GOVERNANCE

Journal

SLILG
GOOD GOVERNANCE FOR LOCAL DEVELOPMENT

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MINISTER'S MESSAGE

I am happy to note that my Ministry through its organ on Governance - the Sri Lanka Institute of Local Governance has begun a programme of producing a Journal on Governance. This will be a bi-annual production covering the total area of Governance. The idea that prompted the emergence of the Journal is to promote thinking in the process of understanding justification and improvement of political life and in order to comprehends construct and control a system of political order. Hence, the concerns are embodied not only in teaching but also in the institutions of government that are crafted, the practices rules norms, identities, beliefs, accounts and capabilities that constitutes modern polities.

Different issues of Governance emerge from many different kinds of political systems. Our focus is on Democracies. The practice of democratic governance differ among contemporary democratic systems too. Democracy in a culture a faith and an ethos that develop through

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interpretations and practices yet it involves a richly evolving collections of diverse beliefs, processes and structures. It is a distinct political order and a particular form of Human Co-existence providing an institutional context for "Governance".

Democratic vision embodies the commitment to personal liberty and individual responsibility in its exercise. A second essential part would be the idea of popular sovereignty and political equality. Democratic vision is also a faith in the role of individual and collective human reason in human affairs with an emphasis on procedural reliability and stability, on the rule of law and regulation of arbitrary powers. Tradition and institutions if governance have been forged in these contexts over the years.

I am confident that the dialogue that is promoted through the readings in the "**Journal**" is bound to ignite the thinking on Governance which in the long run would constitute towards a social buildup that would result in responsible government-citizenry co-existence leading to betterment in the quality of life of the community.

Nandimithra Ekanayake M.P.
Minister of Provincial Councils & Local
Government

SECRETARY'S MESSAGE

It is a great pleasure for me to issue this message at the time of launching this Journal which was a long felt need.

Absence of an Apex Organization for Training and Research in the field of Local Governance has been fulfilled with the establishment of the Sri Lanka Institute of Local Governance (SLILG) by an Act of Parliament in October 1999. It aims at facilitating the institutional and management capability building of Provincial Councils and Local Authorities for the efficient and effective provision of services to the people. SLILG through teaching, research and outreach addresses the vital area of Good Governance.

In pursuance of its Mission a laudable achievement of the institute is the launching of a Journal on **"GOVERNANCE".** The first of the bi-annual Journal will be now available to the public. I hope that this will generate wide public discussions on the concept of Good Governance. Such discussions should throw up ideas and action programmes indifferent spheres of our public and

private actions resulting in evolving a model of Good Governance.

Although decentralization has become a worldwide phenomenon, the success lie mainly on quality of Governance at different levels, and transformation of public institutions towards the decentralization. In this context, the role of SLILG would be greatly supported by a periodical of this nature.

I am sure this Journal as we go on, will enable a fruitful dialogue that could lead to the peoples aspiration of good and effective Governance, through the Provincial and Local Authorities where the people would bee aware of their rights and responsibilities and come to manage their affairs.

N. Mohottala
Secretary
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DEMOCRACY AND LOCAL GOVERNANCE SOME CRITICAL ISSUES AND THEIR IMPLICATIONS

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INTRODUCTION

The contemporary debate on good governance has asserted that effective democracy is the foundation of good governance. As perceived by the United Nations good governance is characterized by people's participation, rule of law, transparency, responsiveness accountability, efficiency and effectiveness, equity, consensus seeking, and strategic vision. One might observe that these features of good governance are ingrained in Abraham Lincoln's famous statement that, "democracy is the government of the people, by the people, and for the people". In Sri Lanka, constitutionally there is a two tiered structure of governance at national and provincial levels. In practice, there is also a third level consisting of local authorities. These institutions of governance are based on democratic principles as the people elect their representatives to the three institutions of governance, namely, parliament, Provincial Councils, and local authorities through the popular vote at periodic elections.

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However, many critics tend to agree on the view that democracy in Sri Lanka has been under threat during the last two decades due to reasons like emergence of a violent political culture, mass scale rigging of votes at elections, violation of human rights, curtailment of the freedom of expression and freedom of association under Emergency Regulations, and a lack of respect for the rule of law. In this context the citizen's right as well as the ability to influence the process of governance to ensure that the principles of good governance are respected has been seriously affected. Hence one witnesses many instances of poor governance characterized by poor participation, lack of transparency and accountability, lack of responsiveness, and low efficiency and effectiveness at the three levels of governance. The present paper intends to examine a few critical issues pertaining to democracy and good governance focussing on the system of local government in Sri Lanka. An attempt will be made to achieve the following objectives.

(a)   To identify the constraints to good governance in the context of local government in Sri Lanka,

(b)   To discuss some of the critical issues pertaining to democracy and local governance, and

(c)   To suggest some remedial action from the view point of the citizen

Structural Reforms in Local Government and their Implications

The abolition of the age old Gam Sabha system, which was a consensus oriented participatory system of managing community affairs, by the British in 1818 paved the way for a legally constituted system of ' Local government in Sri Lanka (then Ceylon). The Gam Sabha was re-introduced in 1856 under the Paddy Lands and Irrigation Ordinance No. 9 as the virtues of this traditional system of managing community affairs have been recognized by the British rulers. The Commission of Inquiry on Local Government Reforms (1999) surveys a number of legislation enacted since 1861 that led to the establishment of various local government bodies including Municipal Councils and Town Councils. A main feature of these local government institutions was that their members were not elected but appointed at ex-office level. A re-vamping of local government with elected members and strengthening of local government institutions were brought about by the Donoughmore Reforms in early 1930s. Under the Donoughmore Reforms, local government was recognized as a subject of the state and a separate department of Local Government was established to provide the required resources as well as supervision by the central government.

At independence in 1948 there were four types of local govt. institutions consisting l of Municipal Councils, Urban councils, Town Councils Village Committees (Village councils). The post-independence period witnessed further

improvements in the local govt. scene supported by legislation such as Local Authorities Enlargement of Powers Act No. 8 of 1952 and a host of amendments to the Municipal Councils Ordinance, Urban Councils Ordinance, Town Council Ordinance and Village Committees Ordinance.

These improvements in the law relating to local government is an indication of the recognition accorded to local government as a democratic and participatory system of local level governance by political leadership. The fact that legislative functions (Policy making) as well as executive functions (Policy implementation) continued to be centralized, and that there was only a limited degree of administrative decentralization at the district level made it imperative that the system of local government deserved further strengthening. However, it is paradoxical that the biggest challenge to the democratic and participatory character of the system of local government had emanated from the reforms introduced by the political leadership at the centre in response to the growing political conflict manifested in the movement towards separation by the Tamil minority since the early 1980s.

Based on the recommendations of the Tennakon Committee, the government took steps to pass the District Development Councils Act No. 35 of 1980. Under this Act the District Development Councils were to be established as a democratic institution with the participation of elected members as well as ex-officio members comprising the

members of parliament in each district. The DDCs were expected to carry out developmental functions in a district combining selected executive functions hither to handle by several ministries, as well as local government functions carried out by the Town Councils and Village Councils. Thus the DDCs assumed a hybrid form and it could also be seen as a mechanism introduced to legitimize the political influence of the central government on district administration as well as local government. After the district development councils were elected, 83 Town Councils and 549 Village Councils that were in existence were abolished and their functions were transferred to the DDCs. The abolition of TCs & VCs which functioned as democratic & participatory form of local governance for over 100 years created a huge vacuum in the democratic system of governance. The political environment that prevailed at the time was characterized by a weak opposition and a strong ruling party, suppression of dissent, and a growing ethnic conflict. In this back-drop the critical issue of abolishing a time tested system of local government was not adequately discussed and debated.

The District Development Council was found to be an ineffective institution, which could neither carryout allocated line ministry functions nor local government functions to the satisfaction of the stakeholders. Also the DDCs did not offer a satisfactory solution to the demands of the Tamil Community of North and East for self-government. This led to a further tinkering of the system of local government by creating a new institution i.e. the Pradeshiya Sabha under the Pradeshiya Sabha Act No. 15 of 1987. A

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Pradeshiya Sabha covered the area of authority of former Town Councils and Village Councils. The rationale for establishing Pradeshiya Sabhas was that it was a larger unit of local self governance with the potential to generate more funds and carryout developmental and service functions covering rural as well as urban population. However, it is questionable whether the Pradeshiya Sabhas could match these expectations.

The constitutional reforms of 1978 resulted in the establishment of a executive presidential system of government and a proportional representation system for election of members of parliament. In conformity with the PR system of election, the system of election of members to the local authorities also underwent changes. The passing of Local Authorities (Amendment) Act Nos. 20 and 24 of 1987 resulted in the abolition of the ward system and adoption of the proportional representation system of election to local authorities. Under the PR system the entire local authority area was considered as the basis of election of members.

Thus the voter lost the opportunity of electing a person of his/her choice for his/her ward and dealing directly with the ward member on matters pertaining to welfare of the voter.

This legislation also abolished several other democratic practices such as conduct of by elections, election of head of local authority (Mayor or Chairman) by majority vote of

the elected members, provision for removal of a Mayor or Chairman by a no confidence motion, and for dissolution of the council upon rejection of the annual budget.

Commenting on the implications of these legal reforms for grass root level democracy and peoples' participation, the Commission of Inquiry on Local Government Reforms, observed that the Pradeshiya Sabhas had an urban bias as the majority of the members represented voters of urban or semi-urban areas. The rural population who comprised the voters of former Village Councils have become marginalized in this process. Thus the services rendered to the rural population by the former Village Councils had diminished to a considerable extent creating a further distance between the rural voter the Pradeshiya Sabhas. (Report of the Commission of Inquiry on Local Government Reforms, 1999, P.39)

In the geo-political context of the separatist war of the Tamil militants, the government was virtually forced to introduce the 13th Amendment to the Constitution in 1987, which recognized a sub-national level unit of governance based on the province. The Provincial Council consisting of members elected on the PR principle became the unit of devolution of legislative power. Among the 37 subjects devolved to the Provincial Councils in terms of the provisions of the 13th Constitutional Amendment, there was the subject of local government as well.

As observed by the Commission of Inquiry on Local Government Reforms, constitutionally, local government

is not recognized as a level of governance in the country other than listing of local government as a subject in the list of devolved subjects. Accordingly, all matters relating to local government other than its structure, form and constitution have been devolved to Provincial Councils. Although the Department of Local Government at the central level has been abolished since devolving the subject of local government to provincial councils, there is still a cabinet minister in-charge of the subject of local government who is responsible for policy matters.

Although provision has been made in the constitution that the existing powers of local authorities can not be withdrawn and that additional powers may be vested in them, the fact that Local Authorities are brought under the supervision and control of the Provincial Councils may have contributed to curtail the independence of local authorities. Some events in the recent past where the minister in-charge of local government in one of the Provincial Councils had taken steps to remove a Mayor bear witness to the effects of conflicts between politicians at the provincial level and the local level.

As discussed earlier, the benefits followed by legal and structural reforms pertaining to local government during the British period as well as post-independence period have been nullified by some of the legislation introduced since 1980. It has affected the democratic character of the system of local government as well as the extent of citizen's participation in the process of governance at the local level. The abolition of Town Councils and Village Councils, as

well as the ward system for electing members of local authorities, have contributed to alienate the voter from the process of governance and create a wide gap between the voter and the elected members. The changes that took place in the 80 s have also had implications for good governance in relation to aspects such as participation, transparency, accountability responsiveness, equity, and efficiency and effectiveness.

Issues Pertaining to Democracy and Good Governance

As argued in the present paper good governance is a consequence of effective democracy at national as well as provincial and local levels of governance. Since effective democracy depends on the extent of citizen's participation a key issue is how to make citizen's participation more effective. The fact that citizens elect their representatives to different institutions of governance at periodic elections does not by itself ensure citizen's participation in governance. If the elections are conducted in a free and fair manner and the voter can exercise his right to elect a person of his choice, one might argue that citizen's participation is ensured to a reasonable extent.

However, Sri Lanka's experience show that the principle of free and fair election has been violated in many instances through violence and vote rigging, particularly in rural areas where the majority of the population lives. Apart from inter-party rivalry, the preferential voting system has generated conflicts among candidates of the same party. The system of election taking the district, province or the

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entire area of local authority as the basis of election has compelled the candidates to advertise themselves heavily to lead in the race for preferential votes. Thus the candidates who are capable of contributing to the development process, but do not have resources to conduct the election campaign are inevitably at a disadvantage, as they may not collect adequate number of votes from the entire electorate. Sri Lankan's experience also shows that the elected members of parliament. Provincial Councils and local authorities are often subject to the writ of the political party to which they belong. Hence the members can not exercise their free will even if the constituents expect them to do so.

In Sri Lanka the voter does not enjoy any power or opportunity to influence the process of governance after he/she cast the vote at an election. The structure and process of governance whether at national, provincial or local level does not provide space for the voter to exercise his/her right to influence policy decisions or administrative decisions unless he/she resorts to legal action or joins a powerful lobby. Although the local authorities provide for a Committee System to obtain citizen's participation the experience show that the Committee System has been ineffective.

It is necessary that the citizen has access to information pertaining to matters of governance for him to assess institutional performance. Particularly, the information regarding how public money is utilized is vital to form an

opinion of the status of managing public affairs. If the process of governance empowers the citizen to participate in policy making, identifying development priorities, exercising supervision over the institutions, and evaluating institutional performance as practiced under the Panchayat Raj system in India, one could assume that there could be effective participation. In India the Panchayat system operates at three levels, i.e. at village level -Gram Panchayat ,block level – Panchayat samitis (Mandal Panchayat) and at District level-Zilla parishad. The studies show that the Panchayat system has empowered the people to participate in governance at these three levels and it has resulted in greater democracy (Desai , 1990)

Allowing the citizen to have access to information, listening to his view point and getting the citizen involved actively in the business of governance are characteristic features of a developed political culture. In such a political culture the politician is a true democrat who is driven by public interest and not by self-interest. One might observe that in Sri Lanka truly democratic politicians who are driven by public interest are a vanishing lot, and their relative absence is directly related to the erosion of the political culture.

A model of good governance presented below shows that political culture is an antecedent of peoples' empowerment, which leads to participation. If there is effective participation, it can lead to effective democracy, which is a pre-condition of good governance.

Figure 1 A model of good governance

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┌──────────────┐      ┌──────────────┐      ┌──────────────┐
│  Political   │ ⇒    │  Peoples'    │ ⇒    │Participation │
│   Culture    │      │ Empowerment  │      │              │
└──────────────┘      └──────────────┘      └──────────────┘
                                                    ⇓
                                            ┌──────────────┐
                                            │  Effective   │
                                            │  Democracy   │
                                            └──────────────┘
                                                    ⇓
                                            ┌──────────────┐
                                            │    Good      │
                                            │  Governance  │
                                            └──────────────┘
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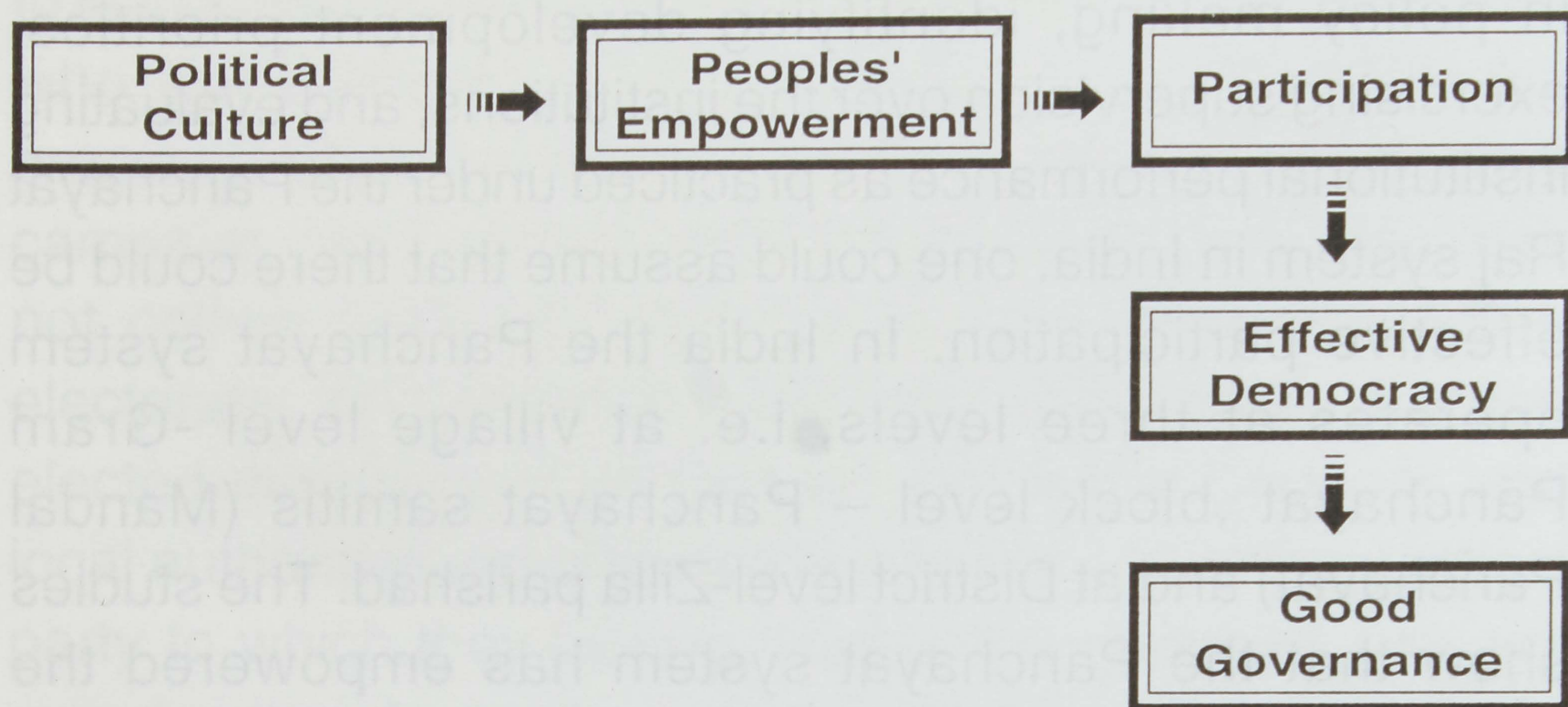
The issues relating to good governance revolves around the problem of lack of accountability, transparency, responsiveness to client's needs (customer orientation) lack of equity in resource allocation and service delivery, and low efficiency and effectiveness.

