

Challenges Faced by Eastern Provincial Council of Sri Lanka

(1), (2), (3) Department of Political Science, University of Peradeniya, Sri Lanka.
(e-mail: yosivan@yahoo.com)

Abstract: This paper attempts to explore the challenges faced by the Eastern Provincial Council (EPC) of Sri Lanka with regard to human and fiscal resources. It was found that, EPC had not been bestowed the enough opportunities to establish its own administration. In allocating staff to the EPC attention had not been paid to provide staff with necessary technical skills. EPC lacks control over the executive level personnel supplied by the central government. Above all, the fiscal devolution has not brought a meaningful allocation of finances to meet the general functions assigned to the EPC, thus making it dependent largely on the central government's funds.

Keywords: Eastern Province, Eastern Provincial Council, Human Resource, Fiscal Resource, Subnational governance

Introduction

Sub national governments are an important feature of modern States that strive to maintain an effective and efficient administration of governmental affairs. In particular, this has become very common in States with large land area and ethno-cultural diversity. Sri Lanka (officially, The Democratic Socialist Republic of Sri Lanka) is a tropical island, comprised of a total terrain of 65,610 square kilometers. Though comparatively small, it is a land of diversity-diversity of peoples, scenery, climate, and religions. Sri Lanka became an independent state in 1948, after nearly four and half centuries of colonial domination (from 1505 to 1948), by the Portuguese, the Dutch and the British. The centralized system of Sri Lanka, failed to satisfy the aspirations of the people and there was growing insistence on decentralization of administrative processes in order to achieve rapid economic and social development of the country (). In Sri Lanka, the

Provincial Council system was introduced and they are being considered as sub-national governments. The EPC is one of them. Better sub-national governance can also be defined as the effective and efficient exercise of authority and powers at sub-national level with the ample scope for the participation of the local people.

The Eastern Province comprises 15 percent of the land area of the country, 25 percent of the coastal belt and 8 percent of the country's population. The three districts in the eastern province are; Ampara, Batticaloa and Trincomalee. Eastern Province has a multi ethnic Population composition. According to the 2012 census report, 617,295 (39.79%) Tamils, 569,738 (36.72 %) Muslim, and 359,136 (23.15%) Sinhalese are living in the eastern province. There are social, economic, political and religious patters deeply-rooted in the region that make the Tamil speaking parts of Batticaloa and Ampara Districts, and even the southern parts of Trincomalee District culturally and sociologically distinct from Jaffna and from the Upcountry Tamil region (Neville 2010, p.170). There are 43 Local Authorities administering and delivering the local government services in the eastern province. They are the 2 Municipal Councils, 4 Urban Councils and 37 Pradeshiya Sabhas.

The Proclamation "merging" the Northern and Eastern Provinces was issued on 08.09.1988 (Wickramaratne 2010, p.09). Though the merged of the North-Eastern Province never officially acknowledge. In 2006, the Proclamation made by the President "merging" the Northern and Eastern Provinces was challenged (Ibid p.9-10). Consequently on 16th October 2006, the North-East Province has been de-merged into two separate provinces (Northern Province and Eastern Province) and administration of the two

provinces was brought under two Governors (). Then following the end of armed hostilities in the Eastern Province in July 2007, elections to the EPC were held on 10th May 2008 (CPA 2010, p.22). The EPC experiencing increasing pressure to provide accessible and affordable infrastructure and basic services in the war ravaged areas. Indeed adequate institutional capacity is prerequisites to getting things done.

Material and Methods

Non-probability sampling (purposive sampling) was used to select the respondents meant to collect primary data. Also in-depth and semi-structure interview methods were used. Secondary data also took significant place in this study. They were collected from relevant existing literatures such as books, constitutional law, Act, case laws, previous research works, seminar papers, reports, journal and official website of EPC, local government, and related private and non-profit sectors. The study was carried out based on both qualitative and quantitative methods. However the qualitative method meant to analyze and interpret data was given priority.

