



# **STATE STRUCTURE IN SRI LANKA**

**CLAUS KRUSE**

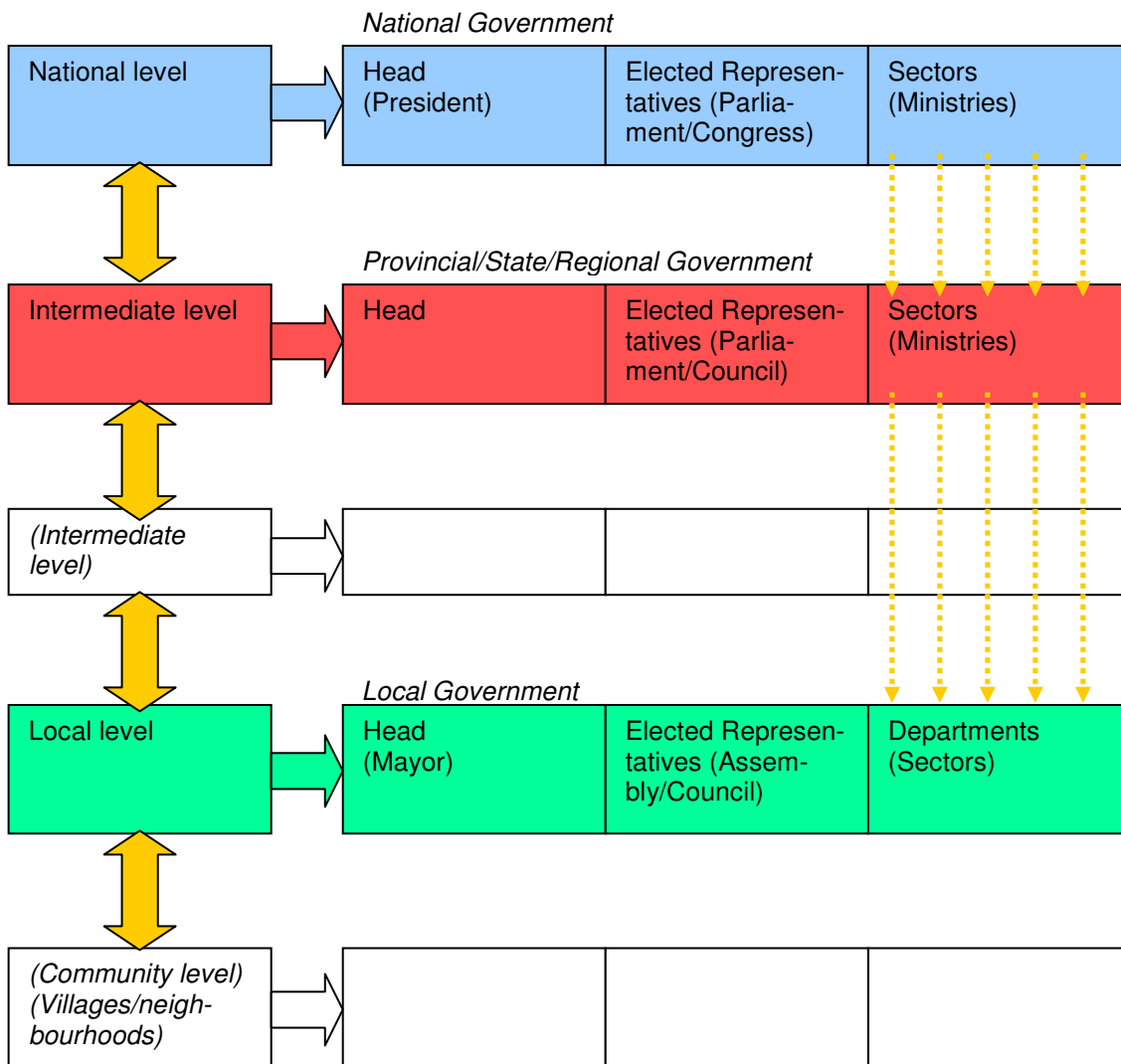
**CIM - CENTRE FOR INTERNATIONAL  
MIGRATION AND DEVELOPMENT**

**NPC - NORTHERN PROVINCIAL COUNCIL**

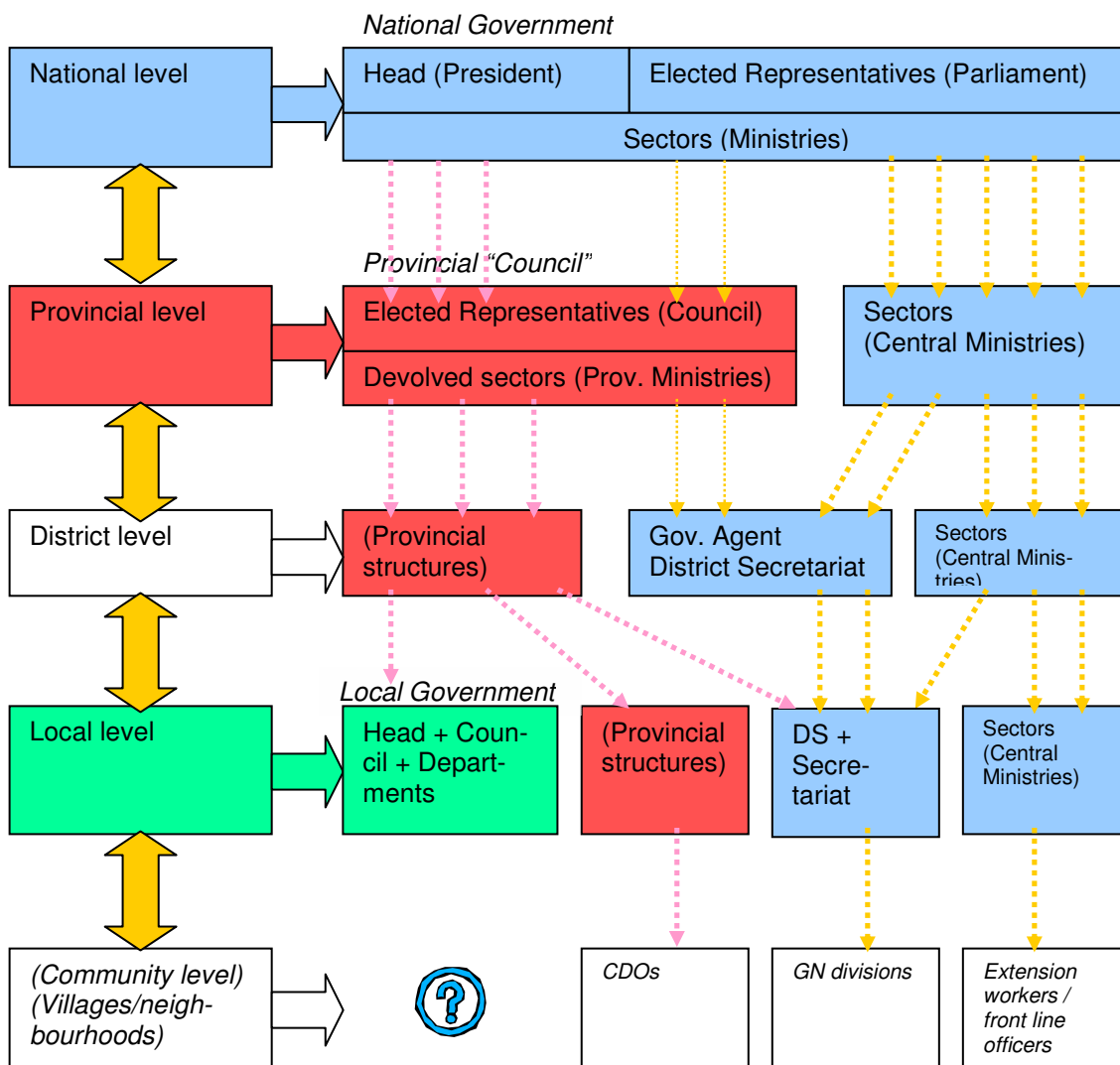
**EPC - EASTERN PROVINCIAL COUNCIL**

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## 1 “STANDARD” LEVELS OF STATE



