

DRAFT

**REVIEW OF
GOVERNANCE AND
PUBLIC MANAGEMENT
For
SRI LANKA**

March 2004

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CURRENCY EQUIVALENTS

(as of 9 December 2003)

Currency Unit	–	Sri Lanka rupee/s (SLRe/SLRs)
SLRe1.00	=	\$0.0104
\$1.00	=	SLRs 96.34

ABBREVIATIONS

ADB	–	Asian Development Bank
CSO	–	Civil society organization
CSP	–	Country Strategy and Program
CSPU	–	Country Strategy and Program Update
HRM	–	Human Resources Management
IT	–	Information Technology
MDTU	–	Management Development Training Units
NGO	–	Nongovernment organization
PSC	–	Public Service Commission
SLIDA	–	Sri Lanka Institute of Development Administration

NOTE

In this report, "\$" refers to US dollars.

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EXECUTIVE SUMMARY

The promotion of effective governance and of sound public management is integral for Sri Lanka's strategy for economic growth, for poverty reduction, for meeting the demands of post-conflict rehabilitation, for the delivery of expected public services and for the planning and implementation of development programs. Whilst the strengthening of governance and public management is obviously critical for the above objectives, it is also basic to ensuring that the aid provided by the ADB is appropriately utilized for the achievement of the agreed objectives.

The strategies for strengthening of governance and public management and the contribution that the ADB could make towards achieving these strategies has to be understood in the context of the political and administrative evolution of post-Independence Sri Lanka. This context underscores the challenges faced in implementing such strategies and the opportunities that are available to overcome the challenges. This provides the framework for the Review.

The outcome of over five decades of the evolution of the political system is that Sri Lanka is burdened with a malfunctioning of its devolved political system due to:

- (i) The lack of clarity in the demarcation of the functions, responsibilities and authority at the three levels of government;
- (ii) The absence of institutional arrangements for the active participation of the public in decision making at these levels;
- (iii) The design of the processes in the political institutions that promotes confrontation rather than collaboration amongst political parties and groups; and
- (iv) The absence of any clear initiatives to effect changes to the Constitution to serve the objectives of effective devolution and of public participation.

The administrative system and its structures have fared no different. The recent post-Independence period has witnessed avoidance of attempts to reform the administration in line with changes that have occurred in the polity and the changing expectations of the citizens. However, the recent setting up of an Administrative Reforms Committee – under the Office of the Prime Minister – provides an opportunity for the provision of support for strengthening governance and public management.

The major areas of governance and public management that need to be addressed include

- (i) Rationalization and strengthening of the areas of public policy management, planning, budgeting and performance management;
- (ii) Strengthening of public financial management, of fiscal decentralization and of audit;
- (iii) Isolation of all branches of the public service – at all levels of the government – from political influence;
- (iv) Improvement of human resources management – particularly in the areas of recruitment, career management, capacity enhancement and performance appraisal;
- (v) Enhancing of the effectiveness of service delivery;
- (vi) Widening of and the facilitating of the citizens' access to information;
- (vii) Widening use of IT and E-Governance;

- (viii) Reform of the maintenance of law and order;
- (ix) Removal of impediments to enhanced participation of the private sector in economic activities and the delivery of services;
- (x) Eradication of the high levels of corruption; and
- (xi) Removal of barriers to gender equity.

In all these areas of reform, the continued participation of the civil society and its constituent organizations would be critical. This factor also draws attention to the support required by CSOs in enhancing their own capacity for effective participation.

Parallel with the required agenda of action identified above is the major challenge faced by the Government in addressing the post-conflict needs of reconstruction, rehabilitation and reconciliation. Whilst – in terms of the degree of physical reconstruction that is required and in spatial terms – the Northern and Eastern provinces constitute a concentrated area of activity for this purpose, it is increasingly obvious that the entire country requires attention.

The Review finds that there are issues related to enhancement of governance and of public management in all sectors wherein the ADB is providing development assistance to Sri Lanka. Many of these issues are integral to the core issues of governance and public management that have been identified earlier. These need to be identified and addressed if the benefits that flow from the ADB's assistance are to be fully realized and if the programs and projects that are planned are to be completed in time. Hence, it is important for governance and public management issues to be identified through appropriate appraisal and strategies to address them to be set in motion as part of the process of project appraisal.

The medium term strategy point to the extensive agenda of activities directed towards the strengthening of governance and of public management that Sri Lanka has to undertake. It needs also to be recognized that – given the time loss that has occurred in the past– there is urgency in planning and implementing the required agenda. Else, Sri Lanka would continue to lag behind in achieving its goals of economic development; poverty reduction; post-conflict reconstruction, rehabilitation and reconciliation; citizen satisfaction; the achievement of an accountable polity supported by an accountable administration; and social and political stability. The agenda, thus, is of a magnitude and urgency that has not been faced by Sri Lanka previously.

The magnitude and urgency of the agenda is such that its planning and implementation would be feasible only if Sri Lanka were to receive appropriate and adequate assistance for the purpose from its development partners¹.

The preceding discussion indicates that the development partners have a wide agenda within which they could provide assistance to Sri Lanka. It is, however, important, in the formulation of development assistance, to recognize that Sri Lanka currently faces a period of dynamic transition. This makes it necessary that the development assistance interventions – in their planning and designing – should contain adequate flexibility to respond to future changes – whilst ensuring the achievement of key program/project objectives.

The discussion also indicates the critical importance of the adoption of a co-ordinated approach by the donor community, as a whole, in designing, programming, and sharing of

¹ This, as the Tokyo conference on Reconstruction and Development of Sri Lanka (9-10 June 2003) has indicated, appears to be reasonably assured.

responsibilities for the provision of assistance in strengthening governance and of public management. This would contribute to Sri Lanka gaining the maximum benefit from the assistance provided by its development partners.

In selecting specific areas for consideration of assistance by the ADB, due attention should be paid to ADB's comparative advantage. This lies mainly in the experience gained by the ADB in its work in the areas of poverty reduction and in the experience gathered in its work in Sri Lanka in specific sectors.

Equally advantageous for Sri Lanka would be the development, by ADB, of developing partnerships with bilateral development agencies to promote the strengthening of governance and of public management².

Within this approach two areas have been selected for consideration in formulating the new CSP

- (i) One area would be the improvement of governance and of public management in the delivery of public services to the poor. Whilst service delivery has figured in sector-based programs and projects that have been and are being assisted by the ADB, there is a need and scope for ADB to consider the adoption of a program of assistance that would approach governance and public management of service delivery as a specific issue.
- (ii) The other area is the identification of gaps in governance and public management capacities in the specific ADB sectors – to be followed by programs to bridge such gaps.

It would be of high value if the provision of assistance in service delivery should – in its comprehensive stage – develop into a multi-donor program.

A core area of governance and public management in which the ADB has been active is the area of public resource management. In view of the continuous links that this activity has on activities in all sectors, it has a direct bearing on service delivery. ADB has already initiated the provision of support for several elements of this area of reform. The measures so far taken, when successfully implemented, would lay the groundwork for a major reform agenda in this area.

ADB should assist the Government of Sri Lanka identify performance areas and develop benchmarks for improving the performance of service delivery. The Government would need to set targets for the performance areas and establish systems for tracking and reporting on performance.

The service delivery improvement program should be implemented as two streams of activity. One should be the development of a service delivery policy framework. The other would be to develop service delivery polices for specific sectors and to plan their implementation.

² This could be accompanied by the consideration of opportunities for the utilisation of bilateral grant funds to strengthen and provide more flexibility to ADB governance initiatives.

I. INTRODUCTION

1. This Review of Governance and Public Management contributes to the formulation of the Asian Development Bank's (ADB's) new Country Strategy and Program (CSP) for Sri Lanka. The objective of the Review is to provide a framework for the ADB's approach to the provision of assistance to Sri Lanka, in the next phase of its development assistance program, for strengthening the country's governance and public management.

2. The Review is set within the framework of poverty reduction that constitutes the ADB's overarching goal in its development assistance as well as government's priority development objective. In Sri Lanka, the imperatives of poverty reduction are also affected as well as made more complex by the close nexus that exists between poverty reduction and post-conflict reconstruction, rehabilitation and reconciliation. Whilst recognising the importance of developing a co-ordinated framework for dealing with both these challenges, the Review also would take note of some of the key core issues of enhancement of public management that would need to be addressed in order to provide the institutional and process stability that must obtain if the suggested framework is to be effective. The Review would set this framework for ADB's approach within the current context of governance and public management in Sri Lanka as well as the strategies that are being initiated by the government in meeting the major challenges that are faced by the country.

3. The promotion of sound public management in Sri Lanka is integral to the strategy for poverty reduction. In the promotion of sound public management, special emphasis will be laid on transparency and predictability; accountability; strategic focus in policy management; efficiency and effectiveness; and participation – as key objectives. Transparency, predictability and accountability figure critically in public management – particularly where it concerns delivery of public services and poverty reduction – in raising the levels of public confidence and of citizen participation in these processes. Effective public policy management is critical in ensuring that optimal benefits would flow to the citizens from government interventions and in optimizing the participation both of the private sector and of the beneficiaries in the implementation of programs and projects that flow from such policies. Efficiency and effectiveness of public management is crucial for the delivery of expected public services and the implementation of development programs. Thus, the key objectives that are sought in the promotion of sound public management constitute an interlinked set of objectives.

4. The Review would address governance from both its perspectives. The first would be the core concerns of governance as they apply to the structures and processes of governance. The second would be governance as it relates to specific sectors¹. The Review is a preliminary analysis. One objective of the Review is also to assess whether a further phase is required for a focused review covering any priority core governance issue.

5. This Review has drawn on ADB's poverty reduction strategy² and the previous full CSP as well as the latest CSPU for Sri Lanka. It has taken note of the need to assess governance - with particular reference to public management – in order to inform the priorities of the CSP and to strengthen the quality of ADB's Programs and Projects. The Review, in developing its suggested framework, also draws on the historical experience acquired by the ADB in the provision of assistance to Sri Lanka through the formulation and implementation of sectoral and trans-sectoral programs and projects. In doing so, special attention has been on the experience gathered in the current program period.³

¹ Definitions of core and sector-related governance are more fully dealt with in Appendix 1 at the end of the report.

² As set out in Asian Development Bank: "Poverty Reduction In Sri Lanka – Issues, Findings, and Approaches" (October 2001).

³ Indicators of the lessons of experience are to be found in the 'Report of the ADB Country Portfolio Review Mission (22 October 2002)' and 'Country Strategy and Program Update – Sri Lanka: 2003-2005' (July 2002).

II. THE CONTEXT

A. The Critical Role of Effective Governance

1. Emerging from its pre-occupation with a long drawn out ethnic conflict, Sri Lanka is now faced with the tasks of post-conflict reconstruction, rehabilitation and reconciliation whilst, at the same time, having to cope with the continuing challenge of poverty reduction in all areas of the country. Success in both these tasks is basic to the achievement of long term social stability and, sequentially, of the smooth functioning of the polity¹.

2. Sri Lanka has, since Independence, continued to be burdened with high levels of poverty² – a situation that has been made even more severe by the problems that flow from the outcomes of the two-decade long ethnic conflict that has produced a large cohort of socially displaced persons.

3. The approach, hitherto, to poverty reduction illustrate the nexus between the adoption of poverty reduction objectives and effective governance. For example:

- (i) Whilst the characteristics of poverty vary from region to region, the interventions³ of the government to its resolution have tended to take on a universal approach – centrally driven in their planning and implementation. The outcomes of these interventions have, thus, remained sub-optimal.
- (ii) The main interventions under succeeding governments have remained as social welfare interventions.
- (iii) A key factor that has had a negative effect on these initiatives has been ineffective policy management. For example, by not taking into account the impact of factors as education, roads and highways, access to electricity, links with markets etc., the interventions have failed to address the prevalent levels of poverty and their root causes.
- (iv) Another governance-related issue is the failure to involve the participation of the intended beneficiaries in the planning and implementation of the interventions.
- (v) Being centrally driven, they have not been able to address the locale-specific issues of poverty.
- (vi) Added to this has been the propensity to allow narrow partisan political considerations to influence the planning and implementation of the programs.

4. It is in the above context that issues of governance – as they apply to the strengthening of its role and functions as well as its structures, systems and human resources – should be examined. Whilst the strengthening of governance to ensure its optimal responsiveness to the demands of poverty reduction and of post conflict rehabilitation is obviously critical, it needs to be recognized that it is also basic to ensuring that aid provided by the ADB is appropriately utilized for the achievement of the agreed objectives.

B. The Political System

¹ The breakdown of social stability and its negative impact on the stability of government in Sri Lanka has been clearly experienced in the youth insurrections of 1971 and of 1987 as well as in the ethno-linked uprisings in the past two decades.

² The head count of the poor (1996/97), based on the incidence of consumption poverty, is set at 19% based on the lower poverty line and at 31% based on the higher poverty line. However, it needs to be recognised that these computations exclude the Northern and Eastern Provinces that are affected by the ethnic conflict, wherein around 800,000 persons are displaced.

5. The political system that is in operation provides the context within which the level of effectiveness of governance is best understood. It is, however, realistic to recognise that such an understanding be set within the framework of its historical evolution. The succeeding discussion would attempt to do this.

6. Sri Lanka has had a system of representative political institutions since the latter part of British colonial rule. Since 1931 the elections to all political institutions were based on universal franchise. The political executive at the Centre has been accountable to the legislature. Whilst institutions of local government⁴ – with limited responsibilities – existed, the political system was, essentially, a Centre-driven system.

7. This Centre-driven system was underpinned by the Ministries at the Centre having Departments under them – with each of the latter presiding over a network of District and sub-District⁵ functionaries operating across the country. Policies and plans were formulated at the Centre and their implementation was directed and controlled from the Centre. Policies and programs tended to be generic for all areas of the country – with differentiation for sub-national diversities being more the rare exception than the rule.

8. The centralised system had its own impact on human resource management – with the larger proportion of the bureaucracy being inducted to centrally managed groups⁶. The members of these groups were transferable across the country and, thus, had no specific accountability to the local communities for delivery of services to whom they were responsible. Their lines of responsibility were to their hierarchical superiors at the Centre.

9. For a full understanding of the current political system, the several changes that were introduced to it during the post-Independence⁷ period – particularly in 1972, in 1977 and in 1987 – need to be highlighted.

10. The constitutional changes of 1972 had their major impact on the bureaucracy.

- (i) Their net outcome was to bring the bureaucracy, which till then had been protected from direct political control, under the direct management of the political executive at the Centre.
- (ii) Over time, this change led to political considerations assuming the major role in management decisions that concerned the bureaucracy – contributing to an erosion of the levels of political neutrality that had come to be the hallmark of the bureaucracy.
- (iii) A responsive outcome was the gradual change in the behavioural culture of the bureaucracy itself – moving away from being a ‘public service’ to a ‘political-party-appendage’.

11. The constitutional changes of 1978, whilst retaining the above changes that related to the bureaucracy added two other major changes.

- (i) The first was the introduction of an Executive Presidency – which, whilst deriving its legitimacy through a countrywide election, acquired executive authority that,

⁴ The local government institutions are of three types – Municipal Councils (14) for the larger urban areas, Urban Councils (37) for the smaller urban centres and Pradeshiya Sabhas (258) for the rural areas.

⁵ There are 25 Administrative Districts and 301 Sub-Districts (Divisions) in the country. These all, whilst performing tasks for multiple ministries, fall within the administrative purview of the Ministry of Home Affairs in the Centre.

⁶ These are commonly referred to as ‘All-Island-Services’.

⁷ Sri Lanka obtained Independence in 1948.

hitherto, had vested with a Cabinet of Ministers, led by a Prime Minister, that was responsible to the Parliament. This constituted a radical change in regard to the locus of executive responsibility – shifting it away, in reality, from its hitherto nexus with Parliament.

- (ii) The second change was in regard to the electoral system. The ‘first-past-the-post’ system that had been in existence till then was replaced by a system of proportional representation. As a consequence of the advantages that this change conferred on small political parties, the outcome has been the emergence of a series of ‘coalition governments’.

12. The emergence of a multiplicity of political parties – of varying strengths - as an outcome of elections has led to considerable post-election bargaining in the formation of Cabinets of Ministers that could command majorities in Parliament. Policy coherence, that is basic to effective governance, has tended to suffer as a result.

13. The dysfunctional nature of the change introduced in 1978 through the introduction of an Executive Presidency is being witnessed since the general elections to the Parliament in 2001. This brought in a majority in Parliament that was of the political parties opposed to that of the incumbent President. The outcome of this has been a 18 month long confrontational stand-off between the two arms of the political executive – with a negative impact on effective decision making and implementation as well as on the achievement of poverty reduction and an ending of the conflict situation.

14. Sri Lanka, with a population of 19 million, has a Parliament of 225 members. It is a unicameral legislature. The current Cabinet of Ministers comprises 35 Ministers with an additional 21 Ministers of non-Cabinet Rank.⁸ There is considerable overlapping of functions and responsibilities both amongst Cabinet Ministries and non-Cabinet Ministries – affecting the quality of policy management. Elections to Parliament – unless an early dissolution occurs – are held every six years. Provincial Councils and Local Government Institutions have a life span of five years.

15. Political parties issue manifestos which receive scant attention from the voters. Instead, populist stances taken by political parties and groups as well as factors such as ethnic, caste and religious affiliations of candidates tend to influence voter behaviour. There are no institutions that train political cadres or aspirants to any political office. The prevalent system of proportional representation (PR) requires the voter to indicate his/her choice of party/group and, within that choice, to indicate a preferential choice of up to 3 candidates. The parties/groups are allotted seats within the electorate according to the proportion of votes received by them. Within this allocation, the candidates from the party/group who received the highest numbers of preferential votes is considered as having been elected.

16. The constitutional change that emerged from the Thirteenth Amendment to the Constitution (1987) was intended to modify the institutional structure of the government in order to introduce a devolved political system. This was more specifically as a response to satisfying aspirations of the minority communities for a greater say in the management of their affairs. It sought to allocate the functions of government as between the Centre and the Provinces – whilst retaining a series of concurrent functions. However, the changes to the Constitution failed to include the tier of local government as a distinct tier within the political structure. Thus, the Local Government Institutions remained as a subordinate tier of governance.

⁸ For example, the policy responsibilities in the sector of agriculture are divided amongst several ministries; those in the sector of industry amongst 4 ministries; education is handled by 3 ministries.

17. The results of the constitutional changes of 1987 that were, ostensibly, introduced to lead to effective decentralisation have been disappointing. The reasons are several.

- (i) The main reason has been the absence of adequate commitment, of the political cadres as well as of the bureaucracy, to the goal of institutionalising a functioning devolutionary polity in the country.
- (ii) The structures of a devolved polity were introduced into the political system without adequate planning and in haste. This resulted in empty shells of devolved structures having to cope with processes that had been designed for a centralised system.
- (iii) The responsibility for effecting the adjustments that were required in the transition was on the political office-holders and the bureaucracy at the Centre - two groups that had been accustomed to and had benefited from the centralised system of governance. Thus, there was an absence of a strong commitment to a devolved polity.
- (iv) The absence of any well-equipped countervailing forces that could have acted within a constitutional framework to overcome the inertia allowed the devolutionary governance system to hang in limbo.
- (v) The political culture that prevails in Sri Lanka – which is driven by group rivalries that impede, concerted action in regard to governance. The outcome has been disagreements between the Centre and the Provinces on management of policies and programmes – whenever, opposing political groups held office at the two levels.

18. The Local Government Institutions that function at the level of local communities and which, if appropriately harnessed, could have contributed to an effective and people-responsive delivery of public goods and services have continued to remain on the periphery of the system of devolved political structures. Because of this gap, the institutional system that should underpin the devolved polity remains incomplete. The bridging of this critical gap is an issue that waits to be addressed in future exercises of constitutional reforms.

19. The outcome has been the malfunctioning of the devolved polity. This, in turn, has contributed to an ineffective delivery of public goods and services.⁹ Whilst the effectiveness of delivery of public goods and services has declined, political competitiveness between the two levels of governance has contributed to the growth of excess public sector cadres – leading to avoidable cost escalations and poor public expenditure management.