In Sri Lanka although there are laws and administrative procedures to ensure institutional and managerial accountability, in practice such laws and procedures have not been much effective. The local government under Panchayat system in India has adopted measures to ensure accountability to the people at the grass root level by introducing legislation to ensure people's participation. For instance, the law relating to Panchayat system in the state of Karnataka has made provision that the Gram Sabha meetings should serve as a forum where the actions of people's representatives stand scrutinized by the citizens themselves in open meetings (Aziz, 1995) This could be

considered as a measure toward ensuring accountability as well as transparency and responsiveness to client's needs at the local level.

Another writer has observed that if the local authorities are made to be accountable it would be necessary to identify and clarify local authority functions as core and peripheral so that the service delivery could be Prioritized and access to the public could be better organized (Nanayakkara 1996). In Sri Lanka, although the functions of local authorities are clarified by the law there is a serious lack of prioritizing of work and measurement of performance of local authorities. This is partly due to poor management of local authorities, and partly due to lack of inputs from the citizens to the decision making process. Thus as Nanayakkara observes "a dramatic improvement in administrative managerial and leadership responsibility seems to be a sine qua-non for accountability" (ibid : 46)

Increasing responsiveness to client's needs stems from the recognition of the citizen as a customer. It is believed that public sector institutions including local authorities are not inclined to recognize the taxpayer as a customer or a stakeholder. One might argue that although the bureaucracy tend to adopt such a stance towards the public the elected members can not do so as their survival depends on the vote. However the present state of lack of empowerment of the citizen had led to a situation where the elected members of local authorities (Particularly the Mayor and Chairman) can exercise a lot of power over the

resources of local authorities without being questioned by the people who elected them to office. If the local authorities are to obtain active involvement of the community in important areas of civic life such as health, housing, environment protection, water supply, roads and other amenities, it would be necessary to adopt innovative approaches and re-design the existing processes of service delivery. The local authorities should be prepared to work closely with the community organizations as well as the private sector. However the inability of the local authorities to change and innovate and work in partnership with peoples' organizations appear to be another issue that needs to be addressed.

As observed by Osborne and Gaebler (1992) community empowerment and participation not only changes expectations and instill confidence, it provides for better solutions to their problems than normal public services. In Sri Lanka, several examples of active community participation in housing, sanitation, water supply, environment protection etc with guidance and assistance of community organizations seem to have proved that community-based approaches are more effective than the service delivery system run by the bureaucracy. Thus the local authorities are expected to shift from their current status of "Politician owned" government to "community owned" government if they are to be seen as client centered, responsive and responsible form of government.

Towards Bridging the Gap between Expectations and the Reality.

In order to address the issues raised in this paper, there is no doubt that the system of local government has to go through changes in their structure, systems and processes as well as the approaches adopted to execute their functions. Structural changes are required to make local authorities more democratic, accountable to the public, and flexible enough to adapt according to the changing environment. In this respect the changes recommended by the Commission of Inquiry on Local Government Reforms should be considered seriously.

The Commission has recommended to re-institute Town Councils and Village Councils in place of the Pradeshiya Sabhas and to re-introduce the ward system as the basis of election of members. The commission has also recommended to incorporate local government into the constitution as a level of governance. Further, it has recommended to establish Citizen's Committees covering each ward with legal powers to scrutinize the work of the councils. If implemented, these changes are likely to improve the present situation and bring local authorities more closer to the people.

It might be necessary to undertake a further study of the systems and processes that are currently in place so as to identify the desirable changes. According to the present situation the local authorities do not have a system

of planning based on priorities (goals) identified by the people as there is no mechanism to assess the actual needs of the people. There is also no system of performance measurement and evaluation. As there are no established norms with regard to service delivery, the members of the public can not expect to get a job done (eg. approval of a building plan) within a specified period.

It will be unrealistic to expect the local authorities to change the status-quo unless there is pressure from the environment towards change. This is where the members of the public will have to play a critical role. As it is practiced in India, the people living in the area of authority of a Municipal Council, Urban Council or a Pradeshiya Sabha will have to organize themselves to act collectively as pressure groups to demand desirable changes from local authorities. In order to acquire credibility, the Citizen's Action Groups must be independent and free of political patronage or influence.

Also, it is necessary to build partnership between local authorities, public sector institutions (such as Divisional Secretariats, health agencies, schools, police etc.) private sector, and the voluntary organizations (NGOs). A partnership among these institutions can ensure mutual benefits and better quality service to the people through the sharing of human effort and other resources.

As indicated in Figure 2, a mutually supportive relationship between elected members of local authorities, Citizen's Action Groups and the institutional network, can create greater commitment and synergy leading to

innovative approaches and peoples' power required to establish effective governance at the local level.

At present there is hardly any working relationship between the local authorities, public sector service agencies, private sector and the voluntary organizations although they operate in the same task environment. This has resulted in overlapping of tasks and sometimes-undue competition leading to wastage of resources.

Figure 2 : A conceptualization of participatory governance at local level

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        ┌─────────────┐        ┌──────────┐
        │   Public    │        │          │
        │   Private   │        │ Citizens'│
        │    NGO      │←──────→│  Action  │
        │ Partnership │        │  Group   │
        └─────────────┘        └──────────┘
              ↕                    ↕
              ┌──────────────────┐
              │     Elected      │
              │ Representatives  │
              └──────────────────┘

        ┌───────────────────────────────┐
        │  Synergy and Good Commitment  │
        └───────────────────────────────┘
           ↙                        ↘
┌─────────────────────┐    ┌─────────────────────┐
│ Innovative Approach │    │   People's Power    │
└─────────────────────┘    └─────────────────────┘
           └────────────┬───────────┘
              ┌────────────────────────┐
              │  Efective Governance   │
              └────────────────────────┘
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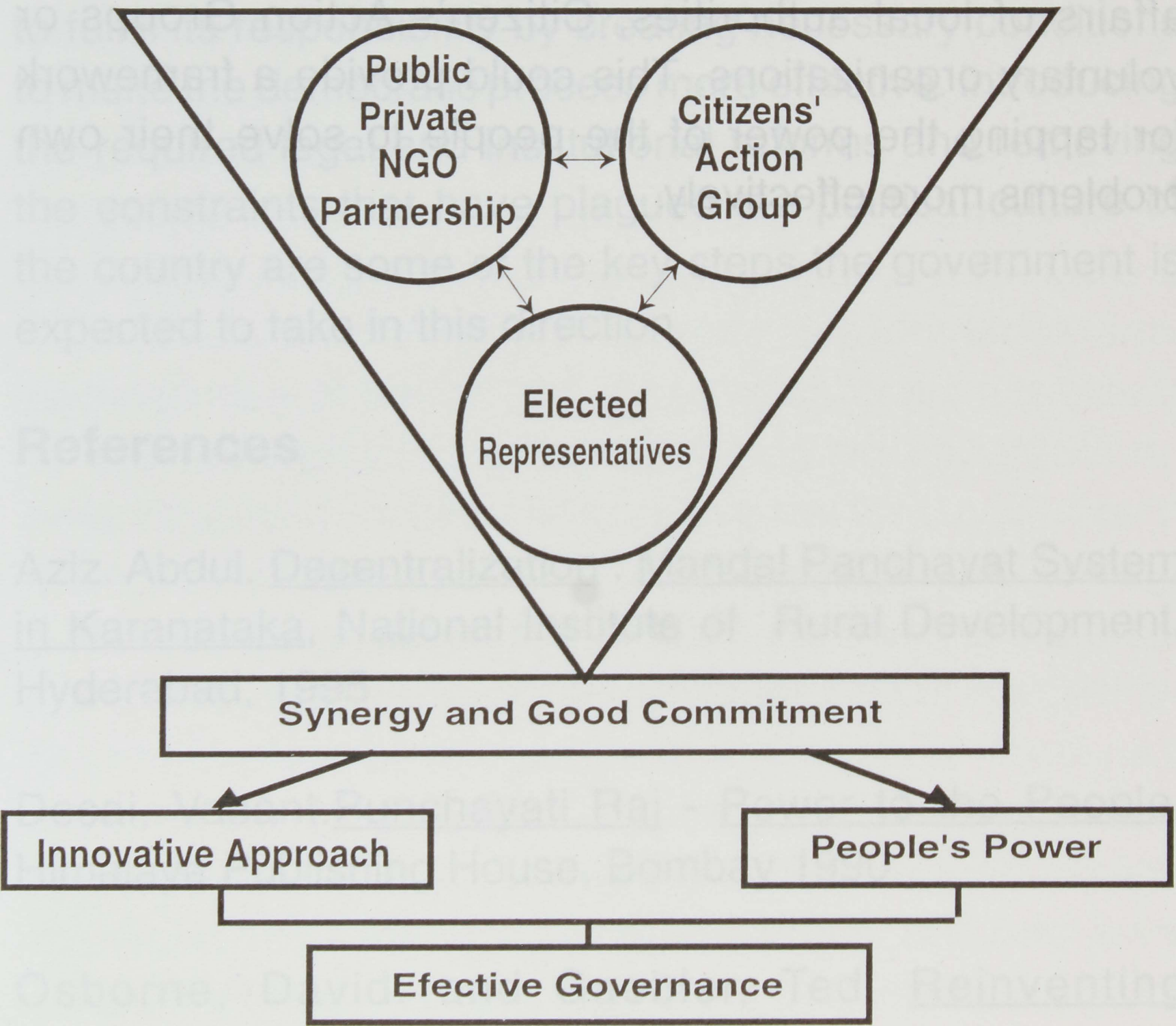
If it is possible to develop partnership among these institutions elected representatives and Citizen's Action Groups it would be possible to take joint action on several aspects that determine the quality of life of the people. The inter-dependence and collaboration between different parties and agencies can result in a synergistic effect and greater commitment which are otherwise not present. Due to the synergistic effect institutions as well as groups are likely to search for innovative approaches to perform their tasks more effectively.

If the institutions are active and responsive to people's needs, the people are likely to get actively involved in the affairs of local authorities, Citizen's Action Groups or voluntary organizations. This could provide a framework for tapping the power of the people to solve their own problems more effectively.
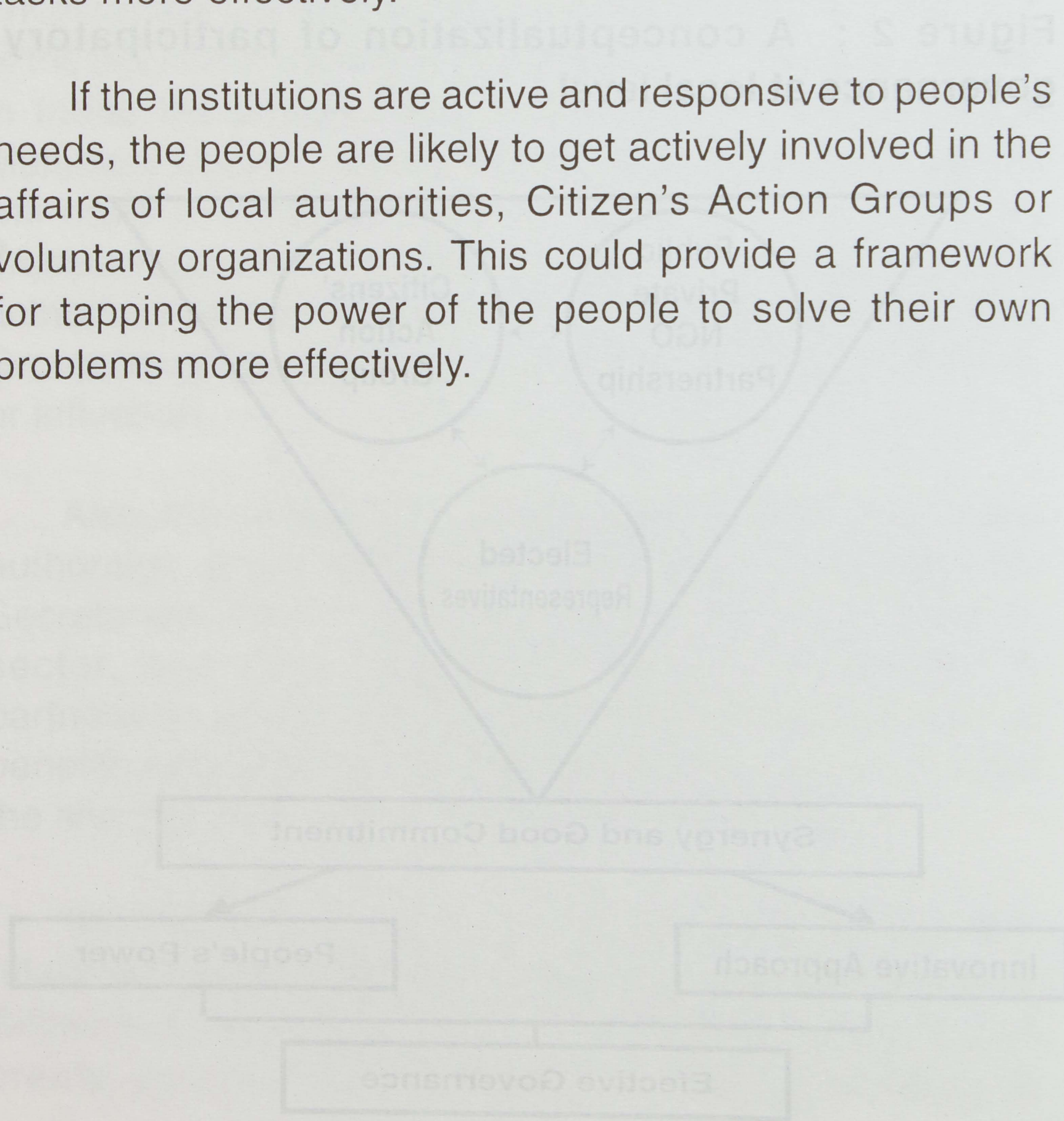
CONCLUSION

The local government in Sri Lanka which evolved over a century had entered the new millennium driven by the information age. In most parts of the world institutions of governance have gone through changes in their structure, form and approaches in order to make them people friendly, customer oriented and receptive to change. Compared with these modern systems of governance the local government in Sri Lanka remain at a stage of underdevelopment in terms of the criteria of good governance. Hence there is a greater need for change in the system of local government to make it more effective. As a prelude to this, the government has to fulfill its responsibility by creating necessary conditions to make the democratic process more effective. Introducing the required legal and institutional reforms and removing the constraints that have plagued the political culture of the country are some of the key steps the government is expected to take in this direction.