Results

Due to the prolonged civil war that lasted for more than twenty five years, the country faced immeasurable suffering. The Northern and Eastern Provinces of Sri Lanka are mostly ravaged areas by civil war. Consequently many challenges emerged related to infrastructure development, rural development, resettlement, human security, human rights, livelihood and social security. Sub-national governments in war ravaged areas are experiencing increasing pressure from their citizens, civil society organizations, and the media to provide accessible and affordable infrastructure and basic services. Indeed the appropriate provisions meant to strengthen the EPC (sub-national government) are prerequisites to getting things done. However, it was found that, the EPC does not have adequate institutional capacity, thus it faces challenges.

Cadre Creation and Appointment: The Central Government recruits and transfers staff grade

personnel such as Sri Lanka Administrative Service, Sri Lanka Planning Service, Sri Lanka Engineering Service, Sri Lanka Accounting Service, and Sri Lanka Scientific Service to EPC. All the Provincial Ministry Secretaries belong to the centrally organized Sri Lanka Administrative Service. Other staff members come within the Provincial Public Service. The framework with regard to the Provincial Public Service Commission and Provincial Public Service in the Provincial Councils Act is one of the most unsatisfactory features of the Thirteenth Amendment scheme. The Act promotes the control of the Provincial Public Service by the Governor. Further the section 32 of the Provincial Councils Act vests appointment, transfer, dismissal and disciplinary control of such officers (Provincial Public Service) with the Governor of the EPC. As a consequence the elected members of the EPC do not have control over their public officers who are expected to implement the decision of the EPC. Also the nature of the Provincial Public Service Commission is such that it inspires no confidence as to its impartiality and independence. It is symptomatic of the weak institutional framework that no one makes any material distinction between the Governor and the Provincial Public Service Commission (CPA 2010, p.60).

The Provincial Public Service Commission appoints the other grade personnel. Also it deals with transfers, promotion, extension, retirement approval, re-instatement, termination of service, conducting exams and interviews for recruitment and promotion. In case of staff grade personnel, they would be recalled by the central government at any time. Another problem is, when a vacancy occurs in a staff grade position, EPC has to wait until the National Public Service Commission or the relevant line ministry to appoint or transfer a new person. Noteworthy, there were delays in appointing the personnel to particular post. Some of the Cadres requested by the EPC were not approved by the Central Government on time. In 2010 and 2011 two Deputy Director (SLPS) Cadres were requested by EPC, but only one cadre was approved.

Skills of Staffs: The inadequacy of the human resource is one of the factors which contribute for the

weak institutional capacity of the EPC. According to the Chief Minister of the EPC, the council had been working towards regional development without a proper development plan. Thus, it faced challenges related to identification of problems, and mobilizations of resources as well as balanced regional development (<http://www.ep.gov.lk/> -Budget Speech 2012). The EPC does not have adequate resources to draft a comprehensive development plan. The need for a comprehensive long term development plan for the eastern province has been widely felt at all levels. However, considering the emerging socio economic situation in the Province a quick initiative was taken and prepared five years plan such as Eastern Development Plan 2012-2016-Volume I, and Eastern Development Plan 2012-2016, Volume III, Sector Analysis. To achieve this task, a team of experts equipped with necessary knowledge and experience was mobilized. The senior officials from the EPC contributed as a working committee to this mobilized team to complete these documents (<http://www.ep.gov.lk/>).

The legislation is thus the framework by which governments of whatever persuasion seek to achieve their purposes. Statutes are necessary for running the EPC. The subject allocated to the EPC cover a range of items, which are of particular relevance to the regional development and Provincial governance. Very recently a legal unit has been established at EPC. They allocated 0.50 million through Criteria Based Grant to establish the unit (EPC Annual Implementation Programme-Status Report-2012). The officials and the elected Provincial Councilors are extremely eager to prepare statutes on an emergency basis. For this purpose 'Statute Drafting Unit' with the necessary human and material resources is pre-required. But the biggest challenge is the unavailability of qualified personnel (Legal Draftsman). EPC is not properly equipped to the specialized task of making statutes.

