

Sri Lanka

Governance Report 2011



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Sri Lanka

**Governance
Report 2011**

Table of Contents

Contents	Page
Abbreviations and Acronyms	01
Foreword	03
Acknowledgements	04
Introduction	05
සිවිල් සමාජ සංවිධාන නියාමනයේ අභියෝග ආනයේදී ධර්මප්‍රිය ජයසේකර	08
නව අධ්‍යාපන පනත හා ප්‍රායෝගික ගැටලු ශාන්ත කුලතුංග	24
தகுந்தமற்றும் பாதுகாப்பான மருந்தை உறுதிசெய்தல். கட்டுப்பாட்டுமுகவர்கள் எத்தகைய வினைதிறன் மிக்கவர்கள்? விஜய ஐயதிலக்கமற்றும் சஞ்ஜேந்திரவிக்னராஜா	33
Telecommunication sector Nathasha Jayawardene & M. Thoriq Hamid	50
Governing transportation: The case of road transportation in Sri Lanka Sashee de Mel	59
Disaster risk reduction amidst increased vulnerability to landslides Dilrukshi Handunnetti	71
Judicial independence in Sri Lanka Rutherford Hubbard	85
International aid and credit: Financing economic growth in Sri Lanka Rutherford Hubbard	97
Effective governance vital in the development of tourism sector Anushika Amarasinghe	109
පුරවැසි සමාජයට කළ හැක්කේ මොනවාද ?	122
Panel of external experts	139

Abbreviations and Acronyms

ADB	Asian Development Bank
AG	Attorney General
CCS	Climate Change Secretariat
CDDA	Cosmetic Devices and Drugs Authority
CEA	Central Environmental Authority
CIABOC	Commission to Investigation Allegations of Bribery or Corruption
CTB	Central Transport Board
DGHS	Director-General of Health Services
DMC	Disaster Management Centre
DMT	Department of Motor Traffic
DP	Divisional Pharmacist
ED	Enforced Division
EIA	Environmental Impact Assessment
EXIM	Export Import Bank
FAO	Food and Agriculture Organization
GA	Guarantee Association
GDP	Gross Domestic Product
GL	Guarantee Limited
GMOA	Government Medical Officers' Association
GoSL	Government of Sri Lanka
ICT	Information Communication Technology
IECS	Information, Education and Communications Strategy
IFAD	International Fund for Agricultural Development
IU	Investigation Unit
JICA	Japan International Cooperation Association
JSC	Judicial Services Commission
KM	Kilometres
MOH	Medical Officer of Health
MOFCOM	Ministry of Commerce
NAFSO	National Association of Field Studies Officers
NBRO	National Building Research Organization
NCCAS	National Climate Change Adaption Strategy
NDQAL	National Drug Quality Assessment Laboratory

NEA	National Environmental Act
NGO	Non-governmental Organization
NMDP	National Medicinal Drug Policy
NMDRA	National Medicinal Drug Regulatory Authority
NTC	National Transport Commission
NTMI	National Transport Medical Institute
OPA	Organization of Professional Associations
PC	Provincial Council
PMRP	People's Movement for the Rights of Patients
PTA	Prevention of Terrorism Act
RDHS	Regional Director of Health Services
RTI	Right to Information
SIMs	Subscriber Identity Modules
SLMC	Sri Lanka Medical Council
SLR	Sri Lanka Railway
SLT	Sri Lanka Telecom
SLTB	Sri Lanka Transport Board
SLTDA	Sri Lanka Tourism Development Authority
SMF	Social Management Framework
SMSs	Short Message Services
SPC	State Pharmaceuticals Corporation
STDP	Sustainable Tourism Development Project
TAC	Technical Advisory Committee
TISL	Transparency International Sri Lanka
TRC	Telecommunications Regulatory Commission
TV	Television
UK	United Kingdom
UN	United Nations
UNICEF	United Nations Children's Fund
UNIT	Unit for National Investment in Tourism
USA	United States of America
WB	World Bank
WHO	World Health Organization
WRI	World Risk Index
WTO	World Trade Organization

Foreword

Transparency International Sri Lanka (TISL) retains a vision to build a nation that upholds integrity by supporting the collective effort to enhance integrity and eradicate corruption. It is our belief that this could only be done by engaging all stakeholders in constructive dialogue to come up with joint strategies for the eradication of corruption and the promotion of good governance. Constructive criticism and scrutiny are essential to ensure continuous improvement. While appreciating positive accomplishments, the efforts captured here are an attempt to diagnose whether the regulatory mechanism is functioning at optimum level.

As in preceding years, the Governance Report 2011 aims to stimulate debate on governance issues that have occurred in nine sectors. Interesting alterations were observed in the different sectors of the state system and the Governance Report examines the impact of the regulatory mechanism on service delivery in nine key sectors that were deemed to be of public interest at the beginning of the year. These nine sectors were continuously highlighted in the media in the first quarter of the year.

While the report may not be extensive, it comprises multiple chapters that provide an overview of each of the sectors, in relation to the changes observed in the regulatory framework within that sector. Unlike reports of the previous years, the 2011 Report dwells on sectors that are in the discourse of an average citizen, with special emphasis on the regulatory framework in these sectors that the community may feel disengaged with.

The presence of an excellent regulatory structure will not only protect consumers but also serve investors by levelling the playing field. Therefore, it is mandatory that the above subject is introduced to the public discourse. The report is specially designed to initiate dialogue, encourage specialists to conduct further research and advocate for policy change. The synthesized knowledge in the report will be the basis for future advocacy and training by TISL.

The chapters have been compiled by internal authors, with the guidance of experts in the nine fields discussed. They have been reviewed by an internal editorial panel as well as external subject experts to ensure a high standard.

I wish to thank all the authors and reviewers for the compilation of excellent texts. I also commend the coordinating efforts of Ms. Nathasha Jayawardene and the TISL research team for working with great diligence to ensure that the Governance Report 2011 was compiled in time for International Anti-Corruption Day.

Wijaya Jayatilaka
Executive Director

Acknowledgements

Transparency International Sri Lanka (TISL) would like to extend our sincere gratitude to all those who have been responsible for the publication of the Governance Report 2011.

We express our gratitude to all our colleagues who authored the chapters of the report and external experts whose research, ideas and contributions enabled TISL to produce this annual publication. We are particularly thankful to the internal editorial panel for their effort. Special mention must also be made of the valuable contribution of the Editors of the Governance Report 2011, Ms. Kumudini Hettiarachchi, Mr. Thimbiriyagama Bandara and Mr. G.K. Rajendiran.

It is also our pleasure to thank all those whose counsel and support have been of immense value and encouragement in the compilation of this report.

A special note of appreciation must be made of the fine effort displayed by the Brand Manager of TISL, Mr. Haritha Dahanayaka who prepared the design format of the report.

Introduction

Regulatory mechanisms and their impact on service delivery

With the expansion and power of government in the modern nation state, rules and regulations to govern the conduct of persons in positions of power and influence have been accepted as a necessary feature. Unfettered power and unquestioned authority can easily result in abuse to the detriment of human well-being. Regulating government bodies implies oversight, performance management, mutuality, audits etc.¹ When mechanisms are established to ensure compliance to agreed principles of conduct, it is necessary to examine the effectiveness of such regulatory bodies in relation to the quality of services received by the public.

The Sri Lanka Governance Report 2011 will focus on a range of governance issues and provide a balanced account of key incidences and emerging trends in governance occurring in nine different sectors. These nine sectors have been highlighted in the media continually and may be of public interest.

The selected thematic emphasis of the Governance Report 2011 is regulatory efficacy and its impact on service delivery, with each chapter analysing a particular sector of public interest in relation to the predominant trends in this direction. The mechanisms that regulate the performance of a sector are a discourse ignored by the average citizen. However, regulatory mechanisms that are indiscernible to the public eye are set in place because regulations – broadly understood in the sense of laws, regulations, orders and rules of all levels of government – have a key role to play in promoting economic growth and development. They are the tools through which market failures, as well as equity failures, are addressed when economic growth fails to trickle down to the poor.²

When considering Sri Lanka, it is clear that regulatory mechanisms have been established in most of the sectors explored in the report. However, these regulatory frameworks require proper status analysis and strategic thinking to ensure that officials carry out the stated mandates effectively. It

1. Hood et al. 1999, James 2000, Power 1997

2. http://www.ips.lk/publications/series/working_pap/regulatory_impact_a/regulatory_impact_a.html accessed 1 December 2011

is the absence of such strategic thinking and accountability that has created a void in most sectors and led to the lack of productivity in others.

As emphasized by the author of the chapter on civil society organizations (Sinhala), it is clear that attempts by the government as well as the key actors themselves to organize a common regulatory mechanism have proved to be futile. There are 20,000 non-governmental organizations (NGOs) currently registered at the NGO Secretariat, providing about 90,000 employment opportunities with at least 400,000 people being dependent solely on earnings from this sector.³ Therefore, a regulatory mechanism to conduct an independent review of the sector and ascertain transparency and accountability in the processes of the key actors is crucial.

There were 9,675 National and Provincial Schools, with a total of 3,932,722 students, registered with the Ministry of Education in 2010. The chapter on the education sector (Sinhala) emphasizes the calamity faced by the general education system and examines the proposed Act that has been presented and discussed in Parliament. The chapter also assesses whether the regulatory mechanism introduced in the proposed Act would be sufficient to enhance the integrity of the education system.

There were 1,042 hospitals in Sri Lanka in 2010, according to statistics available on the website of the Ministry of Health. The chapter on the health sector (Tamil) spells out the symptoms of an under-performing and malfunctioning regulatory system and their impact on the supply of medicines to the public. There seems to be much room for improvement for the health-care system to reach higher levels of accomplishment.

The telecom sector is the largest contributor to government revenue from among state entities, channelling US\$ 72 mn. In the chapter on this “thriving” sector, the authors highlight the irregularities in the regulatory framework which may hinder long-term growth.

The manner in which the present crisis in the transport sector is ignored by regulators, who are pre-occupied with past achievements, is emphasized in the chapter on transport. In 2010, 84,280 passengers used bus transportation. The concerns highlighted by the author are the absence of a national vision and leadership and a sustainable mobility plan for the state, aggravated by regulators who do not agree with each other and a passive consumer group that does not demand better quality.

3. <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-036-2010> accessed 2 December 2011

The chapter on natural disasters examines the manner in which landslides affect those in identified geographic areas. One-fifth of the population has been identified as being vulnerable to landslides and proposed mitigation measures appear to be severely hampered by the absence of an effective service-delivery mechanism.

The Judicial Services Commission (JSC) chaired by the Chief Justice was created by the 1978 Constitution to place a check on Executive interference in the lower courts. The JSC regulates the sector both by lower court appointments and sanction authority. The chapter on the judiciary brings to the fore the need for change, first within the regulatory framework itself.

The author of the chapter on international aid emphasizes that while external financing remains crucial to the development strategy, it is also important for the policy framework in which these investments occur to ensure maximum return for the benefit the country.

Despite multiple commitments to sustainable development and explicit inclusion of the sustainability component within the Sustainable Tourism Development Project, a sound strategy and well-thought out implementation plans seem to be missing, is the factor brought out in the final chapter on tourism. The need, therefore, is for development plans for tourism to conform to Sri Lanka's vision of sustainable development.

Transparency International Sri Lanka publishes the Governance Report annually with the following objectives in mind:

1. To enrich the debate on good governance by identifying trends in governance and areas for governance reform and generating new insights and perspectives.
2. To engage in a discussion with decision-makers in the state on how they can contribute to raising integrity and meeting the challenges that corruption poses to economic growth, development and peace.
3. To be a key reference tool for activism and advocacy by providing evidence-based information, facts and figures that support demands for improved governance. Locally and internationally, activists need accurate information on the ground situation to press for positive change and transformation.

පරිච්ඡේදය 1

සිවිල් සමාජ සංවිධාන නියාමනයේ අභියෝග

ආනන්ද ධර්මප්‍රිය ජයසේකර*

හැඳින්වීම

“සිවිල් සමාජ සංවිධාන” යන්න වත්මන් ශ්‍රී ලාංකේය සමාජයෙහි බෙහෙවින් විවාදයට හේතුවී ඇති මාතෘකාවකි. විශේෂයෙන්ම රාජ්‍ය නොවන සංවිධානවල (NGO) ක්‍රියාකාරිත්වය සහ ඒවායේ සමහර ක්‍රියාකාරකම් පාලනය කිරීමට හා අඩපණ කිරීමට රාජ්‍ය පාර්ශ්වය දරන නිරන්තර උත්සාහය නිසා “සිවිල් සමාජ සංවිධාන” පිළිබඳ විවාදය වඩාත් තියුණු ස්වභාවයක් ගෙන තිබේ.

සිවිල් සමාජ සංවිධාන යනු මොනවාද? ප්‍රජාතන්ත්‍රවාදී පාලන ව්‍යුහයක් තුළ සිවිල් සමාජය වෙත පැවරෙන සමාජ-දේශපාලන කාර්යභාරය හා වගකීම් කවරේද? මහජනතාව වෙත වඩාත් පුළුල් සේවාවක් ඉටුකිරීම සඳහා සිවිල් සමාජ සංවිධානවල අත්‍යන්තර හා බාහිර ව්‍යුහයන් සකස් විය යුත්තේ කෙසේද? විශේෂයෙන්ම සිවිල් සමාජ සංවිධානවල කටයුතු අධීක්ෂණය කිරීම සඳහා පිහිටුවා තිබෙන යාන්ත්‍රණ නිසි ආකාරයෙන් ක්‍රියාත්මක වේද? මෙම ලිපිය මගින් විමසා බලන්නේ සිවිල් සමාජ සංවිධානයක පාලනයේ ගුණාත්මකභාවය මහජනතාවට බලපාන ආකාරය හා ඒවා අධීක්ෂණය කිරීමට පිහිටුවා තිබෙන යාන්ත්‍රණවල වත්මන් ක්‍රියාකාරිත්වය පිළිබඳවය.

සිවිල් සමාජය හා සිවිල් සමාජ සංවිධාන

රටක දේශපාලන සමාජ ව්‍යුහය රාජ්‍ය අංශය, පුද්ගලික අංශය හා සිවිල් සමාජය යන මූලික අංශ තුනට බෙදා දැක්විය හැකිය. සමාජ කණ්ඩායම් මෙන්ම විවිධ අභිලාෂ ඇතිව ක්‍රියාත්මක වන සෑම කණ්ඩායමක්ම මෙම මූලික අංශ තුනෙන් එකකට අයත් වේ.¹

මෙහිදී අප විශේෂයෙන් අවධානය යොමු කරන “සිවිල් සමාජය” යන්න වත්මන් ශ්‍රී ලංකාවේ විවිධ අර්ථ කිහිපයකින් භාවිතා කෙරෙනු දක්නට ලැබේ. මහාචාර්ය ජයදේව උයන්ගොඩ² පෙන්වා දෙන ආකාරයට දේශපාලනඥයින් හා නිලධාරීන්ගේ මැදිහත්වීම්

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1. J.C. Weliamuna- “Braking the Backbone of civil society in sri Lanka” <http://www.humanright.asia/news/forwarded-news/AHRC>
2. මහාචාර්ය ජයදේව උයන්ගොඩ සිවිල් සමාජය කුමක්ද කාගේද කුමටද පිටුව 2 සමාජ විද්‍යාඥයින්ගේ සංගමයේ ප්‍රකාශනයකි. 2011

මත සිදුවන දූෂණය හා බලය අයුතු ලෙස පාවිච්චි කිරීම් ගැන විවේචනය කරමින් ඒවා නිවැරදි කිරීමට වෙරදරන “ක්‍රියාකාරී පුරවැසියන්ගෙන් සමන්විත සමාජය” සිවිල් සමාජය හඳුන්වාදීමට යෙදෙන එක් අර්ථයකි. එසේම, “ආණ්ඩුවට, මහජන මතයට බලපෑම් කළ හැකි, ජනමාධ්‍යයේ නිතර පෙනීසිටින පුද්ගලයින් සිටින, සාපේක්ෂ වශයෙන් වරප්‍රසාදලාභී සමාජ අවකාශය” යන්න ඊට තවත් අර්ථයකි. රාජ්‍ය නොවන සංවිධානවල ක්‍රියාකාරීකයන්ට අනුව, “දේශපාලන පක්ෂවලින් ස්වාධීන සමාජ ව්‍යාපාර සහ රාජ්‍ය නොවන සංවිධාන එකතු වී ගොඩනගන සමාජ දේශපාලන ක්‍රියාකාරීත්වය පවත්නා ක්ෂේත්‍රය සහ සංවිධාන” සිවිල් සමාජයයි.

මේ අනුව සිවිල් සමාජය යන්න නිශ්චිත එක් අර්ථයක් ඇති සංකල්පයකට වඩා විහි විකාශනය තුළ අර්ථ රැසක් පවත්නා සංකල්පයක් ලෙස දැක්ම වඩාත් යෝග්‍ය බව මහාචාර්ය උයන්ගොඩගේ³ අදහසයි.

සිවිල් සමාජය යන්න පුරවැසි ක්‍රියාකාරීත්වය සඳහා රාජ්‍යයේ පාලනය කිරීමෙන් තොරව රාජ්‍යයට පරිබාහිරව පවතින සමාජ ස්වයංත්‍යතාව සඳහා වූ අවකාශයක් ලෙස අර්ථකතනය කළහැකි බවද එය පුරවැසි ස්වාධීනත්වය සහ පුරවැසියන්ගේ ස්වාධීන ක්‍රියාකාරීත්වය සඳහා ඇති සමාජමය අවකාශයක් ලෙස අර්ථ විග්‍රහ කළහැකි බවද මහාචාර්ය උයන්ගොඩ පෙන්වා දෙයි.

මේ අනුව “සිවිල් සමාජය” ආගමික, සංස්කෘතික, දේශපාලන, සමාජමය හා වෘත්තිමය ආදී විවිධ ක්ෂේත්‍ර රැසක් කරා පැතිරෙන අතර පුරවැසි පිරිසක් ඒකරාශී වී පිහිටුවා ගන්නා මරණාධාර සමිතියක සිට ඉමදාන සමිති, පන්සලේ දායක සභා, වැඩිහිටි සංවිධාන, කාන්තා සංවිධාන, ළමා ආරක්ෂක සංවිධාන, පාරිසරික හිමිකම්, මානව හිමිකම්, යහපාලන ක්‍රියාකාරකම්, අධ්‍යාපන හිමිකම්, දිළිඳුබව දුරුලීම ආදී පුළුල් අරමුණු දක්වා සිවිල් සමාජ අවකාශය තුළ ක්‍රියාත්මක වන සංවිධාන සියල්ලක්ම සිවිල් සමාජ සංවිධාන ලෙස අර්ථකථනය කළ හැකිය.

සිවිල් සමාජය හා රාජ්‍ය-නොවන සංවිධාන

සිවිල් සමාජය හා රාජ්‍ය-නොවන සංවිධාන යන වදන් දෙකින්ම අර්ථකථනය කරන්නේ එකම කරුණක්ද? නැත්නම් එම වදන් දෙක අතර යම් වෙනස්කමක් පවතින්නේද? යන්නද විවාදාත්මක මාතෘකාවකි.

මහාචාර්ය පීටර් විලට්ස්ට්ට් අනුව රාජ්‍ය-නොවන සංවිධාන හෙවත් “NGO” යන වදන සාමාන්‍ය ව්‍යවහාරයට පැමිණ ඇත්තේ 1945 වර්ෂයේදී එක්සත් ජාතීන්ගේ ප්‍රඥප්තිය හඳුන්වාදීමත් සමඟය.⁴ මහාචාර්ය විලට්ස්ට්ට් අනුව එක්සත් ජාතීන්ගේ සංවිධානයේ

3. මහාචාර්ය ජයදේව උයන්ගොඩ සිවිල් සමාජය කුමක්ද කාගේද කුමටද පිටුව 4
4. Professor peter willetts-“what is a Non-governmental Organization?”, City university. London

විෂය ක්ෂේත්‍රය තුළදී සෑම ආකාරයකම පුද්ගලික ආයතන රාජ්‍ය-නොවන සංවිධාන හෙවත් “NGO” ලෙසින් පිළිගැනේ. ශ්‍රී ලංකාවෙහි සිවිල් සමාජ සංවිධාන පිළිබඳව පුළුල් සමාජ-දේශපාලන කතිකාවතක් ආරම්භ වී ඇත්තේ 1980 දශකයේ මුල්භාගයේ පමණය.

රාජ්‍ය-නොවන සංවිධාන යන වචනය විග්‍රහ කරන මහාචාර්ය උයන්ගොඩ පෙන්වා දෙන්නේ රාජ්‍යයෙන් පිටස්තරව පුරවැසියා සංවිධානය වන ක්ෂේත්‍රය පවතිනුයේ සිවිල් සමාජයෙහිම බවයි. ඒ අනුව සෑම පුරවැසි ස්වේච්ඡා සංවිධානයක්ම රාජ්‍ය-නොවන සංවිධානයක් බව මහාචාර්ය උයන්ගොඩගේ පිළිගැනීමයි.⁵

ශ්‍රී ලංකාවේ ස්වේච්ඡා සමාජ සේවා සංවිධාන පහත⁶ අනුවද ආණ්ඩුවේ නොවන ස්වභාවයක් ඇති සහ මහජන දායක මුදල් මත, ආණ්ඩුවේ ආධාරමුදල් හා දේශීය සහ විදේශීය පරිත්‍යාග මත යැපෙන ආදී සියලු සංවිධාන ස්වේච්ඡා සමාජසේවා සංවිධාන ලෙස අර්ථ හිරුපණය කර තිබේ.

ට්‍රාන්ස්පේරන්සි ඉන්ටනැෂනල්හි අධ්‍යක්ෂවරයෙකු වන හීනිඤා ජේ. සී. වැලිඅමුණ මහතා පෙන්වා දෙන ආකාරයට වර්තමානය වන විට ලෝකය පුරා ක්‍රියාත්මක වන රාජ්‍ය-නොවන සංවිධානවල ප්‍රමාණය මිලියන ගණනකි. ඇමෙරිකා එක්සත් ජනපදයෙහි පමණක් මිලියන දෙකකට අධික රාජ්‍ය-නොවන සංවිධාන සංඛ්‍යාවක් ක්‍රියාත්මක වන අතර අසල්වැසි ඉන්දියාවෙහි ක්‍රියාත්මක රාජ්‍ය-නොවන සංවිධාන සංඛ්‍යාව දෙලක්ෂයක් පමණ වේ. මැදපෙරදිග රටක් වන ඊජිප්තුවේ ලියාපදිංචි රාජ්‍ය-නොවන සංවිධාන සංඛ්‍යාව 16,000 කි. 2009 වර්ෂයෙහි චීනයේ 2,85,000 ක් ලියාපදිංචි රාජ්‍ය-නොවන සංවිධාන ක්‍රියාත්මක වී ඇති අතර තවත් 2,90,000 ක් ලියාපදිංචි නොකළ රාජ්‍ය-නොවන සංවිධාන ක්‍රියාත්මක වී තිබේ.⁷

ශ්‍රී ලංකාවේ දැනට ක්‍රියාත්මක වන රාජ්‍ය-නොවන සංවිධාන ප්‍රමාණය කොපමණද යන්න නිශ්චිත නැත. රාජ්‍ය-නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ⁸ තක්සේරුව අනුව එම ප්‍රමාණය 20,000 ක් පමණ වේ. හීනිඤා ජේ. සී. වැලිඅමුණ මහතා⁹ අනුව වර්තමානය වන විට ශ්‍රී ලංකාව තුළ රාජ්‍ය නොවන සංවිධාන ඔස්සේ උත්පාදනය වී ඇති රැකියා ප්‍රමාණය දළ වශයෙන් 90,000 ක් පමණ වේ.

5. මහාචාර්ය ජයදේව උයන්ගොඩ - “සිවිල් සමාජය කුමක්ද? කාගේද? කුමටද?” පි. 75.
6. 1980- අංක -31 දරන ස්වේච්ඡා සමාජ සේවා සංවිධාන (ලියාපදිංචි කිරීම හා අධීක්ෂණය කිරීමේ) පනත- 18 වගන්තිය
7. J.C. Weliamuna- “Braking the Backbone of civil society in sri Lanka” <http://www.humanright.asia/news/forwarded-news/AHRC>
8. ප්‍රධාන පෙළේ නිලධාරියෙක් නිර්ණාමිකව සිදුකළ අදහස් දැක්වීම් අනුව
9. J.C. Weliamuna- “Braking the Backbone of civil society in sri Lanka” <http://www.humanright.asia/news/forwarded-news/AHRC>

අරමුණ හා ක්‍රමවේදය

ඉහතින් සඳහන් කළ සිවිල් සමාජ සංවිධාන සියල්ලම විවිධ අරමුණු මත පදනම්ව ක්‍රියාත්මක වේ. ඇතැම් සංවිධාන මුළුමනින්ම සමාජ සුබසාධන අරමුණු මත පදනම්ව ක්‍රියාකරන අතර සමහර සංවිධානවල අරමුණු ග්‍රාමීය සංවර්ධනය, දුගීබව තුරන් කිරීම, පරිසරය සුරැකීම, මාධ්‍ය නිදහස, නිදහස් සහ සාධාරණ මැතිවරණ, සාමය, මානව හිමිකම් සහ යහපාලනය ආදී වඩාත් පුළුල් කේෂත්‍ර පුරා පැතිර පවතී. ඒවා ප්‍රජාතන්ත්‍රවාදී ප්‍රතිසංස්කරණ වෙනුවෙන් පෙනී සිටින සිවිල් සමාජ සංවිධාන ලෙස සැලකිය හැකිය.

මෙම සංවිධානවල අරමුණු සහ සංවිධාන ව්‍යුහයන්හි යම් යම් වෙනස්කම් පැවතුණද අවසන් විග්‍රහයේදී එම සංවිධාන සියල්ලෙහි මූලික අපේක්ෂාව මහජනතාව වෙනුවෙන් සේවය කිරීමය. ඔවුන්ගේ පරිශ්‍රමයේ අවසන් ප්‍රතිඵල හිමිවිය යුත්තේ මහජනතාවටය. සංවිධානවල අභ්‍යන්තර හා බාහිර ව්‍යුහයන් ඊට සරිලන පරිදි සැකසී නැත්නම්, සංවිධාන තුළ පරිපාලන රෙගුලාසි, මූල්‍ය රෙගුලාසි හා නිසි අධීක්ෂණ ක්‍රමවේදයක් ක්‍රියාත්මක නොවේ නම් එම තත්ත්වය මහජනතාවට සේවය කිරීමේ මූලික අරමුණ කෙරෙහි අහිතකර අයුරින් බලපායි..

ලිපිය සඳහා අවශ්‍ය තොරතුරු විමර්ශන ක්‍රියාවලියේදී සංවිධානවල වාර්ෂික වාර්තා, ගිණුම් වාර්තා, විවිධ විමර්ශන වාර්තා, සාංගමික ව්‍යවස්ථාවලි, නිල වෙබ් අඩවි ආදී තොරතුරු මූලාශ්‍ර සංවිධාන ප්‍රධානීන් සමඟ සම්මුඛ සාකච්ඡා කරමින් ලබාගත් තොරතුරුද විෂය සම්බන්ධ විශේෂඥයන් හමුවී සම්මුඛ සාකච්ඡා කරමින් ලබාගත් අදහස් හා ඔවුන් විසින් ලියා ඇති ලිපි ලේඛන ද ආධාර කරගනු ලැබීය. රාජ්‍ය මට්ටමේ ආයතනවල නිල තොරතුරු ලබාගැනීමේදී ආයතන සංග්‍රහය මගින් රාජ්‍ය නිලධාරීන්ට පහවා ඇති සීමා¹⁰ හා තොරතුරු ලබාදීම වරදක් බව සිහිපත් කරමින් වක්‍රලේඛ මගින් ලබාදී ඇති උපදෙස් හිසා¹¹ ලිපිගොනු ආශ්‍රයෙන් ලබාගත් නිල තොරතුරුවලදී පවා මූලාශ්‍ර නිසි ලෙස සඳහන් කිරීමට නොහැකි වූ බව සඳහන් කළ යුතුය.

සිවිල් සමාජ සංවිධාන ලියාපදිංචි කිරීම

ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන ලියාපදිංචි කිරීම ආකාර කිහිපයකින්, ආයතන කීපයක් යටතේ සිදු කෙරේ. එහෙත් ඒවා අඛණ්ඩව අධීක්ෂණය කෙරෙන, සහ පවත්නා නෛතික රාමුව යටතේ හඳුන්වාදී ඇති මාර්ගෝපදේශ නොතකා ක්‍රියාකරන ආයතන පිළිබඳ විධිමත්ව ක්‍රියාමාර්ග ගන්නා ක්‍රමවේදයක් ක්‍රියාත්මක නොවේ.

10. Establishment code, 1999, volume II, chapter XL II
11. ඒ පිළිබඳ පළමු මාධ්‍ය වාර්තා සඳහා <http://www.lakbimanews.lk/arrclakbimanews 08 08 16/news/laknews.htm>

ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධානයකට ලියාපදිංචි වීමට අවශ්‍ය නම්, 1998 අංක 08 දරණ පනතින් සංශෝධනය වී ඇති 1980 අංක 31 දරණ ස්වේච්ඡා සමාජ සේවා සංවිධාන (ලියාපදිංචි කිරීම හා අධීක්ෂණය කිරීම) පනත යටතේ ලියාපදිංචි විය හැකිය.¹² මුලදී සෞඛ්‍ය, මහාමාර්ග හා සමාජ සේවා අමාත්‍යාංශය යටතේ වම ලියාපදිංචි කිරීමේ කටයුතු ක්‍රියාත්මක වූ අතර 1996 වසරේ සිට වම අමාත්‍යාංශය යටතේම රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයක් ස්ථාපිත කර ලියාපදිංචි කිරීමේ කටයුතු ඊට භාර කරන ලදී. ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන අධීක්ෂණය කෙරෙන ප්‍රධාන ආයතනය ලෙස සැලකෙන්නේද රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයයි. ජනාධිපතිවරයා විසින් 2010 වසරේ නිකුත් කරන ලද අතිවිශේෂ ගැසට් නිවේදනය අනුව¹³ වර්තමානය වන විට වම ජාතික ලේකම් කාර්යාලය රාජ්‍ය ආරක්ෂක අමාත්‍යාංශය යටතේ ක්‍රියාත්මක වේ.

රාජ්‍ය නොවන සංවිධාන පිළිබඳ ලේකම් කාර්යාලය ජාතික, දිස්ත්‍රික් හා ප්‍රාදේශීය ලේකම් කාර්යාල මට්ටමින් සිවිල් සමාජ සංවිධාන ලියාපදිංචි කරනු ලැබේ. ජාතික ලේකම් කාර්යාලය මගින් ලියාපදිංචි කරනුයේ විදේශ කටයුතු අමාත්‍යාංශය, ආරක්ෂක අමාත්‍යාංශය සහ මුදල් අමාත්‍යාංශයෙන් ඒ සම්බන්ධ නිර්දේශ ලබා ගැනීමෙන් අනතුරුවය. වම අමාත්‍යාංශ නිර්දේශ නොමැති හා ලියාපදිංචියට අවශ්‍ය පූර්ව සුදුසුකම්¹⁴ නොමැති අයදුම්පත් ජාතික ලේකම් කාර්යාලය මගින් ප්‍රතික්ෂේප කරනු ලැබේ.

2011 සැප්තැම්බර් මාසයේ අවසානය වන විට රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි වී ඇති සිවිල් සමාජ සංඛ්‍යාව 1433 කි.¹⁵ ජාතික ලේකම් කාර්යාලය විසින් සකස්කර ඇති දිස්ත්‍රික් නාමාවලි අනුව¹⁶ බදුල්ල දිස්ත්‍රික්කයෙහි ක්‍රියාත්මකවන සිවිල් සමාජ සංඛ්‍යාව 707 ඉක්මවයි. මොණරාගල දිස්ත්‍රික්කයේ 490 කි. ගාල්ල 533 කි. හම්බන්තොට 639 කි. මාතර 541 කි. කොළඹ 695 කි. ගම්පහ 853 කි. කළුතර 719 කි. කැනල්ල 900 කි. රත්නපුර 1,226 කි.

ඉහත ස්වේච්ඡා සමාජ සේවා සංවිධාන පනත යටතේ ලියාපදිංචිවීම ප්‍රතික්ෂේප කරන සිවිල් සමාජ සංවිධානයකට 2007 අංක 07 දරණ සමාගම් පනත යටතේ සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුවේ ලියාපදිංචිවීමෙන්ද සිය කටයුතු නිත්‍යානුකූලව පවත්වාගෙන යා හැකිය. සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුව සිවිල් සමාජ සංවිධාන ලියාපදිංචි කරනුයේ 'සංවිධාන' යන වර්ගීකරණය යටතේය. නැවතත් අනු වර්ගීකරණ තුනක් යටතේ වම ලියාපදිංචි කිරීමේ කටයුතු සිදුකෙරෙන අතර 2011 සැප්තැම්බර් මාසය අවසන් වන විට¹⁷ මෙලෙස ලාභ නොලබන සංවිධාන (GA)

12. ලියාපදිංචිවීමට අදාළ අයදුම්පත් හා සෙසු තොරතුරු සඳහා www.ngosecretariat.gov.lk පිවිසෙන්න
 13. 2010-04-30 දිනැති අංක 1651/20 දරණ අතිවිශේෂ ගැසට් නිවේදනය
 14. අංක 1101/14, 1999 ඔක්තෝබර් 15 අතිවිශේෂ ගැසට් පත්‍රය බලන්න
 15. "Directory of voluntary social services organizations" නාමාවලිය හා 2011-9-30 දිනට වම කාර්යාලයේ පරිගණකගත කරන ලද තොරතුරු ඇසුරිනි
 16. මෙම නාමාවලි සකස්කර ඇත්තේ 2010 වසරේදීය
 17. සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුවේ දත්ත ඇසුරිනි

යටතේ ලියාපදිංචි කර ඇති සමාගම් සංඛ්‍යාව 2,610 කි. ඇපයෙන් සීමිත සමාගම් (GL) යටතේ ලියාපදිංචි කර ඇති සමාගම් සංඛ්‍යාව 2,164 කි. පොදු සමාගම් යටතේ ලියාපදිංචි සංඛ්‍යාව 4,831 කි. මීට අතිරේකව 2007 වර්ෂයේ වත්මන් පනත ක්‍රියාත්මක වීමට පෙර සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුව යටතේ ලියාපදිංචි වී තිබී ඇති (NA) සිවිල් සමාජ සංවිධාන සංඛ්‍යාව 700 ක් පමණ වෙයි.

සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුව යටතේ සිවිල් සමාජ සංවිධානයක් ලියාපදිංචි කිරීමේදී ඒ සඳහා තෝරාගන්නා වර්ගීකරණය අනුව තීරණය කෙරෙන රුපියල් 7,500/- සිට රුපියල් 15,000/- දක්වා වන ගාස්තු ප්‍රමාණයක් ගෙවිය යුතුය.¹⁸ සිවිල් සමාජ සංවිධානයක් සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුව යටතේ ලියාපදිංචි වීමේදී ජාතික ලේකම් කාර්යාල ලියාපදිංචියේදී මෙන් ආරක්ෂක අමාත්‍යාංශයේ හෝ විදේශ අමාත්‍යාංශයේ නිර්දේශ අවශ්‍ය නොවේ. සාමාන්‍ය සමාගමක් නම් අවශ්‍ය ලියකියවිලි පරීක්ෂා කර බලා දිනක් ඇතුළතදීද, රාජ්‍ය නොවන සංවිධානයක් නම් ඉදිරිපත් කෙරෙන ලියකියවිලි මූලික විමර්ශනයකට ලක්කිරීමෙන් අනතුරුව කෙටි කාලයක් තුළදීද ලියාපදිංචි කිරීම් සිදුවේ.

සමහර සිවිල් සමාජ සංවිධාන මෙම ආයතන දෙකෙහිම ලියාපදිංචිවී සිය කටයුතු පවත්වාගෙන යන අතර තවත් සමහර සංවිධාන මෙම ආයතන දෙකේම ලියාපදිංචි නොවී ඒ ඒ අමාත්‍යාංශ යටතේ පමණක් ලියාපදිංචි වෙමින් සිය කටයුතු පවත්වාගෙන යමින් සිටිති. තවත් සංවිධාන රැසක් ක්‍රියාත්මක වන්නේ කිසිදු ලියාපදිංචියකින් තොරවය.

ශ්‍රී ලංකාවේ මැති ඇමැතිවරුන්ගේ නම්වලින් හැඳින්වෙන විවිධ පදනම් හා තාරුණ්‍යයට හෙටක් සංවිධානය වැනි දේශපාලන පදනම්¹⁹ බොහොමයක් ලියාපදිංචි වී ඇත්තේද සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුවේ සිවිල් සමාජ සංවිධාන යටතේය. එම ඇතැම් සංවිධාන ඊට අමතරව පාර්ලිමේන්තු පනතක් මගින්ද සංස්ථාගත කර තිබේ.

සිවිල් සමාජ සංවිධානවල ව්‍යුහයන්

සිවිල් සමාජ සංවිධාන බොහොමයක් ආරම්භ වී ඇත්තේ 'සිවිල් සමාජ ක්‍රියාකාරීත්වයක්' හෝ තේමාවක් මුල්කරගත් ක්‍රියාදාමයක් ලෙස මිස විධිමත් සංවිධාන ව්‍යුහයක් ඇතිව නොවේ.

සිවිල් සමාජ සංවිධානවල ව්‍යුහයන් හා පරිපාලන ක්‍රමවේද කෙරෙහි සංවිධාන ලියාපදිංචිය සඳහා පනවා ඇති කොන්දේසි හා මාර්ගෝපදේශද බලපා ඇති බව පෙනේ..

18. නවතම ගාස්තු පිළිබඳ 1720/2, 2011-08-22 දරණ අති විශේෂ ගැසට් පත්‍රය බලන්න
19. රටේ ජනාධිපතිවරයාගේ නිල නිවස වන අරලියගහ මන්දිරය සිය කාර්යාලීය ලිපිනය ලෙස සඳහන් කරමින් NA 1647 යටතේ ලියාපදිංචි කර ඇති තාරුණ්‍යයට හෙටක් සංවිධානයේ ප්‍රධානීන් වනුයේ නාමල් රාජපක්ෂ හා යෝෂිත රාජපක්ෂය

1980 අංක 31 දරණ ස්වේච්ඡා සමාජ සේවා සංවිධාන (ලියාපදිංචි කිරීමේ හා අධීක්ෂණය කිරීමේ) පනත හා ඊට අදාළව 1999 වසරේ සිට පනවන ලද ස්වේච්ඡා සමාජ සේවා සංවිධාන නියෝග අනුව, ලියාපදිංචි කළ සෑම ස්වේච්ඡා සමාජ සේවා සංවිධානයක් විසින්ම බැංකු ගිණුම් ඇතුළත් මුදල් පොත, ප්‍රධාන ලෙජරය, ප්‍රධාන ජ්‍යෙෂ්ඨය, වත්කම් ලේඛනය කාරකසභා වාර්තා පොත්, සාමාජික ලේඛනය ආදී මූලික ලිපි ලේඛන පවත්වාගෙන යා යුතුය.

සමාගම් පනත යටතේ සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුවේ ලියාපදිංචි වන සිවිල් සමාජ සංවිධාන සඳහාද වැඩිදුරටත් මූලික කොන්දේසි මාලාවක් බලපැවැත්වේ.

ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධානවල කටයුතු අධීක්ෂණය කිරීමේ වගකීම දරණ යාන්ත්‍රණවල ක්‍රියාකාරීත්වය කෙරෙහි අවධානය යොමුකිරීමට පෙර ලංකාවේ ප්‍රාදේශීය දිස්ත්‍රික් හා ජාතික ආදී මට්ටම්වලින් ක්‍රියාත්මකවන සිවිල් සමාජ සංවිධාන කිහිපයක අභ්‍යන්තර හා බාහිර ව්‍යුහයන් හා ක්‍රියාකාරීත්වය කෙරෙහි අවධානය යොමුකිරීම වැදගත්ය.

ශ්‍රී ලංකාව පුරා විසුරුණු සමීනි ජාලයකට හිමිකම් කියන සර්වෝදය ව්‍යාපාරය, දිස්ත්‍රික් මට්ටමින් සිය වැඩසටහන් ක්‍රියාත්මක කරන 'අනාගතේ අපේ අතේ සංවර්ධන පදනම' හා කුඩා කණ්ඩායම් ක්‍රියාකාරීත්වයක් ලෙස ඔවුන්ටම අනන්‍ය වූ සංවිධාන ව්‍යුහයකින් හෙබි ජනාවබෝධ කේන්ද්‍රය එකිනෙකට වෙනස් සංවිධාන ව්‍යුහයන්ගෙන් හෙබි සිවිල් සමාජ සංවිධාන ත්‍රිත්වයකි.

සර්වෝදය ව්‍යාපාරය

සර්වෝදය ව්‍යාපාරය ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන අතර දහස ඉක්මවන සාමාජිකත්වයකට සහ ලංකාව පුරා විසුරුණු ලියාපදිංචි සමීනි 5200 කට ආසන්න ජාලයකට හිමිකම් කියන සිවිල් සමාජ සංවිධානයකි.

විකල්ප විඥානයක්, විකල්ප ආර්ථිකයක් හා විකල්ප දේශපාලන බලව්‍යුහයක් ගොඩනැංවීමේ අරමුණින් විකල්ප සංවර්ධන දෘෂ්ඨියක් හා සමාජ භාවිතයක් වෙනුවෙන් ක්‍රියාත්මක වන සර්වෝදය සිය කටයුතු අරඹන්නේ 1958 දීය. 1960 දී ලංකා ජාතික සර්වෝදය ශ්‍රමදාන සංගමය ලෙස ස්ථාපිත වන සර්වෝදය 1965 දී පුනර්ගායනයක් බවට පත්ව 1972 දී පාර්ලිමේන්තු පනතකින් සංස්ථාපිත සංගමයක් බවට පත් විය. වර්තමානය වන විට වය ශ්‍රී ලංකාව පුරා පරිපාලන දිස්ත්‍රික්ක 25 තුළ දිස්ත්‍රික් මධ්‍යස්ථාන 33 ක් හා ප්‍රාදේශීය මධ්‍යස්ථාන 329 ක් වටා ඇති ගම්මාන 15000 ක ජාලගතව සර්වෝදය සිය සේවාවන් ක්‍රියාත්මක කරයි.

