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LOCAL GOVERNMENT IN TRANSITION: THE SRI LANKAN EXPERIENCE; A COMPARATIVE ANALYSIS

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Introduction:

Discussing the case for local government in the United Kingdom, George Jones and John Stewart have pointed out that the crisis in the relationship between central government and local authorities is still continuing. According to their opinion,

"since 1979 as in previous governments - ministers have sought to increase their control over local authorities, but the pace of centralisation has increased. Bill followed bill; bills were introduced only to be withdrawn or heavily amended; proposals were put forward only to be jettisoned and succeeded by further proposals, and all the time no fundamental and long term solution was undertaken. The message of Central Government was that it needed to control disobedient local authorities. Its measures and proposals were designed to increase centralization and to weaken local government. By July 1982 one Minister (Leon Brittan) was openly questioning the case for local autonomy over priorities and in the administration of services. The very existence of local government appeared under serious threat."¹

Events which took place, during the past few decades in relation to the development of local government in Sri Lanka, emphasises coherently that the very existence of Sri Lankan local government is under very serious threat. Ursula Hicks, who visited the Sri Lankan island republic, three decade ago, observed that our local government system was in the doldrums, after taking into account the administrative, executive and financial role of local authorities in the country.²

It was anticipated at that time a re-organization of the local government structure would enable the local authorities to work more independently and also to function as partners of the centre, instead, of being agents of the Central Government. A closer examination of the developments in the local government system, however, reveals that the local authorities were not able to obtain the expected autonomous status and had to remain as the agents of the central authority of the country, functioning under an over centralized structural organization. Moreover, an analysis of the development in local government since 1856 reveals that from its inception, local authorities had to function under the control of the central Government. Recent developments, especially in order to decentralize the administration and to devolve the central authority to regions, further emphasise that the nature of local authorities had not changed due to these developments. Accordingly, it could be argued that a detailed study of the developments in local government in Sri Lanka indicates that the transition had not paved the way for an

autonomous system of local government. In this article, an attempt would be made to justify this argument and in order to meet this we would first be drawing our attention to discuss the developments which took place during the pre and post independence era. In Part II it is intended to examine the decentralized system of government and its effects on the local government institutions. System of devolved government under present Provincial Councils scheme and the relationship between Central local government and Provincial-local government in Sri Lanka would be evaluated in Part III.

I. Developments in Local Government and the pre and the post independence regime.

At the beginning of the 19th century there was no system of local government in the country, and until the appointment of the Colebrooke Cameron Commission nothing occurred with regard to the re-establishment of local government. The primary purpose of the appointment of the Colebrooke-Cameron Commission was in no sense to develop the local government in the country.³ Its main object was to recommend the changes that should take place in the judiciary.⁴ However, Colebrooke was impressed by the ancient local government institution of *Gamsabhawas*,⁵ and his opinion was that petty thefts and litigation disputes among cultivators of the respective villages should be submitted to the arbitration of this local government institution.⁶ In this respect, Colebrooke repeatedly requested the successive Governors to revive the ancient system of '*Gamsabhawas*'. In his recommendations, Colebrooke emphasized:

"From the peculiar constitution of the Village Communities composed as they often are of people belonging to particular castes, their ancient usage may be preserved, and it would be satisfactory to them if the appointment of the headman of each village community or parish should be made on the nomination of the inhabitants who are proprietors of land or houses."⁷

Again Colebrooke referred to these recommendations in September 1832, in a communication to Goderich:

"In a paper which I have since drawn up, I have stated the desire of the native inhabitants that means might be afforded to them of summary decisions of the numerous petty cases which arise and which in the remoter parts of the country it is extremely inconvenient to them to be obliged to refer to the regular courts. I consider that the ancient mode of referring such cases to a *Gamsaba* or Village Council would be advantageously preserved where it is established and restored where it has been superseded and I refer to the several petitions of the inhabitants in support of my opinion that it would be acceptable to them. The person composing the village courts (*Gamsabha*) should be duly registered and the headmen of the village or another qualified person should preside in it to promote regularity in its proceedings."⁸