Human Resource Development: Training is another alternative that can significantly improve the capacity of government institutions. Various training programs have been conducted intending to improve the capacity of EPC's staffs. They obtained multiple training in provincial as well as national level. The EPC established a unit namely Management Development

and Training Department (MDTD) intend to provide multiple training. Mission of the MDTD is to Facilitate Development of the Eastern Province through enhanced public sector competence by serving as premier and principal agent for human resource development.

The NGOs, INGOs and donors also organized various workshop and training programs meant to improve the capacity of EPC's staff. Most of the programs were conducted for the improvement of productivity of their non-staff grade personnel. They are not in a position to implement a comprehensive Human Resource Management (HRM) policy.

Devolved Revenue Power: The decentralization theorem asserts that the assignment of public expenditure powers to Provinces must be determined by adequate finances to meet such needs. Revenue rising powers assigned to EPC include a combination of tax and non-tax sources. Provincial revenue sources have been identified under the Ninth Schedule of Thirteenth Amendment to the Constitution. EPC passed the finance statute in 2008 for devolved revenue and it is in the process of collecting revenue.

Business Turnover Tax (BTT) was the major revenue source of EPC. It has been observed that the operation of the provincial BTT and other similar national taxes resulted in tax on tax. This has caused a high tax burden particularly, on Small and Medium Enterprises (SME) and consumers. With a view to avoiding this complicated tax system, the BTT collected by the Provinces was abolished by the National Budget - 2011 presented before the Parliament. In order to supplement the reduction of revenue collected by the Provinces, a special revenue sharing system was introduced by the National Budget - 2011 (The Finance Commission 2011). To implement this policy decision, Secretary to the General Treasury issued the Fiscal Policy Circular No: 01/2010 on 29th of December, 2010. The Ministry of Finance and Planning decided to transfer 5% of the revenue to the EPC for the implementation of Budget Proposals - 2011. After introduced the New Revenue Sharing System, the actual transferred amount to the EPC was 1,020.62 million Rupees.

Grants from Central Government: The Central Government allocates fund to EPC from the Annual Budget on the recommendation and in consultation with the Finance Commission (FC). The FC is required to consult with and recommended to Government needs of the EP so as to enable allocations from the Annual Budget funds as are adequate to meet such needs of the EPC. Financial transfer to EPC constitutes an annual cycle. It comprises; Assessment of the 'Needs of the Province', Allocation of funds from the Annual Budget and Apportionment of Funds between the Provinces. Furthermore, EPC gets funds through Block Grant, Matching Grant, Criteria Based Grant (CBG), Provincial Specific Development Grant (PSDG), Education Sector Development Project (ESDP) and UNICEF/UNFPA.

The fiscal aspects relates to the assignment of revenues to undertake the expenditure responsibilities arising from the subjects and functions transferred to the EPC. Fiscal aspects also extent to the arrangements to address imbalances in the availability of resources arising from the revenue powers and expenditure responsibilities, usually provided for through intergovernmental transfers (IPPA 2007, p.6). The fiscal resources should be adequate to meet the Eastern Provincial public expenditure. In case of EPC, the fiscal grants which allocated to the EPC through the FC insufficient. Also they were not allocated on time.

The Provincial Council List contains various items relating to taxation and other revenues recoverable by EPC. However, since the main taxes such as income tax, customs duty and the major portion of the turnover tax accrue to the central government. From the total revenue of the Central Government of this country the PCs are receiving only 10% for their development activities, and 90% of the state funds are spent for recurrent expenditure and salaries and maintenance work. Consequently the 90% of the state funds allocated for recurrent expenditure are used to pay the salaries of the public servants once appointed by the Central Government (Bandara 2009).

The Finance Commission at the centre is charged with making recommendations to the government regarding financial allocations to the EPC under the

annual budget. There is, accordingly, heavy dependence by the EPC financially, on the Centre. For instance the higher amount money had been allocated for the EPC in 2011 by the central government (Finance Commission 2011). It was found that the massive amount allocated to EPC in order to implement the 'Eastern Reawaking' programme.