20. The structure of governance at the three levels of the polity¹⁰, as indicated above, is characterised by

- (i) A lack of clarity in regard to the locus of responsibilities at the Centre;
- (ii) A conflict of responsibilities and functions as between the government at the Centre and the Provincial Councils; and by
- (iii) The non-assignment of appropriate responsibilities and authority to the Local Government Institutions.

21. The issues that need to be addressed in regard to the political system include the following:

⁹ The delivery of health care services and of primary and secondary education provide clear examples of the ineffectiveness of delivery of public goods and services.

¹⁰ The structure of governance at the three levels is set out in Appendix 2.

- (i) The clear demarcation of the functions, responsibilities and authority at the three levels of government – the Centre, the Provinces and the Local Government Institutions.
- (ii) The setting up of institutional arrangements for the active participation of the public in decision making at all levels of the government – with particular emphasis on the local level.
- (iii) Redesigning processes in the political institutions in such manner that they would provide an appropriate framework for collaboration rather than confrontation.
- (iv) Initiating a process of reform of the Constitution to serve the objectives of effective devolution, and public participation.

C. The Structure of Administration

22. The weaknesses that have been identified in the structure and functioning of political institutions also affect the administrative structures. Major constraints in regard to administrative structures have been the absence of adequate authority at the devolved levels concerning human resources management as well as the absence of appropriate authority over the mobilisation and management of financial resources. It is also a fact that no serious and consistent efforts have been made over a period of a decade and a half to address these issues.

23. There is neither general legislation nor a consistent set of government policies that govern the setting up of administrative structures. There are, however, rare instances of specific Acts of Parliament that mandate the creation of administrative structures to implement them. Many of the administrative structures are inheritances from the colonial period that have been modified from time to time. Decision-making processes do not necessarily follow a set pattern – except in the case of financial authorisations, which follow the procedures set out in the Financial Regulations of the Government. These Financial regulations also are derived from those that obtained in the colonial period and are constantly criticised as being not in consonance with the context of the 21st century. Yet, initiative has been lacking to effect changes.

24. Whilst there have been several ad hoc initiatives for the reform of the administration there has been no significant attempt at its holistic reform. For instance, the exercise of administrative reform that should have occurred with the introduction of the 13th Amendment to the Constitution in 1987 – which introduced a devolved structure of government was missed. The introduction of the 13th Amendment should have, for example, been accompanied by reforms in personnel systems in order to give effective oversight to the Provincial Councils over the personnel that serve the different provinces as well as by effective delegation of financial authority.

25. The bureaucracy dragged its feet and placed impediments to the development of an administrative system and constituent structures that could have contributed to the operationalisation of devolution. The personnel systems and financial systems that were required to support the effective functioning of a system of devolution were not introduced¹¹. The outcome of this failure has been both a dissonance as between the stated political objectives of devolution and the administrative realities obtaining on the ground.¹²

¹¹ Even faint indications of changes being considered to existing systems were met by the resistance of the trade unions of the different categories of the bureaucracy and, hence, were abandoned.

¹² For example, the implementation procedures for the delivery of public services and goods remained unchanged from what they had been before the constitutional changes were introduced. Their unsuitability for the changed context meant that the outcome was the ineffective delivery of services and goods.

26. A major reform in the administration was attempted in 1986 through the constitution of a Presidential Administrative Reforms Committee. Despite overt acceptance of its recommendations by the government of the day, no serious action was taken to effect the implementation of its inter-linked recommendations. Ironically, only the recommendations concerning salaries were implemented to keep the public sector employees and their trade unions quiet.

27. A second major reform of the administration was attempted in 1996.¹³ Again the recommendations made were accepted at the highest executive level of the government – the Office of the President. Attempts were also made to set up institutional arrangements for the implementation of the recommendations. However, the process lost momentum and direction as well as fell victim to impediments placed by vested interests – both in the bureaucracy and amongst the cadres. There was no tangible outcome.

28. Reforms have also been formulated, from time to time, in respect of specific sectors. For example, reforms were formulated for the health sector as well as the education sector in 1997. These also have not led to any serious attempt at effective implementation.¹⁴ They have, generally, been confined to reports.

29. Considerable structural contradictions, thus, exist in regard to the country's administration. For example,

- (i) The Urban Development Authority controls large areas of construction activity that could have been directly managed by Local Government Institutions – many of which in the view of this Review have developed the necessary capacity¹⁵.
- (ii) The subject of 'Local Government' is assigned to a ministry at the Centre when – under the 13th Amendment – it is devolved to the Provincial Councils.
- (iii) A National Water Supply and Drainage Board has been set up to deliver functions related to water supply and drainage that could be handled by the Local Government Institutions.

30. Thus, the recent post-Independence period in Sri Lanka has witnessed avoidance of attempts to reform the administration in line with changes in the polity; exercises in formulating administrative system-wide reforms and failing to implement them and initiating sector specific reforms that have not gone beyond the stage of formulating recommendations.

31. There is, however, currently, a fresh initiative in regard to administrative reforms, with the constitution of an Administrative Reforms Committee under the Prime Minister's Office. Whilst the progress and outcomes of this effort are yet to clearly emerge, it provides an opportunity for the provision of support for strengthening governance.¹⁶

D. Policy Management, Planning and Budgeting

32. The formulation of national development plans as well as sectoral plans commenced in the latter half of the 'fifties. The first Ten Year Plan – prepared by the National Planning Council

¹³ This was undertaken with support from the ADB - under TANO.2616-SRI.

¹⁴ In fact, there are, as of 2003, two parallel exercises that are investigating reforms in the health sector.

¹⁵ In the instances of Local Government Institutions who lack adequate capacity, the UDA could help to build up their capacity through programs of capacity building.

¹⁶ The reform agenda, as has so far been announced by the Administrative Reforms Committee, is set out in Appendix 3.

chaired by the then Prime Minister – was issued in 1959. There also have been intermittent exercises at formulating medium and short-term public investment programmes. It is, however, difficult to observe, over this period, a consistent evolution in the approach to planning. The most appropriate conclusion would be that the approach to planning came to be influenced, at different points of time, by the ideological stances of the groups and individuals that exercised political power at such times.

33. The setting up of the Provincial Councils also had an influence on the evolution of planning structures. The Provincial Councils came to set up their own planning units – albeit staffed by personnel who belonged to the ‘All-Island-Planning-Service’. Concurrently, planning exercises also came to be mounted in different provinces by the planning institutions at the Centre in specific issue or program areas. No serious attempt has been made to effect any co-ordination between the planning activities at the national and provincial levels. The outcome is that planning at the provincial level tends to take place without an organic relationship to development priorities set for the country as a whole whilst planning and policy formulation at the central level fails to be set within the context of the realities at the sub-national level.

34. There are several other negative aspects in the public policy management process.

- (i) The presence of a multiplicity of sector and sub-sector based ministries has contributed to the unilateral initiation of policies¹⁷;
- (ii) There are no policy co-ordinating arrangements in the case of trans-sectoral issues – such as gender, poverty reduction, and youth;
- (iii) A major structural gap is the absence of a focal point¹⁸ within the political executive arrangements where inter-sectoral policy issues are reconciled;
- (iv) The practice of staffing of ministries by a generalist bureaucracy – with a practice of unplanned transfers – has contributed to the virtual absence of a continuing institutional memory in the policy-related institutions;
- (v) The policy management culture in Sri Lanka has not shown a readiness to establish interactive links with the academic and research community or to involve the direct participation of interest groups in the policy development process; and
- (vi) There are serious gaps in regard to the quality of human resources that are available for the different elements of policy management.

35. The absence of effective policy management has its consequences on the activities of the planning of interventions and of activities. It has also a direct impact on the country’s budgetary processes – at all levels of the polity. The budgets are not necessarily guided by a policy framework but tend to be governed by historical precedents. The outcomes are budgets that are oriented more towards recurrent expenditure than to investment expenditure. Also, in the absence of coherent policy agendas, development initiatives as well as service delivery interventions tend to be ad hoc.

36. Operational practices of day to day governance and of the delivery of public goods and services are not, necessarily, aligned to pre-set policies. Given the absence of a coherent policy framework, these operational practices tend to be ad hoc and unpredictable. The individual preferences of sectoral ministers as well as partisan political considerations have tended to

¹⁷ This situation has been exacerbated with the frequency of coalition governments.

¹⁸ Logically, the Cabinet secretariat should play this role. However, inadequate and inappropriate staffing has been a negative factor. The issues related to public policy management have been discussed in detail in “Enhancing the Effectiveness of Public Policy Management: The Challenge for Sri Lanka” – Shelton Wanasinghe & Harshita Gunaratna (Institute of Policy Studies, Colombo, 1996)

influence the adoption of operational practices – whether they be in regard to selection of beneficiaries in service delivery and poverty reduction programs or allocation of contracts etc.

37. A major obstacle to effective public policy management is that the political parties, which seek office, are not issue based. Hence, when they assume political office they are not appropriately equipped with a policy agenda that they plan to implement. Nor are the voters clear as to what they should expect from any specific government and are, thus, not in a position to demand that policies be implemented.

38. Whilst a series of inadequacies, as set out above, affect the policy management, planning and budgetary processes, policy implementation, enforcement and monitoring remain inadequate. Steps are currently (2003) being taken to set up a National Operations Room as a tool for the more effective monitoring of implementation of programs, projects and interventions. If this is successfully operationalised, the NOR should make a significant impact on the quality of monitoring of implementation of policies, programs and budgets.

39. Over the decades the effectiveness with which the Cabinet deals with policy issues has declined. The Cabinet memoranda lack comprehensiveness – with policy options being offered for consideration only very rarely, if at all. Cabinet memoranda are not generally studied and analysed in the ministries of Cabinet Ministers. The input in to the analysis of proposals by the key ministries such as Finance, Policy Development, and Public Administration is inadequate. There is no central point linked to the Cabinet that carries out comprehensive analyses of proposals presented to the Cabinet before the Cabinet itself reviews them.

40. Some of the key actions to be taken to resolve the main problems in regard to policy management and planning include:

- (i) The setting up of effective institutional arrangements both at the Centre and at the Provinces for policy management;
- (ii) The introduction of arrangements within the political executive to deal with trans-sectoral issues;
- (iii) The need to set up at the level of the Cabinet Secretariat structures for policy analysis prior to decisions being made by the Cabinet;
- (iv) The strengthening of the role of the Chief Secretary in terms of policy analysis at the level of the Provinces;
- (v) Building trained cadres for policy management;

E. Public Financial Management and Audit

41. The fiscal relationships between the Center and the Provinces have a direct bearing on the effectiveness of governance. It is, however, an aspect of governance that remains confused. The 13th Amendment to the Constitution enacted in 1987, did not allow any serious revenue raising powers to the Provincial Councils. Whilst 21 types of fees, fines and taxes that may be levied by Provincial Councils are listed, only five taxes¹⁹ can be identified that may yield revenue of any significance. On occasions, the central Parliament has also acted to restrict the Revenue resources of the Provincial Councils.²⁰ Direct grants from the Center and a limited form of revenue sharing were opted for to provide financial resources for Provincial Councils.

¹⁹ These taxes are: Turnover taxes on wholesale and retail sales; motor vehicle license fees and fees charged under the Motor Traffic Act; stamp duties on the transfer of properties such as land and motor vehicles; court fees and fines; and excise duties on liquor.

²⁰ For example, restrictions were imposed, in 1995, on the turnover that is taxable by Provincial Councils.

42. The allocation of sources of public funds to the Provinces has not, in any sense, been commensurate with the expenditure requirements of the functions allocated to them. With the principal sources of public revenue²¹ being still administered centrally, they have continued to accrue as 'central revenue'. There was no provision for a 'principle-based sharing' of the yields of these taxes. The Finance Commission that was created to allocate resources to the Provinces has not been successful in evolving a set of equitable principles for the sharing of public financial resources as between the Centre and the Provinces as well as amongst the Provinces.²² The several sets of recommendations that have been made from time to time as an outcome of donor-funded studies have not been acted upon by successive governments²³ Thus, the allocation of financial resources for the delivery of public goods and services has continued to be influenced by historical precedents rather than by the demands of the equitable delivery of public services.

43. The system has continued to be skewed in favour of the Centre whilst the Provinces have continued to be minor players in the fiscal field. Considering that the Provinces and the Local Government Institutions would, given their close nexus with the citizens, be the more effective instruments for service delivery, their marginal role in the fiscal field is to the detriment of effective service delivery.

44. The situation as concerning Local Government Institutions remains even more tenuous. Other than the Municipal Council of the metropolitan city of Colombo, all other Local Government Institutions do not have an adequately independent resource base. They, thus, are dependent on the Provincial Councils for resources for recurrent expenditure as well as on the centrally managed Local Loans and Development Fund for investment. With the Provincial Councils, themselves, being dependent on the Centre for finances their readiness to meet the needs of Local Government Institutions is low. The net outcome is that the Local Government Institutions that could play a significant role in the delivery of public goods and services remain ineffective due, mainly, to the lack of financial resources.

45. The Local Government Institutions²⁴ derive their recurrent revenue from (i) Rates and Taxes; (ii) Rents; (iii) Licences; (iv) Fees for Services; (v) Warrant Costs and Fines; (vi) Revenue Grants; and (vii) Miscellaneous Other Income. What needs to be stressed is that, generally, the quantum of revenue thus derived remains inadequate for effective delivery of public services.

46. Thus, despite the outward institutional symbols of a devolved polity, Sri Lanka has, in essence, remained a unitary polity with resources being denied to the Provincial Councils and a situation of dependency on the Centre being created. This confusion in regard to the financial aspects of Centre-Province relationships has contributed to ineffective governance and sub-standard service delivery.

47. Public expenditure management has remained as a critical problem in Sri Lanka's public financial management – a situation that has grown in severity over the recent years.²⁵ To counter this situation, the government has enacted, in January 2003, a Fiscal Management (Responsibility) Act. The objectives of the Act are:

²¹ These are Taxes on Personal and Corporate Income; Excises; and Customs Levies.

²² Initiatives in this direction by the Finance Commission have not had the required support of the relevant Governments – when the attempts were made.

²³ The most recent set of recommendations are contained in "Capacity Building for Fiscal Devolution in Sri Lanka" (Ashok K. Lahiru: December 2001)

²⁴ The Municipal Councils, the Urban Councils and Area Councils (Pradeshiya Sabhas).

²⁵ The budget deficits have grown from 7.5% of GDP in 1999 to 10.9% in 2001.

- (i) To reduce the government debt to prudent levels by ensuring that the budget deficit is contained within 5% of GDP by 2006;
- (ii) To ensure prudent management of the financial risks faced by the government;
- (iii) To adopt public spending policies that would prevent government debt from increasing to excessive levels;
- (iv) To adopt spending and taxing policies that would provide predictability in regard to tax rates; and
- (v) To ensure that policy decisions of the government have regard to the financial impact of such decisions on future generations.

48. The Act also mandates

- (i) The setting out of the fiscal strategy of the Government in a Fiscal Strategy Statement to coincide with the presentation of the Annual Budget to Parliament;
- (ii) The presentation to Parliament by the Minister of Finance of a Budget Economic and Fiscal Position Report, at the time of the consideration of the Appropriation Bill;
- (iii) The presentation to Parliament by the Minister of Finance, six months after the approval of the budget, of a Mid-Year Fiscal Position Report; and
- (iv) The presentation of a Final Budget Position Report, not later than five months after the end of the financial year.

49. On the face of it, the changes that have been introduced would be critical to ensuring sound financial management – if they are appropriately implemented and the Parliament at the Centre is equipped in terms of the substantive capacity of its members to enforce observance.

50. In order to strengthen public revenue management, initiatives have been taken to constitute a Revenue Authority to enforce oversight as regards the administration of Income Tax, Customs Duties and Excise Duties – which are the three main sources of public revenue. The departments that have historically handled the administration of these taxes have been inefficient and have been noted for the corruption that prevailed in regard to such administration. There has also not been an effective institutional arrangement for the formulation and implementation management, on a continuing basis, of revenue policy. It is the expectation of the Government that the proposed Revenue Authority Act²⁶ would address this gap. However, the results of the initiative could be assessed only after a period of implementation.

51. The responsibility for the financial audit of government organisations and of State Owned Enterprises is with the Auditor General²⁷ an office to which appointment is made by the President with the concurrence of the Constitutional Council. The outcomes of the audits are placed before the Public Accounts Committee of the Parliament in the case of government ministries and departments and the Committee on Public Enterprises of the Parliament in the case of the State Owned Enterprises. The findings are discussed by these committees that decide on any further action to be taken. A major problem that arises in the case of all audits is the considerable time lag between the end of the financial year and the preparation of accounts and their audit.

²⁶ The Revenue Authority Act provides for the establishment of a single Authority that would take over the functions of the three major revenue departments – the Customs Department, the Inland Revenue Department and the Excise Department. It will co-ordinate the formulation of revenue policy and would manage the administration of all the Revenues that are administered by the Central Government.

²⁷ The Auditor General has the authority to appoint private auditors, without using his own staff, to carry out any of the audits.

52. The main problems that arise in the area of public financial management include

- (i) Significant delays in the finalisation of accounts and of audit;
- (ii) Absence of an equitable system of fiscal decentralisation.
- (iii) Increasing and unacceptably high budget deficits.
- (iv) Ineffective public revenue management.

F. Human Resources Management

53. There has been, over the post-Independence period of fifty-five years a progressive deterioration in the quality of its Public Service. A major reason for this deterioration has been the imposition of political control over the Public Service consequent to the constitutional changes brought about in 1972. This resulted in political considerations taking a leading role in decision-making concerning recruitment to and the management of the different constituent groups of the public service – thus, adversely affecting the observance of objectivity in the making of decisions related to personnel policies and their implementation. The result is a demoralised service that lacks motivation.

54. Before proceeding further with the discussion, it would be appropriate to set out, briefly, the present allocation of responsibilities in regard to human resources management.

- (i) All responsibilities in regard to HRM flow from the Public Service Commission (PSC) at the Centre in the case of the central government employees²⁸ and from the PSC in each of the Provinces in the case of government employees in each such Province.²⁹
- (ii) All public servants at the Centre and in the Provinces are governed by the same codes of conduct and related regulations;
- (iii) The recruitment to managerial grades is conducted by the PSCs themselves. The recruitment to other grades is carried out, under delegated authority from the relevant PSC, by the ministries and departments.
- (iv) Transfers are carried out by the respective Provincial ministries within each Province and by the central ministries in regard to central cadres. The latter would include inter-provincial cadres.
- (v) The day-to-day management and discipline of personnel would be the task of the organisations in which such personnel serve. However, any disciplinary actions that could result in severe punishments such as discontinuance, reduction in grade etc. would require reference to the authorities higher than the department/agency concerned – such as the relevant ministry or the PSC.
- (vi) The annual performance appraisal is regarded as a routine activity that is carried out the level of the department/agency concerned. It is not, at present, an activity that is regarded with any seriousness either by the public employees or by the departments/agencies.

55. Since 2002, there is a freeze on recruitment of public employees. Having announced this as a general directive the authorities find themselves in the situation of having to grant exceptions. The initiative has suffered by being introduced without appropriate study and analysis of each department/agency in terms of roles, functions, structures and staff requirements.

²⁸ This includes the bulk of the critical cadres of the Government. In terms of numbers, this would amount to 328,900

²⁹ Of the Provincial figure of 308, 250, an estimated 188, 130 are teachers in primary and secondary schools.

56. There has also been a visible deterioration in quality in the recruitment to positions in the public service. Given the heavy political control over all aspects of the management of the public service, better quality job aspirants have tended to avoid posts in the public service. Linked to this has been the relatively low compensation offered in public service posts – specially at the higher levels – as compared with comparable posts in the private sector.