## 2 LEVELS OF STATE IN SRI LANKA



### 3 SUMMARY OF PROVINCIAL (I.E. DEVOLVED), RESERVED (I.E. CENTRAL GOVERNMENT) AND CONCURRENT (I.E. JOINT) FUNCTIONS AS STIPULATED IN THE NINTH SCHEDULE TO THE 13<sup>TH</sup> AMENDMENT TO THE CONSTITUTION (“LIST I”, “LIST II” AND “LIST III”)

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#### List I Provincial Council List (Functions to be devolved to and carried out by the Provincial Councils)

- Police and public order (unless in the Reserved List)
- Planning (implementation of provincial economic plans)
- Education and educational services (unless in List II or III)
- Local Government (except for constitution, form and structure)
- Provincial housing and construction (other than National Housing Development Authority)
- Roads, bridges and ferries (other than national highways and bridges and ferries on national highways)
- (Certain) Social services and rehabilitation
- Transport (certain aspects)
- Agriculture and agrarian services (mainly extension work)
- Rural development (no further explanations)
- Health (unless in List II or III)
- Indigenous medicine
- Resthouses under Local Government and circuit bungalows under “devolved departments”
- Pawnbrokers (other than provided by banks)
- Market fairs
- Food supply and distribution
- Cooperatives (also appears in List III)
- Land (other than in List II or III)
- Irrigation (other than in List II or III)
- Animal husbandry (certain aspects)
- Promotion, establishment and engagement in income-generating projects (unless contrary to Central Government interests)
- Reformatories, borstal institutions, etc.
- Possession, transport, purchase and sale of intoxicating liquor
- Burials, burial grounds, cremations and cremation grounds other than national memorial cemeteries
- Libraries, museums, etc. controlled or financed by the Provincial Council
- Ancient and historical monuments and records other than those of national importance
- Regulation of mines and mineral development as defined by an Act of Parliament
- (Certain) Corporations
- Regulation of unincorporated societies and associations
- Theatres, dramatic performances, music, cinema
- Sports (other than national sports associations)
- Betting and gambling (excluding taxation)
- Provincial debt
- Offences against statutes (in the context of this list)
- Fees (in the context of this list)
- Electrical energy other than power generated to feed the national grid
- Borrowing of money as determined by an Act of Parliament
- Taxation:
  - Turnover taxes as determined by an Act of Parliament
  - Betting taxes, taxes on prize competitions and lotteries (other than national lotteries)
  - License taxes, liquor
  - Motor vehicle license fees as determined by an Act of Parliament
  - Dealership license taxes on drugs and other chemicals
  - Stamp duties on transfer of properties such as land and motor cars
  - Toll collections

- Court fines
- Fees charged under the Medical Ordinance
- Fees charge under the Motor traffic Act
- Departmental fees in the context of this list
- Fees under the Fauna and Flora Protection Ordinance
- Fees on lands alienated under the Land Development Ordinance and Crown Lands Ordinance
- Court fees
- Regulatory charges under the Weights and Measures Ordinance
- Land revenue (e.g. for valuation)
- Taxes on lands and buildings
- Taxes on mineral rights as determined by an Act of Parliament
- Other taxation as determined by an Act of Parliament
- Protection of the environment as determined by an Act of Parliament

**List II Reserved List  
(Functions to be carried out by Central Government)**

- National policy on all subjects and functions
- Defence and national security; internal security; law and order
- Foreign affairs
- Posts and telecommunication; broadcasting; television
- Justice in so far as it relates to the judiciary and the courts structure
- Finance in relation to national revenue, monetary policy and external resources; customs
- Foreign trade; inter-province trade and commerce
- Ports and harbours
- Aviation and airports
- National transport (e.g. railways, national highways, etc.)
- Rivers and waterways; shipping and navigation; maritime zones; State lands and foreshore
- Minerals and mines
- Immigration, emigration and citizenship
- Elections (presidential, parliamentary, provincial councils, local authorities)
- Census and statistics
- Professional occupations and trainings
- National archives; archaeological activities and sites and antiquities declared to be of national importance
- All subjects and functions not specified in List I or List III

**List III Concurrent List  
(Functions to be carried out jointly by Central Government and Provincial Council)**

- Planning:
  - Formulation and appraisal of plan implementation strategies at the provincial level
  - Progress control
  - Monitoring progress of public and private sector investment programmes
  - The evaluation of the performance of institutions and enterprises engaged in economic activities
  - The presentation of relevant data in the achievement of plan targets
  - The dissemination of information concerning achievement of plan targets
  - Publicity of implementation programmes
  - Manpower planning and employment databank
  - Nutritional planning and programmes
- Education and education services (basically schools and personnel other than national schools and personnel of such schools)
- Higher education
- National housing and construction: the promotion of integrated planning and implementation of economic, social and physical development of urban development areas

- Social services and rehabilitation (relief, rehabilitation and resettlement)
- Agricultural and agrarian services (agro-linked industries, farms, soil conservation, plant pests)
- Health (schools for training auxiliary medical personnel; supervision of private medical care, control of nursing homes and diagnostic facilities; population control and family planning)
- Registration of births, marriages and deaths
- Renaming of towns and villages
- Private lotteries
- Festivals and exhibitions
- Rationing of food and maintenance of food stocks
- Cooperatives (also appears in List I)
- Surveys (in the context of Lists I or III)
- Irrigation (larger schemes)
- Social forestry and protection of wild animals and birds
- Fisheries other than beyond territorial waters
- Animal husbandry (certain aspects)
- Employment
- Tourism
- Trade and commerce in, and the production, supply and distribution of products with need of national control
- Newspapers, books and periodical printing presses
- Offences against statutes in the context of this list
- Fees in the context of this list
- Charity; religious institutions
- Price control
- Inquiries and statistics in the context of this list
- Adulteration of foodstuffs and other goods
- Drugs and poisons
- Extension of electrification and regulation of use of electricity
- Protection of the environment
- Archaeological sites and remains other than national
- Prevention of the extension of diseases between provinces
- Pilgrimages

## 4 EXTRACT FROM “INSTITUTIONAL ANALYSIS - DEVELOPMENT PLANNING IN NORTH-EAST PROVINCE” (KRUSE/WOIWODE, 2006)

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### 5.4 MAIN DEVELOPMENT AGENTS AT PROVINCIAL LEVEL

At provincial level, there are basically three groups of organisations which have significant impact in development and development planning:

- Provincial Government (with its provincial ministries, departments and other units)
- Offices of national ministries at provincial level
- Donor-funded projects

Other development agents usually have smaller areas of intervention, rarely the entire province.