Low Revenue Collection: The Financial Commission (FC) is mandated by the Constitution to focus on achieving balanced regional development. The per capita income is one of the indicators considered by the FC while recommending fund for the EPC. The purchasing power is an important indicator which covers various aspects; namely poverty, economic development capacity and standard of living. It was found that, Per capita income in the Western Province in 2009/2010 is the highest (Rs.11, 561) among all Provinces of the country. Meanwhile the Per Capita Income of the eastern province is low (Rs.5, 663) compared to other Provinces. It may be attributed to the conflict situation existed in the eastern province.

The private sector investment is low in EP. There are issues related with security in the eastern province. In early 2009, UNHCR also expressed its concern regarding the security situation, calling upon the Government of Sri Lanka to investigate reported human rights abuses and urging the relevant authorities to provide adequate security to civilians in the region (UNHCR 2009, p.8). The situation created fear among the private investors. Thus they are not willing to invest in eastern province. Consequently, the revenue collected in EP in 2009 and 2010 are low compared to other Provinces.

Discussions

Due to the prolonged civil war, the country faced immeasurable suffering. Indeed the Northern and Eastern Provinces of Sri Lanka are mostly ravaged areas by civil war. The EPC is experiencing increasing pressure from their citizens, civil society organizations, and the media to provide accessible and affordable infrastructure and basic services. The EPC is expected to be fundamental institutions with the responsibility

for steering the ship of sub-national governance in order to provide better service delivery to the citizens simply because they:

- Get popular legitimacy or mandate to govern their respective localities as they are normally elected by the local people especially in the country with democratic polity.
- Enjoy the authority to make political choice: the choice in policy making, financial resource mobilization (through the collection of revenues from tax and non-tax sources), resource collection for delivery of goods and services at sub-national level and addressing the local issues through the adoption of appropriate mechanism and strategies.
- Work as multi-purpose institutions in the process of delivering services and goods at sub-national levels.
- Enjoy constitutional status
- Exercise statute making power

However adequate institutional capacity is a pre-requisite for EPC to ensure better service delivery within their respective legally recognized territorial boundaries. I was found that, the devolution arrangement did not empower the sub-national government (EPC) to work independently.

In the words of James Gustava Speth, “Whenever change is for betterment, wherever human condition is improving, people point to governance as the key. The better governance is not just national- it is local, it is regional (Provincial) and global” (WHO 2000). Meaningful decentralization is a pre-requisite for effective and efficient exercise of authority and powers by sub-national government. The essence of decentralization is the dispersal of power and functions throughout a country. It also denotes the sharing of powers and functions between the central and local governments.

An organization involves group of people working together interdependently to achieve common goals, managing those human resources is one dimension that can significantly constrain or assist the capacity of organization to perform. UNDP (1998,

p.10) believes that human resources are central to capacity development and is the most critical factor to consider in analyzing capacity. Human resource with sufficient skills is essential for making comprehensive development policy and gain the benefits from other sector meant to regional development. Eastern Province has a pluralist society with different political options. So, sufficient human resources with skills are pre-required to balance pluralism and make good foundation for the policy which is appropriate to the Province. Human resource dimension of capacity relates to the ability of an organization to recruit, utilize, train, and retain employees, especially those who are managerially, professionally, and technically capable. Hence, the EPC must have power over its staff who are managerially, professionally, and technically capable. It would enable the environment to work line with its priority and policy rather than depends on the central government and its personnel.

In allocating staff to the EPC attention had not been paid to provide Legal Draftsman. In 1988, when the Provincial Council system started functioning, there were about 300 laws in force pertaining to subjects in the Provincial and Concurrent list (Wicramaratna 2010). All these referred to the functions and powers of Ministers in the Central Government. But, the EPC could enact very few numbers of statutes since 2008. Therefore, Statute Drafting Units with the necessary human and material resources need to be established at the EPC meant to draft essential statutes.