සර්වෝදය සංවිධාන ව්‍යුහය සභාපති, ලේකම්, භාණ්ඩාගාරික, විධායක අධ්‍යක්ෂ ඇතුළු ප්‍රධාන නිල තනතුරු ව්‍යුහයකින්ද සාමාජිකයන් 75 දෙනෙකුගෙන් යුත් විධායක මණ්ඩලයකින්ද සමන්විතය. නිල කමිටුවට විධායක බලතල නොමැති අතර නිල කමිටුව මසකට වරක් රැස්වී ප්‍රතිපත්තිමය කරුණු පිළිබඳව විධායක කමිටුවට සුදුසු නිර්දේශ ඉදිරිපත් කරයි. විධායක කමිටුව සර්වෝදය දීමනා ලබන සාමාජිකයන් හා බාහිර පුද්ගලයන් යන දෙපිරිසෙන්ම සමන්විත වන අතර තීරණ ක්‍රියාත්මක වනුයේ විධායක අධ්‍යක්ෂවරයා යටතේය.

සර්වෝදය සාමාජිකයෙකුට වාර්ෂික මහාසභා රැස්වීමේදී එහි හිල තනතුරකට පත්වීමට හැකියාව තිබේ. එසේම විධායක මණ්ඩලය නියෝජනය කරමින් විධායක තීරණ ගන්නා ක්‍රියාවලියටද සම්බන්ධ විය හැකිය.

සර්වෝදය ආරම්භ වන්නේ අනුභවයෙන් හානිකරවයක් යටතේ වීම නිසා හානිකරයන් දැරීමට හා ඔහු කෙරෙහි පවත්නා හක්කිය සමග ව්‍යාපාරයේ බොහෝ දේ එකට බැඳී ඇතත් සංවිධානයේ ඕනෑම සාමාජිකයෙකුට සංවිධානයේ තීරණ ගැන ප්‍රශ්න කිරීමට හා එම තීරණ අනියෝගයට ලක් කිරීමට අවස්ථාව පවතින බව එහි ප්‍රධාන ලේකම් වෛද්‍ය වින්සා ආරියරත්න මහතා පවසයි. එසේම එම සංවිධානයේ කටයුතුවල විනිවිදභාවය හා වගවීම පවත්වා ගැනීම සඳහා විවෘත විගණන ක්‍රමයක් (Open Book Account) පවත්වාගෙන යන අතර ඕනෑම පුද්ගලයෙකුට වාර්ෂික වාර්තා හා සම්පූර්ණ ගිණුම් පරීක්ෂා කිරීමට අවකාශ සලසා දී තිබේ. එසේම දිස්ත්‍රික්ක කාර්යාලවලට ගොස් දිස්ත්‍රික් මට්ටමේ වැඩසටහන් හා ඒවාට ලැබුණු ආධාර පිළිබඳව විමසා බැලිය හැකිය.

මව් සංගමයට අතිරේකව වෙනත් විවිධ අණ පනත් යටතේ නීතිගත කරන ලද සර්වෝදය නීති සේවා සංසදය, ශාන්ති සේනා සංසදය, ආදී ආයතන 10 ක් සර්වෝදය තුළ ක්‍රියාත්මක වෙයි.

මූලාශ්‍ර: වෛද්‍ය විනසා ආරියරත්න මහතා සමග කළ සම්මුඛ සාකච්ඡාවක් ඇසුරිනි.
2011 සැප්තැම්බර්

'අනාගතේ අපේ අතේ සංවර්ධන පදනම'

'අනාගතේ අපේ අතේ සංවර්ධන පදනම' බදුල්ල අම්පාර හා මොනරාගල දිස්ත්‍රික්කවල වැඩිහිටි සහ තරුණ ප්‍රජාව වෙනුවෙන් සිය වැඩසටහන් ක්‍රියාත්මක කරන, රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි සිවිල් සමාජ සංවිධානයකි.

එම සංවිධානයේ ප්‍රධාන සම්බන්ධීකාරක ප්‍රභාත් කුමාර මහතා පවසන ආකාරයට සංවිධානය පාලනය වන්නේ 13 දෙනෙකුගෙන් යුත් අධ්‍යක්ෂ මණ්ඩලයකිනි. ගම් මට්ටමින් ක්‍රියාත්මක වන කුඩා කණ්ඩායම් සාමාජිකයන්ට එහි මධ්‍යම සංවිධානය නියෝජනය කිරීමටද, මධ්‍යම සංවිධාන නියෝජිතයන්ට පළාත් පර්ෂද නියෝජනය කිරීමටද ඉඩ සලසා ඇති අතර පර්ෂද සභාපතිවරු පස්දෙනා එම සාමාජික අදහස් රැගෙන අධ්‍යක්ෂ මණ්ඩලය නියෝජනය කරති. සංවිධානයේ ප්‍රධාන සම්බන්ධීකාරකවරයාද අධ්‍යක්ෂ මණ්ඩලය නියෝජනය කරයි. සෞඛ්‍ය අධ්‍යක්ෂවරු හත්දෙනා විවිධ ක්ෂේත්‍ර නියෝජනය කරන අත්දැකීම් වලින් පිරිපුන් පුද්ගලයෝය.

තමන් ගන්නා සෑම තීරණයක්ම හා කරන සෑම ක්‍රියාවක් සම්බන්ධයෙන්ම ප්‍රජාවට වගවිය යුතු බව ප්‍රතිපත්තියක් වශයෙන් පිළිගන්නා 'අනාගතේ අපේ අතේ සංවර්ධන පදනම' සිය ව්‍යාපෘති යෝජනා සකස් කරන්නේද ප්‍රජාව සමගය. ගම් මට්ටමින් චලෙස සකස් කරන සැලසුම් අධීක්ෂණය කරන්නේද ප්‍රජා පර්ෂද සාමාජිකයෝය. අවසානයේ සංවර්ධන පදනම කරනුයේ එම ව්‍යාපෘති යෝජනාවට තමන්ගේ පරිපාලන වියදම් එකතු කර මූල්‍ය ආධාර සපයන ආයතනයකට යොමු කිරීමය.

ඒ සෑම ලියවිල්ලක්ම පිටපත් දෙකකින් සමන්විත අතර එක් පිටපතක් සංවිධානයේ ලිපිගොනුවටද, අනෙක් පිටපත පර්ෂදයේ ලිපිගොනුවටද යොමුකෙරේ. ලොකු කුඩා සෑම මිලදී ගැනීමකදීම ආයතන තුනකින් මිල ගණන් කැඳවීම අනිවාර්යය.

සෑම මාසයටම අදාළ සියලු ගනුදෙනු එම මාසයේ අන්තිම දිනයේදී අනිවාර්යයෙන්ම අවසන් කළයුතු අතර, ලියාපදිංචි ආයතන වෙත යැවිය යුතු ත්‍රෛමාසික වාර්තා, සය මාසික වාර්තා හා වාර්ෂික විගණන වාර්තා නියමිත දිනට ඉදිරිපත් කළ යුතු බව ඔවුන් විසින් පනවාගෙන ඇති කොන්දේසියකි.

සෑම වසරකම දෙසැම්බර් 25 වැනිදාට සංවිධානයේ සියලු මූල්‍ය ගනුදෙනු අවසන් වන අතර දෙසැම්බර් 31 වැනිදාට පෙර එම වාර්තා අදාළ ආයතන වෙත ඉදිරිපත් කර ප්‍රජාවගේ පරීක්ෂණයට ද ඉඩ සලසා දෙනු ලැබේ.

සියලු මූල්‍ය ගනුදෙනු පිළිබඳව ක්‍රියාකළ යුතු ආකාරය ගැන ඔවුන් විසින් සම්පාදනය කරගත් පිරික්සුම් ලැයිස්තුවක් තිබේ. ඒ අනුව මුදලක් ඉල්ලුම් කරන අවස්ථාවේ සිට එම මුදල් නිකුත් කරන අවස්ථාව දක්වා අදාළ ගෙවීම් වවුචර පස් දෙනෙකු අතින් පරීක්ෂාවට ලක්වේ. සංවිධානයේ කිසිවෙකුගේ හෝ පවුලේ සාමාජිකයෙකු සංවිධානය වෙත බඳවා නොගැනීමේ ප්‍රතිපත්තිය තීරණයකට සියලු දෙනා බැඳී සිටින අතර ඥාති මිත්‍ර සංග්‍රහ සම්බන්ධයෙන් ආදර්ශයක් දීමට පොදුවේ සියල්ලෝම උත්සාහ දරති. සංවිධානයේ පොත්පත් මූල්‍ය ගනුදෙනු ලිපිගොනු හා වාර්තා ඕනෑම අයෙකුට විවෘතය.

මූලාශ්‍රය: සංවිධානයේ ප්‍රධාන සම්බන්ධීකාරක ප්‍රනාන් කුමාර මහතා සමඟ කළ සම්මුඛ සාකච්ඡාවක් ඇසුරිනි. 2011-සැප්තැම්බර්

ජනාවබෝධ කේන්ද්‍රය

'වඩා හොඳ ලෝකයක් ගොඩනැංවීමට සෙවීම පටන් ගැනීමක් වශයෙන්' 1980 වර්ෂයේදී කුඩා කණ්ඩායමක් ඒකරාශී වී ආරම්භ කරන මිගමුව 'ජනාවබෝධ කේන්ද්‍රය' ඔවුන්ට අනන්‍ය වූ සංවිධාන ව්‍යුහයකින් සමන්විත සිවිල් සමාජ සංවිධානයකි. වර්තමානය වන විට එය සමාජ සේවා අමාත්‍යාංශය යටතේ සහ රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි වී සිය කටයුතු පවත්වාගෙන යනු ලැබේ.

සංවිධානයේ ව්‍යුහය සැකසී ඇත්තේ මහ සභාව මගින් තේරී පත්වෙන (ප්‍රතිපත්තිමය තීරණ ගන්නා) සංවිධාන කමිටුව, විදිනෙදා කටයුතු තීරණය කෙරෙන මෙහෙයුම් කමිටුව හා පරිපාලන කමිටුවකිනි. ගිණුම් වාර්තා සැකසීම, වාර්ෂික වාර්තා මූල්‍ය රෙගුලාසි ආදිය ක්‍රියාත්මක කරන්නේ පරිපාලන කමිටුවයි.

සංවිධාන කමිටුව අධ්‍යක්ෂ මණ්ඩලයකට සමාන වන අතර සංවිධානයේත් බාහිර විවිධ ක්‍රියාකාරීන්, ජනතා සංවිධාන නියෝජිතයෝ, වෙනත් සිවිල් සමාජ සංවිධාන නියෝජිතයෝ සංවිධායක කමිටුව නියෝජනය කරති. සංවිධානයේ නියමුවා මහා සභාවේදී සාමාජිකයන්ගේ විකභනාවයෙන් තොරා පත් කරගනු ලබන

සමායෝජකවරයාය. ඔහු කිසිවිටෙක ප්‍රධානියෙකු ලෙස පෙනී නොසිටින අතර කණ්ඩායම් නායකයෙකු ලෙස සාමාජිකයන්ට මග පෙන්වයි. සාමාජිකත්වය ජාතික ආගමික අතින් බෙදුණු සියලුදෙනා සඳහා විවෘතය. සෑම සතියකම බුහස්පතින්දා කණ්ඩායමේ සියලුදෙනා එක් වී ඉදිරි කටයුතු සාකච්ඡා කරති. එසේම ඉටුකළ කාර්යයන් පිළිබඳ හිරිකෂණය හා අධීක්ෂණය කරති. එම අවස්ථාව ඕනෑම මට්ටමක විවේචනයකට, ස්වයං විවේචනයකට විවෘතය. කණ්ඩායමට අලුත් සාමාජිකයන් බඳවා ගැනීම සිදුවන්නේ සියලු දෙනාගේ එකඟතාව මතය. හිනි-ඊති වෙනුවට ඇත්තේ සාමූහික එකඟතාව මත සකස්කරගත් ආචාරධර්ම පද්ධතියකි. සංවිධානයේ ගනුදෙනු සියල්ල මුළු කණ්ඩායමටම වාර්තා කරනු ලැබේ.

ජනතා සංවිධානය තුළ තවමත් රැකියාවක් ලෙස සේවයේ යෙදෙන්නන් නොමැත. වර්තමානය වන විටත් ඉතිරිව සිටින සියලු දෙනා සමාජ අරමුණු මත ඒකරාශී වූවෝය.

මූලාශ්‍රය: ජනතාවබෝධ කේන්ද්‍රයේ සමායෝජක වින්සන්ට් බුලත්සිංහල මහතා සමග කළ සාකච්ඡාවක් ඇසුරිනි. 2011 ඔක්තෝබර්

සිවිල් සමාජ සංවිධාන නියාමනයේ අභියෝග

රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලය පිහිටුවා ඇත්තේ 'ශ්‍රී ලංකාවේ ක්‍රියාත්මකවන සියලුම රාජ්‍ය නොවන සංවිධාන රජයේ ප්‍රතිපත්ති රාමුව සහ දිවයිනේ නෛතික ආකෘතිය තුළ ලියාපදිංචි වීම සහ ක්‍රියාත්මක කිරීම තහවුරු කිරීම සඳහාය.'²⁰

එහෙත් ඉහතින් සාකච්ඡාකළ විවිධ ව්‍යුහයන්ට අයත් සිවිල් සමාජ සංවිධාන සියල්ල එකම නියාමන ව්‍යුහයක් තුළට ඇතුළත් කරගැනීමට පසුගිය දසවසරකට අධික කාලය තුළ ජාතික ලේකම් කාර්යාලය සමත්වී නැත. එය ජාතික ලේකම් කාර්යාලයේ අකාර්යක්ෂමතාවයකින් සිදුවූවකට වඩා එහි ව්‍යුහය, පනත යටතේ අමාත්‍යවරයාට ලබා දී ඇති බලතල හා ක්‍රියාකාරීත්වය ගැන සිවිල් සමාජ සංවිධාන තුළ පවත්නා අවිශ්වාසය සහ නෛතික රාමුවේ පවත්නා අඩුපාඩු යනාදී කරුණු කිහිපයක් හිසා සිදුවූවක් බව ඒ පිළිබඳ කරුණු අධ්‍යයනය කිරීමේදී පෙනී යයි.

මේ හිසා ජාතික ලේකම් කාර්යාලය පිහිටුවා දස වසරකට පසුත් ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන ලියාපදිංචි කිරීම ආයතන කිහිපයක් යටතේ සිදුවේ. එසේම එකම කාර්යයේ යෙදී සිටින එම ආයතන අතර අන්තර් සබඳතාවක්ද ක්‍රියාත්මක නොවේ.

20. <http://www.ngosecretariat.gov.lk> හිල වෙබ් අඩවිය

රාජ්‍ය නොවන සංවිධානවල ක්‍රියාකාරීත්වය හා බලපෑම පිළිබඳ කරුණු විමර්ශනය කිරීම සඳහා පත්කළ පාර්ලිමේන්තු විශේෂ කාරක සභාව සිය අතුරු වාර්තාව²¹ ඉදිරිපත් කරමින් ප්‍රකාශ කර ඇත්තේ "අංක 1101/14 දරණ අතිවිශේෂ ගැසට් නියෝගය මගින් පනවා ඇති නියෝග අනුව රාජ්‍ය නොවන සංවිධාන බොහොමයක් කටයුතු නොකරන බවයි" දැනට පවතින නීතිමය ප්‍රතිපාදන යටතේ ජාතික ලේකම් කාර්යාලයට වාර්ෂික විගණන වාර්තා සැපයීම අනිවාර්ය කරුණක් වුවද මෙම ක්‍රියාපිළිවෙල ප්‍රායෝගිකව ඉටුනොවන බවද, ලැබෙන වාර්තාද ලේකම් කාර්යාලයේ පවතින සම්පත් හිඟය හේතුකොටගෙන නිසි ඇගයීමකට ලක් නොවන බවද එම වාර්තාව මගින් පෙන්නා දී තිබේ.

රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි වී ඇති සහ එහි ලියාපදිංචි වීම ප්‍රතික්ෂේප කර සමාගම් රෙජිස්ටාර් දෙපාර්තමේන්තුව යටතේ ලියාපදිංචි වී සිය කටයුතු පවත්වාගෙන යන සිවිල් සමාජ සංවිධාන යන දෙවර්ගයටම අයත් ඇතැම් සංවිධාන ලේකම් කාර්යාලයේ කටයුතු පිළිබඳ දැඩි අවිශ්වාසයකින් පසුවෙති. සිවිල් සමාජ සංවිධාන සියල්ල රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි කළ යුතු බවට රජය විසින් කොන්දේසි පැනවීම ඇතැම් සිවිල් සමාජ සංවිධාන ක්‍රියාකාරීන් දකින්නේ "රාජ්‍ය නොවන සංවිධානවල කටයුතු රජයේ පාලනයට ලක්කරමින් ඒවා අඩපණ කිරීමට දරන උත්සාහයක්" වශයෙනි. සමාජ සේවා අමාත්‍යාංශය යටතේ පාලනය වූ ලේකම් කාර්යාලය 2010 වසරේ සිට රාජ්‍ය ආරක්ෂක අමාත්‍යාංශය යටතට පත්කිරීමත් සමඟ එම සැකය වඩාත් තීව්‍ර වී තිබේ.

ප්‍රමුඛ පෙළේ සිවිල් අයිතිවාසිකම් ක්‍රියාකාරීන්ගේ වන සුර්යා වික්‍රමසිංහ මහත්මිය²² පවසන්නේ රජය විවැනි කොන්දේසියක් පැනවීම නුසුදුසු වන අතර එය සමාගමයේ නිදහසට (Freedom Of Association) පටහැනි ක්‍රියාවක් බවයි. කණ්ඩායමක් ලෙසින් යම් අරමුණක් හෝ අභිලාෂයක් වෙනුවෙන් එක්ව කටයුතු කිරීම මානව සමාජය තුළ ස්වාභාවික ලක්ෂණයක් වන අතර එසේ කිරීමට යමෙකු වෙත පවතින අයිතිය සමාගමයේ නිදහස ලෙස අර්ථකථනය කරන සුර්යා වික්‍රමසිංහ මහත්මිය පවසන්නේ සෑම සිවිල් සමාජ සංවිධානයක්ම තමන්ගේ සාමාජිකත්වයට හා මූල්‍ය ආධාර සපයන්නන්ට වගවිය යුතු නමුත් රජය මැදිහත් වී ඒ සඳහා කොන්දේසි පැනවීම නොකළ හැකි බවයි"

සිවිල් සමාජ සංවිධාන රජයට අවශ්‍ය පරිදි ක්‍රියාත්මකවන සංවිධාන විශේෂයක් නොවන අතර ඊට පැවැරී ඇත්තේ වෙනත් කාර්යභාරයක් බව පෙන්නා දෙන සුර්යා වික්‍රමසිංහ මහත්මිය පවසන්නේ රජයට සිවිල් සමාජ සංවිධානවල කටයුතුගැන සොයාබැලීමට අවශ්‍ය නම් ඒ සඳහා නව නීති පැනවීමට අවශ්‍ය නොවන අතර පවත්නා නීති ඊහි හොඳටම ප්‍රමාණවත් බවයි.

21. පාර්ලිමේන්තු ප්‍රකාශන මාලා අංක 20෦ පිටුව (2008)
 22. සුර්යා වික්‍රමසිංහ මහත්මිය සමඟ කළ සාකච්ඡාවක් ඇසුරින්, 2011 ඔක්තෝබර්

මානව හිමිකම් හා යහපාලනය සම්බන්ධයෙන් ක්‍රියාත්මකවන ශ්‍රී ලංකාවේ ප්‍රමුඛ පෙළේ සිවිල් සමාජ සංවිධාන හා ක්‍රියාකාරීන් රැසක්²³ රජය මැදිහත් වී සිවිල් සමාජ සංවිධානවල ක්‍රියාකාරීත්වය පාලනය කිරීම හා සියලු සිවිල් සමාජ සංවිධාන ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි කළයුතු බව රජය විසින් කොන්දේසි පැනවීම සඳහා වශයෙන් ගෙන ඇති ක්‍රියාමාර්ගයක් ලෙස පිළිනොගනී. එම නිසා එම සංවිධාන රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලය යටතේ ලියාපදිංචිවීම ප්‍රතික්ෂේප කර ඇති අතර ඔවුන් එම රාමුව යටතට ඇතුළත් කරගැනීමට මෙතෙක් ජාතික ලේකම් කාර්යාලයට හැකියාවක් ලැබී නැත.

රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලය සංවිධානවලට කොන්දේසි පහවන ආයතනයක් ලෙස නොව සිවිල් සමාජ සංවිධානවලට මග පෙන්වන හා ඒවායේ කටයුතුවල හොඳ නරක ඇගයීමට ලක්කරන, ආයතනයක් ලෙස ක්‍රියාත්මකවිය යුතු බව බොහෝ සිවිල් සමාජ ක්‍රියාකාරීන්ගේ අදහස වී තිබේ.

'අනාගතේ අපේ අතේ සංවර්ධන පදනමේ' සම්බන්ධීකාරක ප්‍රනාන් කුමාර මහතා පවසන ආකාරයට පසුගිය 30 වසරක් පුරා ඔවුන් සමාජ සේවා දෙපාර්තමේන්තුවේ හා පසුව ජාතික ලේකම් කාර්යාලයේ රෙගුලාසි අනුව නිසිකලට වේලාවට සියලු වාර්තා ඉදිරිපත් කර ඇතත් මෙතෙක් කවර ආකාරයක හෝ ඇගයීමකට, ප්‍රසංසාවකට පාත්‍ර වී නැත. එසේම ඔවුන්ගේ කටයුතු වඩාත් විධිමත් කිරීම ගැන මාර්ගෝපදේශ ලැබී නැත. එම තිස් වසර පුරා ඉහත ආයතන දෙකේ කිසිදු නිලධාරියෙක් ඔවුන්ගේ කාර්යාලය වෙත පැමිණ එම කටයුතු පිරික්සා බලා නැත.

'සර්වෝදය' ප්‍රධාන ලේකම් වෛද්‍ය වින්සා ආරියරත්න මහතා පෙන්වා දෙන්නේ ජාතික ලේකම් කාර්යාලයට ලැබෙන තොරතුරු හා ඔවුන්ගේ බලතල අනුව ලබාගතහැකි තොරතුරු ආශ්‍රයෙන් වර්ෂයක් තුළ වැඩිම මූල්‍ය ආධාර ප්‍රමාණයක් ලැබී ඇති (උදා:- මිලියන 500 කට වඩා වැඩි) සිවිල් සමාජ සංවිධාන හා ඒවායේ අධ්‍යක්ෂ මණ්ඩල සභාපතිවරු, වාර්ෂික ගිණුම් වාර්තා නිසිකලට ඉදිරිපත් කර ඇති සංවිධාන ආදී මූලික තොරතුරු හෝ ඉදිරිපත් කිරීමට ජාතික ලේකම් කාර්යාලය ක්‍රියාකළ යුතු බවයි.

ජනාවබෝධ කේන්ද්‍රයේ සමායෝජන නීතිඥ වින්සන්ට් බුලත්සිංහල මහතා පවසන්නේ තම සංවිධානය රාජ්‍ය නොවන සංවිධාන පිළිබඳ ජාතික ලේකම් කාර්යාලයේ ලියාපදිංචි කරන ලද්දේ ඒ සඳහා ඇති බලපෑම නිසා මිසෙක වෙනත් කිසිම වටිනාකමක් සලකා නොවන බවයි. එම ලියාපදිංචිය නිසා මෙතෙක් තම සංවිධානයට කිසිදු වටිනාකමක්, සහායක් හෝ මාර්ගෝපදේශයක් ලැබී නොමැති බවද, අවම වශයෙන් වාර්තා යැවූ විට ඒවා ලැබුණු බව දැනුම්දීමක් හෝ ජාතික ලේකම් කාර්යාලයෙන් සිදුනොවන බවද ඔහු පෙන්වා දෙයි.

23. චාල්ස් අබේසේකර, ආචාර්ය රාධිකා කුමාරස්වාමි, ආචාර්ය කුමාර් ජයවර්ධන, ආචාර්ය දීපිකා උඩගම සහ සුරියා වික්‍රමසිංහ යන සිවිල් සමාජ ක්‍රියාකාරීන්ගේ අත්සනින් නිකුත් කර ඇති 1996-08-05 දරන ප්‍රජා අයිතිවාසිකම් ආරක්ෂක පෙරමුණේ ප්‍රකාශනය (E/02/08/96)

සිවිල් සමාජ සංවිධාන සඳහා ස්වයං නියාමන මාර්ගෝපදේශ

රජය මැදිහත්වී සිවිල් සමාජ සංවිධාන පාලනය කිරීමට විරෝධීතාව හා ඊට විකල්පයක් වශයෙන් සිවිල් සමාජ සංවිධාන විසින්ම තමන් පාලනය කිරීම සඳහා සුදුසු ස්වයං පාලන මාර්ගෝපදේශ පද්ධතියක් හඳුන්වාදීමේ උත්සාහයන් කිහිපයක් පසුගිය කාල වකවානුව තුළ ක්‍රියාවට නැංවී තිබේ.

ස්ට්‍රැමි ආසියානු පදනම, ෆෙඩ් කෝර්ප්සෙට් ශ්‍රී ලංකා ජාල පාර්ශ්ව සංවිධාන හා ට්‍රාන්ස්පේරන්සි ඉන්ටනැෂනල් ශ්‍රී ලංකා ආයතනය ඒකාබද්ධව 2009 වර්ෂයේදී ක්‍රියාවට නැංවූ 'ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන සඳහා පාලන මාර්ගෝපදේශ' වැඩසටහන ඉන් එකකි. එම වැඩසටහන යටතේ සිවිල් සමාජ සංවිධාන සඳහා පාලන මාර්ගෝපදේශ මාලාවක් හඳුන්වා දෙනු ලැබූ අතර වගවීම, විනිවිදභාවය, සමසාධාරණත්වය, මානව සම්පත්, අභිනියෝගය/මැන්ඩේට් බලය, තිරසාරකම, නියාමනය සහ ඇගයීම යන ප්‍රධාන කරුණු අටක් ඊට ඇතුළත් කරනු ලැබීය.

ශ්‍රී ලංකාවේ සිවිල් සමාජ සංවිධාන ශක්තිමත් කිරීමේ අරමුණින් ට්‍රාන්ස්පේරන්සි ඉන්ටනැෂනල් ශ්‍රී ලංකා ආයතනය විසින් හඳුන්වා දෙන ලද 'ස්වර්ණමය රීති'²⁴ මාලාවද ස්වයං පාලන ක්‍රමවේදයක් ඇතිකිරීම සඳහා දරන ලද තවත් උත්සාහයකි. ඒ යටතේ යහපාලනය, නීත්‍යානුකූලභාවය, විනිවිදභාවය, වගවීම, සුපිළිපත්භාවය, තිරිසණය, ස්ථාවරත්වය හා මානව සම්පත් යනුවෙන් ස්වර්ණමය රීති අටක් හඳුන්වා දෙනු ලැබීය.

මීට අතිරේකව සිවිල් සමාජ සංවිධානවල පුද්ගලයින්ගේ වර්ග රටා හා ක්‍රියාකාරීත්වය පිළිබඳව, එම සංවිධාන ඒකරාශීවී සාකච්ඡා කරමින් ආචාරධර්ම පද්ධති සකස්කිරීමට උත්සාහ දරා ඇති අවස්ථා පිළිබඳවද සාධක හමුවේ. සමාජ සාධාරණත්වය සඳහා වන කාන්තා ක්‍රියාකාරීත්වය, 80 දශකයේ පමණ ක්‍රියාත්මක වූ 'රාජ්‍ය නොවන සංවිධාන එකමුතුව' ඊට නිදර්ශන දෙකකි. එහෙත් එම ස්වයං නියාමන ක්‍රමවේද සාර්ථක ප්‍රතිඵල අත්පත් කරගැනීමට සමත් වී නැත.

මානව හිමිකම් ක්‍රියාකාරීකයකු වන 'ඉන්ෆෝම්' ආයතනයේ උදය කළුපතිරණ²⁵ මහතා පෙන්වා දෙන ආකාරයට රජය හෝ වෙනත් සංවිධානයක් මැදිහත්වී නීති පැනවීමෙන් පමණක් සිවිල් සමාජ සංවිධානවල අභ්‍යන්තර පාලනය විධිමත්කළ නොහැකිය. එම සංවිධාන තුළ සිටින ප්‍රධානීන් හා කාර්ය මණ්ඩලය කෙතරම් අවංකව හා විශ්වාසීදායී ලෙස ක්‍රියාකරන්නේද යන කාරණයද මෙහිදී වැදගත් වේ. මූල්‍ය අනුග්‍රහ සපයන්නන් හා මහජනතාව වෙත වගවීම සංවිධානයක අභ්‍යන්තරයෙන් සිදුවිය යුතු කාරණයකි.

සිවිල් සමාජ සංවිධාන අනවශ්‍ය ලෙස පාලනය කිරීමට හා අඩපණ කිරීමට උත්සාහ දැරීම මෙන්ම දූෂණ චෝදනා ඉදිරියේ නිහඬව සිටීමද ආධාර සපයන කණ්ඩායම්වල දැඩි නොසතුටට හේතුවී ඇතිබව ඔහු පෙන්වා දෙයි.

24. Golden Rules www.tisirilanka.org
25. උදය කළුපතිරණ මහතා සමග කළ සාකච්ඡාවක් ඇසුරින්, 2011 ඔක්තෝබර්

රාජ්‍ය නොවන සංවිධාන පිළිබඳ පාර්ලිමේන්තු විශේෂ කාරක සභා වාර්තාව අනුව²⁶ 2005, 2006 වසරෙහි රාජ්‍ය නොවන සංවිධානවලට ලැබී ඇති මුදල් ප්‍රමාණය රුපියල් කෝටි දෙදහස් පහළොවකට ආසන්නය. සමහර රාජ්‍ය නොවන සංවිධාන එම මුදල් අයථා ලෙස පාවිච්චිකර ඇති බවද එම වාර්තාව මගින් පෙන්වා දී තිබේ.

විශේෂ සුනාමි බේදුවාවකය සමග සහන සැලසීම සඳහා රාජ්‍ය නොවන සංවිධාන 256ක් විසින් රුපියල් බිලියන 40.1ක් පමණ ලබාගෙන ඇති බවද, මෙතරම් සුවිශාල මුදල් ප්‍රමාණයක් නිසි පරිදි ප්‍රයෝජනයට ගැනුණේද යන්න ගැටලු සහගත බවද එම වාර්තාව වැඩිදුරටත් පෙන්වාදී තිබේ.

ඇතැම් රාජ්‍ය නොවන සංවිධානවල මූල්‍ය අක්‍රමිකතා සිදුවන බව හා මූල්‍ය විනිවිදභාවයක් නොමැති බව, ඒවා පිළිගත් ගිණුම්කරණ ප්‍රමිතීන්ට අනුකූලව ක්‍රියාත්මක නොවන බවට විල්ලවන මෙම චෝදනා දීර්ඝ කාලයක සිට පැවත එන්නකි. එහෙත් ඒ සඳහා විධිමත් ක්‍රමවේදයක් හඳුන්වාදීමට හෝ නිසි අධීක්ෂණයක් ඔස්සේ වැරදි කරන ආයතන හෙළිදරව් කිරීමට සිවිල් සමාජ සංවිධාන අධීක්ෂණ ආයතන අපොහොසත්වී තිබේ.

මෙම මූල්‍ය විනිවිදභාවයක් නොමැති රාජ්‍ය නොවන සංවිධාන අතරට මැති-ඇමැති පදනම්, වෙනත් ප්‍රබල දේශපාලන පදනම් රැසක්ද අයත්වන බව මෙහිදී විශේෂයෙන් අවධානය යොමුකළ යුතු කාරණයකි. සුනාමි සහන අරමුදල් වංචා කිරීම් සම්බන්ධයෙන්ද රාජ්‍ය බල පිරමිඩයේ මුද්‍රාන සිට පහළ ස්ථර දක්වා වන විවිධ දේශපාලන පදනම් කිහිපයකටම බරපතල චෝදනා විල්ලවීය.

මහාචාර්ය ජී.විල්. පීරිස් මහතා කර්මාන්ත සංවර්ධන අමාත්‍යවරයා වශයෙන් සිටියදී ව්‍යාපාරික පිරිසකට 'කෝටා' ප්‍රධානය කර ජී.විල්. පීරිස් පදනමට ඔවුන්ගේ මූල්‍ය අනුග්‍රහ ලබාගනිමින් එම මුදල් මැතිවරණ ප්‍රචාරක කටයුතු සඳහා වැයකළ බවට අල්ලස් හෝ දූෂණ චෝදනා විමර්ශන කොමිසමට ඉදිරිපත්ව තිබූ චෝදනාවද²⁷ ඊට තවත් නිදසුනකි. අල්ලස් කොමිසම ඒ සම්බන්ධ පරීක්ෂණ කටයුතු ආරම්භකර, පරීක්ෂණ සිදුවෙමින් තිබියදී එම ලිපිගොනුව වසා දැමීමට තීරණය කිරීම එකල දූෂණ විරෝධීන්ගේ දැඩි ප්‍රශ්න කිරීම්වලට හේතුවිය.

ශ්‍රී ලංකාවේ තරුණ තරුණියන්ගේ අනාගත අභිවෘද්ධිය වෙනුවෙන් ක්‍රියාත්මකවන රාජ්‍ය නොවන සංවිධානයක් ලෙස පෙනී සිටින 'තාරුණ්‍යයට හෙටක්' සංවිධානය 2010 ජනාධිපතිවරණයේදී පොදු පෙරමුණු ජනාධිපති අපේක්ෂකයාගේ මැතිවරණ ප්‍රචාරක දැන්වීම් සඳහා වැයකර තිබූ මුදල රුපියල් 172,212,500 කි.²⁸

26. පාර්ලිමේන්තු ප්‍රකාශන මාලා, අංක 20 පිටුව 43 : 2008
27. රාවය, 2004-දෙසැම්බර් 12, පිටුව 01
28. Electon Integrity 2010, TISL-P 27

නිගමන සහ යෝජනා

සිවිල් සමාජ සංවිධානවල ක්‍රියාකාරීත්වය පිළිබඳ පසුගිය තිස්වසරක පමණ ඉතිහාසය විමසා බැලීමේදී පෙනීයන්නේ රජය මැදිහත්වී නීති පැනවීම මගින් සිවිල් සමාජ සංවිධාන පාලනය කිරීමට දැරූ ඇති උත්සාහය මෙන්ම සිවිල් සමාජ සංවිධාන ඒකරාශී වී ස්වයං නියාමන ක්‍රමවේද ක්‍රියාවේ නැංවීමට දැරූ ඇති උත්සාහයන්ද එවරහිත වී ඇති බවයි. එසේම, ඉහතින් සාකච්ඡා කළ විවිධ වර්ගීකරණයන්ට අයත් සිවිල් සමාජ සංවිධාන සියල්ල ස්වාධීනව අධීක්ෂණය කිරීමට දැනට පවත්නා අධීක්ෂණ යාන්ත්‍රණවලට අපහසුවී ඇති බවද එම නිසා දැනට අධීක්ෂණ කටයුතු සිදුවෙමින් පවතින්නේ තෝරාගත් සිවිල් සමාජ සංවිධාන ප්‍රමාණයක් සම්බන්ධයෙන් පමණක් බවද පෙනීයයි.

සමස්ත සිවිල් සමාජ සංවිධාන පද්ධතියම යම් ස්වාධීන අධීක්ෂණයකට ලක්විය යුතු බවටත්, එම සංවිධානවල විනිවිදභාවය, වගවීම වැනි කරුණු පිරික්සා බලමින් ඔවුන්ට මාර්ගෝපදේශ ලබාදීමට කිසියම් විධිමත් යාන්ත්‍රණයක් අවශ්‍ය බවටත් පොදුවේ අදහස් පළවෙද්දී අධීක්ෂණ යාන්ත්‍රණ මෙවැනි අකාර්මික මට්ටමක පැවතීම කණගාටුදායක තත්ත්වයකි.

මෙම තත්ත්වය වෙනස් කරමින් සිවිල් සමාජ සංවිධාන අධීක්ෂණ යාන්ත්‍රණ බලාත්මක කිරීම සඳහා පහත සඳහන් කරුණු කෙරෙහි රජයේත් සිවිල් සමාජයේත් අවධානය යොමුවීම වැදගත්ය.

1. සිවිල් සමාජ සංවිධාන යන්න වඩාත් පුළුල් ලෙස නිර්වචනය කරමින් සමස්ත සිවිල් සමාජ සංවිධාන ජාලයම අධීක්ෂණය සහ ඊට මගපෙන්වීම සඳහා සියලු පාර්ශ්වවල විශ්වාසය හා ගෞරවය දිනාගත් ස්වාධීන අධීක්ෂණ යාන්ත්‍රණයක් ඇතිකරගත යුතුය. එය මුළුමනින්ම රාජ්‍ය හෝ රාජ්‍ය නොවන පාර්ශ්වය නියෝජනය කරන යාන්ත්‍රණයක් වනවාට වඩා මේ දෙපාර්ශ්වයේම සම්මිශ්‍රණයක්වීම වඩාත් සුදුසුය. එමගින් සිවිල් සමාජ සංවිධානවලට යම් නෛතික රාමුවක් තුළ ස්වාධීනව, වගකීම්සහගත කාර්යභාරයක් ඉටුකිරීම සඳහා අවකාශ සලසා දිය හැකිය.
2. දැනට සිවිල් සමාජ සංවිධාන අධීක්ෂණ ක්‍රියාවලිය සිදුවන්නේ රාජ්‍ය පාර්ශ්වයෙන් පමණි. සිවිල් සමාජ සංවිධාන හරහා ප්‍රතිලාභ ලබන මහජනතාවට එම අධීක්ෂණ ක්‍රියාවලියට දායකවීමට අවස්ථාවක් සලසාදී නැත. එසේම දැනට ජාතික ලේකම් කාර්යාලයේ සිවිල් සමාජ සංවිධාන සම්බන්ධ සියලු වාර්තා පවතිනුයේ ඉතාම රහස්‍ය ලියකියැවිලි වශයෙනි. මෙම තත්ත්වය වෙනස් කර සිවිල් සමාජ සංවිධානවල ව්‍යවස්ථා, කාර්ය මණ්ඩල හා අධ්‍යක්ෂ මණ්ඩල සාමාජිකයන්, වාර්ෂික ගිණුම් වාර්තා ආදී තොරතුරුවලට මහජනතාවට පහසුවෙන් ප්‍රවේශවිය හැකි තත්ත්වයක් ඇති කිරීම ඔස්සේ අධීක්ෂණ ක්‍රියාවලිය සඳහා මහජන සහය ලබාගත හැකිය. එසේම එම තොරතුරු ජනමාධ්‍යවේදීන්ට විවෘත කිරීම මගින් අක්‍රමිකතාවල යෙදෙන සිවිල් සමාජ සංවිධාන පිළිබඳ විමර්ශනය කිරීමටත්, ඒවා හෙළිදරව් කිරීමටත් ජනමාධ්‍යයට අවකාශ සලසා දිය හැකිය.

3. සිවිල් සමාජ සංවිධානවල අභ්‍යන්තර සහ බාහිර ව්‍යුහයන් වෙනස්වීය යුතු ආකාරය, අධීක්ෂණ ආයතන විසින් ඉටු කළ යුතු කාර්යභාරය හා සිවිල් සමාජ සංවිධාන සඳහා පොදුවේ පිළිපැදිය හැකි මාර්ගෝපදේශ පිළිබඳ යම් එකඟතාවයක් ඇති කරගැනීම සඳහා සියලු පාර්ශ්ව එකතුවී පුළුල් කතිකාවකට යාම වැදගත්ය.

Abstract - Civil Society Organisations

CSOs are the subject of much discussion, with debates taking a controversial turn due to attempts by the government to control and constrict the initiatives made by them to improve the governance structure.

What is a CSO? What is the social/political role and responsibility of civil society in a democratic state? What is the role of various CSOs including Community-based Organizations (CBOs) at village level, Non-governmental Organizations (NGOs), International NGOs and Foundations set up by politicians, with missions ranging from the promotion of democracy and human rights to good governance to fulfilling political motives? Is there a framework to monitor CSOs?

CSOs are monitored by The Volunteers Social Services No 31 of 1980, amended by Act No 08 of 1998, and the Companies Act No 7 of 2007.

This chapter explores the framework of the NGO Secretariat, established to regulate or monitor the initiatives of CSOs, while also giving voice to civil society actors' views on the NGO Secretariat and what needs to be done to increase its acceptance as a key regulator among CSOs.

The need to establish a governing structure that is different to the current one is also highlighted in this chapter.

පරිච්ඡේදය 2

නව අධ්‍යාපන පනත හා ප්‍රායෝගික ගැටලු

ශාන්ත කුලතුංග*

හැඳින්වීම

සෑම අයෙකුටම අධ්‍යාපනය ලැබීමේ අයිතිය ආණ්ඩුක්‍රම ව්‍යවස්ථාව මගින් තහවුරු කරන ලද්දකි. විධිමත් අධ්‍යාපනය ක්‍රමය ඔස්සේ සැමටම අධ්‍යාපනය අවස්ථා සැලසීමේ දී සාර්ථකත්වයක් පෙන්වන නමුත් එම අවස්ථා සැමට සාධාරණ ලෙස ලබාදීම සම්බන්ධයෙන් ගැටලු රාශියක් පවතී.¹ අධ්‍යාපනය ලබාදීමේ වාතකය වශයෙන් භාවිතා වන්නේ පාසල් පද්ධතියයි. අධ්‍යාපන අමාත්‍යාංශය පරිපාලනමය වශයෙන් විවිධාකාර ලෙස පාසල් වර්ගීකරණයට ලක් කරනු ලැබුවත් ප්‍රායෝගික වශයෙන් ජනප්‍රිය පාසල් සහ ජනප්‍රිය නොවන පාසල් වශයෙන් පැහැදිලි බෙදීමක් දක්නට හැකිය. වර්තමානයේ පාසල් වලට ළමුන් ඇතුලත් කිරීම පීඩාකාරී ප්‍රශ්නයක් බවට පත්ව තිබේ. මෙයට අමතරව අධ්‍යාපනය සම්බන්ධයෙන් දැනට ක්‍රියාත්මක වන්නාවූ වකුලේඛ, විධිවිධානවල පවතින දුර්වලතා මෙන්ම ඒවා කාර්යක්ෂම අයුරින් ක්‍රියාත්මක නොවීමත්, සහ අධ්‍යාපනය පිළිබඳ ජාතික ප්‍රතිපත්තියක් නොමැතිවීමත් නිසා සමස්ත අධ්‍යාපන ක්ෂේත්‍රයේම කඩාවැටීමක් දක්නට තිබේ. මෙම තත්වය සැලකිල්ලට ගෙන අධ්‍යාපනයේ සියලුම අංශ ආවරණය වන පරිදි සාමාන්‍ය අධ්‍යාපන පනත පිළිබඳ යෝජනාවලිය ගෙන එන ලදී. යෝජිත පනත කාර්යක්ෂම අයුරින් යොදාගැනීම සඳහා වූ විධිවිධාන පරීක්ෂා කිරීමේ දී සාධනීය තත්වයන් මෙන්ම ගැටලු රැසක් ද ඇති බව පෙනී යයි. ඒ පිළිබඳ සාකච්ඡා කිරීම මේ ලිපියේ අරමුණයි.