57. The issue of reducing of political control of the public service was sought to be effected through the enactment, in September 2002, of a 17th Amendment to the Constitution. However, the attempt was flawed in that the senior posts in the public service were kept out of the purview of the new central PSC. With the critical levels still being kept under the management of the political executive, the expectations of political neutrality in regard to the management of the public service, as a whole, have remained unfulfilled.

58. The channels of personnel management are highly centralised as already indicated, even to the level of the Cabinet of Ministers. The significant components of the public service, both in terms of numbers and of their direct relevance to effectiveness of governance, are recruited to what are referred to as 'All-Island-Services'³⁰ – with all aspects of their management being with the Centre. Even after the introduction of devolutionary structures in the polity, no changes to this situation have been effected.

59. The authority of the head of the immediate organisation over the different aspects of personnel management remains marginal. He/she is reduced to the role of a transmitter of matters related to personnel management up and down the channels that flow from and to the Centre. No personnel management responsibility vests in the immediate organisation in regard to recruitment to the positions, which are important in terms of performance. Areas such as disciplinary matters, rewarding of performance, movements between posts and locations lie at levels higher than the immediate organisation.

60. The prevalent situation has had negative effects on quality-management in the delivery of public goods and services as well as on ensuring direct accountability of the service delivery organisation to their local communities. The resistance of trade unions of the different groups of such 'All-Island-Services' has thwarted any meaningful addressing of this issue. They see, in the continuance of the present arrangements, group and personal advantages to themselves.

61. Reference has been made in the earlier discussions to some aspects of human resources management in the Public Service. Several of the more salient features are listed below.

- (i) With the exclusion of positions of heads of departments and above – as well as their equivalents – from the purview of the Public Service Commission, the critical cadres of the public sector remain under direct political control.
- (ii) The existence of large significant groups of cadres as All-Island-Groups has meant that capacity enhancement in public sector organizations has been adversely affected and the enforcement of accountability to the immediate public has been weakened.
- (iii) The responsibilities of the immediate organizations as regards human resources management have been at a low level.

³⁰ The high mobility of the members of these 'All-Island-Services' or '~All-Island-Cadres' impedes the implementation of any long-term capacity development efforts that would contribute to the sustained enhancement of the effectiveness of the organisations in which they serve for the time being.

- (iv) The public service has, over time, declined in its attractiveness for the better entrants to the employment market.
- (v) Given the direct political control over human resources management, there has been a burgeoning of public sector cadres.³¹

62. There is no Ethics Code that is applicable to public servants. Elements of ethical conduct are to a very limited extent reflected in the Establishment Code. However, it is the view of this Review that an Ethics Code for holders of public office, including members of the public service, employees in State-Owned-Enterprises as well as others who are inducted to public office from time to time – is an urgent need.

63. The principal training facility for the public services remains the Sri Lanka Institute of Development Administration (SLIDA). In addition, there are a series of Management Development Training Units (MDTUs) in the Provinces. A major fallout from the manner in which public service training in Sri Lanka has developed is that it tends to focus on the individual rather than on enhancing institutional capacity – whilst the principal need of the country is to enhance the capacity of the critical public sector institutions. The predisposition has, thus, been on implementing training programmes that cater to individual needs – and particularly to the need to undergo training courses to satisfy the service requirements. This has prevented the SLIDA and the MDTUs developing as providers of capacity development assistance to key public sector organisations and SLIDA serving as a resource centre for the development of policy managers.

64. Training in the public sector has tended to be supply driven and this is also reflected in the fact that hardly any provision is made in organizational budgets for the training of personnel. The approach to training is based on the premise that the responsibility for ensuring the training and capacity development of the human resources deployed in any public sector organization is not one that rests with the management of such organizations but an activity that falls within the purview of agencies that manage the pools of public human resources.³²

65. Hence a radical change in the approach to capacity enhancement and training in the public sector is called for. This should include the drawing in of other institutions such as universities for the task of training and capacity enhancement.

66. The critical problems that affect human resources management include

- (i) The high politicisation of the public services in regard to HRM, structures and processes;
- (ii) Poor quality of human resources that are inducted in to public sector employment;
- (iii) The inadequacy and irrelevance of the training and capacity development that is provided;
- (iv) The low pay structures in public employment that act as disincentives to prospective job seekers; and
- (v) The high degree of centralisation of the human resources management processes.

G. The Delivery of Public Services

³¹ From a figure of 406,359 in 1987, that was considered excessive by the Administrative Reforms Committee at that time, the number had risen to over 860,000 in 2000.

³² The onus, thus, is placed, generally, on the ministry responsible for public administration.

67. The delivery of public services and goods has been a major concern of the government throughout the post-Independence period. In fact, this concern predates Independence. It dates back to 1931 when universal franchise was introduced. The political cadres of the post-1931 period were quick to grasp the nexus between the spatial spread of the delivery of services and its depth of penetration within the low-income groups on the one hand and the intensity of voter satisfaction and response on the other³³.

68. Over the succeeding periods, ideological trends of different administrations led them to expand the range of public services and goods for the delivery of which the government accepted responsibility. It is part of the political culture of Sri Lanka that once a particular administration had accepted government responsibility for the delivery of a public service, the succeeding administrations not only continued with it but also sought to add to the range in the hope of winning over voters. Thus, over time, the governments of Sri Lanka gradually assumed almost a monopolistic role in the delivery of public goods and services – including health care, education, public transport, highways and roads and even agricultural marketing, consumer services and the like.³⁴

69. The public services that are delivered by the government at all three levels of the polity cover an extensive range and are also services that are essential for the daily life of the citizens. They include the delivery of education at all levels; the delivery of health care –both curative and preventive -; the provision of roads and highways; the provision of water and sanitation; a significant proportion of the provision of road passenger services as well as the totality of rail services; and the provision of electric power. Of these, only the provision of electric power, of water, of road passenger services and of railway services are charged for³⁵ whilst the rest are provided free of cost.

70. Whilst the government attaches a high priority to the delivery of these public goods and services, it is also the reality that the quality of their delivery – in terms of access, equity, efficiency and sustainability – has progressively deteriorated. This deterioration, in a context wherein public expectations have risen, is a cause for serious concern – particularly given the prospect of the potential for social unrest. Appendix 4 provides a brief analysis of service delivery functions adversely affected by weaknesses in governance/public management.

71. Several elements in this deterioration can be identified.

- (i) Except for repetitive articulation that the government provides these goods and services free to the citizens, there is little policy evaluation concerning such provision in a continuously changing economic and social context.
- (ii) Policies concerning the delivery of these public goods and services are set centrally with hardly any provision for variations that would respond to local circumstances and concerns.
- (iii) The planning of the delivery is, generally, in the hands of sectoral structures that are at the Centre. These lay down standards and norms for delivery.
- (iv) Cadres that are controlled by the Centre or by the Provincial Councils deliver the services. The Local Government Institutions are hardly involved in the delivery.

³³ Several experiences served to support this assumption of the political cadres. One such was the outbreak of malaria in the mid-1930s that required the expansion and intensification of public health care provision. A second was the spatially spread demand for school education which required a high degree of intervention by the government.

³⁴ The extent of the government's involvement in the delivery of public services is seen in the expenditure on social services (education, health, welfare, housing and community services). These, in 2002 amounted to Rs. 132,869 million (both for capital and recurrent expenditure).

³⁵ Even where charges are levied, there is a heavy element of subsidy in the charges.

- (v) Monitoring, when it rarely occurs, is carried out by the same administrative structures at the Centre.
- (vi) Costing of services is based on the costing of inputs for budgetary purposes. There is no attempt at costing of outputs or outcomes.
- (vii) There is no practice, as yet, of user charging for these services. The issue of levying user charges in a context of a half-century and more of free provision is evaded – mainly due to its political implications.
- (viii) Given the locus of policy development and planning of these services, there is no culture of the involvement of citizens in the planning and monitoring as well as in the evaluation of their delivery. If at all, citizens and civil society organizations come in to the process only intermittently – and that also as articulators of needs.
- (ix) There is considerable secrecy in regard to the information relating to the delivery of these services. The citizen, thus, has little or no access to reliable information concerning objectives, costs, progress etc.
- (x) Delivery is almost solely through public channels, with the use of public employees.³⁶ There are no instances of intra-public-sector partnerships or of public-NGO partnerships.

72. The key issues that concern service delivery include

- (i) The assignment of policy making responsibility in such manner that locally specific concerns will receive due consideration in the planning process and would affect the choice of delivery mechanisms, the provision of avenues for citizen participation, and the costing of outputs and outcomes.
- (ii) The ensuring of the right of citizens to information.
- (iii) The effective decentralization of the planning and implementation responsibilities – in such manner that there is direct participation of the citizens in the processes.
- (iv) The pursuit of approaches to the recovery of unit costs. The computation of unit costs would require the government at the three levels of the polity to disaggregate the costs in such manner that the leakages would be revealed. There is no practice as of now for comparison of unit costs as amongst different institutions of governance, amongst different regions and sub-regions and as amongst different delivery agencies.

H. Access to Information

73. Access to information for citizens, as mentioned in the earlier discussions, has continued to be low. In general, the information available to the citizen on the details of the public services that are provided, on the level of performance in the delivery of such services, on the processes of decision making in regard to the planning of such provision remain inadequate. Equally inadequate is detailed information on changes in public policies concerning the delivery of services, and on public procurement activities. The citizens have hardly any access to information concerning individual responsibility of public officials for service delivery.

74. Whilst there are a limited number of areas of the citizen-government interface – such as the administration of Inland Revenue – wherein legislative constraints exist in regard to access to information, almost all areas of service delivery are free of such constraints. The citizen's inadequacy of access to information is the result of the lack of transparency as well as of the bureaucratic culture of the colonial administrations that has continued in to the post-Independence period.

³⁶ A recent development, initiated in the Municipal Council of Colombo, used by several of the Municipal Councils is the outsourcing of solid waste management to private firms.

75. This is an area of governance in which the activism of the civil society and its organizations is critically necessary. For this to be a reality, there is a need for the enhancement of the capacity of civil society organizations – both in researching and studying gaps in citizens' access to information as well as in initiating and sustaining campaigns for securing such rights. It also requires concerted action by civil society organisations so that optimal pressure could be exerted.

76. Equally important would be judicial activism in support both of individual citizens as well as civil society groups. This would be positive in opening up areas where citizens are denied access to information that they should have. The effectiveness of both the civil society groups and of the judiciary would be enhanced by the activism of the media – print as well as electronic.

I. IT and E-Governance

77. The use of information technology inside the public services for decision-making is still in its infancy. The degree of exposure of senior and middle level cadres to the use of information technology remains inadequate. Reluctance to the use of information technology for decision-making is reinforced by the persistence of mindsets in the senior and middle level bureaucracy that are steeped in a culture of 'confidentiality' and of the preservation of 'citizen-dependence' that has continued from the colonial era.³⁷

78. The attempts to introduce IT and E-Governance in to public sector operations, particularly in improving of services, are of very recent origin³⁸. Whilst there is a commitment to the introduction of E-Governance – to every citizen in every village as well as to every business – the process, which is in its very infancy, would require dedicated pursuit from the highest levels of government, positive co-operation from the bureaucracy, heavy investment of financial resources, and the widest creation of awareness.³⁹

79. E-Governance constitutes a critical area of enhancement of public management in Sri Lanka in the medium term. This has been recognised in the Program for Regaining Sri Lanka, which has identified a series of objectives/strategies to be initiated before the end of 2003. These include (i) Putting in place key enablers; (ii) Designing a detailed e-government strategy and roadmap; (iii) Delivering, on a pilot basis, remote citizens e-service; (iv) Creating enabling information infrastructure; and (v) Internal government automation.⁴⁰

80. This is a task that involves awareness creation, the effecting of changes to processes of conduct of public transactions, the enhancement of the capacity of cadres as well as the upgrading both of software and of hardware. It is an area of activity in which Sri Lanka would need technical assistance for generating an institutional capacity within the country to initiate and manage the process.

J. Performance Management

³⁷ A culture of dependence on information being kept in files of papers that are deemed confidential still prevails in the public service of Sri Lanka.

³⁸ In fact, they are no earlier than the first quarter of 2003.

³⁹ As a step in the launch and furtherance of E-Governance, a national forum on 'making e-Sri Lanka a reality' – sponsored with support from the World Bank – was convened on 9 May 2003.

⁴⁰ Vide Telecom/ICT – Action Plan in "Regaining Sri Lanka" – December 2002.

81. The experience of Sri Lanka concerning the management of performance in the public sector has had an uneven history. In the early decades of the post-Independence periods – wherein the emphasis in development was on the restoration and rehabilitation of irrigation schemes and effecting agricultural settlements under such schemes – a simple yet effective approach to performance management was adopted. This was based on the advanced setting of time targets for operational activities, the supervision of the observance of such time targets by selected public officials and the monitoring of the time targets by a team of senior public officials led by the Minister in charge of the program.

82. As the scope of government activity expanded, the step of setting up a National Operations Room⁴¹ was taken in 1966 and provided a focal point for the monitoring of the performance of a wider range of development initiatives. This initiative, however, fell into disuse in the post –1970 period⁴² with negative consequences on performance management.

83. The National Operations Room has been re-introduced in 2003. It is, however, premature to assess the extent to which it would be used as an effective tool for performance management. The measures that would need to be taken to derive optimal benefits from it for continuous improvement of performance management would be dealt with in Part II.

K. Safety and Security and Access to Justice

84. The current Judicial System has evolved from the foundations that were laid during the British colonial period. The structures within the system flow from the Supreme Court at the Centre to the Magistrate's Courts at the levels of districts and sub-districts.⁴³ The administration of justice, in so far as it relates to the judiciary and the courts structure, continues to be a subject that is reserved for the central government.

85. The availability of access to justice is relatively equitable. The spread of law courts is such that, except for rare exceptions, spatial accessibility could be considered as satisfactory. However, the costs of litigation are such that economic accessibility remains less than optimal. Added to this are the delays in the judicial processes – which are a common feature in the Sri Lankan judicial system. The delays add to the costs of litigation – to the particular disadvantage of litigants of low-income groups.

86. The legal framework represents an evolution from the pre-Independence period. There have been considerable additions to the framework inherited in 1948 to keep abreast of international developments as well as to deal with complexities that arise from developments in commercial, industrial and social relations. The legal enactments are available in all three languages that are in use in the country, providing access to the community as a whole.

87. There has been a slow, yet steady, enhancement of the level of functioning of the Human Rights Commission. The expansion of its level of functioning has revealed several areas of institutional strengthening that include the expansion of its professional cadres as well as their capacity enhancement.

⁴¹ This initiative was based on the steps taken by the Government of Malaysia to set up a National Operations Room for the reporting of periodic progress of performance on selected activities of the Government, the discussion of the pace of progress and the resolution of impediments to implementation.

⁴² This was the outcome of the change of Government in 1970 and the coming into office of a new Government under which the role of the Ministry of Planning and of its Department of Plan Implementation shifted to one of seeking to manage direct interventions in the economy rather than of development planning and of monitoring of implementation of plans.

⁴³ In between are the Court of Appeal, the High Courts, District Courts, and Commercial Courts.

88. Whilst there is, currently, a Law Reforms Commission, the scope of its activities – particularly in terms of it being a pro-active agent for change – requires expansion as well as enhancement in terms of quality.

89. The maintenance of law and order is an area of activity that has steadily deteriorated over the recent decades. The deterioration of internal discipline within the Police Department and its constituents, the decline of the quality of personnel, increasing interference in its activities by political cadres are some of the contributory factors to this decline. As is indicated by the reports in the media as well as through the assessment of the views of citizens, there is a growing level of public dissatisfaction in regard to the inadequacies in the maintenance of law and order. Criminal elements, with political patronage, have been and are on the increase. Citizens fear for their personal safety. Hardly a day passes without media reports on serious crimes including murders. Political pronouncements are made frequently in regard to combating of crime – however without any tangible evidence of any results. The high incidence of deserters with their arms and their availability to be hired for criminal purposes has been a major contributor to the growth of crime.

90. An attempt has been initiated during the past half year to effect improvements through the constitution of an independent Police Commission through the enactment of a Seventeenth Amendment to the Constitution. The effects of this reform are yet to be seen.

91. The situation as regards the prevalence of crime is no different in the Northern and Eastern Provinces. In fact, the situation in these Provinces has reached that of the rest of the country – with allegations of the militant groups being directly involved in crimes of murder, assault, abduction and robbery.

92. The critical areas for reform in regard to the judicial system include:

- (i) The expedition of the disposal of litigations that come up before the court system,
- (ii) A pro-active approach to effecting legal reforms, and
- (iii) The isolation of the Police Department from political interference.

L. The Role of the Civil Society

93. Over the early decades of the post-Independence period the role of civil society in advocacy and service delivery remained marginal. This was a hangover from the colonial period. However, in the recent decade the issue of the extent to which Sri Lanka's administration is citizen-centred has become a matter of public interest.

94. As has been stated in the earlier discussions, the principal responsibility for the delivery of public services and goods has been accepted, over the years, by the government. However, it has been the experience that, over time, these programmes and activities for the delivery of public services and goods move away from being citizen centred and become centred on bureaucratic convenience. Historically, the relationship between the providing agency of government and the beneficiary citizens has been a patron-client relationship. When programmes are designed, no effort is made to include accountability provisions and arrangements therein. Direct accountability to citizen groups has not been, and is not, part of the culture of the bureaucracy.

95. The above situation becomes exacerbated on account of the citizen's inadequacy of access to information as regards government programs and activities. There are no institutionalized arrangements to enable the citizen to readily access information as concerning

plans and programs of the government at its different levels or as concerning progress on implementation. There is still inadequate capacity amongst civil society organization (whether at the national level or at the local community level) to fill this gap and to assist the citizens with information.

96. Linked to both of the above is the issue of ensuring transparency in governance. Both the citizens' access to information as well as their ability to enforce accountability is affected by the lack of transparency. The issue of transparency in governance in Sri Lanka has to be understood in its historical context. The colonial regime, as was to be expected, maintained maximum secrecy regarding the operations of government. This, naturally, was an integral part of the bureaucratic culture at the time of Independence. Given the relative lack of experience of the intricacies of governance on the part of the political cadres at the transition, it was inevitable that the culture of the bureaucracy set the parameters concerning transparency. Over time, the political cadres also took the view that transparency being at a minimum had its own political advantages.

97. The growth of public opinion that transparency was the entitlement of citizens in a democracy was slow in the early post-Independence period. Nor had the civil society movements acquired the necessary competence and strength to bring pressure to bear on the government in this regard. It is only within a decade or so that there has been an adequate recognition of the need for transparency and activism by civil society and the media both to raise citizen awareness as well as to bring pressure on the government.

98. The number of civil society organizations in the country is estimated to be around 30,000. They range from national level organizations to community-based organizations. At both levels are gender-specific organizations. The main areas of competence and activities of these organizations could be set out as follows.

- (i) Organization of the citizens at the community level for advocacy in regard to service delivery;
- (ii) The delivery of services at the community level;
- (iii) Gender-specific organizations at the community level;
- (iv) Advocacy on issues such as peace and conflict resolution, gender equity, poverty reduction, human rights, media freedom, child protection at the national level; and
- (v) The mobilization of citizens at the level of local communities for the achievement of self-development, savings promotion and poverty reduction.⁴⁴

99. The most critical need of the civil society organizations is their capacity enhancement. Many of these organizations have had their genesis in the enthusiasm displayed by an individual or a small group of individuals. They came into existence as organizations pursuing a specific mission. Aspects of organization and management, of financial administration, of human resources management, of public relations and the like were not considered as important at that time. However, spatial expansion and the intensification of agendas have contributed to the growth of the size of these organizations and increased the complexities of management – underscoring the need for capacity enhancement and adoption of sound governance management principles.

M. Private Sector Participation

⁴⁴ Two examples of such civil society movements are found in the Sarvodaya Movement and the SANASA (Co-operative) Movement.