Availability of sufficient financial resource is an important aspect of devolution of powers. Once the powers are devolved through legislation, EPC cannot proceed further unless they are in a position to meet their financial needs and commitments. Thus, there are arrangements to meet the financial needs of EPC. The EPC gets funds through Devolved Revenue, Surplus on Advance Account Activities, Profits made on enterprises directly run by the EPC, Grants from the Government on the recommendation of the Finance Commission, Grants from Line Ministries and others ways. Indeed the fiscal resources should be adequate to meet the Eastern Provincial public expenditure. In case of EPC, the fiscal grants which allocated to the EPC

through the FC insufficient. Also they were not allocated on time. Further EPC is mostly depending on the Central Government funds except for the modest amount of money they collect as revenue from the citizens of the respective provinces. Therefore, the Government has many chances to control fiscal capacity of the EPC. The central Government controls its (EPC) finance capacity using various methods such as making delays to approve development budget by the Finance Commission as well as slashing significant portions of approved budgets by the treasury etc. This scenario is not appropriate in order to empower sub-national government, thus it should be changed.

Conclusion

The resources capacity arrangements at the EPC have proved what Navaratna Bandara noted in 2000, "...despite the Constitutional devolution, the de facto system in Sri Lanka still resembles de-concentration rather than devolution (Bandara 2010, p.165). This is attributed to the arrangements set by the Finance Commission for organizing central government grants to the EPC and the restrictions upon the EPC to utilize the Provincial Fund where all the Provincial revenue is deposited. The powers on taxation are extremely limited so that the revenue which PC could raise through taxation may not be significant. Further, 90 percent of the funds are coming from central government to the EPC.

However, it is clear from reading the 13th Amendment as a whole, fiscal powers may be exercised by the EPC authorities (both taxation and spending powers), in reality, only at the pleasure of the Central Government. Sri Lanka's experience in fiscal devolution under the Thirteenth Amendment has thus suffered from inadequacies in design as well as in practice, and especially from lack of coherence and commitment in moving from centralized to devolved governance.

The inadequacy related to the human resource provided to the EPC has also contributed to the weak capacity basis of the EPC. The lack of control over the executive level personnel supplied to the EPC is crucial challenge faced by EPC. Statute drafting Units with the

necessary human and material resources are yet to be established at EPC. Finally it is worth noting here, although EPC is facing challenges related to human and fiscal resources, it is expected to provide affordable services to the citizen. Therefore, the central government had better empower the EPC in order to provide better services via sub-national government.

References

- Amarasinghe, Y.R. et al., eds. 2010. *Twenty Two Years of Devolution: An Evaluation of the Working of Provincial Councils in Sri Lanka*. Rajagiriya: Institute for Constitutional Studies.
- Active Citizenship for Development Network., 2011. What, Where and how Much is Government Spending?. [online]. Available at: www.lawandsocietytrust.org/PDF/resource/Briefing_Paper_en.pdf [accessed 20.02.2012].
- Bandara, A.M., 2001. The Administrative Organization and the Public Service. In Amarasinghe, Y.R., ed. *Devolution Experience in Sri Lanka (1988-1998) the Administrative and fiscal implications*. Colombo: National Integration Programme Unit (NIPU). Ch. 3.
- Bandara, A.M., 2010. Provincial Public Administration. In Marasinghe, L., & Wickramaratne, J., ed. *13th Amendment Essays on Practice*. Pannipitiya, Sri Lanka: A Stamford Lake Publication, p. 164-189.
- Centre for Policy Alternative (CPA), 2010. *Devolution in the Eastern province: Implementation of the thirteenth Amendment and public perceptions - 2008-2010*. Colombo, Sri Lanka: CPA.
- Daniel, H., 2008. Subsidiarity in Comparative Perspective. Available at: www.pravo.unizg.hr/_download/repository/Halberstam2.pdf [accessed: 11/02/2012]
- Deputy Chief Secretary of EPC., 2010. *Administrative Report 2010*. Trincomalee, Sri Lanka: EPC.
- Hussain, M.S.M., 2010. *Unique Higher Educational Guide to the Laws of Sri Lanka*. Dehiwala, Sri Lanka: Perpetual Calendar Wizard's Research Centre.