නිදහස් අධ්‍යාපනය

ආචාර්ය සී. ඩබ්. ඩබ් කන්නන්ගර මහතා ගේ නායකත්වය යටතේ ක්‍රියාත්මක වූ නිදහස් අධ්‍යාපන ක්‍රමය මධ්‍යම පාංතිකයින්ට සමාජයේ ඉහළ ස්ථරයන්ට නැගීම සඳහා අනඟි අවස්ථාවක් බවට පත්විණි. ස්වභාෂා මාධ්‍යයන්ගෙන් නොමිලයේ අධ්‍යාපනය ලබාගැනීමට තිබුණු අවස්ථාව අනුව මධ්‍යම පාංතිකයින් අධ්‍යාපනය ලබාගැනීමට යොමුවූ අතර ඒ සඳහා තරගයක් ආරම්භවීම මේ හා සමගාමීව සිදුවිය. අධ්‍යාපන අමාත්‍යාංශය මගින් දැනට පවත්නා පාසල් වර්ගීකරණයට අනුව පාසල් 9675 ක් ශ්‍රී ලංකාව පුරා ක්‍රියාත්මක වේ.

* Shantha Kulathunge, MA in Sociology University of Sri Jayawardenapura, Integrity Promoting Officer-Manager, TISL

1. සමරසිංහ ගුණසේකර අපගේ අධ්‍යාපනයේ සැබෑ මුහුණුවර

වගුව - 2010 වසරේ ක්‍රියාත්මක වන පාසල් - වර්ගය අනුව

2010 වසරේ ක්‍රියාත්මක වන පාසල් - වර්ගය අනුව					
පළාත	AB	1C	2 වන වර්ගය	3 වන වර්ගය	එකතුව
බස්නාහිර	164	266	593	315	1338
මධ්‍යම	97	336	533	499	1465
දකුණු	106	255	525	213	1099
උතුරු	64	118	283	375	840
නැගෙනහිර	62	183	379	378	1002
වයඹ	75	286	603	254	1218
උතුරුමැද	31	158	326	257	772
ඌව	52	203	357	227	839
සබරගමුව	61	208	485	348	1102
මුලු එකතුව	712	2013	4084	2866	9675

මූලාශ්‍රය - දත්ත කළමනාකරණ ශාඛාව අධ්‍යාපන අමාත්‍යාංශය

සාක්ෂරතාව සම්බන්ධයෙන් අනෙකුත් දකුණු ආසියානු කලාපීය රටවලට වඩා ශ්‍රී ලංකාව ඉදිරියෙන් (94%) සිටිය ද සැමටම අධ්‍යාපනයේ සමාන අවස්ථා සැලසීම සම්බන්ධයෙන් ගැටලු රාශියක් පවතින බව පෙනේ.

නාගරික ජනප්‍රිය පාසල් වලට අධික සිසු සංඛ්‍යාවක් ඉල්ලුම් කිරීම හේතුවෙන් සමහර ප්‍රදේශ වල විශේෂයෙන් නාගරික පාසල් පද්ධතිය ගම්බද පාසල්වලට සාපේක්ෂව අතිශය අසමාන අයුරින් දියුණු වීම දක්නට ලැබේ.

මෙහි ප්‍රතිඵලය වන්නේ ජනප්‍රිය නොවන පාසල් සමූහයක් ඇතිවීමත් පාසල් පද්ධතියේ අනෙකුත් පාසල් තවදුරටත් පරිහානියට පත්වීමත්ය. මෙම පාසල් වල ශිෂ්‍ය සංඛ්‍යාව වසරින් වසර පහත වැටීමක් දක්නට ලැබෙන අතර ඒ අනුව 1996 දී පාසල් විවාරවත් කිරීමේ වැඩසටහන යටතේ කුඩා පාසල් 356 ක් පවත්වාගෙන යාම ආර්ථික වශයෙන් ඵලදායී නොවන නිසා වසා දැමීමට තීරණය විය.

විමෝ ම පළමුවැණි ශ්‍රේණියට ළමුන් ඇතුළත් කරගැනීම සම්බන්ධයෙන් ක්‍රමවත් වැඩ පිළිවෙළක් සැකසීමටද ජනප්‍රිය පාසල්වලින් ප්‍රාථමික ශ්‍රේණි ඉවත් කිරීමටද නියෝගයක් ශ්‍රේෂ්ඨාධිකරණය මගින් ලබා දෙන ලදී .

දැනට ඇති විධිවිධාන

ශ්‍රී ලංකාවේ අධ්‍යාපනය සම්බන්ධයෙන් දැනට බලපැවැත්වෙන චිකම පනත වන්නේ 1939 අංක 31 දරන අධ්‍යාපන ආඥාපනතයි. මෙම පනත මගින් ළමයින්ට අධ්‍යාපනය ලැබීම අනිවාර්ය කිරීමට ව්‍යවස්ථා පනවන ලදී. මේ අනුව වයස අවුරුදු 14 දක්වා ළමුන්ට අනිවාර්යෙන් අධ්‍යාපනය ලබාදිය යුතු අතර මෙයට 1947 දී සිදු කරන ලද සංශෝධනයකින් අනිවාර්ය අධ්‍යාපනය ලබාදිය යුතු වයස අවුරුදු 16 දක්වා දීර්ඝ කෙරිණ.

ඉන් අනතුරුව 1991 අංක 19 දරණ ජාතික අධ්‍යාපන අධ්‍යාපන කොමිෂන් සභා පනත මගින් ජාතික අධ්‍යාපන කොමිෂන් සභාව ස්ථාපිත කර ඇත. මෙහි පරමාර්ථය වූයේ අධ්‍යාපන ප්‍රතිපත්ති සහ සැලසුම හෝ සැලසුම් වහා සමාලෝචනය කිරීම සහ පෘථුල ජාතික අධ්‍යාපන ප්‍රතිපත්තියක් සම්බන්ධයෙන් ජනාධිපතිවරයාට නිර්දේශ ඉදිරිපත් කිරීමද ඇතුළුව අධ්‍යාපන ප්‍රතිපත්ති නොකඩවා පවත්වාගෙනයාම සහතික කිරීම සහ සමාජයේ වෙනස්වන අවශ්‍යතාවන්ට අධ්‍යාපන ක්‍රමය අනුකූලතාව දැක්වීමේ අදහස ඇතිව අධ්‍යාපන ප්‍රතිපත්තියේ සියලු අංග සම්බන්ධයෙන් ජනාධිපති වරයාට නිර්දේශ ඉදිරිපත් කිරීම ය.

දැනට අධ්‍යාපනය සම්බන්ධයෙන් ශ්‍රී ලංකාවේ බලපවත්වන 1939 අංක 31 දරණ අධ්‍යාපන පනත අවුරුදු 80 පමණ පැරණි බැවින් මෙම පනත අද පවත්නා සමාජ ආර්ථික අවස්ථා සහ අවශ්‍යතා සමග සසඳා බැලීමේ දී යල් පැහැය වීකක් බව පෙනේ.

මෙම කරුණු සැලකීමට ගැනීමෙන් අනතුරුව මහාචාර්ය ලක්ෂ්මන් ජයතිලක මහතාගේ ප්‍රධානත්වයෙන් නව අධ්‍යාපන යෝජනාවලියක් ජාතික ජාතික අධ්‍යාපන කොමිෂන් සභාවේ පළමුවන වාර්තාවෙන් 1992 වසරේදී ඉදිරිපත් කරන ලදී. ඉන් අනතුරුව 2003 වසරේදී එයට සංශෝධන ඉදිරිපත් කෙරිණි. කෙසේ වෙතත් අදාළ යෝජනා යම් නිසි ක්‍රියාමාර්ගයකට අනුව ප්‍රතිඵලදායී අයුරින් ක්‍රියාත්මක වී නොමැති බව පෙනේ. මෙම තත්වය මත අධ්‍යාපනික ක්ෂේත්‍රයේ සියලු අංශයන්හි ගුණාත්මක වර්ධනයක්

ඇතිකරලීම සඳහා එවකට අධ්‍යාපන ඇමතිවරයාව සිටි සුසිල් ප්‍රේම ජයන්ත් මහතා විසින් පත්කරන ලද ජාතික කමිටුවක් මගින් ශ්‍රී ලංකාවේ සාමාන්‍ය අධ්‍යාපනය සඳහා නව අධ්‍යාපන පනතක් සකස්කිරීම පිණිස 2009 වසරේදී යෝජනා ඉදිරිපත් කෙරිණ . මෙහිදී 1992 දී ජාතික අධ්‍යාපන කොමිෂන් සභාව විසින් හඳුනාගන්නා ලද ජාතික අරමුණු පදනම් කරන ලදී. මේ පිළිබඳව පුවත්පත් මගින් අදහස් දක්වන ලෙසට කරන ලද ඉල්ලීම් වලට අනුව විවිධ පාර්ශ්වයන්ගෙන් ලිඛිත යෝජනා 246 ලැබුණි. මේවාද ඇතුළුව අධ්‍යාපනය සම්බන්ධයෙන් වැදගත්වන්නාවූ විවිධ පාර්ශ්වයන්ගේ අදහස් උදහස් විමසා බැලීමෙන් අනතුරුව ආචාර්ය පී. ඩී. ගුණවර්ධන මහතාගේ ප්‍රධානත්වයෙන් සැදුම්ලත් කමිටුවක් මගින් යෝජනා කරන ලද මෙම නව අධ්‍යාපන පනතක් සඳහා වන යෝජනා මගින් සාමාන්‍ය අධ්‍යාපනය පිළිබඳව සියලු අංශ සම්බන්ධයෙන් අවධානය යොමු කර ඇත. මේ යෝජනා සම්බන්ධයෙන් පාර්ලිමේන්තු තේරීම් කාරක සභාවක් පත්කරන ලද අතර එහි රැස්වීම් වාර 27 ක් පවත්වා දීර්ඝ වශයෙන් සාකච්ඡා කරන ලදී.

අධ්‍යයන අරමුණ

- මෙම නව යෝජිත අධ්‍යාපන පනත් කෙටුම් පතෙහි යෝජනා මගින් පාසල් පද්ධතියෙහි ව්‍යුහාත්මක වෙනස්කම් සිදු කිරීම ඔස්සේ දැනට පාසල් පද්ධතිය සම්බන්ධයෙන් දක්නට ලැබෙන අක්‍රමිකතා අවම කිරීමට කොතෙක් දුරට ඉවහල් වන්නේ ද යන්න හා ඒ සඳහා ඇති ශක්‍යතා සොයාබැලීම
- මෙම පනත සාර්ථකව ක්‍රියාත්මකවීමෙහිලා පැවැතිය යුතු නියාමන විධිවිධාන පිළිබඳව අවබෝධ කරගැනීම

මෙහිදී අධ්‍යයන ක්‍රමවේද වශයෙන් ප්‍රකාශිත ග්‍රන්ථ පරිශීලනය, ද්විතීයික දත්ත, අධ්‍යාපඥයින්, කමිටු සාමාජිකයින් වෘත්තීය සමිති නියෝජිතයින් සමග සිදුකරන ලද සම්මුඛ සාකච්ඡා සහ අන්තර්ජාලය උපයෝගී කරගනු ලැබිණි.

අනාවරණය වූ කරුණු

“නව පනත සැකසීමට පෙර දැනට ක්‍රියාත්මක අධ්‍යාපන ක්ෂේත්‍රය පිළිබඳව වසර එකහමාරක් පමණ අධ්‍යයනය කළා. මේ පිළිබඳව පනතා මත විමසීමේ දී විවිධ සංවිධාන හා ආයතන ඔස්සේ ආසන්න වශයෙන් ලිඛිත අදහස් 246 ක් පමණ ලැබුණා. ඒ සියල්ල මේ තුළ අන්තර්ගතයි. දැනට නව පනතක් සඳහා වූ යෝජනාවලිය පාර්ලිමේන්තුව හමුවේ සාකච්ඡා වෙමින් පවතිනවා.

මේ යෝජිත පනතට අනුව පාසැල් අවධි 2 ක් හඳුන්වා දී තිබෙනවා. ඒ තමයි ප්‍රාථමික හා ද්විතීයික කියන අවධි දෙක. පෝෂිත ප්‍රදේශයක ප්‍රාථමික පාසැල් 5 ක් මගින් ද්විතීයික පාසැල් කරා දැරුවන් ඇතුළත් කිරීමක් තමයි මෙයින් හඳුන්වා දෙන්නේ.

ජනප්‍රිය පාසැල් වගේ දේවල් බිහිවෙලා තියෙන්නේ අවිධිමත් ක්‍රමයක් තුළයි. මේ විදිහට පාසැල් විධිමත්වීම මගින් සෑම පාසලක්ම ජනප්‍රිය පාසැල් විය යුතුයි. අධ්‍යාපනයේදී දෙමව්පියන්ට අවශ්‍ය පාසැල් ක්‍රමයක් නොව දරුවන්ට හොඳ අධ්‍යාපනයක් ලැබෙන විධිමත් පාසැල් පද්ධතියක් ලැබිය යුතුයි.” - ගුණවර්ධන මහතා දුරකතනය ඔස්සේ පළකළ අදහස්

පාසැල් ව්‍යුහය

අධ්‍යාපනය යනු අයිතිවාසිකමක් යනුවෙන් පිළිගැනීමට වඩා වරප්‍රසාදයක් ලෙස වත්මනෙහි කැපී පෙනේ. මෙම පනතින් උත්සාහ ගනු ලබන්නේ මෙයට අයිතිවාසිකමක මුහුණු වරක් ලබාදීමටය. දැනට අධ්‍යාපනය සම්බන්ධයෙන් තීන්දු ගනු ලබන්නේ චක්‍රලේඛ මතය. මෙම චක්‍රලේඛ බොහෝ විට අමාත්‍යවරයාගේ හෝ නිලධාරීන්ගේ අභිමතය අනුව සකස්වේ. මේවා කලින් කලට වෙනස් වන බැවින් යම් යම් තීරණ ස්ථාවර මට්ටමින් ක්‍රියාත්මක කිරීමට බලවත් අපහසුතා පැන නැගේ. මෙවැනි අස්ථාවර සහ වගකීම් විරහිත ක්‍රමවේදයක් අධ්‍යාපනය වැනි වැදගත් ක්ෂේත්‍රයන් සම්බන්ධයෙන් ඉතා අහිතකර බලපෑමක් ඇති කරයි. යෝජිත පනතෙහි වගකීම් දරණ ආයතන හෝ පුද්ගලයෝ කවුරුන්ද? ඔවුන්ට ඇති වගකීම මොනවාද? යන්න පැහැදිලිව දක්වා ඇත. ඒ අනුව පනත මගින් අධීක්ෂණ සහ නියාමන විධිවිධානයන්හි පැවැති දුර්වලතා ඉවත් කිරීමට කටයුතු කර ඇත. ඒ අනුව එම විධිවිධාන උල්ලංඝනය වන අයුරින් කටයුතු කරන්නේ නම් එයට විරෝධීව කටයුතු කිරීමට ජනතාවට හැකිවනු ඇත.

අධ්‍යාපනය ලබාදීම සම්බන්ධයෙන් පාසල් පද්ධතියේ ව්‍යුහාත්මක සාධක අතිශයින්ම වැදගත්වේ. අධ්‍යාපන අමාත්‍යාංශයේ වර්ගීකරණයට අනුව දැනට ප්‍රධාන පාසල් වර්ග 4 ක් ක්‍රියාත්මකවේ. ඒවා නම් 1- 5 දක්වා පන්ති සහිත ප්‍රථමික පාසල් (Type 3), 1 - සිට 11 දක්වා පන්ති පැවැත්වෙන කනිෂ්ඨ (Type 2) 1- 13 හෝ 6 සිට 13 දක්වා කලා සහ වානිජ විෂයය ධාරා පමණක් සහිත (Type 1C) සහ උසස්පෙළ සියලුම විෂයයන් සහිත 1 – 13 හෝ 6 – 13 දක්වා වූ (Type AB) පාසල් වශයෙනි. මෙයට අමතරව විවිධ සංවර්ධන යෝජනා ක්‍රම යටතේ පාසල් නගා සිටුවීමේ ව්‍යාපෘති රැසක් ක්‍රියාත්මක විය. උදාහරණ ලෙස ඉසුරු පාසල් නවෝද්‍යා පාසල් සහ දැනට ක්‍රියාත්මක වන දිවිහිසික පාසල් දහස වැඩසටහන හා එල සපිරි පාසල් හඳුන්වාදිය හැකිය. මෙම පාසල් පිහිටුවීම සහ ඒවායේ ඇතුළත්වන අංග සම්බන්ධයෙන් පැහැදිලි නිර්ණායකයන් දක්නට නොතිබීම මේවා සම්බන්ධයෙන් නියාමන කටයුතුවලදී පැහැදිලි බාධාවක් ලෙස හැඳින්විය හැකිය. අධ්‍යාපනය ලබාදීමේ මූලික ප්‍රතිපත්තියේ දැක්වෙන අධ්‍යාපනයේ සම අවස්ථා සැමට ලබාදිය හැක්කේ මෙසේ විවිධකාරයේ විෂමතා සහිත පාසල් පද්ධතියකින් නොවේ. මේ සම්බන්ධයෙන් යෝජිත පනතෙන් අවධානය යොමුකර ඇත. එහි දැක්වෙන ආකාරයට ක්‍රියාත්මක විය යුත්තේ පාසල් අවධි 2 ක් පමණි. එනම් 1 සිට 5 දක්වා පන්ති පැවැත්වෙන ප්‍රාථමික පාසල් සහ 6 සිට 13 දක්වා පන්ති පැවැත්වෙන ද්විතීයික පාසල්ය. මෙයට අමතරව කිසිදු පාසල් වර්ගයක් පිහිටුවීම සිදු නොකළ යුතු බව මෙහි සඳහන් වේ. රජයෙන් සහ අමාත්‍යවරුන් වෙත ස් වන අවස්ථාවන්හි විවිධ

පාසල් වර්ග හඳුන්වා දීමත් සමඟ පාසල්වලට විශේෂ වරප්‍රසාද ලබාදීමත් වළක්වා පාසල් පද්ධතිය සමමිතික තත්වයට ගෙන ඒමට මෙම පියවර හේතු වන බව දැක්විය හැකිය. මෙයට පරිබාහිරව කටයුතු කරන අවස්ථාවන්හි දී අධිකරණය වෙත යාමේ අයිතිය ජනතාව සතුවේ.

යෝජිත පහතේ සඳහන් වන ආකාරයට දරුවාට කිලෝමීටර් 2 ක් ඇතුළත ප්‍රාථමික පාසලකටත්, කි මී 5 ක් ඇතුළත ද්විතීයික පාසලකටත් යාමට හැකියාව තිබිය යුතුයි. මෙම පාසල් පිහිටුවීමේදී වෙනත් භූගෝලීය කරුණු ද සැලකිල්ලට ගත යුතු බව එහි සඳහන්ය. මෙම ප්‍රාථමික පාසල් 5 ක් ආසන්නයේ පිහිටා ඇති ද්විතීයික පාසලට අනුබද්ධ කිරීම මගින් පාසල් පර්ෂදයක් පිහිටුවීම මෙහිදී ක්‍රියාත්මක වන ආකාරයයි. දුරස්ථවත් නිශ්චිතව සහ ප්‍රායෝගික ආකාරයෙන් දක්වා තිබීම මගින් සෑම දරුවකුම පාසල වෙත පහසුවෙන් ළඟාවීමටත්, පාසලක් ලැබීම තහවුරු වීමටත් මෙහින් සාධනීය පියවරක් ගෙන ඇති බව පැවසිය හැකිය. මෙසේ ඒ පිළිබඳව අවධානය යොමුකර පාසල් පිහිටුවීමෙන් පර්යන්ත පාසල් බිඳවැටීමත් සමස්ත පද්ධතියට අහිතකර බලපෑමක් ඇතිවීමත් වළක්වාගත හැකිය.

සියලු රජයේ පාසල් කළමනාකරණය, පහසුකම් සැලැස්වීම සහ ඇගයීම පළාත් අධ්‍යාපන අමාත්‍යාංශයේ වගකීම විය යුතුය . මේ සම්බන්ධයෙන් අදහස් දැක්වූ සියලු දෙනාගේ අදහසවූයේ මෙය ඵලදායී ක්‍රියාවක් බවය. දැනට පළාත් සභා මෙන් ම රේඛීය අමාත්‍යාංශය යටතේ “ජාතික පාසල්” යනුවෙන් හැඳින්වෙන පාසල් පද්ධතියක් ක්‍රියාත්මක වේ. පරිපාලනයේදී ජාතික පාසල් වලට යම් විශේෂ වරප්‍රසාද හිමිවීමත් ප්‍රායෝගික වශයෙන් දක්නට ලැබේ. 1987 දී පළාත් සභා පිහිටුවීමෙන් පසුව පාසල් සමූහයක් පළාත් සභාවලට පවරා දුන්නේ පළාතේ අවශ්‍යතාවලට වඩාත් සම්පව කටයුතු කරමින් විශේෂයෙන් ම ග්‍රාමීය දුෂ්කර පාසල් වඩාත් ඵලදායී ආකාරයට මෙහෙයවීමටයි. කෙසේ වෙතත්ල පසුගිය වසර කිහිපය ඇතුළත පාසල් විවාරවත් කිරීමේ වැඩසටහන යටතේ ප්‍රාථමික පාසල් 300 කට වැඩි ප්‍රමාණයක් වසා දැමීමට සිදුවිණි. මෙය ව්‍යවස්ථාවෙන්ම හිමිවී ඇති අයිතියක් වන සෑම දරුවකුටම අධ්‍යාපනය ලැබීමට ඇති අයිතිය උල්ලංඝනය කිරීමක්ද වේ. මෙවැනි තත්වයක් මත සැමට සම මට්ටමේ අධ්‍යාපනයක් ලබාදීම පමණක් නොව සමහර ළමුන්ට අධ්‍යාපනය ලබාගැනීමට ඇති අවස්ථාවද අහිමිවී යාමට හේතුවිය හැකිය. ද්විතීයික පාසල් ලෙසට නව පාසල් දහස වැඩ සටහන යටතේ සංවර්ධනය කිරීම සඳහා රජය විසින් පැහැදිලි නිර්ණායකයන් ගෙන් තොරව පාසල් තෝරාගැනීම දක්නට ලැබිණි. මෙසේ තෝරාගනු ලැබූ පාසල් දෙමාපියන්ගේ සහ වෙනත් කණ්ඩායම් වල බලපෑමට ලක්ව ඉවත් කිරීමට සිදුවූ අවස්ථා පසුගිය වකවානුවේ දී වාර්තාවිය. ද්විතීයික පාසල් ලෙස නම් කළ පසුව නැවතත් විවිධ වූ බලපෑම් මත ප්‍රාථමික අංශය අහෝසි කිරීමේ තීරණය ඉවත් කර වකුලේඛ මගින් නැවත පිහිටුවීම ඔස්සේ මෙම ක්‍රමයේ අසාර්ථක භාවය පෙන්නුම් කරයි. පාසල් පිහිටුවීම සහ පරිපාලනය සම්බන්ධයෙන් නිශ්චිත විධිවිධාන නොමැතිවීම මෙම තත්වය ඇතිවීමට බොහෝ දුරට හේතුවූ බව පැහැදිලිය. පාසල් පිහිටුවිය යුතු සහ පරිපාලනය විය යුතු ආකාරය පළාත් අධ්‍යාපන අමාත්‍යාංශයට අයත් කාර්යයක් වන බව නිශ්චිතව දක්වා තිබීම මගින් නව පාසල් පිහිටුවීම හා නියාමන කටයුතු සම්බන්ධයෙන් වඩාත් පැහැදිලි බවක් දක්නට ලැබෙන බව පැවසිය හැකිය.

අධ්‍යාපනය සම්බන්ධයෙන් වූ දූෂණ සහ අක්‍රමිකතා විශාල වශයෙන් වාර්තාවන ක්‍රියාවලියක් ලෙස පළමු ශ්‍රේණියට ළමුන් ඇතුළත් කරගැනීම දැක්විය හැකිය. දැනට පළමු ශ්‍රේණියට ළමුන් ඇතුළත් කරගැනීම සම්බන්ධයෙන් විවිධ වූ පදනම් දක්නට ලැබේ. පවත්නා විධිවිධාන යටතේ පාසලට ආසන්නයෙන් පදිංචිව සිටීම, ආදි ශිෂ්‍ය පදනම යනාදිය ළමුන් ඇතුළත්කර ගැනීමට මූලික සුදුසුකම් ලෙස සැලකේ. මෙම කරුණු මත සුදුසුකම් ලබාගැනීමට නොයෙකුත් වැරදි තොරතුරු ලබාදීමත් කුඩා ලේඛන සකස් කිරීමත් සිදුවන අතර අදාළ පාසලට ඇතුළත්වීමට ඇත්ත වශයෙන් ම සුදුසුකම් ඇති ළමුන්ට වීම අවස්ථාව නොලැබී බලවත් අසාධාරණයකට ලක්වීමත් සිදුවේ. ළමුන් ඇතුළත් කරගැනීමේදී කිසිදු ආකාරයක මුදල් ලබාගැනීමත් අයකර ගැනීමත් සිදුකළ නොහැකි නමුත් නොයෙකුත් අක්‍රමිකතා සිදු කරමින් අයටා අන්දමින් මුදල් ලබාගැනීම දිගින් දිගටම සිදුවේ. පසුගිය වකවානුවේදී මේ සම්බන්ධයෙන් අධිකරණය හමුමේ නඩු පැවැරීම් වාර්තා වූ අතර පාසල් වලට ළමුන් ඇතුළත් කරගැනීමේ නිසි ක්‍රමවේදයක් සකසන ලෙසට ශ්‍රේණිධාරිකරණය හියෝග පැනවීමත් දක්නට ලැබිණි. නව පනත යටතේ ප්‍රාථමික පාසල් පර්ෂදයට ද්විතීයික පාසලක් අයත්වන බැවින් පස්වැනි ශ්‍රේණිය සමත්වන සියලුම ළමුන්ට ද්විතීයික අධ්‍යාපනය ලබාදීම තහවුරු වනු ඇත. මෙම නිසා න්‍යායාත්මක වශයෙන් ද්විතීයික පාසල් සඳහා ඇතුළත්වීමේ තරගයක් ඇති විය නොහැකිය.

පාසල්වල භෞතික පහසුකම් හා මානව සම්පත්වල පැවැතිය යුතු ගුණාත්මක තත්ව පාලනය ඇතුළු සමස්ත අධ්‍යාපන පද්ධතියේම තත්වයන් නිසි ප්‍රමිතියෙන් යුතුව පවත්වාගෙන යාම සම්බන්ධයෙන් අධ්‍යාපන අමාත්‍යාංශය යටතේ පූර්ණ බලතල සහිතව නව තත්ව පාලන ඒකකයක් ස්ථාපිත කිරීමට පනතින් යෝජනා කර ඇත.

යෝජනා

විවිධ රජයෙන් බලයට පත්වන විට සහ එකම රජයේ වුවත් විවිධ ඇමතිවරුන් යටතේ පවා අධ්‍යාපනය සම්බන්ධයෙන් ඔවුන්ගේ කැමැත්ත අනුව විටින් විට වෙනස් වන ප්‍රතිපත්තීන් අනුගමනය කරන බව පෙනී යයි. අධ්‍යාපනය ලබාදීම වැනි නිශ්චිත ඉලක්කයන් ඇතිව ප්‍රතිපත්ති සහ තීරණ ගතයුතු ක්ෂේත්‍රයක මෙවැනි තත්වයක් දක්නට ලැබීම ඉතා අහිතකර බව කිවයුතු නොවේ. මෙම තත්වය මත අධ්‍යාපනය සම්බන්ධයෙන් ජාතික ප්‍රතිපත්තියක් ඇතිකර ගැනීමේ අවශ්‍යතාව කැපී පෙනේ.

අධ්‍යාපනය සම්බන්ධයෙන් ස්වාධීන හා ජාතික මට්ටමේ ප්‍රතිපත්තිමය තීරණ ගැනීම වෙනුවෙන් ස්ථාපනය කර ඇති ජාතික අධ්‍යාපන කොමිසම සඳහා සාමාජිකයින් නම් කිරීමට රජය තවමත් කටයුතු කර නොමැත. මෙම නිසා අධ්‍යාපන ක්ෂේත්‍රය සම්බන්ධයෙන් ප්‍රතිපත්ති සැකසීම කාර්යක්ෂමව, අපක්ෂපාතීව සහ විනිවිදභාවයෙන් යුතුව කිරීම සම්බන්ධයෙන් ගැටලු සහගත තත්වයක් පැන නැගී තිබේ. යෝජිත පනත අනුව අධ්‍යාපන අමාත්‍යාංශය යටතේ ක්‍රියාත්මක වන්නා වූ විවිධ ආයතන වලට පැවැරෙන රාජකාරී නිශ්චිතව දැක්වෙන අතර මෙම සමස්ත පද්ධතිය

බාධාවකින් තොරව කාර්යක්ෂමව ඉදිරියට යාම සඳහා සමස්ත පද්ධතියේ සමගාමී නීසි ක්‍රියාකාරීත්වය අවශ්‍ය වේ. අධ්‍යාපනය පිළිබඳ ජාතික ප්‍රතිපත්ති සාර්ථකව කාර්යක්ෂමව ක්‍රියාවට නැංවීම සඳහා අධ්‍යාපන කොමිසමට ඒ සඳහා සුදුසු සාමාජිකයින් පත්කිරීම කඩිනමින් සිදුකළ යුතුවේ.

විධිමත් නියාමනයකින් තොරව අධ්‍යාපනය සම්බන්ධයෙන් වූ ප්‍රතිපත්තිමය තීරණ සහ ඒ සඳහා වූ ආයෝජන සිදුකිරීමෙන් ගැටලු ඇතිවේ. උදාහරණයක් වශයෙන් ජාතික අධ්‍යාපන කොමිසම මගින් ශිෂ්‍ය ජනගහණයෙහි 1992 සිට 2015 දක්වා සිදුවන උපනතීන් ඇස්තමේන්තු කර තිබේ. මේ අනුව ජනගහන අවවර්ධනයක් සහ ඊට සමානුපාතිකව ශිෂ්‍ය ගහණයේ අඩුවීමක් දක්නට ඇත. විශාල වියදමක් දරමින් අධ්‍යාපන ක්ෂේත්‍රයේ යටිතල පහසුකම් නවීකරණය කිරීමේදී එනම් ගොඩනැගිලි හා වෙනත් පහසුම් සංවර්ධනය සහ ඉදිකිරීම්වලදී අදාළ ප්‍රදේශයේ ජනගහන වර්ධනය, ඒ අනුව අපේක්ෂා කළ හැකි ශිෂ්‍ය ගහණය යනාදිය පිළිබඳව ප්‍රක්ෂේපන ඔස්සේ ලබාගත් දත්ත සම්බන්ධයෙන් සැලකිලිමත්විය යුතුය.

පහතක් වශයෙන් සම්මත කිරීමෙන් තොරව එහි යම් යම් කොටස් පමණක් ක්‍රියාවට නැංවීම ඔස්සේ පහත මගින් සිදුකළ හැකි බලපෑම අවම වන්නා සේම තවදුරටත් අකාර්යක්ෂමතාවට මුල පිරීමක්ද වේ.

පහතක් සම්මතවීමෙන් පසුව එය නීතියක් බවට පත්වේ. නීතියට එරෙහිව කටයුතු කරන අවස්ථාවන්හි ඒ සම්බන්ධයෙන් අධිකරණයට යාමේ අයිතිය ජනතාවට ලැබේ. කෙසේ වෙතත් මෙවැනි නීති කාර්යක්ෂමව ක්‍රියාවට නැංවීමෙහිලා සඳහා සිවිල් සමාජීය ව්‍යාපාරවල ක්‍රියාකාරීත්වය අතිශයින් වැදගත් වේ.

Abstract - The new education act

While every parent is responsible for the education of his/her child, the government has a greater responsibility to establish a suitable institutional framework and formulate principles to develop the education sector. A structured/formal education system may evolve to be a success in providing equal opportunities. However, it is questionable whether equal opportunities are provided to all students under the present education system.

The limitations in circulars and regulations, non-implementation of regulations and unavailability of a National Education Policy have created avenues for corruption and injustice.

The education system is governed by a solitary Act -- the Education Ordinance of 1939 No. 31 -- enacted over 80 years ago and its relevance to contemporary society is debatable.

Taking these issues into consideration, new/revised education reforms under the guidance and leadership of Professor Lakshman Jayathilake were presented to the Education Committee in 1992. Subsequently, in 2009, the then Education Minister Susil Premajayantha, in an effort to uplift all facets of the education system, appointed a National Committee to propose reforms. These reforms are currently being discussed in Parliament.

One of the main points of the Education Bill is the mitigation of corruption in school infrastructure and bringing in regulations to ensure that mitigation measures are successful. It also hopes to change the contemporary notion that education is a right rather than a privilege.

The institutions and personnel who are accountable in the education system and their responsibilities are clearly outlined in the bill which seeks to supersede its predecessor by addressing and overcoming its inadequacies. Consequently, the public can resort to legal action in the event of regulatory violations.

However, if enacted as law, its success will be contingent on the prudent actions of civil society.

Chapter 3

தகுந்தமற்றும் பாதுகாப்பான மருந்தை உறுதிசெய்தல்: கட்டுப்பாட்டுமுகவர்கள் எத்தகைய வினைத்திறன் மிக்கவர்கள்?

விஜய ஜயதிலக்க மற்றும் சஞ்ஜேந்திரா வீக்னராஜா.*¹

அறிமுகம்

தகுந்தமற்றும் பாதுகாப்பான உடலியல் பாதுகாப்பை அடைவதற்கு அடிப்படை தேவைகளாக கருதப்படுபவை தேசிய மற்றும் சர்வதேச பொறிமுறைகளினால் உறுதிப்படுத்தப்பட்டுள்ளன.² ஆரோக்கியமான தரஒழுங்கு மற்றும் கட்டுப்பாட்டு பொறிமுறையின் தேவை அங்கீகரிக்கப்பட்டுள்ளது. உலக சுகாதாரதாபனம் தற்போது தகுந்த மற்றும் பாதுகாப்பான உடலியல் பாதுகாப்பிற்கான உலகளாவிய நடவடிக்கையை பரவச்செய்துள்ளது. இலங்கையும் தனது நாட்டுமக்களின் உடலியல் பாதுகாப்பினை உறுதிப்படுத்தும் முன்னோடி நடவடிக்கைகளை உறுதி செய்துள்ளது.

அண்மைக்காலங்களில் ஊடகங்களால் அத்தகைய தவறுகள் சுட்டிக்காட்டப்பட்டிருந்தன முக்கியமாக மருந்துவகைகளின் வழங்கலானது ஏற்றுக்கொள்ளத்தக்க தரமுடையதாக உறுதி செய்யப்படவில்லை. மருத்துவஅலட்சியம் நோயாளிகளின் உரிமைமீறல் போன்றவை உள்ளூர் ஊடகங்களில் வெளியிடப்பட்ட பிரதானமான செய்திகளாகும்.³

தரமான உடலியல் பாதுகாப்பு சேவைகளானது சேவைவழங்குனர்களால் பின்பற்றுப்படும் தரத்திலேயே தங்கியுள்ளது. வினைதிறனான சுய கட்டுப்பாட்டு முறைசெயலிழக்கும் போது அரசாங்கத்தால் நிர்வகிக்கப்படும் நிறுவனங்களும் நிறுவன கட்டுப்பாட்டு பொறிமுறையில் வீழ்ச்சி அடைய முயற்சிப்பதை காணக்கூடியதாக இருக்கும்.

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Sanjendran Vignaraja, LLB, University of Colombo, Integrity promoting Officer- Consultant, TISL

1. பேராதனை பல்கலைக்கழக இறுதியாண்டு பட்டதாரி பயிலுனர் பாக்கிய குலசூரியவின் ஒத்துழைப்பு
2. உலக உணவு பாதுகாப்பிற்கான ரோம் பிரகடனம்.
3. <http://www.srilankaguardian.org/2009/08/essentials-of-nationa;-drug-policy-for.html>

ஐனநாயக அரசியல் சட்டகத்தினுள் ஆரோக்கிய பிரஜையினை உறுதிசெய்வதற்கு நாடானது

- உயர் தரமான உடல் பாதுகாப்பு
- வினைத்திறனான சட்டவிதிகளினூடாக தரத்தை பேணும் ஆரோக்கியமான பொறிமுறைக்கான அழுத்தம்.
- பயிற்சி மற்றும் மனித அபிவிருத்தி மூலம் இலக்கை வினைத்திறனாக எய்தக்கூடிய தேர்ச்சி பெற்ற தொழில்வாண்மையாளர்களை உறுதிப்படுத்துதல்.
- சேவை வழங்குனர்களின் பொறுப்பு தன்மையை உறுதிப்படுத்துவதற்காக எப்பொழுதும் விழிப்புடனும் எதிர்மறையாகவும் செயற்படும் அறிவூட்டப்பட்ட தரமான சேவைக்கான கேள்வியினை எற்படுத்தும் தொழிற்படும் பிரஜையை உருவாக்கல்.
- பொதுமக்களின் பாரிய நன்மைக்கான விமர்சனங்களையும் மீளாய்வுகளையும் தரக்கூடிய சுதந்திர ஊடகம்.

பின்னனி

முதற்கட்டமாக 1819ம் ஆண்டு கொழும்பில் தனி வைத்தியசாலை உருவானது. ஆரம்ப மற்றும் இரண்டாந்தர உடற்பாதுகாப்பு சேவை வழங்குனர்களின் வலைப்பின்னலினூடாக ஒவ்வொரு கிராமம் மற்றும் வீடுகளுக்கான உடற்பாதுபாப்பு ஒழுங்குமுறையானது வளர்ச்சியடைந்தது. போர்த்துக்கேயர்களும் டச்சாரர்களும் ஆங்கிலேயரும் இலங்கைக்கு மேலைத்தேய மருந்துகளை அறிமுகம் செய்தனர்.⁴ எவ்வாறெனினும் இலங்கையானது உள்ளூர் அரசர்களின் ஆட்சிக்காலத்தில் இருந்து ஏறக்குறைய 2000 வருடகால கீழைத்தேய மருத்துவதுறையின் வரலாற்றினை கொண்டுள்ளது. இவ்வொழுங்குமுறையானது சிக்கலான வைத்தியசாலைகள் மற்றும் உள்ளூர் வைத்தியர்களின் வலையமைப்பினை உள்ளடக்கியதாகும்.

சுதந்திரத்திற்கு பின்னரான காலப்பகுதியில் சனத்தொகை அதிகரிப்பு மற்றும் அபிலாஷைகளுக்கு எற்ப அரசு உடற் பாதுகாப்பு சேவை விரிவு பெற்றது. அரசானது 1970 ம் ஆண்டுகாலப்பகுதியில் சுகாதாரதுறைக்கான கட்டுப்பாட்டு ஒழுங்கு முறையின் அவசியத்தை உணர்ந்தது. (ஊர்கொட 1987). புதிய சட்டங்கள் அரசுமுகவர்கள் தொழில்வாண்மையாளர்கள் பாவனையாளர் பாதுகாப்பு குழு தனியார்துறை விருப்புக்குழுக்கள் போன்ற பல்வேறு பிரிவுகளை உள்ளடக்கிய சிக்கலான பொறிமுறை உருவாகியது. இதன் ஒவ்வொரு அமைப்பும் தமக்கு சொந்தமான இலக்குகளை உடையதாயினும் நோயாளிகளின் தேவைகளை அடைவதில் வித்தியாசமானவகையில் தொழிற்படுவையாக இருந்தன.

4. காலநித்துவத்திற்கு முற்பட்ட உடற்பாதுகாப்பு ஒழுங்குமுறை ஊபு ஊர்கொட அவர்களின் இலங்கையின் மருந்துகளின் வரலாறு விபரிக்கப்பட்டுள்ளது.

எவ்வாறுதவறுகள் இடம்பெறலாம்.

- தவறானமருந்துகள் ஓளடதங்கள் நியமம்
- அல்லது சுய பாவனை.
- காலங்கடந்த மருந்துகள்
- அசுத்தமான மருந்துகள்
- தடை செய்யப்பட்ட மருந்துகள், சாதனங்கள்
- கவனிப்பாளர்கள் மற்றும் சிகிச்சை.
- சேவைகளை வழங்குவதற்கு தகுதிச்சான்றிதழ் அற்ற நபர்கள்.
- பொதுமக்களின் விழிப்பற்ற தன்மை
- சிக்கலான மற்றும் முறைப்பாடுகளை ஏற்றுக் கொள்ளும் பலவீனமான தன்மை கொண்ட கட்டுப்பாட்டு ஒழுங்கில் உள்ள பொறிமுறை.

ஊடகஅறிக்கைகள் மற்றும் முக்கிய பிரமுகர்களை நேர்காணல் செய்ததன் மூலம் பெறப்பட்டது.

மேலைத்தேய வைத்தியர்களை பதிவு செய்யும் முதற்சட்டமானது 1905ம் ஆண்டு அறிமுகப்படுத்தப்பட்டது.இவை போன்ற பொது சுகாதாரம் மற்றும் தொல்லை நீக்கங்கள் சட்டம் (1862)அறிமுகப்படுத்தப்பட்டது.

இக்கட்டுப்பாடுகள்

- (i) உணவு நடைமுறையும் விற்பனையும்
- (ii) ஓளடதங்கள் மருந்துகள்
- (iii) மருத்துவ நிலைய உருவாக்கம்
- (iv) மருத்துவ பயிலுனர்கள் பதிவு
- (v) ஒப்பனை
- (vi) மருத்துவ பாதுகாப்பிற்கான பயிற்சி போன்ற பலகாரணங்களை உள்ளடக்கியதாகும்.

இக்கட்டுப்பாடுகளை அமுல்படுத்துவதற்காக பல்வகைநிறுவன கட்டமைப்புகளை தேசிய மட்டத்திலிருந்து மாகாணம் ஊடாக மாவட்டம் வரை அபிவிருத்திசெய்யப்பட்டது.

