

## **Annex II**

### **Chapter XII (Proposals)<sup>1</sup>**

#### **Local Government System: Objects, Structures and Functions**

Strong local government is critical for development, democracy, reconciliation and nation building. Sri Lanka shall build on long traditions of local self-government, both ancient and modern. (1) Active engagement and support of individual citizens and communities, (2) partnership of various stakeholders, private and public, and (3) efficient and effective management of local government tasks, underpin successful social and economic development.

The required partnership entails cooperation of central government, provincial councils, private sector, civil society organizations and others, to make the local government objects, structures and functions successful. The developmental local government is the required norm.<sup>2</sup>

#### **Objects**

The main objects of local government are:

- a. To provide democratic and accountable government for local communities;
- b. To promote social and economic development;
- c. To foster peace, amity and understanding between communities;
- d. To ensure safe and healthy environment;
- e. To encourage the involvement of communities, community organizations, women and youth in the matters of local governance; and

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<sup>1</sup> This chapter is drafted as example, not strictly as formulations. Constitutional recognition of local government is part of 'positive constitutionalism' today. Russia has a brief chapter, and South Africa an extensive one. The reason for an extensive chapter in South Africa is lack of primary legislation. In the presence of several primary legislation, Sri Lanka can have a moderate size chapter to inculcate a new vision and orientation.

<sup>2</sup> On conceptualization of 'developmental local government' see J. W. De Visser, "Developmental Local Government: A Case Study of South Africa" (2005) among others.

- f. Any other as prescribed in relevant legislation for Pradeshiya Sabhas, Urban Councils or Municipal Councils.

## **Structures**

Local government is broadly a devolved subject under the Constitution, coming generally under the purview of the provincial councils, provided that no alteration can be made for the structures, powers or functions of the local government system or the electoral system under which those bodies are established.

The provincial councils are entrusted with a key leadership role in guiding the local governments, coordinate them with consent, and promote them for strategic planning and delivering services to the communities efficiently. National funding for local governments shall be channelled through the provincial councils under their supervision while the overall auditing placed under the provincial Auditor General.

There are three main tiers of local government - Pradeshiya Sabhas, Urban Councils and Municipal Councils – the status and demarcations will be reviewed and changed from time to time. Any Pradeshiya Sabha or Urban Council can request an upgrading which will be reviewed and determined under the prevailing laws.

Local government reforms are in order: structural, electoral and managerial.

There shall be an Independent Commission on Local Government to look into structural matters, delimitation of wards, recommend upgrading of council status and make recommendations on the sufficiency or insufficiency of funding sources for local government or any other matter prescribed in relevant legislation. The Commission will report to the Prime Minister and coordinate with the subject Minister and the Provincial Councils.

All local government bodies shall be elected on common electoral principles and a system as prescribed in the Local Authorities Elections Ordinance and as revised or substituted. After the election of competent candidates to represent the wards (single-member or multi-member) under the FPP principle, there shall be twenty five percent of women representation elected on an overall proportional representation (PR) basis.

The main object of the electoral system for local government is to elect competent and reliable candidates to represent the electorate/s based on ‘candidate cum party preferences.’ Twenty five percent of women representation is ensured as affirmative action considering their social disadvantage in the present social and political environment.

## **Functions**

### **Pradeshiya Sabhas**

Functions of the Pradeshiya Sabhas shall be according to the Pradeshiya Sabhas Act (No. 15 of 1987) as revised or substituted.

The functions include inter alia:

1. To be charged with public utility services, public thoroughfares, building approvals, homestead and town planning in the area;
2. To engage in socio-economic and agricultural development activities in cooperation with the relevant provincial council and the national government;
3. To protect and promote environment within its area under national guidelines including efficient garbage disposal and sewage;
4. To be charged with the regulation, control and administration of all matters relating to public health in the area in cooperation with the provincial council; and
5. To be charged generally with the protection and promotion of the comfort, convenience, arts, crafts, sports, entertainment and welfare of the people and all amenities within such area.
6. Pradeshiya Sabhas also have the authority to engage themselves in public business enterprises along with the private sector and with non-governmental organizations as appropriate. Promotion of tourism can be one of the areas of enterprises.