#### 5.4.1 Provincial Government

“North-East Provincial Council (NEPC) is the government at provincial level.” This would be the understanding under “normal” circumstances, but, as mentioned earlier, Central Government structures undermine the real devolution of powers to sub-national levels. In addition, due to the ethnic conflict, the President, in line with powers granted to him in the Constitution, dissolved the council in NEP in 1989. Elections to establish a new council have been postponed since then.

The term *North-East Provincial Council* is still used to refer to the Provincial Government, although what we have at provincial level is the secretariat to the council, i.e. the administrative arm of the Provincial Government, and the Governor, who adopts the role of the council in its absence. To avoid confusion, we will use NEPC as is the common practice.

NEPC, like all other Provincial Governments in Sri Lanka, is *allowed* to establish a maximum of five provincial ministries. This is a further indication of the double standards applied by the centre. In a devolved system the province should have similar flexibility to determine the number of provincial ministries needed as is the case at national level. In view of the devolved functions, NEPC has established ministries that combine very different sectors which usually would form individual ministries. Furthermore, some key units do not have the rank of a ministry for the same reason, as is the case with the Provincial Planning Secretariat.

The five provincial ministries in NEP are:

- Agriculture, Lands, Livestock Development, Irrigation and Fisheries
- Education, Cultural Affairs, Sports and Youth Affairs
- Health and Indigenous Medicine
- Rehabilitation, Reconstruction, Social Welfare and Buildings
- Provincial Public Administration, Local Government, Co-operative Development, Road Development, Rural Development, Industries, and Management Development & Training

Some units are incorporated under the Chief Secretary’s Office:

- Treasury (including Motor Traffic)
- Planning Secretariat (including the Centre for Information Resources Management)
- Engineering Services and Infrastructure
- Legal Unit

Finally, at the top of the provincial administration set-up are the Governor and his secretariat, which includes the provincial audit department and a legal unit, among others.

It must be mentioned that the five provincial ministries do not necessarily represent sectors that have been entirely devolved to the provinces. The reason behind this is twofold: many functions fall under the *concurrent* functions, as defined in the Thirteenth Amendment to the Constitution, i.e. functions that are the responsibility of both national and provincial level. At the same time, many functions have not been allocated entirely to either national or provincial

level, but have been divided between them. So, certain areas of a sector might have been allocated to the national level, and other areas of the same sector to the provincial level (*reserved* and *provincial* lists), or some areas of a sector to the provincial level and other areas of the same sector to the concurrent functions (*provincial* and *concurrent* lists). We can conclude that in addition to the inherent difficulties that the presence of a concurrent list carries with it, the lack of rules and mechanisms to regulate the exercise of powers of the list (the “rules of the game”) aggravates the situation. An example of such an institutional arrangement would be a second chamber in Parliament.

The partly artificial combination of sectors into one single ministry (most notably in the Ministry of Public Administration, Local Government, Co-operative Development, Road Development, Rural Development, Industries, and Management Development & Training) is made easier by the division into provincial departments. We would therefore rather refer to the departments for reasons of clarity.

Each department has a planning section to formulate sectoral plans. All sectoral plans are collected at the Planning Secretariat, where provincial plans of varied nature are compiled (e.g. Five Year Investment Programme, Medium Term Rolling Plan, Annual Implementation Programme, etc.). Unfortunately, the planning sections are too often very weak, which results in delayed or sub-standard plans, which eventually results in sub-standard (compiled) provincial plans.

The problem has to be tackled if comprehensive provincial planning is to be achieved. The planning units in the departments have to be strengthened through capacity building of the human resources and improvement of the data and information systems within the departments, as well as between the departments and the Planning Secretariat (standardised formats, information flow, etc.). The Provincial Planning Committee (which meets quarterly for a period of time which is definitely insufficient) could be reorganised to improve coordination mechanisms between departments and Planning Secretariat, as well as among the departments. The lack of adequate coordination and discussions between all these development agents is one of the main obstacles to the formulation of comprehensive provincial development plans. A similar approach should be attempted to improve coordination between levels of government (province, district, local).

In general, the role of the Planning Secretariat has to be strengthened to transform it into the main agent for coordination and communication between departments and between levels. Simultaneously, processes have to be institutionalised. Both the Planning Secretariat and departments complain about the information flow, although in different ways. While the departments complain that the Planning Secretariat burdens their work through frequent but irregular requests for data and information, the Planning Secretariat criticises the poor level of cooperation they receive from the departments.

In summary, we see three main areas that need to be addressed within the Provincial Government (and at sub-provincial level) to improve planning processes:

- Institutionalisation, standardisation and automation of processes
- Capacity building in planning units of departments
- Establishment of more and qualitatively improved spaces for discussion of various issues related to planning

A fourth main area of intervention is the Planning Secretariat itself. Owing to the importance of the Planning Secretariat in the context and focus of attention of this analysis, we deal with it in a separate section below.

#### **5.4.2 Offices of national ministries at provincial level**

As explained earlier, the Provincial Government does not include all sectors of government but only those specified in the Thirteenth Amendment to the Constitution. As a consequence, sectors that do not fall under the area of competency of the Provincial Government have separate offices at provincial level or by-pass the provincial level completely and have their branches at district level. Further, functions that are jointly carried out by national and provincial level (based on the list of concurrent functions) are split between these two levels in different ways. In some cases there are two completely separated ministries, in other cases there are ministries with internal separations into national and provincial functions. The diversity of arrangements among the various ministries makes it very difficult for outsiders to the system (and in many cases insiders as well) to orient themselves.

This is however not specific to the NEP: “*There is neither mandate nor authority that requires these offices of the line departments operating in the province to report to Southern Provincial Council*”. “*Each central government line department and its branch offices in the province is controlled by their Colombo headquarters with direct upwards and downwards reporting function*” (ADB, 1998).

In the context of planning, we would like to highlight one central department present at provincial level which is of special importance: the Surveys Department. NEPC does not have any role in surveying matters and consequently depends on this department. For planning purposes, the role of the department and the services it can provide (surveying and mapping) are fundamental. Close relations with Provincial Planning Secretariat would be desirable.

### 5.4.3 Selected donor-funded projects

Donor-funded projects play a predominant role in development activities in the province owing to their financial strength. Being donor-funded, all projects are initially discussed and agreed on at national level. Various ministries act as counterparts to the donor agencies (e.g. UNDP, ADB, World Bank, etc.) and other development partners (e.g. GTZ, JICA, etc.). The Provincial Government comes in as executing agent of the projects. Within the Provincial Government, the Planning Secretariat has the role of monitoring the progress of the projects and reporting to the national ministries.

Most donor-funded projects do not have the entire province as their area of intervention. For instance, tsunami-related projects focus on coastal areas. Nevertheless, they work across districts and therefore have a provincial dimension.

It is not possible to analyse all the projects in the context of this report. However, it is important to understand the role they play and the structures they usually establish to operate, as well as their linkage to the formal government structure (national and provincial). Mostly, a project has its head office at provincial level and several offices at district level. Beyond district level, the projects work through the Divisional Secretariats or directly through other governmental, non-governmental or even community based organisations.