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EMPOWERING LOCAL COMMUNITIES THROUGH DEVOLUTION OF POWER IN SRI LANKA: THE UNFINISHED AGENDA

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INTRODUCTION

Sri Lanka has come a long way since the time of independence in terms of political reforms. Even though the promulgation of the 1978 constitution led to a reinforcement of the power of the political centre, the subsequent 13th amendment to the constitution which formed the basis of the establishment of sub-national Provincial Councils was an important step forward in terms of devolution of power. Yet, these reforms did not extend to the area of local government as no constitutional amendments were effected to strengthen local government institutions. In fact, some of the changes effected through subsequent legislative enactments further weakened these institutions. For instance, the establishment of Pradeshiya Sabhas in place of Village Councils (Gam Sabhas) in rural areas resulted in a further distancing of local councils from the local people. It is against the above background that the need for radical local government reforms were conceived in the mid 1990's and a Presidential Commission

was appointed to investigate and report on how to revamp local government institutions in order to make them effective and efficient in carrying out multifarious functions and accountable to the local people.

The Presidential Commission's recommendations are wide-ranging and cannot be discussed here for want of space. The purpose of this short paper is to highlight one of the main recommendations and discuss its importance in any effort to revamp and strengthen local government institutions. This is the recommendation to promote people's participation in the affairs of local government institutions.

Local government is undoubtedly the institution that is closest to the people. Yet, its relevance and usefulness for the people may depend a great deal on how effective and efficient it is in addressing the range of issues it is expected to deal with. It is also important to note that whether the local people are alienated from local government or not depends on its inclusionary or exclusionary nature or whether the local administration is accountable to the local people. On the other hand, from a more mundane point of view, people in Sri Lanka, in both rural and urban areas, will only be too happy to see a more vibrant and responsive local government system in their respective localities.

As mentioned earlier, many steps need to be taken to revamp and streamline local governance in the country. In this essay, an attempt is made to point out the need to

promote people's participation in local governance in order to bridge the gap that exists between LG institutions, on the one hand and local people, on the other. While greater people's participation will no doubt make local government institutions more democratic, it will also provide the local communities with more opportunities to have direct access to various services and resources.

Local Governance as an Arena of Grass-Roots Democracy:

The working of modern democracies provide opportunities for electors to do more than just cast their vote at periodic elections. Membership and participation in civil society organisations allow people to influence the way in which public affairs are conducted in mature democracies. In countries like Sri Lanka, such opportunities are not so widespread as most rural and disadvantaged constituencies do not actively participate in such civil society organisations due to diverse socio-economic circumstances. This situation naturally creates a wide gap between the authorities and the ordinary voters leading to conflicts of interests and misunderstandings.

On the other hand, given the physical proximity of local government institutions to the voters in local authority areas, the latter can be easily mobilized to participate in the management of local affairs provided the necessary mechanisms and modalities for such participation are put in place. In fact, many people will be keen to participate in

such efforts on a voluntary basis if opportunities and necessary conditions are created. That is retired people who usually have the knowledge, experience and time, youth, women, professionals, etc. This will no doubt convince the local people that they have an opportunity to play an active part in the management of their own public affairs.

People's participation in the affairs of local governance can produce many beneficial effects. Firstly, it will make local institutions more democratic as local people will be able to have a direct and greater influence on the functioning of these institutions. Secondly, local councils will be able to not only harness local resources and expertise but also identify felt needs of various groups that should be addressed on a priority basis. And, finally, people's participation devoid of petty party interests and other sectarian divisions can lead to collective decision-making with regard to project formulation and allocation of resources.

If we were to recognize the importance of people's participation, we should first be convinced about its likely beneficial effects. In the next few pages, an attempt is made to discuss briefly some of the obvious benefits.

Beneficial Effects of People's Participation:

It may not be an exaggeration to say that Sri Lankans are not quite content with the present state of their local government institutions, irrespective of whether they are

in rural or urban areas. There can be many reasons for this state of affairs. Excessive politicization of the management of local councils, corruption, inefficiency, unresponsiveness to public needs and grievances, wastage, etc. are no doubt some of the more important reasons. Since local people often feel that they cannot do much to change this situation, they naturally become disillusioned and frustrated. On the other hand, if local people can get closer to their councils and play a part in the affairs of the Local Councils, at least in matters that affect their daily lives, in their own neighborhoods, the above situation might begin to change for the better.

People's participation can thus be expected to narrow the wide gap that exists between the local government institutions on the one hand and local residents on the other. Increased access to, and familiarity with, information with regard to the working of these institutions is more than likely lend to a better understanding and appreciation of the problems of local government in terms of resource constraints, conflicting interests, etc. This may also make the leaders of local government more accountable and responsive to local needs and demands.

If local government institutions provide opportunities for people to participate in the management of local affairs, the result will be the eventual institutionalization of a process of grassroots democracy. Given the fact that local governance is at the base of the democratic system of government, such a development can go a long way in strengthening the democratic form of government in the

country. In fact, the erosion of people's confidence in the democratic process often begins at the level of local government where the people might feel that they have little or no influence on how the local affairs are managed.

It may not be an exaggeration to say that most Sri Lankans are not satisfied with the performance of their local government institutions, both rural and urban. This dissatisfaction relates particularly to the management of the built environment, provision and maintenance of public utilities and the utilization of public space. While resource constraints no doubt underline some of these issues, lack of accountability and transparency coupled with inefficient management can be as important, if not more. Broader public participation in the process of decision-making in the areas of identification, prioritization, and implementation of projects and programme, allocation of resources, monitoring and evaluation can no doubt help overcome many of the problems.

While there can be little doubt about the importance of people's participation, the mode of participation can nevertheless be a rather contentious issue. I do not pretend to be in a position to present a time-tested model that can be adopted for Sri Lanka. However, it is necessary to begin with some tentative ideas as to how people's participation can be accommodated within the local government system with a view to making it more effective, responsive, accountable and transparent. What is attempted below is to elaborate a few ideas hoping that their adoption, at least

in the form of pilot projects, in some selected local authority areas might lead to the development of a suitable model for Sri Lanka.

Modalities for People's Participation:

In the present system of local government in Sri Lanka, local representative is expected to be the key link between the local council and the local residents. Before the introduction of the proportional representation system, voters in a particular ward, could maintain a reasonably close relationship with their representative (ward member). On the other hand, unlike in the past, under the proportional representation system introduced in the late 1970's, a prospective local council member could mobilize popular support from the entire local authority area. In other words, now, he or she does not necessarily have to be particularly loyal or accountable to people living in a particular ward or locality. However, under both the systems, local people had virtually no role to play besides casting their vote for a party or a candidate. Having cast their votes, people expected their representatives to "**represent**" their local needs at the Council. Such expectations were often not fulfilled due to circumstances outlined earlier. It is primarily due to this reason that there is an obvious need to explore ways and means of getting local people involved in the affairs of the local councils. Otherwise, the sense of helplessness and alienation will grow leading to further loss of public faith and confidence in local government institutions.

People's participation can be visualized in diverse forms ranging from organized protests and lobbying to direct involvement in the processes of planning and implementation of projects and programs. In this paper, attention is focussed on the latter though it might be unwise to disregard the importance of other forms. For instance, it might be very useful for the local councils to have advisory or working committees comprising of knowledgeable and experienced members of the community to make proposals on diverse development and other issues.

Given the fact that most members of the public are likely to be more interested in matters pertaining to issues in their immediate surroundings, planning and implementation of local projects can be considered as an obvious area for people's participation. Since there rarely exist geographically based people's organizations, an important, initial step that needs to be taken appears to be the formation of neighborhood committees. The size and composition of such committees may vary from one area to another depending on the complexity and the diversity of neighborhoods. For instance, in a densely populated urban area, the committee may comprise representatives of people living along a street or a lane. In a rural area, it may be a cluster of households in an identifiable locality, or may be those living within the boundaries of the former ward.

Neighborhood Committee as a Building Block:

In each of the neighborhoods, a people's committee representing different categories of people living there, such as youth, the elders, women, social classes and professionals may be established with minimal external intervention and guidance. The local elected representative and the defected candidate who received the second highest number of votes can also serve in the committee. Guidance be given by community development officers or public health personnel. These committees can be led by a small number of office, bearers who are unanimously elected by the members and hold office for a specified period on a voluntary basis. The committees can be empowered to draw up neighbourhood development or maintenance plans, which should be considered for funding by the Local Council. Initially, all Neighbourhood Committee proposals can be brought together in order to estimate the financial and other requirements involved. This would then leads to such steps as mobilization of funds, prioritization, identification of community/private sector contributions, development of implementation plans, implementation of projects, monitoring and evaluation. These activities can be fitted into a two-year programme cycle, the completion of which automatically leading to the next programme cycle.

The estimation of financial and other costs of the neighbourhood development and maintenance plans will no doubt indicate the extent of finances required to meet the obvious felt needs of the local people. The Councils

can in tern, decide how they are going to divide the annual expenditure between the community projects on the one hand and their other Programme on the other. It is at this stage that the Councils will have to have a forum where they could discuss resource allocation and prioritization issues with the members of the wider community. This naturally gives rise to the need for federating the neighbourhood committees at the Council level; so that there is one people's forum representing all neighbourhood committees. Neighbourhood Committees can be represented at the federation level by their presidents or other representatives. People's forum can be convened periodically, at least twice a year. The initial meeting can be held when all neighbourhood development and maintain plans are collected and a composite plan has been drawn up. The last annual meeting can be held following the implementation of the year's work plan in order to take stock of the achievements and short falls.

The task of the Council Level People Forum would be two-fold. Firstly, it should deal with larger issues in the local authority area such as public utilities, use of publics space, major investment plans, etc.,. Secondly, it should serve as a feedback mechanism to enlighten the Council about People's perceptions and assessment of the performance of the Council and its leaders. This feedback can be presented also in the form of a Public document available to both the members of the Public and higher authorities. Such a Public document can obviously facilitate the democratic process, as it will enhance accountability, transparency and performance of elected Councils.

CONCLUSION

The main purpose of this short article has been to emphasize the importance of People's participation as a way of strengthening local governance, ensuring grassroots democracy and enhancing the performance of Local Councils. It has outlined the form that, peoples participation can take in order to allow local people to participate directly in the management of local affairs and the working of the Local Councils. It has been pointed out that the formation of neighbourhood committee will help Local Councils to address the felt needs of the people on a priority basis. On the other hand, the federation of neighbourhood committees into a Local level, people's forum will not only provide a critical feedback to the Council leadership, thereby enhancing transparency, accountability and performance of local government institutions, but also allow the local people to have a say on wider issues within the local authority area such as allocation of resources, prioritization of programme, utilization of public space and provision and management of public utilities.

PROVINCIAL COUNCILS SYSTEM
SOME OPERATIONAL CONSTRAINTS

BY

Sampath M. Dasanayake

INTRODUCTION

Decentralization of the administration of a country is called for where it is seen that central planning and development do not match actual regional needs, lack popular support and understanding and the public service do not reach their intended delivery targets. The need for decentralization is also evident where it is necessary to achieve social and political reform to develop unity in diversity and give recognition to and strengthen cultural practices, institutions and aspirations based on ethnic, language and religious groupings.

Devolution is "one form of decentralization that provides the opportunity for local people to participate in local decisions and local programmes within the national policy and to act above all as centres of initiative and activity conducive to development. Decentralization is the simple basic need for having services in places where they are "consumed" by delegating authority of the centre to its district or divisional subordinate units and officials, allowing them to decide issues and problems arising within their respective areas of authority"

The introduction of the Provincial Councils System in Sri Lanka in 1987 came in the wake of the failure of several experiments at administrative decentralization within a centralized form of government. Examples of such innovations were the Political Authority System of 1973, The District Minister System of 1977 and the District Development Council System of 1981. It was evident in the eighties that there was a need for "decentralization as a mode of self-management through elected representatives (devolution)3. The passage into law of the 13th Amendment to the Constitution of Sri Lanka and the Provincial Councils Act No. 42 of 1987 to satisfy that demand, has been hailed as the most controversial codification of the 20th Century Sri Lanka"4. This legislation really involves the demarcation of certain functions for the Provincial Councils, allocation of resources - human and other to carry out such functions and the transfer of power - legislative and executive to enforce decisions with regard of the utilization of such resources.

It is said, "Decentralization through devolution (of power) to Provincial Councils therefore takes transference of power beyond a control arrangement to a power-sharing arrangement within the framework of its statute-making power, functional autonomy in administrative action is provided by the power to determine and decide upon the use of its funds and availability of staff to carry out ensuring activities. This Provincial Councils have a distinct area of authority and action".

In this paper, it is intended to examine some of the constraints facing the Provincial Councils in their operations that have hindered the realization of this "functional autonomy in administrative action" which is expected to upgrade decentralization to a power sharing arrangement.

EXERCISE OF LEGISLATIVE POWER

When compared to the other forms of decentralization of governmental authority introduced earlier in this country, the legislative power given to the Provincial Councils is the most startling change from previous experiences. This power was so important to the realization of the objectives of devolution of power, it was given in spite of the express prohibition in the Constitution that Parliament should not set up any authority with legislative power [6]. However, at the end of thirteen years of operation it is seen that the number of statutes made by the Provincial Councils on subjects devolved to them is very meager. This is due to a number of constraints experienced by the Provincial Councils, which need to be overcome if they are to exercise effectively this important power.

Inadequate Definition of Subjects Devolved

There is no uniformity in the way subject matters have been defined in the texts in the Ninth Schedule to the Constitution. Some have only a title as in the case of "10. Rural Development" and "15 Markets, Fairs", Some have a title and a description as in " 2 Planning - Implementation

of provincial economic plans" and "14. Pawn brokers - Pawnbrokers other than - pawnbrokers business carried on by Banks." Yet another way is describing an activity without a definite title as in "8. Regulation of road passenger carriage services…." And "29.2 Encouragement and development of sports ..…", when the Supreme Court considered the Agrarian Services (Amendment) Bill it observed that "…it is not possible to determine whether a matter is a list I or List III subject by merely looking at the headings in those lists. Nor can it be assumed that the title of an enactment conclusively establishes that its subject matter falls within an item bearing a similar heading in one of the lists" and concluded that " the matters dealt with in the Bill are all matters of national policy in regard to the rights and liabilities of owners and cultivators and thus fall within list II, 7. It is evident therefore that in making statutes a Provincial Council should be quite certain that the provisions of that statute are within list I. If any provision of a statute deals with a matter in list III, a different procedure has to be followed in making the statute while if it falls within List II the Provincial Council has no power to make that statute. Thus the complexity in ascertaining whether a matter is devolved or not, which has even baffled the Supreme Court, as is evident from the Supreme Court determination, has daunted even the most enterprising Provincial Council in the making of statutes. The Provincial Councils have therefore continuously adopted the modus operandi of "copying", the parent legislation, leaving out or where relevant suitably modifying references to the activities of central authorities.

Lack of Professionally Trained Draftsmen

Parliamentary bills are drafted by the professionally trained draftsmen in the Legal Draftsman's Department. But not a single Provincial Council has a professional draftsman on its staff, Statutes of Provincial Councils are "drafted" by administrators who have no professional training in legislative drafting. As a consequence most of the "drafts' produced by them are copies of original Acts, altered to different extents, to allow for the shift of authority from the Centre to the Province. It is also noted that most of the statutes passed by the Provincial Councils relate to housekeeping activities (eg. Appropriation Statutes) rather than for the implementation of the subjects devolved to Provincial Councils.

Accessibility to Legal Advice

Attorney General is virtually the legal advises to the Government. Whenever a Bill is drafted by the Legal Draftsman, he refers it to the Attorney General for advice, before the Bill is released for further action. However, when a Provincial Council drafts a statute the advice of the Attorney General is not readily available. There is no recognized procedure by which the Attorney General is held responsible for the accuracy of any provision in the statute or for its constitutionality. There is also no procedure by which a statute is referred to the Legal Draftsman for advice. Moves are now afoot to introduce a procedure by which a Provincial Council could refer the draft of a statute to the Legal Draftsman who will improve

it, where necessary, consult the Attorney General as in the case of a Bill and return it to the Council. The Council is expected to pay a fee for the service of the Legal Draftsman. It can be surmised that the absence of such an arrangement has discouraged the Provincial Councils from making statutes as is expected of them in the exercise of legislative power vested in them.