### **Urban Councils**

Functions of the Urban Councils shall be according to the Urban Councils Ordinance (January 1940) as revised or substituted.

The functions include inter alia:

1. To be charged with public utility services, public thoroughfares, building approvals and urban planning in the area;
2. To engage in socio-economic development activities in cooperation with the relevant provincial council and the national government;
3. To facilitate business, industrial and commercial development in the area through efficient services;
4. To protect and promote environment within its area under national guidelines including efficient garbage disposal and sewage planning;
5. To be charged with the regulation, control and administration of all matters relating to public health in the area in cooperation with the provincial council;

6. To be charged generally with the protection and promotion of the comfort, convenience, arts, crafts, sports, entertainment and welfare of the people and all amenities within such area; and
7. To assist the relevant provincial council and/or the national government in converting the suitable areas into Smart Cities.
8. Urban Councils also have the authority to engage themselves in public business enterprises along with the private sector and with non-governmental organizations as appropriate. Promotion of tourism can be one of the areas of enterprises.

### **Municipal Councils**

1. To be charged with public utility services, public thoroughfares, building approvals and city planning in the area;
2. To engage in socio-economic development activities in the municipal areas independently or in cooperation with the relevant provincial council and the national government;
3. To facilitate business, industrial and commercial development in the municipal area through efficient services;
4. To protect and promote environment within its area under national guidelines including efficient garbage disposal and sewage planning;
5. To be charged with the regulation, control and administration of all matters relating to public health in the area in cooperation with the provincial council;
6. To be charged generally with the protection and promotion of the comfort, convenience, arts, crafts, sports, entertainment and welfare of the people and all amenities within such area; and
7. To assist the relevant provincial council and the national government in converting the suitable areas into Smart Cities or Mega Polis.
8. Municipal Councils also have the authority to engage themselves in public business enterprises along with the private sector and with non-governmental organizations as appropriate. Promotion of tourism can be one of the areas of enterprises.

### **Powers**

All local government bodies – Pradeshiya Sabhas, Urban Councils and Municipal Councils – shall have executive powers to administer the functions under their respective jurisdictions. Their council meetings shall be geared to making decisions in respect of these functions.

All local government bodies shall have limited legislative powers to make By-Laws under relevant national laws or provincial statutes. There shall be appropriate efficient mechanism to verify and approve or disapprove the consistency with the principal enactments.

All local government bodies also have powers:

- (1) To approve budgets;
- (2) Impose local rates and other taxes, levies and duties in consistent with national legislation and/or with the approval of the Treasury; and
- (3) To raise loans as necessary.

There shall be no judicial powers to the local government bodies whatsoever.

Powers of all local government bodies (Pradeshiya Sabhas, Urban Councils and Municipal Councils) shall be under the Constitution and according to other national laws.

## **General Provisions**

All local government bodies are entitled to have appropriate funding, as grants, allocated in the national budget, and channelled and monitored through the provincial councils. Such grants shall be based on professionally devised funding or grant formulas.

All local government bodies are entitled to have required and competent officials (administrative, financial and legal) through the consolidated public services. Professional advisory services and experts also should be available for local government bodies in improving their capacities and efficiency as necessary. International cooperation may be sought in the latter category. All local government bodies should adopt a common business excellence framework (i.e. based on ‘Malcolm Baldrige’ or ABEF).<sup>3</sup>

All local government bodies and relevant officials (elected or employed) are responsible and accountable, personally and collectively, on all financial matters with strict monetary discipline.

In undertaking the respective functions of local government bodies, ‘committee system of governance’ as prescribed in relevant legislation and above shall be followed.

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<sup>3</sup> ‘Malcolm Baldrige’ model was devised in America and is used in several other countries. ABEF is what is prominent in Australia and applied in local government bodies.

All local government bodies shall have Citizen Charters and other appropriate measures to promote citizen and community participation in local government activities. The formation of Ward Committees under the auspicious of respective ward members and with the participation of civil society organizations are encouraged. All candidates stood for elections may also participate in such committees.

In the promotion of people's participation, good governance and accountability, and also in encouraging rural awakening, structures similar to 'Grama Rajya' or such models may be formed in Pradeshiya Sabha areas after careful study by the Independent Commission on Local Government.