சுகாதார ஒழுங்கு முறையில் வெற்றிகரமான இலக்குகள் தென்படினும் சிலகட்டமைப்புகள் மற்றும் தொழிற்பாட்டு தோல்விகள் கீழே விரிவாக குறிப்பிடப்பட்டுள்ளன.

நோக்கங்கள்

1. பொதுமக்களுக்கு மருந்து வழங்குதல் மற்றும் அதனை மக்களுக்கு அமுல்படுத்துதல் செயன்முறை மற்றும் அளவினை மீளாய்வு செய்தல்.
2. கட்டுப்பாட்டுஒழுங்கில் உள்ளவித்தியாசமான கூறுகளையும் எல்லைகளையும் இனங்காணல்.
3. கட்டுப்பாட்டு ஒழுங்கில் உள்ள வினைத்திறனை மதிப்பிடலும் பலவீனமான பகுதிகளை நிறைசெய்தலும்.

வழி முறை மற்றும் எல்லை

இந்த ஆய்வானது ஏனையஆய்வாளர்களின் ஆய்வுகள் வெளியிடப்பட்ட அறிக்கைகள் நிறுவன இணையத்தளங்களிலிருந்து பெறப்பட்ட தகவல்கள் அதன் பின்னணிக்காகவும் தற்போதைய சுகாதார பாதுகாப்பு கட்டுப்பாட்டு ஒழுங்கமைப்பை அறிந்து அபிவிருத்தி செய்வதற்காக பயன்படுத்தப்பட்டன. கட்டுப்பாட்டு ஒழுங்குமுறையின் வினைத்திறன் பற்றி அவர்களின் கருத்துக்கள் பெறப்பட்டன.

ஆய்வுக்கற்கைகள் கட்டுப்பாட்டுஒழுங்குமுறையில் உள்ள ஆழமான கருத்துக்களை அறிந்து கொள்வதற்காக பயன்படுத்தப்பட்டன. தொழில்வாண்மையாளர்களின் குழுவும் நிர்வாக உறுப்பினர்களும் இந்த பொறுப்பினை ஏற்றிருந்தார்கள். நாட்டின் சுகாதாரபாதுகாப்பு முறையானது மக்களால் பெற்றுக்கொள்ளும் ஆலோபதி ஹோமியோபதி ஆயுர்வேதம் சீனமருத்துவ பாதுகாப்பு போன்ற பல்வேறு ஒழுங்கமைப்பில் சிக்கலாக உள்ளது. எவ்வாறெனினும் ஆலோபதி முறையே இங்கு குறித்துக் காட்டப்படுகிறது.

ஆய்வுக்கண்டுபிடிப்புகள்

1. ஒழுங்கமைப்பு, சட்டம் மற்றும் கொள்கைகள்.

இலங்கையானது தேசிய மருந்து ஓளடதங்கள் கொள்கையை⁵ உள்வாங்கி சகல சட்டகங்களிலும் அதனதன் பிரிவு செயற்பாடுகளிலும் வழங்கப்பட்டுள்ளமை நேரிடையான எதிர்காலமாகும். தேசிய மருந்து ஓளடதங்கள் கொள்கையின் நோக்கங்களாவன.

5. <http://www.who.int./medicines/areas/policy/NMDP-Srilanka.pdf>

i. மக்களின் தேவைக்கு அவசியமான தற்போதுள்ள தகுந்த பயன் அளிக்கக்கூடிய பாதுகாப்பு மற்றும் தரமான மருந்துகளை சமனான வகையில் பெற்றுக் கொள்வதை உறுதிப்படுத்தல்.

ii. பாவனையாளர்கள் மற்றும் தொழில்வாண்மையாளர்கள் மத்தியில் சுகாதார பாதுகாப்பு மருந்து வகைகள் விகிதாசார பாவனையை அதிகரித்தல்.

iii. தேவையான மருந்து வகைகளின் உள்ளூர் உற்பத்தியை அதிகரித்தல்.

- (i) தேவையான மருந்துகளின் தெரிவு
- (ii) தகுந்த மற்றும் சமனான அணுகுமுறை.
- (ii) முதலீட்டு விருப்பம்
- (iv) வழங்கல் ஒழுங்கு முறை மற்றும் நன்கொடைகள்
- (v) விதிகள் மற்றும் தர உறுதிப்பாடு
- (vi) தரமான மருந்து பாவனை
- (vii) ஆய்வுகள்
- (viii) மனித வளம்
- (ix) நிலைக்கக்கூடிய உள்ளூர் மருத்துவதுறை
- (x) கண்காணித்தல் மற்றும் மதிப்பிடல்

கொள்கை சட்டமானது வேலைத்திட்டங்கள் வழிகாட்டல்கள் மற்றும் அமுலாக்கக்கூடிய சட்டங்களால் ஆதரவு வழங்கப்படுமாயின் பிரயோசனமானதாகும்.⁶

அரசின் தேசிய மருந்து ஓளடதங்கள் கட்டுப்பாட்டு அதிகார சபை (NMDRA) மருந்துகளின் தரம் மற்றும் விதிகளின் தர உறுதிப்பாடு தொடர்பில் தேசியமருந்துஓளடதங்கள் கொள்கைக்கு உடன்பட்டதாகும். தேசியமட்டத்தில் சுகாதாரபணிப்பாளர் நாயகம் ஒப்பனைகளின் வினைதிறனான அமுலாக்கத்திற்கு பொறுப்பாளியாவார். ஒப்பனைகள் சாதனங்கள் மருந்துகள் சட்டம் (CDD) இலக்கை எய்துவது பெரும் சவாலாகும். அச்சட்டத்தின் பகுதிகள் முழுமையாக அமுல்படுத்தப்படுவதில்லை.⁷

6. தர உறுதிப்பாடுமற்றும் சமத்துவத்திற்காக பல சட்டங்கள் உருவாக்கப்பட்டு அவை இணைப்பும் செய்யப்பட்டுள்ளன. இவற்றின் மைல்கற்கள்சில. சுங்கஅதிகாரசட்டம் 1869 மற்றும் இணைப்புக்கள் அவை இறக்குமதி ஏற்றுமதி தொடர்பில் கட்டுப்பாடுகள் சம்பந்தமானவை. 1035 ன் நஞ்சு அபின் மற்றும் பயங்கர ஓளடதங்கள் சட்டம் 3. அரசமருந்தாக்கற் கூட்டுத்தாபனம் 1971 அரசமருந்தாக்கற் கூட்டுத்தாபனம் பாதுகாப்புமற்றும் வருமானம் மற்றும் மருந்து விநியோகத்திற்கு பொறுப்பாகும். 4. உணவு சட்டம் 91980 புஆஉணவுதொடர்பில் கட்டுப்பாடு. 5. பீனல் கோட் சட்டம்அத்தியாயம் 14 பொதுச்சுகாதார பங்கீடு மற்றும் பாதுகாப்பு 6. ஒப்பனைகள் சாதனங்கள் மருந்துகள் சட்டம்1 980 உற்பத்தி விற்பனை வழங்கல் பெயரிடல் விளம்பரப்படுத்தல் கிரமப்படுத்தல் 7. ஆயுர்வேதசட்டம் 1961

7. TISL ஊடகவியலாளர்களால் நேர்காணல் செய்யப்பட்ட முக்கிய பிரமுகர்கள்.

ஓப்பனைகள் சாதனங்கள் மருந்துகள் சட்டம் பின்வருவனவற்றை உறுதி செய்கிறது.

- ஓப்பனைகள் சாதனங்கள் மருந்திகள் நிறுவனத்தில் பதிவு செய்துள்ள நிறுவனங்கள் மட்டுமே உற்பத்தி இறக்குமதி விற்பனை பாவனை மற்றும் ஓப்பனைகள் சாதனங்கள் மற்றும் மருந்துகள் கோரிக்கை. மருந்துகளின் இறக்குமதி உற்பத்தி தொகை விற்பனை சில்லறை விற்பனை மற்றும் போக்குவரத்து செய்வதற்கு அனுமதிப்பத்திரம் பெறவேண்டும்.
- சகல ஓப்பனைகள் சாதனங்கள் மற்றும் மருந்துகள் CDD அதிகாரசபையில் பதிவு செய்யப்பட்டவை அவற்றின் விசேஷ தன்மையை உறுதிப்படுத்தவேண்டும்.
- வழிகாட்டலுக்கு அமைவாக சகல ஓப்பனைகள் சாதனங்கள் மற்றும் மருந்துகள் பெயரிடப்படவேண்டும்.
- வழிகாட்டலுக்கு அமைவாக ஓப்பனைகள் சாதனங்கள் மற்றும் மருந்துகள் விளம்பரப்படுத்தல் உறுதி செய்யப்படவேண்டும்.

2011 ன் கடந்த 08 மாதங்களில் மருந்தகங்களுக்கு எதிராக 188 வழக்குகள் பதிவுசெய்யப்பட்டுள்ளன. நீதிமன்றம் 02 இலட்சத்திற்கு அதிகமான தண்டப்பணத்தை இதுவரை தேசிய ஓளடதங்கள் கட்டப்பாட்டு சட்டமூலத்தின் ஊடாக அறவிட்டுள்ளது.

குற்றச்சாட்டுகளாவன:

- மருந்துகளை விற்பதற்கு மற்றும் முறையானவைத்திய அதிகாரியின் நியமம் இன்றி மருந்து விற்பனை.
- அனுமதிப்பத்திரம் புதுப்பிக்கப்படாமை.
- முறையற்ற மருந்து களஞ்சியப்படுத்தல்.
- மருந்தகர் நியமிக்கப்படாமை.
- பதிவுசெய்யப்படாத மருந்து விற்பனை.

மூலம்:டெய்லிநியூஸ் 01.09.2011.

CDD மருந்துகளின் பாவனை உற்பத்தி கட்டுப்பாடு சம்பந்தமான சட்டகத்தினை வழங்கியுள்ளது.

தேசிய மட்டத்தில் (CDD) அதிகார சபையின் சட்டத்தை வினைத்திறனாக அமுல்படுத்தும் பொறுப்பு சுகாதார சேவைகள் பணிப்பாளர் நாயகத்தை(DGHS) சார்ந்தது. தொழில்நுட்ப ஆலோசனைகுழு (TAC) சுகாதார சேவைகள் பணிப்பாளர் நாயகம் உட்பட்டோர் விடயத்திற்கு பொறுப்பான அமைச்சரரினால் நியமிக்கப்படுகிறார்கள். CDD அண்டு பிரதான அமைப்புக்களினால் அமுல்படுத்தப்படுகிறது. தேசிய ஓளடதங்கள் தர மதீப்பீட்டு ஆய்வுகூடம் (NCQAL) மற்றும் அழுத்தப்பிரிவு (ED) என்பவற்றினாலாகும். NDQAL பிரதானமாக முடிவுப்பொருட்கள் மற்றும் மூலப்பொருட்களின் தர உறுதிப்பாட்டினை அதனது ஓளடதங்கள் தர கட்டுப்பாட்டு ஒழுங்கு முறைமையுடன் பொறுப்பு வாய்ந்ததாக உள்ளது. ED யின் உணவு மற்றும் மருந்துகளுக்கான அதிகாரி பரிசோதனையினூடாக உற்பத்திகளின் தரம் தொடர்பில் பூரண பொறுப்பு வாய்ந்தவராவார். CDDA மருந்தகங்களின் பதிவுகள் மற்றும் மீள்பதிவுகளுக்கு அதிகாரம் மிக்கதாகும்.

(NCDQL) மருந்து உற்பத்திகளின் தரம் தொடர்பில் வைத்தியர்களின் சிபார்சுக்கு ஏற்ப தரமான மருந்து வகைகளை வழங்குவதில் பாரிய பங்களிப்பு வழங்குவதுடன் மற்றும் நிதி தொழில்வாண்மையாளர் வளங்களில் குறைபாடு காணப்படினும் மருந்தின் தரம் தொடர்பிலும் அதன் சாதனம் தொடர்பிலும் சான்றுபகர்கின்றது.அதனது அறிக்கைக்கு ஏற்ப தேர்ச்சிமிகு மருத்துவர்கள் அல்லாத நிலையில் தேர்ச்சியற்றவர்களால் மருந்தகங்கள் நடாத்தி செல்லப்படுவதாக குறிப்பிடப்படுகின்றது.⁸

மாகாண மற்றும் மாவட்ட அளவில் அமுல்படுத்தலுக்கான நிர்வாக செயற்பாடானது பிராந்திய சுகாதார சேவைகள் பணிப்பாளர் நாயகத்தாலும் (RDHS) சுகாதார மருத்துவ அதிகாரி (MOH) FDI மற்றும் பிரதேச மருத்துவர்கள் (DP) ஆகியேரால் 1980 ம் ஆண்டு முதல் அதிகாரப்பரவலாக்கல் கொள்கையுடன் அமுல்படுத்தப்பட்டது. CDD விதிகளை அமுல்படுத்தும் பொறுப்பானது மாகாண மாவட்ட மட்டத்திற்கு பரவலாக்கப்பட்டுள்ளது. அதிகார பரவாக்கல் ஒழுங்கு முறையானது அதிகாரம் அற்றதாகவும் வளங்கள் குறைவானதாகவும் காணப்படுகிறது. மக்கள் தொடர்புகளை பொறுத்தவகையில் அதன் வெளிப்படைத்தன்மை மற்றும் வகைகூறல் கடினமானதாகும்.

8. TISL நேர்காணல் செய்த முக்கிய பிரமுகர்கள்.

அறிவுறுத்தல்கள் மீறப்படும் சந்தர்ப்பங்களில் நிர்வாக அதிகாரிகளால் சட்ட நடவடிக்கை மேற்கொள்ளப்படும். எனினும் இது மிகவும் பாரதூரமான சந்தர்ப்பங்களில் மட்டுமேயாகும். அத்தநாயக்க மற்றும் சியம்பலாப்பிட்டிய ஆகியோரால் (2003) ல் மேற்கொள்ளப்பட்ட ஆய்விற்கு அமைய நிர்வாக அதிகாரிகள் அவர்களது கடமைகளை தெரிவு செய்யப்பட்ட சில வகைகளிலும் சில வேளைகளில் மருந்தகங்களுக்கு சென்று வருவதுடனேயே மேற்கொள்ளப்பட்டது.

2. முறைப்பாடுகளும் தொடர்விசாரணைகளும்

மருந்தகங்களில் உள்ள பெரும்பாலான மருந்துகள் இறக்குமதி செய்யப்பட்டவையாகும். இறக்குமதி செய்யப்படும் மருந்துகள் தரக்கட்டுப்பாடு மற்றும் அதிக பெறுமதியில் தங்கியுள்ளது. எவ்வாறு எனினும் இறக்குமதியானது விளைதிறனுக்கு பாரிய இழப்பாகும்.^{9 10} பொது நலன்கள் தொடர்பில் பதியப்பட்ட வழக்குகள் விபரம் பெட்டியில் பார்வையிடவும்.

விற்பனை அடையாளங்களுடன் விற்பனை செய்யப்பட்டாலும் சந்தையில் பல்வகை மருந்துகள் காணப்படுகின்றன. ஒரே வகையான மருந்துகள் பல்வேறு விலைகளில் மற்றும் பெயர்களில் விற்கப்படுவது மக்களுக்கு தெரியாது. அண்மையில் வெளியிடப்பட்ட சுகாதார அமைச்சரின் கூற்றுப்படி எமக்கு 3000 வகையிலான மருந்துகளே தேவைப்படினும் சந்தையில் 40000 த்திற்கு மேற்பட்ட மருந்து வகைகள் உள்ளதாக குறிப்பிட்டுள்ளார்.¹¹

CCDA பெற்றுக்கொண்ட முறைப்பாடுகள் தொடர்பிலான தகவல்களை பெற்றுள்ளதுடன் அதன் தொடராக விசாரணை மேற்கொண்டுள்ளது.¹² பொது கண்காணிப்பு குழுக்கள் நோயாளிகள் தொடர்பான உரிமைக்கான இயக்கத்திற்கு (RMRB) மேலாக இயங்கவில்லை. நாட்டில் 10000த்திற்கும் மேற்பட்ட மருந்தகங்கள் இருப்பினும் அவற்றுள் 6000 த்திற்கு மேற்பட்டவை தேர்ச்சியற்ற மருத்துவர்களை கொண்டே இயங்குகின்றன. இதன் அண்மைக்கால களநிலவரப்படி பொதுமக்களுக்கு பிழையான மருந்துகளே விற்பனை செய்யப்பட்டுள்ளன. மருத்துவர்களுக்கு எதிரான முறைப்பாடுகளின் பின்தொடரலின் வெற்றியானது இப்பிரச்சினை பகிரங்கப்படுத்தப்பட ஏதுவானது.¹³

9. இரண்டு பாரிய விடயங்கள். வினைத்திறனான மற்றும் வெற்றிகரமான கட்டுப்பாட்டு பொறிமுறை இறக்கமதி மருந்தகன் தொடர்பில் காணப்படாமல் பொதியிடல் மூலம் கொண்டுவரப்படும் மருந்துகள். தனிப்பட்ட பாவனைக்காக வெளிநாடுகளுக்கு சென்றுவரம் இலங்கையர்களால் கொண்டுவரப்படுபவை

10. TISL இனால் நேர்காணல் செய்யப்பட்ட முக்கிய பிரமுகர்கள்.

11. 07.09.2011. அன்று அமைச்சர் மைத்திரிபால் சேனநாயக்க அவர்களினால் பல்வேறு மருந்துகளின் இறக்குமதி தொடர்பில் கட்டுப்பாட்டுத் தொடர்பான உரை.

12. மருத்துவர்களின் அமைப்பு போன்ற தொழில்வாண்மை உறுப்பினர்கள் இத்தகைய தகவல்களை பொதுமக்களுக்கு தெரியப்படுத்தாமை.

13. 04.11.2011. அன்று நோயாளிகளின் உரிமைக்கான மக்கள் இயக்கம் நேர்காணல்

ஊழல்கள் தொடர்பில் பொதமக்களிடம் இருந்து கிடைக்கப்பெற்ற முறைப்பாடுகள் காரணமாக 2002ம் ஆண்டு விசேட முறைப்பாட்டு பிரிவொன்று உருவாக்கப்பட்டது. பாரதூரமான முறைப்பாடுகள் பிரதி பணிப்பாளர் நாயகத்திற்கு கீழ் இயங்கிய (புலனாய்வு விசேட அணி) யிடம் புலனாய்வு பிரிவினால் பார்ப்படுத்தப்பட்டுள்ளது. இந்த ஒழுங்கு முறையானது மக்களுக்கு தகவல்களை பெற்றுக் கொள்ளத்தக்கதாக தரவுகளை கொண்டிருக்கவில்லை.

3. தரமான மருந்துகள் மற்றும் சாதனங்கள்

ஊடகங்களில் அறிக்கையிடப்பட்ட தகவல்கள் மற்றும் முறைப்பாடுகள் தொடர்பில் அதிகாரிகளால் மெற்கொள்ளப்பட்ட தொடர் விசாரணைகளில் மூலம் சந்தையில் தொடர்ச்சியாக உபதரத்தைகொண்ட மருந்துகளும் சாதனங்களும் உள்ளது அறிய வந்துள்ளது.இந்நிலை தொடர்வதற்கு பல்வேறு காரணங்கள் உள்ளன.¹⁴

1. உற்பத்தி செய்யப்படும் மற்றும் பொதியிடப்படும் நாடுகளில் இருந்து இறக்குமதி செய்யப்படும் மருந்துகள் சர்வதேச தரத்திற்கு உரியன அல்ல.
2. மருந்து இறக்குமதியில் தொடர்ச்சியாக ஈடுபடும் நபர்களின் அத்துமீறல்.
3. தரம் மற்றும் நிலையினை உறுதிப்படுத்தக்கூடிய உள்ளூர் மருத்துவ தொழிற்சாலைகள் இன்மை.
4. மருந்தகங்கள் குளிர்சூட்டப்பட்டவையாகவும் சில மருந்துகள் குளிர்சூட்டியில் மட்டுமே பேணப்படவேண்டும் எனினும் களஞ்சியப்படுத்தலில் பலவீன நிலை.
5. இறக்குமதி செய்யப்படும் மருந்துகள் அவற்றின் பாவனைக்காலம் காலாவதியாதல் அல்லது கடந்து போகுதல்.¹⁵

இந்நிலை ஏற்பட காரணமானது கட்டுப்பாட்டு அதிகாரிகளின் வினைத்திறனின்மையாகும். கட்டுப்பாட்டு ஒழுங்கமைப்பில் காணப்படும் சில சவால்கள் கீழே தரப்பட்டுள்ளதுடன் இவை புலனாய்வு செய்யப்பட்டு மிக ஆழமானதும் உடனடியானதுமான நடவடிக்கை மேற்கொள்ளப்படவேண்டும்.

4. இயலுமை

சில மருந்து வகைகள் அரச வைத்தியசாலைகளில் இலவசமாக கொடுக்கப்படுகின்றன. அதன் மறைமுக நோக்கமானது அவற்றை தனியாரிடம் மற்றும் அரச மருந்தகங்களில் கொள்வனவு செய்ய செய்வதேயாகும்.மக்களிடம் முறையில்லா முடிவுகளை எடுக்கச் செய்யும் தகுதியினத்தை கட்டியெழுப்புவதாகும். அரச மருந்தாக்கற் கூட்டுத்தாபனம் (SPC) மருந்துகளின் விலை, பெயர், சந்தையில் உள்ள எல்லா மருந்துகளின் இராசயன மற்றும் பொதுவான அத்துடன்

14. TISL முக்கிய நேர்காணலின் தொகுப்பு

15 MOH ன் அறிவுறுத்தற்படி காலாவதியாவதற்கு இரண்டு வருடங்களுக்கு முன்பே மருந்து இறக்குமதி செய்யப்படவேண்டும் எவ்வாறெனினும் இதன் விளைதிறனானது அமுலாக்கத்திலேயே உள்ளது.

வியாபார பெயர் அடங்கிய கையேடு ஒன்றை வெளியிட்டுள்ளது. பொதுவான மருந்தின் விலையும் அதில் குறிப்பிடப்பட்டுள்ளது. இது மிகவும் வினைத்திறமான ஓர் உபகரணமாகும்.

எவ்வாறு எனினும் இக்கையேடானது மக்கள் மத்தியில் பரந்த அளவில் சுழற்சியற்றதாகவும் மீள்பதிப்பு செய்யப்படாமலும் உள்ளது. அது இணையத்தளத்திலும் வெளியிடப்படவில்லை. இவ் அலட்சியத்தன்மையின் விளைவாக மக்கள் இன்னும் அதிக விலை கொடுத்தே மருந்துகளையும் சாதனங்களையும் வாங்குகிறார்கள். உதாரணமாக 40 வகையான பெர்சிடட்மோல் வகைகள் இலங்கைக்கு இறக்குமதி செய்யப்பட்டு வித்தியாசமான விலைகளில் விற்கப்படுகின்றன. மேலும் அமக்ஸிலின் எனப்படும் நோய் எதிர்ப்பு வில்லை 5.00 ரூபா தொடக்கம் 10.00 ரூபா வரை வித்தியாசமான விலையில் விற்கப்படுகிறது.¹⁶

பொது மருந்து வகைகளை பொறுத்தளவில் USA ற்கு சமனான¹⁷ வகையில் விலைகுறைவான மருந்துகளை உட்கொள்ள விரும்புகிறார்கள். எவ்வாறு எனினும் இத்தகைய அணுகுமுறையானது நம்பத்தகுந்த பரிசோதனைகளின் மூலமே மேற்கொள்ளப்படவேண்டும். பொதுவான மருந்து வகைகள் தொடர்பில் அபிவிருத்தி எய்தப்படும் வரை USDA தரத்திலான மருந்து வகைகள் பாவிப்பதற்கு ஆலோசனை வழங்கப்பட்டுள்ளது¹⁸

2012 முதல்பாதியில் சுகாதார அமைச்சு மருந்துகளின் விலை கட்டுப்பாட்டினை மேற்கொள்ள உள்ளதாக ஊடகங்கள் அறிக்கையிட்டுள்ளன.

5. கண்காணிப்பு

இலங்கையானது மருத்துவ பொருட்கள் மற்றும் மருத்துவ பயிற்சிகளில் அரசு தலையீடு பற்றிய நீண்ட கால சரித்திரத்தை உடையது. எவ்வாறு எனினும் இதனை அமுல்படுத்தும் நடைமுறையானது ஏனோ தானோ எனும் மனப்பாங்கிலேயே இடம்பெறுகிறது. அத்தநாயக்க மற்றும் சமரநாயக்க ஆகியோரால் மேற்கொள்ளப்பட்ட ஆரம்ப ஆய்வுகளின்படி கட்டுப்பாட்டு ஒழுங்கமைப்பில் உள்ள பல கோணங்களில் ஆய்வுக்கு உட்படுத்தப்பட்டது. கட்டுப்பாட்டு ஒழுங்கமைப்பு தொடர்பிலான பயிற்சி மற்றும் பல்வேறு கோணங்களிலுள்ள நீண்ட கால ஆய்வுகள் தற்போது இல்லாதுள்ளது.

16. நேர்காணல் 04.11.2011 அன்று ¹ஆசீ நிறுவனருடன்

17. நேர்காணல் து.ஊ. வெலியமுன. அவர்களுடன் 02.11.2011 அன்று

18. <http://www.srilankan.guardian.org/2009.essentials-of-national-drug-policy-for.html>

இலங்கை மருத்துவ கவுன்ஸில் 1988 ம் ஆண்டு மருத்துவ தொழில்வாண்மையாளர்கள் மற்றும் மருத்துவ கல்வியியலாளர்களால் உருவாக்கப்பட்டது. இக்கவுன்ஸில் சுகாதார அதிகாரிகளின் மற்றும் மருத்துவ தொழில்வாண்மையாளர்களை பிரதிநிதித்துவப்படுத்திய 19 பேரை கொண்டதாகும். இதன் யாப்பில் 02 அரச சார்பற்ற இரண்டு பிரதிநிதிகளுக்கும் அங்கத்துவம் உள்ளது. எவ்வாறு எனினும் 1988ல் இருந்து இதுவரையிலும் இலங்கை மருத்துவ கவுன்ஸில் (SLMC) மருத்துவ தொழில்வாண்மையாளர்கள் இல்லாத ஒரு சட்டத்தரணியையோ ஒரு பொருளியலாளரையோ அல்லது வேறு தொழில்வாண்மையாளர்களையோ பிரதிநிதிகளாக கொண்டிருக்கவில்லை.

இலங்கை மருத்துவ கவுன்ஸில் தொழில்வாண்மையாளர்களின் துர்நடத்தை தொடர்பிலான முறைப்பாடுகள் தொடர்பில் புலன்விசாரணை நடாத்தி ஒழுக்காற்று விசாரணை மேற்கொள்ளும். இது ஆறு வகையான பண்பாட்டு துர்நடத்தைகளை இனங்கண்டுள்ளது. இங்கு மருத்துவ துர்நடத்தை சம்பந்தமான முறைப்பாடுகளையும் மேற்கொள்ளலாம்.

1987 ம் ஆண்டு SLMC அதன்கீழ் பதிவு செய்துள்ள மருத்துவ தொழில்வாண்மையாளர்களுக்கு நடத்தை விதிகளின் அபிவிருத்தி செய்ததன் அது உறுப்பினர்கள் மத்தியில் விநியோகமும் செய்யப்பட்டது.எவ்வாறு எனினும் நடத்தை விதிகள் வினைத்திறனான அழுத்தங்களையோ அல்லது கண்காணிப்பு பொறிமுறைகளாகவோ இருக்கவில்லை.¹⁹

6. தொழில்வாண்மை மேலோட்டம்.

அரச வைத்திய அதிகாரிகள் சங்கம் (GMOA) மற்றும் தொழில்வாண்மை கூட்டமைப்பு (OPA) என்பன தேசிய அளவிலான முக்கிய தொழில்வாண்மை நிறுவனங்களாகும். எனினும் இவை தமது நடைபாங்கை வினைத்திறனாக சுகாதார பாதுகாப்பு ஒழுங்கமைப்பு மீளாய்வினை சுகாதார ஒழுங்கமைப்பிலோ அல்லது ஆய்விலோ குறிப்பிடத்தக்க அளவில் மேற்கொள்ளவில்லை என்பது குறிப்பிடத்தக்கதாகும். பல்கலைக்கழகங்களில் அமைந்துள்ள சமூகவிஞ்ஞானம் அல்லது பண்பாட்டு விஞ்ஞானப்பிரிவுகள் அதன் ஆய்வுக்குட்படுத்தி சுகாதார பாதுகாப்பு ஒழுங்கு நோக்கத்தை பூர்த்தி செய்தல் வேண்டும் மருத்துவ மற்றும் பல் தொழில்வாண்மையாளர்கள் தங்களது பிரதேச தொழில்லாண்மை பிரிவை கொண்டுள்ளார்கள் இவை செயற்திறன் மிக்துடன் பாரிய கிரமமான வெளியீடுகளையும் கொண்டதாகும்.

19. ஆசீ உடனான நேர்காணல்

அனைத்து மருத்துவ கற்கையின் கிளைகள் மற்றும் அவற்றின் கௌரவமிக்க தொழில்வாண்மை உறுப்புக்கள் கல்லாரிகள் மற்றும் நிறுவன அமைப்பில் காணப்படுகின்றன. அவைகள் கட்டுப்பாட்டு ஒழுங்கமைப்பில் உறுதியான நடிபங்கை வழங்க வேண்டுமென எதிர்பார்க்கப்படுகிறது மருத்துவ சகோதர நிறுவன நிதியின் மூலம் பயன் பெறுவதுடன் மற்ற வகையில் தொழில்வாண்மை கூட்டான பாரிய மருந்துகள் கூட்டுத்தாபனங்களினுடனான கூட்டும் அதன் தனித்துவமாகும். இத்தகைய முரண்பாட்டு விருப்பானது மருந்து வழங்குனர்களின் செல்வாக்கிற்கு உட்பட்டிருப்பது தொழில்வாண்மையின் சமரச நிலையான தொழில்வாண்மை ஒழுக்கங்களின் மீறல் சம்பந்தமான விடயங்களிலேயாகும்.

பல்கலைக்கழகங்கள் விரிவான மதிப்பீடுகளை மேற்கொள்ளத்தக்கதாக பொறுப்பேற்கும் உயரிய நிலையில் உள்ளன. தேசிய மட்ட பல்கலைக்கழகங்கள் எட்டும் (08) அவற்றின் திணைக்களங்களும் (i) மருத்துவவியல் (ii) பொது சுகாதாரம்/ சமூக மருந்து தொடர்பான கற்கை ஆய்வுகளை மேற்கொண்டுள்ளன. சுகாதார பாதுகாப்பு ஒழுங்கின் கட்டமைப்பு மற்றும் கட்டுப்பாட்டு உறுப்புக்கள் என்பன இப்பாடத்திட்டத்தில் குறிப்பிடப்பட்டுள்ளன. எவ்வாறெனினும் இவற்றில் எந்த பல்கலைக்கழகமும் இத்தொழில்துறையின் அரசியல் பொருளாதாரத்தின் கல்விசார் பாதுகாப்பு கட்டுப்பாட்டு உறுப்புக்களினுள் குறிப்பிடத்தக்க அளவில் கோடிட்டு காட்டவில்லை.²⁰

மீறல்கள் தொடர்பில் 2011 ம் ஆண்டில் ஊடகங்கள் வெளியிட்ட பல்வேறு சம்பவங்கள்.

பாரிய மருந்து தட்டுப்பாடு.

இலங்கை மருத்துவ தொழிற்றுறை அமைவாயம் 11.04.2011

பதுளை மற்றும் மொனராகலை ஆயர்வேத மருத்துவ நிலையங்களின் குறைபாடுகளை களைவதற்காக 3.5 மில்லியன் ரூபா ஊவா பிரதேச திணைக்களத்திற்கு வழங்கப்பட்டுள்ளது.

13.05.2011.

மஸ்கெலியா மாவட்ட வைத்தியசாலையில் குழந்தைகளுக்கான தடுப்பூசி இல்லாத காரணத்தால் பல தாய்மார்கள் தங்களின் ஒருநாள் சம்பளத்தை இழந்து தங்கள் பிள்ளைகளை வைத்தியசாலைக்கு எடுத்து வர வேண்டிய நிலை.22.10.2011 தினக்குரல்.

மூலம் <http://www.thinakural.com>

லசந்தவின் பின்னூட்டலில் பல சம்பவங்கள் இணைக்கப்பட்டுள்ளன.

மூலம். www.thecolombotimes.com

20. தொழில்வாண்மை செயலமர்வு மற்றும் மகாநாடுகளில் வெளிப்படுத்தப்பட்டது

7. பொதுமக்களின் பங்களிப்பு சார்பாக

கட்டுப்பாட்டு ஒழுங்கமைப்பினை கண்காணிக்கும் பொதுமக்களின் பங்களிப்பானது எல்லைக்குட்பட்டதாகும். நோயாளிகளின் உரிமைகளுக்கான பாதுகாப்பு இயக்கம் மட்டுமே இந்த வகையில் குறிப்பிடத்தக்கதாகும்.²¹

நோயாளிகளின் உரிமைகளுக்கான மக்கள் இயக்க நிறுவனர் திரு. லூயிஸ் பெனடிக் அவர்களின் கருத்துப்படி இலங்கை அரசானது பேராசிரியர் சேனக பிபில்லேயின் மிகவும் பாராட்டத்தக்க அவசிய மருந்து தொடர்பான கருத்துக்கள் ஏற்றுக் கொள்ளப்படவில்லை. இக்கருத்துக்கள் பின்னர் பலநாடுகளில் முக்கிய உபகரணமாக பயன்படுத்தப்பட்டதுடன் இதன்மூலம் மருந்தகளின் உற்பத்தி பாவனை மற்றும் விநியோகம் தொடர்பில் தரக்கட்டுப்பாட்டினை பேணக்கூடியதாக இருந்தது. எனக் குறிப்பிடுகிறார்.

தற்போது எமது நாட்டிற்கு 1000 வகையான மருந்துகள் போதுமானதாக இருந்த போதும் 10000 வகையான மருந்து வகைகள் இறக்குமதி செய்யப்பட்டு பில்லியன் ரூபா பெறுமதியான அந்நிய செலாவணி வீணாக்கப்படுகின்றது.²² எவ்வாறெனினும் மருந்து வகைகளை 1000 மாக குறைப்பது கொடுமையானதாக இருப்பினும் இந்நடவடிக்கை மூலம் மருந்துகளின் விலைகளை குறைக்க முடியும் என கருதுகிறேன்.

ஊடகமானது இத்தகைய விடயங்களில் அவதானிப்பாளராக இருந்து சட்டத்தை மீறுபவர்கள் தொடர்பில் வெளிச்சமிட்டு காட்டலாம். இத்தகைய அறிக்கைகள் மக்களை அறிவுறுத்தனவாகவும் உள்ளன. அதேபோன்று தகவல் அறியும் உரிமை தற்போது அங்கீகரிக்கப்படாது உள்ளது. ஊடகங்களில் சில மட்டங்களில் அது வெளிக்கொணரப்படுகிறது.

சிபார்களும் முடிவுரையும்

கட்டுப்பாட்டு ஒழுங்கில் சில நேரான அடைவுகளும் காணப்படுகின்றன. ஏவ்வாறு எனினும் பல்வேறு பகுதிகள் முன்னேற வேண்டியிருப்பதுடன் இதன் மூலம் இறுதி நன்மை பெறுபவர் மற்றும் சுகாதார பாதுகாப்பு ஒழுங்கு போன்ற அனைத்தும் உயர்நிலையை அடைய ஏதுவாயிருக்கும். செயலிழந்த தீய செயற்பாட்டுடன் கூடிய கட்டுப்பாட்டு ஒழுங்கமைப்பிற்கான சமீக்கைகள் தென்படுகின்றன. முக்கிய கட்டுப்பாட்டு ஒழுங்கமைப்புக்கள் வினைத்திறனாக செயற்படுவதற்கு அர்ப்பணிப்பு மற்றும் அரசியல் அழுத்தம் வேண்டப்படுகிறது. சுயபிம்பத்தை அதிகரித்தல் மற்றும் பார்வைக்குரியதாக இருத்தல் ஒழுங்கமைப்பின் முதலாவது படிமுறையாகும்.

21. சர்வதேச சுகாதார பாதுகாப்பு அத்தியாயம்

பாராளுமன்ற குறைகேள் அதிகாரி

பாராளுமன்ற குறைகேள் அதிகாரியின் நடைபாங்கானது சுநத்திரமானதாகவும் வித்தியாசமான பங்குதாரர்களின் வகைகூறல் மற்றும் தொடரான அபிவிருத்தியினை உறுதிசெய்வதாகும். இத்தகைய நிறுவன உருவாக்கமானது அது தொழில்வாண்மையுடன் இயங்குவதுடன் சுநத்திரமான முக்கிய அதிகாரமிக்க பங்குதாரர்களின் ஒழுங்கை வழியமைப்பதற்கு செல்வாக்கு செலுத்துவதுடன் பொது விருப்பின் தேவையை அடையக்கூடிய கோணத்தின் பங்காளராவதாகும்.

கொள்கைகள் மற்றும் சட்ட மீளாய்வு

NMDP யின் வருகையை பாராட்டும் அதேவேளை விசேடமாக பாவனையாளர்கள் மற்றும் பங்குதாரர்கள் மத்தியில் இது போதிய அறிவின்மையாக காணப்படுகின்றது. NMDP தற்போதைய சமூக பொருளாதார நிலைக்கு ஏற்ப மீளாய்வு செய்து திரும்பவும் பார்த்து சரி பிழை திருத்தியமைக்கப்பட வேண்டிய தேவை உள்ளது. இத்தகைய மீளாய்வு தெளிவு பங்குபற்றல் மற்றும் பங்குதாரர்கள் மத்தியில் பங்களிப்பு கண்ணோட்டத்தை அதிகரிக்கச் செய்யும். NMDP இலகுவாக ஏற்றுக் கொள்ளத்தக்கதாக இலகுவான மொழிநடையிலும் ஒவ்வொரு பங்குதாரருக்கும் தேவையான வழிமுறைகள் மற்றும் சட்ட விதிகளுடன் கூடியதாக இருக்கவேண்டும். சட்டங்கள் நீதிமன்றங்கு மட்டும் மட்டுப்படுத்தப்படாது வினைத்திறனான பொறிமுறையினூடாக அமுல்படுத்தப்படவேண்டும். பங்குதாரர்கள் நடைமுறையில் உள்ள வழிகாட்டலில் அறிவு பெற்று இருப்புதுடன் நடத்தை விதிகள் மற்றும் சட்டங்கள் பற்றி தெரிந்து இருப்பது கட்டுப்பாட்டு ஒழுங்கமைப்பு வினைத்திறனாக செயற்பட வழியமைக்கும். அறிவினை விருத்தி செய்வதற்காக அத்தகைய உபகரணம் அவசியமாகும். மேலும் பிரஜைகள் குழுக்கள் மற்றும் தொழில்வாண்மை உறுப்புக்கள் சட்ட அத்துமீறல்கள் நிகழாவண்ணம் கண்காணிப்பில் ஈடுபட்டு அதனை பலமிக்கதாகக் வேண்டும்.

முறைப்பாட்டு பொறிமுறையை வெளிப்படைத்தன்மையாக்குதல்

முறைப்பாடு மற்றும் திருத்தும் ஒழுங்கு உறுதியாக்கப்பட வேண்டும். தேசிய மற்றும் பிராந்திய மட்ட பொறுப்புமிக்க முக்கிய மருந்து மற்றும் சாதனங்களை பாதுகாப்பாகவும் மலிவாகவும் வழங்கும் நிறுவனங்கள் வினைத்திறனாக கண்காணிக்கப்படும். மருந்தின் தரங்களுக்கான உடன்பாடுகள் மீறப்படுதலுக்கான முறைப்பாட்டிற்கும் அவற்றின் நடத்தை தொடர்பில் அறிவிப்பதற்குமான பொறுப்பு வாய்ந்த பொறிமுறை திருத்தியமைக்கப்பட வேண்டும். முறைப்பாடு தொடர்பான தகவல்களின் வெளிப்படைத்தன்மை உறுதிப்படுத்தப்படவேண்டும் ஏற்புடையதான தகவல் தொழில் நுட்ப தொடர்பாடல் முறை வினை திறனான விருப்பமுடையதாகும்.

ஊடகம் மற்றும் அவதானிப்பாளர்- தகவலாளி

கட்டுப்பாட்டு ஒழுங்குமுறையின் ஒழுங்குகள் காரணமாக நிறுவன கட்டமைப்புகளில் ஏற்பட்டுள்ள தளர்வுகள் தொடர்பாக ஊடகங்களால் வெளிப்படுத்தப்பட வேண்டும். புலனாய்வு பத்திரிக்கையாளர்களின் பங்களிப்புடன் பிராந்திய வலையமைப்பக்கள் உருவாக்கப்பட்டு தேவையான உண்மை தகவல்கள் பொதுமக்களுக்கும் பங்குதாரர்களுக்கும் ஊடகங்கள் வாயிலாக தேவையான நடவடிக்கைகளுக்காக வெளிப்படுத்தப்படவேண்டும். சிக்கலான ஒழுங்கு காலத்தின் தேவைக்கு ஏற்ப அபிவிருத்தி செய்யப்பட்டு அறிவுமிக்க பத்திரிக்கையாளர்களால் வெளிப்படுத்தப்பட்டு அறியத்தரப்படல் வேண்டும். தொடரான ஆய்வுகள் மேற்கொள்ளப்பட்டு தீய நடவடிக்கைகள் திருத்தப்படுதல் உறுதிப்படுத்தப்படவேண்டும். சட்ட விரோத மருந்தகங்கள் தடைசெய்யப்பட்டமருந்து வகைகளின் விற்பனை மற்றும் காலாவதியான மருந்துகளின் விற்பனை தொடர்பில் வெளிப்படுத்தப்படல் வேண்டும். மருந்து கூட்டுத்தாபனத்திற்கும் மருத்துவ பயிற்சியாளர்களுக்கும் மற்றும் மருந்தகங்களுக்கும் இடையிலான கபடமான தொடர்புகள் வெளிப்படுத்தப்படவேண்டியதுடன் இவை விவாதிக்கப்பட்டு தீர்வுகள் காணப்படவேண்டும்.