These recommendations however, were not implemented and the Village Councils were not established in the island until 1856. In the meantime a report was submitted by Bailey, the Assistant Government Agent of Badulla at that time and who was interested in litigation work regarding the dilapidatory state of ancient irrigation work in the island and the major role which could be attributed to the *Gamsabhawas* in resuscitating these works.⁹ He proposed the grant of powers to the *Gamsabhawas*, presided over by the Government Agent or his assistant, to deal summarily with breaches of irrigation rules and inflict fines upto \$2.¹⁰

Until the arrival of Sir Henry Ward, as the Governor of British Ceylon, no attempts were made to establish Village Councils as a local Government institution in the country. In 1856, Village Councils were introduced under the Paddy lands Irrigation Ordinance, which was enacted chiefly to facilitate the revival and enforcement of the ancient customs regarding the irrigation and cultivation of paddy lands.¹¹ An interesting point to note in this whole episode was the high recognition granted to Bailey's report on the resuscitation of Village Councils. As pointed out earlier, although Colebrooke had recommended the resurrection of the ancient institution of *Gamsabhawas* the Village Councils under the paddy Lands Irrigation Ordinance was primarily based on suggestions made by Bailey in his report.¹²

It has to be remembered at this juncture, that this was the period of local Government reform in England. The Poor Law Amendment Act of 1834 was the starting point of this period which was followed by the Municipal Corporation Act of 1835,¹³ and the Public Health Act of 1848, which established Local Boards of Health. Under the Poor Law Amendment Act, provision was made for the election of local boards of guardians,¹⁴ which had been introduced as a 'local ad hoc authority'¹⁵ with a central body of Poor Law Commissioners.¹⁶ Hart and Garner describe, this first reform of English local Government in the 19th Century, as an Act which initiated a growing system of central control.¹⁷ The poor law amendment Act of 1834 in England was not only a great landmark in the development of modern local government in England, but also could be regarded as a reform which influenced the development in local government in British Ceylon. Accordingly, it would be said that the introduction of Village Councils was the beginning of the modern system of local government in Sri Lanka. Therefore, first we would examine the nature of these councils before drawing our attention to the significant features of other local government institutions established after the Village Councils of 1856.

1. The Village Councils

The Village Councils, established under the Paddy Lands Irrigation Ordinance, no doubt were institutions with tight central control. Government Agent or his Assistant of the province was appointed as the President of the Council,¹⁸ which consisted of not less than three or not more than thirteen members.¹⁹ The selection of members was decided not by popular vote, but solely at the discretion of the President of the Council.²⁰

The Government Agent, it should be noted, was the Chief administrative officer of a province appointed by the Central Government. It is thus clear that the Village Councils functioned under the direct control of the central authority. The functions of the Village Councils, further emphasise the important role attributed to the Government Agent of a province.

The Village Councils were convened exclusively to inquire into the breaches of irrigation rules and to punish the offenders.²¹ Under the Irrigation Ordinance, no Village Council was convened without a requisition by the villagers of the respective area. Nevertheless, the Government Agent had a discretionary power to convene a Village Council for a particular district.²² A Government Agent had the right to call a public meeting of proprietors of paddy lands situated in any district either when it appeared to him advisable or upon a requisition signed by not less than the ten proprietors of paddy lands in any village.²³