- North-East Irrigated Agriculture Project (NEIAP)
- North-East Community Restoration and Development (NECORD)
- North-East Emergency Reconstruction Programme (NEERP)
- North-East Coastal Community Development Project (NECCDEP)
- North-East Housing Reconstruction Programme (NEHRP)
- Sri Lanka Affected Areas Recovery and Take-off Project (STAART)
- Community Water Supply and Sanitation Project (CWSSP)
- Conflict Affected Area Rehabilitation Project (CAARP)
- Tsunami Affected Area Rebuilding Project (TAARP)

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## 5.6 MAIN DEVELOPMENT AGENTS AT DISTRICT LEVEL

### 5.6.1 District administration

The Central Government structure of the district and Grama Niladhari system is a carry-over from British colonial times into the modern Sri Lankan State. The divisional level was integrated in this structure only after independence. From a legal point of view, the districts have a fairly weak position, being only mentioned in the Constitution (Article 5) and named in the First Schedule, as well as in the Administrative Districts Act (1955), where the areas of jurisdiction of Government Agents are specified. Their function and mandate, however, is not detailed therein. *“The District Secretary represents smaller line departments with non-devolved responsibilities in the district”* (ADB, 1998). The District Secretariat has therefore limited responsibilities, which not only exclude devolved functions but also some of the central functions. In reality, however, the power of the head of the district administration (District Secretary / Government Agent) goes far beyond this legal responsibility.

The districts comprise an intermediate level in the Sri Lankan administrative system. Administration at this level performs reserved subjects and coordinates national programmes and projects. A powerful District Secretary, commonly still referred to as Government Agent, heads the District Secretariat – also called Kachcheri. District Secretaries thus derive their power directly from the Central Government.

The provincial administration does not have a proper equivalent at district level. At this level, eight (Regional) Assistant Commissioners of Local Government (R/ACLG) have the function of guiding and assisting the relationship between NEPC and local authorities. Currently, the provincial administration is strengthening the ACLG offices in an attempt to offer better support to the Local Governments.

### **5.6.2 Planning at district level**

In principle, the district administrations carry out functions as a sub-provincial but inter-divisional planning office, across Divisional Secretariat and Local Government areas. Planning activities at district level are largely confined to coordination and monitoring of all projects and programmes in the area. Actual planning processes and implementation were decentralised to the Divisional Secretariats. Thus the planning branch in Vavuniya, for example, has three Assistant Directors Planning who come directly under the Deputy Director Planning, while there is a cadre of four Assistant Directors Planning, one for each division (see figure below). The linkage between district and division is very strong, at least regarding planning.

The Central Government appears to maintain a direct link to the planning branches of the districts through a line ministry (see figure below). With the change of government in November 2005, the Ministry of Rural Livelihoods Development became the line ministry for all planning units. This seems to be the typical structure, showing that in theory each national ministry can exert its power at district level without the Government Agent, as he is not the head of all sectors. Thus the office of the GA remains a structurally more or less separate but in practice influential coordinating and decision-making entity.

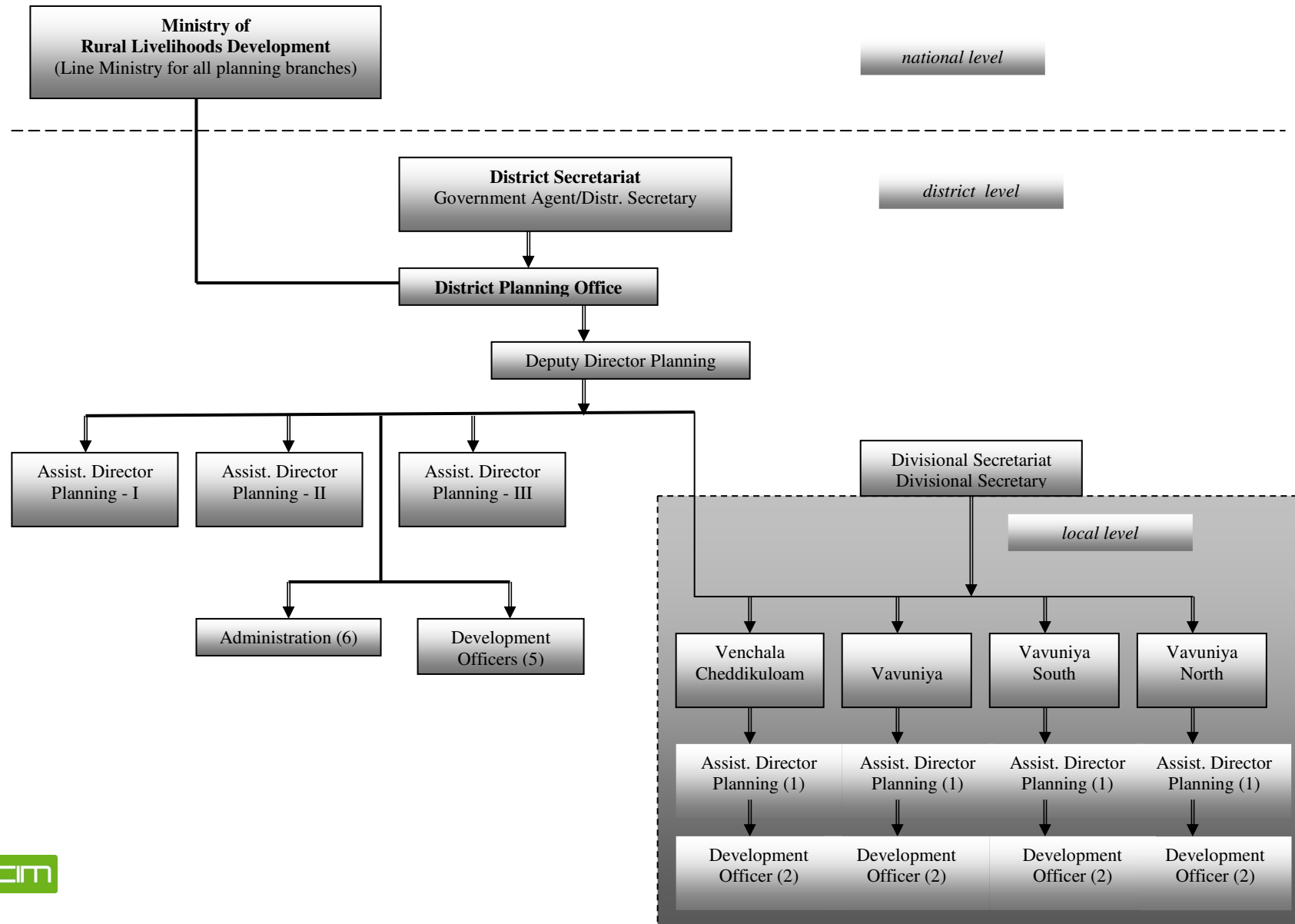
Usually, the GA/District Secretary oversees all development activities in the district, including Central Government activities, provincial functions and to some extent non-governmental projects. The District Secretaries function as the 'outposts' of the Central Government. The district administration is responsible for backstopping and coordinating implementation of activities assigned to them by both the provincial administration as well as the Central Government. Thus the District Secretary plays the role of coordinator, linking the activities of central and provincial administrations. Since the GA supervises the Divisional Secretariats, he has a certain influence over other activities as well. In reality, most of the provincial functions and activities at local level are executed and implemented by the Divisional Secretariats. The relationship of GA and the province is therefore complicated, since lines of command and responsibilities are not clearly defined. It comes down eventually to personal attitudes of the individuals whether it is a conciliatory or a more conflicting relationship.