வளங்கள்

சிக்கலான ஒழுங்கமைப்பு சட்டகமானது அதனது பன்முக நிறுவனங்கள் அமைப்புக்கள் மற்றும் மக்கள் போன்றவை போதுமான பணம் மற்றும் வளங்களால் பூர்த்திசெய்யப்படவேண்டும். ஈடுபாடு மற்றும் தொழிலில் உள்ள மக்களுக்கு அறிவு மற்றும் திறன் கிரமமாக மேம்படுத்தல் செய்யப்படவேண்டும். வள கட்டுப்பாட்டு நிலைமை மேலோங்கும் போது சகல மருத்துவர்கள் மற்றும் மருத்துவ பயிற்சியாளர்கள் தங்களின் வரியின் ஓர் பகுதியை வழங்கி அதன் பிரிவகளுக்குள் உள்ளக வகைகூறல் அபிவிருத்தியை அபிவிருத்தி செய்ய வேண்டும். இலங்கையில் அத்தகைய நிதிகள் உருவாக்கப்பட்டு செயற்படுத்தப்படுகின்றன.²³

இயலுமையை மேம்படுத்தல்

பொது மருந்து வகைகளை போதியளவு கிடைக்கச் செய்யும் வினைத்திறனான பொறிமுறையை அறிமுகம் செய்தல் சகல இடங்களிலும் வெற்றிகரமான முயற்சியாக சிபார்சு செய்யப்படுகிறது. பேராசிரியர் சேனக பிபில்லேயின் சிறந்த கருத்துக்கள் மற்றும் வழிமுறைகள் இறுதி பயன்பெறுநர்களின் தேவையை மற்றும் எதிர்பார்ப்பை பூர்த்தி செய்யும்.²³

பொதுமக்களின் ஈடுபாடு

நிறுவனங்களால் உருவாக்கப்பட்டு மற்றும் சட்டங்களுக்கு அனுமதி வழங்கப்படும்போது அவை அர்த்தமுடையதாகவும் அது மக்களின் ஈடுபாட்டினை அதிகரிக்கும். முழுமையான கட்டுப்பாட்டு ஒழுங்கமைப்பும் பொதுமக்களின் முழு மனதுடனான விருப்புடன் செயற்படும்.

23. MPPR உடனான நேர்காணல்

முழுமையான கட்டுப்பாட்டு ஒழுங்கமைப்பின் உள்ளடக்கமானது அவர்களின் எதிர்பார்ப்புகளுக்கு ஏற்ற வகையில் மீளாய்வு செய்யப்படுமாயின் அது ஒழுங்கமைப்பின் செயற்பாட்டை அதிகரிக்கும். புதிய செயற்குழுக்கள். கமிட்டிகள் மற்றும் சுதந்திர சிவில் சமூகம் அல்லது தொழில்வாண்மையாளர்கள் அடையாளம் காணப்பட்டு அவர்கள் அவதானிப்பாளர்களாகவும் நிறுவனங்களின் பங்குதாரர்கள் மற்றும் கூட்டுப்பணியாளர்கள் கூட்டான பொறுப்புத்தன்மையாளர்களாகவும் உறுதிசெய்யப்பட வேண்டும்.

தகவல்களை பெறும் உரிமைக்காக தகவல் பெறும் உரிமை சட்டம் உறுதியாக்கப்பட்டு செய்யப்படும் முறைப்பாடுகள் மற்றும் அவை தொடர்பான நடவடிக்கைகள் வெளிப்படைத்தன்மையாக இருத்தல் வேண்டும். இது தகவல் தொழில் நுட்ப அபிவிருத்தியாக கருதப்படும்.

TISL அதனது தேசிய மற்றும் பிரதேச பங்குதாரர்களுடன் கட்டுப்பாட்டு ஒழுங்கமைப்பின் பாரிய அறிவிற்காகவும் மக்களின் நடைபாங்கை உறுதிப்படுத்துவதற்காக அல்லது பாதுகாப்பான மற்றும் இயலுமான மருந்து சாதனங்களை பெறத்தக்க புதிய வழிகளை உறுதிப்படுத்துவதற்காக இணைந்து செயற்படும். மேலும் இக்கட்டுப்பாட்டு பொறிமுறை மக்களின் விருப்பினை நிறைவேற்றும் என்பது உறுதியாகும்.

Abstract - Regulating medical supplies in the health sector

Access to safe and affordable health care considered a basic need is assured by various national and international mechanisms, with recognition that robust systems of standards and regulatory mechanisms are vital. While the World Health Organization has spearheaded the global movement for safer and affordable health care, Sri Lanka has taken pioneering steps to ensure that the health-care needs of its people are met.

This chapter highlights the positive features of the country's health sector, providing an insight into the overall framework within which it functions. A policy framework, however, is useful if supported by programmes, guidelines and enforceable laws.

The objectives of this chapter are to identify the scope and mandate of different components of the regulatory system in the health sector, assess their effectiveness while focusing on shortfalls that need strengthening and also review the scale and operations of the supply of medicines to the public.

The National Medicinal Drug Policy (NMDP) has been adopted under which the National Medicinal Drug Regulatory Authority (NMDRA) has been given the mandate of regulating and assuring the quality of medicines.

Most medicines in pharmacies are imported and although importation is regulated, the efficacy is very poor. Therefore, this chapter explores why there is continued availability of substandard drugs and devices in the market, despite the media highlighting this fact as well as a follow up being carried out by the authorities on complaints. Taking into consideration affordability, the chapter recommends the adoption of the United States Food and Drug Administration standards until a reliable system of providing generic brands is developed.

The role of the Sri Lanka Medical Council established in 1988 as the main regulatory body of the medical profession and medical education is also studied in this chapter which brings out the fact that the engagement of the public in monitoring the regulatory system is marginal. The only civil society organization focusing on this aspect is the People's Movement for the Rights of Patients.

Chapter 4

Telecommunication sector

Nathasha Jayawardene & M.Thoriq Hamid*

Introduction

The Sri Lankan telecom sector is a key contributor to the national income with 5.2% in 2009.¹ The sector has four fixed line, five mobile, fourteen data communication and 33 external gateway operators (see Table 1). As of December 2010, Sri Lanka had 3,578,463; 17,593,312 and 280,000 fixed-line, mobile and broadband subscribers respectively (see Chart 1). The further expansion of the sector is a major objective of the government, as outlined in the Mahinda Chinthana – Vision for the Future: The development plan set out in 2010.

Table 1: Cumulative number of licences granted under Section 17 of the Sri Lanka Telecommunications Act No. 25 of 1991.

Category of service Licensed under Section 17 of the Act.	2011 June
Fixed access telephone service	4
Cellular mobile phones	5
Data communications (Facility based)	6
Data communications (Non-facility based) & ISPs	8
Trunk mobile radio	2
Leased circuit providers	1
Licensed pay-phone service providers	1
External gateway operators	33
Direct-to-Home satellite broadcasting service	2
Cable TV distribution network	2
Sub total	64

SLT, Suntel, Lanka Bell and Dialog Broadband are entitled to provide pay-phone and data services according to their licences.

Sources: Telecommunications Regulatory Commission, June 2011 statistics.

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1. Sector Performance Review, 2011, LIRNEasia.

The Telecommunications Regulatory Commission (TRC) of Sri Lanka regulates the telecom industry. Initially constituted as a one-man authority, in 1996, it was changed to a multi-member commission. According to the Sri Lanka Telecommunications (Ammended) Act No 27, of 1996 the TRC was established to protect and promote the interests of the consumers, regulate competition between persons engaged in commercial activities connected with telecommunications and promote rapid, sustained development of telecommunication facilities. The TRC reports directly to the President and is also mandated with advising the government on fixing prices and tariffs. It is the largest contributor to government revenue, among government entities (see Table 2).

Table 2: Contribution to government revenue by government entities (Rs. Millions).

	2008	2009	2010 (estimated)
TRC	3,500 (US\$ 31.5 mn)	3,321 (US\$ 29.9 mn)	8,000 (US\$ 72.0 mn)
Sri Lanka Telecom	2,000 (US\$ 18.0 mn)	893 (US\$ 8.0 mn)	240 (US\$ 2.0 mn)
Bank of Ceylon	1,846 (US\$ 16.7 mn)	1,346 (US\$ 12.1 mn)	2,346 (US\$ 21.1 mn)
National Savings Bank	1,560 (US\$ 14.0 mn)	1,810 (US\$ 16.3 mn)	1,060 (US\$ 9.5 mn)

Source: Sector Performance Review, 2011, LIRNEasia.

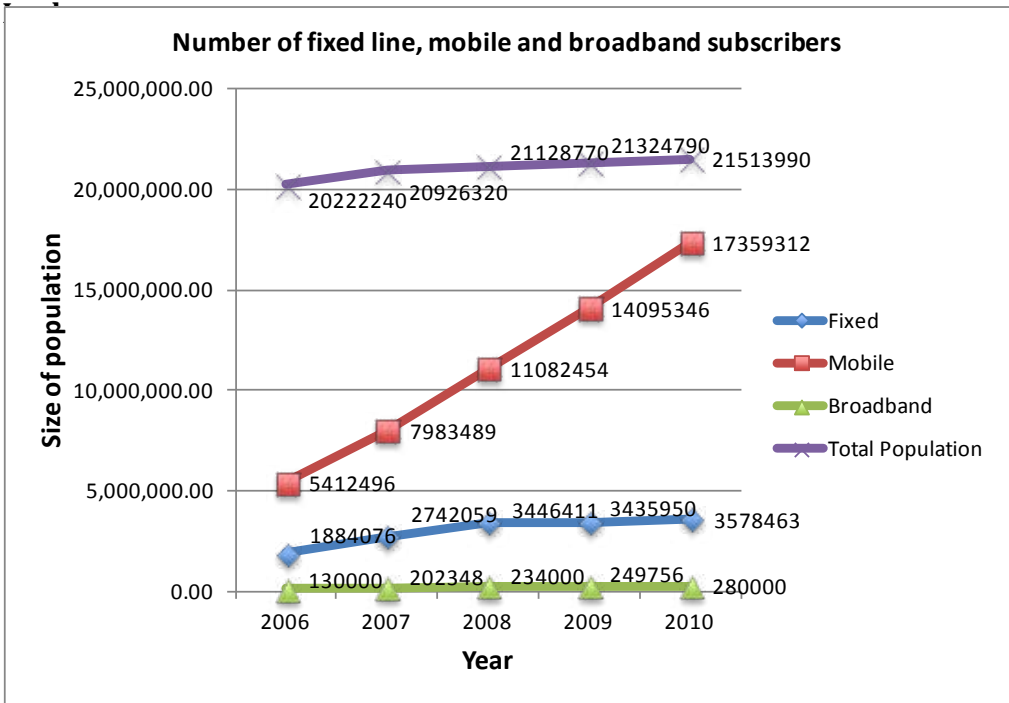
The number of fixed line, mobile and broadband subscribers has been steadily increasing in Sri Lanka over the years, with the subscriptions for mobile services enjoying the highest growth rate. As of 2010, there were an estimated 17,267,407 mobile subscribers in Sri Lanka (see Table 3). However, this figure is misleading as mobile users often use multiple SIMs and every single SIM does not necessarily translate into a new user. The growth in the number of mobile subscribers can be attributed to the ease of access to mobile services, in terms of affordability and coverage.

Table 3: Mobile service penetration, Sri Lanka.

Year	No. of mobile subscribers
2004	2,211,158
2005	3,361,775
2006	5,412,496
2007	7,983,489
2008	11,082,454
2009	14,264,442
2010	17,267,407

Source: Telecommunications Regulatory Commission, June 2011 statistics.

Chart 1: Number of fixed line, mobile and broadband subscribers in Sri



Sources: Telecommunications Regulatory Commission, June 2011 statistics.
CIA World Fact Book.

Table 4: Annual cost of a 256 kilobits per second (kbps) broadband business connection in selected South Asian countries, in US\$.

Country	Annual cost, 256 kbps broadband business connection (in US\$)
Bangladesh	618
Nepal	248
Sri Lanka	168
India	143
Pakistan	114

Source: Sector Performance Review, 2011, LIRNEasia.

Despite all this, incidents of mismanagement by the regulatory body have been sporadically reported and need to be addressed for the future growth of this sector.² The regulatory body is generally absent from the mainstream public discourse on the telecom sector and mainly revolves around service providers, failing to make the connection between services provided and the regulatory body. While service seekers are often pre-occupied with issues rising from their choice of individual operator, their concern does not go beyond the operator, as they do not perceive the capacity of the regulatory body to improve the quality of services in the telecom sector.

Objective and problem statement

While it is evident that there is much development in the telecom sector, there are shortcomings in the regulatory mechanism that provide an environment conducive to corruption and mismanagement. These problems are bound to surface in the future, hindering the growth of the sector. To ensure continued growth and quality of service, the regulatory system needs to be made more transparent, accountable and independent.

Methodology

We have relied on the efforts of other researches, published reports and news articles to gain an understanding of the telecom sector. Experts were interviewed to understand the main challenges facing the telecom sector and how these challenges relate to the regulatory mechanism.

2. <http://groundviews.org/2010/01/09/the-shocking-behaviour-of-the-telecommunications-regulatory-commission-of-sri-lanka/>
<http://www.thesundayleader.lk/2010/01/17/the-perfect-crime/>

Findings

A regulatory mechanism, independent of undue state and private sector influence, is imperative to protect the welfare of consumers and service providers and ensure sustained growth of this sector. A proper regulatory mechanism would provide an enabling environment for consumers to enjoy quality services at affordable prices and ensure maximum revenue for service providers and sustained growth of the sector. The Telecommunication Act outlines this as the main purpose for the existence of the TRC.³ Regulatory agencies are essential in a market-based economy to balance the economic system not by merely protecting consumers but also serving investors by levelling the playing field.⁴

Independence of the telecommunication regulatory system

Independence of the regulator is necessary to protect consumers from abuse by firms with substantial market power; support investment by protecting investors from arbitrary action by government agencies and service suppliers; and promote economic efficiency. The independence of the regulator is essential and has been identified by the policy-makers themselves to some extent, as demonstrated in making a commitment to the Regulatory Reference Paper. In 1997, Sri Lanka, the only South Asian state, chose to commit to the Regulatory Reference Paper that is part of the Fourth Protocol to the General Agreement on Trade in services of the WTO. Under this agreement, Sri Lanka is expected to uphold the six principles of the Reference Paper, which are: Anti-competitive practices, inter-connection, universal service, transparency of licensing, independent regulation and fair allocation of scarce resources.⁵ However, in practice, in the telecommunication sector, there are ample instances where the regulator has ceased to be independent.

The lack of transparency is apparent in the manner in which appointments are made to the commission. The law paves the way for the minister-in-charge of the subject to make these appointments, while the 17th Amendment provided a framework for the scrutiny of such appointments, providing checks and balances through the Constitutional Council. However, the 18th

3. Sri Lanka Telecommunication Act No. 25 of 1991, Section 4.

4. Regulatory Impact Assessment: A tool for better regulatory governance in Sri Lanka?

http://www.ips.lk/publications/series/working_pap/regulatory_impact_a/regulatory_impact_a.html

5. Ibid

Amendment removed these checks and balances.⁶ The Secretary to the President has been appointed the Chairman of the TRC as it is directly under the purview of the President.

The misuse of the TRC was evident when SMSs were sent to all mobile subscribers during the Presidential Election campaign in 2010,⁷ followed by several messages even in 2011. In April, a message believed to be from the President was sent to all mobile subscribers wishing them a happy and prosperous new year, with a reminder of the handsome gift he had given the people in advance: “A free and independent country.” Another message was also sent to all mobile subscribers on May 17 for Vesak. This is a clear example where the ruling party has influenced the TRC, putting its integrity on the line. Media reports indicated that the TRC instructed service providers to send these SMSs. In section 4(c) of the Sri Lanka Telecommunications (Amended) Act, the TRC is mandated to promote the best interest of consumers, in the absence of privacy and consumer protection laws by ensuring that service providers respect their privacy.⁸

The independence of the TRC has been challenged further by the government ownership of Sri Lanka Telecom (SLT), while it is also regulating the operators through the TRC. The network dominance by SLT is resulting from this blurring of the trifurcation established by the Act. The sector may be vulnerable to anti-competitive practices as exhibited by the cross-subsidization of Mobitel and SLT and network infrastructure dominance by SLT.⁹ While SLT maintains the monopoly for telecom infrastructure, the TRC fails to regulate this monopoly by instructing operators to share their infrastructure with each other, which would reap environmental and economic benefits while bringing down the cost of services.

Meanwhile, another aspect causing concern is the barring of 15 websites of media organizations in the public domain by the TRC without prior notice.¹⁰ As emphasized by an interviewee, such action is not within the mandate of the TRC and interference by the regulator will restrict media freedom and make it susceptible for use in political campaigning. Recently more news web sites were blocked.¹¹

6. Telecommunications (Amended) Act No. 27 of 1996 Section 3(1)

7. The Shocking Behaviour of the Telecommunications Regulatory Commission of Sri Lanka- Groundviews, 2010/1/9

<http://groundviews.org/2010/01/09/the-shocking-behaviour-of-the-telecommunications-regulatory-commission-of-sri-lanka/> accessed 6 October 2011

8. http://www.icta.lk/pdf/Article_IMPACT-ofRecentITLegislationBASLFINALrevised.pdf accessed 14 December 2011

9. ICT Sector Performance Review for Sri Lanka (to be validated), April 2011 by the Institute of Policy Studies

10. Interview with Mr. C. Maliyadde, Colombo, 9 November 2011

11. <http://www.sundayobserver.lk/2011/12/04/pol04.asp> accessed 14 December 2011

Transparency in the regulatory commission

According to Fitch Ratings, Sri Lanka has the highest regulatory risk score of 6.5 in the South and Southeast Asian regions.¹² Such instances signal weak regulatory practice to both the domestic and international community. Fitch Ratings are done through a sampling of best practices in the telecom sector, the collection of operational risks, the use of key risk indicators derived from aggregated internal data and assigned threshold values.

Experts have observed an apparent lack of transparency in spectrum management and the issuing of frequencies for radio and TV stations by the TRC.¹³ The electro-magnetic spectrum often referred to as the invisible wealth of nations¹⁴ and conventional broadcasting rely on the fair, equitable and sound management of the common property resource.

Presently, the issuance of licences is more an abuse of power by the TRC than one of effective regulation. The law does not provide for a reason to be given by the minister for issuing or refusing radio licences. As a result a black market that functions at secondary level exists and it was also highlighted by one of the interviewees. In fact, all governments that have been in power so far have allowed spectrum mismanagement.¹⁵ In countries such as Indonesia and Thailand, belated rationalizing of spectrum has been attempted and some frequencies reallocated to various operators. Sri Lanka could address the issues of spectrum mismanagement by opting for spectrum re-farming after switching from analog to digital spectrum and ensuring that the analog era is not carried over to the digital era.¹⁶

12. <http://www.itpro.lk/node/8253> accessed 13 September 2011

13. Interview with Mr. Nalaka Gunawardene, Colombo, 12 September 2011

14. "SOS: Save our spectrum for media freedom!" by Mr. Nalaka Gunawardene

15. Interview with Mr. Nalaka Gunawardene, Colombo, 12 September 2011

16. Ibid, <http://www.ictregulationtoolkit.org/en/PracticeNote.aspx?id=2320> accessed 14 December 2011

Conclusion & recommendations

The liberalization of the telecom sector has enabled consumers to access a variety of services at affordable prices. This sector, which is thriving, is also a major contributor to government revenue. However, it should be noted that as a sector which has potential to see greater development, the issues that hinder growth need to be addressed.

The independence of the TRC needs to be maintained and respected by both the operators and the government. As it is now, the regulatory commission itself is susceptible to state capture and has been used for various political campaigns. The telecommunication sector is also directly connected to media freedom and the state's attempts to influence it amount to restricting media freedom. The TRC as a facilitator and regulator needs to keep the best interests of the investors and consumers in mind.

For media:

- Going hand-in-hand with the first recommendation, media scrutiny of this sector needs to increase. The mainstream media hardly covers the telecom sector and even when it does, it is limited to reporting specific events or is too technical in nature. To promote reforms in this sector, the role of the media is important. Insiders indicate that there is a wealth of information, scandals and acts of mismanagement – many potential stories for journalists – that need to be brought to the attention of the public. The point of this exercise is not to create a scandal but prompt positive change in the sector.

For TRC:

- The role of the TRC needs to be made more visible to bring it to the mainstream discourse around the telecommunication sector. A greater understanding of the TRC's role, function and responsibility by the wider public would create greater demand for a more transparent and accountable body.
- The TRC should make public its reason for awarding or refusing licences for frequencies. This would increase public confidence in the integrity of the system and keep at bay allegations against the TRC, while improving investor-confidence in the system.
- The TRC should encourage infrastructure sharing to avoid certain operators from having a monopoly, thus minimizing the environmental hazards and waste of monetary resources.

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Chapter 5

Governing transportation:

The case of road transportation in Sri Lanka

Sashee de Mel*

Introduction

The origins of a formal, motorized public transport system in Sri Lanka began in 1907 with a bus which could accommodate five passengers.¹ Since then the sector has expanded into a complex system of varied modes of transportation, multiple regulators and a combination of individual and state owners struggling to provide a quality service to the public.

The National Transport Policy developed in 2009 defines national transportation as “all transportation facilities and organizations, including infrastructure (roads, railway, terminals, ports and airports), vehicles (road vehicles, railway motive power and rolling stock, aircraft and ships) and the maintenance and operation of these within the national boundaries of Sri Lanka”² Transportation in Sri Lanka includes road and non-road transportation which is intimately linked to the daily lifestyles and livelihoods of millions as well as the infrastructure essential for an efficient transport service.

At present, there is an operational fleet of approximately a million vehicles³ which amounts to a per capita mobility of more than 3,500Km per annum,⁴ which is overwhelmingly high for a country such as Sri Lanka. Motorcycles, three-wheelers and private vehicles constitute the majority of the fleet even though the passenger Km incurred by different modes of transportation bear witness to another reality (see Table 1&2). In spite of the increased use of private vehicles in recent years, there is still a very high dependence on public transportation to fulfil the requirements of the daily commuter. In certain areas public transportation is the only form of transportation for goods and passengers.

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1. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka.” Research in Transportation Economics 2008: page 109

2. Sri Lanka, Ministry of Transport, Draft National Policy on Transport in Sri Lanka (Colombo: National Transport Commission, 2008) page 4

3. Amal S. Kumarage, personal interview. 10 August 2011.

4. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka.” Research in Transportation Economics 2008: page 109

Table 1: Passenger km in Sri Lanka – 2007

Mode of transportation	Passenger km (million)	Percentage
Bus	46,396	61%
Private vehicles	18,536	24.4%
Railway	4,767	6.3%
Para transit	4,492	5.9%
Goods/land vehicles	1,839	2.4%
Total	76,031	100%

Source: Review of Sri Lanka Transport Sector.⁵

Table 2: Vehicle population in Sri Lanka

Class of vehicle	2005	2006	2007	2008	2009	2010
Motor cars	311,030	338,608	361,211	381,448	387,210	410,282
Motor tricycles	254,193	318,659	361,727	406,531	443,895	529,543
Motorcycles	1,265,514	1,422,140	1,604,648	1,760,600	1,896,021	2,100,832
Buses	73,887	77,233	79,870	81,050	81,789	84,280
Dual purpose vehicles	180,942	188,187	193,380	196,236	197,516	209,228
Lorries	223,740	244,176	262,584	276,622	284,847	296,692
Land vehicles - tractors	180,940	199,980	221,326	245,683	259,634	276,997
Land Vehicles - trailers	37,134	38,919	41,048	42,823	44,156	46,457
Total	2,527,380	2,827,902	3,125,794	3,390,993	3,595,068	3,954,311

Source: National Transport Statistics 2010.⁶

5. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 10

6. Sri Lanka, National Transport Commission, National Transport Statistics 2010 (Colombo: National Transport Commission, 2011) page 17

The National Transport Policy of Sri Lanka recognizes that land transportation,⁷ of which 93% is road transportation, provides “access to basic (human) needs such as to places of employment, markets and public services”,⁸ making modes of land transportation an essential service to the public. Seventy-three per cent of the total motorized commuters utilize the public transportation system, of whom 68% travel by bus.⁹ In fact, bus transportation has been the ‘backbone’ of the transport service since its commencement over a hundred years ago. However, hundred years have not been sufficient to raise the quality of the service to international or even acceptable standards.

Objective

The objective of this chapter is to discuss the governance landscape of the bus transportation sector emphasizing its impact on the service provided. The chapter will look at the history of policy development, recurring quality control issues and regulatory bodies responsible for the governance of the sector, highlighting its issues as well as best practices.

Methodology

The content of this chapter is based on secondary literary sources and the information collated has been substantiated by structured and unstructured interviews of two experts on the transport sector in Sri Lanka.

The regulatory development of the bus transportation sector can be divided into three main stages (excluding the present stage) based on ownership, management and regulatory structures.¹⁰

7. Sri Lanka, National Transport Commission, National Transport Statistics 2010 (Colombo: National Transport Commission, 2011) page 8

8. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 139

9. Sri Lanka, National Transport Commission, National Transport Statistics 2010 (Colombo: National Transport Commission, 2011) page 16

10. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka.” Research in Transportation Economics 2008: page 109

1. The initial years of bus transportation from 1907 to 1938 can be described as a period without any substantial regulations and “cut-throat”¹¹ competition between individual operators. Any regulations introduced during this period focused on revenue earning and not quality assurance of the service.
2. Private monopoly in the sector continued from 1939 to 1957 but with more regulations. New regulations included the enactment of a law, restriction of route licences and revision of bus fares. For the first time, bus transportation was recognized as “a public utility where service should be the guiding motive rather than profit”.¹²
3. The governance landscape of the sector completely changed between 1958 and 1978 due to the nationalization of bus services. Under the Central Transport Board (CTB) the bus service flourished to be a competent and professional set up and was known as “one of the largest publicly owned bus transport organizations by 1978”.¹³ However, it was also during this period that bus transportation transformed into a political tool and a welfare-oriented service which led it, ultimately, to become an unprofitable sector.

During the first three stages of its evolution, policy-makers looked at solving the most pertinent issues at the time rather than building on a sustainable, national policy for bus transportation. The nature of the regulations reflects the political atmosphere of the country rather than the needs of the commuters. This chapter will next look at the present situation to find out whether this trend has continued or changed for the better.

Present status of bus transportation

The government that came into power in 1977, once again allowed private bus operators, creating a mixed competition system, i.e. a system where both private and public buses operate. Before long, private bus operators began to dominate the sector, reducing the operational fleet of the state-run Sri Lanka

11. Amal S. Kumarage and M.D.R.P. Jayaratne, “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka”. Research in Transportation Economics 2008: page 110

12. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka.” Research in Transportation Economics 2008: page110

13. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka,” Research in Transportation Economics 2008: page 111

Transport Board (SLTB), established in 2005, to 8,403 by 2010 as opposed to the 19,805 private buses operating for the same period.¹⁴

The unplanned and rapid inclusion of a large number of untrained individuals to the bus service without adequate regulations in place is considered the major cause behind the decline in the quality of service. Ad hoc regulatory changes do not facilitate a national vision for an effective, efficient and quality bus service. Studies state “their limited technical know-how and lack of management experience, contributed to low vehicle utilization, high cost of operations, loss of revenue, (and) high accident rates”.¹⁵ Moreover, private bus drivers and conductors engage in “anti-social activities such as speeding, overloading, rough handling of passengers, lingering at bus halts, not departing till bus is full (and) obstructing traffic”.¹⁶ According to the Director, Operating & Service Monitoring at the National Transport Commission (NTC), H.W. Wipulasena there are about 19,500 private bus owners in Sri Lanka at present and managing such a large number of individuals is one of the biggest challenges that the NTC is facing at the moment.¹⁷

The quality of state-run buses too has deteriorated. The SLTB was formed to replace the CTB, the Sri Lanka Central Transport Board and Regional Boards, the Peoplized Transport Service and the Regional Transport Companies. It has not been the leader that the CTB was during the first decade of its operations. The SLTB is mandated to “provide an efficient passenger service by bus throughout the country, while operating with the private sector under regulated market conditions”,¹⁸ but they have been unable to become a worthy competitor to private buses. The SLTB has failed to become an exemplary model of service to private bus owners and operators and has not established the benchmark that is expected of it. Furthermore, it continues to operate at a financial loss even though it has gained ground since the late 1970s. This is partly due to the inefficiencies of the management and the excess staff of the SLTB.¹⁹ Of the 35,000 workforce that operated within the SLTB in 2008, 8,000 were deemed to be excessive.²⁰

14. Sri Lanka, National Transport Commission, National Transport Statistics 2010 (Colombo: National Transport Commission, 2011) page 39

15. Amal S. Kumarage and M.D.R.P. Jayaratne. “Lessons in ownership, regulation and management from 100 years of bus transport in Sri Lanka.” Research in Transportation Economics 2008: page 112

16. Ibid

17. H. W. Wipulasena, personal interview, 29 Aug. 2011.

18. Sri Lanka, Ministry of Transport, Draft National Policy on Transport in Sri Lanka (Colombo: National Transport Commission, 2008) page 7

19. Amal S. Kumarage. Review of Sri Lanka Transport Sector (2010) page 71

20. Ibid

Recurring quality control issues

The absence of a sound regulatory system to monitor all bus operators has had a detrimental impact on the quality of service provided to the general public. In the 'Review of Sri Lanka Transport Sector', Professor Amal S. Kumarage identifies the following as some of the recurring quality control issues of the sector and the problems it will lead to.²¹

Quality of buses:

The quality of the buses has deteriorated in recent years. Buses are neither reliable nor comfortable; they do not adhere to timetables and the conduct of the bus drivers and conductors is much to be desired. The absence in quality has resulted in passengers leaving the bus transport service and opting to use private vehicles. Prof. Kumarage claims that Sri Lanka is losing about 1% of its bus passengers every year.²² This has led to massive traffic congestion especially in urban areas and will continue to adversely affect the mobility of the people in years to come, if not addressed soon. It is estimated that the public loses 1–2% of speed every year due to increasing road congestion and the cost of congestion in the Western Province alone is a staggering Rs. 40 million per annum.²³

Safety:

The safety of bus transportation is another issue pertaining to the sector. The lack of adherence to road rules and the deteriorating conditions of the buses have put the lives of the general public at great risk. It is estimated that bus-related accidents claim over 300 lives every year.²⁴

Lack of modernization:

The delays in modernization and the absence of technology are highlighted as an “outstanding deficiency” in the bus transportation sector. The report states that there is “hardly any use of modern ICT based applications or computer-based applications in planning, operations or public information dissemination”. Unlike in the railway sector, bus passengers are unable to obtain information about bus routes and timetables through SMS alerts via the Government Information Centre.

21. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) pages 71-75.

22. Amal S. Kumarage, personal interview, 10 Aug. 2011.

23. Ibid

24. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 73

Bus terminals:

Substandard bus terminals and stops have been identified as yet another quality issue. Terminals should provide shelter and basic facilities such as washrooms and refreshments. Instead, they have become poorly-designed commercial spaces with no facilities and depend on revenue from buses for their development.

No professionalism:

Finally, the lack of professionalism in the entire sector can be named as one of the fundamental issues that has a negative impact on the quality of service provided to the general public. Bus operators do not require managerial or technical training or experience to obtain route permits and the regulations have minimum provisions towards the development of professionalism among the existing cadre. Drivers and conductors are known for their use of foul language, rude comments and careless attitudes towards passengers. Moreover, the lack of professionalism extends beyond the bus operators to administrative staff who also lack the required qualifications; “most....do not have staff that is qualified in transport operations, planning, regulation or enforcement”.²⁵

Who is responsible?

A study of the National Transport Policy of Sri Lanka reveals the complex yet comprehensive structure in place to govern bus transportation. The Ministry of Transport is responsible for policy formulation for the entire transport sector and plays an overall supervisory role over all modes of transportation. Table 3 has a list of the different institutions that come under the ministry and their role in the sector.

25. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 74

Table 3: Administrative institutions of the transport sector

Institutions	Responsibilities
Departments: <ul style="list-style-type: none"> • Department of Motor Traffic (DMT) • Sri Lanka Railway (SLR) 	<ul style="list-style-type: none"> • Registration and licensing of vehicles. • Issue of driving licences • Passenger and freight transport by rail
Statutory bodies: <ul style="list-style-type: none"> • Sri Lanka Transport Board (SLTB) • National Transport Commission (NTC) 	<ul style="list-style-type: none"> • Public road transport service • Regulate private omnibus transport
Public enterprises: <ul style="list-style-type: none"> • National Transport Medical Institute (NTMI) 	<ul style="list-style-type: none"> • Examine the physical and psychological fitness of applicants prior to issuing driving licences for heavy vehicles.

Source: Ministry of Transport.²⁶

The NTC which was set up in 1991 is considered the national regulator of bus transportation. Its main function is to “advise the government on the national policy relating to passenger transport services by omnibuses”.²⁷ The National Transport Policy details the “interventions of government in ensuring that existing and potential mobility needs within the country for passengers and goods transport are satisfied safely, cost-effectively and causing least impact on the environment and resources”.²⁸

Other than for the national-level regulators, Sri Lanka also has a network of regional-level regulators for bus transportation. Regulatory power was given to Provincial Councils (PCs) through the 13th Amendment to the Constitution in 1989 which allows them to regulate passenger and goods road transportation services by motor vehicles and provision of road transport services within the province.²⁹ Provincial Councils can also make statutes relevant to regulations provided that they are in line with the national policy of the country. These functions are carried out by the following agencies in each province.³⁰

- Provincial road development agencies
- Provincial road passenger transport agencies
- Provincial Commissioners of Motor Traffic

26 Ministry of Transport Sri Lanka, 14 Sep. 2011 <http://www.transport.gov.lk/web/index.php?option=com_content&view=article&id=92&Itemid=93&lang=en>

27. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 89

28. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 139

29. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 28

30. Ibid

The large number of actors in the regulatory structure has often led to disagreements and confusion. It is said that “the different interpretation by some provincial authorities of the powers devolved by the 13th Amendment to the Constitution has led to difficulties in enforcing regulatory regimes across provinces such as the national policy on implementation of integrated timetables, formation of management companies of private bus operators”.³¹ It is typically a case of “too many cooks”.

It is important to note that at the national level, the NTC is aware of its shortcomings and admits that as a regulator it is not at all satisfied with the present quality of bus transportation. Senior officials of the NTC shared some of the steps taken in recent years to address quality control issues.

The NTC has launched a ‘Quality Assurance Programme’ to “benchmark quality of buses and to improve them periodically”³² under which inter-provincial buses are physically checked on certain quality criteria. Eg: The space between seats and whether the bus has the required specification to operate as a public transportation provider. It also checks the quality of the air-conditioning in A/C buses annually and whether the destination boards are displayed properly. In recent years, private operators have been provided electronic ticketing machines even though the practical use of these machines remains debatable. The NTC also provides bus drivers and conductors with capacity development before issuing them identity cards. The NTC website (http://www.ntc.gov.lk/sub_pgs/operator.html) has more information on the rules and regulations applicable to bus operators and the required standard of service.

An important mechanism that has been introduced by the NTC to improve the quality of service is the ‘public complaint mechanism’. Launched in 2005, any bus passenger can lodge a complaint with the NTC about the behaviour, driving, overloading or any other wrong-doing of the bus driver or the conductor. The NTC will carry out an investigation of all completed complaints and promises to respond to the complaint within a week. Punishments for those who are found guilty vary from warnings to cancellation of their registration to training workshops that will help them to rectify their mistakes. However, the NTC claims that the public is hesitant to make complaints and is not adequately aware of the complaint mechanism in spite of constant advertising on television and in newspapers.

31. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 91

32. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 72

Tables 4 and 5 illustrate the efficiency of dealing with complaints and the nature of the complaints received from the public by the NTC. It is heartening that the NTC displays a good record for responding. User satisfaction and obtaining consumer feedback are considered a primary task of the regulators.³³ The NTC should be commended for this best practice and encouraged to continue by providing it with the resources needed.

Table 4: Received complaints vs. finished complaints in 2011 (January - July)

Title	Jan	Feb	March	April	May	June	July	Total
No of complaints received	389	342	475	465	442	473	539	3,125
No of complaints finished	385	336	460	454	422	425	401	2,883
Percentage	99%	98%	97%	98%	95%	89%	74%	92%

Source: National Transport Commission.

Table 5: Total number of public complaints received in 2010 – according to the nature of the offence

Description	No of complaints received	Percentage
Overcharging & non-refund of balance	988	45%
Discourtesy towards passengers	303	14%
Violation of approved timetable	79	4%
Failure to keep the bus mechanically fit & not maintaining sufficient level of A/C	119	5%
Not operating on authorized routes	162	7%
Carrying passengers in excess of the approved number	228	10%
Not issuing formalized tickets	197	9%
Other minor offences	123	6%
Total	2,199	100%

Source: National Transport Commission.

33. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 146

Conclusion & recommendations

Sri Lanka is known for boasting about its past greatness and ignoring its present crises. The island had “one of Asia’s best transport systems up to the 1960s”³⁴ but faces many challenges today. In conclusion, the following can be identified as some key areas of concern in the bus transportation service.

- The absence of a national vision and leadership
- Sustainable mobility plan for the country
- A network of regulators that does not agree with each other
- A passive consumer group that does not demand for better quality

The National Transport Policy contains many valuable recommendations and initiatives that could address most of these concerns and bring about tangible progress to this sector. An example is the formation of bus companies to reduce individual operators, school bus services to encourage children to use public transportation, a Gami Saeriya programme which has as its priority bus services to rural areas and a resource development scheme for bus crews which will offer them job security as well as develop their capacity to provide a better quality service.

Recommendations to the regulatory bodies:

- A commitment to implement the national policy. It is time to focus on long-term progress than short-term gain.
- Further develop and inform the public about feedback mechanisms and grievance redress systems to keep the public engaged.
- Work towards enhancing the professionalism of bus operators to ensure better service standards.

Recommendations to the public:

The non-involvement of the public in the development of the bus transportation service has contributed to a lapse in quality. The fact that the passengers do not feel a responsibility towards its growth and do not hold the relevant authorities accountable will only make matters worse. Therefore, it is recommended that the public:

- Demand accountability and better standards from regulators.
- Use the provisions available such as the complaints mechanism to address quality issues of service.

34. Amal S. Kumarage, Review of Sri Lanka Transport Sector (2010) page 73

The bus service is fundamental to the efficient mobility of the public as well as the effective functioning of the country. It is time to take responsibility for past mistakes and implement existing regulations to become a credible, quality transport service in the world once again.

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Chapter 6

Disaster risk reduction amidst increased vulnerability to landslides

Dilrukshi Handunnetti*

Introduction

The environmental landscape in Sri Lanka has altered drastically in the past two decades with a marked increase in extreme weather conditions contributing to greater vulnerability to disasters.¹ The slow onset of natural disasters of yesteryear is now replaced by a dramatic increase in the frequency of disasters with a devastating impact.²

Disasters such as droughts, floods and landslides at a higher frequency, variable and unpredictable rainfall, rising sea levels and higher temperatures collectively contribute to Sri Lanka's risk profile.³

Problem statement

This chapter will examine how Sri Lanka's environmental and disaster management regulatory mechanisms contribute to disaster risk reduction amid growing concerns of multiple impacts of climate variability⁴ and identify areas that require improvement to ensure disaster resilience and human safety.

Methodology

The methodology included interviews with relevant government officials, affected individuals, experts, desk research and online research.

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1. <http://weleftmarks.wordpress.com/2011/03/01/2010-the-second-warmest-year-on-record/>

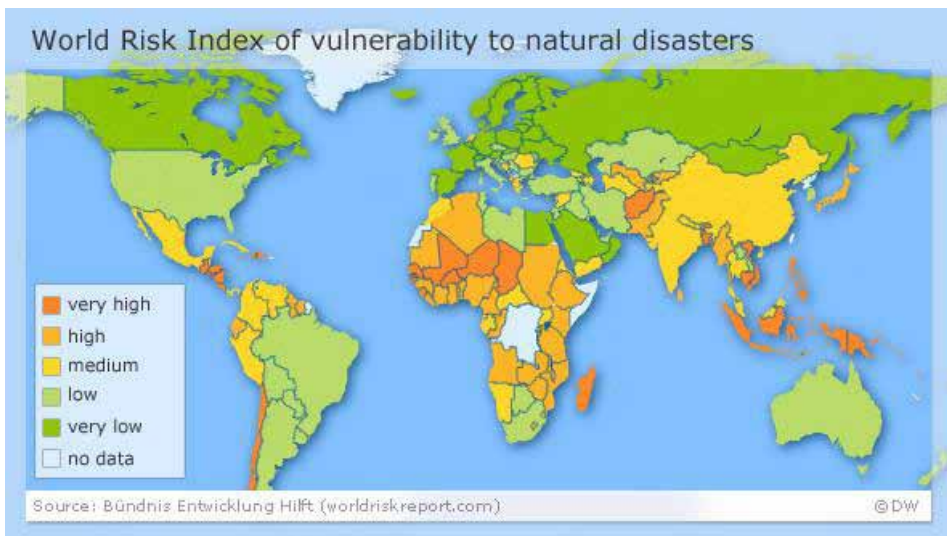
2. <http://bobmckerrow.blogspot.com/2011/01/floods-and-landslides-in-sri-lanka-2011.html>

3. http://www.ldeo.columbia.edu/chrr/research/profiles/pdfs/srilanka_profile1.pdf

4. Climate variability refers to fluctuations in the climate system that can be observed in the short to medium term and occurs on a smaller scale in specific geographical regions. This includes extreme weather events such as cyclones, floods, droughts and other hazards caused by weather phenomena. In contrast, climate change refers to persistent long-term changes (decades or longer) in global oceanic and atmospheric systems, such as sea level rise or increasing temperatures.

Findings

Broadly looking at the state's focus on national planning and implementation to prevent disaster risks through the relevant regulatory bodies, this chapter will also specifically focus on a 2011 initiative by the National Building Research Organization (NBRO) to mitigate the impact of landslides through regulation in areas identified as 'highly vulnerable' with a population of four million. Further, it seeks to establish that effective implementation of a new regulatory mechanism relies heavily on the institutional framework and its capacity, both human and financial.



Source: World Risk Index of Vulnerability to Natural Disasters 2011.

In September 2011, the World Risk Index (WRI) identified Sri Lanka as facing high risks in terms of natural disasters⁵ and noted with concern statistics that reflect the multiplication of disaster-affected populations. WRI also stressed the need for short and long-term interventions to reduce the vulnerability of communities, susceptibility of a society and ecosystems and most importantly the capacity to cope. The latter takes into account the status of governance, disaster preparedness, adaptation and early warning systems in specific countries.