The purpose of this meeting was to determine by majority vote, whether the ancient customs of the said district with regard to the irrigation and cultivation of paddy lands and the maintenance of the water rights of such proprietors could be observed and enforced.²⁴ If at this meeting, it was determined that it would be expedient to revive and enforce the ancient customs in that district, then the proprietors of the lands in the same area had to appoint a committee, consisting of not more than 5 nor less than 3 proprietors to be associated with the Government Agents for the purpose of drawing a collection of such customs.²⁵ When the customs were drawn, the Government Agent submitted them to the Governor for the approval, amendment or disallowance, of the Governor, with the advice of the Executive Council, and if the rules were approved, notice of such approval was given by Proclamation and published in the *Government Gazette*, and these rules became binding upon all properties of paddy lands in the said district.²⁶ If a complaint was made to the Government Agent that a person residing within the province, had committed a breach of any of the rules, then the Government Agent had to give notice to the village where the party complained against was residing or where the act was alleged to have been committed. The inquiry was held by the village Council at a place and time appointed by the Government Agent and at the close of the inquiry, if the Village Council was of the opinion that the party complained against had committed a breach of rules and if this opinion was concerned with the Government Agent, the Village Council awarded damages not exceeding by sum of forty shillings.²⁷ Whenever a person was adjudged by a Village Council to pay a sum of money, the President of the Council could transmit to the Police Magistrate of the district in which such person resided and order 'diverting payment thereof to be made into Police Court of such district' and if payment was not made the Police Court was to 'proceed to enforce the same and the charges relating to the recovery thereof' and to deal with the person liable to make the same in such manner as if a penalty for a like amount had been imposed on him by the said Police Court.²⁸

The proceedings before a Village Council was summary and free from formalities of judicial proceedings and no advocate, proctor²⁹ or agent was permitted to appear on behalf of any complainant or defendant or other person.³⁰ No appeal to the Supreme or any other court against the decision or award of any Village Council was allowed, and no injunction was issued by any such court for the purpose of preventing the execution of any order, decision or award made by any Village Council.³¹

The powers granted to the Provincial Government Agents over Village Councils, indicate very clearly that the final authority was laid with the Central Government. Nevertheless, the practical problems of these Councils, on the other hand demonstrate that it was inevitable to have some sort of control over the councils in order to maintain the proposed scheme of administration and taking into account the inexperienced nature of newly formed Village Councils, it appears to be a reasonable inclination of the Central Government to empower the Government Agent to have authority over the Village Councils. The report of the Government Agent, Matara, for the year 1871, indicates some of the problems he had faced in administering these councils. This report emphasises to a certain extent the necessity of having supervisory powers over local government institutions at least at the initial stage.

"Each year shows that incessant personal attention on the part of the Assistant Agent is necessary to carry out irrigation works by villages. To simply order the Mudaliyar or Headman to carry out any work may sound very fine but practically the results are small unless the Headmen be encouraged and supported by the Assistant Agent taking an active interest in their efforts, if the villagers see this and know that once they agree to any undertaking every one must contribute and that no shirking, is allowed, all will combine cheerfully to carry out the work. But endless watching and numerous inspections are necessary and many difficulties arise...."³²

2. Developments of Local Government during 1861-1980

A significant feature in local government during the period under review was the introduction of a number of local government institutions in the country. Road Committees,³³ Municipal Councils,³⁴ Village Communities,³⁵ Local Boards of Health,³⁶ Small Town Sanitary Boards,³⁷ Urban, General and Rural District Councils,³⁹ Urban⁴⁰ and Town Councils⁴¹ were thus introduced, for the purpose of carrying out local government functions. An analysis of the introduction of these institutions indicates two basic features: firstly it seems that the Government had no final decision as to the types of local government institutions that should be established in the country. If it was felt by an important Government servant, that a certain type of work should be carried out and for this purpose if it was felt that the establishment of a local government authority would be useful, arrangements were made for the implementation of such a council based on the frame work, taken from

a similar type of an authority in England. For instance the Public Thoroughfares Ordinance which created Provincial and Road Committees was enacted for the purpose of construction and maintenance of roads in British Ceylon. Introducing the Ordinance, Earl Grey, the Governor of British Ceylon in 1860/61, had said:

"The construction and maintenance of roads was one of the heaviest charges upon the Colonial Treasury; yet, so far from its being advisable to curtail (this) workit was of the highest importance to the progress and prosperity of Ceylon that the roads should be improved and many new ones made."⁴²

Due to this reason, unlike the local government system in England, Ceylonese local authorities were mainly based on a single tier system and was overflowing with small types of local government institutions scattered throughout the country. Most of these institutions became experimental and survival was limited only for a short period. With the introduction of the Urban Councils in 1939⁴³ Local Government Board established in 1920 was abolished. In 1940, Town Councils⁴⁴ were established and along with this introduction a unified system of local government institutions consisting of Municipal Councils, Urban Councils, Town Councils and Village Councils for the larger cities, cities, towns and villages respectively came into being with an island wide operational network.