Several committees build up an important institution in the districts. Among these, the District Coordinating Committee (DCC) is central as an advisory body to the districts. It is chaired by an MP appointed by the President with the GA acting as secretary. According to NEPC Planning Procedures, the DCC assembles all provincial ministers (not in place in NEPC), all provincial council members of the district (not in place in NEPC), and all the chairpersons of local authorities within the respective district. It is the major decision-making body in the district, sanctioning all development projects and programmes. The District Development Committee (DDC) is the body mandated to approve activities and allocation of funds in the district. It is called monthly or bi-monthly and in most cases is chaired by the same person as the DCC. The main task of the committee is to allocate the decentralised budget of Rs.5 million available to every MP. Hence all the MPs from the district take part. There are other committees, e.g. sectoral committees, which are of less relevance for the overall planning process.

In most cases, the committees and MPs set allocation priorities. It is also in these committees, particularly in District Coordinating Committee and District Development Committee, where there is an opportunity for collaboration between the Local Government authorities and district planning.

It is also to be noted that a number of parastatal, semi-autonomous agencies form part of the district level planning structure as they have offices in the districts. Some of them are Central Government bodies such as the Urban Development Authority (UDA), Central Environmental Authority (CEA) and National Housing Development Authority (NHDA). Their impact will be described in more detail below (local level).

Figure 10  
**District Planning Office, Vavuniya: Organisation Chart**  
*Source: District Secretariat with own amendments*



## 5.7 MAIN DEVELOPMENT AGENTS AT LOCAL LEVEL

### 5.7.1 Administration at local level

A dual administration is the salient feature at the local level. On the one hand there is the Divisional Secretariat under the Central Government, and on the other hand the Local Government under the Provincial Government. The latter comprise Municipal Councils, Urban Councils and Pradeshiya Sabhas. They are under supervision of the Department of Local Government, as one of the devolved subjects specified in the 13<sup>th</sup> Amendment to the Constitution.

Following the Amendment, Pradeshiya Sabhas were created at the level of the former AGA divisions (Divisional Secretariats), directly under the control of the Provincial Councils. However, most power at local level still rests with the Central Government. Even though the Pradeshiya Sabhas were established to carry out devolved functions of the Provincial Councils, the bureaucratic/administrative machinery that facilitates such functions is in the office of the Divisional Secretary (DS). The DS was initially envisaged to function as the secretary of the Pradeshiya Sabha. But they refused to carry out functions *under* an elected local body, which they considered was not on par with the professional standard of the Divisional Secretariat, which employs officers of the Sri Lanka Administrative Service (Development Studies Institute, University of Colombo and South Asia Institute University of Heidelberg, 2003).

Originally, a Commissioner of Local Government at national level handled all administrative functions in respect of the local authorities. Now the provincial Commissioner of Local Government carries out these functions. The Department of Local Government, North-East Province, was formed in 1989. Presently it comes under the Provincial Ministry of Public Administration, Local Government, Cooperatives, Rural Development, Road Development, Industries and Training. The objective of the Department of Local Government is to guide, assist and supervise the local authorities in the proper and efficient administration of the areas of their jurisdiction (NEPC/Planning Secretariat, 2004).

The number of local authorities in Sri Lanka is about 300, changing whenever areas receive new designation and/or are further divided. At the time of writing, the North-East Province was divided into 75 Local Governments and 71 divisions. Originally, before the introduction of Pradeshiya Sabhas, Central Government had created the divisions to match Local Government areas (municipal, urban, town and village). Over time, however, changes mostly due to ethnic group boundaries caused a mismatch and often these areas are now not identical any more. According to the Operational Information of the NEP, there were 61 Pradeshiya Sabhas, 7 Urban Councils and 3 Municipal Councils in 2004. Criteria for classification have not been followed rigidly; hence there are Pradeshiya Sabhas in the country which more closely resemble urban areas. *“This situation is the result of not following any suitable criteria in determining the type of local authorities. Even at present this is done in an ad hoc manner and not according to any accepted basis. If this process is not regulated the growth of an unsystematic network of local authorities would be inevitable”* (GoSL, 1999). However, the classification can be broadly based on population size. Thus a Municipal Council comprises a town with more than 30,000 inhabitants, and an Urban Council has a population between 10,000 and 30,000. Pradeshiya Sabhas contain areas with smaller towns and their associated hinterlands. Pradeshiya Sabhas do not always have a secondary town but may have one or more smaller urban areas with a population below 5,000 (ADB, 2000).

Local authorities can be considered as semi-autonomous. The people in them can assess the needs of their area and make certain decisions, depending on the resources they possess. On account of the prevailing situation in the North-east, regional elections have not been held for most local authorities for several years. Hence only some councils are headed by elected representatives, most of them in Sinhalese majority areas. All other councils are temporarily headed by Special Commissioners. A Special Commissioner (mostly the same person as the Divisional Secretary) in the NEP has the authority to do the work of the chairperson of the local authority. Yet some local authorities are disenfranchised even when they have an elected council, since the practice of the Special Commissioner system has been so deeply internalised that even in some areas where local elections took place, the function is still retained.

Fundamental in our findings is the understanding of Local Government by the majority of our interview partners. The common understanding is based on a narrow view of Local Government as a ‘sector department’ just like any other sector (health, agriculture, etc.). It runs through all administrative levels as a branch of a line ministry - Ministry of Provincial Councils & Local Governments – from the national to the local level. Thus it is only one among many other sectors, thereby degrading its status as a proper Local Government level. This is the current perception and structure prevalent in Sri Lanka (see Figure 11). The Sri Lanka Institute of Local Governance corroborates this understanding of LG and its shortcomings in defining the need for reforms: *“The Local Government in Sri Lanka has not been recognized as a level of governance: What we have is only a network of local authorities. Local Government is treated as a subject like Rural Development or Co-operatives, which is now devolved to the Provincial Councils”* (Sri Lanka Institute of Local Governance, no date: 32).

A different perspective is a comprehensive Local Government, an all-encompassing local level government structure that integrates all sectors, and as such the consequential institutional complement to the National and Provincial Government. These levels usually permeate each other (see Figure 12). The figures displayed are grossly simplified, but serve the purpose to indicate that this difference in perspective is crucial in understanding Local Government and the role of local institutions, i.e. MC, UC, PS. As is visible from the two comparative figures, LG in figure 11 is much less prominent than in figure 12. As a result, it can be much more easily suppressed by others who, according to this perspective, enjoy the same status. Figure 12, by contrast, shows that LG provides for the integrative dimension of all sector departments and the accountability to the public/electorate. Unfortunately, the narrow understanding regarding Local Government is demonstrated by the fact that local authorities do not enjoy constitutional recognition as a tier of the government system in Sri Lanka.