Lack of Innovation

The importance of the power of legislation conferred on the Provincial Councils was stressed earlier. However, the scant interest shown by the Councils in exercising this power seems to suggest that the Provincial Councils have not appreciated its real importance. The position of Attorney-General on this matter, as expressed in a communication addressed to the Ministry of Provincial Councils was that "devolution of power in respect of any matter in list I takes place only upon the Provincial Council making a statute in terms of Article 154 G of the Constitution" (Emphasis added) 8. The constitution has granted to the Provincial Councils, the power not only to make new statutes but also to make statutes that could render existing Acts of Parliament on matters in List I and III suspended and inoperative in a Province 9. Obviously this was to give the Provincial Councils a free hand in drawing up legislation they need to effectively implement the subjects devolved to Provincial Councils. However, after then years of operation of Provincial Councils. The Commission if Inquiry on Local Government Reforms had to observe "many of the legal provisions other than the main law relating to Local

Authorities in Sri Lanka are now outdated and need to be updated to suit present situations. New provisions are necessary to deal with recent development in certain functional areas such as the pollution of the Environment". This would reflect as lack of innovation on the part of the Provincial Councils.

Effect of Provincial Councils (Consequential Provisions) Act No. 12 of 1989

The above Act was passed to make interim provision for the interpretation of written law on matters set out in List I of the Ninth Schedule to the Constitution. It provided that where any power is conferred on or any function is assigned prior to November 14, 1987 on any matter set out in List I of the Ninth Schedule such power may be exercised by or such function may be discharged by the Governor/the Minister of the Province who is assigned that function. Similarly where any power is conferred on or a function is assigned to a public office, such power may be exercised or such function may be discharged by the office of the Provincial Public Service holding an office corresponding to the office held by such public office. Since the long title to this Act describes it as an "Act to make interim provision", it is to be presumed that it was passed merely to enable Provincial Councils to exercise their powers and discharged their functions until such time they could pass their own statutes to replace existing Acts of Parliament. However, since this law enabled Provincial

Councils to exercise their powers until such time the law shall cease to have effect, on a date the Minister may appoint by order published in the Gazette, Provincial Councils have not felt any urgency, or for that matter any necessity to pass their own statutes. They have however conveniently overlooked the fact that this Act makes only interim provision and that, as was expressed by the Attorney-General that during the interim period the Act does not take away from the Minister of the Central Government, the powers which he has under any Act of Parliament"

The paucity of statutes made by Provincial Councils on matters in List I is a pointer to the fact that they have not felt quite comfortable with the legislative powers conferred on them by the Constitution and that they have thought it better to play safe by resorting to the use of Provincial Councils (Consequential Provisions) Act, rather than be bothered with the formidable task of replacing all the Acts of Parliament on items in List I with statutes of their own make. It is a pity however that Provincial Councils have been complaining of alleged encroachment by the Government into their domain without exploiting the tools they have been provided with to prevent such encroachment.

Lapses of the Executive

It is revealed that lapses, though rare, on the part of the Executive, have had a dampening effect on the passing of statutes by the Provincial Legislature. Every statute

made by the Provincial Council has to be presented to the Governor for his assent for-with, upon the making thereof and the Governor is required, as soon as possible, after the statute is presented to him either to giver his assent to it or to return it to the Council with a message requesting the reconsideration of the statute. Instances have come to light where the Governor had inordinately delayed giving his assent to statutes presented by the Council, instances where the Governor has neither assented to the statute nor returned it to the Council for reconsideration and instances where, on the Governor being presented with a statute for assent, he has referred the statute to external agencies like line Ministries, whereas the constitution does not provide him with such an option.

CONCLUSION

Having considered the various constraints faced by the Provincial Councils in the exercise of their legislative power are would have misgivings about the efficacy of the exercise in legislative devolution -in Sri Lanka.

GOOD GOVERNANCE, DECENTRALIZATION AND PROVINCIAL COUNCILS

By
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Colombo

1. What is Governance?

'Government' and 'Governance' do not mean the same thing. "Governance is the process whereby, within accepted traditions and institutional frameworks, interests are articulated by different sectors of society, decisions are taken, and decision-makers are held to account."[1] While "government" is now thought of as an institution or a set of institutions, "governance" is seen as a process, and this is perhaps the fundamental difference between the two terms today.

Governance is about the way in which power is exercised: who has influence, who decides, and how decision-makers are held accountable. Governance also is crucially concerned with how organisations relate to each other, how they relate to citizens, and the ways in which citizens are given a voice.

"The Centre on Governance" in Canada has put forward the following useful statement on the meaning of Governance: "Governance is about guiding. It is

about the processes by which human organisations, whether private, public or civic, steer themselves "[2] It goes on to say that-

"The study of governance involves:

- Examining the distribution of rights, obligations and power that underpin organizations;

- Understanding the patterns of coordination that support an organization's diverse activities and that sustain its coherence;
- Exploring the sources of an organization's dysfunction or lack of fit with its environment that may result in lackluster performance; and

- Establishing benchmarks, building tools and sharing knowledge to help organizations renew themselves when their governance system demonstrates a need for repair"

2. What, then, is good governance?

There is no single standard definition of what good governance is. The first "World Conference on Governance" meeting in the Philippines (in 1999)

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gave the following definition of good governance: "a system that is transparent, accountable, just, fair, democratic, participatory and responsive to people 's needs."

Though there is no standard definition, a number of characteristics of god governance are evident that reflect values and principles, norms and practices that derive from putting people first and at the center.

The UNDP defines the following as core characteristics of good governance.[3]

"Participation : All men and women have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Rule of law : Legal frameworks are fair and enforced impartially, particularly the laws on human rights; public security and safety are at a high level.

Transparency : Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned, and enough information is provided to understand and monitor them.

[3] *Decentralized Governance Programme - UNDP 1997*

Responsiveness : Institutions and processes serve all stakeholders.

Consensus orientation : Differing interests are mediated to reach broad consensus on what is the common good, in the best interests of the organization, community or country and, where possible, on policies and procedures.

Equity : All men and women have opportunities to improve or maintain their well-being and the vulnerable and excluded are targeted to provide security of well-being to all.

Effectiveness and efficiency : Processes and institutions produce results that meet needs while making the best use of resources.

Accountability : Decision-makers in government, the private sector and civil society organizations are accountable to the public and specific constituencies, as well as to institutional stakeholders.

Strategic Vision : Leaders and the public share a broad and long-term perspective on the good society, good governance and human development, along with a sense of what is needed for such development.

Legitimacy : Authority is legitimate in terms of the established legal and institutional framework and

specific decisions in terms of the accepted institutional criteria, processes and procedures.

Resource Prudence: Resources are managed and used with a view to optimize the well being of people over several generations, ideally in perpetuity, without mortgaging the future.

Ecological Soundness: The environment is protected and regenerated to ensure sustainable self-reliance.

Empowering and Enabling: All actors in society are empowered to pursue legitimate goals and enabling environments are created to optimize their success and the realization of the well-being of all.

Partnership: Governance is seen as a whole-system responsibility that cannot be discharged effectively by government alone, but involves institutionalized mechanisms and processes for working in partnerships of public, private and civic actors in conducting the business of governance at all levels.

Spatially grounded in communities: The multi-level nature of human systems with the principles of self-determination and self-organizing embodied at each level is recognized as the basis for governance that puts people at the centre and empowers them to be self-reliant, self-organizing and self-managing, building on the autonomy of local communities."

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3. What is Decentralization?

Decentralization is generally defined as the restructuring of authority so that there is a system of co-responsibility between institutions of governance at the central, regional or provincial and local levels according to the principle of subsidiarity.

Decentralization thus relates to the role of central and sub-national institutions, whether they are public, private or civic and the relationship between them. Although decentralization in itself may not guarantee good governance, many believe that decentralizing governance, from the centre to regions, districts, local governments and local communities is more conducive to good governance. Therefore, decentralizing governance could be an effective means of improving access to services, credit, employment, health, and education, eradicating poverty, achieving greater socio-economic equity, especially between men and women and safeguarding the environment. In other words decentralisation could be conducive to achieving human development.

Decentralization could also be expected to contribute to increasing people's opportunities for participation in economic, social and political decision making; assisting in developing people's capacities; and enhancing government responsiveness,

transparency and accountability. These, undoubtedly, are key elements of good governance.

3.1   Types or Forms of Decentralization

There are a variety of different arrangements that are often included in discussions on decentralization:

The first type is referred to as **devolution**. The transfer of authority from the center to lower-level units, such as regional or provincial, and local authorities that are legally constituted as separate autonomous governance bodies is referred to as devolution. This is the most common manifestation of genuine decentralization. Through devolution, the central government relinquishes certain functions and makes those functions the responsibility of the new units of government that are outside its direct control.

Devolution in its purest form has certain fundamental characteristics.

First, local units of government are autonomous, independent and clearly perceived as separate levels of government over which central authorities exercise little or no direct control.

Second, the local governments have clear and legally recognized geographical boundaries within which they exercise authority and perform public functions.

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Third, local governments have corporate status and the power to secure resources to perform their functions.

Fourth, devolution implies the need to "develop local governments as institutions" in the sense that they are perceived by local citizens as organizations providing services that satisfy their needs and as governmental units over which they have some influence.

Finally, devolution is an arrangement in which there are reciprocal, mutually beneficial, and coordinate relationships between central and local governments.

The second type is referred to as *delegation*. Delegation refers to the transfer of government decision-making and administrative authority and/or responsibility for carefully spelled out tasks to institutions and organizations that are either under government indirect control or are semi-independent. Most typically, delegation is by the central government to semi-autonomous organizations not wholly controlled by the government but legally accountable to it, such as state owned enterprises and urban or regional development corporations.

The third type is referred to as *deconcentration*. This type of arrangement involves very limited

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transfer of authority for specific decision-making, financial and management functions by administrative means to different levels under the same jurisdictional authority of the central government. General deconcentration occurs when a variety of tasks are deconcentrated to a horizontally integrated administrative system. Functional deconcentration occurs when specific tasks are deconcentrated to the field units of a particular ministry or agency.

The fourth type is referred to as *divestment*. These phenomena are best not treated as forms of decentralization. Divestment occurs when some public functions are transferred from government to voluntary, private, or non-government institutions. In other cases, governments may shift responsibility for producing goods or supplying services to private organizations, a process often called privatization.

4.   Establishment of Provincial Councils

Provincial Councils were established in this country in 1988 consequent to the passing of the Thirteenth Amendment to the Constitution and the Provincial Councils Act No 42 of 1987.

" The fundamental purpose of the Thirteenth Amendment (to the Constitution) is conceived as being to establish legislative and executive competence at the provincial level in a power sharing arrangement,

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within a unitary framework. It involved the transfer of legislative and executive powers to manage public functions in respect of specified subjects assigned to Provincial Councils. A Provincial Fund & a Provincial Public Service Commission (PPS) sought to provide the required financial and staffing autonomy to exercise devolved power. The establishment of Provincial High Courts provided for judicial review of PC Statutes."[4]

The transfer of authority and responsibility was to take place on the basis of subjects and functions specified in two lists in the Ninth Schedule to the Constitution. These are referred to as 'Provincial Council List' (List I) and 'Concurrent List' (List III). Provincial Councils are empowered to legislate (ie make Statutes) with respect to any matter set out in List I. Provincial Councils are also empowered to legislate with respect to any matter set out in List III "after such consultation with Parliament as it may consider appropriate in the circumstances of each case". The executive power extending to the matters in respect of which a Provincial Council has power to make Statutes is to be exercised by the Governor of that Province either directly or through Ministers of the Board of Ministers.

It would thus appear that in 1988 the necessary basic Constitutional/legal framework and the institutional arrangements were in place for an effective transfer of authority and responsibility to autonomous lower levels (PCs and LAs) as defined

under devolution in the previous sections of this paper. But has authority and responsibility been genuinely devolved on the PCs & the LAs as contemplated by the 13th Amendment?

It is pertinent to look at some salient indicators in this connection.

One such indicator is the size of the Central Government. It is logical to expect that the Central Government will reduce in size with the transfer of functions and responsibilities from the center to the Provinces. With the transfer of service delivery functions to the sub-national levels the Central Government is able to release a sizable workforce at all levels away from the central government service for deployment at the sub-national levels. The remaining functions of the central government are the more important and strategic functions of National Defence, Foreign Affairs, Finance

[4]*Provincial Councils: Operational experience of Devolution - Asoka Gunawardhana Committee - 1996* and formulation of overall national Policy on all subjects. These functions require, no doubt, a very high quality, competent, professional cadre at the center. This cadre need not be large in size. Numerically large numbers do not add up to quality, competence or professionalism.

However, there has been no restructuring of the central government machinery or style of management and work methods to deal with the new devolved situation effectively. The only change has been the creation of the Ministry of Provincial Councils and the setting up of the Finance Commission. There has been no commensurate reduction in the size of the Central Government. On the contrary it is evident that the size of the Government has grown several fold. Today we have a Cabinet of 44 Ministers with the supporting government machinery, several of them presiding over portfolios containing fully devolved subjects and functions.

The proportion of government expenditure outlays both recurrent and capital as between the center and the provinces is another indicator. It is again logical to expect that a greater proportion of government expenditure should take place in the provinces where the bulk of the people live and where, therefore, the need exists. Do our intergovernmental financial transfer schemes take care of this aspect. If they do not, then, can we discard with amusement as irrelevant the pithy expression- *'kolambata kiri apata kekiri'* -of provincial disillusionment?

The provincial control over the resources- particularly the human resource - is another indicator. If the provinces are to perform their functions efficiently and effectively for the achievement of

sustainable human development they should have access to adequate resources; and they should also have control over those resources. We have already commented on financial resources. What about human resources? It would appear that today Provincial Councils do not have even the control that the local authorities had in regard to human resources prior to the devolution! (Even the local authorities have lost that control now after devolution!). Local Authorities never had to obtain Minister's approval let alone Cabinet approval or even CLG's approval for its cadre, for it to fill vacancies in its approved cadre, or to make appointments. The local Council created the posts. The LGSC made the appointments in the case of 'LGS posts' and the Council filled the 'council posts'. The most that the CLG did was to indicate to the councils that they should make sure that they did not spend more than a specified percent of total council expenditure on salaries.

The dual control of the administrative infrastructure in major functional areas like Education and Health and the gradual expansion of the 'national infrastructure' are significant indicators. The Provincial Directors of Education as well as the Provincial Directors of Health are generally the nominees of the Central Government. They report to the PC in regard to provincial matters and to the respective central government Ministries in regard

to the national infrastructure ie National Schools and 'Teaching Hospitals'. In this unequal relationship it is natural that the center succeeds in capturing the greater loyalty of this staff making provincial control a mere rhetoric..

Contrary to the expectations of the Thirteenth Amendment the Provincial Councils have made no effort to enlarge the scope, powers and functions of the Local Governments. No attempt has been made to bring the Local Authorities in to the mainstream of local administration. Service delivery functions that the local authorities can handle best, the PCs or the Divisional Secretariats continue to handle instead. (The DS is a part of the central government outfit.) The principle of subsidiarity is totally ignored.

The concept of working in partnership is not reflected in the relationships between the Centre and the Provinces as well as between the PCs and the LAs. The desire to perpetuate the hierarchical relationships is much in evidence.

Finally, it will not be out of place here to look at the findings of a study team that recently looked into, inter alia, the state of decentralization in this country in the course of their study. A summary of their findings on this matter is appended.[5]

[5] *TA Reports: SRI 32305 for ADB, Interim Report -*

Chapter 3 Pp 33-35
"Our findings concerning the state of decentralisation in Sri Lanka can be summarised as follows:

What has Decentralisation Achieved?

❖ Social and economic indicators strongly suggest that decentralisation has not reduced inter-regional disparities in poverty and human development, but particularly in income.

❖ Decentralisation has therefore not realised its potential for sustainable human development and poverty alleviation. The poor bear the brunt of these failures.

❖ The complex and unwieldy system of decentralisation that exists is riven by internal conflicts over control of resources and inequities in personnel management. These features of the system have had a seriously deleterious effect on the morale of provincial public servants in particular.

❖ The 'transaction costs' of the system have been, and continue to be, high. High administrative costs are a corollary of complexity, duplication, conflict, and fragmentation.

❖ In sum, the system is characterised by high

financial and human costs and low benefits.

❖ There is the possibility that with its introduction in 1987, decentralisation made an already difficult administrative situation worse. This is the view of the World Bank (1998): "The (governance) management difficulties experienced in the late 1980s were exacerbated by the devolution policies introduced in1987"(p. 3)(parentheses added). The evidence adduced by the World Bank to support this conclusion is very similar to the evidence presented in this report.