As pointed out earlier, the most outstanding feature of all these Councils was the excessive power granted to the Government officials under the respective ordinances. In most of the Councils, the Government Agent was appointed as the Chairman and in his absence the Assistant Government Agent had to take over his functions. Moreover, the Governor of the island had the power to appoint either the Chairman or the Councillors of the local authority or in certain cases the Governor appointed both the Chairman as well as the other members of the Council.

The following instances provide ample evidence on the above point. A provincial Road Committee consisted of a Chairman, a Secretary and three to five members.⁴⁵ The Government Agent of the province was the Chairman of the Committee,⁴⁶ and the assistant to the Government Agent at the principal station in the province or the person who was acting in that capacity was the Secretary to the committee.⁴⁷ The Government Agent of the province and the Commissioner of Roads were the official members.⁴⁸ The District Committee consisted of the Government Agent or the Assistant Government Agent of the District as the Chairman.⁴⁹ An attempt was made to introduce the election principle in 1865, with the introduction of the Municipal Councils Ordinance, making provision that one half of the number of members in the Council had to be elected members. However, in practice, especially at the outset, the Governor appointed the Chairman and the majority of members of the Municipal Council. For example, in 1866 the Colombo Municipal Council had nine elected and 5 nominated members, (as could be seen from the Statistical data tabulated below). Gradually the number of nominated members was increased equalising the numbers of elected and nominated members.

Furthermore, all the nominated members of the Council were officers who were holding Government posts such as the Government Agent, the Principal Assistant of the Public Works Department, the Principal Assistant of the Surveyor General's Department etc.

Table 1 : Statistical data of elected and nominated members of Municipal Councils from 1923-1927

Year	Council	Elected members	Nominated members
1923	Colombo	10	10 (including Chairman)
1923	Galle	5	5
1923	Kandy	5	4 (including Chairman)
1926	Kandy	5	4 (" ")
1927	Colombo	10	12 (" ")

(Source: *Administrative Reports of the Chairman, Municipal Council Colonial Office Records, London*)

Under the Municipal Councils System provision was made to elect the Mayor and the Deputy Mayor only in 1935.⁵⁰

The village Communities introduced in 1889, had the Chief Headman, who was a Government officer, as the Chairman,⁵¹ and the Government Agent or the Assistant Government Agent, who were the Co-ordinating Officer of the Central Government located in provinces was the Chairman of the Local Boards of Health & Improvement.⁵²

The Sanitary Boards on the other hand were purely bureaucratic institutions, consisting of the Government Agent as the Chairman, the Senior officers in the district of the Public works and the Medical Departments and not more than four nor less than two members again nominated by the Governor.⁵³ Again in similar fashion the Local Government Boards, established in 1920, consisted of a Chairman who was a public officer and four official and four unofficial members.⁵⁴ All these officers, official and unofficial, including the Chairman, were nominees of the Governor.⁵⁵

As pointed out earlier until the establishment of Urban and Town Councils, the Governmental interference through the appointed Government Agent as the Chairman, disappeared granting a few autonomous powers to the local Government institutions. For instance under the Colombo Municipal Council (Constitution) Ordinance No. 60 of 1935, a new Constitution was given to the Colombo Municipal Council, which provided for the election of a Mayor and also made provision for its application with the necessary modification to any other Municipal Council.⁵⁶ Following the principles set out for the development of local government in the

Donoughmore Report, namely, that the official element, if it was to continue at all, should be only advisory, provision was made to have an elected Chairman, debarring minor or chief headman from membership of Village Committees.⁵⁷ Further, under the Urban⁵⁸ and Town Councils Ordinances⁵⁹ the Government Agent or A.G.A. ceased to be the ex-officio Chairman or a member of the council and the elective principle was introduced in selecting a chairman and the members of the Council.⁶⁰