Figure 11  
**LG viewed as a Sector Subject**

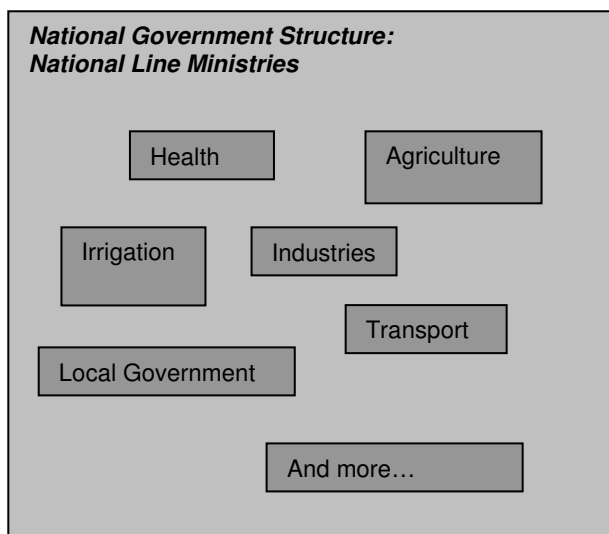
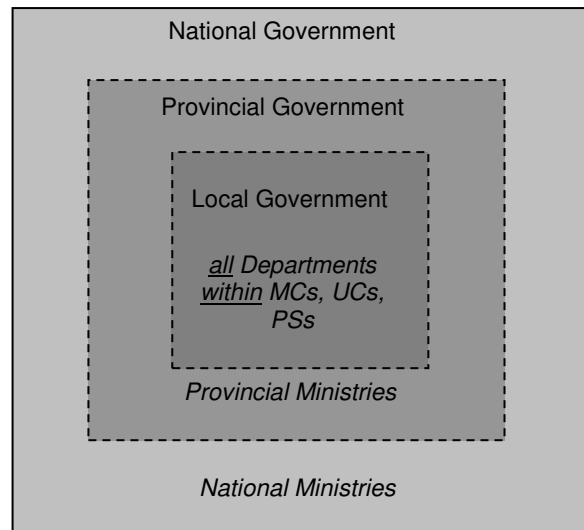


Figure 12  
**LG as a comprehensive government level**



### 5.7.2 Local Government finance

As explained earlier, Local Governments receive their funds from the national budget through the Provincial Government. There are, however, other sources of funding for Local Governments that do not necessarily follow the same channel. The main sources are:

- Rates
- Other revenue
- Assigned revenue (stamp duty and court fines)
- Borrowings
- Government transfers
- Other receipts

The significance of the sources varies considerably between Municipal Councils, Urban Councils and Pradeshiya Sabhas. For Municipal Councils, rates are the most important source of income, accounting for 35-40% of the total income. Urban Councils and Pradeshiya Sabhas, on the other hand, depend largely on government transfers (30-35% and 25-30%, respectively). Rates play a relatively small role in the overall income of Pradeshiya Sabhas (5%), while stamp duty and other minor receipts play a significant role.

The collection and transfer of rates present serious complications. Rates are levied by the Land Registration Office and transferred to the Provincial Government for further transfer to the Local Government. The funds however do not reach the Local Governments as expected. The same applies to court fines, which are levied by the courts themselves. One of the problems in the case of rates is the capacity of the Local Governments to maintain their valuation rolls (the document that determines the value of a property and the rate to be paid). Regular updating of valuation rolls (usually every five years) is a costly exercise, which most Local Governments cannot afford. It is however a “good investment”, since monies spent would be soon recovered through the collection of updated rates. But the Local Governments seldom see the long-term benefits of such exercises. Supplementary valuation, i.e. valuation of properties in new areas to be incor-

porated to the rateable area, faces similar problems. In fact, most Local Governments do not have a clear picture of the official boundaries of their areas of jurisdiction. In response to urban growth, however, Local Governments very commonly provide services to areas which do not fall under their jurisdiction, or to such areas which do not pay rates because they have never been valued.

In NEP the financial situation of Local Governments is even worse. Local authorities are hesitant to charge fees, e.g. rates, to many of their subjects. The understanding is that the population of NEP is already punished disproportionately highly due to the conflict. Loss of property, damage of business enterprises, payments to the LTTE, etc. put additional burdens on the people. The imposition of property and business rates would seem too much like castigation to these suffering people.

### **5.7.3 Planning at divisional level**

Measures for decentralisation of planning go as far back as the early 1970s when Divisional Development Councils were established together with a decentralised budget. Following this, the Divisional Secretariat became the focal institution for planning of divisional level programmes. District Development Councils were established in 1980, but dissolved and replaced by the establishment of the Pradeshiya Sabhas in 1987.

The divisional level constitutes a focal point in the process of decentralised planning and development, as the node between national development strategy percolating through the provincial and district levels, and the community development needs emanating from village level organisations. Till now the divisional development planning process has been the major planning effort aiming at local level development in the NEP. However, planning for development has been carried out in an ad-hoc manner and on an unsystematic basis (Sivalingam, 2004).

Most of the development work is implemented by the divisional planning units, which constitute one of two main branches within the divisional administration. The centre allocates the decentralised development budget to the GA in a district. The GA then allocates it to the divisions which are 'implementing' development activities. Activities of projects such as NECORD, NEERP, NECCDEP, NEIAP, and others are also considered, yet as they usually have their own programmes they relate at best to the planning decisions made in the divisions. However, implementation at divisional level is understood as monitoring and supervision, which are seen as the major functions of the divisional planning unit. Even though field staff is available to inspect progress of projects, the actual implementation is carried out mainly through local societies such as the Rural Development Societies (RDS) and Women's RDS, less through local NGOs.

Focal areas for development activities are identified in different ways. Besides the Divisional Secretary, who has a say in setting planning priorities, there are some criteria used concerning, for example, (a) rehabilitation areas, (b) poverty level, (c) remoteness of area/underdevelopment, (d) ethnic set-up, (e) demographic features, etc. However, there appears to be no systematic approach in their application.

The Divisional Secretariat formulates annual plans, so-called Divisional Development Work Plans. They contain budget allocation, and include responsible agencies, targets and outputs. It must be noted though that this plan is a simple list of activities and projects, not a comprehensive development plan. It does not include specifications on coordination, institutional arrangements, or strategic planning. In spite of this, it is especially the divisions which take on the role as collector of primary data for planning purpose in the entire planning system. It is therefore at this level that we encountered activities resembling a planning process built on data collection, analysis and decision-making. It is in support of the formulation of such Work Plans that the Divisional Secretariat collects data and information from Grama Niladharis (GN Divisions) regarding different sectors.

In the first instance, the plan content is decided at divisional level. Demand and needs-based project proposals from grassroots level are submitted via the GN Divisions. The Divisional Planning Unit assesses all these proposals and a first selection and prioritisation takes place. The result is a compilation of projects in a document that becomes the annual work plan of the Divisional Secretariat. This plan is presented to the Divisional Coordinating Committee for discussion, amendment and approval. A revised version is subsequently submitted to the district/GA. At this level, the plan is presented to the District Coordinating Committee for further discussion and approval. Following this, it is then passed on to relevant Central Government ministries, among them the Ministry of Nation Building and Development, but planners at divisional level do not know in detail how the procedures work from there onwards.

This selection process is also subject to a political component, since MPs of the area are also involved. They have the power to select special projects to be implemented with their own parliamentary budget ("Decentralised Budget – DCB"). In this way MPs have the power to channel their political influence through the district administration system, undermining to a certain extent the relevance of the local democratic structures, i.e. the local authorities.

The Divisional Secretariat distributes a copy of its Work Plan to other development agents such as INGOs, provincial ministries, sector departments, etc. Eventually, the Divisional Secretariat itself will only implement a very small portion of the projects contained in the plan, expecting other organisations to implement the remaining projects. In order to avoid duplication, the implementation of activities is supervised at the district level during committee meetings.