Why?

The poor performance of decentralisation in Sri Lanka is explained in terms of the absence or weakness of many of the most important conditions necessary for genuine decentralisation, namely:

❖ A lack of sufficiently cohesive or directive political will at the centre. The high levels of complexity and fragmentation of the system and the size and number of the gaps between stated intentions (rhetoric) and the realities of decentralisation make it difficult to conclude otherwise. Evidence for this view arises from the unwieldy and inefficient system of financing, the treatment of 'national' infrastructure and assets, cumbersome and inequitable personnel

management procedures, and complex and frequently conflicting parallel systems of administration in the provinces.

✧ Insufficient and poorly managed financial resources.

✧ Insufficient power delegated to the provinces by the centre and by the provinces to local authorities, and by superiors generally to subordinates. This is the cause of substantial conflict between the centre and the provinces and, to a lesser extent, between different levels within the provinces.

✧ Poorly functioning accountability mechanisms, due mainly to inadequate transparency at all levels.

✧ An inadequately developed legal framework.

✧ Insufficient utilisation of existing technical and management capability and capacity coupled with inadequacies of capability and capacity."

These matters have been discussed in great detail in Chapter 3 of their Interim Report.

A review of the indicators referred to earlier and the above findings of the study team push us to the inevitable conclusion that 'all is not well' with decentralization in Sri Lanka and that it has not yet got into the right track.

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RE-ORIENTATION OF BUREAUCRACY
FOR
GOOD GOVERNANCE

BY

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In the less developed countries, economic development & social justice are not spontaneous outcomes but are the consequences largely of government policy action. Successive governments of Sri Lanka have been committed to the goals of development. Each successive government has demonstrated a remarkable consistency & concern for promotion of economic growth & social justice, which would lead to a more equitable distribution of the fruits of development.

In spite of the fact that Sri Lanka has gained the attention of development economists by a remarkable score on the Physical Life Quality Index (PQLI) with literacy, life expectancy & infant mortality which measures near Southern European levels, picture is not that rosy. The fact that almost half the population qualified for food stamps in the eighties & now for Samurdhi benefits, malnutrition rate of 26% of children, about 9% of the work force being unemployed, although literacy rate is high about 30% school drop out during the primary cycle indicates that there are

pockets of under development. In addition disparity in incomes have been widening over the years. It indicates that growth has not percolated down. The projects & progammes launched by successive governments seem to have by passed the poor especially the poorest of the poor trapped in integrated poverty.

If the service delivery have been ineffective, the question is whether there is an alternative. One alternative suggested is privatization. Rondinnelli suggest the use of Performance Agreements in which functions are contracted out or delegated to private agencies. Privatization may be an answer in certain aspects of economic development but in dealing with the problems of poor it will not be effective as the private sector is driven by profit motive & will not be able to provide the necessary to the poor with empathy. Besides the poor may not have the necessary purchasing power.

This leaves us with the next alternative - the involvement of poor in their own development. Bryant & White (1982) defines development as "increasing the capacity of people to influence their future." This conception of development encompasses not only growth & capacity but also equity (distributional issue) & empowerment (acquiring leverage for the poor). But trapped as they are poor cannot often help themselves & outsiders are necessary to help them in their own effort at their own development. "The initiative in enabling them better to help themselves lies with outsiders who have more power &

resources..." (Chambers 1983) By outsiders are meant the range of personnel from academic researchers, businessmen, to the head quarters & field staff of government organizations.

However, in the Third World Countries such as Sri Lanka is evident that the initiative has to come from the government. Government's intervention over the years in development has bred a "dependent syndrome" (Korten & Uphoff) which dates back to the Colonial times. The Retrenchment Commission (1939) noted & remarked that

Guiding hand paternal care of the Revenue Officers with a concomitant
Kachcheri Organization (was) very necessary in the more backward parts-where
People were uneducated and dependent on their many wants.
(Sessional Paper xiv. 1939:119)

This is still true of Sri Lanka. Despite many attempts at involvement of poor in their own development, the dependency syndrome has not lessened to any great extent. While the intervention & involvement of government in almost all aspects of life - education, health economic & social development fostered this dependency orientation, their task environment in turn has bred a paternalistic orientation in the bureaucracy towards the public. Korten & Uphoff depicts these in the form of a value *equation: education = superiority*. In Sri Lanka this value equation is

rooted in the social system where advanced formal education symbolized by the higher degrees makes the possessor believes he is superior to the less fortunate human beings. Then there is the other value equation: *citizen = minor*. This is the tendency to treat the public as minors. These in turn lead to other attitudes & values among the bureaucracy. Which we may be detrimental to participatory approaches being adopted in project management. Korten & Uphoff points out due to the tendency to project the blame for the failure of meeting planned targets on the public, the victim becomes the convenient scapegoat. But the reality is:

> That the response of the poor to government programmes is shaped by the way the services are administered - how accommodating or inflexible. The services are, how satisfying or humiliating there treatment is, how readily the poor get access to services ——— (Korten & Uphoff - 1981)

They show further that beneficiary cooperation also depends on the attitude of the government staff - whether they adopt a problem solving stance or a conventionally bureaucratic one - how attuned are they to the needs of the poor.

If poor are to be involved in their own development, then it is imperative that the bureaucracy should adopt a participatory approach.

Very often a programme in which there is no beneficiary

participation is not successful. This leads to delays & unutilized or underutilized services, because they may not have thought of such services as their priorities. In addition, implementation becomes difficult as they may place obstacles in the way & if they enter the programme they may make arbitrary demands. Values ascribed to beneficiary participation are many. A few described by Chambers (1977) are:

- ❖ Making known the local wishes. (it is the people who knows what their problems are)

- ❖ Generating development ideas.

- ❖ Providing local knowledge (necessary for development work).

- ❖ Testing proposals for feasibility & improving them.

- ❖ increasing the capacity of the community to handle their own affairs & the control & exploitation of their environment.

- ❖ Demonstrating the support of a regime.

- ❖ Helping to extract, develop & invest local resources.

- ❖ Promoting desirable relationships between the people, especially through cooperative work.

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Participatory development is not a new concept to Sri Lanka. However. Despite the rhetoric adopted by varous governments such as "grass roots development", "self reliance", "democratic decentralization" for development", there exist a wide gap between rhetoric & the reality.

The reasons for these are many, but of these reasons may be lumped under on heading "negative bureaucratic behavior". Negative bureaucratic behavior at times bordering on "bureaupathology" may be the result of socio -psychological variables, such as, values attitudes & perceptions of individuals. These they may have acquired over the years or they may have grown "... out of the bureaucratic context in which they (bureaucrats) find themselves... (Korten & Uphoff 1981)

Most negative bureaucratic behavior, apathy, indifference, rigid adherence to rules, negative attitudes to words the public may be fostered & nurtured & reinforced by structural factors. Performance measurement systems & reward systems are some of the structural factors that affect the bureaucracy in general. An individual's behavior also could be affected by the larger environment, in which he works & lives. The situational context too might affect him. though a distinction is made between behavior & structure, for purpose of analysis both are interrelated. While changes in behavior could modify structure - which is also the task environment of an office, structure can in turn modify & affect behavior. Though behavior of an individual is the result of his perceptions, learning, attitudes, values & personality "people placed in similar structure with

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a similar task to perform are likely to behave in similar ways". (Bryant & White, 1982). In support of this they quote the example of the Tanzanian bureaucracy which operates in much the same manner as in the colonial past despite being an avowedly socialist nation. No doubt it applies to other former colonies like Sri Lanka.

Perceptual biases values & attitudes of the bureaucracy that militates against the poor are shown as six biases by Chambers (1984)

* Spatial - the tendency to confine oneself to urban, tarmac & road side.

* Project bias - confine oneself to where there are successful projects.

* Person bias - bias towards those who are better off (men rather women, users of services than non users, active ones than passive ones)

* Seasonal bias - avoids wet season when things are at its worst

* Diplomatic bias - not seeking out the poor for fear of giving offence

* Professional bias - tendency to confine to the concerns of one's own specialization

Due to these biases the poorest of the poor are little

seen & even less is the nature of their poverty understood. Poorest of the poor are trapped in what Chambers call the Deprivation Trap. They are trapped in the web of - poverty, physical weakness, isolation, vulnerability & powerlessness. Each is connected to the other & one could identify 20 possible causal relationship. Most vulnerable are the groups who are powerless in every sense of the word.

Particularly in a country like Sri Lanka where the society is highly politicized very little could be achieved by poorest of the poor who have no access to the politicians.

If there is to be good governance in the country, then reorienting the bureaucracy to change their negative perceptions, attitudes, values which militates against service delivery to poor is vital. The nebulous & all time volatile political - social environment has further led to defensive behavior - apathy indifference & aggression. At time political interference though may add to one's frustration, may be justifiable as there are instances where politicians are one "looking after the legitimate needs of the constituents who are ignored or victimized by the bureaucracy". (Uphoff etal. 1987). For there are many instances of delays in issuing of permits, redressing grievances & provision of social benefits.

Though "bureaucrat bashing" & making them convenient scape goats for all commissions & omissions is common in Sri Lanka, one wonders whether there had been any serious attempt to look into this problem. many

ad hoc attempts have been made to reform the structures. But no serious attempt to reorient the bureaucracy - to change their values, attitudes & perceptions have been made. Presently, training is mainly focused on imparting skills & knowledge. There was one notable attempt in the eighties by the then Director, Sri Lanka Institute of Development Administration (SLIDA) Mr. V.T. Nvarathne who introduced the Village Immersion Training Scheme in training of the Cadets of the Sri Lanka Administrative Service. Cadets were expected to live & study the problems of the villages without revealing their true identity. It was expected that they would become closer to people. Although the large majority is form the village, it is evident that they become alienated during the few years in the Universities.

This scheme could be reintroduced in combination with the "Learning Process Approach" (Korten & Uphoff) which was tried out in Philippines. Here the cadets would be expected to actively implement a suitable development project with the participation of the villagers. It would be their learning laboratory in three stages . The cadet should be guided by a senior officer. but should be allowed to gain actual experience in decision making, problem solving, conflict management etc.

The first stage would be "learning to be effective". Lesson learned from this initial experience & mistakes might be costly but would be as Korten & Uphoff says will be "an investment in the learning needed for success in stage two: "learning to be efficient". Once the learner finds that the

lessons learned could be applied to similar situations, the final of the learning process "learning to expand" has been reached. This village based training would also conform to methods advocated by Chambers (1983): that the officers becomes the student of the rural poor, learn indigenous knowledge which be invaluable in rural development, learning by working with poor - in fact, Joint R & D - the village becomes the "Learning Laboratory".

If this system is to succeed certain organizational changes should to hand in hand like the planning process (presently it is predominantly top down), placement & transfer policy reward systems etc. All organizational structures that perpetuates or give rise to negative values, perceptions & attitudes needs to be changed, like the dilatory rules & regulations, styles of management etc. Even ways of monitoring & evaluation needs to be changed. Success has to be measured in terms of output diffusion & not in terms of finances expended only. "One key need in the reorientation appears to be a shift from an emphasis on activities to an emphasis on results" (Korten & Alphonso). Evaluation should be a joint process with the beneficiaries. The task of reorienting bureaucracies is immense but it should not be confined only to the staff level. if the support staff is not properly oriented then the expected results will not be forthcoming. Most important are the those working at the sub national levels. The perceptions of people regarding the government is formed by the way in which services are delivered to those at the village level.

Hence while attending to the necessary structural changes, the training policy should focus on reorienting the values, attitudes & perceptions of the bureaucracy to make them closer to the people. This does not mean giving up the present focus on imparting knowledge & skills. The need is to have a class of bureaucrats who are more people oriented but at the same time capable of achieving the development objectives. They should be willing to be with the poor - learn form them - work in partnership with them & see realities form proper perspective - & they are the ones who will enable the poor to help themselves. The need in short is to have a new class of bureaucrats who are willing to "put the last first" (Chambers) meaning the willingness to put the poor people first in their quest to achieve development objectives. Their credo could be the Guiding Principles articulated in the 1920 by James Y.C. yen, founder of the Rural Construction Movement in China :

Go to the people

Live among the people

Learn form the people

Plan with the people

Work with the people

Start with what the people know

Build with what the people have

Teach by showing, learn by doing

Not a showcase, but a pattern

Not odds & ends but a system

Not to conform but to transform

Not relief but release.

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SRI LANKA'S INSTITUTIONS OF LOCAL GOVERNANCE THEIR PRESENT STATUS AND POSSIBILITIES FOR THE FUTURE

By

Dr. G.R. Tressie Leitan

Introduction

The desirability of adopting some form of local government is accepted by almost every country. However, patterns of local government vary, the system adopted by each country being dependent on a number of factors, like its historical background, its political culture, etc.

Whatever model is accepted, the values of local government – practical as well as intangible – are generally recognized. From a practical standpoint, the presence of local councils enables national (and sub-national) governments to delegate functions to the local level, while these governments can concentrate on issues of national and regional importance. It also enables recipients of services like social services, public health and public utilities to be brought closer to those who are responsible for their administration. Of no less importance are the intangible values of local government i.e. the ability to sustain a viable system of local democracy and participatory governance, through which people's involvement in the governmental

process can become a reality. It is thus the local arena in which an opportunity is provided for close contact between the people and their elected representatives, thereby strengthening the democratic basis of government.

In the developing world, local government can have special significance, as a means of obtaining citizen participation in development programmes; for it has become increasingly evident that popular acceptance and popular participation are factors which impact on successful development.

Historical Background

Historical evidence indicates that an indigenous system of local government (in the form of **Gamsabhas** or village councils, and **Ratasabhas** or provincial councils in some areas) flourished in Sri Lanka in the pre-colonial era. The **Gamsabhas** seem to have been concerned mainly with functions of a judicial and regulatory nature, like the settlement of disputes, and enforcing the customary laws of the village, relating especially to irrigation and the use of water. [1.]

However, colonialism, especially the British colonial period which extended from 1796 to 1948, has had a marked impact on Sri Lanka's local government and local administration. Of special significance was the provincial / district administrative structure established during the early years of British rule, which came to be known as the

"Kachcheri" system or the "District Administration," through which the centralized authority of the government was diffused throughout the country.

Under this system, (which was similar to the French Prefectoral model), the functioning of government was vested in the Government Agent (GA), who was government's representative at provincial (later district) level. He operated through subordinate officials answerable to him in strict hierarchical fashion, at lower levels of the administrative structure. Vertical departmental structures, parallel to the GA's administrative structure also developed, with departmental officials responsible to their "line" ministries at the centre, with "general" responsibility" for their functions being expected of the GA.

With the introduction of this system, as well as of a separate judicial structure, the *Gamsabhas* seem to have lost their image and vitality and fallen into disuse.

Although the British colonial government re-introduced local government (in the form of Gamsabhas in the rural sector, and institutions like Road Committees, Sanitary Boards,

And Municipal councils in urbanized areas), 2. these were identified as extensions of the administration rather than a revival of the system that had prevailed earlier.

It was during the "Donoughmore " period, 3. in the

1930s and 1940s, that fully elected local authorities of four types - Municipal Councils, Urban Councils, Town Councils and Village Councils - were established.

However, limited by inadequate powers and finances, these institutions were marginalized, while the agencies for governmental activity were the GA's Kachcheri and field units of government departments.

These councils functioned under their relevant Ordinances, viz. the Municipal Councils Ordinance, (Chap. 252), the Urban Councils Ordinance (Chap 255), Town Councils Ordinance (Chap. 256), and the Village Councils Ordinance (Chap 257), as well as other ordinances like the Housing and Town Improvement Ordinance (Chap 268), Town and Country Planning Ordinance (Chap 269).

Attention has also to be drawn to the system of elections under which these councils were elected, i.e. the "ward" system, which ensured participation and close contact between the voter and his representative in the local council. Each local authority area, under this system, was demarcated into a number of areas termed "wards" within each of which voters elected the "ward member" on the first-past -the -post principle.

The rural voter, especially, maintained a close relationship with the member, to whom he went regarding the repair of a road or culvert, or construction of a drinking water well. Furthermore, qualities of personal leadership, integrity and record of social and community service had

even greater influence in ward elections than political affiliation

The following characteristics which emerged under colonialism, have had a significant impact on Sri Lanka's local government in the post-independence period:

· The tradition of a centralized administrative system;

· Most governmental functions being performed by the GA and departmental field units; and

· Local authorities, although elected, playing a minor role.

Post Independence Developments

In the years following Independence in 1948, thinking revolved round the need for greater coordination among local authorities, doing away with the colonial administrative structure, and decentralization of the administration.