100. The post-1977 period witnessed an attempt at a shift from a State-led economy to a market-led economy – changing the government’s role to one of creating and maintaining an enabling environment for growth and for the development of the private sector to serve as the instrument thereof. This shift, with varying emphasis as changes of administrations occurred, is reflected in public pronouncements by the governments during this period. However, the realities on the ground as well as the reactions of the private sector point to a lack of institutional capacity to effectively play the new role. This could be attributed to several reasons.

101. One such reason is the persistence, within the institutional arrangements that had to be used as the instruments of the new approach, of the bureaucratic culture that was nurtured – for several decades - on State-led economic activity. The rapid increase in State-led economic activity was a phenomenon of the period in Sri Lankan history that followed the General elections of 1956 that saw the first change of Government. Once the role of the State as the lead player in economic activity as well as in the delivery of services took root, it acquired its own group of vested interests of political cadres, of the bureaucracy and of the trade unions that prevented changes occurring in the approach – even with changes of governments between political groups. It was only in 1977 that a government led by a single-minded individual as the Executive President took the first steps in effecting changes.

102. A second was the State-led development ideologies that have, even in the post-1977 period, continued to influence political cadres that were involved in tasks of policy formulation and implementation management. The level of personal power and influence that were inherent in the micro-management of economic activities was an added incentive.

103. A third was the inadequacy of attention to generating attitudinal changes as well as the new skill profiles that were required in the cadres of the institutions at the level of interface with the private sector. Nor were serious attempts made to induct fresh cadres from outside the regular bureaucracy⁴⁵ in to these institutions.

104. Whilst there is a slow change in the levels and quality of corporate governance, there is a long road to be traversed in reaching the level and quality of corporate governance that would be effective for participation in the provision of public services. There is recognition by the organizations of the private sector – such as the several Chambers and the Institute of Chartered Accountants – of the need for improvement of corporate governance. However, the progress remains slow.

105. It could, however, be seen that there is an advance on the part of the private sector, through its several collective organizations, to assume an advocacy role in regard to the promotion of private sector participation in the economy and the society. The advocacy role has even come to include issues of reform of governance that would be conducive to the private sector enhancing its role. These represent a quantum leap from the earlier approach of the private sector in its inter-face with the government that sought specific privileges for individual corporate entities.

106. The net outcome of this situation is that, despite pro-market pronouncements, the ground situation remains inhospitable to the expansion of private sector activity. This is a major issue that has not been adequately addressed over the past twenty-five years and one that Sri Lanka’s government will need to address relentlessly.

⁴⁵ Given the rigidities of the Sri Lankan bureaucratic processes and the militancy of trade unions, this, indeed, would have been a most difficult task.

N. Gender Issues

107. Sri Lanka has many achievements to its credit in regard to gender equity.⁴⁶ With the introduction of universal franchise in 1931, women in Sri Lanka gained the right to vote before those in many other countries. This right enabled women to ensure that their rights are appropriately recognized in the formulation and implementation of public policies and programs. Women have also achieved considerable progress in access to all levels of education. Within the school system, the continuance of female students from the primary to the secondary stages has been higher than that of the male students.

108. The presence of women in the labor market approximates 35%. Within this figure, however, are interesting sub-areas of participation. Women outnumber men in employment in the apparel and garment industry as well as in the plantation industry – which are the two leading foreign currency earners for Sri Lanka. In the public sector, women's presence is heaviest in the health care sector and the primary/secondary school sector. Both in the private sector as well as in the public sector there is a perceptible increase in the number of females in managerial and executive positions.

109. There is, however, an area of major inadequacy. This is the area of participation in political office – which is estimated at being less than 9%. The picture is the same whether it is at the level of the Parliament and Political executive at the Center, at the level of the Provincial Councils, and at the level of the Local Government Institutions. Whilst there have been discussions as to affirmative action to remedy the situation, there has not been any specific action. Given the nature of the issue, it is one that has, necessarily, to be addressed by the civil society and the political cadres of Sri Lanka.

110. Whilst the achievements of Sri Lanka in regard to the resolution of gender issues are commendable, it is clear that there is still a long road to be traveled. In this context there are several areas in which positive action by the Government is required. The first is the ensuring of a stable legal foundation on which gender equity could be achieved. This would involve the reappraisal of much of the existing legal provisions and processes within the framework of gender equity. A second is the setting of an appropriate public policy foundation for the resolution of gender inequities. The third would be the ensuring of an adequate resource base for the implementation of strategies, programs and interventions.

111. At the same time, the achievement of any progress in regard to gender equity would require the active participation of civil society organizations – both at the national level as well as at the community level. Such active participation would involve the research and study of the different issues, the formulation of corrective interventions, the lobbying for such interventions, the creation of public awareness and public agitation.

O. Corruption

112. During the fifty-five years of the post-Independence period, Sri Lanka has experienced an expansion of the levels of corruption in public life. Whilst hard statistical data is not readily available, the public perception is that corruption is endemic in the political and administrative sectors of the government. Examples that are reflected in the media and in the public discourse are what one has to go by. In the absence of any serious attempts to combat corruption, it is not possible to pinpoint evidence based on convictions.

⁴⁶ These achievements, as summarised in the following discussion, are reflected in “Regaining Sri Lanka” (December 2002) at page 92.

113. Almost all activities related to the delivery of public goods and services are affected by varying levels of corruption. These are embedded in the delivery processes themselves – which are cumbersome and laden with bureaucratic procedure. For example, the obtaining of a driving license, the payment of poor relief, the expediting of document processing in regard to most services, the awarding of contracts and processes of procurement and payments for supplies of goods and services are all areas of governance activity that are used for corruption. The services involved being such it is the poor who are most affected by episodes of corruption⁴⁷. The citizens, being the ones who need to obtain these services take the easy way out of making the payments rather than go through the inconvenience of lodging complaints that lead them nowhere. Whilst there is tacit acknowledgement of the presence of corruption, even at the highest political and administrative levels, there is no tangible attempt towards its eradication that is noticeable,

114. Whilst corruption exists in all areas of government activity, it is in the areas of procurement that it appears to be most rampant. Whilst Tender Boards are constituted at different levels – departmental, ministerial and Cabinet – for the administration of tenders, the common perception amongst citizens is that high levels of corruption prevail in this area.

115. The institutional arrangement for countering corruption in the form of the Commission to Investigate Allegations of Bribery or Corruption has not been successful in being effective. The pervasiveness of corruption affects public confidence in governance, adversely affects the effective delivery of services, impedes project implementation, and escalates costs of program/project delivery.

116. The eradication of corruption in public life would require:

- (i) The re-examination and reform of the structures and processes that are involved in all areas of delivery of public services and goods;
- (ii) The strengthening and efficiency enhancing of all institutions that are involved in the detection and investigation of episodes of corruption as well as in their judicial disposal;
- (iii) The changing of the scales of penalties and punishments that are attached to proven instances of corruption, such that they serve as effective deterrents; and
- (iv) The enhancement of citizen's awareness as to issues related to corruption that arises in the polity, in the administration and in the arena of business.

117. The addressing of issues that relate to corruption, thus, becomes a task that devolves on the government of the day, the political opposition, the organizations of the bureaucracy, the private sector, and of the civil society.

P. Governance in ADB-Related Sectors

118. Whilst activity-related issues that need to be addressed in order to ensure maximum return from ADB assistance are best assessed at the point of formulation of such assistance, several core governance issues can be identified both as concerning the specific sectors wherein the ADB provides assistance to Sri Lanka⁴⁸ as well as in the provision of basic services.

⁴⁷ Of course, there are episodes of corruption that involve the affluent – such as in the privatisation of State-Owned Enterprises. However, the affluent tend to regard such corruption as a business expenditure that, ultimately, could be passed on to the consumer.

⁴⁸ These are: Transport, Power, Water Supply and Sanitation; Agriculture and Rural Development; Urban Development and Housing; Finance and Industry; Private Sector Development; Environment and Natural Resources.

It is considered appropriate, therefore, to provide a brief analysis of governance in the several ADB sectors in regard to project delivery and sustainability as well as the provision of basic services. These, in brief, are listed below.

119. The absence of a clear agreement, within the political system, on the delineation of functions and responsibilities as between the Center, the Provinces and Local Government Institutions, concerning provision of basic services as well as the implementation of investment projects, constitutes the first such key governance issue. Given the ongoing uncertainty as regards constitutional reforms, this is also an issue that is unlikely to be effectively addressed in the medium term. What is important, however, is to take cognizance of the risk and to develop strategies to mitigate these risks when aid programs are designed.

120. A second risk is the level of corruption that prevails in the political and administrative systems and their institutions. The issue of corruption has already been dealt with in the discussions that have proceeded. The pervasiveness of corruption is a reality that has to be taken note of in the formulation and implementation of program/project interventions in the sectors.

121. A further core governance issue that affects aid use and sustainability is the low quality of counterpart human resources. The consequence of this situation is low delivery of project implementation. This has been seen in each of the programs and projects through which assistance has been provided. Given this situation, specific provision for human resources development would need to be built in to each project that is accepted for support – in its planning and execution.

122. Ineffective policy management and planning is another contributory factor for low delivery of and inadequate returns from the aid funds that are disbursed. The ineffectiveness of planning and policy implementation also contributes to the first core issue that was identified – the lack of precision in regard to allocation of functions and responsibilities as between the three tiers of governance as well as amongst the structures within each tier. This is further exacerbated by the proliferation of political and administrative structures⁴⁹ at each tier. An examination of the performance of projects in transport, power, agriculture and rural development, finance and industry as well as environment and natural resources provide examples of this governance gap.

123. The issues as identified above – in terms of confusion as regards responsibilities and functions amongst the three tiers of the polity; high levels of corruption; low quality of human resources; and ineffective planning, policy management and clarity as regards assignment of tasks – should provide the framework within which governance issues as regards each program/project is appraised and corrective measures built in to the design of each such program/project.

124. The relevance of these issues as they apply to the several of the key sectors that receive ADB assistance is reviewed below.

- (i) **Roads and Transport.** Governance issues include: weak public policy management; countering corruption in the management of the state owned activities, in procurement, in the award of contracts etc; and the lack of clarity in the respective roles of the Center, the Provincial Councils and the Local

⁴⁹ These would be the proliferation of ministries as well as of departments and agencies.

Government Institutions in regard to the construction and management of the different components of the road network.

- (ii) **Power.** The delay in implementing the plan for the separation of the responsibilities for the functions of generation, of transmission and of distribution.
- (iii) **Water Supply and Sanitation.** The delineation of the respective functions of the National Water Supply and Drainage Board and of the Local Government Institutions in regard to water supply and the pursuit of the agenda for private sector participation in solid waste management.
- (iv) **Agriculture.** The main governance issue in regard to agriculture is the clarification of the role of the government (at the Center and at the Province), the private sector and the NGO sector in regard to the provision of extension, strengthening of processing and marketing facilities for the small-scale farmers.
- (v) **Rural Development.** Being a trans-sectoral issue faces the problem of co-ordination in regard to policy formulation and implementation.
- (vi) **Urban Development and Housing.** Key governance issues are: the role of Local Government Institutions and of institutions such as the Urban Development Authority organizations; and partnership with the private sector and with the civil society.

III. GOVERNANCE STRATEGIES, CHALLENGES, AND OPPORTUNITIES

1. The preceding discussion indicates a cluster of key governance issues that yet remain unresolved. Their non-resolution constitutes a serious constraint to Sri Lanka's economic, social and political development. These issues require being addressed by the government, the private sector and civil society if governance and public management are to be effective. The discussion that follows would review the main strategies under consideration for the resolution of these issues. It will also identify the challenges faced in the implementation of these strategies as well as the opportunities that are likely to be available to overcome these challenges.

2. The strategies that are planned are drawn from several of the current policy documents. These include the document entitled "Regaining Sri Lanka"; the "Poverty Reduction Strategy Program"; the "Multilateral Group Needs Assessment"; and the "Proposed Administrative Reforms Action Plan". These documents are now in the public domain. Whilst these documents set strategic policy and direction for future developments, they are still in the very early stages of planning for implementation.

3. Based on the context set in the previous section of this report, the discussion that follows would address several critical areas of the enhancement of the effectiveness of governance and public management – drawing principally on the documents referred to. In doing so, the discussion would consider the strategies being proposed and the current situation as being a 'work in progress'. It would not seek to repeat the contents of these strategy documents but would identify the challenges that are faced by the government, the private sector and civil society in their implementation and underscore the opportunities that would need to be seized.

4. To facilitate the discussion this section is organised under core areas of governance, poverty reduction, post-conflict reconstruction, rehabilitation and reconciliation; and the specific sectors of ADB involvement.

A. Political System

5. The discussion in Section I of the Review underscores the experience of the past decade and a half that the existing contradictions concerning the structures of governance, their responsibilities and authority and their resource bases have impaired the effectiveness of governance. The major challenges in governance that Sri Lanka faces have their origin in the prevalent confusion as regards the structures of governance.¹

6. There is, however, no clear strategy as yet to resolve the constitutional contradictions and no comprehensive study of the constitutional issues that are involved. The addressing of the constitutional issues faces the challenge of their being intricately involved in the resolution of the ethno-governance issues. These latter have yet to be taken up in the peace negotiation process. This, in turn, affects the formulation of a new constitution and reaching consensus thereon.

7. Given this situation, the challenge that Sri Lanka faces is to set in motion a process of strengthening functional decentralisation within the present constitutional provisions. Such a strengthening has to be based on the formalised institutionalising of roles, responsibilities, authority and accountability at each of the three levels of the Centre, the Province and the Local

¹ The proliferation of ministries at the Centre and their overlapping roles and functions is one such source of confusion. Additional complications arise from the overlapping of roles and functions as between the centre and the Provinces.

Government Institutions. These formalized institutional arrangements should be backed by matching arrangements concerning fiscal decentralisation. Future strengthening of functional and fiscal decentralisation would, necessarily have to be within the structure of the current devolved polity with its three levels of the Centre, the Province and the Local Government Institutions. The framework for this refinement of the decentralised system should continue to take cognisance of the likely outcomes of the peace negotiations as they evolve from time to time.

8. The major challenge that exists in implementing strategies linked to the rationalisation of the decentralised system is the absence of a strong genuine political commitment amongst the political parties. The removal of contradictions is a responsibility of the government.² Exercises in the resolution of the current contradictions would, themselves, constitute a positive contribution to developing post-conflict governance structures.

9. A current opportunity is the expanding support within the civil society organizations (CSOs) to an exercise of enhancing the effectiveness of decentralisation. The support of the CSOs could be of advantage in expanding the awareness of the community at large of the different aspects of the decentralisation issues being addressed. The process of interactive discussions between the Central government, the Provincial governments and the Local Government Institutions that is necessary for the formulation of strategies for enhancing decentralisation could be enriched by inputs from CSOs. For this to be successfully achieved, the political institutions and their cadres as well as the bureaucracy should change their attitudes to be more open to interaction with CSOs. Equally important would be the continued enhancement of capacity of CSOs for issue analysis, for participation in dialogue and for public awareness creation – an area in which donor support would be of value.

10. A major challenge to effective governance in Sri Lanka is the prevalent culture of confrontational politics. This has been a significant barrier to the formulation and implementation of strategies to overcome development bottlenecks. The present Government has taken the initiative in effecting changes to the functional arrangements in the Parliament to provide space for better participation of all members barriers. These initiatives include the institution of sector-focused Standing Committees comprising all political parties and chaired by members of the Opposition - and their use for ensuring wider discussion of policies and programs as well as for promoting accountability. The initiative has received wide acceptance of political parties and is being implemented. However, in the view of this Review, it is important to set at the initiation level itself benchmarks linked to establishing of the Standing Committees, their functioning and the performance that is expected.

11. Other measures that have been implemented recently to improve the effectiveness of governance and public management include the setting up of the Constitutional Council,³ the Election Commission, the Public Service Commission, the National Police Commission and the Delimitation Commission. Also appointments to the Finance Commission, the Human Rights Commission and the permanent Commission to Investigate allegations of Bribery or Corruption have been brought within the purview of the Constitutional Council. The setting of benchmarks for the outcome of these changes and tracking the performance of these institutions would be important for continued evaluation of the initiatives.

12. A challenge that Sri Lanka faces in addressing the issue of enhancing the effectiveness of governance is the improvement of transparency in regard to political institutions and their participants. In order to meet this challenge, the country should take steps to

² However, as of the second quarter of 2003, there is no indication of a movement in this direction.

³ These have been done through the 17th Amendment to the Constitution.

- (i) Institutionalize the declaration of assets by members of political institutions and aspirants to such membership;
- (ii) Introduce full transparency as regards contributions to funds of political parties; and
- (iii) Provide for the maximum access to such information to the public; and
- (iv) Encourage CSOs to play a significant advocacy role in this area.

B. The Reform of Administration

13. A major strategy of the Government is to enhance the levels of productivity in the public sector.⁴ This is indicated in the recognition by the government that 'a primary responsibility of the Government is to ensure that public resources are used productively and that the public sector can significantly improve its performance.'⁵

14. The government's strategies for discharging of the above responsibility are, yet, in their formative stage. The indications are that the formulation of strategies and setting their implementation process in motion would take an incremental approach. Such an approach, obviously, has its positive aspects – given the radical nature of the total agenda that would be required. However, the challenge that the government faces is to avoid ending up with a fractured, uncoordinated and disjointed list of reform activities.

15. In facing this challenge of avoiding a disjointed and uncoordinated list of reform activities, the Government has the opportunity that is offered by the outputs of several exercises in administrative reform that were undertaken during the past decade and half. These indicate several key areas that should be addressed.

- (i) Clear articulation of the role of the government, in the medium term, as the facilitator and regulator of economic activity and the delivery of services. This would signal a clear departure from its previous and current role as their actual implementer. Such articulation has to be underpinned by the creation of public awareness and the retraining of public employees.
- (ii) Strengthening of decentralization through the⁶ redefinition of authority, functions and responsibilities at the three levels of governance. Such a redefinition should be based on the objectives of facilitating the greater participation of the citizens at the community level, of ensuring higher accountability of public institutions and of the speedier delivery of services. Effective fiscal decentralization as well as the aligning of administrative structures to the redefined authorities, functions and responsibilities should be part of this area;
- (iii) Introducing dedicated institutional arrangements for public policy management and planning at each of the tiers of governance and the staffing of such institutions with qualified and competent personnel;

⁴ The low levels of productivity in the public sector also has adversely affected the government's ability to be effective as a guide, facilitator and regulator of the private sector's role in economic activity and the provision of public services and goods;

⁵ Page 11 of 'Regaining Sri Lanka: Vision and Strategy for Accelerated Development'.

⁶ If this were approached as a progressive activity, no changes would be required to existing legislation. What would be necessary is to implement the 13th Amendment to the Constitution in the spirit in which it was intended to operate. The administrative and financial processes could, without difficulty, be modified without resorting to changes to the law.

- (iv) Enhancing the performance and accountability of public sector institutions through such mechanisms as the introduction of the preparation of business plans, regular consultations with stakeholders and the rendering of regular reports of progress to the citizens; and
- (v) {The re-orienting of members of the public service at all levels of governance to be more citizen centred in the performance of their tasks.}

C. Public Financial Management⁷

16. The Government has launched several initiatives aimed at the improvement of public financial management both in the area of revenue mobilization and in the area of expenditure management. These have been described in Part I of this Review.

17. The strategies that the Government has adopted in the form of the enactment of the Fiscal Management (Responsibility) Act, the introduction of the practice of 'Zero Budgeting', the setting up of a Revenue Authority are all in the initial stages of implementation. The challenges that are faced to their successful implementation include

- (i) A credible implementation plan backed up by measures for tracking progress;
- (ii) Overcoming the resistance from Ministries that have been used to a different culture of financial management;
- (iii) Overcoming the resistance from trade unions of public employees who perceive threats to their continued employment;
- (iv) The low public awareness of the issues that are involved in these strategies; and
- (v) {The absence of any comprehensive strategy on the part of the Government to effect permanent institutional links amongst the functions of public policy formulation, policy implementation and enforcement, developing operational plans and the formulation and management of the budget.}

18. A major challenge that the Government faces is to re-introduce the practice of conducting the audits of government operations in time. Whilst quoted public companies are set deadlines (with penalties) within which they should have their annual accounts, there are no similar statutory requirements in the case of government organizations. Hence it is important to introduce statutory requirements as concerning audits, which would be binding on both government agencies as well as on the Auditor General. The increased availability of well-organized firms of auditors makes the discharge of the Auditor General's responsibility easier through out-sourcing.