- ICES., 1996. *Sri Lanka: The Devolution Debate*. Colombo: International Centre for Ethnic Studies (ICES).
- IPPA-Institute of Professional Public Administrators. 2007. *The Operational Experience of Fiscal Devolution and Provincial Finance in Sri Lanka- Challenges and options in Getting to devolution and Multi-Level Governance*. Colombo.
- Leitan, G.R.T., 2001. Sri Lanka's system of Provincial Councils. In Amarasinghe.Y.R., ed. *Devolution Experience in Sri Lanka (1988-1998) the Administrative and fiscal implications*. Colombo: National Integration Programme Unit (NIPU).
- Marasinghe, L., 2009. *The Provincial Governor Rights and duties under the 13th Amendment*. Colombo, Sri Lanka: Institute for Constitutional Studies.
- Marasinghe, L. & Wickramaratne, J., 2010. *13th Amendment Essays on Practice*. Pannipitiya, Sri Lanka: A Stamford Lake Publication.
- Ministry of Finance and Planning- Sri Lanka, 2010. Fiscal Policy Circular No:01/2010. [online]. Available at:<http://www.treasury.gov.lk/> [accessed 15. 01.2012]
- Neville Ladduwahetty., 2010. Sri Lanka's National Question- A Collection of Articles. Sri Lanka: Vijitha Yapa Publications.
- Parliament of the Democratic Socialist Republic of Sri Lanka., 1987. *Constitution of Democratic Socialist Republic of Sri Lanka-1978*. Colombo: Government Printing Cooperation.
- Parliament of the Democratic Socialist Republic of Sri Lanka., 1987. *Provincial Councils Act, No.42 of 1987*. Colombo: Government Printing Cooperation.
- Parliament of the Democratic Socialist Republic of Sri Lanka., 1987. *13th Amendment to the Constitution of Democratic Socialist Republic of Sri Lanka, 1987*. Colombo: Department of Government Printing.
- Provincial Planning Secretariat of EPC., 2010. *Administration Report 2010*. Trincomalee, Sri Lanka: EPC.
- Ruana Rajepakse., 2008. *A Guide to Current Constitutional Issues in Sri Lanka*. Rajagiriya, Colombo: Citizens Trust.
- The Government of Sri Lanka., 2010. *Provincial Council System of Sri Lanka*. [online]. (last modified: September 03 2010) Available at: www.priu.gov.lk/ProvCouncils/ProvincialCouncils.html [accessed: 05/10/2011]
- The Finance Commission., 2012. Recommendation to H.E. the President on the Apportionment between the Provinces of Funds to be Allocated from the Annual Budget 2012. [online]. Available at: www.parliament.lk/.../10082012/recommendation_of_the_finance_ [accessed: 18/ 04/2012]
- Uditha, E. & Mahen, G., 2009. *Devolution of Powers: The Sri Lankan Experience*. Colombo-5, Sri Lanka: Kamalabayson Foundation.
- United Nations Development Program (UNDP)., 1997a. *Re-conceptualizing Governance*, Discussion Paper 22. New York: Management Development and Governance Division, Bureau for Policy and Program Support, UNDP.
- Warnapala, W.A., 1997. *Provincial Politics in Sri Lanka- An Analysis of the Southern Provincial Council Council Election - 1994*. New Delhi: Navarag.
- WHO., 2000. *Issue Paper on: Urban Environment Management in Asia and the Pacific* (Regional High-level Meeting in Preparation for Istanbul+5) Available at: www.unescap.org/huset/hangzhou/paper/governance_paper.htm [accessed: 11/16/2011].
- Wickramaratne, J., 2010. The Constitutional Framework. In Amarasinghe, Y.R. et al., eds. *Twenty Two Years of Devolution: An Evaluation of the Working of Provincial Councils in Sri Lanka*. Rajagiriya: Institute for Constitutional Studies. Ch. 1.