5. <http://ihrrblog.org/2011/09/26/2011-un-world-risk-index/>

Though affected by cyclones, droughts, floods and tsunamis, the primary hazard affecting Sri Lanka is floods, ranking in high deciles when weighted by both mortality rates and the Gross Domestic Product (GDP). Cyclones which affect the northern region have a moderate to minor risk when weighted by mortality.⁶

With a marked increase in the numbers affected by disasters, government agencies were, by sheer necessity, required to adopt a multi-pronged approach to disaster reduction in Sri Lanka. About 16 key ministries and several government departments work collectively now to ensure impact reduction.

Sector regulatory mechanism

For over three decades, the key line ministry in this arena has been the Ministry of Environment and its implementing agencies. The regulatory mechanism of the sector is developed through a body of environmental laws and regulations.⁷ Of the six implementing organizations coming under the purview of the ministry, the Central Environmental Authority (CEA) and the Climate Change Secretariat (CCS) perform vital functions in disaster risk reduction.

The CEA was established in August 1981 under the National Environmental Act No. 47 of 1980 and given wider regulatory powers under the National Environment (Amendment) Acts No. 56 of 1988 and No. 53 of 2000. The Ministry of Environment and Natural Resources which was established in December 2001 was mandated to integrate environmental considerations in the development process.

The CCS established under the Ministry of Environment developed a National Climate Change Adaptation Strategy (NCCAS) for 2011–2016⁸ in 2010 and an Information, Education and Communications Strategy (IECS) for Climate Change Adaptation⁹ which highlights the role of the state in mainstreaming adaptation into society through policies, laws and regulations and engaging state sector institutions.

6. The Earth Institute at Columbia University accessed at http://www.ldeo.columbia.edu/chrr/research/profiles/pdfs/srilanka_profile1.pdf

7. <http://www.environmentmin.gov.lk/legislations.htm>

8. http://www.climatechange.lk/adaptation/Files/Strategy_Booklet-Final_for_Print_Low_res%281%29.pdf

9. http://www.climatechange.lk/adaptation/Files/IEC_Strategy.pdf

The other relevant state arm is the Ministry of Disaster Management. In 2006, with the government creating the portfolio of Disaster Management and Human Rights, this ministry was required to plan and implement policies on mitigation and prevention of disasters¹⁰ in addition to creating a realistic approach to responses and recovery. It was also tasked with formulating Sri Lanka's first-ever National Disaster Management Plan based on National Policy¹¹ while implementing agencies were streamlined under the provisions of the Disaster Management Act No. 13 of 2005.

Following the December 2004 Indian Ocean tsunami, a road map for disaster risk management was developed, entitled 'Towards a Safer Sri Lanka (2005)'.¹²

Both the Meteorological department and the NBRO are key players in the disaster-reduction initiatives. The Department is required to gather data, provide scientific analysis and forecasts, issue warnings and offer climatological services, while the NBRO, established in 1984, is emerging as a technical service provider mandated to create a disaster-free safe environment. The NBRO's key functions include research on environmental science, study of landslides and related geo-hazards, human settlement planning, engineering project management, geo-technical engineering and building materials engineering. Following the establishment of the Ministry of Disaster Management and Human Rights, the NBRO was brought under it in January 2007 and its objectives revised to cater to the identified main objective of disaster risk reduction. Today, the NBRO functions as the research arm of the ministry.

Ministry of Environment: Implementing agencies

- Department of Forest Conservation (DFC)
- Central Environmental Authority (CEA)
- Marine Pollution Prevention Authority (MPPA)
- Geological Survey and Mines Bureau (GSMB)
- State Timber Corporation (STC)
- Sri Lanka Wildlife Trust (SLWT)
- Climate Change Secretariat (CCS)

10. http://www.adrc.asia/documents/dm_information/srilanka_plan02.pdf

11. <http://saarc-sdmc.nic.in/pdf/srilanka/file7.pdf>

12. http://www.adrc.asia/documents/dm_information/srilanka_plan01.pdf

Ministry of Disaster Management: Implementing agencies

- Department of Meteorology (DoM)
- National Building Research Organization (NBRO)
- Disaster Management Centre (DMC)
- National Disaster Relief Services Centre (NDRSC)

Rain, floods and landslides

Sri Lanka experienced the heaviest rainfall in 100 years between December 2010 and February 2011.¹³ Torrential rains caused intense flooding and landslides throughout the country. At the height of the floods in January, the Disaster Management Centre (DMC) reported an unprecedented flood-affected 1,055,262 people (283,667 families).¹⁴ This also drew the point home that not only the frequency of disasters but also the populations affected were on the rise.

The number of districts affected by landslides has also increased in the past three years,¹⁵ making it an emergency concern to introduce far-sighted and impact-driven disaster mitigation and management measures (both human-induced and natural) together with effective relief disbursement mechanisms/structures. Though not yet the biggest concern in the area of disaster vulnerability, landslides are increasing in the country and disaster risk mitigation authorities have predicted that they will be the 'national concern of the next decade'.¹⁶

NBRO's R.M.S. Bandara who heads the Landslide Studies and Services Division emphasizes the need to have a strict regulatory mechanism that will help minimize man-made disasters, while stressing the human contribution to landslides.¹⁷ A geologist at the NBRO, L.M.C. Moraimadala adds that the NBRO has called for the fixing of meters with sensors to detect landslide-prone areas in Sri Lanka for consistent risk-mapping.¹⁸

13. http://www.adrc.asia/view_disaster_en.php?NationCode=144&lang=en&KEY=1479 and <http://ochaonline.un.org/CERFaroundtheWorld/SriLanka2011/tabid/7351/language/en-US/Default.aspx>

14. <http://ochaonline.un.org/cap2006/webpage.asp?Page=1934>

15. http://www.nbro.gov.lk/web/index.php?option=com_content&view=article&id=167&Itemid=210&lang=en and http://www.adrc.asia/acdr/2011colombo/documents/01_Recent%20Floods%20in%20Sri%20Lanka%20-%202010.06.2011.pdf

16. Interview with the NBRO head

17. Interview with NBRO head

18. http://www.colombopage.com/archive_11/Feb13_1297611168JR.php

“Landslides are increasing at an alarming rate. About one-fifth of the country’s population is now vulnerable to disasters. As floods increase, we notice a corresponding increase in the occurrence of landslides. There is another dimension, the human-induced disasters. We strongly feel this aspect needs to be urgently addressed and regulated in order to minimize risks to life, human settlements and livelihoods,” explains Mr. Bandara.¹⁹

Mapping by the NBRO led to the identification of 160 landslide-prone locations in the country. In February 2011, the NBRO classified 10 districts as ‘highly vulnerable to landslides’ and warned that around four million people are at risk.

New regulations

“In this context of increasing changes in the natural environment coupled with impacts of climate change, we have identified key human interventions that contribute to the increasing vulnerability to landslides -- land fillings, unauthorized constructions and irregular land use. The 2011 new regulation seeks to control this aspect to attempt minimizing landslides due to human intervention. There is also a checklist on landslides issued as part of the Guidelines for Disaster Risk Reduction for Small Residential Buildings”, adds Mr. Bandara.²⁰

However, with the new stipulation springs the twin issues of effective implementation and service delivery. The new mechanism compulsorily requires those living in the identified ten districts to obtain special clearance prior to any construction work. Previously, the construction of a floor area of 80m or less in locations that have not experienced any type of slope failures was exempted. All Municipal Councils, Urban Councils, Pradeshiya Sabhas and other project-approving agencies have to ensure NBRO clearance prior to giving approval to development activity/construction.²¹

While the relevant circular seeks to address concerns relating to human safety and security of human settlements due to construction work in identified areas, the service recipients have other concerns such as the effectiveness of the clearance mechanism and options in the absence of alternative land.²²

19 Interview with NBRO head

20. <http://www.nbro.gov.lk/web/images/stories/publications/landslidechecklist.pdf>

21. Circular No: NBRO 2011/1

22. http://www.nbro.gov.lk/web/index.php?option=com_content&view=article&id=182%3Anbro-establishes-10-district-offices-in-landslide-prone-areas&catid=44%3Anews-a-events&Itemid=204&lang=en

“The special clearance takes months as it has to be processed at local level, sent to the NBRO and then returned to the local agency.²³ We feel it is another layer of permit clearance,”²⁴ said a landslide victim from Matale who wishes to reconstruct his home as the walls have developed cracked.

The NBRO, while conceding to initial glitches in service-delivery and reiterating that they are being addressed with NBRO offices being set up at the district level, however, insists that the alarming increase in disasters and their frequency demand enhanced regulation. “It is no mean task to ensure the safety of four million people or strive to do so. The new regulation prioritizes human safety,” says Mr. Bandara.²⁵

The new mechanism requires all approving authorities to introduce a monitoring mechanism to ensure that NBRO recommendations are adhered to at the time of issuing a certificate of conformity. It holds officials authorized to approve any developmental plan/construction personally liable for loss or damage caused by non-implementation and proposes the recovery of damages personally to compensate the affected people.²⁶

Effectiveness of applicability

Nevertheless the enormity of the issue it seeks to address, the effectiveness of the circular’s applicability is marred by a series of factors. The key concern is the process of permit clearance which may be time-consuming given the resource constraints, both human and financial. Enforcement is another question due to the capacity available at local level such as the Grama Niladhari in effectively and expeditiously processing as well as giving clearance during the initial stages.²⁷

“This has vision but possibly lacks the institutional capacity to ensure robust implementation,” noted a top official of the Ministry of Disaster Management. “The effectiveness lies in the enforceability of the new circular which is indeed a laudable step taken towards reducing human-induced landslides. For that to happen, the district offices have to be effectively functional.”²⁸

23. Mode of requesting landslide clearance from NBRO accessed at http://www.nbro.gov.lk/web/index.php?option=com_content&view=article&id=167&Itemid=210&lang=en

24. Interview with landslide victims from Matale

25. Interview with NBRO chief

26. Circular No: NBRO 2011/1

27. http://www.nbro.gov.lk/web/index.php?option=com_content&view=article&id=167&Itemid=210&lang=en

28. Interview with official from Ministry of Disaster Management and Human Rights

To facilitate the disaster-reduction process and effective implementation of a national disaster preparedness and mitigation policy, around 16 ministries have been brought together. According to the Minister of Disaster Management, Rishard Bathiudeen, an integrated approach was adopted to ensure the country is well prepared for impending disasters and effective aid distribution. “The NBRO opened up district offices only in October. They will become operational soon,”²⁹ he said.

Yet, crippled by resource constraints and capacity limitations, the NBRO finds it difficult to ensure the implementation of the circular. With a meagre annual financial allocation, officials claim it is not possible to service the people who may soon queue up for clearance. “Given that approximately four million people are vulnerable to this threat, it may prove difficult to ensure expeditious service delivery with the limited human and financial resources,” a top official the Ministry of Disaster Management admitted.³⁰

The dire need to have a strong response mechanism precipitated by the increasing number of disasters, however, makes the NBRO insist on the circular’s full implementation, irrespective of its own state of unpreparedness.

“We are training Grama Niladharis and Divisional Secretaries in this regard. We offer technical input at their request. If they approve the wrong plan, they will be held liable for any post-construction impact,” notes Mr. Bandara.³¹ With a handful of experts to handle the entire process, the NBRO will find it extremely difficult to deliver if there are a significant number of permits to process.

To the affected people, the mechanisms are unclear. They feel the circular is an additional burden that will inevitably create “windows for corruption” when expeditious clearing of permits proves difficult.

To the people living in ‘risky areas’, it is a hazard they have to live with. “Our lifestyles and livelihoods are connected to these places. If I have no alternative land and must build a home for my family, what will the NBRO offer as an alternative? Alternative land? Relocation of family and suitable livelihood options?” a villager from Haldumulla wished to know.³²

29. Interview with Minister Rishard Bathiudeen

30. Interview with official from Ministry of Disaster Management and Human Rights

31. Interview with NBRO chief

32. Interview with Haldumulla resident

According to environmental lawyer Jagath Gunawardene, it is a clear question of understanding economic vulnerabilities in addition to disaster mapping. “The problem with Sri Lanka is that policies and laws are hardly designed in a practical way. This results in service-delivery deficiencies and could open a window for corruption. The full implementation of this circular also depends on alternative land and livelihood availability for people. In India, there have been instances where relocation was required by government circular due to developmental processes or due to being disaster-affected, people went to courts demanding that their right to choice be upheld,”³³ he said.

Mr. Gunawardene states that implementation will not be that easy when the impact could be really high on land, livelihoods and lifestyles. “Despite the integrated approach to disaster management and recovery, the absence of a streamlined service will result in exposing the public to exploitative, corrupt practices.”

Conclusion and recommendations

In the broader context, given the increase in natural disasters in Sri Lanka, the measures appear to be severely curtailed by the absence of an effective service delivery mechanism despite one-fifth of the population being identified as being vulnerable to landslides.

The establishment of NBRO local offices may prove insufficient if adequate personnel are not deployed to ensure efficient service delivery. People from Ratnapura, Matale and Badulla who were interviewed expressed concern about time-consuming and red-tape heavy permit clearing processes. It is imperative, therefore, for the NBRO to develop its institutional capacity, both in terms of financial and human resources.

For the first time, as a deterrent, personal liability has been imposed and accountability demanded from the authorized officials if the due process is not followed. This could curb corruption in the issuance of permits, yet result in the identified officers not being willing to exercise discretion, thus impacting on service delivery.

Sri Lanka is still strongly focused on landslides to the exclusion largely of the magnitude of other environmental and natural disasters experienced, including the tsunami. The focus is on one geographical area (the hills), while

similar plans and accountability mechanisms have not been introduced in relation to forestry, biodiversity and coastal resource management which require an integrated approach to disaster mitigation and management.

The absence of similar vulnerability mapping exercises in other areas including the coastal zone, retards the collective understanding of the island's vulnerability scale. This anomaly which makes the exercise incomplete in adopting an integrated approach to dealing with natural and man-made disasters needs to be addressed urgently.

Given the magnitude of the problem, it is recommended that the new licensing process should not become burdensome to the people, creating an additional line of licence clearance. While the NBRO's effort is timely, the expected approach should ensure a risk map that goes beyond landslides to deal with natural disasters in a systematic and integrated manner.

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- Landslide Risk Map of Sri Lanka 2011

Annexure 1: Circular

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ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානයේ යෝග්‍යතා සහතිකය/නිර්දේශ ලබාගැනීම**

1. පසුගිය දශකය තුළ මෙරටෙහි නායයෑම් අවධානම් දිස්ත්‍රික්ක ලෙස හඳුනා ගෙන ඇති නුවරඑළිය, බදුල්ල, මහනුවර, මාතලේ, කළුතර, ගාල්ල, මාතර, හම්බන්තොට, කෑගල්ල සහ රත්නපුර යන දිස්ත්‍රික්කවල නායයෑම් හේතු කොට ගෙන අහිමි වූ ජීවිත, හානියට පත් දේපල සහ විනාශයට ලක්වූ යටිතල පහසුකම්වල සිහු වර්ධනයක් දක්නට ඇත. මේ සඳහා විශේෂයෙන්ම බලසා ඇත්තේ අවිධිමත් ඉඩම් පරිහරනය හා අස්ථාවර බැඳීම්වල සිදුකරනු ලබන අක්‍රමවත් ඉදිකිරීම්/ සංවර්ධන ක්‍රියාකාරකම් බවට හඳුනාගෙන ඇත.


2. නායයෑම් වැලැක්වීමේ සහ අවම කිරීමේ ක්‍රියාමාර්ගයන් කුලීන් ජනතාවට සහ දේපලවලට සිදුවන හානිය අවම කර ගැනීම සඳහා නායයෑම් අවධානම් සහිත විශේෂයෙන් ඉහත ඡේදයෙන් දක්වා ඇති දිස්ත්‍රික්කවල කවර හෝ ඉදිකිරීමේ කාර්යයක් ආරම්භ කිරීමට පෙර මේ සම්බන්ධයෙන් තාක්ෂණික ඡායාරූප සහ අවශ්‍ය පහසුකම් වලින් හෙබි, වගකීම් පැවරී ඇති රාජ්‍ය ආයතනය වන ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානයෙන් යෝග්‍යතා සහතිකයක්/නිර්දේශය ලබා ගැනීම අනිවාර්ය කල යුතු බවට 2011.01.05 වන දින හරු අමාත්‍ය මණ්ඩලය තීරණය කොට ඇත.

3. මින් ඉදිරියට සිදුකරනු ලබන්නාවූ කවර හෝ ඉදිකිරීමක් සිදුකිරීමට පෙර ඒ සඳහා වන අවසරය ලබා දීමට පෙර ඉහත පළමු ඡේදයේ නම්කර ඇති දිස්ත්‍රික්කවල සියළු මහනගර සභා, නගර සභා, ප්‍රාදේශීය සභා සහ ව්‍යාපෘති අනුමත කරන ආයතන විසින් ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානයෙන් අදාළ යෝග්‍යතා සහතිකය/ නිර්දේශය ලබා ගැනීම අනිවාර්යයෙන්ම සිදු කල යුතුය.

4. ඉදිකිරීම් සිදුවන අවස්ථාවේදී ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානය විසින් ලබා දෙන ලබන නිර්දේශය අනුව ඉදිකෙරෙන්නේදැයි පරීක්ෂා කිරීමේ ක්‍රමවේදයක් අදාළ මහනගර සභා, නගර සභා, ප්‍රාදේශීය සභා සහ ව්‍යාපෘති අනුමත කරන ආයතන විසින් සකස් කර ගත යුතු අතර ඉදිකිරීම් අවසන් කල පසු අනුකූලතා සහතික නිකුත් කිරීමේදී එම නිර්දේශ ක්‍රියාත්මක කර ඇත්දැයි අවධානයට ලක්කිරීම අනිවාර්ය වේ.

5. ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානයේ නිර්දේශ/ යෝග්‍යතා සහතිකයකින් තොරව කවර හෝ ඉදිකිරීම් සඳහා අනුමැතිය ලබා දී ඇත්නම් එම අනුමැතිය ලබා දීමට කටයුතු කල නගරාධිපති/ සභාපති, ලේකම්වරයා ඇතුළු අනුමත කිරීමේ කමිටුව සහ ව්‍යාපෘති අනුමත කරන්නා වූ බලධාරීන් පෞද්ගලිකවම වගකිව යුතු වේ. ඒ අනුව ජාතික ගොඩනැගිලි පර්යේෂණ සංවිධානයේ නිර්දේශ/ යෝග්‍යතා සහතිකයක් නොමැතිව ඉදිකිරීම් සඳහා අනුමැතිය ලබාදීමෙන් අනතුරුව යම්කිසි භාතියක් සිදුවුවහොත් සිදුවී ඇති හානියේ වටිනාකම අදාළ පාර්ශ්වයට හෝ රජයට ගෙවීම සඳහා නගරාධිපති/සභාපති, ලේකම්වරයා ඇතුළු කමිටුව සහ ව්‍යාපෘති අනුමත කරන්නා වූ බලධාරීන් පෞද්ගලිකවම වගකීමට බැඳේ. එවැනි තත්වයකදී සිදුවූ හානියේ වටිනාකම අදාළ පාර්ශ්වයන්ට නොගෙවනු ලදහොත් අදාළ වටිනාකම අයකර ගැනීම සඳහා නීතිමය පියවර ගනු ලැබේ.

6. මෙම චක්‍රලේඛය 2011.02.15 වන දින සිට වලංගු වන අතර මේ සම්බන්ධයෙන් අදාළ නිලධාරීන් දැනුවත් කර අවශ්‍ය ඉදිරි කටයුතු සිදුකල යුතුය.


 රත්, එම්. මොහොමඩ්
 ලේකම්
 ආපදා කළමනාකරණ අමාත්‍යාංශය

- පිටපත : 1. ජනාධිපති ලේකම්
 2. අමාත්‍ය මණ්ඩල ලේකම්
 3. භාණ්ඩාගාර ලේකම්
 4. ආරක්ෂක ලේකම්
 5. පළාත් සභා හා පළාත් පාලන අමාත්‍යාංශය ලේකම්
 6. රාජ්‍ය පරිපාලන හා ස්වදේශ කටයුතු අමාත්‍යාංශ ලේකම්
 7. විගණකාධිපති

Annexure 2: Checklist for Landslides

This document is an integral part of the “Guidelines for Disaster Risk Reduction (DRR) for Small Residential Buildings” prepared by the Technical Advisory Committee to the Disaster Management Center (DMC). These guidelines are implemented through UDA.

Note:

1. If this neighbourhood has experienced any type of slope failures in the past and if the building is multi-storeyed, the NBRO’s approval is strictly required.
2. Only if the neighbourhood has NOT experienced any type of slope failures in the past and the floor area of the building is less than or equal to 80 m², following guidelines need to be adopted by the local planning officer for approval
3. “Guidelines for construction in landslide prone areas, Sri Lanka Urban multi-hazard disaster mitigation project, March 2003” is used as reference
 - (a) Restriction on construction to be imposed
 - (b) Dimension perpendicular to contour < 5m (Note: if intermediate terrace of 0.6 m is used this can be relaxed to < 7m)
 - (c) Longer side of building to be parallel to contours
 - (d) Maximum height of the vertical cut to be restricted (Note: without retaining wall)
 - (e) Minimum horizontal distance to the proposed building from the toe of the vertical cut to be restricted (Note: without retaining wall)
 - (f) Minimum horizontal distance to the nearest building from the top of the vertical cut to be > Height of the cut (Note: without retaining wall)
 - (g) Retaining wall to be used (if height of vertical cut is higher than the maximum limit as indicated in condition No. d above)
 - (h) Restriction to be placed on slope (if cut is NOT vertical and restrictions d to g are not imposed)
 - (i) Development of surface drainage of the land
 - (j) Turf or other erosion control measures

TABLE 6 - Applicability of Structural Requirements (Landslides)

No	Conditions	No Risk	Low Risk	Medium Risk	High Risk
		Ground slope less than 11° (0% - 20%) even within 10 districts identified by NBRO as landslide prone	Ground slope between 11° - 17° (20% - 30%)	Ground slope between 17°-31° (30% - 60%)	Ground slope > 31° (> 60%)
(a)	Restriction on construction	[No restrictions apply]	[Guidelines to be followed]	[Guidelines to be strictly followed]	[Restriction on construction is mandatory. Essential development activities require NBRO's approval.]
(b)	Dimension perpendicular to contour < 5m (Note: if intermediate terrace of 0.6 m is used this can be relaxed to < 7m)		Recommended	Mandatory	
(c)	Longer side of building to be parallel to contours		Recommended	Mandatory	
(d)	Maximum height of the vertical cut to be restricted (Note: without retaining wall)		1.5 m for residual soil 1.0 m for colluvium soil	1 m for residual soil. No unsupported cuts in colluvium soil	
(e)	Minimum horizontal distance to the proposed building from the toe of the vertical cut to be restricted (Note: without retaining wall)		2.0 m	3.0 m	
(f)	Minimum horizontal distance to the nearest building from the top of the vertical cut to be > Height of the cut (Note: without retaining wall)		Mandatory	Mandatory	
(g)	Retaining wall (if height of vertical cut is higher than the maximum limit as indicated in condition (d) above)		Mandatory	Mandatory AND designed by a technically qualified person	
(h)	Restriction on slope (if cut is NOT vertical and restrictions (d) to (g) are not imposed)		Mandatory (gradient should not exceed 60°)	Mandatory (gradient should not exceed 45°)	
(i)	Development of surface drainage of the land		Mandatory (if development obstructs the natural surface drains)	Mandatory	
(j)	Turf or other erosion control measures		Recommended	Mandatory	

^a These districts are: Badulla, Galle, Hambantota, Kalutara, Kandy, Kegalle, Matale, Matara Nuwara Eliya and Ratnapura

Chapter 7

Judicial independence in Sri Lanka

Rutherford Hubbard*

Introduction

Effective and accountable governance requires a strong, independent judiciary built on a regulatory framework that insulates judges from political interference and protects the public from arbitrary or capricious use of judicial power.¹ In the past year, changes in the constitutional structure, in tandem with a steady erosion of regulatory implementation, have severely undermined the independent functioning of Sri Lanka's judiciary.² Judicial integrity is not solely a function of the regulatory framework, it is also based on the integrity of individual judges and the oversight of the citizenry. However, as discussed below, deep structural flaws in the regulatory framework have made it increasingly challenging for individuals to rise above political pressure. This issue takes on a new urgency, with the passage of the 18th Amendment to the Constitution last year and the appointment of a new Chief Justice (CJ) this year. Therefore, this chapter will consider the regulatory framework in some detail, while also exploring other developments that threaten to undermine judicial independence.

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1. Basic Principles on the Independence of the Judiciary: Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

2. <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-022-2011>; http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=30811, TISL interview Oct. 7, 2011. Notes with author.

TISL interviews, Oct. 6 and 7(x2), 2011. Notes with author.

Problem statement

“Experiments in constitutional governments have shown that such freedoms are meaningless unless there is in place, an independent judiciary vigilant to safeguard those freedoms, and an Executive respectful of its decisions.”³

An independent judiciary is not a chimeric goal of western liberal democratic theory. Rather, it is a fundamental requirement for effective governance, the administration of justice and sustained economic growth. Judicial independence is taken here to include both institutional independence and decisional independence. The first is determined by the structure of judicial functions and the second by the ability of judicial officials to decide without interference.⁴ Such independence serves three crucial functions in a democratic society – it safeguards democratic processes and institutions; creates a predictable business environment that encourages foreign investment and facilitates economic growth; and ensures the fundamental rights of the citizenry by providing redress for violations.

The judiciary is able to safeguard democratic processes and institutions when judges themselves are insulated from political interference. As noted in the Basic Guidelines of the United Nations, an independent judiciary must have accountable and transparent appointment procedures, clear rules for judicial conduct and sanctions and total independence of the judicial process.⁵ An adequate regulatory framework insulates the judiciary from political considerations, allowing it to protect democratic processes from the inherently political Executive and legislative institutions of governance.

When the judiciary is not independent, economic growth suffers. Although arguments remain whether a judiciary must be merely predictable or truly independent to facilitate economic growth, it is increasingly clear that

3. Param Cumaraswamy on “An Independent Judiciary: Beacon of Constitutionalism in a Democracy.” Fourteenth Dudley Senanayake Memorial Lecture Oct. 16, 2011. Colombo; See also, Justice in Retreat: A report on the independence of the legal profession and the rule of law in Sri Lanka. International Bar Association, 2009 pp3.37; European Commission Charter on the Statute for Judges and Explanatory Memorandum, 1.3. “In respect of every decision affecting the selection, recruitment, appointment, career progress or termination of office of a judge, the statute envisages the intervention of an authority independent of the executive and legislative powers within which at least one half of those who sit are judges elected by their peers following methods guaranteeing the widest representation of the judiciary.”

4. The importance of these two kinds of independence is reflected in the Basic Principles on the Independence of the Judiciary Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

5. Basic Principles on the Independence of the Judiciary, 1985.

both predictability and neutrality, guaranteed by internal and external independence, are required.⁶ The lack of an independent judiciary reduces the confidence in basic contracts, discourages foreign investment and stimulates the underground economy. In a World Bank survey of 3,600 firms in 69 countries, more than 70% of the respondents said that an unpredictable judiciary was a major problem in their business operations.⁷

Lastly, the judiciary can uphold fundamental rights only when judges themselves are free from political interference and have nothing to gain from adopting political positions. To gain such freedom, there must be clear regulations regarding judicial sanctions, advancement and appointment to the bench, while the scope of judicial responsibility must not be curtailed.⁸ When a judiciary is precluded from deciding on key questions of fundamental rights, it cannot be considered effective as an institution. Furthermore, if regulations and an effective code of ethics are not in place regarding post-judicial employment, judges may be compromised by the promise of future rewards.

Objective

In the light of these concerns, the objective of this chapter is to explore threats to judicial independence in Sri Lanka. Issues in the regulatory framework, procedural framework and overall legal culture are considered, with recommendations on how to safeguard judicial independence and what steps could be taken by key target groups.

Findings

When the standards of judicial independence are measured in the Sri Lankan context, a number of troubling deficiencies become apparent. Here, the regulatory framework that defines Sri Lanka's judiciary is discussed.

6. Susan D. Franck, Foreign Direct Investment, Investment Treaty Arbitration, and the Rule of Law. 19 Pac. McGeorge Global Bus. & Dev. L.J. 337 (2006).

7. Richard E. Messick, Judicial Reform and Economic Development: A Survey of the Issues. World Bank Res Obs (1999) 14 (1): pages 117-136.

8. Basic Principles on the Independence of the Judiciary, 1985.

a. Constitutional changes

The 18th Amendment and judicial appointments

The first step in guaranteeing an independent judiciary is establishing a system in which judges are appointed and promoted on the basis of merit and seniority, without political influence. However, in Sri Lanka, there is no transparent, standardized procedure in place to evaluate judges or judicial candidates.⁹ If judges were to become dependent on political patrons they would be compromised in their decision-making and unable to perform their functions independently. When sitting judges are unable to reach politically contentious decisions without interference from influential politicians, the most important judicial decisions are the ones most susceptible to perversion. In Sri Lanka, regulatory changes, both constitutional and procedural, encourage this kind of political interference in judicial outcomes.

In October 2010, Parliament adopted the 18th Amendment to the Constitution. Following the conclusion of Sri Lanka's protracted civil war, the 18th Amendment sought to redefine the balance of power in governance through the distribution of appointments and responsibilities. One result of the amendment was the abolition of the poorly-functioning Constitutional Council. The effect was to centralize control in the Executive over the judicial appointment process to the Supreme Court, the Court of Appeal and the High Court. It also increased the Executive's influence in the lower courts by way of the appointment of the Judicial Services Commission (JSC) responsible for appointing lower court judges.

The 17th Amendment was a significantly strong guarantor of judicial independence, having created a Constitutional Council responsible for approving Executive appointments to the judiciary. However, since 2005, the Constitutional Council had been at an impasse because of the non-appointment of its members by the Executive with no process in place to resolve the issue.¹⁰ As a result, Presidential nominations of judges were not subjected to any additional appraisal and approval process prior to formal appointment. Despite this, even at the lowest ebb of its power, the 17th Amendment appeared to have a moderating effect on judicial appointments and created a modicum of predictability in appointments that is now lacking in Sri Lanka.¹¹

9. 18th Amendment to the Constitution of Sri Lanka, Art. 41A.

10. The Constitutional Council was not in operation as the necessary members had not been appointed and the language of the 17th Amendment was problematically vague regarding appointments and quorums.

11. Interview, In conversation with Dr. Jayampathy Wickramaratne. Groundviews, Sept. 30, 2010. Available at, <http://groundviews.org/2010/09/30/in-conversation-with-dr-jayampathy-wickramaratne/>

The 18th Amendment replaced the non-functional Constitutional Council with a short list of persons from whom the President shall seek “observations” regarding proposed judicial appointments.¹² This list of persons is known as the Parliamentary Council. However, if the council does not provide timely comments, the President may appoint new justices unilaterally. Given that under the Constitution basically anyone can be appointed to the Supreme Court, this gives improbably broad discretion to the Executive. The Constitution (Art. 107) places no limits regarding age, experience, or qualifications on who can serve on the Supreme Court.¹³ It remains to be seen if there is any enforceable sanction if a President were to refuse to recognize the council’s observations, but in practice this means that the current President holds complete control over all appointments.¹⁴ One respondent claimed that the structure of appointments was creating a “chain of yes-men” (and yes-women) in the Sri Lankan judiciary.¹⁵

Furthermore, Presidential control over judicial appointments has resulted in a disproportionate number of higher court judges coming directly from the Attorney General’s (AG’s) Office. As recently as 2009, two extensive studies revealed that an over-reliance on the AG’s Office as a source of appointments was weakening the judiciary, strengthening Executive control and disenfranchising minority judges.¹⁶ While lawyers from the AG’s Office are highly qualified, they are currently tending towards strong government support and, therefore, reduce the ideological diversity of the courts.¹⁷ The past record would indicate that this has not always been the case. However, since the AG’s Office was brought under the direct control of the Executive, certain structural limits and corresponding responsibilities that ensure diverse ideologies in the AG’s Office have been lost.¹⁸ Given the fact that

12. 18th Amendment to the Constitution of Sri Lanka, Art. 41A. This list of officials consists of

- (1) the Prime Minister;
- (2) the Speaker;
- (3) the Leader of the Opposition;
- (4) a nominee of the Prime Minister, who shall be a Member of Parliament; and
- (5) a nominee of the Leader of the Opposition, who shall be a Member of Parliament.

13. There is no restriction on who may serve as a Justice in the Supreme Court under the Constitution of Sri Lanka, other than the ordinary requirements for public service.

14. Under the 18th Amendment, the President may appoint, the Chief Justice and Supreme Court Judges, the President of the Court of Appeal and the Judges of the Court of Appeal, the members of the Judicial Services Commission, the Attorney General, the Solicitor General, the Auditor General, the Inspector General of Police, the Parliamentary Commissioner for Administration (Ombudsman) and the Secretary-General of Parliament.

15. TISL interview, Oct. 7, 2011. Notes with author.

16. International Crisis Group Asia Report N°172, 2009, at 9; See gen. International Bar Association, 2009; TISL interviews, Oct. 6 and 7(x2), 2011. Notes with author.

17. International Crisis Group Asia Report N°172, 2009, interview with a former Supreme Court justice, Colombo, November 2008. TISL interviews Oct. 7, 2011. Notes with author.

18. Basil Fernando, Sri Lanka: Absence of fairness and executive control of legal process. Asian Human Rights Commission, March 31, 2010; The Department of the Attorney General was removed from the Ministry of Justice and placed under the Executive in 2010. Gazette no 1651/20-April 30th 2010.

about 80% of the current Supreme Court justices are drawn from that office, this is a very real concern.¹⁹

The 18th Amendment and the JSC

The 18th Amendment also expanded the President's role in appointing judges to the lower courts. The Executive, again with the observations of identified officials, makes appointments to the JSC, which in turn appoints lower court judges. When it was created by the Constitution in 1978, the JSC was designed to place a check on Executive interference in the judiciary, both by lower court appointments and by sanction authority. For example, although High Court judges are appointed by the President, they are subject to disciplinary control by the President only on the recommendation of the JSC.²⁰ The JSC also had robust authority to make such provisions as are necessary or expedient for the discharge of its duties including the power to adopt rules of procedure on the recruitment and appointment of judges.²¹ However, by placing the JSC under the Executive, its essential purpose as a check on Executive power has been neutered.²² Therefore, the Executive President now holds exclusive control, via constitutional rights of appointment, to directly or indirectly appoint all judges in the Sri Lankan judiciary.

b. Procedural changes

Judicial sanctions

This same pattern of consolidation of Executive power seen in judicial appointments has been demonstrated in the sphere of judicial sanctions, which are primarily the responsibility of the JSC.²³ The sanction procedure and criteria are not transparent and information on specific investigations is rarely available to the public in a meaningful way. This has two negative

19. Several interviewees raised this as a concern. It was not suggested that judges appointed from the AG's Office were not qualified or competent. Rather, it was noted repeatedly that judges appointed from the AG's Office were simply more sympathetic to the position of the state and the Executive. One former Supreme Court Justice noted that these judges also had certain gaps in their legal experience and were forced, for example, to defer cases involving land disputes.

20. Article 111(2) of the Constitution.

21. Article 112(8).

22. While the 18th Amendment further erodes the integrity of the JSC, the JSC has not lived up to the strength of its mandate since at least 2001. (Sri Lanka: Failing to Protect the Rule of Law and the Independence of the Judiciary International Bar Association, November 2001, pp56-57; Recommendations 7; Sri Lanka's Judiciary: Politicized Courts, Compromised Rights. International Crisis Group Asia Report N°172 – 30 June 2009, p – 30 June 2009, page 1. The JSC was increasingly seen as under the control of former Chief Justice Silva and serving a largely administrative, as opposed to Executive function. (Id. At 14; Article 114 (5) of the Constitution). Since Justice Silva's retirement, the JSC has, if anything, been weakened further and come more firmly under the control of the office of the President. This shift has been made possible by the 18th Amendment and also by the lack of clear guidelines by which judges are to be appointed, and an accountable, transparent selection process.

23. Under its mandate, CIABOC should have the authority to prosecute a judge for bribery in a court of law, thereby overriding the authority of the JSC.

impacts on the judiciary. On one hand, there is no established procedure for evaluating and sanctioning corrupt judges, while on the other, when a judge is sanctioned, it is rarely clear just what behaviour led to the sanction.²⁴

It remains both difficult and rare to remove a sitting judge from the bench. At the Supreme Court level, the President retains this authority, but must obtain the approval of Parliament. At the lower levels, the JSC is responsible for removing sitting judges, following an investigation. However, in practice, the sanctioning of judges rarely goes through the formal procedures. There is an implied emphasis on informal resolution of judicial misconduct in order to protect judicial integrity.²⁵ However, this emphasis may have had the opposite effect. The public rarely sees corrupt judges punished and does not see the reasons that judges are sanctioned. Problematic judges are frequently transferred to other districts, while those who fail to comply with political pressure risk finding themselves out of a job entirely.²⁶ In addition, allowing Parliament to have direct access to the judicial sanction process is itself problematic and can allow sitting judges to circumvent the sanction process through political means.²⁷

Judicial bench assignment

Another sphere of judicial action that is susceptible to political manoeuvring is the appointment of Supreme Court justices to the bench for specific cases. In this area, Sri Lanka is in direct conflict with recognized international best practices.²⁸ In Sri Lanka, the CJ approves judicial bench assignments for the Supreme Court and there are no procedures in place to limit her discretion.²⁹ Under former CJ Sarath Silva, there were numerous credible accusations that the CJ was abusing his discretion to assign sympathetic judges to politically sensitive cases.³⁰ In fact, under CJ Silva, there were significant credible complaints regarding judicial appointments, judicial assignments and political interference in general.³¹ This culture of judicial

24. International Crisis Group Asia Report N°172, 2009, page 1

25. For example, in a recent case in Galle, one judge was so compromised that the lawyers in the district threatened to boycott his court room en masse. Instead, this judge was transferred to another district and continues to adjudicate cases. TISL Interviews, Oct. 6, 2011. Notes with author.

26. TISL interviews, Oct. 6 and 7(x2), 2011. Notes with author.

27. International Bar Association, November 2001 at 2.21.

28. Guidance for Promoting Judicial Independence and Impartiality. Office of Democracy and Governance Bureau for Democracy, Conflict, and Humanitarian Assistance U.S. Agency for International Development. January, 2002; See also, Transparency International World Corruption Report 2007, Recommendation 7 on Judicial Assignment.

29. Pursuant to Art. 136 of the Constitution of Sri Lanka.

30. Justice in Retreat, International Bar Association, 2009, page 3.41.

31. Id at 3.42-45; International Crisis Group Asia Report N°172, 2009, at 1. In November 2011 a group of former judges claiming to be victimized by CJ Sarath N Silva have decided to go before a parliament select committee to testify against the former Chief Justice. <http://www.thesundayleader.lk/2011/11/13/d-day-looms-for-sarath-n-silva/>

interference during CJ Silva's tenure demonstrates that there exists at least the perception that the authority of the CJ's Office can be abused.³² Therefore, it is necessary to establish clear procedures that assign justices to cases either randomly or by seniority.

Post-judicial careers

Following retirement from the judiciary, judges may receive appointments to lucrative public or private sector employment. This practice undermines the integrity of the judiciary and defeats regulatory guarantees of judicial independence. It can also create the perception that judges consider decisions on specific cases with an eye towards their next employment and future wealth. When judges are not procedurally or contractually precluded from accepting certain kinds of post-judicial employment, judicial integrity suffers and the protection of fundamental rights is at risk. In Sri Lanka, there are currently no regulations in place to limit post-judicial appointments. In one glaring example, the most recent former CJ Asoka de Silva retired to take a post as Senior Legal Advisor to the President. Likewise, former Justice Nihal Jayasinghe retired from the Supreme Court and took up the post of Sri Lankan High Commissioner to the United Kingdom. Such behaviour would be considered a violation of judicial ethics in many common law countries, and is a legal violation in others.³³ It has been suggested that these are not isolated concerns and that many judges plan their post-judicial careers while in office and reach decisions accordingly.³⁴

Parallel appointments

A related concern is the practice of serving parallel judicial appointments on both the Sri Lankan and Fijian benches.³⁵ That a Supreme Court or other judge could simultaneously sit on the bench in different countries is troubling for a number of reasons. In addition to questions of time and energy that a judge can expend, Fiji remains a military dictatorship. As such, parallel appointments to Sri Lanka and Fiji raise serious questions about expectations of appropriate judicial behaviour. There are concerns over conflicts of interest and the measure of integrity associated with serving one democratic country and another authoritarian one.

32. Under the current Chief Justice, several interviewees suggested that this practice was still in place, but this conclusion has not been formally verified.

33. See e.g., United States Code of Judicial Conduct, Canons 2 and 5; The United Kingdom Supreme Court Guide to Judicial Conduct, Chapter 9. Many U.S. states, including California and Ohio, make it illegal for Judges to receive certain kinds of appointments after retirement.

34. <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-022-2011>; http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=30811, TISL interview Oct. 7, 2011. Notes with author.

35. Justices Marsoof and former Justice Hettige of the Sri Lankan Supreme Court also serve on the Supreme Court of Fiji. Many other justices serve on lower courts in both countries. Information is available at <http://www.judiciary.gov.fj> and <http://www.justiceministry.gov.lk>.

Regulations that limit the strength of the judiciary

It is not only judiciary-specific regulations that impact judicial independence. Any regulation that reduces the scope of the judiciary's power can have a significant effect. In Sri Lanka, the Emergency Laws and the Prevention of Terrorism Act (PTA) passed in 1979 eroded the role of the judiciary in enforcing the fundamental rights pertaining to arrest and detention, arguably as a necessary element of fighting a protracted civil war. Unfortunately, the cessation of conflict and the subsequent repeal of the Emergency Laws in August 2011 did nothing to reverse this trend and enhance the independence of the judiciary. Instead, the 1979 PTA continues to severely curtail the courts' jurisdiction and authority to prevent abusive detention and torture.³⁶ The PTA actively prohibits the judiciary from deciding on the legitimacy of the regulations for any reason other than constitutionality. There also remains a lack of clear definitions for offences under the PTA that further erodes judicial independence and discretion while increasing reliance on the Executive. The Executive and the police can, therefore, effectively override the judiciary on core issues of criminal procedure. The impact of these regulations is visible today: Political influence is seldom necessary as judges rarely challenge the government's position enforcing the PTA.³⁷

Supporting independent judges: The role of individuals and the public

Although regulatory reform can weaken the judiciary, in the end it is the action of individual judges and the lack of oversight by the citizenry that allow for the collapse of judicial independence. However, political interference in the judiciary has led to changes in the judicial culture in Sri Lanka, thereby undermining the capacity of individual judges to stand up to the changes in the regulatory framework. The steady erosion of independence and integrity of the judiciary undermines the profession and expectations of judges and

36. International Crisis Group Asia Report N°172, 2009. at 14.

37. See, Part II, § 5, Public Security Ordinance, No. 25 of 1947. Section 7 of the PSO states that such regulations override laws, and Section 9 precludes criminal prosecution for acts done pursuant to any emergency regulation. Information on judicial discretion drawn from TISL interviews Oct. 7, 2011. Notes with Author; See also, *Nallaratnam Singarasa v The Hon. Attorney General*. S.C. SpL(LA) No. 182/99, 15.09.2006; 68 Art. 154j(2) of the 1978 constitution, which states that a proclamation under the PSO "shall be conclusive for all purposes and shall not be questioned in any Court", was adopted through the Thirteenth Amendment in order to overrule a Supreme Court decision – *Joseph Perera v. Attorney General* (1992) 1 SLR 199 – allowing such challenges.

the public. While the strength of the judiciary is ultimately a function of the demands of the citizenry and of the judges themselves, regulatory changes in Sri Lanka have pushed the judiciary to the limit.