19. An opportunity that is available is the interest that is shown by some segments of the civil society in the changes that have been initiated. The harnessing of their support – especially in the expanding of public awareness and in monitoring of implementation – is, thus, a means of exploiting this opportunity. The CSOs at the national level would be most useful in creating public awareness of the strategies that are planned for the improvement of public financial management and their schedules for implementation. They would also be of value in the monitoring of the implementation of these strategies and for alerting the policy levels of the Government of the results of the monitoring.

20. A major challenge that is faced in regard to public financial management is the strengthening of fiscal devolution. Here, again, an opportunity that is available is the several

⁷ The discussion in this Section has drawn on the ADB report entitled "Diagnostic Study of Accounting and Auditing Practices in Sri Lanka" (2002).

studies of the issues that are involved that have been completed. These studies⁸ provide a wide range of recommendations for action and constitute a solid base of information on which the strategy of enhancing fiscal devolution could be set in motion. The key recommendations that emerge from the studies include

- (i) The adoption of a unified scheme for the designing of the transfers from the Centre to the Provinces;
- (ii) The basing of the unified scheme on total revenue sharing; on need-based, performance-linked, normative expenditure assessment; on normative revenue estimation; and on equalization grants;
- (iii) The replacement of the current approach to expenditure assessment by a need-based, performance-linked normative approach;
- (iv) The abolition of line ministries at the Centre for all devolved subjects;
- (v) The setting up of a forum of Provincial Chief Ministers to discuss issues of inter-Provincial interest and Centre-Province relationships;
- (vi) The continuous training of provincial staff on issues of fiscal devolution and of finance management;
- (vii) The enactment of a Finance Commission Act; and
- (viii) The introduction of the practice of the Finance Commission submitting an annual report to the Parliament.

21. The strengthening of the Finance Commission to lead the process of enhancing fiscal devolution combined with measures for assessing the performance and tracking progress would be a major strategy in this direction.

D. Human Resources Management

22. The progressive decline – over the post-Independence period - in the capacity of the human resources in the public sector organizations has been dealt with in Part I of the Review. The Government has recognized this and has initiated several strategies to correct the situation. These include:

- (i) **Attract better quality staff.** This strategy, however, faces the challenge of introducing more open recruitment practices. Given the strength and the political clout that is wielded by different trade unions of public sector employees this, indeed, would be a daunting task and may have to be restricted to specific positions.
- (ii) **All appointments in the public sector based on job-specific requirements.** This could apply to direct recruitment from the job market as well as to postings within the public sector cadres. However, this also faces the challenge of winning the support of trade unions through a process of convincing them that this practice does not pose threats to their career expectations.
- (iii) **Conduct capacity enhancement interventions that are directly linked to task performance.** A challenge that is faced in doing so is the built in cultures of public sector training institutions. This calls for a strategy of reforming, restructuring and retooling of these training institutions as well as the harnessing of other institutions – particularly in the private sector – for the purpose.

⁸ The most recent of these studies is the 'Report on Capacity Building for Fiscal Devolution in Sri Lanka' – prepared by Ashok K. Lahiri in December 2001.

- (iv) **Strengthen the political neutrality of public servants.** This is being sought through the setting up of constitutional institutions (Appendix 5) – such as the Public service Commission, the Police Commission and the Judicial Service Commission. These initiatives are yet to become optimally operational. An opportunity that is available and which could be effectively exploited is the positive attitude of the civil society and its organizations to the strengthening of the political neutrality of public servants⁹

E. Access to Information

23. The discussion in Part I pointed to the reality that citizens' access to information is low. There are no specific strategies as yet to correct this situation. The major initiative to enhance and expand access comes from the CSOs – with the national level CSOs being more concerned in regard to information on national policies and legislation and the processes by which they are formulated and the community level CSOs having their concerns more on the delivery of public goods and services.

24. The key challenges that are faced is in regard to overcoming the culture of secrecy that is embedded in the administrative system and its structures as well as to combating the prevalent reluctance of political cadres to be accountable.

25. The opportunity that Sri Lanka has, in this connection, is the experience that has been gained by other countries in regard to improving citizens' access to information. These include (i) the promulgation of legislation concerning access to legislation; (ii) the reform of the Information Department to be an effective tool of information provision to the citizens; (iii) retraining of all staff engaged in information dissemination to be citizen focused and to be free from partisan control of their ministerial supervisors; (iv) the promulgation of legislation to mandate the provision of information on specific matters to all citizens in a timely, accessible and usable manner.

F. IT and E-Governance

26. The Government has recognized the importance of the use of Information Technology and E-Governance throughout the administrative system.¹⁰ However, the implementation of the strategy poses considerable challenges as has been identified in the discussion in Part I. Nor is there, as yet, public information on the resource implications of the program to introduce I.T. and E-Governance in the administrative system

27. Hence, what would be appropriate at this stage would be to highlight some of the critical challenges that the Government would face in attempting to introduce IT and E-Governance. These are

- (i) The large scale of the financial resources that would be required both to launch the program and, thereafter, to maintain it. Given the current state of public financial resources in the country, this would be an almost insurmountable

⁹ The key areas in which these Commissions should be active – and wherein their performance could be tracked – are the evolving of a Code of Ethics for public servants and for politicians in their relationships with public servants; the improvement of the processes of recruitment to positions in the public service; the rationalisation of transfers within the different groups in the public service; the rationalisation of processes of career advancement; discipline within the public service; and the introduction of performance appraisal processes. Given the availability of skills and competence within the country, no technical assistance is required by these Commissions.

¹⁰ This is evident in the document "Regaining Sri Lanka".

impediment – unless financial resources were available from outside. Also, launching on the initiative without appropriate assurance of financial resources would place the venture in jeopardy.

- (ii) The second challenge is the development of the numbers and range of trained human resources that would be required. Sri Lanka does not, at the present, possess the facilities for the training of the personnel who would be required. A further issue that concerns cadres is the availability of the financial resources to employ them.
- (iii) A third challenge is the provision of access for the citizens to the information that is required by them. The uneven spread of communication links and of power supply would be a major obstacle to be overcome. Unless equitable access is provided, the introduction of IT and E-Governance would create considerable social upheaval.
- (iv) The changing of the culture of administrative organizations within the administrative system as well as of the rigid mindsets that exist amongst the public sector employees. The likely threat from the introduction of IT and E-Governance to the continuance of the corruption that is embedded in the current bureaucratic processes is likely to enhance resistance.

28. Within this context the opportunity that exists is the possibility of involving the participation of the private sector in this initiative. The contribution of the private sector would be particularly appropriate in the development of the human resources, the provision of access for the citizens, the supply of software and for installing and maintaining the hardware that would be required.

G. Public Safety and Security

29. The situation as concerning the breakdown of public safety and security has already received attention in Part I. A cohesive package of strategies to deal with the situation has yet to emerge from the Government. What, therefore, could best be presented at this point are the challenges that are faced in developing strategies to deal with the situation. These would be listed below.

30. Being the outcome of multi-faceted causes, the development of strategies to reverse the trend requires in-depth study in order to decide on correctives. Ad hoc interventions are likely to create more problems than they would solve. Changes would be necessary in a wide range of areas. These would include among others, governance institutions,¹¹ human resources development, capacity enhancement and legal underpinnings. The creation of widespread public awareness, with the participation of CSOs at both national and community levels on the problems to be addressed as well as the strategies for their resolution is a further challenge to be faced.

31. An opportunity that exists is the capacity that has been acquired by organisations of the civil society¹² – both at the local level as well as at the national and sub-national levels to assist in policy making and planning, in implementation and in monitoring. These CSOs could assist in:

- (i) Undertaking research into the social, political and economic causes that have led to the breakdown of law and order;

¹¹ The institutions that are directly related are the agencies responsible for enforcement of law and order as well as institutions of the judicial system.

¹² Some of these CSOs are The Centre for Policy Alternatives, The Marga Institute, the CENWOR, and PAFREL.

- (ii) Formulating strategies and programs for combating the identified causes;
- (iii) Planning and implementing programs of public awareness on the causes and their remedies; and
- (iv) Monitoring the impact of the programs etc in achieving their objectives.]
- (v) Therefore, the involvement of the civil society organisations would be to the advantage in the formulation and implementation of strategies for reversing the current situation as regards the safety and security of the citizens. Equally relevant would be the involvement of the media in the enhancement of public awareness.

H. Civil Society Participation in Governance

32. CSOs having gained capacity and visibility and are in a position to participate in several aspects of governance that directly concern the citizens – such as service delivery, monitoring of law and order, monitoring of human rights etc. However, CSOs face several challenges in assuming this role.

33. A major challenge is the low level of their acceptance – as equal partners - by the government. This arises from them being perceived as competitors by both the political cadres as well as the bureaucracy¹³. Another challenge that they face is that of capacity enhancement to effectively deal with the issues that arise from changes in the governance context.

34. The capacity enhancement of CSOs is, in the view of this Review a strategic area for support from the donor community – with prospect of being a major contribution to the ensuring of good governance. The requirements of capacity enhancement would include the areas of (a) policy research capability enhancement; (b) enhancement of lobbying skills; (c) the planning and conduct of public awareness campaigns on strategic issues; and on monitoring of implementation.

I. Enhancing Private Sector Participation

35. The increased participation of the private sector in activities in the economy and in the delivery of public goods and services has been an issue that has received continuous articulation in the political discourse for the past quarter century. However, it is also an area in which specific strategies have yet to be formulated and made public. However, the approach of the government has, so far, been to deal with situations on an ad hoc basis as they arise.

36. The current strategy indications of the Government – as indicated in “Regaining Sri Lanka” - emphasize that the enhancing of private sector participation in economic activities and in the delivery of services constitutes a key element in the proposed economic and social agenda. The government’s strategy is to ensure a sustained environment wherein the private sector can achieve the productivity gains necessary for effective competition. In order to achieve such a sustained environment the role of the public sector would be transformed from being a direct provider of goods and services to be an effective facilitator as well as a regulator.

37. However, concrete strategies have yet to be made public. There are also several challenges faced in the provision of space for the continuing and effective expansion of the participation of the private sector. The most critical of these challenges are:

¹³ The level of reluctance on the part of the bureaucracy and the political cadres rises as the public awareness and acceptance of CSOs grows.

- (i) Effecting of radical changes of the mind-sets and attitudes of the extensive bureaucracy and of the political cadres that have, over more than five decades, been anchored on an approach of delivery of goods and services by the State;
- (ii) Clearer re-definition of the precise roles and functions of the State – at its three levels – in the new context of the active participation of the private sector in economic activity and the provision of services;
- (iii) Continuous review of laws, regulations, administrative procedures and processes that affect the interface between the State and the private sector and their reform;
- (iv) Removal of impediments to public-private participation in the delivery of goods and services; and
- (v) Enhancement of the capacity of public sector institutions that interface with the private sector in regard both to facilitation and regulation.

38. Several recent developments provide an opportunity for the implementation of the new strategies. These include:

- (i) The increasingly positive attitude of international investors in regard to investments in Sri Lanka, arising from the cessation of hostilities within the country provides a suitable climate for strategizing the participation of the private sector in the economy.
- (ii) Equally advantageous is the capacity growth of the Sri Lankan private sector – both large-scale as well as medium and small scale – for effective competitive management of investments.
- (iii) These features are strengthened by the emerging positive attitude of openness of the Sri Lankan society to the enhanced role of the private sector in the economy and in the delivery of goods and services.

J. Gender Equity

39. The strategies that are envisaged¹⁴ for improving gender equity include the following:

- (i) Taking action, through the amendment of laws that discriminate against women, to protect women's rights in conformity with the U.N. Convention on the elimination of All Forms of Discrimination against Women.
- (ii) Promoting employment and income opportunities for women through the development and implementation of a coherent employment policy that promotes equal training and employment for them.
- (iii) Mounting entrepreneurship development programs for women.
- (iv) Conducting of quality early childhood and pre-school education for children – including girls.
- (v) The focusing of health programs on maternal nutrition and health needs of adolescent girls and women worker.
- (vi) Providing support for victims of violence against women.
- (vii) Providing support for female-headed households.
- (viii) Improving the capacity of community organizations for assisting women.
- (ix) Mounting of gender sensitization programs for the public and private sectors that would add to the visibility and awareness of gender concerns.

¹⁴ As indicated on page 93 of "Regaining Sri Lanka".

40. Whilst the agenda for improving gender equity is wide-ranging and ambitious, it also poses governance challenges in terms of its detailed planning and implementation. The following are some of the issues to be addressed:

- (i) Collaboration of a wide range of ministries and agencies at all three levels of the government is required. Hence, it is critical that clear institutional and process arrangements be put in place for such collaboration and co-ordination prior to the agenda being launched.
- (ii) It is important to have a specific focal point within the government, at an appropriately high level, to be responsible for the co-ordination.
- (iii) Benchmarks for the monitoring of progress – both in terms of time and of quality – should be laid down before the agenda is initiated.
- (iv) The access of the public to information on progress monitoring should be provided for in the planning.
- (v) In addition to the three levels of government, considerable inputs would be required both from the private sector and the CSOs. This should be built into the planning and implementation arrangements.

K. Corruption

41. Currently there are no specific strategies formulated, planned or being implemented to combat corruption. The very fact that the institution that was set up to combat corruption – the Commission to Investigate Allegations of Bribery or Corruption – has remained inactive due to the non-appointment of the full complement of Commissioners as well as the non-provision of staff indicates the attitude of the policy levels to the issue.

42. Given its spread and ramifications, corruption constitutes a major challenge faced by the country. Without active and dedicated citizen agitation, it is not possible to see a change in the current situation. This is a role that is best played by the CSOs and the media, which would need support for capacity enhancement. This is a contribution that provides an opportunity for the donors.

L. Poverty Reduction

43. A major strategy of the government is to twin poverty reduction and enhancing economic growth as objectives. This is aimed at ensuring that economic growth would provide the underpinning for poverty reduction. It is a strategy that seeks to bring together two objectives that, in the past, have tended, mostly, to proceed on parallel tracks.¹⁵

44. The most recent policy document titled “Regaining Sri Lanka: Vision and Strategy for Accelerated Development” (December 2002) has sought to link the two objectives. It recognises that macro economic growth is a pre-requisite in order to provide a supportive macro environment for poverty reduction.

45. The implementation of such a strategy faces the challenge of refining and strengthening the structures and processes of governance. This is specially so in the area of enhancing the

¹⁵ An outcome of this parallel approach was that there was hardly any serious impact on poverty reduction from the growth that was achieved. At the same time, the exercises in poverty reduction that were mainly planned and implemented as discrete government managed programs did not link themselves to the growth oriented strategies. Thus, they did not directly benefit from the accelerated growth that was achieved.

capacity for the function of public policy management.¹⁶ The reduction of conflict-related poverty also forms a key element in the strategy for poverty reduction.¹⁷

46. Creating opportunities for pro-poor growth constitutes another strategy for poverty reduction. This strategy faces the challenge of the provision of space to the poor to organise themselves to participate in development planning at the local community level and in the monitoring of the implementation of such plans. This would require that adequate authority be available at the local levels for the making of planning and implementation decisions - a radical change in the current structures and processes of decision making.¹⁸ This would constitute a challenge in evolving appropriate administrative structures. The opportunity that presents itself in this context is the capacity enhancement that has been acquired by community-based civil society organisations and the widespread availability of enhanced levels of educated management capacity.¹⁹

47. Investing in people is another strategy that is envisaged for the achievement of poverty reduction. The challenges that are faced in implementing this strategy include the prevailing urban bias in the allocation of resources and in the assignment of teaching staff to schools. These have been the outcome of both the highly centralised management of schools and the resource allocation system²⁰ that is based on financing of inputs – based on historical precedents – and not of outputs and outcomes. Skill enhancement at the tertiary levels is faced with the risks arising from the inadequacy as well as the inequitable distribution of facilities. These challenges could be met through exploiting the new opportunities offered for harnessing the assistance of the private sector and of civil society.²¹

48. Another strategy that is envisaged is the provision of micro credit services in order to empower the poor to manage risks and to make investments. The opportunities that exist in regard to this strategy is that – over the past two decades – civil society organisations have been quite successful in implementing this approach and have gathered considerable experience therein. There is also an increase in the participation of such micro credit by the private sector – particularly by several of the banking institutions. Hence, it would be strategic to obtain the partnership of civil society organisations and of the private sector for the pursuit of this strategy instead of seeking to create government-sponsored structures.

49. The poverty reduction strategy also seeks to combat gender discrimination. The availability of the experiences gathered thus far by the civil society organisations²² in the successful implementation of such strategies provides an opportunity that should be exploited.

¹⁶ The issue of public policy management would be dealt with in the discussion under 'The Structures of Administration'.

¹⁷ This issue is dealt with when discussing 'Post-Conflict Reconstruction, Rehabilitation and Reconciliation'.

¹⁸ Such changes would need to be within the framework of policy and resource allocation decisions that are made at the Centre and at the Provincial levels.

¹⁹ Examples of CSOs that have been successful include the Sarvodaya Movement and the SANASA Movement in terms of implementation of programs and the Marga Institute and the Centre for Policy Alternatives in terms of analysis of strategies.

²⁰ The centralised system of resource allocation is the outcome of the nationalisation of schools in 1961. The system continues because the political cadres and the bureaucracy are not ready to yield power. One way of avoiding the centralised practice is for the government to establish realistic 'unit costs' for education and training at different levels and to reimburse the institutions – which should be managed by autonomous management arrangements – for their outputs based on the 'unit costs'.

²¹ The private sector – through large and medium-sized corporate firms - has been active in providing technical training in the urban areas whilst CSOs – such as Sarvodaya and SANASA – are active in the same field in rural areas.

²² Sarvodaya and SANASA provide examples. In fact the most successful Community-based Organisations in combating issues of poverty, particularly in the rural areas, have had the leadership of women.

50. The challenge faced in the implementation of the poverty reduction strategies is to focus on results. For this challenge to be met the government should set key benchmarks both at the micro as well as at the macro levels and the progress should be tracked at definite time intervals in terms of these benchmarks. Several governance issues arise in the strategy for poverty reduction:

- (i) A network of strong coordinating institutions comprising government agencies at all three levels of the polity as well as of CSOs and of the private sector to formally coordinate the poverty reduction strategy;
- (ii) There should be a focal point within the Cabinet of Ministers which would be responsible for overseeing the co-ordinated agenda and which would provide regular briefings to the Cabinet on the progress. A major function of the Cabinet would be the tracking of progress in regard to poverty reduction;
- (iii) Benchmarks should be set in advance in order to measure not only progress in terms of time but also in terms of qualitative achievements;
- (iv) Statistical measurements of poverty at periodic intervals should be developed²³ to support the monitoring process; and
- (v) The public should be made aware of the outcomes of the monitoring.

M. Service Delivery to the Poor

51. The discussion in Part I indicated the degree to which the government has, over the decades, been directly involved in the delivery of public goods and services and the degree to which the quality of the delivery of public goods and services²⁴ is also directly linked to poverty reduction. It also indicated the level to which the quality of delivery has declined – leading to an increasing degree of public dissatisfaction.

52. The range of public goods and services that are delivered by and under the aegis of the government include

- (i) Education services at all levels;
- (ii) Health care in all its forms;
- (iii) Roads, highways and water ways;
- (iv) Water and sanitation;
- (v) Electricity; and
- (vi) Postal and telecommunication services

53. Whilst there are several more, the range itself is illustrative of the direct impact that these services have on the daily life of the citizens, and their economic advancement.