Thus the recommendation of the Choksy Commission of 1955 was the establishment of a system of Regional Committees which could take over most functions of government departments, and act as the coordinating upper tier of local government.

The Draft Regional Councils Bill (1957), introduced by the government of S.W.R.D.Bandaranaike which came into

power in 1956, went beyond the Choksy recommendations, and provided for regional councils with powers pertaining to public utility services, agriculture and food production activities, land and land development, colonization, etc. The next attempt at decentralization was in 1968, in accordance with the provisions of the White Paper on District Councils. Mounting communal tensions in the country led to the abrogation of these attempts at decentralization and strengthening of local government.

The reforms that were implemented eventually consisted of a system of Development Councils / District Ministers at district level, under the terms of the Development Councils Act No. 35 of 1980. These councils were supplemented by Pradeshiya Mandala and Gramodaya Mandalas in 1981, by an amendment to the Act. Fifteen subjects – including agriculture and agrarian services, rural development, education, fisheries, health services, housing, cooperative development, etc. – were decentralized to these councils. With these reforms, while Municipal and Urban Councils continued to function, Town councils and Village councils were abolished.

Although much was hoped for from the system of DCs/ PMs/ GMs, unfortunately, most of these objectives were not fulfilled. It proved equally ineffective as a mechanism through which minority aspirations could find expression, and through which area-based development could be effected. The system was abolished in 1987, under the Development Councils (Repeal) Act No. 14 of 1989, with

the introduction of a system of Provincial Councils to which powers have been constitutionally devolved.

Despite the abolition of Development Councils (and Pradeshiya Mandalas), the Gramodaya Mandalas at the grass roots, consisting of chairmen of voluntary community based organizations in the area, have, however, been retained under Articles 17A and 71 of the Development Councils (Repeal) Act of 1989.

Provincial Councils (1987)

It was the intensification of ethnic strife in the 1980s that provided the main impetus for politico-administrative reorganization, especially at the periphery. Tamil separatist demands, arising in large degree from a sense of being marginalized within the centralized state system, made it imperative to devise some form of devolution of power.

Thus after extended discussions between the government and the Tamil parties/groups, with India's mediation, the 13th Amendment to the Constitution and the Provincial Councils Act No. 42 of 1987 made provision for devolution of power to a system of Provincial Councils (PCs).

Main Features

Devolution of power is under three Lists, viz. List 1, which is the Provincial Councils List, List 11, which is the Reserved List and specifies the powers which belong

exclusively to the Centre, and List 111, which is the Concurrent List. Some of the major functions devolved on PCs include internal law and order, implementation of provincial economic plans, education and educational services, provincial housing, agriculture and agrarian services, health, rural development, land use and land development, cooperative development and local government.

Executive power is vested in a Provincial Governor appointed by the Executive President, with a Board of Ministers headed by a chief minister, to aid and advise him in the performance of these functions (except where he is required to act on his discretion).

In addition to the revenue sources devolved on the PCs under the 13th Amendment, they receive central grants on the basis of recommendations of the Finance Commission which functions at the centre. 4.

Present System of Local Government

Structure

With the establishment of PCs in 1987, Development Councils and Pradeshiya Mandalas were abolished. As already mentioned, Gramodaya Mandalas as grass roots level agencies were retained. Additionally, the Pradeshiya Sabhas Act No. 15 of 1987, brought in a system of elected Pradeshiya Sabhas.

Thus presently, local government consists of the following:

Municipal Councils
Urban Councils
Pradeshiya Sabhas

These councils are elected by the voters of their respective areas, for a four year term of office, on the basis of the list system of proportional representation. Each local authority area is considered as a constituency containing a specified number of members. Political parties/ independent groups are able to submit nomination lists of candidates (containing the number of members as specified, plus three names), for election to each local authority. Voters are required to vote for the party / independent group of their choice, while they are given the ability to mark three preferences for candidates of their choice from the same list.

An innovative feature introduced under the terms of the Local Authorities (Amendment) Act No. 25 of 1990, and which was in force at the last local government elections of 1997, was the possibility for the voter to mark all three of his preferences for the same candidate if he so wishes. 5.

Another innovation introduced under the same Act, which became operative at the last elections to local authorities in 1997, was the introduction of a 40% quota for representation of youth between the ages of 18 and 35 on every local authority. In accordance with this provision, no

nomination list will be accepted by the Commissioner of Elections unless the requirement for the youth quota is fulfilled. It could be presumed that this innovation resulted from the findings of the Presidential Commission on Youth, 6. which drew attention to the importance of associating youth in village level decision making, when it stated:

> "It is therefore important to devise democratic structures at the local level to ensure a cohesive sense of village community, with the emphasis on collective decision making and the emergence of a new and youthful leadership committed to democratic values." 7.

Functions of Local Authorities

Local Authorities, under their relevant Ordinances, are vested, as specified duties and permissive powers, with the "traditional" functions of local government as accepted in Sri Lanka viz. those relating to roads, public health, markets and public utility services. Each local authority would perform these functions, commensurate with their capability.

Thus the municipalities, under the terms of the Municipal Councils Ordinance, are required:

(a) to maintain and cleanse all public streets and open spaces vested in the council or committed to its management ;

(b) to enforce the proper maintenance, cleanliness and repair of all private streets;

(c) to supervise and provide for the growth and development of the Municipality by the planning and widening of streets, reservation of open spaces and the execution of public improvements;

(d) to abate all nuisances;

(e) to establish and maintain, (subject to the extent of its resources)any public utility service which it is authorized to maintain under this ordinance and which is required for the welfare, comfort, or convenience of the public;

(f) generally to promote the health, welfare, convenience and the development, sanitation and amenities of the municipality. 8.

A detailed specification of powers and duties is set out in the Ordinance.

The Urban Councils Ordinance, (Chap 255), similarly sets down in detail, the powers and duties of urban councils.

Pradeshiya Sabhas, however, are additionally empowered under the Act, to engage in a range of activity that could be considered as developmental in nature. For instance, Pradeshiya Sabhas are enabled to spend any part of the Pradeshiya Sabha Fund on

Maternity and child welfare services, health education, maintenance of primary health centres....housing schemes, such charities or such measures for the relief of distress caused by rain, floods, gales, fire, famine or epidemics....

Construction or alteration, improvement or maintenance of village works

In the conduct of experiments in agriculture and the breeding of domestic animals, and in the maintenance of experimental farms and studies for that purpose;

In the promotion of religion and culture...

To organize employment programmes for the inhabitants of the Pradeshiya sabha area;

In promoting rural women's development activities, integrated development of selected villages, community development projects...9.

Entrenchment in the Constitution

It is significant to note that local government institutions i.e. Municipal Councils, Urban Councils and Pradeshiya Sabhas, have been given constitutional recognition for the first time under the 13th Amendment to the Constitution. Local government is a subject that is devolved on Provincial Councils. The powers of these local councils are moreover are enshrined within the constitution and PCs may only

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increase those powers. It is thus specified that

"Local authorities will have the powers vested in them under existing law, Municipal Councils Ordinance and the Urban councils Ordinance. Pradeshiya Sabhas will have the powers vested in them under existing law. It will be open to a Provincial council to confer additional powers on local authorities but not to take away their powers." 10.

Under the constitutional amendment, the same provisions are made applicable to Gramodaya Mandalas:

"Gramodaya Mandalas will have the powers vesed in gramodaya mandalas under existing law. It will be open to a provincial council to confer additional powers on gramodaya mandalas." 11.

Possibilities for the Future

While structural reorganization and devolution of power to Provincial councils have taken place, the future role of local governance has to be considered within the devolved system. Thus a number of problems and issues can be identified, which have to be faced, if local authorities are to assume their rightful place as the third tier of governance within the Sri Lankan polity.

Devolution and Decentralization to Lower Levels

Meaningful participation of localities in the political process is essential for achieving the objectives of a

devolutionary model; and it is through in-built structural mechanisms that localities could be integrated into the processes of planning and implementation. This is an aspect that is very often overlooked when emphasis is placed on power sharing between the center and the states/provinces.

What is here implied is the crucial role of local governance within a devolved system, **as the third tier of local governance.** As pointed earlier, local authorities are the institutions through which democratic self- government and participatory development - which require close contact and interaction between government and the people – could be sustained. While national policies must apply throughout the country, institutions of local governance, as partners in planning and implementation, are able to throw up the needs of their localities, against the backdrop of their own resources and physical environment.

In is in this sense, that local government in Sri Lanka, can act in close collaboration with the Provincial Councils within the system of devolution. Local authorities, as illustrated, have received constitutional recognition under the 13th amendment to the Constitution, which states, moreover, that

> "It will be open to a Provincial Council to confer additional powers on local authorities but not to take away their powers."

It could thus be assumed that the intention was to make local authorities, especially Pradeshiya Sabhas, to act on

an agency basis to the provincial council, and perform, under the direction of the PC, those functions, in accordance with the principle of subsidiarity, that could best be handled at local level.

Even so, in practice, presently, the institutions of local governance are largely by-passed in the devolutionary process. The Transfer of Powers (Divisional Secretaries) Act No. 58 of 1992 has established Divisional Secretariats that coincide, more or less, with the Pradeshiya Sabha areas. Presently, it is the Divisional Secretariat (which is the administrative institution) rather than the Pradeshiya Sabha, that has become the focus of governmental activity in the area.

Strengthening of the Pradeshiya Sabha calls for a merging of these two institutions, so that the Divisional Secretariat could function as the administrative arm of the elected institution of local governance, the Pradeshiya Sabha.

Participation at the Grass Roots

Democratic governance implies involvement of the people at different levels in the decision-making process. This necessitates an institutional mechanism for such participation.

Within Sri Lanka's institutional structure, the administrative unit at the lowest level is the Grama Niladhari Division. However, no democratic institution functions at

this level. On the other hand, different types of village level societies – Community Based Organizations (CBOs) – function within each Grama Niladhari division. Thus according to a recent study in the district of Moneragala, within the Divisional Secretary's divisions of Badalkumbura & Thanamalwila alone, a total of 270 and 232 CBOs could be identified. These included rural Development Societies, Women's organizations, Farmers'societies, Youth Groups, Welfare and other societies. 1. Very few of these societies have an institutional tie-up with aqny organization at the divisional level.

An institutional linkage for these societies was provided under the system of Development Societies (1980/1981) in the form of Gramodaya Mandalas, which consisted of the chairmen of specified societies within each Grama Niladhari Division. Despite the abolition of the system of Development councils in 1987, it is to be noted that Gamaodaya mandalas were retained. Moreover, they received recognition (as pointed out already), under the 13th amendment to the Consitution. In practice, however, these Gramodaya mandalas are presently non-functional.

There is thus an absence of any coordinating mechanism that could link all such associations to the democratically elected Pradeshiya Sabha at the level of the Division. It is such a mechanism that could voice the needs and aspirations of people at the grass roots, and impact on the decision making process, so that devolution of power could be a reality.

Service Delivery

If local government is to play a meaningful role within the Sri Lankan polity, they should be able to provide the services expected by their rate payers. This calls for a re-vamping of the system and removal of the constraints under which they function presently.

While there are staffing and other constraints, the main identifiable constraint which impacts on effective and efficient service delivery is that of inadequate finance. Thus the chief source of local authority revenue is the local rate, on the basis of the annual value of property, while in village areas, the acreage tax accrues to pradeshiya sabhas. It is worthy of note that the Presidential Commission on Local Government (1999) has recommended a number of ways in which local authority revenue could be enhanced, including capital based valuation of the property rate, increased revenue from the acreage tax, reconstituted as the "land tax" as well as increased grants for the performance of their functions. With the focus today on the private sector, collaboration with private sector institutions in service delivery could be of immense benefit to the people of the area.

Electoral Reform

Local governance necessarily implies close contact between the elected representatives and the people of each locality.

Before 1977, elections to local authorities were conducted on the basis of the "ward system" according to which each local authority area was divided into "wards" for each of which a member was elected by the voters of that particular ward. There was thus close rapport between the ward member and his constituents, who went to him to voice their needs and grievances.

Presently, since all local authority elections are conducted on the list system of Proportional Representation, there is an absence of such close contact, which is one of the essential features of local governance. There is no guarantee that all areas within the area of operation of the local council will be represented, and leaves the voter confused as to whom he should approach to voice his needs. Marking of preferences has, moreover, brought about in-fighting within the contestants of the same party, an increase in election violence, thus bringing local government elections into disrepute.

What seems to be called for is a combination of the two systems, (on the German model), under which the voter is able to vote for a candidate from his area as well as for candidates on the list. 12.

Gender Perspective

Universal franchise, without gender discrimination, was introduced in Sri Lanka as far back as 1931; and successive Constitutions made provision for gender equality in voting

and candidature at elections. In relation to voting, while figures for gender breakdown are not available, women voters in large numbers do exercise their vote in a total voter turn –out which is generally between 70 and 80 %.

Regrettably, there has not been an appreciable increase in female representation even after 70 years of universal franchise. Thus presently, while at national level, there are only 9 women (or 4 %) in a Parliament of 225 members, representation of women at provincial level is only 3.4 %. Their role in local governance is unfortunately worse. The last elections to local authorities was held in 1997, and the results of these elections indicate that the percentage of women elected to municipal councils was 3.4 %, to urban councils 2.6 %, and to pradeshiya sabhas only 1.7 %. 13.

A number of deterrents to women seeking election in Sri Lanka especially in the rural sector, could be identified, including objections from husbands/ fathers/ sons, difficulties of financing an election campaign, social stigma attached to women entering politics, election violence, etc. Consequently, the few women in politics are generally those from powerful political families, or widows / sisters / daughters of male members who have lost their seats mostly through assassination.

If women are to be adequately represented, so that their needs and aspirations could find expression, what

seems to be called for is a system of electoral quotas for women, especially at local level. Thus in India, in 1992, the 73rd and 74th Amendments to the Constitution have introduced a quota of 33 1/3 % for women in all panchayati raj (local authority) institutions.

CONCLUSION

Meaningful participation in the processes of democratic governance calls for political integration of groups and communities into the decision making process. In Sri Lanka, despite devolution of power to provincial councils, the need for strengthening the institutions of local governance within the devolved system has, to a large extent, been neglected.

The Presidential Commission on Local Government Reforms of 1999 has put forward a number of important recommendations for strengthening the institutions of local governance. 14.

It is to be hoped that these recommendations would be implemented speedily, so that these institutions could perform a meaningful role and function as the third tier of governance in Sri Lanka.

WOMEN IN GOVERNANCE ; MAKING GOVERNANCE WORK FOR COMMON PEOPLE

By
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Today many countries in the world are facing numerous challenges posed by globalization and competitive market economy. These processes are complex and they are taking place at a rapid rate, driven by forces that seem beyond the control of states and their citizens. Particularly, states in developing countries are in a crises situation in managing public affairs to fulfill the basic needs of people. In addition, in the face of changing domestic and international environment there is a growing decline in the ethical values of the polity and the bureaucracy of these countries and consequently the incidence of corruption and mal-administration has been on the increase. In this context, the importance of practicing good governance is being increasingly highlighted in development literature, because the public at large whose day-today lives are affected, is critical of the manner in which the governing process takes place in countries. Hence, a lot of problems in developing countries could best be addressed by pursuing the best practice of governance for which the state, private sector and civil society are equally responsible.

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The practice of good governance ensures transparency, accountability, inclusive development, human rights, empowerment and meeting the minimum basic needs of people. Good Governance improves a society's standard of living by creating basic amenities of life for most of its population creating an environment in which people can shape and mould their destinies through their own potentials. Good governance requires inclusiveness, as it ensures equal access to opportunities, resources and privileges for all groups in society specially for women, who are deprived in many ways. Studies show that women are being discriminated in variety of ways and they are often exclude from the process of governance. Their needs and aspirations have not been addressed in policy setting and continue to be suffering from the violation of their human rights.

However, it has now been largely recognized that once women's human rights are protected it ultimately benefits all members of the family and thereby the society. For example, if a women can enjoy her reproductive rights the scope for a healthy family is guaranteed. When a woman enjoys such rights her family will have the required number of children with favourable spacing and there is no doubt that children will be healthy and less prone to malnutrition and diseases. Being mothers, women are highly concerned about the family well being and their needs and aspirations are mainly projects through family requirements. Hence, women's representation in policy-making forums, decision-making bodies and civil organization will have a great impact

on the improvement of quality of life of people and also it is one of the key elements of good governance. Unless women are involved in the decision-making process of the state, changes in women's political social and economic status will continue to be marginal. It is evident that de-jure protection of human rights and non-discrimination through mere constitutional guarantees does not yield the expected results of good governance. In other words without de-facto protection of human rights in all dimensions there can be no good governance.