Although these changes, made the local authorities function independently with elected councillors, it did not release totally, the authoritative power of the Central Government, directed over the local councils. The government Agent had the power for overall supervision of local authorities, and with the developments of local government under the recommendations of the Donoughmore Commission, local authorities were placed under the direct supervision of the Assistant Commissioners of Local Government. These Officers it should be noted were Government Officers who functioned under the Commissioner of Local Government. An examination of the powers of the Assistant Commissioner reveals that, his approval was essential for the local authorities to carry out their functions. While the Urban, Town and Village Councils were under the direct supervision of the Assistant Commissioners of Local Government, the Municipal Councils were subject to the supervision of the Minister. Although it has been said that⁶¹ the supervision and control exercised by the Assistant Commissioners of Local Government over the Urban, Town, and Village Councils were removed by the enactment of Local Authorities (Enlargement of Powers) Act, No. 8 of 1952, it is difficult to show that the overall supervisory power of the Assistant Commissioner was taken over after the introduction of this Act. Examinations of the power of Assistant Commissioners reveal that, even after 1952, they had the power to inspect any public building, immovable property or institution used, occupied or carried on by or on behalf of the Council or even to request any Council to furnish accounts of income and expenditure of the Council or any such information as may be considered necessary by the Commissioner of Local Government.⁶²

It is clear from the preceding paragraphs that the Central Government was empowered to supervise and control the local authorities through the Commissioner and Assistant Commissioners of Local Government. Further, the developments since the enactment of the Paddy Lands Irrigation Ordinance in 1856, indicates the centralizing tendency of the local Government administration in the island. With these two broad aspects in relation to local government, in mind, now we turn to examine the developments which took place during the period from 1980 to 1987, in which attempts were made to decentralize the local government administration of the country.

II. Era of decentralized administration: developments during the period 1980 to 1987

By the year 1978, the local government system in Sri Lanka comprised of four types of Councils. Village Councils were functioning at the grass root level, which could be identified as the lowest type of council in the local government institutional hierarchy and in 1978 there were 549 Village Councils in Sri Lanka. Next in the hierarchy was the Town Councils for smaller town areas numbering 83. With the establishment of Development Councils in 1980, under the Development Councils Act No. 35 of 1980, the Town and Village Councils were abolished.⁶³ The 24 Development Councils established throughout the country absorbed the powers and functions of the 632 Town and Village Councils. This reduced the system of Sri Lankan local government to two categories in place of four: namely the Municipal and Urban authorities. It could be argued accordingly, that the functions carried out under a system of local government institutions, especially at the Village level was taken over by an institution which was not formed in the pattern of a normal local authority.⁶⁴ Further the Development Councils, introduced for the purpose of decentralizing the administration and making the general public participate in administrative decisions relating to their areas were in fact branches of the Central Administration, making them bureaucratic centres. In order to justify this argument it is necessary to examine the constitution and composition of Development councils.

The following analysis will reveal that, the development which took place during the period under review did nothing in effect to change the supervisory powers of the central Government over the local authorities of the country.

Development Councils, unlike the local Government institutions such as the Municipal, Urban, Town and Village Councils had a structure comprising *Gramodaya Mandalayas* at the grass root level, *Pradeshiya Mandalayas* in every Assistant Government Agent's Division and Development Councils based on each district.⁶⁵ The *Gramodaya Mandalayas* consisted of the Chairman,⁶⁶ the President or the Head of non-political voluntary organisations, such as Rural Development Societies, Community Centres, Women's Societies, Credit Societies, Religious Societies etc.⁶⁷ However, these members, had no power to vote at any meeting of the *Gramodaya Mandalaya*. The *Pradeshiya Mandalayas* consisted of the Chairman of every *Gramodaya Mandalaya* of the area.⁶⁸ The Development Councils consisted of a District Minister, elected and appointed members and an Executive Committee.⁶⁹ According to the Development Councils Act:

"A Development Council consisted of the following:

- (a) the members of Parliament for each administrative district for where such Council was constituted,⁷⁰ and

- (b) such number of councillors elected on the proportional representative system.⁷¹