54. The Review examined the issue as to whether the Government of Sri Lanka has a medium or long term strategy to reverse the decline in the quality of service delivery. The Review failed to find any such comprehensive strategy. What appears are ad hoc short term interventions to correct incidental gaps as are violently articulated by citizens. Hence the Review is constrained to point to the challenges that need to be overcome in order to evolve a medium term strategy to enhance the quality of service delivery.

55. The challenges are

²³ This is a task to be performed by an independent agency such as the Department of Census and Statistics.

²⁴ In terms of ready access, equity and efficiency of delivery, and sustainability over time.

- (i) To develop service delivery policies in Government and to recognise that instead of adopting ad hoc solutions to service delivery issues, the problem be approached through the study of the service delivery chain and correction of the inter-related issues that affect the performance, access and cost of the service delivered;
- (ii) Addressing the respective roles and responsibilities of the three tiers of government in policy, planning, budgeting, delivery, monitoring and review of service delivery;
- (iii) Ensuring there is a clear separation of powers between the providers and the policy makers and regulators;
- (iv) Establishing service standards in partnership with the community and having sound systems to track performance against standards set;
- (v) Establishing systems and processes for setting unit costs of service delivery and for monitoring them – across time and across different areas of the country.
- (vi) Mounting of programs for capability enhancement of personnel deployed on service delivery;
- (vii) Involvement of the private sector and civil society in tasks related to service delivery.
- (viii) Involvement of civil society organisations at the national, provincial and community level in the planning and monitoring of service delivery.
- (ix) Strengthening transparency and accountability of the Government in service delivery through the introduction of such approaches as social audit and effective implementation of citizens' charters;.
- (x) Introducing benchmarks for monitoring performance in terms of quality, access, costs and equity of provision and ensuring the use of such benchmarks.

56. A recent initiative of the Government in regard to improving performance management of service delivery has been the re-introduction of the National Operations Room. The challenge that is faced in this connection would be its effective use for correction of impediments to effective performance. In the view of this Review, an effective use of the NOR would be to use it as the support for the deliberations of the Cabinet of Ministers on improving the pace and quality of poverty reduction.

N. Post-conflict Reconstruction, Rehabilitation and Reconciliation

57. Obviously, a major challenge that the Government faces is that of effectively addressing the post-conflict needs of reconstruction, rehabilitation and reconciliation. Whilst - in spatial terms and in terms of the degree of physical reconstruction that is required - the Northern and Eastern provinces constitute a concentrated area of activity for this purpose, it is clear that the entire country requires attention.

58. The issues of reconstruction, rehabilitation and reconciliation could be approached within the framework of two scenarios for the peace process. One would be a fast track settlement that proceeds smoothly and resolves the outstanding issues through a single settlement. The second would be a slower process with both achievements and setbacks – accompanied by a series of compromises in regard to the outstanding issues. Obviously, the issues of governance would need to be dealt with differently under each scenario.

59. Whilst the prospect of a fast track settlement are attractive, the experience of the past year and a half makes it more realistic to consider the governance issues that arise in the context of a peace process that would be protracted as well as involving compromises.

60. The Government is as yet in the development of strategies that would contribute to the addressing of post-conflict governance issues. Given that resolution of the issues related to a permanent political solution would lie a distance ahead, the main challenge that the government faces is to formulate and to implement a network of strategies that would address the main governance issues in the interim – in such manner as would not create impediments to a permanent settlement.

61. A major opportunity that is available to the government in developing such strategies arise from

- (i) The enhancement of the supportive climate within the country for a settlement of the outstanding issues;
- (ii) The support – both moral as well as in resources²⁵ - that flows from the international community for a settlement; and
- (iii) The higher levels of flexibility that are displayed by all parties to the issues that are involved.

62. The challenges that lie in the addressing of issues of governance related to post-conflict reconstruction, rehabilitation and reconciliation, are directly related to several of the core issues of governance that have been referred to at different points of this Review. These include the following.

- (i) Strengthening, at all levels of the structures of governance, of the capacity for project formulation and delivery. Whilst the greater focus at the level of the Centre would be on policy management institutions, the focus at the local and sub-national levels would need to emphasize public sector institutions as well as citizen participation.
- (ii) Enhancing of public-private sector partnerships in the delivery of public services and goods. This would not only expand the participants in the tasks of reconstruction and rehabilitation but also introduce competitiveness in these activities – leading to cost reductions and quality improvement.
- (iii) Intensifying interactive partnerships between the government and the civil society at all levels of the polity and in all stages of the triple processes. Whilst this is an issue to be addressed throughout the system, it becomes critical, in the context of the Northern and Eastern provinces, in regard to the local community level as well as the sub-national level.

63. The post-conflict reconstruction, rehabilitation and reconciliation process would have hitherto unaccustomed demands on human resources – both in terms of numbers and of quality. Particularly intensive would be the demands in the Northern and Eastern provinces requiring the government to adopt non-traditional strategies in regard to induction and capacity enhancement as well as outsourcing.

64. The strategies for post-conflict reconstruction, rehabilitation and reconciliation should not be developed on their own – but set within the framework of poverty reduction and its governance issues.

²⁵ The donor conference held in Tokyo, Japan is reported to have pledged a sum of 4.5 billion U.S. Dollars towards assistance to Sri Lanka for a wide range of development programs and projects.

O. Specific Sectors of ADB Involvement

65. ADB has, over the past several years, provided assistance in several sectors. These currently include

- (i) Transport and roads
- (ii) Power
- (iii) Water Supply and Sanitation
- (iv) Agriculture and Rural Development
- (v) Urban Development and Housing
- (vi) Finance and Industry
- (vii) Private Sector Development;
- (viii) Education
- (ix) Environment and Natural Resources

66. Each of these sectors reflect varying combinations of the core public management issues that have been discussed elsewhere in this Review. The inadequacy of attention to these public management issues that has been a major gap in governance for over the past quarter century has meant that they have failed to be addressed even in regard to these specific sectors.

67. The failure of the successive governments to pay appropriate attention to issues related to improving governance and public management capacity has also led the donors to accept governance and public management capacity related to sectors as given in the formulation of aid projects. It is the view of this Review that, instead, donors conduct governance and public management capacity assessments as part of the project development phase. This, itself, would serve as an incentive for the government itself to formulate and implement programs for governance and public management capacity enhancement in respect of the sectors concerned. These, turn, would lead the government to addressing the common issues of reform that impinge on the sectors.

68. Several examples of the governance challenges faced in some sectors can be found.

- (i) In the transport sector, is the need for reconciliation of the technical concerns with the interests of environmental management, with social concerns as regards de-housing etc. It is also a sector in which issues of corruption become important. The sector also faces outcomes arising from the non-resolution of the relative roles of the Centre, the Provinces and the Local Government Institutions.
- (ii) The water supply and sanitation sector as well as the urban development and housing sector are affected by disagreements as to the relative roles of the institutions at the Centre that had their origin during periods of partiality towards micro management from the centre and of the Local Government Institutions that are increasingly gaining development management capacity.
- (iii) Activities in the agriculture sector face the issue of redefining of the roles of the government with that of the farmer organisations and of the private sector.

69. Whilst the issues are set in varied contexts in the case of different sectors, it is the finding of this Review that they are manifestations of the same core issues of governance and public management that have been articulated in this report – in Parts I and II. As issues that on the surface appear to be sector specific are analysed in depth, the core issues can be identified.

70. An opportunity has opened for addressing some of these issues with the constitution, by the Government, of an Administrative Reforms Committee. The challenge for the Government and the donor community is to focus the attention of the ARC on specific public management issues that affect the realisation of the outcomes of the assistance programs and projects that are planned and implemented under donor assistance. It would be appropriate to set benchmarks, at the planning of programs and projects, for ensuring that the key criteria for effective public management are met.

71. These benchmarks would include

- (i) The rationalisation of public sector structures as well as the attendant processes and procedures so that they are in tune with the particular needs of the delivery of specific programs and projects;
- (ii) The capacity enhancement of personnel who are linked to specific programs and projects;
- (iii) Measures to counter corruption in the delivery of specific programs and projects;²⁶
- (iv) The provision of institutional arrangements that would facilitate the continuous interface between the public and private sectors in resolving program and project related issues; and
- (v) The creation of institutional arrangements for intensive citizen participation in the planning, implementation and monitoring of the specific programs and projects that are aid financed.

²⁶ This would require the analysis of each program and project within the framework of opportunities for corruption.

IV. ROLE OF INTERNATIONAL PARTNERS AND ADB'S APPROACH

A. International Partners and Their Role

1. The preceding review of Sri Lanka's proposed medium term strategies and the challenges faced in meeting them point to the extensive agenda of strategies that needs to be implemented for the enhancement of the country's governance and public management to a level of capacity that would be adequate to achieve its goals of peace and reconciliation as well as of poverty reduction. The agenda is of a magnitude and urgency that has not been faced by Sri Lanka previously.

2. The agenda of strategies is not confined to what is normally understood as 'the government'. Its relevance and coverage extends also to the civil society and the private sector. Several of the strategies would involve all three of the entities in their implementation. This adds to the complexity of the agenda.

3. The magnitude and the urgency of the agenda is such that its planning and implementation would be feasible only if Sri Lanka were to receive appropriate and adequate assistance for this purpose from its development partners. This, now, appears to be reasonably assured.¹

4. The post-Independence history of Sri Lanka's development point to the critical role played by donor assistance in achieving the country's development objectives.

- (i) Donor assistance made it possible for Sri Lanka to implement the Mahaveli Development Scheme – which provided the country with the underpinning to expand power generation, to open up considerable extents of land in the dry zone of the country for agriculture and to resettle a large number of families.
- (ii) The construction of the country's principal airport was made possible because of donor assistance.
- (iii) The expansion and modernisation of the port of Colombo was, similarly, the outcome of donor assistance.
- (iv) The construction of highways and hospital facilities has similarly benefited from donor aid.

5. It would be seen that much of donor assistance has been for physical construction projects. Governance and institutional issues have figured only marginally in the agenda.² Given the nature of the aid projects and the fact that much of the construction work was carried out through international construction firms meant that no major constraints were experienced in project implementation. The situation as concerning project implementation has, however, changed negatively over time.

6. As the history of development assistance to Sri Lanka indicates, it is the reality that the interests and preferences of different development partners varies in regard to the provision of development assistance. Thus, within the area of enhancement of the capacity of governance

¹ In this context, the pledging of an amount of 4.5 billion U.S. Dollars by the development partners at the Tokyo Conference on Reconstruction and Development of Sri Lanka (9-10 June 2003) is of considerable significance.

² The principal providers of assistance for governance related activities have been the UNDP (SLIDA and ERD), ADB (Administrative Reform) and World Bank.

and of public management itself, the different development partners, naturally, have specific sub-areas within which they would prefer to provide assistance.³

7. These diversities of interests have implications for aid management. There is a requirement for optimal collaboration amongst the development partners in regard to the programming, implementation and monitoring of the development assistance provided by them⁴. Such collaboration should, best, take the form of continuous interaction amongst the participating development partners as well as a continuing interface between them and the Government of Sri Lanka. The fullest sharing of information amongst all parties should support such interaction. GOSL will also need to coordinate effectively in planning its mobilisation of development assistance⁵.

B. Governance Areas for Donor Assistance

8. The programming of development assistance has, of necessity, to be comprehensive as well as prioritized.⁶ The two interrelated programs of 'Regaining Sri Lanka' and of Poverty Reduction provide the development partners with a framework within which their provision of development assistance could be planned. So does the Multilateral Group Needs Assessment provide, in a separate context, an additional framework for the same task. In the view of this Review, the three documents need to be considered together, both by the development partners as well as the GOSL, in deciding upon areas and sub-areas for development assistance. The implementation of the proposals in these three documents has governance and institutional implications. The discussion in Part II has sought to set out the strategies that are proposed by the government as well as the civil society and the private sector for enhancement of governance and public management, the challenges faced in regard to these strategies and the opportunities that could be exploited. These would provide the basis on which the donor community could provide development assistance for strengthening governance.

9. Some of the key areas in regard to governance and public management would include the following:

- (i) The strengthening of the policy management function through the setting up of appropriate institutional arrangements, their location at the correct points in the polity and the administration and the provision of adequate and relevant human resource capacity.
- (ii) Formulating and implementing long-term arrangements for the delineation of functions and responsibilities as amongst the three tiers of government – the Centre, the Provinces and the Local Government Institutions.
- (iii) Strengthening fiscal devolution through effecting policy reforms, strengthening the Finance Commission and creating institutional arrangements as well as rationalising procedures.

³ This diversity of interests have to be taken into account by the focal point for aid co-ordination within the government in planning aid negotiations.

⁴ In this case, the assistance would be in regard to the enhancement of governance and public management capacity.

⁵ This is a task that falls upon the Department of External Resources, which, presently, functions within the Ministry of Policy Development and Implementation.

⁶ The past history of aid planning has tended to be ad hoc and uncoordinated – with sectoral ministries exerting pressure.

- (iv) Assisting in the implementation of projects and activities that emerge from the MGNA and intensifying the interactive partnerships⁷ between the institutions of governance and the civil society in these processes.
- (v) Setting appropriate policy frameworks⁸ for service delivery as would ensure ready access, equity and efficiency of delivery, and sustainability over time and reforming of institutions⁹ that are involved in the delivery activities. Allied to these would be the setting of benchmarks for monitoring of performance in regard to specific areas of service delivery.
- (vi) Capacity enhancement of civil society organisations and the introduction of structures and processes for their participation in the planning, implementation and monitoring of service delivery and in the rehabilitation and reconstruction of war affected areas.
- (vii) Strengthening of public finance management in terms of improving revenue management, budget management.
- (viii) Strengthening of external and internal audit processes – including the introduction of performance audit.
- (ix) Strengthening the role and functioning of the Public Service Commissions, the Police Commission, the Commission for the Investigation of Bribery or Corruption and the Judicial services Commission.
- (x) Reform of existing institutional and process arrangements for delivery of aid projects in order to achieve optimal delivery¹⁰ of projects and programs.
- (xi) Reform of approaches and arrangements for human resources development.
- (xii) The fast-track implementation of the introduction of E-Governance.
- (xiii) The implementation of the 'gender equity agenda' as contained in the Poverty Reduction Strategy Program.
- (xiv) The formulation and implementation of the governance strategies¹¹ that relate to poverty reduction.

10. A major factor that should be considered in the formulation of development assistance interventions is that Sri Lanka currently faces a period of dynamic transition – that is influenced by several factors: the post-conflict negotiations and the political and social repercussions that flow from the process; the situation that arises at the Centre of the polity due to the tensions that exist between the Executive Presidency and the Cabinet of Ministers led by the Prime Minister; and the pending constitutional changes. Given this context of transition and its uncertain outcomes, the development assistance interventions should contain adequate flexibility to

⁷ These partnerships would be at the Centre, the Province and the Local Community levels.

⁸ The governance issues involved in this are set out in [paragraph] Part II.

⁹ This would involve effecting structural reforms as well as the capacity enhancement of human resources.

¹⁰ This would be to achieve a rapid advance from the current rate of project implementation that stands at around 15%.

¹¹ These issues have already been presented in para. 42 of Part II.

respond to future changes – whilst ensuring the achievement of the key program/project objectives.

11. Another word of caution is appropriate at this point. Sri Lanka has had a history of adding new governance and public management institutions to its already crowded institutional scene. In several instances such additions have been the outcome of donor advice – based on impatience with the low performance of existing institutions. This ad hoc growth of institutions has come to be a strain on the public budget as well as a creator of bottlenecks to program/project implementation. It is thus appropriate to adopt, in the provision of development assistance in governance and public management, an approach of institutional reform rather than one of creation of new institutions.

C. Governance Areas for ADB's Assistance

12. The above discussion provides the context for what is the principal focus of this Review. This focus is on the possible contribution which assistance from ADB could make towards the enhancement of the effectiveness of governance and public management in Sri Lanka.

13. The discussion in Part II indicates the considerable gaps in governance and development management in the bridging of which donor assistance could play a significant role. Several of these gaps occur in areas in which the ADB has had a consistent interest – in terms of its mandate – such as poverty reduction and the delivery of services to the poor. These are areas in which ADB has acquired a comparative advantage. Also, ADB has had a long history of provision of development assistance to Sri Lanka – a process through which considerable experience in regard to mutual collaboration has been gathered both by ADB and GOSL.

14. The Donor Matrix in Appendix 6 of this Review indicates the areas in which Sri Lanka receives assistance in the area of governance and public management from its development partners. This has to be set against the indications provided in Part II of the strategy initiatives that are envisaged and to overcome the challenges regarding which future assistance would be required.

15. In selecting specific areas for consideration of assistance by the ADB, due attention should be paid to ADB's comparative advantage. This comparative advantage, as has been indicated, lies mainly in the experience gained by the ADB in its work in the area of poverty reduction and in the experience gathered in its work in Sri Lanka in specific sectors¹².

16. ADB should develop partnerships with bilateral development agencies to promote the governance and public management agenda and consider opportunities for the utilisation of bilateral grant funds to strengthen and provide more flexibility to ADB governance initiatives. Harmonization and coordination of governance and public management activities by the donor community should be encouraged. ADB should consider facilitating the establishment and operationalization of an appropriate institutional mechanism for GOSL to coordinate governance and public management activities supported by the donor community.

17. Within this approach two areas have been selected for consideration in formulating the new CSP.

¹² These sectors have been identified in the earlier discussions.

- (i) One area would be the improvement of governance and of public management in the delivery of public services to the poor. Whilst service delivery has figured in sector-based programs and projects that have been and are being assisted by the ADB, there is a need and a scope for ADB to consider the adoption program of assistance that would approach governance and public management of service delivery as a specific issue.
- (ii) The other area is the identification of gaps in governance and public management capacities in the specific ADB sectors – to be followed by programs to bridge such gaps. This should go in tandem with the planning and implementation of assistance in the technical areas of the sectoral programs/projects.

18. The issues that are related to each of these areas are broadly outlined below.

19. **Improving the Delivery of Public Services to the Poor.** The reduction of poverty – underpinned by higher and sustainable economic growth – requires the continued improvement in the effectiveness of the delivery of public goods and services. The improvement of the effectiveness of service delivery that is related to the poor requires the addressing of several issues and these include:

- (i) Assisting the GOSL to formulate a service delivery policy framework¹³ that ensures that the delivery of services is equitable, accessible, efficient and sustainable. The setting of such a policy framework would require wide public consultation – an activity that would need ADB assistance.
- (ii) Establishing effective institutional structures for service delivery. The reform and strengthening of the institutions has to be set within the framework of the three-tier structure of governance that obtains in the country.¹⁴
- (iii) Capacity enhancement of the human resources that are to be utilised in the rationalised institutional structures. This would include the review of recruitment policies and processes, the appraisal of determination of cadres, the re-examination of compensation policies as well as the development of new approaches to training and skill enhancement. Whilst assistance in all these areas would be of value, a major area for support would be that of training and skill enhancement.
- (iv) The prevalent service delivery processes¹⁵ would need to be assessed in terms of their relevance to the maintenance of equitability, accessibility, efficiency and sustainability of the services that are delivered. This should be carried out for each specific public service that is delivered. A considerable volume of effort would be required in this task. Considering the volume of activity involved, support from the ADB would be important.
- (v) Developing structures and delivery processes that facilitate the active participation¹⁶ of citizens in the planning, implementing and monitoring of

¹³ The policy framework should take account of the changes that have occurred and are occurring in Sri Lanka that make it possible for the private sector and the CSOs to be harnessed play the role of partners in service delivery.

¹⁴ Within this restructuring, there would be a need to redefine the role, accountability and authority of the Local Government Institutions – the Municipal Councils, Urban Councils and the Pradeshiya Sabhas. These operate closest to the level of local communities to whom services are to be delivered.

¹⁵ It needs to be recognised that the current processes of service delivery have remained almost static and unchanged from the colonial regime.