Since many countries in the region at present are in a process of democratization and decentralization, women are central to this process as democracy without women is not the real democracy. Hence, any state which is committed to promote human rights and human development ought to give some priority to women to enlarge their choices and opportunities and ensure their participation in events and decisions that shape their lives. If women are not empowered by the grant of access to education and therefore, to employment, income and power, their human rights or non-discrimination will stand violated. Despite many attempts of the governments to provide a better quality of life through sound economic policies, ignorance of the needs and aspiration of half of the humanity has lead to increase in many social problems. Statistics show that in many developing countries poverty, unemployment and malnutrition have been increasing in an alarming rate. Mainly gender disparities in education, employment and health have caused these problems.

Women in Decision-making

In the modern world, women's needs are different form those of men. For example, women and men use public transport at different times and for different purposes. Women may have particular concern about public transport due to various reasons. When selecting a job, they seriously consider about transport facilities as travel time from residence to workplace, available transport facilities and security, affect their life styles differently. If these concerns are not addressed in transport policies, women continue to be deprived, from access to employment. When women enter the formal labour market, they may also need child-care services and other infrastructural support to reduce their double burdens at home & work places. Absence of these facilities would increase the reservation utility levels among women and make it harder for them to assume formal jobs in comparison to men. This indicates the urgent requirement for wide participation of men and women in making public choices such as policies and regulations. Hence, all men and women should have a voice in decision making.

" The primary meaning of democracy is that all who are affected by a decision should have the right to participate in making that decision either directly or through chosen representatives. Excluding groups form participation in decision - making clearly violates the primary meaning of democracy"

-Arther Lewis, the First Nobel Prize Winner of Economic Development.

At present, there are far fewer women than men leaders and decision, makers at all levels of public life, whether in national and local government or in civil society organizations. Also as is evident from the gender empowerment measure, women still face discrimination in political and economic opportunities. Women hold only 14% of parliamentary seats in the world and in Arab States, as few as 4%. According to 1998 statistics even in the developed countries such as Canada, United States, Japan & France women in Government at ministerial level is less than 35%. Women were most strongly represented in the Nordic countries of Norway, Sweden, Denmark, Finland and Iceland, where women hold an average of 39 percent of parliamentary seats. But in number of developing countries, women's representation dropped in the past year, and in Arab Countries legislatures were still firmly controlled by men.

Despite the fact that Sri Lankan women received the right to vote and to stand for election in 1931, women's representation in Parliament is still below 5%. Considering the women's representation in Parliament in the world, Sri Lanka has been placed in the 97th position among the other democratic countries. Being a country which has 90% female literacy and comparatively better living standards, one can perceive this as a shameful situation. Also there is no adequate representation of women in Provincial Councils which are important intermediary bodies between local government and the national government. Sri Lanka witnessed three Provincial Councils elections after the introduction of the Thirteenth Amendment to the

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Constitution in 1987. These elections were held in 1989, 1993 and 1999. However, the number of women in Provincial Councils has not been changed and is always below 4%. It is surprising that women's representation at local government level is below 1% which is even lower visibility than at national or provincial level. Since the matters handled by the local government institutions are very close to day to day needs of the people and well being of the community as a whole, women's representation in local government is of vital importance in community development. Moreover, since local government politics is considered as the entry level or primary school for politics, women's representation in these lower level political institutions at present is not adequate at all. When considering the public and private sector employment in Sri Lanka, representation of women in the higher positions of decision-making is 16.9%. National Human Development Report of UNDP, 1997 says that Sri Lankan women only possess 31% of the level of economic and political decision-making power enjoyed by men. This is however, below the average attainment levels in developing countries, which is 37% and the rest of the world is 42%.

As common to many other countries, Sri Lanka women appear to have low aspirations to political office. Studies show that even women who have entered the politics are from the families whose male members have attained political prominence first. Multiple reasons have been identified for women's under representation in decision making. Patriarchal social systems, financial dependence of women, lack of media support and lack of exposures to

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political processes and training opportunities for women are major reasons. In addition, violence against women has constrained women in taking part in public affairs. Women have been facing discrimination and marginalization in subtle as well as in flagrant ways due to these constraints for years.

Negative Consequences

Discrimination of women due to these traditional and cultural barriers in societies has constrained them in enjoying basic human rights. Persistent hierarchical system in societies has resulted in inequality and dependencies, placing women in a vulnerable situation. The new formal democracies did not end discrimination against minorities or women and in many instances such discrimination is growing. Having perceived as dependent to somebody women in many cultures do not enjoy right to property. Also majority of women do not enjoy right to work which is necessary to have an income ensuring an adequate standard of living. Although the special international human rights instruments like Convention of Elimination of All Forms of Discrimination Against Women (CEDAW) seeks to ensure equality for women, discrimination is still part of their lives. Non discrimination and equality may be formally recognized in laws, but there is still discrimination in policies, resource allocations and provisioning of social services.

It also seems that women have become more vulnerable to globalization and its processes. There is no doubt that globalization has opened up new opportunities

for those who have marketable skills. But majority of women are less skilled and subject to a lot of hardships due to insecure livelihood in a competitive environment. Globalization has also created pressures for informalization and casualization of employment, resulting in a shift of the provision of social services form the public to the private sector. It has further exacerbated the vulnerabilities of women, when countries could not afford safety net and social protection.

Studies have shown that poverty remained and intractable problem for Asia and the Pacific and highlighted the importance of alleviating feminization of poverty. Concerted efforts would be needed to eliminate barriers to access to economic opportunities, enhance capabilities and human capital, address security and vulnerability of the poor and promote their empowerment. As noted at the Beijing +5 meeting which was held in New York last year, so for very little effort has been made to the improvement of conditions of rural women who are the poorest of the poor, being discriminated in access to education, health, water, sanitation and other public service utilities. The meeting has also noted that rural women further experience greater food insecurity, as they have little access to land and productive assets.

In this context it is evident that unless women gain leadership in the state, markets and civil society it will be difficult to transform or shape forces of the market to work in favour of women and gender equality. It has been largely recognized the value of women's civil society network and organizations as a powerful force for change and a critical partner in development.

In Sri Lanka, according to the official data female labour force participation rates 36% in 1999 have increased faster than male labour force participation rates in response to economic pressures and to the demand for female labour. Unemployment rates have declined from 9.7% to 7.1% among men and from 20% to 10.2% among women from 1994 to 1998. Nevertheless the unemployment rates of women continues to be double those of men and unemployment among educated females has increased. The higher unemployment rates of women have been the outcome of their narrow range of skills as well as gender bias in recruitment practices in managerial, technical and skilled employment. At the same time the "glass ceiling" still impedes the career mobility of women to the highest decision making levels.

Transformative Leadership

Beijing+5 meeting has also highlighted the importance of pursuing strategies to increase the number of women in decision-making through affirmative action. It is evident that the Scandinavian countries have achieved remarkable success towards gender equality in governance, through introducing quotas for women in decision making. Unless taking such actions it may be difficult to break the existing glass ceilings & have more women in higher positions. Campaigning for female candidates, putting more women on the party list may also be possible actions to be adopted. According to the UN document issued on Bejing+5 meetings, it has been recommended that in addition to increasing the number of women leaders, there is also the

need for transformative leadership for governance to be participatory, transparent & accountable.

Women's participation in decision making makes governance work for common people as they are more sensitive to the needs of the people in their communities. Also they are more concerned about the environment and the future because they want to hand over things in good shape to their children and grand children. Women are good role models because they are generally hardworking honest & efficient. Women usually listen to everyone and are driven by values such as honesty and sincerity and they don't support corrupt behaviour. They are task oriented and their contribution to the community is very important as they generally give a high priority to basic services such as health, water, education and solid waste disposal.

Transition of governance from centralized to decentralized form promotes women's active participation in decision making. Central decision makers cannot make decisions for the development of localities without having the participation of the communities who live in particular localities. In many countries it is evident that women play a key role in community development work. They have a better understanding about the community requirements and the necessary infrastructure facilities. Above all, in present times, women are the main actors in setting groups for collective action and active engagement in community development work. Many case studies have proved that rural women have emerged as effective leaders and community development workers. But the problem is their

invisibility in higher decision making levels. Hence, there is a need to promote Women's involvement in decision making in political spheres at the grass-roots level.

Countries like India have adopted quota system to promote women's representation in local government by reserving 33% of seats for women at Panchayat level. Many democratic countries in the world have adopted creative strategies to give equal status for women and exploit their potential in national development. In Norway, there is a special female secretary to ensure gender equality. She holds the responsibility of implementation of National Act on Gender Equality. According to this Act, there should be at least 40% women's representations in all public commissions and boards. They have 08 female Ministers out of the 17 Ministers in the Cabinet which is 50% representation. There is 36% women's representation in national congress in the Senate in Norway. Women also represent 41.2% at all local government institutions. Having more women in decision-making positions in governments, legislative bodies and civil society provides "transformative leadership" which paves the way to redefine political priorities, placing new items on the agenda and provide new perspectives on mainstream issues. Hence, in the light of the decentralization process on going in many countries, women's participation in governance is a priority issue which promotes women's autonomy and empowerment while making governance work for common people.

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DEMOCRACY AND THE ROLE OF THE STATE AND NGOS IN GOOD GOVERNANCE

By
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[This paper has been written based on the findings of the study undertaken by South Asia Partnership – Sri Lanka on Citizens and governance and the Commonwealth Publication on Citizens and Governance]

What is Democracy?

GOVERNMENT

Shrinking

Gorving   Gorving

Civil Society   Market
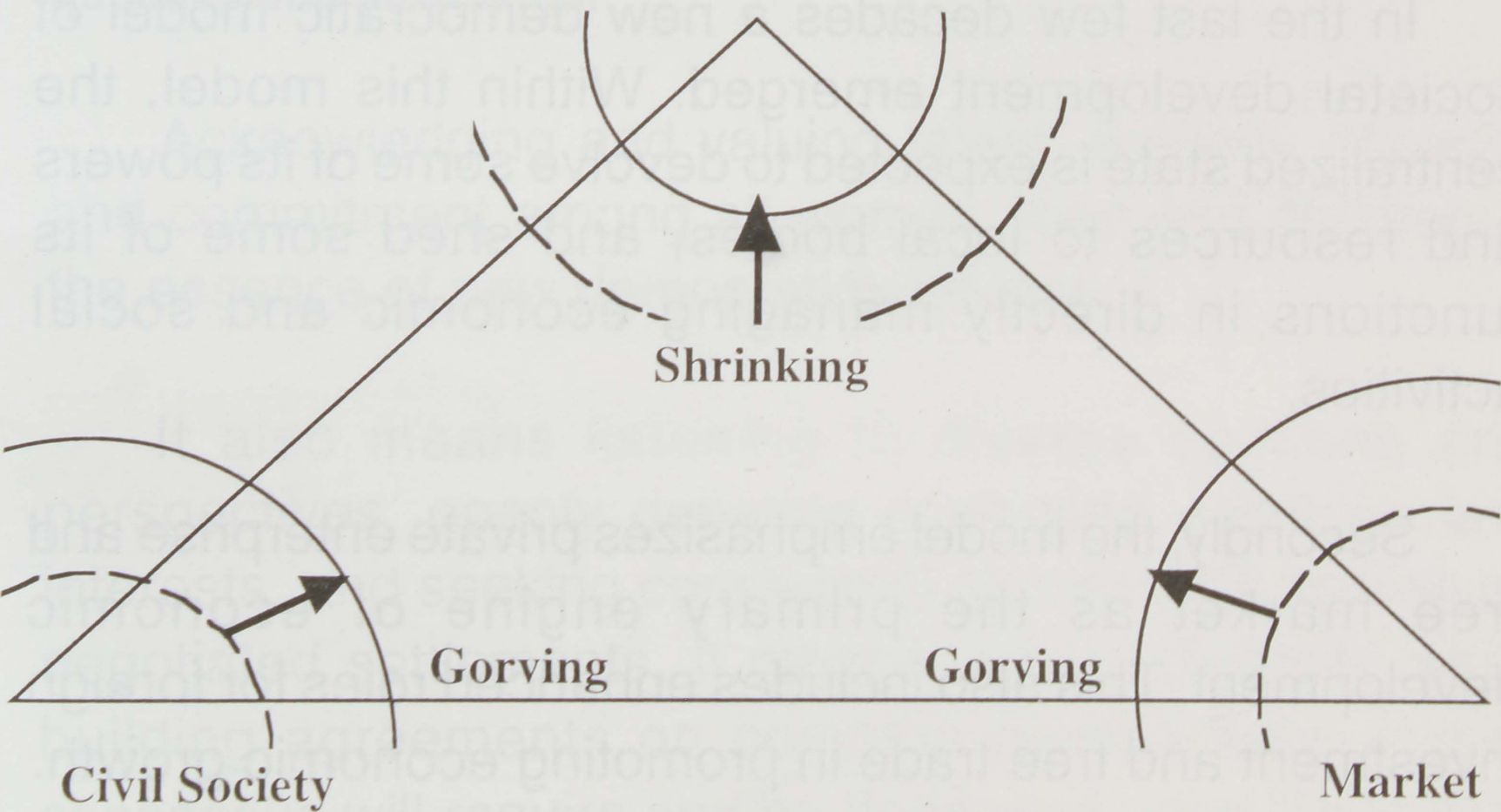
Democracy as is interpreted today by people in different parts of the globe has evolved through various philosophical and scientific studies and on concrete institutional practices, rules and procedures that have been practiced before. These interpretations provide the yardstick for assessing how various societies are governed and also the criteria for justifying and criticizing existing forms of governments.

The most important elements of democratic vision are personal liberty, individual responsibility, popular sovereignty and political equality. Adherence to the rule of law and the regulation of the use of arbitrary power too are important elements of democracy.

Democracy is the most widely accepted form of government today. According to UNDP (1999) estimates between two thirds to three fourths of people living in developing countries "live under relatively pluralistic and democratic regimes".

In the last few decades a new democratic model of societal development emerged. Within this model, the centralized state is expected to devolve some of its powers and resources to local bodies, and shed some of its functions in directly managing economic and social activities.

Secondly, the model emphasizes private enterprise and free market as the primary engine of economic development. This also includes enhanced roles for foreign investment and free trade in promoting economic growth.

Thirdly, a wide array of new development actors in civil society has emerged. These are NGOs, Women's Organization, Cooperatives, Self-help groups and a myriad other forms of civil society organizations both secular and religious. The current consensus is represented as a trinity of actors operating towards the development of society.

Democracy is believed to exist when there are political parties, an elected parliament, legislatures, an independent judiciary and a non-partisan executive. But beyond the process of these institutions and processes, democracy also requires just, open and honest government, and respect for the rule of law and human rights.

However, people are not satisfied with the institution of democracy that exists today. They need a deepening and an enrichment of democratic culture. **Such deepening and enrichment means nurturing democratic attitudes reinforcing democratic behavior and strengthening democratic process, qualities and structures.**

Acknowledging and valuing talent, wisdom, capacity and commitment among all women, men and children is the essence of new democratic attitudes.

It also means listening to diverse opinions and perspectives, openly debating conflicting positions and interests, and seeking consensual agreements as well as negotiated settlements. It means valuing diversity while building agreements on common ground.Such a new consensus will require and be depended upon innovation

and initiative on the part of state institutions, public officials and political initiative to share information, to build transparency, to assure accountability, and to enable participation.