In the case of Trincomalee, coordination between the Divisional Secretariat and Urban Council Trincomalee occurs only at the highest level through the Special Commissioner (who is both Divisional Secretary and Head of the Urban Council) in the committees. But the divisional planning staff do not sit in these committees. In spite of these efforts, there is a lot of duplication of work, e.g. in this case the UC planning comes up with a plan, while the division has its own plan (the Work Plan). It is clear that this process could easily be unified and a concerted effort could evolve to prepare one plan together, even more so as the Divisional Secretary in his function as Special Commissioner unites both the Urban Council and the Divisional Secretariat in terms of jurisdiction and responsibilities. Similarly, there is no proper coordination with other planning agents, for example UDA, CEA, etc.

#### 5.7.4 Local Government in the planning system

Local authorities derive their powers from the respective ordinances (see above chapter on legislation). Local Governments are “*charged with the regulation, control 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 areas of jurisdiction (Municipal Councils Ordinance, Section 4; Urban Councils Ordinance, Section 4; Pradeshiya Sabhas Act, Section 3).

As remarked earlier, there is a multiplicity of laws regarding mandates and functions of authorities relating to planning. There are several supplementary acts specifically relating to physical planning (and utility provision) which specify functions of local authorities. It is interesting to note that initially, after independence “*planning and execution of the ‘Plans’<sup>1</sup> were entrusted to local authorities assisted by the Department of Town and Country Planning [now National Physical Planning Department]*” (Mendis, 2003). Although the laws are vague in terms of defining clear planning mandates, many functions of local authorities have been increasingly limited ever since by the Central Government.

Nowadays, LGs are in a very weak position to conduct any kind of planning. This is mainly so due to the lack of capacity of the LGs to carry out their assigned functions, and at the same time due to activities of other agencies such as the Board of Investment, Urban Development Authority, National Water Supply and Drainage Board, and other semi-autonomous sector agencies (see figure at the end of this section) which are widely seen as encroaching upon the mandates of local authorities. The planning unit within the Provincial Local Government Department is there in name only, and largely dysfunctional. The situation at the lower levels is similar. Planning units are either not part of the cadre or, if exist, are not functioning.

Thus at the R/ACLG office in Vavuniya we could observe that a kind of planning branch was only recently established staffed with a Local Government Assistant (LGA). The LGA is presently aided by Community Development Officers (CDO) who are working in the four divisions of the district. The initiative of setting up this planning section seems to come from the R/ACLG, who took up this idea probably with the support of the Commissioner for Local Government in Trincomalee. The arrangement is still informal and it is neither clear as yet where it will be located in the overall organisational structure of the office nor who will be eventually responsible for planning.

Looking at the local authorities proper we find a similarly grim picture. For example, the local authorities at the Urban Council in Trincomalee and Kinniya Pradeshiya Sabha have planning units in name only; and this seems prevalent in most places. In the UC Trincomalee, planning is combined with civil works due to insufficient staffing (see figure below). Vacancies especially in top-level posts are high, which is a result of lack of interest from the Central Government, which has the power to appoint public servants at this level. Even though the planning section is not operational, various kinds of plans do exist, mostly financial and budget plans. Proposals for 5-year, 3-year (so called capital plan) and annual plans are developed by the civil works department and then forwarded to a committee that convenes monthly.

Under given circumstances this Development Planning Committee ‘replaces’ the non-existent Council. The Special Commissioner, the Secretary of the UC, the Chief Clerk and the heads of all administrative departments of the UC constitute it. The final decision though rests with the Special Commissioner, whose main role is actually Divisional Secretary for Trincomalee Town and Gravets.

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<sup>1</sup> Two types of ‘plans’ existed then: a) Zoning/Housing and Town Improvement Schemes, and b) Planning Schemes to control use of land.

In Kinniya Pradeshiya Sabha a Local Government Assistant (LGA) is formally in charge of the planning division since 1999 (see figure below). According to him there is no other staff available for this function owing to a chronic shortage of staff. A similar situation would be common in all PSs in the North-East Province. The PS does not have enough financial resources to carry out maintenance and other related works laid out in the Pradeshiya Sabhas Act, since the revenue base and tax income are very low. Instead, funds are channelled through the Divisional Secretariat, which needs at least the consent of the PS to carry out projects within its boundaries. The only interface between Divisional Secretariat and the Pradeshiya Sabha is the Divisional Planning Committee. This committee does not meet regularly but only on demand. The Special Commissioner, who in this case, is at the same time the Secretary of the Pradeshiya Sabha, chairs it.<sup>2</sup>

In both UC Trincomalee and Kinniya Pradeshiya Sabha the Urban Development Authority is supposedly involved in the planning process.<sup>3</sup> In the first case there is a fortnightly “UDA Meeting” including representatives from UDA District Office, UC Trincomalee represented by the Special Commissioner and Secretary, a Public Health Assistant (who belongs to UC administration) and the Medical Officer Health (MOH) of the Provincial Public Health Department. However, it was not possible to find out what the subjects and function of this meeting are. In the second case, the chart of the structure of the PS it shows that planning is handled by the LGA together with UDA, but in practice they have hardly any relationship besides some reconstruction activities following the tsunami.

The relationship between the UC Trincomalee and the NEPC is defined by the latter’s role as a local authority that comes under the Provincial Department of Local Government. Thus it only has a real link mainly to the Commissioner of Local Government. This relationship is basically confined to formalities such as staff appointments and funds for salaries. Contacts with other departments, particularly the Provincial Planning Secretariat, do not exist. Significantly, the PS staff pointed out that they have to follow the hierarchy of the Local Government structure to reach higher levels of the NEPC administration. Direct contact with PPS in matters of planning seems to be impossible. This appears to be a pivotal issue in Sri Lanka causing not only enormous delay in activities and long bureaucratic procedures that hinder flow of direct communication, but perhaps more seriously it even prevents government bodies from carrying out their designated functions. Consequently, our question who they refer to when a planning issue has to be resolved remained unanswered. This is typical as apparently there is no mechanism for such procedures and no established practice. It illustrates the weakness or absence of both vertical as well as horizontal links among planning actors.