¹⁶ Such arrangements should be based on the creation of an accountability nexus between the delivery institutions and their counterpart clientele right through the delivery chains.

delivery. Such participation would involve the development of appropriate civil society organizations.¹⁷

- (vi) An area wherein ADB assistance would be of value is that of developing cost data in regard to the delivery of different services with the use of different modalities. This would contribute to the making of informed choices as regards modes of delivery.¹⁸

20. The most appropriate approach to the provision of ADB assistance for improving service delivery would be to use a series of pilot interventions in the initial phase. In order to yield the data that is required for the planning of a comprehensive program, these pilot interventions would need to be selected on the basis of each of the three tiers of governance as well as be representative of the different regions of the country.¹⁹ Based on the experience of these pilot interventions, a wider and more comprehensive program could be developed. The donor community as well as the GOSL could use the pilot phase to formulate the comprehensive program – in the formulation of which continuous consultation with CSOs would be essential could use the period of the pilot program. The gathering of comparative experience from other countries should be a part of this program development activity.

21. It is the view of this Review that assistance in the improvement of service delivery should – in its comprehensive stage - develop into a multi-donor program.

22. **Governance in ADB-related Sectors.** Equally important in the formulation of future ADB assistance is to focus on the enhancement of governance and public management in the sectors in which the ADB is currently providing assistance.²⁰ Of the sectors in which the ADB is currently active, service delivery figures centrally in the sectors of roads, power, as well as of water supply and sanitation. This provides an opportunity for the extension of the service delivery improvement strategies in these sector interventions also.

23. A core area of governance and public management in which the ADB has been active is the area of public resource management. In view of the continuous links that this activity has on activities in all sectors, it has a direct bearing on service delivery. ADB has already initiated the provision of support for several elements of this area of reform. These include support for the setting up of a Revenue Authority; the implementation of the Fiscal Management Responsibility Act; the introduction of Systems of Zero Budgeting and of Accrual Accounting; as well as the development of human resources and of information technology. These measures, when successfully implemented, would lay the groundwork for a major reform agenda in this area. Such an expanded agenda would also need to deal with issues related to fiscal devolution, to accountability at the different levels of governance, to the extension of the use of information technology at all levels and to the development of human resources at all levels. The expanded sub-agenda should, thus, be designed as an integral programme wherein all these elements come together to mutually reinforce one another.

24. What is most critical in future program/project development is to appraise governance and public management issues at the time of program/project preparation. This should not be left to be addressed later in the life of the program/project when these issues become an

¹⁷ This could be area for joint ADB and bilateral assistance.

¹⁸ These could be delivery by the government (at its different levels), by the private sector, by public-private partnerships, by the CSOs etc.

¹⁹ These would, naturally, include the Northern and Eastern Provinces.

²⁰ These include Transport; Power; Education; Water Supply and Sanitation; Agriculture and Rural Development; Urban Development and Housing; Private Sector Development; Finance and Industry; Environment and Natural Resource.

impediment to implementation. Whilst not seeking to be exhaustive, some of the critical governance issues that should be investigated at the analysis stage would include:

- (i) The quality of human resources;
- (ii) Openness or otherwise to corruption;
- (iii) Levels of political intervention in decision making;
- (iv) Appropriateness of administrative structures for program/project implementation;
- (v) The levels of public participation;
- (vi) The appropriateness of related CSOs for participating in planning and implementation; and
- (vii) The suitability of financial procedures for effective implementation.

25. To sum up, the new Country Strategy and Program related to governance and public management would focus on a limited number of areas. These would include:

- (i) The improvement of service delivery – particularly as it concerns meeting the needs of the poor;
- (ii) The improvement of public management in the sectors of roads, power, and water supply and sanitation; and
- (iii) Improvement of public resources management.

26. However, ADB, in its country programming and in the formulation of specific projects, would need to be cognizant of the importance of some of the common issues of governance and public management being concurrently addressed. This is important for two reasons. One is to achieve better levels of delivery of programs and projects.²¹ The other is to ensure sustainability of program/project achievements. These common issues have already been dealt with at some detail in the preceding discussions that dealt with the context as well as the strategies, challenges and opportunities. Hence, they will not be set out in detail at this stage of the discussion.

D. Operationalizing ADB's Governance Assistance²²

1. Service Delivery: Performance Areas and Benchmarks

27. ADB should assist the Government of Sri Lanka identify performance areas and develop benchmarks for improving the performance of service delivery. The Government would need to set targets for the performance areas and establish systems for tracking and reporting on performance. A series of quantitative and qualitative benchmarks would be developed and the table below provides some examples. These would be considered and developed as a working draft during the workshop in August 2003.

²¹ The levels of project delivery have, over the recent past, been low. Whilst the rate of delivery had been around 20% in the 1990s, it has slumped every year since then till it stands now at 15%. Source: *Aide Review-External Resources Department: Ministry of Policy Development and Implementation*. GOSL.

²² Appendix 7 provides a brief outline on key steps for operationalizing ADB's governance assistance.

Service Delivery Performance Areas and Benchmarks		
Governance Performance Areas	Quantitative²³	Qualitative²⁴
Service Delivery Policy Coordination	Coordinating and enforcement units in central, provincial and local government levels Civil Society coordination. A service delivery policy framework for government-wide implementation.	Effectiveness of the coordinating, reporting, information management, data definition, communication and enforcement functions. Policy framework reviewed by independent expert committee comprising national and international members.
Service Delivery Policy	Number of services where a service delivery policy has been developed	The extent to which the components of the service delivery policy framework have been applied effectively.
Service Delivery Standards	Number of services where standards have been developed and operationalized.	The extent to which the standards have been developed through consultation with citizens. The publication of the standards. The effectiveness of operationalizing the standards. The review of the standards Comparison of standards
Service Delivery Performance	No of services which have systems for establishing areas where performance should be tracked and where there is a system for reporting performance	Quality of the performance management system The level of citizen participation in identifying performance areas, monitoring performance. The extent to which citizens receive information on performance
Citizen Redressal	The institutional mechanism for citizens to register complaints	The effectiveness of the citizen redressal system
Access to service delivery information	Number of services that comply with provision of minimum set of information for internal decision-making and secondly for citizens	Quality, reliability, timeliness, access and usability of information
Social Audits of services	Number of services where social audits have been conducted.	The effectiveness of the audit The extent to which the results have been used to improve service delivery
Public Expenditure Tracking of services (PETS)	Number of PETS completed	The corrective measures that have taken place
Establishing systems for costing the delivery of services	Number of services that have been costed	Nature of costing exercise Actions taken based on cost related data Cost comparisons reports
Service delivery constraints	Number of service delivery assessments	The quality of the analytical instruments used. The institutional arrangements including level of participation by civil society in conducting the analysis.
User charging policies	Number of services where systems and processes have	The extent to which the user charging takes into consideration

²³ By geographical spread and including the N & E.

²⁴ Would include indicators on accountability, transparency, participation and predictability. It would also include indicators on equity, efficiency, effectiveness and affordability particularly for poor people, women and the marginalized sections of society.

Service Delivery Performance Areas and Benchmarks		
Governance Performance Areas	Quantitative ²³	Qualitative ²⁴
	been used to determine policies for user charging	poor people and cost recovery. The systems to minimize corruption.
Service Delivery Improvements	Funds and programs targeted at improving service delivery	The extent to which the improvements are based on implementation of service delivery policy, assessments of constraints, social audits or PETS.
Service delivery training	Number of courses run and number of participants involved in the service delivery improvement program	

2. Service Delivery: Implementation of ADB's Assistance

28. The service delivery improvement program should be implemented as two streams of activity: The first stream will focus on government wide policy, coordination and oversight: the second stream will operate concurrently at the sector/service level and at the level of government where services are or should be delivered. It would be important to select a service from each tier i.e. central, provincial and local governments and in a rural and urban context. It would also be important to develop policy by looking at the geographical context and ensuring there is a fair distribution across the country including the North and East. Some of the typical activities that could be conducted under each stream are described below.

Stream One: Service Delivery Policy Framework

- (i) Establish appropriate institutional arrangements for developing and promulgating a government-wide a policy framework²⁵ for transforming service delivery;
- (ii) Develop a road map for the development of the policy framework;
- (iii) Develop and promulgate the policy framework;
- (iv) Consider setting up a challenge fund for promoting innovations in transforming service delivery; and
- (v) Undertake pilots using e-governance to improve access to information and performance of services in an integrated manner in urban and rural areas.

Stream Two: Sector Service Delivery Policies

29. Here actions are required at three levels: policy; analysis; and implementation. Some of the key steps include:

- (i) **Policy level:** Develop a road map for developing sector level service delivery policies; and develop and promulgate sector level service delivery policy.
- (ii) **Analytical:** Identify the constraints in service delivery by conducting an analysis of the service delivery chain; Identify programs that would remove constraints in service delivery. Try and categorize the improvement initiatives into: those that can be considered as quick wins and implemented immediately; benefits to be obtained in the medium term through a course of actions that will bring about

²⁵ The components of the policy framework should set out the mandatory and optional framework for sector level service delivery policies. It should also provide a sub set of policy documents on service delivery instruments such as social audit, public expenditure tracking surveys, citizens' charters and service delivery plans.

sustainable improvements; and finally actions required to achieve the long term goal of efficient, accessible, equitable and affordable services particularly for the poor and marginalized sections of society.

- (iii) **Implementation of policy:** establish systems and processes for planning the delivery of services that are linked to financial planning and performance management; ensure service delivery standards are developed, operationalized and monitored; ensure service delivery charging policies address the needs of the poor and marginalized; make budgetary provision for regular independent social audit of services; conduct social audits and publish results; have appropriate institutional arrangements for assessing performance of services and making comparisons; put in place instruments for determining costs of services and for making regional and time bound comparisons; minimize opportunities for corruption by conducting public expenditure tracking surveys of services; introduce measures for citizen redressal in situations where they are dissatisfied with the services provided.

V. CONCLUSION

1. The preceding discussion has attempted to address several issues.
2. The first is the extent of the ADB's role, in the medium term, in strengthening governance and public management. The discussion points to the advantage of the role being anchored mainly on enhancing the effectiveness of service delivery and on the removal of governance constraints on the planning and implementation of the ongoing and future sectoral interventions of ADB. This would constitute what could be described as a major intervention.
3. The suggested approach to the provision of assistance would be both crosscutting as well as sector specific.
4. The discussion has also presented the advantages of the adoption of a co-ordinated approach by the donor community, as a whole, in designing, programming and sharing of the responsibilities for the provision of assistance in strengthening governance and public management.

GOVERNANCE DEFINITIONS

1. This Appendix sets out the definitional framework of governance and public management that has been adopted in presenting the Review. This framework is based on the concept of governance and public management being the efficient and effective management of the country's public resources for the achievement of common objectives that are agreed to by the citizens.
2. In this Review, governance and public management are evaluated in terms of
 - (i) Their relevance to poverty reduction and to the delivery of public services;
 - (ii) The level of their transparency and predictability;
 - (iii) The degree to which they are underpinned by accountability;
 - (iv) Their levels of efficiency and effectiveness; and
 - (v) The extent to which they are based on participatory processes.
3. The above concerns run through the assessment of governance and public management in terms of
 - (i) The overall government system;
 - (ii) The civil (public) service;
 - (iii) Local governance;
 - (iv) Public financial management;
 - (v) The prevalent levels of corruption;
 - (vi) The legal and regulatory framework;
 - (vii) The judicial system; and
 - (viii) Interface between governance and the civil society and the private sector.
4. Whilst the above constitute core governance issues in the context of this Review, there would be special governance issues that would apply to specific sectors.
5. Examples are found in several of the sectors in which ADB provides assistance.
 - (i) In the power sector, the critical governance issues would include (i) the appropriateness of the present institutional structures for enhancing efficiency and effectiveness in the future expanded power generation and supply; (ii) the creation of space for greater private sector participation in generation and distribution; and (iii) the involvement of local government institutions in the delivery of power to their communities.
 - (ii) In the water supply and sanitation sector the governance issues that are of importance would be (i) the institutional arrangements for the participation of the public in the planning, implementation and post-implementation management of water supply and sanitation schemes; (ii) the demarcation of the role and responsibilities of the local government institutions; (iii) recovery of costs of provision and supply from the users; and (iv) the creation of public awareness on the programs and projects.
6. The above serve as examples of sector specific governance issues. However, it needs to be recognised that all activities in regard to individual sectors have, also, a nexus with the core governance issues that have been identified. Hence, unless the core governance issues are adequately addressed, the sector governance issues cannot be isolated and addressed on their own effectively.

INSTITUTIONAL MAP OF THE GOVERNMENT

A. The Centre

1. The Executive Presidency
 - (i) Elected by all registered voters for a term of six years – with the proviso that the terms are limited to two.
 - (ii) The powers and functions of the President include
 - The making of the Statement of Government Policy in Parliament and presiding at ceremonial sittings of Parliament;
 - The receiving and recognizing as well as the appointing and accrediting of Ambassadors;
 - The appointment of the Prime Minister and other Ministers of the Cabinet, the Judges of the Supreme Court;
 - The declaration of war and peace;
 - The granting of pardons to convicted offenders and the reduction of sentences of such offenders.
 - (iii) The President is immune from all legal suits.
 - (iv) The President is assisted by a Secretariat who would cease to hold office at the end of the period of the President.
 - (v) The President is a member of the Cabinet and is its Head.
2. The Prime Minister and the Cabinet of Ministers
 - (i) The President appoints the person who in his/her opinion commands the confidence of Parliament.
 - (ii) The President appoints Ministers of the Cabinet in consultation with the Prime Minister – where he/she considers such consultation to be necessary.
 - (iii) The President also appoints, in consultation with the Prime Minister where such consultation is considered necessary, Ministers who shall not be members of the Cabinet, as well as Deputy Ministers.
 - (iv) Each Ministry is headed by a Secretary who shall be appointed by the President.

B. The Public Service

- (i) A Public Service Commission of nine members¹ is appointed by the President on the recommendations of the Constitutional Council.
- (ii) The appointment, promotion, transfer, disciplinary control and dismissal of public officers of the Central Government² are vested in the PSC.
- (iii) However, the appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Departments vests in the Cabinet of Ministers – who exercise such powers after ascertaining the views of the PSC.

C. The Legislature

¹ The members are appointed for a term of three years.

² The same powers in regard to public officers of the Provincial Councils are vested in Provincial Public Service Commissions constituted for each Province.

- (i) The legislature at the Centre is a Parliament of a single Chamber.
- (ii) The Parliament comprises 225 members. 196 of these members are elected by the electors of electoral districts on a system of Proportional Representation³. 26 of the members are selected from National Lists filed by the Parties/Groups according to the total votes in the country gained by such Party/Group.
- (iii) The Parliament elects its own Speaker, the Deputy Speaker and a deputy Chairman of Committees.
- (iv) The privileges, immunities and powers of the Parliament and its Members is determined and regulated by Parliament law.
- (v) The Parliament, from time to time, is summoned, prorogued and dissolved by the President.
- (vi) The Parliament has the power to make laws, including laws having retrospective effect and repealing or amending any provision of the Constitution, or adding any provision to the Constitution.
- (vii) Bills for the amendment of the Constitution require a vote of two-thirds of the Members of Parliament and the holding of a Referendum.
- (viii) The Parliament has a Public Accounts Committee and a Committee on Public Enterprises for the consideration of the Reports of the Auditor General on government ministries and departments as well as on the state-owned-enterprises respectively.
- (ix) The Parliament approves the Annual Budget of the Government and all Supplementary Estimates.

D. Provincial Councils

- (i) The Provincial Councils were set up under the 13th Amendment to the Constitution in 1987⁴.
- (ii) There is Provincial Council for each of the 8 units comprising members elected by the electors in each such Province⁵ for a five-year term.
- (iii) There is a Governor for each Province who is appointed by the President and who holds office during the pleasure of the President. The Governor has the power to summon, prorogue and dissolve the Provincial Council in accordance with the advice of the Chief Minister.
- (iv) Each Provincial Council has a Board of Ministers headed by a Chief Minister with 4 other Ministers.
- (v) The functions of government are listed separately as the Provincial Council List, the Reserved List and the Concurrent List.
- (vi) Provincial Councils have the power to make statutes applicable to the specific Province with respect to matters set out in the Provincial Council List. These statutes come into force only on receiving the assent of the Governor.
- (vii) There is a Finance Commission comprising the Governor of the Central Bank of Sri Lanka, the Secretary to the Treasury of the GOSL, and 3 other members appointed by the President – on the recommendation of the Constitutional

³ The PR system is operationalized on the basis of the registered political parties and independent groups filing lists of candidates. The electors cast their votes for a List and, within such List, indicate their preference for up to 3 candidates. The seats in the electoral district are allotted amongst the different Lists on the basis of the votes gained by such Lists. Within the Lists the seats are allocated to the individuals who receive the highest number of preferences.

⁴ Whilst there are 9 Provinces in to which Sri Lanka has been administratively divided, only 8 Provincial Councils were set up – the Northern and Eastern Provinces being treated as one unit for this purpose.

⁵ The method of election of members of Provincial Councils follows the PR system adopted for elections to the Parliament.

Council – to represent the three major communities⁶. The duty of the Commission is to make recommendations to the President as to

- The principles on which the funds that are granted by the Government annually for the use of the Provinces should be apportioned between them; and
- Any other matters referred to the Commission by the President relating to Provincial Finance.

E. The Local Government Institutions

- (i) There are three types of Local Government Institutions (LGIs) – namely Municipal Councils (14 in number); Urban Councils (37 in number) and Pradeshiya Sabhas (258 in number).
- (ii) There is no single Legislative Enactment in relation to Local Government Institutions. Every local Government Institution is an independent entity. The Acts of Parliament that have created them are
 - The Municipal Councils Ordinance
 - The Urban Councils Ordinance
 - The Pradeshiya Sabha Act.
- (iii) Each type of Local Government Institution is confined to the powers and functions specified in the respective Acts and Ordinances. Generally they are limited to certain regulatory and administrative functions and for the provision of physical infrastructure such as roads, drains, parks, libraries, housing and for promoting public health through activities pertaining to scavenging, conservancy, public lavatories, abatements of nuisance etc.
- (iv) Thus, the Local Government Institutions do not play a direct role in the delivery of public goods and services or with regard to development.
- (v) Water supply, Electricity Supply, Street Lighting, Rest Houses which were functions of LGIs were taken over by the Central Government through the creation of the National Water Supply and Drainage Board, the Ceylon Electricity Board and the Lanka Electricity Company; the Urban Development Authority; and the Tourist Board. This also affected the openings open to the citizen to influence the delivery of these public services as well as the quantum of financial revenue that the LGIs could earn.
- (vi) Members of LGIs are elected on the same PR system as applicable to the Parliament and The Provincial Councils. The Mayors of Municipal Councils and the Chairmen of Urban Councils and of Pradeshiya Sabhas are nominated from amongst the elected members by the respective political parties/groups that obtain the largest number of votes – not by the members who are elected.
- (vii) All matters other than those pertaining to National Policy on Local Government and the form, structure and constitution of LGIs are devolved to the Provincial Councils.

F. Issues to be Addressed Through Governance Reform

1. The several areas of inadequacy and contradictions that require to be addressed in order to rationalize the system of governance for higher productivity, for greater accountability and expanded citizen participation include the following:

⁶ These are the Sinhalese, the Tamils and the Muslims.

- (i) The resolution of the potential for debilitating conflicts to arise from the current absence of rational clarity as regards the roles of the Executive Presidency, the Prime Minister, the Cabinet of Ministers⁷.
- (ii) Making the political executive directly responsible to the Parliament through the rationalization of the powers of the Executive Presidency and the vesting of responsibility in a Cabinet of Ministers directly accountable to the Parliament.
- (iii) The de-politicization of the entire public service by the removal of personnel-related authority of the Cabinet in regard to posts of Heads of Departments.
- (iv) Remove the current confusion in regard to the functional responsibilities between the Center and the Provinces through the abolition of the Concurrent List in the 13th Amendment to the Constitution.
- (v) Review the current powers and authority of the Governors of the Provinces so as to enable the Provinces themselves to participate in the decisions concerning the appointment of Governors, to limit the terms of Governors and to establish a more accountable role for the Governor vis a vis the Province.
- (vi) Vest adequate authority in the Finance Commission to decide on allocations as between the Center and the Provinces as well as amongst the Provinces.
- (vii) Enact Constitutional provisions that would specifically recognize the Local Government Institutions a distinct level of government in Sri Lanka.
- (viii) Re-introduce the earlier 'ward-based' electoral system instead of the present proportional representation (PR) system to introduce direct accountability of the members to their electors.
- (ix) Review the present functions of LGIs with a view to expanding their functions and responsibilities as well as to remove the differentials in regard to functions as between the Municipal Councils, Urban Councils and Pradeshiya Sabhas.
- (x) Introduce and institutionalize Codes of Conduct for members of the Parliament, of the Provincial Councils and of the Local Government Institutions.