Moreover, the President of the Republic had the power to decide the number of elected members in a Development Council.⁷² This was in accordance with the condition that the number so specified by the President to be elected had to be less than the number of members of Parliament elected for the administrative district for which a Development Council was constituted.⁷³ The only exception for this provision under the Development Councils Act was,

"Where the number of members of Parliament elected for the administrative district is less than three, the president shall specify such number of members which together with the number of members of Parliament elected for such administrative district shall be not less than 5 and for such purpose he may specify such number of members which may exceed the number of members of Parliament elected for such administrative district".⁷⁴

In most of the Councils, the number of ex-officio members were higher than the elected members. However, one could argue that although the Development Councils comprise nominated members, they too belong to the category of democratically elected members, as they were Members of the Parliament who were elected by the people in the 1977 General Election. Nevertheless, it could be counter argued that although, the nominated members were elected by the people this was in no sense for the membership of the Development Councils.

The District Minister who was the chief of a Development Council was the link between the centre and the district and acted mostly as the representative of the Central Government. There were a few prominent features in the District Ministry system which confirm the theory that he was more a representative of the Government, than a representative of the people of the district. The District Minister was appointed by the President, and generally he had to be a member of the Parliament of the Government Group. There was no necessity for the Minister to be the District Minister of the same district in which he was elected as a member of Parliament.⁷⁵ The District Minister was the key figure in the Development Councils system as his powers included the formulation of the District Development Plan, maintaining and evaluating its implementation, identifying bottle necks, advising on corrective action and directly supervising inter-departmental activities in the district. The most important role of the district Minister at the district level was the involvement with the Executive Committee of the Development Council. Under the Development Councils Act of 1980, provision was made for an Executive Committee for the Council. According to the Act,

"There shall be an Executive Committee of a Development Council consisting of the District Minister, the Chairman of the Development Council and not

more than two other members of the Council, appointed by the District Minister in consultation with the Chairman."⁷⁶

The Act further provided:

"The District Minister shall be the head of the Executive Committee and shall in consultation with the Chairman and with the Concurrence of the President, determine the nature of the functions to be assigned to each member of the Executive Committee."⁷⁷

The executive power of the Development Council was vested with the Executive Committee, making it the back-bone of the whole structure of the Development Council system. According to the Development Councils Act, the *Gramodaya Mandalaya* need to submit its recommendation in respect of the exercise, discharge and performance of their powers, functions and duties to the *Pradeshiya Mandalaya* to consider such recommendations and submit them to the Development Council or the Executive Committee of the Council for final consideration and recommendation. Thus as pointed out by the Prime Minister in 1986, the District Minister and the Executive Committee was actually an extension of the power of the President and his cabinet to the district. The District Minister who was appointed by the President represented the Cabinet and he acted on the direction of the President and the Cabinet.

It is thus clear that the intention of the government to introduce a decentralized system of administration through the establishment of Development Councils was a total failure. The introduction, in a way hindered the progress of the system of local Government we had upto 1979, as the Town and Village Councils, were abolished with the establishment of Development Councils. Village Councils were quite popular among the villages, and had been functioning over a century as a traditional local body. Although in place of Town and Village Councils, Development Councils were brought in, it could be argued that, Development Councils were different from traditional local government institutions. It was chiefly a development agency which had power to formulate plans and implement them for the development of the district. Furthermore, Development Councils were empowered to carry out 15 important subjects which were earlier allocated exclusively to Ministers. These subjects included agrarian services, agriculture, co-operative development, cultural affairs, education, employment, fisheries, food, health service and housing.⁷⁸ This differed from Municipal, Urban, Town and Village Councils whose functions were restricted to activities such as environmental health, cleansing, scavenging and provision of some common amenities.

However, the whole system of Development Councils was a major failure due to political and financial constraints. Firstly, the Development Councils in the Northern and Eastern provinces ceased to function as a result of the provision brought forward under the 6th amendment to the Constitution. The District Mini-

sters resigned and later due to financial constraints even the appointed Special Commissioners found it difficult to carry out their functions. Some of the Councils in the wet zone managed up to 1989, and under the Development Councils Repeal Act No. 14 of 1989, all the Development Councils were abolished in 1989. Accordingly, it could be said that the local government system faced a major set back during the period under review by the establishment of Development councils.