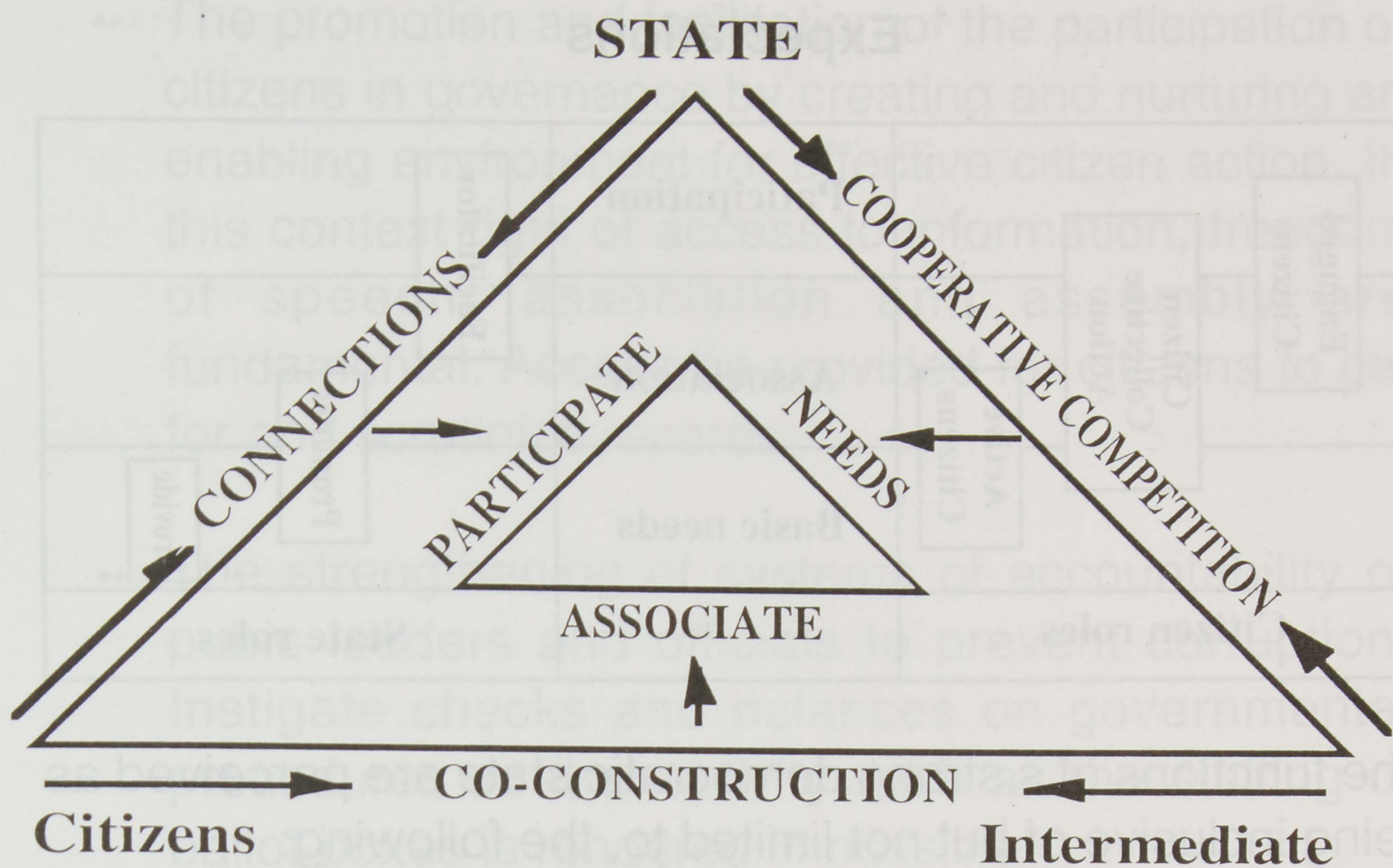## New Consensus of Democracy

The new consensus is the realization that a good society requires mutual and complementary actions by governments and citizens alike. This new consensus has 3 key features.

1. a strong state and a strong civil society
2. a deepened democracy and a democratic culture
3. an enlarged role for citizens.

Thus, the concepts, which have gone into the forging of the New Consensus, synthesize in the following way:

- the state is the framework within which the activity of governance takes place, according to the precepts of democracy;

- civil society is essential for democracy as the medium through which the consultation, negotiation and debate, which are intrinsic features of democracy, are worked out;

- Civil society is the arena where the citizen can play his/her fullest role in relation to certain perceptions of what society should be.

STATE

CONNECTIONS

COOPERATIVE COMPETITION

PARTICIPATE   NEEDS

ASSOCIATE

CO-CONSTRUCTION

Citizens   Intermediate

A Strong State and a Strong Civil Society

The conceptualization here is that a strong democratic state is one which performs in an effective manner in the provision of those goods and services it is bound by the constitution to supply; is an efficient manager of physical, natural and human resources; and, is one which is accountable to its citizens for its actions – "a strong state is a good provider, a determined promoter and a thoughtful and sensitive facilitator" A strong state is seen as one which is characterized by stability and continuity in its political and constitutional structure and by enabling institutions which do what the state is expected to do. By this what is meant is that the institutions must have the fullest support of the country so that any attempt at tampering with them will be met with fierce resistance.

Expectations

Engaged Citizens	Citizen Collective Action		Paticipation	Facilitator		
		Active Citizens	Association		Promoter	
			Basic needs			Provide
Citizen roles				**State roles**		

The functions of s strong democratic state are perceived as being inclusive of but not limited to, the following:

↠ The provision of basic needs, poverty eradication, the development of infrastructure- education, heath care, credit, transportation, irrigation, electricity – the provision of markets, the maintenance of law and order.

↠ Support for struggles to eliminate social discrimination. In the interests of positive affirmative representation of women and other marginalized groups, reservation of seats be employed at all tiers of government, local to national, until such time as participation in the democratic process a equal citizens is possible

↠ Devolution of power and resources to regional and local bodies. The provision of constitutional cover to ensure that there is no manipulation, for partisan political purposes, of local government powers and functions. Public audit of local government finances is instituted.

⋆ The promotion and facilitation of the participation of citizens in governance by creating and nurturing an enabling environment for effective citizen action. In this context right of access to information, freedom of speech, association and assembly are fundamental. Access be provided for citizens to cal for and scrutinize records.

⋆ The strengthening of systems of accountability of pubic leaders and officials to prevent corruption. Instigate checks and balances on governmental procedures so that activity such as the stuffing of ballot boxes is rendered impossible.

A strong state needs to be balanced by a strong civil society. It is in the interests of both the rulers and the ruled not to allow significant power imbalances if the intention of constructing a good society is to be pursued.

A strong civil society in a democratic context is conceptualized as providing the checks and balances which inform state action and exert pressure on the state into instituting and maintaining an acceptable level of activity. A strong civil society is one, which attempts to ensure that certain conditions and institutions such as equality before the law, equality of opportunity, and the independence of the judiciary are safeguarded. A strong civil society provides the base from citizens confront the state.

The function of civil society organizations are perceived thus:

- Facilitate and enable citizens' actions – consciousness raising, alliance building, service delivery, and policy advocacy in short to manufacture and foster the type of social capital conducive to a democratic apparatus.

- Recognize and strengthen a broad base of leadership among citizens.

- Build linkages between citizen leaders and citizen collectives on the one hand and public agencies and officials on the other

- Civil society organization need to be alert and keep their fingers on the state pulse so that they are speedily aware of important public policy proposals and can taken action as they are speedily aware of important public policy proposals and can taken action as and when necessary to alter policy agenda.

- Civil society organizations should compensate for market and state failure – i.e. act as honest brokers for marginal groups vis-à-vis the state and the private sector.

A Deepened Democracy and Democratic Culture

This is the infusion of the democratic sprit throughout the whole capillary network of the social body through the emphasis on democratic attitudes and behavior. The conceptualization is one of extending the noting of

democracy beyond the formal democratic institutions such as elected parliaments and councils, political parties, an independent judiciary and a non-partisan executive, to reach out to the informal sectors of society. This involves the formation of social capital, which will encourage democratic ideals.

An Enlarged Role for Citizens

What is envisaged here is that the citizens, individually and through civil society associations, play a more active role in preserving and pursuing the common good. The perception is that this activity will be based on the understanding that rights and responsibilities go hand in hand – that the exercise of a right postulates a concomitant duty. Citizens can do this through the following:

- The value of 'good citizenship' has to be fostered and maintained by citizens themselves.

- Through solidarity, citizens should demand greater transparency and accountability of public officials as the pathway towards building a good society.

- Citizen leaders should build capacities for effective leadership.

- By getting involved in the public sphere citizens should exercise their right to challenge, question, probe and transform the agenda of the state.

Thus in terms of the New Consensus, the infusion of the principles of democracy - i.e. constructive social capital – throughout the social body and the consequent enabling of citizen action are conceptualized as the necessary conditions for producing a strong civil society and a strong state.

At the same time, citizen activism, leadership, association and engagement are also needed to deepen democracy. In the new consensus, citizen activism is not against the state; it is, as noted, for a strong state and for deepening democratic governance. Democratic governance is with citizens, not against them. Citizens are not enemies of the state; they are the rationale for it. In the new consensus, democracy is not a spectator sport, with citizens merely applauding or sighing from the sidelines, or forced into adversarial complaint or criticism. The new democracy is about the participation of citizens. It is a journey, a parade where diversity is celebrated, the public good is negotiated and intense deliberation and dialogue is conducted. It is not about who wins and who loses. It is about being involved. It is clear that the democratic state needs to regain legitimacy in the eyes of its citizens. For that to happen, a new consensus is needed.

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LOCAL GOVERNMENT SYSTEM
IN SRI LANKA

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Governance)

Althought Sri Lanka has a tradition of Local Government from ancient times, this paper tries to disuss the deve lopment of Local Government System in Sri Lanka only after the Independence, which is more or less a system introduced by the British in early nineteenth century and developed over the years.

Type Of Local Authorities.

At the time of Independence in 1948 the system of Local Authorities in operat i on were Municipal Council, Town Councils and Village Committees. In 1981, Town Councils and Village Councils were abolished and system of District Development Councils (DDC) were established under the provision of . District Development Councils Act No.35 of 1980. However , after realizing that the performance of the DDCs was not up to the expectation a new local authority called '' Pradeshiya Sabha '' was introduced in 1987 under the provision of Pradeshiya sabha Act No. 15 of 1987 and DDCs were abolished. Today we have three types of Local Authorities toaling 309

Municipal Councils - 14
Urban Councils - 37
Pradeshiya Sabhas - 238
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Generally Municipal Councils have been constituted for larger Cities and Towns and Urban Councils for smaller towns. Pradeshiya Sabha have been constituted covering rural areas. All Local Authorities were constitute according to the legal provisions of relevant Ordiances and Acts, i.e., Municipal Councils Ordiance, Urban Councils Ordiance and Pradeshiya Sabha Act.

Constitutional Status

In Sri Lanka there is no constitutional recognition and constitutional safeguards regarding the status of Local Authorities as in India. India promulgated the 73rd and 74th Amendments to the Constitution in 1992 giving wider powers to Local Government Institutions, both Panchayath Raj at rural level and Municipal bodies at the urban level to work for the development and welfare of the community. Under these amendments Panchayath Raj was assigned various functions covering all aspects of work related to construction of roads, Education, Agriculture Development etc.

According to the 13th Amendment to the Constitution of Sri Lanka, the form, structure and constitution of local authorities and National policy are matters retained with

the Central Government. All other functions relating to Local Government were devolved to the Provincial Councils. However, the 13th Amendment to the Constitution contain provision to the effect thatexiting powers of Local Authorities cannot be taken away by the Provincial Councils. But if necessary additional powers can be given to them.

Ministry of Local Government at national level provides overall policy guidance and national co-ordination for local government. There are two other agencies functioning under Ministry of Local Government at national level.

(i)   Sri Lanka Institute of Local Governance, which co-ordinates Traning Management Development and Research on Local Government.

(ii)   Local Loan and Development Fund, which functions as a statutory body for providing loans to local authorities on concessionay terms to undertake various development project.

Power and Functions of LAs

Generally all the local authorities namely Municipal Councils, Urban Councils and Pradeshiya Sabhas have power to institute, legal action on any matters coming within their perview. In relation to subjects and functions assigned to Local Authorities. They have :

(i)   Power to acquire, possess and dispose of property

(ii)   Power to enter into contrsacts with regard to the matters relating to the functions assigned to LAs by-law

(iii)   Power to raise revenue

(iv)   Power to incure expenditure

(v)   Power to issue licences

(vi)   Power to frame by-laws.

The power and funtions of Local Authorities are specified in relevant Ordinances and Acts.

Under the existing systems of LAs in Sri Lanka they do not enjoy full autononous power, like in Western countries, there education, police and personal, social services are functions assigned to LAs In Sri Lanka they are limeted in scope. They are basically centered around the provision of public utility services, public thoroughfare, promotion of public health and sanitation and certain communtiy services for the well-being of the people. Comparatively, Municipal Councils have more power than Urban Councils and Pradeshiya Sabhas. Although, there is provision in Pradeshiya Sabha Act for initiatives in development activites, generally, LAs do not play a key role with regard to development. However, facilitation of people's participation for local government as well as development functions were highlighted in Pradeshiya

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Sabha, Act.

Other Related Laws and Subsidiary Legislation

In addition to principal laws mentioned above, functions of LAs are also derived from a number of other Acts and Ordinances. System of such laws applicable to local government can be classified as follows.

Supreme law ie. the Constitution

Local Government Elections

General Administration

Personal Management

Revenue Sources

Public Health

Physical Planning

Public Utility Serving

By - laws and Rules relating to Local Government are regarded as subsidiary legislation.

Electoral System

Prior to 1981 members to Local Authorities were elected on the ward basis i.e. One member for each ward and the Mayor and the Deputy Mayor of Municipal Councils and Chairman and Vice Chairman of other Local Authorities were elected out of the members by themselves. This position was changed in 1989 with the enactment of the

Local Authorities Election Act of 1989. Under the provision of this Act, a system of proportional representation was introduced to local authorities electorate (for all candidates) and the elected members accordingly represent the total area of the local authority. The Mayor / Deputy Mayor of Municipal Councils and Chairman / Vice Chairman of Urban Councils and Pradeshiya Sabhas are not elected by the members, but are nominated from among the electd members, by the respective political party or group. The term of office of local authority is four years. The Minister in charge has the power to extend the period by a further one year.

Council Affairs

Elected council is the policy making body of a local authority. The Committee System operating in Local Authorities is very important in council affairs. There are two types of committees i.e. Standing Committtees and Adhoc Committees. In case of Municipal Councils Standing Committees are compulsory. All matters going to the council for decision should be first discussed in relevant Standing Committee, before they are taken up at the council meeting. Under Urban Councils the appointment of committee is provided, but not compulsory. Pradeshiya sabha Act too does not make the appointment of Committees compulsory.

Issues

Even though LA has constituted an elected sphere of governance for over hundred years. Their scope of action has been limited due to various factors.

(i) The establishment of Provincial Councils have tended to marginalise LAs.

(ii) The operations of central government agencies in the provision of public utilities to households, such as electricity, water etc.

(iii) Change in the electoral system from ward to proportional representation has tended to diminish the representative character.

(iv) Appointment of Mayor/Chairman by political parties has tended to make the position of Chief Executive Politically biased.

(v) Diminishing resource base of LAs.

(vi) Inability of LG to attract competent Personnel in service.
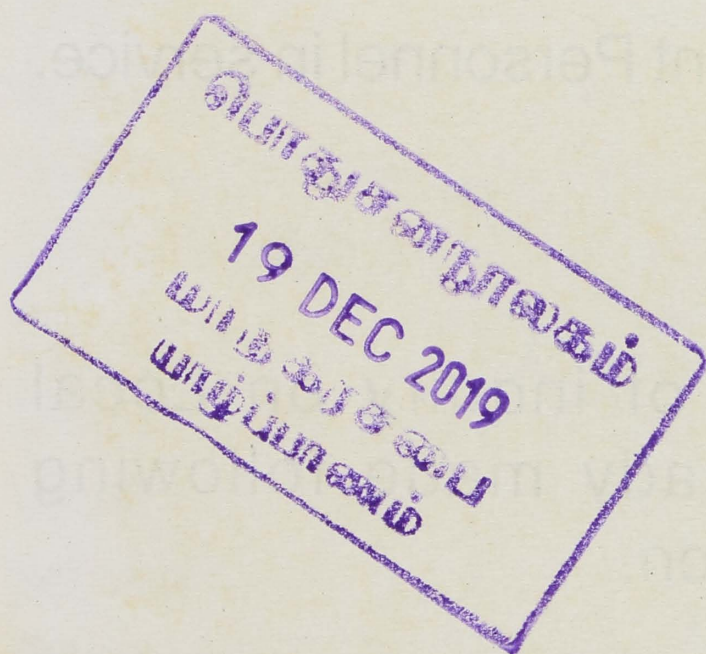
Local Government Reforms

Presidential Commission of inquiry on Local Government Reforms has already made following recommendations as remedial action.

(i) Incorporation of Local Government as a level of governance.

(ii) Re introduction of ward system and election of members accordingly.

(iii) Introduction of Ward Committees

(iv) Greater degree of Local Autonomy.

(v) Re-introduction of Local Government Service
Commission.

(vi) Special programmes for Human Resource
Development