⁷ This potential for conflict becomes acute when the majority in the Parliament and the incumbency of the Executive Presidency are in different political parties – as is the case in 2003.

**TABLE SHOWING THE DISTRIBUTION OF GOVERNMENT INSTITUTIONS
AND THEIR CADRES AT THE THREE LEVELS OF GOVERNMENT**

	Govt. Institutions		Semi-Govt. Institutions		Total	
	Number	Cadre	Number	Cadres	Number	Cadre
CENTRE						
a. Not Assigned To Ministries	18	6741	9	544	27	7285
b. Under Cabinet Ministries	232	257905	280	173452	512	431357
c. Under Non Cabinet Ministries	37	69158	79	93426	116	162584
PROVINCIAL COUNCILS						
Western P.C.	31	67557	-	--	31	67557
Central P.C.	33	39762	--	--	33	39762
Southern P.C.	37	41628	--	--	37	41628
Northwestern P.C.	36	36949	--	--	36	36949
North central P.C.	37	24143	--	--	37	24143
Uva P.C.	32	22523	--	--	32	22523
Sabaragamuwa P.C.	28	27044	--	--	28	27044
North East P.C.	41	48643	--	--	41	48643
Total	275	308249	--	---	275	308249
LOCAL GOVT INSTITUTIONS						
Municipal Councils	14					
Urban Councils	37					
Pradeshiya Sabhas	258					
Total	309	44061			309	44061
Grand Total					1239	953536

Source: Census of Public and Semi-Government Sector Employment – 2002 (Department of Census and Statistics)

- The purpose of the above table is to set out the “size of government” at the three levels: Central Government; the Provincial Councils; and the Local Government Institutions.
- Institutions not assigned to Ministries are those such as the Presidential Secretariat; Prime Ministers Office; Office of the Cabinet; the Supreme Court; Human Rights Commission; Parliament etc
- “Government Institutions” are regular departments of government. The financial provisions for their expenditure are provided in the Government Budget that is approved annually by the Parliament. The staff is entitled to the [non-contributory] Public Service Pension Scheme.
- Semi-Government Institutions include the Boards and Authorities set up from time to time. Some of them carry out commercial activities whilst others carry out activities in the nature of research, advisory services, management of specific operations etc. They are either financed from earnings or specific financial allocations from government. Their staff is not within the Public Service Pension Fund but fall within Provident Funds.
- Semi-Government Institutions started in the 1950s when the Government launched in to what were expected to be temporary programs. Later they were also used to undertake commercial activities.
- “Cadre” refers to the number of regular employees of an organization.

THE GOVERNMENT'S ADMINISTRATIVE REFORM AGENDA

1. The Government has constituted an Administrative Reforms Committee (ARC) of 13 members that functions under the Office of the Prime Minister. The members comprise several Secretaries to Ministries as well as several senior advisors to the Government. It is chaired by the Secretary to the Prime Minister.
2. In September 2002 the ARC set out an Action Plan.
3. The ARC has identified several elements in a strategy for embarking on the reform agenda. These include:
 - (i) Involvement of stakeholders;
 - (ii) The understanding and appreciation of need and co-ownership of the agenda by the political executive and top administrative management;
 - (iii) Sustained commitment to and support of the agenda at the highest levels;
 - (iv) The need to face unpleasant decisions – whilst tempering such decisions with humane considerations;
 - (v) Careful sequencing of reforms;
 - (vi) Priority being given to measures on which some ground work is already in place;
 - (vii) Careful preparatory work where needed;
 - (viii) Synchronisation of administrative reforms with economic and political reforms;
 - (ix) The use of existing mechanisms where possible and appropriate;
 - (x) Having one or more committed 'drivers' of the reform program in each Ministry under the direct oversight of the Secretary;
 - (xi) To ensure that reform efforts are guided by local realities and not by donor initiatives; and
 - (xii) Ensuring that the reform effort holds out some benefits to those who will remain in the system.
4. The recommended Action Plan contains the following elements:
 - (i) Introduction and promotion of a client and output focussed work culture through an intensive and sustained awareness creation campaign.
 - (ii) System-wide Functional Review under the zero budgeting exercise and the outsourcing of peripheral functions.
 - (iii) Relieving the Secretaries of Ministries of routine functions; conducting of awareness programs for both Secretaries and Ministers.
 - (iv) Constitution of two Working Groups to revise the Establishment Code as well as the Financial Regulations and the Guidelines on Procurement.
 - (v) Setting up mechanisms for troubleshooting based on requests by agencies.
 - (vi) To encourage Civil Society Organisations to launch schemes for client evaluation of institutional performance¹.
 - (vii) Introduction of the concept of 'Management Audit'.
 - (viii) Establishment of an independent Public Service Commission.
 - (ix) Establishment of a Higher Management Group.

¹ Such as "Report Card Systems."

- (x) Revitalising human resources development through the reactivation of the Human Resources Development Council; of the Management Development Training Units and the revitalising of the Sri Lanka Institute of Development Administration as well as creation of training budgets for each ministry and department.
 - (xi) Appointment of a Task Force for the preparation of a performance appraisal scheme.
 - (xii) Identification of redundant categories of personnel.
 - (xiii) Initiate steps to ensure equity in making appointments at the national and provincial levels.
 - (xiv) Preparation of job descriptions.
 - (xv) Ensuring the wide use of the Code of Ethics for public servants.
 - (xvi) Strengthening the role of Ombudsmen.
 - (xvii) Review of remuneration policy – particularly at strategic management grades.
 - (xviii) Clustering of ministries through the establishment of 10 Ministerial Committees.
 - (xix) Re-examining the feasibility of closure/re-structuring of redundant agencies and the formulation of voluntary separation schemes.
5. The work of the ARC is, as yet, in a preliminary stage – with the emphasis being on the carrying out of data collection, study of issues and pilot testing of ideas.

SERVICE DELIVERY FUNCTIONS ADVERSELY AFFECTED BY WEAKNESSES IN GOVERNANCE/PUBLIC MANAGEMENT

1. **General:** The following Table provides an assessment of the degree to which selected service delivery functions are compromised [adversely affected] by weaknesses in governance/public management. The Table refers to six service delivery functions. Four critical elements that are of importance in ensuring effective service delivery have been chosen for analysis. These are:

- (i) Accountability to citizens;
- (ii) Transparency of procedures and processes;
- (iii) Predictability in regard to the quality and timeliness of delivery; and
- (iv) The extent to which the processes of delivery are open to Participation of Civil Society Organizations and the Private Sector.

2. The degree to which a selected area of service delivery is adversely affected [or is compromised] in respect of each element is shown as High, Medium or Low.

- (i) **High** indicates that the element is heavily adversely affected by inadequacies of governance/public management.
- (ii) **Medium** indicates that degree to which the specific element of service delivery is adversely affected is moderate.
- (iii) **Low** indicates that whilst the element is adversely affected, the degree to which the particular element is compromised is at a low level.

Function	Compromise of Accountability	Compromise Of Transparency	Compromise Of Predictability	Compromise Of Participation
Health Care Delivery	High	Medium	Medium	High
School Education Delivery	High	Low	High	Medium
Strengthening Law and Order	High	High	High	High
Provision of Public Transport	High	High	High	High
Supply of Electric Power	Medium	High	Medium	High
Poverty Reduction	High	Medium	Medium	Medium

3. Comments

Health Care Delivery

- (i) The organization of the delivery system fails to provide for accountability as to costs, quality and timeliness to the immediate community and to higher levels in the structure.
- (ii) Transparency as regards quality and timeliness is at an acceptable level, whilst transparency as regards costs is poor.
- (iii) Predictability as regards availability is satisfactory; as regards quality is poor.
- (iv) There is no space for participation of citizens or CSOs.

School Education

- (i) There is little accountability on the part of school management to the local community or parents.
- (ii) The community and parents are in a position to observe the quality of delivery – though they have no avenues for enforcing accountability.
- (iii) The community and parents lack information that enables them to predict the future developments in regard to content and quality.
- (iv) There are no arrangements through which the local community/parents could participate in the work of the schools or their management.

Law and Order

- (i) The Police Department functions in a manner in which it is not accountable to local communities; in which the public have no access to information, where the future courses of action are not predictable and wherein there is no public participation.

Public Transport

- (i) Policies regarding public transport are made within the central ministry. There is no space for public participation. Lack of transparency prevents the citizens from being aware of future policies, plans and likely investments.

Electric Power

- (i) Adverse effects on accountability are moderate rather than high because the very nature of the service provided involves rapid response in case of failure.
- (ii) The accessibility of information by citizens on policies/plans of the Ceylon Electricity Board remains poor.
- (iii) Whilst there is no accurate information to the citizens regarding the future programs of the CEB, there is a general awareness of plans regarding expansion/modernization.
- (iv) No space/arrangements exist for citizen participation in planning/programming or in regard to monitoring.

Poverty Reduction

- (i) Poverty reduction is programmed as a top-down activity. There is no provision for accountability to the beneficiaries.
- (ii) The beneficiaries at the community level have a fair knowledge of the activities underway, are reasonable expectation of the programs being continued. However, the degree to which they can participate in activity setting, activity content etc is only at a moderate level.

CONSTITUTIONAL INSTITUTIONS

1. The term “Constitutional Institutions” is used in this Review for the cluster of institutions that was provided for under the Seventeenth Amendment to the Constitution that was enacted in October 2001. The enactment of the 17th Amendment was an attempt to correct the negative effects on public management that flowed from the placing – through the enactment of a new Constitution in 1972¹ - of the responsibility for matters related to public service cadres on the political executive. The main features of the changes that were sought to be introduced through the 17th Amendment are set out below.

A. Constitutional Council

2. A Constitutional Council was created by the Amendment that would comprise (i) the Prime Minister; (ii) the Speaker of Parliament; (iii) the Leader of the Opposition in Parliament; (iv) a person nominated by the President; (v) five persons appointed by the President on the nomination of both the Prime Minister and the Leader of the Opposition; and (vi) a person nominated by agreement by the majority of members of parties other than the respective parties to which the Prime Minister and the Leader of the Opposition belong.

3. The Constitutional Council has the responsibility to recommend to the President for appointment of members to the following Commissions:

- (i) The Election Commission;
- (ii) The Public Service Commission;
- (iii) The National Police Commission;
- (iv) The Human Rights Commission;
- (v) The Commission to Investigate Allegations of Bribery or Corruption;
- (vi) The Finance Commission; and
- (vii) The Delimitation Commission.

4. Also the approval of the Constitutional Council is required for nominations made by the President for the following posts:

- (i) The Chief Justice and the Judges of the Supreme Court;
- (ii) The President and the Judges of the Court of Appeal;
- (iii) The Members of the Judicial Service Commission;
- (iv) The Attorney General;
- (v) The Auditor General;
- (vi) The Inspector-General of Police;
- (vii) The Parliamentary Commissioner for Administration (Ombudsman); and
- (viii) The Secretary-General of Parliament.

B. Public Service Commission

5. The Public Service Commission (comprising 9 members) is appointed by the President on the recommendation of the Constitutional Council for a period of 3 years.

6. The appointment, promotion, transfer, disciplinary control and dismissal of public officers are vested in the Commission.

¹ The same approach was followed when another new Constitution was enacted in 1978.

7. However, the appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Departments would vest in the Cabinet of Ministers. The Cabinet of Ministers was also vested with the authority to provide for and to determine all matters of policy relating to public officers. By these two provisions the 17th Amendment weakened the authority of the Public Service Commission.

C. Election Commission

8. The Election Commission comprises five members appointed by the President on the recommendations of the Constitutional Council. It replaces the Elections Commissioner who hitherto had been appointed by the President on his/her authority.

9. The object of the Commission is to conduct free and fair elections and Referenda. It holds office for a period of five years. The Commission is to appoint a Commissioner-General of elections as its Chief Executive.

10. Though the Constitutional Council has made nomination of persons, the Election Commission is yet to be appointed as at May 2003.

D. Judicial Service Commission

11. The Judicial Commission has the Chief Justice as its ex officio Chairman. The President appoints the other two members on the approval of his/her nominations by the Constitutional Council.

12. The powers of transfer of judges of the High Court as well as the appointment, transfer, exercise of disciplinary control and the dismissal of judicial officers are vested in the JSC.

E. The National Police Commission

13. The National Police Commission consists of seven members appointed by the President, for a three-year term, on the recommendation of the Constitutional Council.

14. The Commission exercises the authority to appoint, transfer, exercise disciplinary control, and dismiss all police officers other than the Inspector-General of Police – who is appointed by the President, with the approval of the Constitutional Council. This authority is to be exercised by the NPC in consultation with the IGP.

F. Finance Commission

15. The Finance Commission consists of the Governor of the Central Bank and the Secretary to the Treasury who are ex officio members and three others to represent the three communities in the country. It is the latter three who are nominated by the Constitutional Councils for appointment by the President for a period of three years.

DONOR MATRIX

Governance Area	Netherlands	SIDA	Canada	IMF	UNDP	ILO	USAID ¹	World Bank	ADB
Public Policy Management	1.Assistance to The Institute of Policy Studies. [EUR 2,565,808 over 5 Years]	-	-	-	Assistance to Strengthen the Legal Draftsman's Department [\$583 000]		Support to Constitutional Commissions	Public Sector Reform, US\$15,000,000 [this is under preparation] Poverty Reduction Support Credit [US\$125,000,000 in 2003 and 90,000,000 in 2004]	
Public Financial Management	Support to Auditor General's Department [Under Negotiation]	-	-	TA on Customs, Revenue Authority, Review of Standards & Codes.	Strengthening the External Resources Dept. [850000] Strengthening Finance Commission [\$670000]				TA on Strengthening Public Expenditure Management System TA on Capacity Building in Imprest Account Monitoring
Delivery of Services		-	-		Sustainable Cities Program	Assistance for setting up JobNet	Support development of participatory service delivery mechanisms at Provincial/local level		

¹ The data provided does not clarify whether there are ongoing projects or whether these are proposals.

Governance Area	Netherlands	SIDA	Canada	IMF	UNDP	ILO	USAID ¹	World Bank	ADB
Decentralisation		-	-	TA on Fiscal Federalism (Proposed)	--		Support for training Provincial & Local Govt. staff		
Human Resource Management		-	--		Capacity Strengthening of SLIDA [\$472000]				
Public-Private Partnership	Strengthening of FCCISL ² and Regional Chambers [EUR 283,612]	-	--					Economic Reform – TA, US\$15,000,000	TA + Loans on Private Sector Development Program
Strengthening of CSOs		1. Journalism & Democracy Training [\$600,000] 2. Democratic Youth Leadership [\$1.1m]	Support to: Centre for Policy Alternatives [\$65,762] National Peace Council {\$39516} Young Asia Television [\$92300]					Central Bank Strengthening US\$26,000,000	
Sector-related Governance			--			Restructuring Ministry of Employment & Labour Restructuring Labour Tribunals			TA on Power Sector Restructuring

² The Federation of Chambers of Commerce and Industry of Sri Lanka.

OPERATIONALISING ADB'S GOVERNANCE ASSISTANCE

1. This appendix provides supplementary information on key steps required to operationalize the governance and public management proposals in Part III of the main report. The key areas where assistance is proposed include: a) Pro-Poor Service Delivery; b) Governance and Public Management in the ADB-Related Sectors; and c) Public Resource Management.

A. Pro-poor Service Delivery

2. The main report proposes an approach for taking this agenda item forward. It also proposes the implementation of pilots to inform development of service delivery policy. This section provides some of the key steps for the pilot projects

- GOSL select pilot projects based on criteria¹ agreed with ADB to test specific elements of service delivery policy;
- Based on the criteria, possible areas for exploration:
 - (i) Electricity – retail distribution
 - (ii) Water supply - retail distribution at the community level
 - (iii) Primary school segment or the technical skill provision of the education sector.
- Identify a group of `enablers' who would be the contact links with the government to institutionalize the recommendations that flow from the pilot tests. This should be a multi-interest group comprising
 - (i) All 3 tiers of the government – Centre, Province and Local.
 - (ii) The different sectors from which the delivery projects for testing are drawn.
 - (iii) Appropriate Civil Society Organizations (CSOs).
 - (iv) Appropriate Chambers [national + provincial] of the private sector.
- The pilot testing using each selected delivery project would include
 - (i) Carrying out a comprehensive study of the political system and the administrative system issues that become bottlenecks to the effective delivery of the service concerned – in terms of achieving equity of access, quality of supply, timeliness of supply and sustainability over time.
- Developing strategies to overcome the bottlenecks. These would include
 - (i) Structural reforms [political + administrative]
 - (ii) Human Resource Management changes
 - (iii) Programs of capacity enhancement.
 - (iv) Changes to costing of services and to recovery of costs.
 - (v) Enhancing transparency and accountability
 - (vi) Frameworks for private sector participation in delivery
 - (vii) Arrangements for participation of CSOs in both planning & delivery.
- Setting benchmarks for achievement of improvements in delivery.
- Setting up monitoring arrangements and conducting monitoring.
- During the pilot stage as well as at the end of the pilot, the successful strategies could be phased in to GOSL's Administrative Reform Program.

¹ They should include services that cut across all three tiers of government, are of direct concern to the poor in the communities and are of importance in income generation and the social quality of life.

B. Public Management in ADB Sectors

3. This has to be approached from two angles: the first is in regard to the ongoing sectoral projects/programs; and the second is in regard to future sectoral projects/programs.

4. Proposed actions for existing sector-based projects and Programs:

- GOSL with support from ADB should review all ongoing sectoral projects from the point of view of the institutional and administrative systems issues that compromise accountability, transparency, predictability and participation;
- This should be followed up by the formulation of solutions to address the issues arising from the institutional appraisal and administrative systems review
- Benchmarks for implementation should be set and monitoring arrangements put in place.
- The inadequacies and proposed solutions should be discussed with the GOSL. The focal point for this interaction should be the Department of External Resources (DER) – which is the focal point of GOSL for the interface with donors. It should not be by-passed. The DER should draw in the sectoral agencies for the interaction.
- If the interaction does not result in acceptance of effecting of changes by GOSL, the termination of the project or its modification should receive active consideration.

5. The second is in regard to new projects.

- For all project/program formulations, an administrative systems and institutional assessment should be an integral part of the project/program preparation phase and follow the outlining of the project design including the identification of project activities.
- Strategies for resolving governance/public management constraints to achievement of sector objectives should be clearly set out.
- This should be followed by an agreed plan with GOSL (the relevant focal point) for effecting the reforms tied to benchmarks for implementation and with a monitoring plan.
- The project/program should only be proceeded with after GOSL has agreed to the governance/public management actions for the sector.

C. Public Resource Management

- This is a key on-going project and is critical for the success or otherwise of the whole exercise of administrative reform. It seeks to address a central issue of governance/public management and in its implementation it should make radical changes to structures, processes and procedures that date back more than a half century;
- It is important at this stage to undertake an independent assessment of the project and of its achievements;
- The review should enable institutional and administrative systems factors that constrain project implementation and risk achievement of outputs to be identified;

- Proposals for addressing the institutional arrangements and administrative systems that compromise accountability, transparency, predictability and participation should be prepared and options for implementation considered jointly by GOSL and ADB; and
- An action plan for strengthening the institutional arrangements and the administrative systems in public resource management should be agreed and implemented by GOSL with support from ADB.