The role of the citizenry as a bulwark of an independent judiciary has also been compromised by the Criminal Contempt of Court Law. This broad law has been used to silence dissent and twice the Supreme Court has been found in violation of the International Convention on Civil and Political Rights by the United Nations Human Rights Committee.³⁸ In addition, the law grants far-reaching powers to compel the revelation of sources that discourages journalists from playing their role in ensuring an effective judiciary.³⁹ The sub-judice rule further extends the powers of the court to convict even those who make public comments regarding ongoing cases, no matter how unlikely it is that the comments could impact on the outcome of the case.⁴⁰

Conclusion and recommendations

Increased Executive control over the judicial appointments process has had a real and immediate impact on judicial independence. The politicization of the process has led to a “mad scramble” for political influence in judicial appointments.⁴¹ These developments in the judiciary may reflect a larger culture of political interference in the Public Service. In the case of the judiciary, the extent of political interference has had a significant effect on the judicial culture.⁴² The overall lack of a system to evaluate judges at any stage of their careers is expressed through questionable judicial appointments, vague guidelines for elevating judges and unclear sanction procedures.

Fortunately, so-called “soft cases” that implicate no political interest, are likely to be adjudicated competently and effectively, indicating that the Sri Lankan judiciary remains an institution staffed by highly qualified, competent experts. However, those cases that do implicate a political interest are increasingly unlikely to receive a fair trial.⁴³

38. Tony Fernando v. Sri Lanka. CCPR/C/83/D/1189/2003 29 April 2005.; Dissanayake v. Sri Lanka. CCPR/C/93/D/1373/2005 4 August 200

39. Kishali Pinto Jayawardena, Contempt of Court – The Need for Definition and Codification of the Law in Sri Lanka. Available at <http://www.slpi.lk/downloads/documents/Contempt%20of%20Court%20in%20Sri%20Lanka%20-%20SLPI%20paper.pdf>

40. Ibid.

41. TISL interview Oct. 7, 2011. Notes with author

42. Ibid.

43. TISL interviews Oct. 7, 2011. Notes with author.

The erosion of judicial independence in Sri Lanka is deeply troubling. Not only will accountability and good governance suffer but Sri Lanka's exceptional economic growth rate may be hobbled. A compromised judiciary sends a clear message to foreign investors and other states that a country is not prepared to be part of the international political and economic community. As Sri Lanka faces a two-fold challenge of international human rights scrutiny and high economic growth targets, the lack of structural judicial independence stands out as a public signal of whether the country is in fact capitalizing on its newfound peace and prosperity to join the international community.

Changes in the judiciary must start with changes in the regulatory framework that defines it. While individual judges continue to serve with distinction, the avenues for political pressure on the judiciary are so strong that the entire body is increasingly at risk. Therefore, Transparency International Sri Lanka encourages strong advocacy in the following areas:

Recommendations for legal practitioners

- Advocate for regulations and/or ethical standards limiting post-judicial employment for judges for three years and strengthen the existing code of conduct to specifically address post-judicial activity and parallel appointments.
- Formally request that the AGs Department be returned to the authority of the Ministry of Justice, discouraging Executive influence over judges appointed from that office.
- Lobby for the creation of an independent body responsible for evaluating judicial performance and investigating charges of misconduct against judges.

For civil society

- Lobby for the repeal of the 18th Amendment to the Constitution and return structural independence to the judiciary. The repeal should reinvigorate the JSC as an independent authority that oversees an accountable, transparent and standardized system of judicial appointments, based on merit and sustainability.
- Initiate public discussion on the possibility of a post-judicial review mechanism that will have quasi judicial authority to look into the execution of justice.

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Chapter 8

International aid and credit: Financing economic growth in Sri Lanka

Rutherford Hubbard*

Introduction

At its current low level of infrastructure development and limited tax base, Sri Lanka must rely on external sources of capital to finance necessary large-scale infrastructure investment. However, Sri Lanka currently finds itself in a financing gap between lower-income countries that qualify for large amounts of foreign grants and concessionary loans and firmly middle-income countries that attract sufficient foreign direct investment. Not surprisingly, this challenging situation has led to a number of changes in the development strategy of the Government of Sri Lanka (GoSL). However, instead of taking this opportunity to improve over the flawed bilateral donor processes that undermined accountability, the GoSL has undertaken changes that have decreased accountability and transparency in foreign-funded development projects. While these changes in the GoSL strategy have emerged over the past three years, thus far 2011 has seen a strengthening of two significant trends that impact on good governance and accountability and, therefore, deserve attention here.

The first of these new trends is that the GoSL is increasingly relying on non-concessional and semi-concessional loans, primarily from China, to fund major infrastructure projects.¹ Second, there has been a significant reduction in transparency in all stages of the major infrastructure development process including an increase in unsolicited tenders in developing such projects.² The following chapter will explore these trends and their implications for the future of the development environment of Sri Lanka.

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1. Sirimanna Bandula. "Chinese project loans at high interest rates." The Sunday Times, 19 June 2011; Dr. Harsha de Silva calls for Government explanation on high loan interest rates. Lankanewspapers.com. August 5, 2011; see also, Sellakapu S. Upasiri de Silva, Hambantota Port Project Tender And Violating NPA Guidelines. Available at: <http://www.thesundayleader.lk/2011/01/30/hambantota-port-project-tender-and-violating-npa-guidelines/>.

Problem statement

Sri Lanka has long been an “aid dependent” nation. However, in the past three years, as Sri Lanka ‘graduated’ to a middle-income country, many traditional bilateral donors have pulled out and others have scaled back their level of engagement.³ In response, the GoSL has elected to significantly increase its reliance on non-concessional and semi-concessional loans that bear significant risks. Currently, the GoSL is highly exposed to short-term obligations, with repayment schedules on euro government bonds and more than a billion dollars in loan commitments from China on a 7-10 year repayment schedule.ⁱ At the same time, an increasing lack of transparency and inclusivity has reduced the public’s role in this high-risk decision-making and may have weakened project design. Large-scale projects like the Hambantota Port and Airport construction and much of the nearly US\$ 1 billion in road investments have been contracted without an open tender procedure, potentially at much higher costs.ⁱⁱ Furthermore, major projects like those in Hambantota and the construction of the coal-fired power plant outside Puttalam have had little to no input in the project design process.⁴ As will be discussed below, this combination of high cost and low accountability has the potential to undermine Sri Lanka’s high growth rate, lead to unsustainable debt servicing ratios, and even decrease currency stability.

The Paris Declaration calls for increased donee ownership and agency over development funding, something largely lacking with traditional bilateral aid and non-governmental organization(NGO) implementers. As Sri Lanka becomes increasingly able to rely on concessional and eventually commercial loans for its infrastructure development needs, there is an opportunity for the GoSL to greatly expand its ownership and agency in this sphere and improve over past donor performance. However, a balance must be struck between project ownership and project accountability. While conditional aid and loans may reduce the former, the shift to non-conditional funding must be accompanied by GoSL driven controls that accomplish the same necessary function. Unfortunately, the opposite has occurred. Instead of strengthening the regulatory environment, the existing regulations like the Procurement Guidelines of 2006 and the relevant impact assessment requirements are often ignored.⁵

2 TISL interviews. 30 August 2011 (Notes with author).

3. Compare the aid and financing commitments of the Ministry of Finance and Planning, Mid Year and Yearly Fiscal Position Reports 2008-2011.

4. Id; <http://sundaytimes.lk/110619/BusinessTimes/bt01.html>. TISL interviews. 30 August and 1 September 2011 (Notes with author).

5. See endnote vi.

Objective

Sri Lanka has long been forced to rely on a flawed bilateral donor system, but now, given the opportunity to shape its own foreign financing environment, the government has pursued two troubling trends in 2011. An increased reliance on short term semi-concessional loans has been coupled with decreasing transparency and accountability. The result is a dangerous increase in debt obligations, without an accompanying transparent, accountable process. Therefore, the objective of this chapter is to analyse these issues and recommend a way forward to resolve these concerns.

Methodology

A strong regulatory framework that ensures transparency and accountability is essential for foreign funded, large-scale development projects for three reasons. First, less-transparent project design and implementation procedures reduce competition and can lead to higher costs. Second, less-transparent and inclusive projects are less likely to provide optimal returns on investment. This is of particular concern given Sri Lanka's high growth target of 9.5%. Third, less-transparent projects are easier targets for real and perceived corruption. By institutionalizing a strategy of non-transparent foreign-funded infrastructure development, the risks of corruption are significantly increased.⁶

At the same time, it is important to consider these trends in the context of the serious concerns that have been raised about donor compliance with the Paris Declaration, particularly following the tsunami in 2004. However, these concerns, which include the lack of accountability measures that control NGOs and other implementing organizations, predate the tsunami, and have never been fully resolved.ⁱⁱⁱ

Despite the ambitious Gross Domestic Product (GDP) growth rate goal of 9.5%, the GoSL currently maintains a public debt of around \$ 17 billion, with a projected repayment level for 2011 at more than \$1 billion, not including

6. See e.g., Samir Elhawary with M.M.M. Aheeyar, Beneficiary perceptions of corruption in humanitarian assistance: a Sri Lanka case study. HPG Working Paper, August 2008; Peter Gibbon and Lau Schulpen, Discussion, Comparative Appraisal of Multilateral and Bilateral Approaches to Financing Private Sector Development in Developing Countries. Paper No. 2002/112, 2 November 2002; Evaluation of the Implementation of the Paris Declaration case study Country Level Evaluations Sri Lanka, Asian Development Bank, May 2008.

more than a billion in new borrowing. As demonstrated by T. Lalithasiri Gunaruwan in his recent Diandas Memorial Oration, it is possible to sustain the kind of investment necessary to achieve, but in order to do so, investments must be highly efficient at driving growth. Furthermore, while the national debt is falling as a percentage of the GDP, the debt in real terms is growing rapidly.⁷

Findings: The transparency deficit

Today, the primary source of foreign financing is China. With 55% of total foreign financing, China nearly doubles the commitment of the next highest foreigner financier, Japan at 30%. These bilateral donors are then followed by the World Bank (WB) and the Asian Development Bank (ADB) representing 7.5% and 6.5% of the total commitments respectively. The remaining 1% comes from the UN Agencies including the Food and Agriculture Organization (FAO). India is only responsible for a negligible level of investment, largely through relatively untapped (for now) lines of credit, but the size of its investment is growing. Therefore, India remains a key strategic actor.

Table 1a: Aid commitments (Jan - May 2008)

Description	US\$ mn.
Japan	42.2
France	23.3
Iran	450.0
India	109.2
Denmark	155.2
Australia	29.6
Saudi Fund	23.0
Asian Development Bank	90.0
World Bank	43.1
IFAD	20.7
UNICEF	39.0
Other	23.8
Total	1049.1

Table 1b: Foreign finance commitments (Jan - Apr 2011)

Donor	US\$ mn.
Bilateral	1,176.2
China	759.8
Japan	413.4
India	3.0
Multilateral	208.8
Asian Development Bank	89.2
World Bank	150.8
UN Agencies	13.8
Total	1,385.0

Source: Government Mid Year Financial Reports, 2008 and 2011.

7. Government Mid Year Financial Report 2011; T Lalithasiri, Gunaruwan. Diandas Memorial Oration.

Current short-term (7-10 year) repayment structures on infrastructure loans and foreign currency bonds exert pressure on the debt-servicing ratio over the coming years. This pressure will mandate high levels of economic growth that sufficiently parallel payment schedules as well as continued access to capital. Otherwise, the debt-servicing ratio in any given year could far outstrip the government's capacity to pay during a given payment cycle, despite sustained high GDP growth.

Table2: Statement on government treasury cash flow operations (January to May)

Item	2010	2011	
	Jan- May	Jan- May	
	Estimate	Estimate	Actual
Total cash inflow from revenue and other receipts	295,687	359,080	347,754
Total cash outflow for recurrent expenditure	-373,825	-420,122	-408,320
Total cash outflow for capital expenditure*	-105,709	-119,718	-130,795
Net cash surplus(deficit)	-183,847	-180,760	-191,361
Opening cash balance as at 1st January	-75,969	-86,809	-86,809
Gross borrowing*	308,370	396,820	410,722
Debt repayment	-134,536	-219,522	-231,340
Net borrowing	173,834	177,298	179,382
Adjustment account balance (TEB, net deposits. etc)	1,999	-	3,479
Closing cash balance as at 31st May	-83,983	-90,271	-95,309

* Includes project/programme loans received by the government and recorded in the CS-DRMS as at 20 June 2011⁸

8. Government Mid Year Financial Report 2011.

What this means for transparency, accountability and good governance in the international aid and investment sphere is quite straightforward. The GoSL is pursuing an aggressive growth strategy that leaves little room for error. Reduced transparency and accountability in the project formation and implementation process greatly increases the likelihood of such errors.

Among the current sources of foreign financing, the development banks continue to compel high standards of transparency, accountability, and inclusivity. The Japanese, through JICA, likewise have high standards for evaluation and accountability, and emphasize internal and external compliance.⁹ However, the Chinese EXIM Bank, which now dominates the field, expressly avoids these kinds of controls.¹⁰ While the merits of such a strategy are debatable in the light of the Paris Declaration mandate, it is clear that if the donor/investor abdicates their role in ensuring transparency and accountability, it is essential that the GoSL step forward to occupy the field.

The EXIM Bank lending strategy, also known as the Chinese Africa Policy, is led by the Chinese Ministry of Commerce (MOFCOM). The strategy is closely integrated with Chinese Foreign Policy objectives, requires significant input from Chinese corporations that oversee the project and unlike the multilateral development banks, does not require accompanying political reforms from the recipient country.¹¹ It also requires Chinese contractors and often both Chinese labour and construction supplies.

The project formation stage requires an application from the potential recipient government, followed by feasibility studies conducted by the Chinese EXIM Bank, in consultation with the relevant Chinese ministries and the recipient Ministry of Finance. Once a project is approved, a Chinese corporation is selected to oversee implementation and only Chinese companies are permitted to bid for tenders. Under contractual terms, the EXIM Bank pays directly to the Chinese tender recipient, upon receipt of a request from the recipient executing agency. Therefore, the majority of funding never even enters the Sri Lankan economy. In terms of oversight, the EXIM Bank conducts its own internal oversight and for large-scale infrastructure projects may appoint a Chinese company with an exclusive monitoring role over the Chinese oversight company. However, there are no requirements that the recipient country conduct its own monitoring.¹²

9. <http://www.jica.go.jp/english/operations/evaluation/index.html>, see also <http://www.jica.go.jp/english/operations/evaluation/index.html>.

10. Dr Martyn Davies with Hannah Edinger, Nastasya Tay & Sanusha Naidu with Hannah Edinger, "How China delivers development assistance to Africa." A research undertaking by the Centre for Chinese Studies prepared for the Department for International Development (DFID), Beijing.

11. Davies et al. pages 19-20, 21.

12. Davies et al. pages 19-20.

A number of concerns have been raised regarding the application of the Africa model to Sri Lanka. First, the lack of transparency and information sharing raises questions about the long-term sustainability of many of these projects. Two very public examples are the fact that the Chinese-built railways cost nearly three times per kilometer as Indian-built railways, and the failure of feasibility studies to detect the presence of subsurface bedrock in Hambantota Harbour.¹³ Less-publicized examples include allegations of poor workmanship on the Southern Highway and the lack of available information on the economic feasibility of the Hambantota Airport.^{vi}

Criticisms have also been leveled at the GoSL because recent EXIM Bank loans are at substantially less favorable terms than those available from the multilateral development banks, in terms of both interest rates and repayment structures. What such critiques fail to account for, is that decisions regarding external funding for infrastructure projects are based on a host of factors, including foreign-policy concerns, long-term access to capital and repayment structures.¹⁴ However, it remains unclear just what factors have influenced the GoSL's strategy as the process has been troublingly opaque.

In contrast to the investment strategy favored by the EXIM Bank and the robust conditions of development bank loans, Indian investment takes a different approach, combining small grants with lines of concessional credit and commercial loans. For example, for the Kankesanthurai Port and a portion Sri Lanka's railroad investment, India has provided a limited grant, a substantial line of credit at low concessional rates and a mix of commercial loans.

Changes in government practice parallel chinese investment requirements

While highly criticized in the international media, the Chinese EXIM Bank's Africa model has its fair share of support.¹⁵ What is troubling in the Sri Lankan context is that the GoSL has instituted a number of policy actions that parallel the more problematic elements of this model.

Although the EXIM Bank has no formal policy of withholding detailed loan information, experiences in several African nations suggests a common trend of low transparency associated with Bank loans, and this pattern persists in Sri Lanka.¹⁶ Of particular concern is the lack of conformity with

13. T Lalithasiri, Gunaruwan, Diandas Memorial Oration; Hambantota Port Project Tender And Violating NPA Guidelines | The Sunday Leader 8 August 2011.

14. See endnote i.

15. Davies et al., regarding unsolicited tenders specifically, see John Hodges INF Vice Presidency June 6, 2006. Presentation Managing Unsolicited Proposals.

the government's own project development standards, as evidenced by the choice to bypass the National Procurement Agency when selecting tenders for the Hambantota Project.^{vii} Furthermore, there is an overall lack of structural transparency during the implementation. For example, road project budgets are currently structured as bulk packages that obscure the actual cost per specific Km. There is, therefore, no formal requirement to release the specific details of procurement contracts.

Alternative strategies

Project planning and formation procedures require a careful balance. On the one hand, the Paris Declaration of 2005 and development literature more broadly suggest that the recipient country should have the primary role in determining what kinds of projects are necessary and where and when they should be implemented. On the other hand, carefully-designed projects that take all relevant stakeholders into account and are subject to careful economic and environmental feasibility studies can be perceived as reducing local ownership and agency.^{viii} Therefore, it is essential that the project selection and funding process must include public debate and participation, leading to transparent procedures and outcomes.

Contrary to these principles, the restrictions and conditions that come with many bilateral grants and concessionary loans must be considered potential stumbling blocks to flexible and timely infrastructure investment. Take for example the performance of the WB and the ADB, the primary development bank players in Sri Lanka.^{ix} Both the WB and the ADB have highly structured project planning and formation procedures. Although both emphasize the role of the GoSL, the banks retain final veto authority on all projects, and may refuse to grant loans until necessary stakeholders are consulted. This generally includes not only the External Resources Department, but also the relevant ministries, local government, and impacted private sector and civil society groups. The development banks also require feasibility studies, an environmental impact assessment, and other relevant assessment procedures. However, this process can be very time consuming and short to medium term infrastructure investments may not be feasible under this extended timeline.

16. Davies et al. page 18.

Likewise, the development banks require transparent procurement and tendering procedures. All tenders must be solicited and published so that the details of the tender proposals can be compared.^x As a result, these projects tend to keep costs down, but the process can be very time consuming and may defeat objectives other than short-term cost-benefit gains. Still, it is essential that the best practices of these organizations be considered in comparison to the current government choices in funding large-scale infrastructure projects. Ownership and agency are important, but only when there is a meaningfully transparent process that produces feasible, sustainable projects that benefit the country as a whole. Ownership is meaningless when it is abused to benefit elites at the cost of the taxpaying public.

Conclusion and recommendations

External financing remains crucial to the GoSL's development strategy. As the costs of such financing rises, it is more important than ever that the policy framework in which these investments occur ensures maximum return on investment and benefit the country as a whole. This is not to say that past donor and development bank policies are the gold standard for infrastructure development, but there are certainly lessons to be learned from them. The disappointing record of donor accountability and transparency in Sri Lanka makes the shifting international financing environment an ideal opportunity to refine regulations and policies in ways that optimize the return on infrastructure investment in Sri Lanka.

Although Sri Lanka is currently experiencing rapid economic growth and relative calm, it is unfortunately likely that the changing climate will lead to an increase in natural disasters. As the terrible floods of 2011 demonstrated, a return to extensive aid reliance, if only on a temporary basis, is possible. Therefore, Sri Lanka must take the opportunities presented by the current favourable conditions to instal mechanisms that guarantee effective use of international aid and investment. Unfortunately, over the past year, the government has done precisely the opposite.

TISL's strategic plan for 2011-2016 emphasizes three areas: National and local governance; private sector and civil society organisations; and citizenry. TISL feels strongly that transparent, participatory governance that includes the private sector and the citizenry is essential to effective governance and economic growth. The current challenges seen in the development aid and

investment framework highlight the animus of TISL's position. Therefore, TISL strongly advocates the following recommendations as a way to increase transparency and participation in the development investment process.

Problem: Lack of participation in project formation and lack of oversight drive up costs while reducing project benefits.

Solution: Increase transparency in the infrastructure project development stage. The process should include both public and private stakeholders in decision-making and extensive, transparent feasibility studies for proposed projects should be conducted and publicly disseminated.

Problem: Solicited tenders can be time-consuming and cumbersome, but unsolicited tenders create opportunities for corruption and have raised costs in practice.

Solution: The GoSL should be urged to refine tender procedures to increase transparency without sacrificing efficiency. Procedures that subject projects to increased scrutiny according to project size and scope should be proposed, ensuring that the government can be both flexible and accountable.

Problem: Lack of public input allows the GoSL to engage in high-risk project financing without being held accountable for the negotiation.

Solution: The GoSL should be urged to increase transparency and accountability in the project-funding phase. Full public disclosure of comparative financing interest rates as well as private sector alternatives should be made available to the public.

Problem: High interest rates coupled with short-term repayment structures require very high investment returns and continued growth to avoid economic destabilization.

Solution: Consider long-term implications of high interest rates and short-term repayment structures when negotiating infrastructure development loans. TISL urges both civil society and the GoSL to engage in a vigorous and informed public debate about how best to use government resources that takes into account both short-term and long-term priorities of all stakeholders.

End Notes:

- i. For example, the Chinese EXIM loans over the past three years have interest rates ranging from 2-3% to 7%, and the most recent Hambantota project loans have interest rates between 5.8 and 7.2% and a 10-year repayment schedule. Bandula Sirimanna, "Chinese project loans at high interest rates. The Sunday Times, 19 June 2011; Dr. Harsha de Silva calls for Government explanation on high loan interest rates". Lankanewspapers.com. 5 August 2011. Compare this to the current LIBOR of and the standard ADB rate of 1% above LIBOR. <http://www.bankrate.com/rates/interest-rates/libor.aspx>
- ii. Consider for example the high costs of the Colombo South Port Breakwater. <http://www.thesundayleader.lk/2011/01/30/hambantota-port-project-tender-and-violating-npa-guidelines/>
- iii. As early as 2002, the ERD had recognized these concerns and were taking positive steps to address them. GoSL, MoFP, ERD, 2003, p13, quoted in A Research on Aid Effectiveness, p 90-1.
- iv. Ministry of Finance and Planning of Sri Lanka, Government Mid Year Financial Report 2011; Consider that the recently released proposed Appropriations Bill for 2012 has a shortfall of more than Rs. 1100 b. Sunday Times, Estimated income - Rs. 1115 b., expenditure -Rs. 2220 b. Oct. 16, 2011. Available at http://sundaytimes.lk/111016/News/nws_14.html.
- v. For more information on World Bank project approval, procurement and tendering policies, please refer to <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,pagePK:84271~theSitePK:84266,00.html>; For more information on Asian Development Bank project approval, procurement and tendering policies, please refer to <http://beta.adb.org/countries/sri-lanka/strategy>.
- vi. According to government sources (see e.g. The Mahinda Randora New Infrastructure Development Final Report), feasibility studies were to be part of almost all aspects of the Hambantota Port development project. However, precious little information regarding these studies has been made public and the presence of bedrock in the middle of Hambantota Harbour suggests that these feasibility studies were not adequate.
- vii. This decision was in violation of the NPA Guidelines of 2006.
- viii. Central Bank of Sri Lanka, Jayasundera, P.B. 2005, p11, quoted in Brigitte Stolk. A research on Aid Effectiveness: Donor Performance on Coordination and Harmonisation in Sri Lanka. Master Thesis Development Studies Centre for International Development Issues Nijmegen University of Nijmegen, the Netherlands supervised by Dr. Paul Hoebink December, 2006.
It has been argued that Sri Lanka has, over the past 20 years, had so many development funding options that project ownership was quite high, but as these options are reduced, it is important to pay close attention to how current strategies affect Sri Lanka's ownership over its own development.
- ix. The IMF is also an important player, but the nature of IMF macroeconomic stability lending cannot be considered within this international aid and investment framework.
- x. The ADB does restrict tenders to companies registered in ADB member-countries, but otherwise both banks place few restrictions on who can compete.

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Chapter 9

Effective governance vital in the development of tourism sector

Anushika Amarasinghe*

Introduction

Two years after the war, the Government of Sri Lanka (GoSL) envisions and has in place a strategic plan¹ to build tourism as an industry playing a significant role in the economic advancement of the country. People are seen as the key force of this industry, be it in their capacity as service providers, beneficiaries or as being impacted by its development. With this sector projected to develop rapidly, it is vital that effective governance systems safeguard the interests of these people.

Being a country with a rich diversity in a compact geographical area, tourism has been a key contributor to the economy since the 1960s.² This industry has grown steadily even during the military hostilities, with tourist arrivals increasing from 18,969 in 1966 to 438,475 in 2008.³ The contribution of travel and tourism to the Gross Domestic Product is 2.6% (LKR 161.95bn or US\$ 1.42mn) in 2010.⁴ The total income from tourism increased to US\$ 575.09 million in 2010 from US\$ 349.03 million in 2009.

The cessation of hostilities resulted in the number of tourists increasing by almost 50%.⁵ The head of a leading hotel chain highlighted that in the past two years of post-conflict development, the increase in tourist arrivals can be solely attributed to the end of the war and not to any concerted effort or strategy of the GoSL.

Thus, the development strategy presented by the Sri Lanka Tourism Development Authority (SLTDA) seems to be vital at this juncture and in

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1. Tourism Development Strategy 2011-2016, Ministry of Economic Development

2. Analysing the significance of tourism on the Sri Lankan Economy – An econometric analysis: Ruwan Ranasinghe and Ravindra Deshapriya <http://www.kln.ac.lk/fcms/ICBI2011/images/ICBM/dccs/TRM001.pdf>, accessed 7 October 2011

3. Sri Lanka Tourist Board - Annual Report 2008

4. Travel and Tourism - Industry report on Sri Lanka - September 2011 ICRA Management Consultant Services Limited and IMACs Research and Analytics <http://www.icralanka.com/Sri%20Lanka%20Travel%20and%20Tourism%20Sept%2015%20Final.pdf>

5. Ibid, page 24

some ways overdue. This strategy projects a rapid growth in this sector, with significant increases in tourist arrivals, foreign direct investments and direct employment. These targets defined in the strategy⁶ are indicative of the scale of projected development for this industry. The strategy includes the selection of certain parts of the country such as Pasekudah and Kalpitiya for development on a resort-style basis along with integrated plans for sustainable tourism development.

The apex body governing tourism in Sri Lanka is the SLTDA,⁷ which is under the direct purview of the Ministry of Economic Development. The governing boards of the SLTDA and other tourist agencies and bureaus, comprise representatives of both the public and private sectors. The organizational structure governing the sector also includes the Sri Lanka Tourism Promotion Bureau, the Sri Lanka Institute of Tourism and Hotel Management and the Sri Lanka Convention Bureau.

Problem statement

In the context of the multiplicity of sectors⁸ that contribute towards tourism development, there is a lack of mechanisms for policy coordination and integrated trans-sectoral planning. In the absence of mechanisms to ensure coherence in policy, operational service-delivery practices tend to be uncoordinated and inefficient.

The policy-level strategy documents on tourism development commit to community engagement and consultation through the design and implementation phases of development plans. In practice, however, there is an inadequacy of provisions⁹ within the regulatory framework to ensure a consultative and participatory approach, engaging the impacted stakeholders. Community representatives, local communities and even local politicians have repeatedly expressed the unavailability of information in the public domain on proposed development projects in their respective localities.

6. Targets of attracting US\$ 3,000 million as foreign direct investment over the five years, increase of tourism related employment from 125,000 at current to 500,000 in 2016 and increase of foreign exchange earnings from US\$ 500 million in 2010 to US\$ 2.75 billion in 2016

7. www.sltda.gov.lk

8. For the development of the tourism sector, there is a necessity for an integrated plan for sectors such as transport, health, human resources, recreation and community development.

9. http://www.cea.lk/Steps_in_EIA_Process.php Environmental Impact Assessments Reports will be open for public inspection/ comments for a period of 30 working days

Objective

The main objective of this chapter is to assess the effectiveness of the governance framework in the tourism industry in ensuring that the public interest is adequately addressed. This chapter also seeks to highlight the importance of people's engagement in sustainable tourism development.

Methodology

The conceptual framework of this chapter is the assessment of the quality of governance and the regulatory framework in the tourism sector on the basis of community engagement, international standards of sustainability and strengths of the regulatory framework.

The preliminary phase of the assessment was based on a literature review of policy documents containing the development strategies for the tourism industry and articles, journals, research findings and statistical data. Data collection was done primarily through available secondary research and from relevant government agencies. The case studies in this chapter are drawn from the literature review, interviews and secondary data accessed from previous works.

The assessment on the effectiveness of regulatory governance and the plans for the industry was done through a combination of interviews and secondary data. Various categories of people were interviewed to obtain qualitative information about the participatory process followed and the governance systems in place to ensure sustainable and effective implementation of plans. The interviews conducted include three persons representing the government implementing agency, one community mobilizer, two private sector representatives and one representing both a private sector service provider and the governance structure in policy agency.

The reference period is predominantly from 2000 to date and focuses largely on the proposed plans for the sector. The history and growth of the tourism industry in Sri Lanka have been traced to a limited extent. The scope of the case studies on the proposed Kalpitiya Integrated Tourism Resort Project and the Kandalama Hotel has been limited to highlight the extent of community engagement and the availability of information to the relevant stakeholders on the projects. This chapter adopts a case-study approach,

drawing inferences from case studies and demonstrating the findings which are then used as a basis for the final recommendations.

Findings

Regulatory framework governing this sector

Recognizing the importance of ensuring that the maximum benefit of tourism is passed on to the community and economic growth is supported through domestic-value creation, the GoSL has reviewed and proposed modifications to the existing regulations and guidelines governing tourism establishments. These revisions, pending approval by Gazette notification, have comprehensive safeguards and guidelines for several new categories of establishments.

The framework governing investment in tourism is facilitated at the one-stop unit – the Unit for National Investment in Tourism (UNIT), which is a centralized promotion and facilitation centre established to assist potential tourism investors. The process for investment with due approvals is made available at the UNIT.¹⁰ Approvals are mandatory from the SLTDA, Central Environmental Authority (CEA), Urban Development Authority, respective local authority and where necessary the Coast Conservation Department.

The Board of Investment acts as the mediator for foreign investors setting up limited liability companies. The legal framework for business enterprises in Sri Lanka is comprehensive and transparent. Major legislation relevant to investments, particularly foreign investments, is the Board of Investment Law of 1978, the Companies Act of 2007, the Exchange Control Act and the Sri Lanka Tourism Development Act of 2005. There is a consensus among those interviewed that these regulations governing investments and procedures within the sector are transparent and duly followed.

Provisions for people's consultation

Public participation is an important aspect of the Environmental Impact Assessment (EIA) process in Sri Lanka. The provision for public participation is contained in the National Environmental Act (NEA), with only “prescribed projects”¹¹ required to be subjected to an EIA. The Social Impact Assessment containing impacts on livelihood patterns, ethics of localities, employment etc., may be a component of the EIA, if specified.

10. http://www.sltda.gov.lk/investment_process

11. Prescribed projects requiring EIA are specified in Gazette Notifications 772/22 of 24 June 1993, 1104/22 of 5 November 1999 and 1108/1 of 29 November 1999

Once an EIA report is submitted, the NEA provides for public inspection and comment on it during a mandatory period of 30 days. EIA reports are available for perusal by the public in Sinhala, Tamil and English and are usually kept at the CEA Library, the relevant Divisional Secretariat and the Pradeshiya Sabha. Any member of the public may send their comments to the CEA or the respective Project Approving Agency within 30 working days.

It is felt that there are many weaknesses in the quality of the reports,¹² even with vast improvements since the process was initiated in 1993. These weaknesses include detailed descriptions of unimportant data with inadequate details on significant impacts. EIA reports are more academic with limited practicability and are prepared more as a means of getting over the regulatory requirement rather than a genuine attempt at mitigating environmental impacts.

Although public participation in the EIA process is mandatory and all reports are open to public perusal for 30 working days, culturally it is a new concept in the country. The public usually comments mostly on issues which impact them directly such as loss of livelihood/residence/land etc., as opposed to overall impacts. Most comments also seek to stop the project rather than suggesting mitigatory measures to make a “better project”.

The highly technical nature of the EIAs and the weaknesses mentioned earlier have limited the opportunities for the people’s engagement. Currently, there are 10 EIAs pending¹³ at the UNIT.

Community consultations

In addition to the mandatory requirements, the project proponents are always advised to have informal dialogues/consultations with the people during the design of the project and during the EIA. The project proponent must ensure that the people get accurate information about the project. If the local community is negatively affected, it is important that the project proponent consults them and obtains their support in mitigation measures to minimize the impacts. The diverse views on its effectiveness are further examined in the following case studies.

12. Environmental Impact Assessment (EIA) in Sri Lanka - Ramani Ellepola, Director General Central Environmental Authority PENTA - WII Workshop on Environmental Assessment Curriculum Dehradun, India - 24-26 September 2007

13. Mr. Dushan Wickramasuriya, Assistant Director, Unit for National Investment in Tourism

Case Study I -- Kalpitiya Integrated Master Plan

Under the power vested by the Tourism Development Act and the Tourism Act No. 38, the SLTDA has initiated the Kalpitiya Integrated Tourism Development Project. Fourteen islands have been selected for this resort-development project and related infrastructure development in the Kalpitiya peninsula in Puttalam. This peninsula is a marine sanctuary with a diversity of habitats ranging from bar reefs, flat coastal plains, saltpans, mangrove swamps, salt marshes to vast sand dune beaches. This zone is home to dolphins, sea turtles and a multitude of marine life. The planned development which is at an early stage yet envisages the construction of up to 5,000 hotel rooms, entertainment facilities and even a domestic airport.

The concept statement within the Kalpitiya Integrated Plan¹⁴ produced by the SLTDA contains the following commitment: “We believe in Responsible Tourism which generates greater economic benefits for local people and enhances the well-being of the local communities.” The objectives explicitly commit to “the sustainability of the natural environment, socio-cultural life and economic development for the well-being of the community living around the project area”. The overall commitment fails to translate into more specific and strategic interventions, ensuring community engagement both in the design and planning stage of the Kalpitiya resort project. The plans for community development are generic and vague and fail to capture the true essence of the overall goal. They are contained in statements such as “the financial benefits the investor would provide for the local community is ...in terms of employment, infrastructure and community development for the region”. In the 112-page document there is no mention of community engagement, governing bodies or sharing of information with those impacted by the proposed intervention.

Herman Kumara of the National Association of Field Studies Officers (NAFSO) commented that through the development of this plan, there has been minimal consultation with the local communities, inadequate project-related information sharing and explicit circumvention of the related land registration procedures. Land acquisition commenced even before any EIA report was available for viewing and discussion. In the Dutch Bay Tourism Project, the NAFSO raised certain concerns when the EIA was made available to the public, but has received no response.

14. Kalpitiya Integrated Tourism Resort Project – Conceptual Master Plan – Sri Lanka Tourist Development Authority, page 10

In the report issued by an International Fact Finding Mission¹⁵ to determine the scope of the proposed project and the impact on stakeholders, recommendations were based on the need to enhance information flow and participation, thus ensuring accountability on the state's part.

The Divisional Secretary of Kalpitiya flagged the inadequacy of information about the project, even among government officials. All major decisions regarding this project, from conceptualization to elaboration of the master plan, were taken in Colombo under a special procedure and with direct Cabinet approval.¹⁶ An outgoing-member of the Kalpitiya Pradeshiya Sabha commented on the lack of proper coordination among local people, local governmental bodies and the SLTDA.

When speaking to representatives¹⁷ of the SLTDA, the indication was that recurrent meetings were held regarding community issues from the inception of this project. Held mainly at the Divisional Secretary's office, all government agents from various stakeholder agencies had presided at these meetings which included religious dignitaries. Many other informal discussions had also been held with the local community by the SLTDA staff.

A few ad hoc meetings had been held with community groups and representatives of the fisher community to share information about the project and reiterate the commitment to helping them. However, there had been no continued community engagement and a space for discussing their concerns. This is a clear example of a disconnect between planning and implementing authorities and the communities and officials in the localities.

Hiran Cooray, Chairman of Jetwing Hotels, opined that the integrated plan for Kalpitiya is not viable due to the surrounding waters and the seasonal cycles, making it more suitable for fisheries and alternative investments such as wind power. This is the reason why key hotel chains in Sri Lanka have not invested in this project.

Following a low demand from investors and the perception that the land valuation within this resort is relatively high, this project has been halted momentarily. The high cost of infrastructure required from the GoSL has necessitated a shift of focus to Pasekudah for the time being.

15. Tourism in Kalpitiya: Stop and Review Now. International Fact Finding Mission - Dr. Mrs. Ujjain Halim, Coordinator-FSNSA & IMSE, India, Ms. Ravadee Prasertcharoensuk, Director-Sustainable Development, Foundation, Thailand, Fr. Sarath Iddamalagoda, Director-Human Rights Centre, Sri Lanka, Ms. Swati Seshadri, EQUATIONS, India, Mr. Pramesh Pokurel, ANPFa, Nepal and Dr. Mrs. Madhabi Roy, India

16. Ibid, page 4

17. Pradeep Fernando, Kalpitiya Integrated Tourism Development Project, SLTDA

Case Study II -- The Kandalama Hotel

Research suggests that it is not possible to sustain tourism in a destination that is not supported by the local community.¹⁸ The necessity of effective communication of tourism plans and the consultation and participation of local communities in the design and implementation of development plans can be amply showcased through the Kandalama Hotel Case Study.

In the early 1990s, the construction of a luxury hotel adjacent to a reservoir and sanctuary just over 30km from the Heritage Site of Sigiriya triggered massive resistance from various quarters. Environmentalists, religious and community leaders and community-based organizations were among the key groups protesting, based largely on the premise that having such a large hotel in this locality would disturb the tranquillity of the surroundings, affect people's livelihoods and bring about negative social impacts associated with tourism. The backing of the protests by opposition politicians gave them a political spin. The protests intensified as the residents did not have access to grievance-redress mechanisms and were not offered any time or space by the developers, hotel management or GoSL. The project was completed amidst massive and continued protests from a representative spectrum of stakeholders.

More than fifteen years later, this hotel stands as an iconic role-model in the tourism industry, holding true to the promise of sustainable tourism-- "Environmental commitment, protecting employees' health and safety and improving community welfare are ingrained in our corporate ethos." The management and staff of the hotel have rolled out a replicable model being adopted by several luxury hotels based in remote locations. Having won multiple awards -- mainly relating to environmental and community engagement -- the hotel offers the ultimate experience, combining heritage and tropical landscapes and the experience of village life, yet treating its magnificent setting with great delicacy and protection. The hotel continuously offers opportunities for employment for the locals and is also a source for livelihood enhancement as it purchases local produce. Another positive aspect has been the growth of other smaller sectors such as handicrafts.

18. Twining-Ward, L. & Butler, R. (2002): "Implementing STD on a Small Island: Development and use of Sustainable Tourism Development Indicators". *Journal of Sustainable Tourism*, 10(5) pages 363-387

A Social Impact Study¹⁹ conducted at the Dambulla Tourism Destination shows a higher level of support for tourism among the local community. A significant majority, 80%, of the interviewees indicated that the developments associated with tourism had a positive outcome, 67% indicating that they would prefer to see additional and further developments in this area. In the findings related to Perceived Social Impacts of Tourism Development, 89% held that peace and tranquillity had not been affected by the project and 83% that tourism had NOT affected the social and moral values of the local community. Sixty-four per cent felt that tourism development had increased their pride of being locals within this community.

A key learning from this case study which is of extreme relevance in the current context of Sri Lanka is that of the need for community participation in tourism projects. Input from a cross-representative community group in the project design will help officials understand the nuances in the respective locality as well as the aspirations of the people in the area.

The resistance faced in the early stages of the Kandalama Hotel Project was largely based on misperceptions resulting from the lack of a relationship between the community and the developers and limited awareness and information available to the community. An effective communication and engagement strategy, including the sharing of information and transparency of transactions, could have mitigated this resistance to a large extent.

Tourism sector increasingly based on Public-Private Partnership (PPP) model

The boards of the apex authorities in tourism have a balance of public and private sector representatives, enhancing efficiency in the processes and accountability to stakeholders, while ensuring the right mix in approach and strategy. Similarly, the Tourism Development Strategy of the SLTDA received significant input from the private sector.

SLTDA's Director of International Relations, Malraj Kiriella, stated that there is a strong expectation and reliance upon the private sector to invest in the tourism sector.

19. Impacts of Tourism and Community Attitude towards Tourism: A case study in Sri Lanka – Kotuwegoda Palliyaguruge Lalith Chandralal, Ph.D, Senior Lecturer, University of Sri Jayewardenepura carried in South Asian Journal of Tourism and Heritage (2010) Vol 3. No. 2

Sri Lanka's tourism industry should be led by private-sector players improving capacity and standards, while the government should take a back seat and act only as a regulator and facilitator for investment, said another top industry official.²⁰

PPPs have emerged as a basis for the tourism industry in Sri Lanka, combining the smart and nimble thinking of the private sector with the power and responsibility of the government.²¹ There is, however, a policy-gap in facilitating PPPs on a local and provincial level. There was no structure in place to smoothen the progress of forming PPPs on a local or provincial level to fast-forward and implement more tourism projects in the localities.²² Tourism is said to be a subject devolved to Provincial Councils (PCs) which have the power to promote attractions within the provinces but no agency to form PPPs between interested parties and the state.