III. Devolution of authority ; the establishment of Provincial Councils : 1987 - onwards

During the period under review two types of institutions were introduced which had connections with the local government system of the country. *Pradeshiya Sabhas* were established under the Act No. 15 of 1987 and Provincial Councils were introduced, as a result of the Peace Agreement between the two countries of India and Sri Lanka.

Pradeshiya Sabhas were established with a view to provide greater opportunities for the people to participate effectively in decision-making process relating to administrative and development activities at a local level. Accordingly, *Pradeshiya sabhas* were established in Assistant Government Agents' Divisions, excluding areas comprised in a Municipal or an urban Council. They consisted of a Chairman, Vice-chairman and elected members, had power over and administration of all matters relating to public health, public utility services and public thoroughfares and generally with the protection and promotion of the comfort, convenience and welfare of the people and all amenities within their area.

Provincial Councils were established in 1988, under the thirteenth amendment to the Constitution and the Provincial Councils Act, No., 42 of 1987. The thirteenth amendment to the Constitution provides for the establishment of a Provincial Council for each province.⁷⁹ The general structure of the Provincial Council is determined under the Provincial Councils Act, having regard to the area and population of the province.⁸⁰ A Governor will be appointed by the President of the republic for each province⁸¹ and shall hold office during the pleasure of the President.⁸² Moreover, the Governor is empowered to dissolve a Provincial Council.⁸³ A Board of Ministers consisting of the Chief Minister and not more than four other Ministers will assist the Governor of a Province in the exercise of his functions.⁸⁴

The powers and functions of the Provincial Councils are listed in the Provincial Council list, known as List I. This includes Police and Public Order, Planning, Education and Educational Services, Local Government, Provincial Housing and Construction, Social Services and Rehabilitation, Agriculture and Agrarian Services, Rural Development and Health. The functions listed under List II which is the Reserved list is left exclusively for the Central Government. The functions vested under List III relate to the centre as well as the provinces. A Provincial Council will

have powers to make statutes on any matter in the Provincial Council List and after consultation with Parliament on any matter in the concurrent list. A Provincial Council has no power to make statutes with respect to any matter in the reserved list.

With the establishment of Provincial Councils, preparations were made to liquidate the Department of Local Government at the end of 1989 and according to the Provincial Councils list under the Ninth schedule of the constitution, Local Government has become one of the subjects belonging to the Provincial Council System. Upto 1988 the administrative powers of Local Authorities were handled by the Central Government through the Ministry and the Department of Local Government and the remaining Municipal and Urban Councils were functioning under a unified system of Government.⁸⁵ However, with the introduction of Provincial Councils, the local authorities scattered throughout the country came under the supervision of Ministers of Local Government located in different provinces of the Country. For instance, the Municipal Council of Colombo would function under the Minister of Local Government of the Western Province, where as the Kandy Municipal Council will report directly to the Minister of Local Government of the Central Province. This indicates that the, introduction of Provincial Councils, has created a major change in the field of Local Government, by introducing a decentralized form of administration in place of the former unified systems of local authorities.

In addition to the Provincial Ministers of Local Government, a Ministry has been formulated for the provincial Administration at the Government level. The Chief Minister and the Board of Ministers fall under the supervision of the Minister of Public Administration at the centre, which should enable the central authority to keep pace with the operation of the provincial centres. The Provincial Governors, on the other hand, have to keep in close touch with the progress of Provincial Councils, and the Governors should also furnish monthly reports to the President on all aspects of the Council's progress.⁸⁶ This reveals that the, local Government institutions of a province, could come under the supervision of a Provincial Minister, Provincial Governor as well as the Minister of Public Administration at the Central Level. List I of the Ninth Schedule, very clearly points out tha the system of Local Government would directly fall under the supervision of provincial Councils. According to the Provincial councils List:

"Local authorities for the purpose of Local Government and Village administration, such as Municipal Councils, Urban Councils, and *Pradeshiya Sabhas*, except that the Constitution, form and structure of local authorities, shall be determined by law; supervision of the administration of local authorities established by law, including the power of dissolution (subject to such judicial inquires into the grounds for dissolution, and legal remedies in respect thereof as may be provided by law, and subject to provisions relating to audit as may be provided by law).

