> <li>• Land tenure is informally assured by rebels, but villagers also seek 'titles' from the government;</li> <li>• Social and political capital of households to voice their needs and interests is very limited.</li> </ul>	<ul style="list-style-type: none"> <li>• Both conflict parties intimidate villagers;</li> <li>• Lack of leadership, because high personal risk to expose oneself politically or economically;</li> <li>• Social bonds and networks in the community collapsed during displacement;</li> <li>• Administration tolerates illegal encroachment.</li> </ul>	<ul style="list-style-type: none"> <li>• Strong social bonds and strong political capital (clientelist alliances with politicians, Buddhist clergy and military);</li> <li>• Political bias in regulating land tenure issues favors villagers and infuriates rebels who threaten revenge.</li> </ul>	<ul style="list-style-type: none"> <li>• Ethnicised political capital and inclusive social bonds within each ethnic community;</li> <li>• Balance of power between the conflict parties who profit from their war economies (taxes and bribes from the civilians);</li> <li>• Administrators 'burying the head in the sand': reluctant to take legal action.</li> </ul>	<ul style="list-style-type: none"> <li>• Upstream farmers (S) divert water at expense of downstream farmers (T,M): collective action failure,</li> <li>• T use blockage of water supply to M fields as power politics in inter-ethnic troubles,</li> <li>• No law enforcement because of political pressure by powerful patrons (army, police (S), LTTE (T)).</li> </ul>
<b>Outcomes</b>	<p><b>'Converting threats into opportunities':</b></p> <ul style="list-style-type: none"> <li>• Limited, but stable income and livelihood opportunities (as long as security does not escalate);</li> <li>• Gradual buildup of financial capital allows to invest in social capital.</li> </ul>	<p><b>'Missing the onion boom':</b></p> <ul style="list-style-type: none"> <li>• Uncertainty and insecurity in effective property rights (no access to fisheries and jungle resources);</li> <li>• Collective action failure, because of breakdown of social norms and network.</li> <li>• Effective economic entitlement decline.</li> </ul>	<p><b>'Fragile prosperity at the fringe of power':</b></p> <ul style="list-style-type: none"> <li>• protection of army and financial support from the central state increase economic entitlements;</li> <li>• Comparatively wealthy, but high political insecurity because of threat of tiger attacks</li> </ul>	<p><b>'Grievances over land':</b></p> <ul style="list-style-type: none"> <li>• Deadlock in institutional regulation of land disputes increases inter-communal grievances, blocks dispute resolution and undermines trust in state institutions.</li> <li>• Local conflict mirrors wider political cause of the civil war and thus reinforces grievances and hatred.</li> </ul>	<p><b>'The power of water':</b></p> <ul style="list-style-type: none"> <li>• Entitlement failure (less irrigation water) for specific ethnic groups at the tailend (M),</li> <li>• Conditioned water supply as power politics (T-M),</li> <li>• Inter-ethnic grievances piling up and create an atmosphere of confrontation.</li> </ul>

**Source: Korf et al, 2001 and additional field studies by the author in 2002.**

## Notes:

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<sup>i</sup> Studies on property rights under conditions of violence or war are still scarce. Unruh (1998, 2001), for example, investigated property rights in the peace process of Mozambique (Unruh 1998, 2001). Property rights under the conditions of violence have been studied by Alston et al. (1999) for the case of Brazilian Amazon region between land owners and squatters. This paper takes the perspective of property rights changes during ongoing civil war, i.e. in an environment of violence and uncertainty.

<sup>ii</sup> For this differentiation see Eggertson 1990, Furubotn and Richter 1997; and Wang 2001. The classic of the efficiency view is best represented by Demsetz 1967. For the distributional view, refer, above all, to Libecap 1989 and Knight 1992.

<sup>iii</sup> Property right is not only defined conventionally as the right to use, right to alter and right to alienate, but also as the right to determine the distribution of the benefit and cost stream originating from a natural resource. They are best understood as a bundle of rights and duties, as different entities may enjoy different rights and obligations on different components of a resource. Ostrom 1990 has developed a differentiation of property rights looking at types of rights: access, withdrawal, management, exclusion, alienation (transfer) rights. She distinguishes for common-pool resources an operational level where access and withdrawal rights are mostly involved, while on the collective choice level, management, exclusion and alienation rights come to the forefront.

<sup>iv</sup> Of course, this is a very simplistic differentiation of the vast literature on social capital. Putnam (1993) stresses the economic efficiency view of collective social capital and defines it as 'features of social organisation, such as trust, norms and networks, that can improve the efficiency of society by facilitating co-ordinated action' (Putnam 1993: 167). This approach has also become popular within the World Bank. Numerous studies have appeared that attempt to define, measure and differentiate what social capital is all about, but Woolcock has criticised its vagueness (Woolcock 1998; Woolcock and Narayam, 2000). I argue that for the analytical purposes of this paper, it is first and foremost the politics of social (and political) capital in the local arenas of struggle that matter in the discussion of changes in property rights and entitlements.

<sup>v</sup> This mirrors the discussion of scholars using the aggregate concept of social capital: they distinguish bonding and bridging social capital (see, for example, Woolcock 1998).

<sup>vi</sup> Recent anthropological research in Sri Lanka has emphasized the 'hybrid identities' of its political and social elites and the diversity of interests, cultural pattern and religious identities within the main ethnic communities (Nissan and Stirrat 1990). In the advance of the political conflict between Sinhalese and Tamils, each constituency tended to hide the contradictions within its own community and emphasizing the dividing lines between the ethnic groups (Thangarajah 2003).

<sup>vii</sup> Goodhand (2000) has discussed the ethical and practical implications of empirical research in conflict zones, in particular how researchers can endanger communities and local counterparts by raising politically sensitive questions or by opening up old wounds of traumatic experiences. It is therefore essential to collaborate with local researcher that possess substantial ground experience and can judge what is possible and what is not in a particular setting.

<sup>viii</sup> The materials and methods are discussed in more depth in Korf et al. 2001. Detailed village reports of all five case studies can be accessed at the website of the Integrated Food Security Programme Trincomalee (IFSP) at <http://www.ifsp-srilanka.org>. The reports also provide a list of resource persons interviewed and a description of the research methods utilised.

<sup>ix</sup> More detailed accounts of the history, structural causes and perceptions of the civil war can be found in: Mayer et al. 2003; Rotberg 1999; Spencer 1990. From a Tamil perspective, Manogaran 1987, Tambiah 1986, Wilson 2000 are particularly prominent accounts, while De Silva 1998 and Peiris 1991 discuss the conflict from a more Sinhalese point of view.