Ensuring sustainability in tourism development

In view of the recent policy reforms to develop the competitiveness of the tourism sector in a sustainable manner, the World Bank (WB) has agreed to provide assistance for the implementation of the Sustainable Tourism Development Project (STDP).²³ The Financing Agreement between the GoSL and the WB for this project was signed in November 2010.

This Social Management Framework (SMF) for a sustainable tourism project under the SLTDA outlines the major impacts on local communities and points out possible mitigatory strategies for identified impacts. It addresses the impacts that would be felt by local citizens in general and local businessmen, potential external and internal investors etc., specifically. The SMF forms an integral part of the Project Implementation Manual of the STDP.

20. Sri Lanka tourism industry must be led by private sector

<http://www.lbr.lk/fullstory.php?nid=201105311317448778>

21. <http://www.adb.org/Documents/Reports/SASEC/Tourism-Development/addendum.pdf>

22. Tourism sector needs PPP development - <http://www.ft.lk/2011/06/08/tourism-sector-needs-ppp-development/>

23. Social Management Framework - Sri Lanka Tourist Development Authority - July 2009

http://www.sltda.lk/sites/default/files/Final_SMF_13.07.2009.pdf

accessed 3 October 2011

Thus, sustainable tourism²⁴ should:

1. Make optimal use of environmental resources that constitute a key element in tourism development, maintaining essential ecological processes and helping to conserve the natural heritage and biodiversity.
2. Respect the socio-cultural authenticity of host communities, conserve their built and living cultural heritage and traditional values and contribute to inter-cultural understanding and tolerance.
3. Ensure viable, long-term economic operations, providing socio-economic benefits to all stakeholders that are fairly distributed, including stable employment and income-earning opportunities and social services to host communities contributing to poverty alleviation.

With the investment in tourism largely being generated by the private sector, individual investors, service providers and hotel companies integrate the sustainability components into their policies.²⁵ Hiran Cooray of Jetwing Hotels stated that the notion of sustainability through the notion of the 3 Ps of People, Planet and Profit is ingrained in the thinking of all employees in the Jetwing Group.

However, despite the multiple commitments to sustainable development and explicit inclusion of the sustainability component within the STDP, a sound strategy and implementation plans for ensuring sustainable development seem to be missing.

Conclusion & recommendations

Development plans for the tourism sector must conform to Sri Lanka's vision for sustainable development "achieving sustained economic growth that is socially equitable and ecologically sound, with peace and stability".²⁶

24. USAID and Sustainable Tourism – Meeting Development Objectives – The Natural Resources Information Clearinghouse and implemented by Chemonics International Inc. Environment International PA Government Services Virginia Polytechnic Institute and State University – June 2005 accessed 29 September 2011 http://pdf.usaid.gov/pdf_docs/PNADE710.pdf

25. Green Directory – Lighthouse Hotel and Spa – Jetwing Hotels - 2005 http://www.jetwing.com/web_uploads/hotel_green%20directory/Green%20Directory%20-%20Jetwing%20Lighthouse.pdf and Aitken Spence Sustainability Strategy http://www.aitkenspence.com/sustainability/sustainability_approach.asp

26. Sri Lanka Strategy for Sustainable Development – Ministry of Environment and Natural Resources – February (Resources) 2007 accessed 30 September 2011 Page iv <http://www.ricap.unep.org/nsds/uploadedfiles/file/sa/sl/srilanka%20nsds%20report/SL-SDS%20report.pdf>

Consultation of the people, community engagement and sharing of information are based on the basic premise that people are the lifeline of this industry. Tourism should be a means to help create a better understanding of a way of life (in a locality) and act as a cross-cultural consideration between societies.²⁷

- Engagement of all stakeholders of the project including the impacted community, private sector, non-governmental organizations and host local government at all levels. Each will have a unique perspective, agenda and contribution that must be taken into consideration for the success of the project. Enhanced coordination between the SLTDA and local government agencies will provide an opportunity for a more thorough understanding of community needs and aspirations
- Effective communication and transparency of transactions are a prerequisite for community participation and will allow for a mutually beneficial process mainly through the planning phase of the project. It is imperative that relevant officials make a concerted effort to communicate all aspects of the project including both the benefits, in terms of opportunities, and adverse impacts to the communities clearly. Measures to ensure sustainability, related to the environment and the people, should be derived from the people and shared with the people, in the preliminary phase of the project.
- An aggregated and integrated master plan for the development of the sector, including appropriate mechanisms for policy coordination and contribution of related sectors is important.
- All proposed plans should receive the necessary enabling support at various public and private sector levels. Even a local intervention usually requires support at the regional, national and international level. Tourism is largely dependent on public/private partnerships. Community projects are significantly aided by the business acumen of the private sector and if a project is not profitable, it is not self-sustaining.

27. Perception of Stakeholders' on Tourism Investments in Sri Lanka - A.W. Anura Shantha

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පුරවැසි සමාජයට කළ හැක්කේ මොනවාද ?

මෙවර යහපාලන වාර්තාව මගින් අවධානය යොමුකර ඇත්තේ 2011 වසරේ මුල් අර්ධයෙහි පාලනයට අදාළව වඩාත් සාකච්ඡාවට ලක්වූ ප්‍රධාන ක්ෂේත්‍ර නවයක් කෙරෙහිය.

යහපාලන වාර්තාවේ මෙවර තේමාව පාලනයට අදාළ විවිධ ක්ෂේත්‍රයන්හි කටයුතු අධීක්ෂණය හා නියාමනය සඳහා පිහිටුවා තිබෙන යාන්ත්‍රණවල ක්‍රියාකාරීත්වයයි.

එම යාන්ත්‍රණවල ක්‍රියාකාරීත්වය විමර්ශනය කිරීම මගින් අධීක්ෂණ යාන්ත්‍රණවල පවත්නා ශක්‍යතා හා දුබලතා හඳුනාගැනීමටත්, අනතුරුව ඒ පිළිබඳ පුළුල් හා විවෘත මහජන කතිකාවතක් සඳහා සවිමත් පදනමක් ගොඩනගාගැනීමටත් හැකිවනු ඇතැයි ට්‍රාන්ස්පේරන්සි ඉන්ටනැෂනල් ශ්‍රී ලංකා ආයතනය විශ්වාස කරයි.

මෙවර යහපාලන වාර්තාව මගින් විමර්ශනයට ලක්කළ විෂය ක්ෂේත්‍රයන්ට අයත් සිවිල් සමාජ සංවිධාන, ආර්ථිකය, අධ්‍යාපනය, පරිසරය, සෞඛ්‍ය ක්ෂේත්‍රය, ජාත්‍යන්තර ආධාර, විදුලි සංදේශනය හා ප්‍රවාහනය යනාදී ක්ෂේත්‍ර සියල්ලම මගින් අනාවරණය කර ඇති පොදු කාරණයක් වන්නේ වඩාත් හොඳ සේවාවක් ලබාගැනීම වෙනුවෙන් මහජනතාව උත්සාහ නොදරනතාක් යහපත් පොදු සේවාවක් ලබාගැනීමට මහජනතාවට ඇති අවස්ථාව අහිමිවන බවයි. ඉහත සෑම විෂය ක්ෂේත්‍රයක්ම අධීක්ෂණය සඳහා විවිධ නියාමන යාන්ත්‍රණ පිහිටුවා ඇතත් එම යාන්ත්‍රණ මගින් උසස් සේවාවක් සලසාගැනීමට නම් මහජන සහභාගීත්වය සහ මහජන අධීක්ෂණයද සම්පූර්ණවිය යුතු බව පොදුවේ සෑම පරිච්ඡේදකටම අදාළ නිගමන හා යෝජනා මගින් පෙන්වා දී තිබේ. එයින් කියවෙන්නේ අධීක්ෂණ යාන්ත්‍රණ එම අධීක්ෂණ කාර්යයේ යෙදෙන්නේද යන්න නිරීක්ෂණය කරමින් ඒ සඳහා පෙළඹවීමක් ඇති කිරීම පුරවැසි සමාජයේ වගකීමක් බවයි.

එසේම ප්‍රජාතන්ත්‍රීය සමාජයක පුරවැසියන්ට හිමිවියයුතු මූලිකම අයිතියක් ලෙස සැලකෙන තොරතුරු දැනගැනීමේ අයිතිය ශ්‍රී ලාංකීයන්ට අහිමිව තිබීම මෙම අධීක්ෂණ යාන්ත්‍රණවල ක්‍රියාකාරීත්වය යහපත් කිරීම කෙරෙහිද කෙතරම් අහිතකර අන්දමින් බලපා ඇත්දැයි පරිච්ඡේද කිහිපයක් මගින්ම තියුණු ලෙස අවධාරණය කර තිබේ. ඇතැම් උසස් රාජ්‍ය නිලධාරීන් ලියාපදිංචියට අදාළ මූලික තොරතුරු, විවිධ අංශ යටතේ ලියාපදිංචි වී ඇති ආයතන පිළිබඳ සංඛ්‍යා ලේඛන, වාර්ෂික වාර්තා, ගිණුම් ප්‍රකාශ නිසිකලට වේලාවට ඉදිරිපත් ඉදිරිපත් කර ඇති හා එසේ කිරීම පැහැර හැර

* Compiled by Dilrukshi Handunetti and Ananda Dharmapriya Jayasekera

ඇති ආයතන පිළිබඳ තොරතුරු ආදී මූලික කරුණු පවා නිලවශයෙන් ප්‍රකාශකිරීමට මැලිබවක් ඊට හේතුව තොරතුරු දැනගැනීමේ අයිතියක් නොමැතිවීම සහ ආයතන සංග්‍රහය මගින් රාජ්‍ය නිලධාරීන්ට පහවා ඇති සීමා පිළිබඳව බිය බවටත් අවධාරණය කරඇති කරුණු පිළිබඳව පුරවැසි සමාජයේ විශේෂ අවධානය යොමුවිය යුතුය. මන්ද තොරතුරු දැනගැනීමට ඇති අයිතිය සීමාවන ප්‍රමාණයට සාපේක්ෂව ආණ්ඩුක්‍රම ව්‍යවස්ථාව මගින් පුරවැසියෙකුට හිමි මූලික අයිතිවාසිකමක් වශයෙන් ස්ථාපිත කර දී ඇති අදහස් ප්‍රකාශනයේ හිමිකම සීමාවන බැවිනි.

මෙහි ඇතැම් පරිච්ඡේද මගින් ඉදිරිපත්කර ඇති නිගමන හා යෝජනා ඉතාම තීරණාත්මකවන නමුත් ශ්‍රී ලංකාවේ පවත්නා සමාජ - දේශපාලන සන්දර්භය තුළ විවැනි පරිවර්තන එක් රැයකින් මුදුන්පමුණුවා ගැනීමට අපහසුය. ඒවා නිරන්තර සමාජ සංවාද හා ක්‍රියාකාරීත්වයන් තුළින් දීර්ඝකාලීනව මුදුන්පමුණුවා ගත යුතු අරමුණු ලෙස සැලකීමට සිදුවෙයි. එහෙත්, ප්‍රතිසංස්කරණ ගැන උනන්දුවක් දක්වන රාජ්‍ය නිලධාරීන් හා පුරවැසි සමාජයකට පහසුවෙන් ළඟාවිය හැකි එසේම, සිවිල් පාලනය තුළ විවෘතභාවය, වගවීම හා යහපත් වාතාවරණයක් ඇතිකර ගැනීම ගැන උනන්දුවක් දක්වන පුරවැසි සමාජයකට සාමූහිකව ජයගත හැකි ඉලක්ක හා නිර්දේශ රැසක්ද මෙම යහපාලන වාර්තාව මගින් ඉදිරිපත් කර තිබේ.

පහත දැක්වෙන්නේ විවිධ ක්ෂේත්‍රවලට අදාළව ඉදිරිපත්කර ඇති අදහස් හා නිර්දේශ ආශ්‍රයෙන් හඳුනාගත හැකි විවැනි යෝජනා සමුච්ඡයකි.

යෝජනා			
විෂය ක්ෂේත්‍රය	රජය	සිවිල් සංවිධාන	සෞඳ
සිවිල් සමාජ සංවිධාන	සිවිල් සමාජ සංවිධාන නියාමනය සඳහා රාජ්‍ය හා සිවිල් සමාජ සංවිධාන දෙපාර්තමේන්තුව විශ්වාසයට හා පිළිගැනීමට ලක්වූ ස්වාධීන අධීක්ෂණ යාන්ත්‍රණයක් ඇතිකිරීම	සිවිල් සමාජ සංවිධානවල සුපිළිපත්කාරවය තහවුරු කිරීමේ ස්වයං නියාමන ක්‍රමවේදයක් ක්‍රියාවේ නැංවීම	මහජන සහභාගිත්වයෙන් සිවිල් සමාජ සංවිධානවල වගවීම පිරික්සීම
අධ්‍යාපන	1) අධ්‍යාපනය පිළිබඳ ජාතික ප්‍රතිපත්තියක් ක්‍රියාත්මක කිරීම 2) ජාතික අධ්‍යාපන කොමිෂමට සාමාජිකයින් නම් කරමින් විය බලාත්මක කිරීම 3) යෝජිත අධ්‍යාපන ප්‍රතිපත්තිය සඳහා මහජන අදහස් ලබාගැනීමේ යාන්ත්‍රණයක් ඇති කිරීම	නව අධ්‍යාපන ප්‍රතිපත්තියක් සැකසීම සඳහා සංවාදයක් ඇරඹීම හා ඊට අවස්ථව ලැබුණ විට නව යෝජනා ඉදිරිපත් කිරීම	
සෞඛ්‍යය	1) ජාතික ඖෂධ ප්‍රතිපත්තියක් ක්‍රියාත්මක කිරීම සහ (NMDR) ආයතනයේ වගවීම ඉහළ නැංවීම 2) මහජන පැමිණිල් විමර්ශන යාන්ත්‍රණ විධිමත්කිරීම 3) අධීක්ෂණ යාන්ත්‍රණ සඳහා ප්‍රමාණවත් ලෙස මූල්‍යමය හා මානව සම්පත් ලබාදීම	ඖෂධ පාලනය හා ප්‍රමිතිය පිළිබඳව පාර්ලිමේන්තුවෙන් අවබෝධය වැඩිකිරීම අධීක්ෂණ යාන්ත්‍රණවල පවත්නා අඩුපාඩු අවම කරගැනීම සඳහා සුදුසු යෝජනා ඉදිරිපත් කිරීම මහජන සහභාගිත්වය හරහා ඖෂධ ප්‍රතිපත්ති අධීක්ෂණය කිරීමේ අවකාශයන් වැඩිකිරීම	ඖෂධ මිල, ප්‍රමිතිය, ආදී තොරතුරු ගැන මහජන දැනුම්වත්කාරවය වැඩිකිරීම

<p>විදුලි සංදේශනය</p>	<p>1) මහජන විශ්වාසය තහවුරුවන ආකාරයේ බලපත්‍ර හිඟවීම් පිළිගතහැකි ක්‍රමවේදයක් ඇතිකිරීම හා විය ප්‍රසිද්ධ කිරීම</p> <p>2) ඒකාධිකාරයක් ඇති භෞතික පාරිසරික බලපෑම අවම කරන සහ මුදල් නාස්ති නොවන ආකාරයේ යටිතල පහසුකම් ඇති කිරීම</p>	<p>මහජන විශ්වාසය ඇතිවන ආකාරයේ යාන්ත්‍රණ සැකසීම ගැන මහජන අදහස් යෝජනා ඉදිරිපත් කිරීම</p> <p>විදුලි සංදේශ කේන්ද්‍රයේ සිදුවන දූෂණ අක්‍රමිකතා පිළිබඳ සමාජ සංවාදයක් ඇති කිරීම</p>	<p>ජනමාධ්‍යවලින් මෙම කේන්ද්‍ර පිළිබඳව වඩාත් පුළුල් ප්‍රචාරයක් ලබාදීම</p>
<p>පොදු ප්‍රවාහනය</p>	<p>1) ප්‍රවාහනය පිළිබඳ ජාතික ප්‍රතිපත්තිය මහජනතාවට වඩා හොඳ සේවාවක් ලැබෙන අයුරින් ක්‍රියාත්මක කිරීම</p> <p>2) පවත්නා පරිපෝෂණ ක්‍රමවේද හා මහජන පැමිණිලි විමර්ශන යාන්ත්‍රණ විධිමත් කිරීම</p> <p>3) ප්‍රවාහන සේවා කාර්ය මණ්ඩලවල වෘත්තිකභාවය වැඩිදියුණු කිරීම හරහා කේන්ද්‍රයේ පවත්නා ප්‍රධාන ගැටලු අවම කිරීම</p>	<p>ප්‍රවාහන සේවයේ ඉහළ ප්‍රමිතීන් සහ නියාමන ප්‍රමිතීන් ඉහළ නැංවීම සඳහා යෝජනා ඉදිරිපත් කිරීම</p> <p>පවත්නා මහජන පැමිණිලි විමර්ශන යාන්ත්‍රණවල තත්ත්වය ඉහල නැංවීම හා ඒවා ප්‍රශස්ත මට්ටමින් පාවිච්චි කිරීම</p>	<p>පවත්නා යාන්ත්‍රණ ප්‍රයෝජනයට ගනිමින් ඒවා විධිමත් කිරීමට යෝජනා ඉදිරිපත් කිරීම</p>
<p>ආපදා කළමනාකරණය / පරිසරය</p>	<p>1) ආපදා කළමනාකරණය සියලු පාර්ශවකරුවන්ගේ ප්‍රබල දායකත්වයක් ඇතිව ක්‍රියාත්මක කිරීම</p> <p>2) බලපත්‍ර හිඟවීම් කිරීමේදී සේවාලාභියාට කඩිනම් සේවාවක් ලබාදෙන යාන්ත්‍රණයක් ඇති කිරීම</p>	<p>පාරිසරික හා ව්‍යවසාය කළමනාකාරණයට සහභාගිවිය හැකි සිවිල් සමාජ කණ්ඩායම්වලට අධීක්ෂණය සඳහා අවස්ථාව සැලසීම</p>	<p>ජනතාවගේ ක්‍රියාකාරීත්වය නිසා ඇතිවන පාරිසරික ව්‍යවසාය අවම කරගැනීමට ක්‍රියාකිරීම</p>

<p>නීතිය ක්‍රියාත්මක කිරීම</p>	<ol style="list-style-type: none"> 1) වැඩි සංඝෝධනයෙන් අධිකරණ පද්ධතියට ඇති වූ අහිතකර බලපෑම් අවම කිරීම සඳහා හෙතෙක වෙනස්කම් ඇතිකිරීම 2) නීතිපති දෙපාර්තමේන්තුව නැවත අධිකරණ අමාත්‍යාංශය යටතට පත්කිරීම 3) අධිකරණය පිළිබඳ මහජන විශ්වාසය තහවුරු කිරීම සඳහා අධිකරණ සේවා කොමිසම පිළිබඳ විශ්වාසය තහවුරු කිරීම 4) අධිකරණ සේවයෙන් විශ්‍රාම ගැනීමේ පසු රජයේ හා විදේශ සේවා තහවුරු දැරීමේ කාලය වසර 3 කට සීමා කිරීම 	<p>නීතිගත කිරීමෙන් පසු වම යෝජනා පශ්චාත් සංස්ථාපන විවරණය කිරීම වෙනුවෙන් බලපෑම් කිරීම</p> <p>අධිකරණ පද්ධතිය ශක්තිමත් කිරීමට අවශ්‍ය යහපත් පුරුදු/ක්‍රමවේද යෝජනා කිරීම</p>	
<p>සජීවාරක කාර්යාත්මක</p>	<ol style="list-style-type: none"> 1) සංචාරක සංවර්ධන අධිකාරිය සහ පළාත් පාලන ආයතන අතර සම්බන්ධීකරණය වර්ධනය කිරීම 2) ව්‍යාපෘති සම්බන්ධ ගණුදෙනුවල විගිවිදභාවය තහවුරුවන ගාන්තුණයක් ඇති කිරීම 3) ශේෂ්‍යයේ සංවර්ධනය සඳහා සියලු පාර්ශවකරුවන්ගේ සහභාගීත්වයෙන් ක්‍රියාත්මකවන ගාන්තුණයක් ඇති කිරීම 		<p>ජනතා සහභාගීත්වයට අවකාශ සලසාගැනීම සඳහා ක්‍රියාකාරීවීම</p>

<p>ජාත්‍යන්තර ආධාර</p>	<p>1) විවෘත හා විනිවිදභාවයකින් යුත් රාජ්‍ය වෙබ්සයිට් පරිපාටියක් ක්‍රියාත්මක කිරීම</p> <p>2) සැපයුම් කිරීමේ සිට ක්‍රියාත්මක කිරීම දක්වා සංවර්ධන ව්‍යාපෘතිවලදී මහජනතාවද ඇතිව සියලුම පාර්ශවකරුවන්ගේ සහභාගීත්වය තහවුරු කිරීම</p>	<p>කෙටි කාලීන හා දුර්ඝකාලීන ප්‍රතිලාභ ගැන රජය සහ සිවිල් සමාජ මැදිහත්වීමෙන් කතිකාවක් ඇති කිරීම</p>	
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Chapter 10

குடியியல் சமூகத்தால் என்ன செய்ய முடியும்?

2011ம் ஆண்டு ஆட்சி அறிக்கையில் ஒன்பது அத்தியாயங்களில் தொடர்ச்சியாக வருடத்தின் முதல் காலாண்டுப் பகுதியில் பத்திரிக்கைகளில் வெளிவந்த செய்திகள் வெளிப்படுத்தப்பட்டு இருந்தன.

ஆட்சி அறிக்கையின் பிரதான பொறிமுறையாக அமைவது பல்வேறு துறைகளின் செயற்பாட்டு நடவடிக்கைகளை கண்காணித்தலும் அவற்றை நெறிப்படுத்தலுமாகும்.

செயற்பாட்டு பொறிமுறையை மீளாய்வு செய்து அது முறையாக செயற்படுவதை கண்காணித்தலின் மூலமாக இச்செயற்பாட்டின் பலங்களையும் பலவீனங்களையும் அளவிடக் கூடியதாக இருப்பதுடன் அதனுடாக ஒன்பது அத்தியாயங்களில் குறிப்பிடப்பட்டுள்ள அடையாளங் காணப்பட்ட விடயங்கள் தொடர்பில் திறந்த மக்கள் கலந்துரையாடலுக்கான உறுதியான அடித்தளத்தினை கட்டியெழுப்பமுடியும்.

2011 ம் ஆண்டு அறிக்கையில் முழுமையாக வெளிக்கொணரப்பட்ட விடயமானது சிவில் சமூக நிறுவனங்கள் இ பொருளாதாரம்இ கல்விஇ சுற்றாடல்இ சுகாதாரம்இ சர்வதேச உதவிகள்இ தொலைத்தொடர்பு மற்றும் போக்குவரத்து போன்ற துறைகளில் மக்களின் பங்களிப்பு இன்றி உயரிய தரத்தினையுடைய சேவையை உருவாக்க முடியாததோடு அத்துறைகளின் செயற்பாட்டில் எப்போதும் விருத்தியை காணமுடியாது என்பதாகும். எனவேதான் இவ்விடயமானது ஒவ்வொரு அத்தியாயத்திலும் தெளிவாக எடுத்துக்காட்டப்பட்டிருப்பதோடு ஒவ்வொரு அத்தியாயம் தொடர்பாகவும் உயரிய சேவையை வழங்குவதற்கு பொறிமுறை செயற்பாடு உருவாக்கப்பட்டு அது மக்களின் பங்களிப்பு மற்றும் மேற்பார்வையுடன் இடம்பெற வேண்டும் என எதிர்பார்க்கப்படுகிறது. இச்செயற்பாடுகள் தொடர்பில் மக்கள் கண்காணிக்க வேண்டும் என்பதுடன் செயற்பாட்டு உறுப்புக்கள் இவற்றின் செயற்பாட்டினை உயர்மட்டத்திற்கு ஊக்குவிக்க வேண்டும்.

பிரஜைகளின் அடிப்படை உரிமையான தகவல் உரிமை சட்டம் இன்மையானது அனைத்து அத்தியாயங்களின் எழுத்தாளர்களினாலும் குறிப்பிடப்பட்டு இருப்பதோடு பொதுமக்களினால் உயரிய தரமான சேவையை பெறுவதற்குரிய பொறிமுறையினை அதிகாரிகளுடன் ஏற்படுத்த முடியாது இருப்பதாக குறிப்பிடப்பட்டு

உள்ளது. நிறுவனங்களில் உள்ள திணைக்களங்களின் ஒவ்வொரு பிரிவு தொடர்பான தகவல்கள் வருடாந்த அறிக்கைகள் கணக்காய்வு அறிக்கைகள் மற்றும் புள்ளி விபர தரவுகள் போன்றவை தகவல் பெறும் உரிமை இன்மையின் காரணமாகவும் தாபன விதிக் கோவையின் ஊடாக பிறப்பிக்கப்பட்டுள்ள பொதுமக்களுக்கு தகவல் வழங்க முடியாத கட்டுப்பாடுகளின் காரணமாகவும் வழமையாகவே பொதுமக்களின் பார்வைக்கு கிடைக்கப்பெற முடியாத நிலைர காணப்படுகிறது. தகவல்களை வெளிப்படுத்த இயலாத அளவில் பாரிய அளவில் கட்டுப்படுத்தப்பட்டுள்ள இவ்விடயங்கள் தொடர்பில் பொதுமக்களின் அவதானம் மிகவும் தேவைப்படுகிறது.

இவ்அத்தியாயங்களில் குறிப்பிடப்பட்டுள்ள பல சிபார்சுகள் மிகவும் சிக்கலானதுடன் குறிப்பிட்ட அதிகாரிகளினால் உடன் கவனத்திற்கொள்ளப்படவேண்டியதாகும். எவ்வாறெனினும் தற்போதைய அரசியல் சூழலில் இதற்கான மாற்றங்களை ஓரிரவில் மேற்கொள்ள முடியாதாகும். இவை பல்வேறு வாதங்களுக்கு உட்படுத்தப்பட்டு நீண்ட கால அடிப்படையில் மாற்றத்திற்குட்படுத்த வேண்டியதாகும். எனினும் பல்வேறு சிபார்சுகள் சமூகத்திற்காக சீர்திருத்தங்களை மேற்கொள்ளும் அரச அதிகாரிகளினால் அமுல்படுத்தப்பட வேண்டியுள்ளதுடன் மக்களின் பங்களிப்புடன் இலக்கினை அடையத்தக்க வகைகூறலையும் திறந்த தன்மையையும் உருவாக்கும் வகையிலான அறிக்கை இலக்குப்படுத்தப்பட்டுள்ளது.

சிபார்கள்கள்			
வீடய்யர்ப்பு	அரசு	சீவில் சமூக நிறுவனங்கள்	பொதுமக்கள்
சீவில் சமூக நிறுவனங்கள்	அரசு மற்றும் சமூக நிறுவனங்களால் அங்கீகரிக்கப்பட்ட சுயாதீன செயற்பாட்டு சட்டகம் உருவாக்கப்பட வேண்டும்	சீவில் சமூக நிறுவனங்களின் நேர்மைத்திறனை அதிகரிக்கக்க வகையில் பொறிமுறை சட்டகம் உருவாக்கப்பட வேண்டும்.	குடிமக்களின் பங்களிப்புடன் சமூக நிறுவனங்களின் உறுதிப்படுத்த வேண்டும்.
கல்வி	1) கல்வி தொடர்பாக தேசிய கொள்கையை அமுல்படுத்தல். 2) ஆணைக்குழுக்களுக்கு உரிய உறுப்பினர்களை நியமிக்கும் அதிகாரம் வழங்கல். 3) பிரேரிக்கப்பட்ட கல்விக்கொள்கைகள் தொடர்பில் மக்களின் கருத்தையும் பொறிமுறையினை கட்டியெழுப்ப்தல்.	புதிய கல்விக் கொள்கையினை உருவாக்கத்தக்க வாதங்களை ஏற்படுத்துவது மற்றும் தேவைகள் ஏற்படும்போது அதற்கான சிபார்கள்களை மேற் கொள்வதாகும்.	
சுகாதாரம்	1) தேசிய மருத்துவ கொள்கை உருவாக்குவது மற்றும் ஆணைசபுள் பொதுமக்களுக்கான வகைகூறலை அதிகரித்தலாகும். 2) பொதுமக்களின் முறைப்பாடுகள் தொடர்பில் புலனாய்வு செய்வதற்கான வினைத்திறனை பொறிமறையை அதிகரித்தலாகும் 3) முறையான கண்காணித்தல் பொறிமுறையினை செயற்படுத்துவதற்கு தேவையான நிதி மற்றும் மனித வளங்களை வழங்கல்.	மருத்துவ கட்டுப்பாடு மற்றும் தரம் தொடர்பில் பொதுமக்களுக்கு விழிப்புணர்வை அதிகரித்தல். இப்பிரிவில் காணப்படும் கண்காணித்தல் குபாடுகள் தொடர்பில் சிபார்கள்களை மேற்கொள்ளல். மருத்துவ கொள்கையினை மீளாய்வு செய்யத்தக்க வகையில் பொதுமக்களின் பங்குபற்றலுக்கு அதிக வழியமைத்தல்	மருந்துகளின் விலை மற்றும் தரம் தொடர்பில் பொதுமக்களின் விழிப்புணர்வை அதிகரித்தல்.

<p>தொலைத்தொடர்பு</p>	<p>1) அனுமதி பத்திரம் வழங்கவில்லையென பொதுமக்களின் நம்பிக்கையை ஏற்படுத்தக்க வகையிலான பொறிமுறையை உருவாக்கல் மற்றும் பொதுமக்களுக்கு தகவல் பெறத்தக்க வழிமுறைகளை ஏற்படுத்தல்</p> <p>2) பல்வேறு தரப்பினரால் மேற்கொள்ளப்படும் சூழல் பாதிப்புகள் மற்றும் நிதி விரயங்களை தடுக்கத்தக்க வழிவகைகளை மெற்கொள்ளத்தக்க பொறிமுறையை ஏற்படுத்தல்</p>	<p>பொதுமக்களுக்கு நம்பிக்கையை ஏற்படுத்தக்க வகையிலான பொறிமுறை செயற்பாட்டினை உருவாக்கல்</p> <p>தொலைத்தொடர்பில் காணப்படும் ஊழல்கள் தொடர்பில் பொது விவாதத்தினை உருவாக்கல்.</p>	<p>இத்துறையின் செயற்பாட்டாளர்கள் தொடர்பில் விளம்பரத்தை அதிகரித்தல்</p>
<p>போக்குவரத்து</p>	<p>1) பொதுமக்களுக்கு நம்பிக்கையை ஏற்படுத்தக்க வகையில் போக்குவரத்து தொடர்பில் தேசிய கொள்கையை பயன்படுத்தல்.</p> <p>2) பொதுமக்கள் முறைப்பாட்டு பொறிமுறை மற்றும் பின்னாட்டல் நடைமுறைகளை அதிகரித்தல்.</p> <p>3) தேசிய போக்குவரத்து சேவையில் ஆளணியினருக்கு வழங்கப்படும் பயிற்சிகள் தொடர்பில் எழுமப் பிரச்சினைகளை குறைத்தல்.</p>	<p>போக்குவரத்து துறையின் சிறந்த தரம் மற்றும் நெறிப்படுத்தல் தரத்தினை மேம்படுத்துவதற்கான சிபார்சுகளை வழங்கல்.</p> <p>பொதுமக்களின் முறைப்பாட்டு பொறிமுறையின் தரத்தினை அதிகரித்தலுடன் பொதுமக்கள் இதனை பயன்படுத்துதலை ஊக்குவிப்பதாகும்.</p>	<p>தற்போதள்ள பொறிமுறையின் தரத்தினை அதிகரிப்பதுடன் மக்கள் இதனை பயன்படுத்துவதற்கான செயற்பாட்டினை அதிகரிப்பதற்கான சிபார்சுகளை மேற்கொள்ளுதல்.</p>

<p>மக்களின் செயற்பாட்டினால் ஏற்படும் சூழல் பாதிப்புக்களை குறைப்பதற்கான வழிவகைகளை கண்டுபிடித்தல்.</p>	<p>மக்களின் செயற்பாட்டினால் ஏற்படும் சூழல் பாதிப்புக்களை குறைப்பதற்கான வழிவகைகளை கண்டுபிடித்தல்.</p>	<p>மக்களின் செயற்பாட்டினால் ஏற்படும் சூழல் பாதிப்புக்களை குறைப்பதற்கான வழிவகைகளை கண்டுபிடித்தல்.</p>	<p>மக்களின் செயற்பாட்டினால் ஏற்படும் சூழல் பாதிப்புக்களை குறைப்பதற்கான வழிவகைகளை கண்டுபிடித்தல்.</p>
<p>சிறிய சமூக நிறுவனங்களுக்கு இடர்முகாமைத்துலம் மற்றும் சுற்றாடல் பணிகளில் ஈடுபடும் வாய்ப்பினை அதிகரித்தல்.</p>	<p>சிறிய சமூக நிறுவனங்களுக்கு இடர்முகாமைத்துலம் மற்றும் சுற்றாடல் பணிகளில் ஈடுபடும் வாய்ப்பினை அதிகரித்தல்.</p>	<p>சிறிய சமூக நிறுவனங்களுக்கு இடர்முகாமைத்துலம் மற்றும் சுற்றாடல் பணிகளில் ஈடுபடும் வாய்ப்பினை அதிகரித்தல்.</p>	<p>சிறிய சமூக நிறுவனங்களுக்கு இடர்முகாமைத்துலம் மற்றும் சுற்றாடல் பணிகளில் ஈடுபடும் வாய்ப்பினை அதிகரித்தல்.</p>
<p>இடர் முகாமைத்துவத்தை அணுகுவதில் சகல பங்குதாரர்களினதும் பங்குபற்றலை பெறுதலாகும்</p> <p>2) அனுமதி பத்திரம் வழங்கும் போது சேவை பெறுனர்கள் உயரிய நன்மைகளை பெறுவதனை உருவாக்கல்.</p>	<p>இடர் முகாமைத்துவத்தை அணுகுவதில் சகல பங்குதாரர்களினதும் பங்குபற்றலை பெறுதலாகும்</p> <p>2) அனுமதி பத்திரம் வழங்கும் போது சேவை பெறுனர்கள் உயரிய நன்மைகளை பெறுவதனை உருவாக்கல்.</p>	<p>இடர் முகாமைத்துவத்தை அணுகுவதில் சகல பங்குதாரர்களினதும் பங்குபற்றலை பெறுதலாகும்</p> <p>2) அனுமதி பத்திரம் வழங்கும் போது சேவை பெறுனர்கள் உயரிய நன்மைகளை பெறுவதனை உருவாக்கல்.</p>	<p>இடர் முகாமைத்துவத்தை அணுகுவதில் சகல பங்குதாரர்களினதும் பங்குபற்றலை பெறுதலாகும்</p> <p>2) அனுமதி பத்திரம் வழங்கும் போது சேவை பெறுனர்கள் உயரிய நன்மைகளை பெறுவதனை உருவாக்கல்.</p>
<p>நீதித்துறை</p>	<p>நீதித்துறை கட்டமைப்பை வலுப்பெறச்செய்வதற்கான நடைமுறைகளையும் பயிற்சிகளையும் சிபார்சு செய்தல்.</p>	<p>நீதித்துறை கட்டமைப்பை வலுப்பெறச்செய்வதற்கான நடைமுறைகளையும் பயிற்சிகளையும் சிபார்சு செய்தல்.</p>	<p>நீதித்துறை கட்டமைப்பை வலுப்பெறச்செய்வதற்கான நடைமுறைகளையும் பயிற்சிகளையும் சிபார்சு செய்தல்.</p>

<p>சர்வதேச உதவி</p>	<p>1. திறந்த வெளிப்படையான கேள்விக் கோரல் நடைமுறையை செயற்படுத்தல் 2. சகல பங்குதாரர்களும் அபிவிருத்திட்டங்களில் திட்டஆரம்பத்திலிருந்து அமுல்படுத்தும் பகுதிவரை பங்குபற்றாதலை உறுதிப்படுத்தல்</p>	<p>குறுகிய கால நீண்டகால நன்மை கருதிய அடித்தளத்தை சமூக நிறுவனங்கள் உருவாக்குதலை உறுதிசெய்தல்</p>	
<p>சுற்றுலா</p>	<p>1) ரூடுவனுயு க்கும் உள்நூராட்சி நிறுவனங்களுக்கு மிடையிலான இணைப்பினை உறுதிப்படுத்துதல். 2) அரசின் சுற்றுலா செயற்திட்டத்தின் வெளிப்படைத்தன்மையை உறுதிப்படுத்தும் பொறிமுறையை உருவாக்குதல்</p>		<p>இத்துறையில் பிரஜைகளின் பங்குபற்றலுக்கு வழிவகுத்தல்.</p>

Chapter 10

Playing the role of engaged citizen

The Governance Report 2011 focuses on nine sectors that have been the subject of serious discussion during the first half of the 2011. The chapters contained in this report take an analytical look at the regulatory mechanism within each h of the selected nine sectors.

It is our belief that through the review and continuous monitoring of the efficiency and effectiveness of the regulatory mechanisms, it becomes possible to measure existing strengths and weaknesses. In turn, such identification can aid a process of laying a strong foundation for the creation of an extensive public dialogue on the sectors analyzed in this publication.

The sectors analyzed dealt with in this publication are, civil society organizations, economy, education, environment/disaster management, health, international aid, telecommunications and transport. Each chapter seeks to highlight key issues within those sectors and propose recommendations for sector improvement.

The chapter writers have emphasized that it is with the participation of the public and due public attention that effectiveness of service delivery and the viability of regulatory mechanisms are ensured. Each chapter therefore reinforces that it is an expression of civic responsibility to consistently monitor the functions of the regulatory bodies and motivate them to improve their standards.

Authors of most chapters have highlighted the absence of a Right to Information Law in Sri Lanka as a serious drawback in playing the role of engaged citizen. Further, many chapter identified the absence of proper legal systems that provided for effective regulation and public monitoring or participation. There were limited possibilities of people being engaged with the officials to ensure improved service delivery.

The general trend of not sharing vitally relevant information about institutions, annual reports, audit reports and statistical data was also highlighted as a key limitation. This was exacerbated by the direct limitations imposed by the Establishment Code that prevented public officials from disclosing information to the public. The prohibitions on the free flow of information created systems that did not embrace the concept of people's participation or provided for mechanisms that enabled citizen's engagement.

Some recommendations included in chapters are critical of the regulatory mechanisms currently in place and call for immediate action by the relevant authorities. There are other recommendations that are process-oriented with long term policy goals at heart. They seek systemic change that can be achieved through long-term advocacy for changes both in policy and in practice.

Collectively, the recommendations propose key advocacy points that could be used by various stakeholders promoting sector reforms and call for an engaged citizenry who will clamour for the systemic changes that are necessary to improve efficiency. While not exhaustive, they seek to promote activism among a cross section of stakeholders who are concerned and committed to improved governance in Sri Lanka.

Subject area	Recommendations		
	Government	Civil Society Organizations	Public
Civil Society Organizations (CSO)	To create an independent regulatory framework that is accepted to both the Government and CSOs	To build a self-regulatory mechanism to increase the integrity of CSOs	To ascertain the level of accountability of CSOs through public participation
Education	<ol style="list-style-type: none"> 1) To implement a National Education Policy on education 2) To empower the National Education Commission by appointing members to the Commission 3) To build a mechanism to gauge people's perceptions on the proposed National Education Policy 	To create a vibrant public debate for the compilation of a new National Education Policy and to provide recommendations whenever possible.	
Health	<ol style="list-style-type: none"> 1) To introduce a National Medicinal Regulation policy and to increase the accountability of NMDRA 2) To increase the efficiency of the mechanism to public complaint investigating 3) To provide sufficient financial and human resources to enable efficient monitoring 	<p>To increase public awareness on drugs control and applicable standards</p> <p>To make recommendations to reduce the existing weaknesses in the monitoring mechanism</p> <p>To enhance opportunities for better monitoring through increased public participation</p>	To increase public awareness on prices and standards of medicines

Telecommunication	<p>1) To introduce a transparent mechanism for the issuing of licenses that public trust and to take initiatives to make the information available to the public</p> <p>2) To introduce a mechanism that reduces opportunities for monopolies and prevents wastage and decrease environmental impacts</p>	<p>To call for public suggestions for the creation of mechanisms that win public confidence</p> <p>To create public debate on the corruption that prevails in the telecommunication sector.</p>	Increased publicity to be provided through the media
Transportation	<p>1) To implement the National Transport Policy to ensure a better service to the public</p> <p>2) To improve feedback processes and regulate public complaint mechanisms</p> <p>3) To reduce sector related problems through enhanced professionalism</p>	<p>To provide recommendations for the promotion of better sector standards and regulatory standards</p> <p>To enhance the quality of existing public complaint mechanisms and to encourage frequent public use of such mechanisms</p>	Provide recommendations to increase the quality of existing mechanisms and encourage maximum public use of such mechanisms
Environment/ Disaster management	<p>1) To undertake disaster mitigation through the participation of all stakeholders</p> <p>2) Introduce an efficient permit issuing mechanism</p>	To provide space for CSOs to contribute to Environment and Disaster Management monitoring processes and mechanisms	To reduce environmental hazards caused by human activity

Judiciary	<p>1) To introduce the necessary legislative changes to reduce the ill effects of the 18th Amendment</p> <p>2) To bring the Attorney General's Department under the purview of the Ministry of Justice</p> <p>3) To increase public trust in the Judicial system by strengthening the Judicial Services Commission</p> <p>4) Limit the number of years for retired judges to hold office in other government and foreign institutions to a maximum of three years</p>	<p>Lobby for post-enactment legislative review</p> <p>Recommend best practices and processes to strengthen the Judiciary</p>	
International AID	<p>1) To activate a tender process that is open and transparent</p> <p>2) To ensure participation of all stakeholders from the planning phase to the implementation of development projects</p>	<p>Government and Civil Society Organizations to generate discussions on long term and short term benefits</p>	
Tourism	<p>1) Enhance coordination between SLTDA and local government bodies</p> <p>2) Create a mechanism to ensure the transparency of tourism projects and transactions</p> <p>3) To create a mechanism that provides for strong stakeholder involvement for the improvement of the sector</p>		<p>To lobby for space for citizens engagement in the sector</p>

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