Local authorities will have the power vested in them under existing law. Municipal Councils and Urban Councils Ordinance and the *Pradeshiya Sabhas* will have the powers vested in them under existing law. It will be open to a provincial Council to confer additional powers on local authorities but not to take away their powers.

Gramodaya Mandalayas will have the powers vested in *Gramodaya Mandalayas* under existing law. It will be open to a Provincial Council to confer additional powers on *Gramodaya Mandalayas*.⁸¹

These provisions relating to Local Government confirm the fact that, with the establishment of Provincial Councils the local government institutions of this country lost its unified system. Two major points would be raised in justifying this argument.

Section 4(2) of the list I of the Ninth Schedule, had made provisions for Provincial Councils for supervision of the administration of local authorities inclusive of powers to dissolve a Municipal council. Accordingly, if the Minister is not satisfied, a provincial Minister for Local Government would have the power to dissolve a local authority within his province. Although, the necessary judicial inquiries into the grounds for dissolution would be carried out, it could be argued that an unified system relating to dissolution which applied prior to 1987 would not be used under this system. For example, before 1987, as all the Municipal Councils in the country had to function under the Ministry of Housing and Local Government, the Minister for Local Government had the sole authority to dissolve a Municipal Council if any of these councils had contravened any of the provisions under S. 277 of the Municipal Councils Ordinance. The overall supervision and the final decision was vested in one person namely the Minister for Local Government. At present, in place of a single person, Ministers for Local Government would take decisions in case of dissolution and even on similar grounds a decision to dissolve the Colombo Municipal council may vary from the decision in dissolving the Kandy Municipal Council. Similar differences could arise with regard to powers of local authorities as Provincial Councils have the power to confer additional powers on local councils. This too will again create a problem in relation to the consolidated systems of local government in the country. Presently the powers and functions of Municipal councils, Urban Councils and *Pradeshiya Sabhas* are listed under their respective Ordinances and an Urban Council in the North Central Province, enjoy powers similar to an Urban Council in the Western Province. However, if the Western Provincial Council decides on conferring additional powers to the Municipal, Urban and *Pradeshiya Sabhas* and similar decisions are not taken in other provinces, differences will occur relating to powers and functions of local authorities in different Provinces. Moreover, if the Western provincial Council confers additional powers only to some of the local authorities within that province, differences could arise even among the local authorities within the province.

Conclusion

Since the beginning of modern reforms in local government in 1861, the local authorities have been functioning in the country for over a century undergoing numerous types of reforms. Similar to the British experience, local authorities in Sri Lanka, are under the supervision and authority of the Central Government. Since the 1978 reforms, local government institutions were reduced mainly to two institutions namely Municipal and Urban Councils, however without any changes of the supervisory powers the Central government had over the local councils. Local authorities faced a further challenge and comparatively the most vital, with the establishment of Provincial Councils in 1988. This made the local authorities to function under the supervision and guidance of provincial authorities. The reforms which came into effect since 1988, not only made vital changes in the system of local government but also is creating conflicts in the local government sector.

However, it is not feasible to identify the exact relationship between the provincial government and the local authorities under the new Provincial Councils system at present, as the devolution of power to provincial administration had not yet been completed and with the passage of time we should be able to identify the relationship between the Provincial sectors and the local government institutions in Sri Lanka.

The transition of local government, under the Provincial Council administration, could be fully analysed only with some experience of the practical aspect of the functioning of Provincial Councils, and for this purpose it is essential to analyse the functioning of Provincial Councils along with the local government institutions of the country for another couple of years.

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21. *Ibid.*, s. 10
22. *Ibid.*, s. 3
23. *Ibid.*
24. *Ibid.*
25. *Ibid.*, s. 5
26. *Ibid.*, s. 8

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28. *Ibid.*, s. 14
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