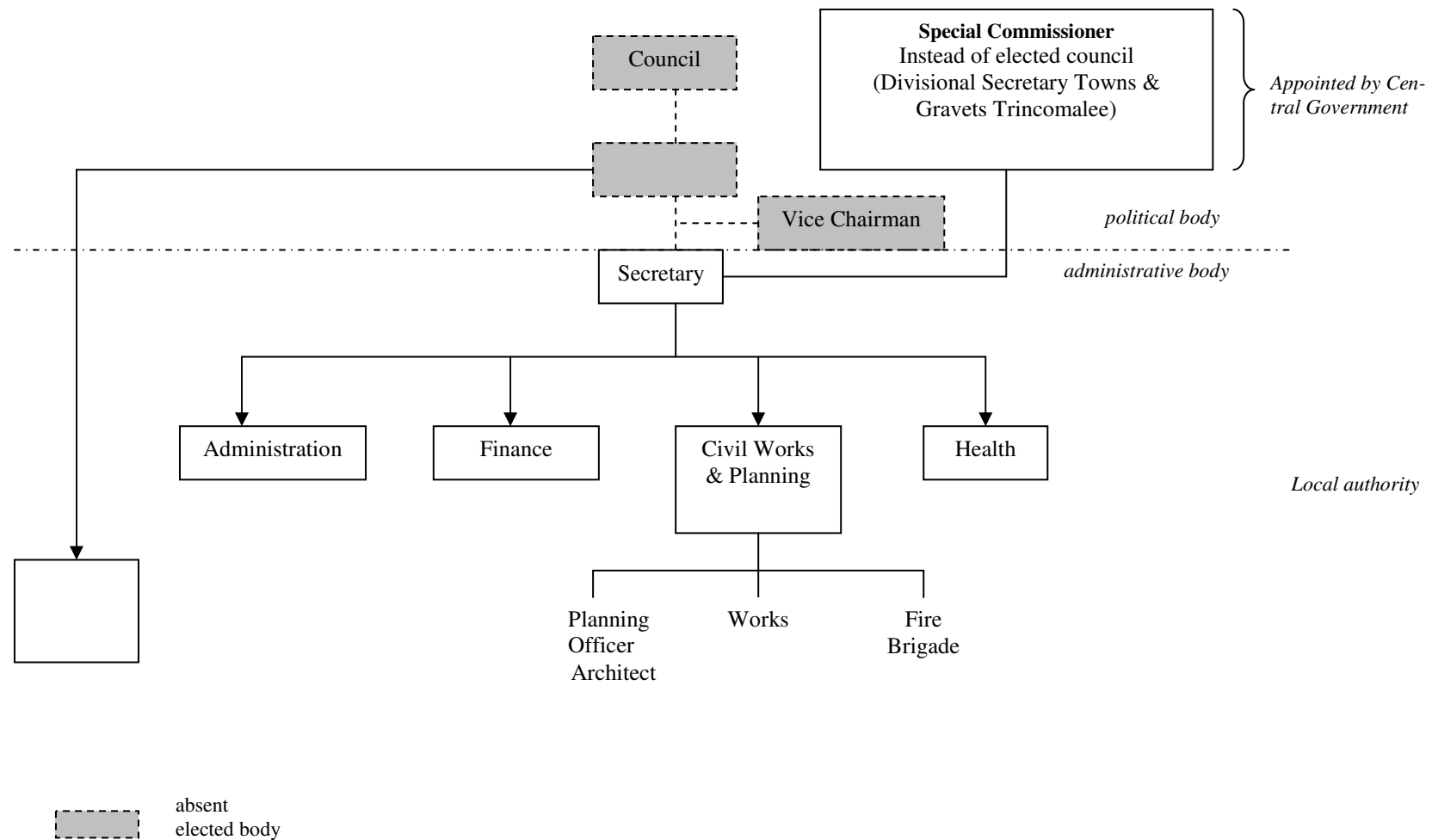
The above outlined condition reflects the ‘narrow view’ of Local Government, since the Local Governments follow their departmental hierarchies, which inhibits formation of meaningful intergovernmental connections based on subjects, e.g. planning. Thus it would be neglecting the line of command prescribed for the Local Government’s planning section if it contacts Planning Secretariat straight away, and not through the office of the CLG.

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<sup>2</sup> In this arrangement the office of the Special Commissioner remains at least with the local authority and not, as in other cases, with the Divisional Secretary.

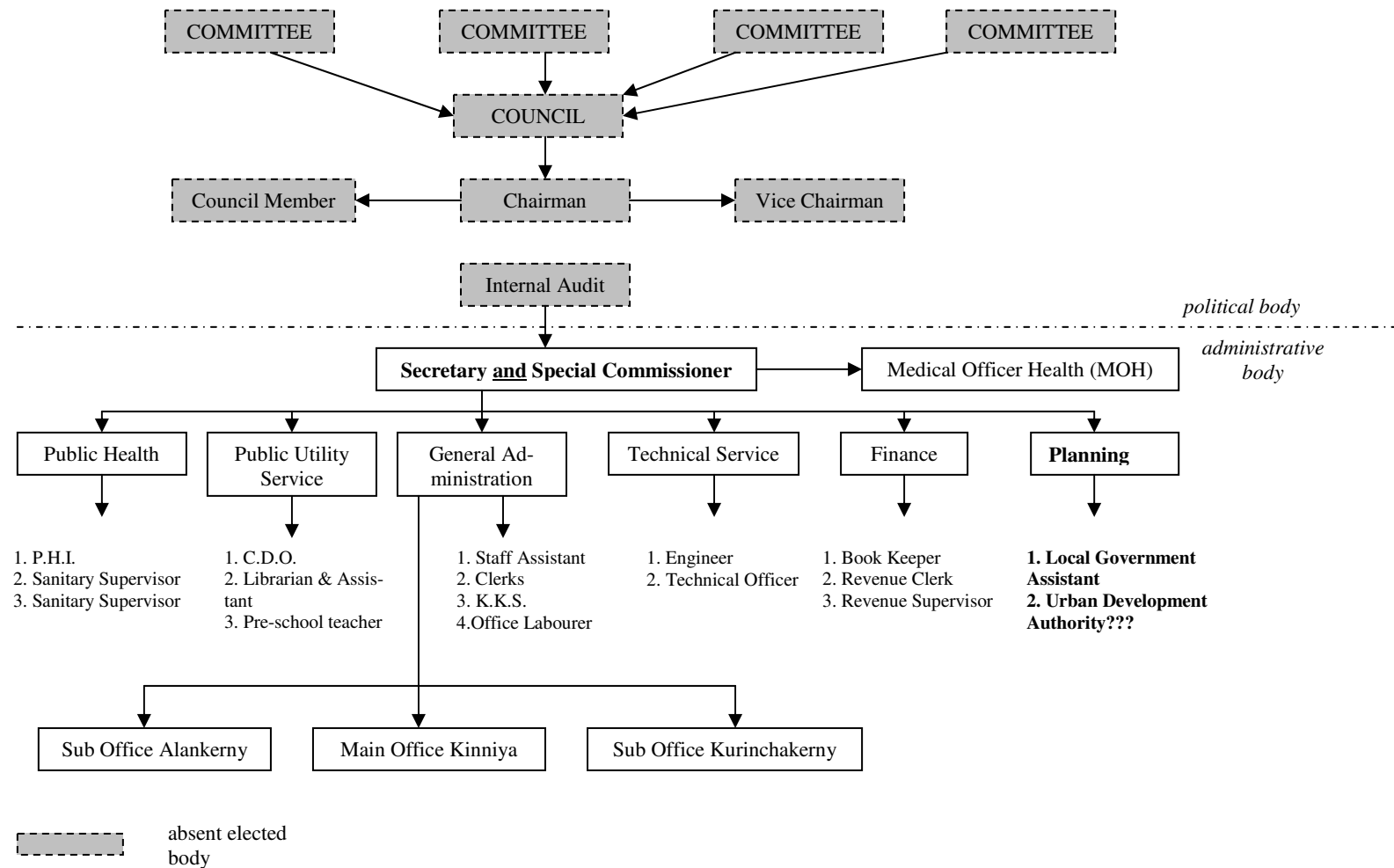
<sup>3</sup> UDA covers all designated “urban areas”. Originally, all UCs and MCs fall under UDA areas, but not all PSs. In the course of time, however, political decisions resulted in some PSs also being declared as “urban areas”. Obviously the classification of “urban areas” does not follow clear definitions.

Figure 13  
**Urban Council Trincomalee<sup>4</sup>: (Simplified) Organisation Chart before the 2006 Elections**  
*source: UC Trincomalee (2006) with own amendments*



<sup>4</sup> From 14th April 2006 the Urban Council has been put in place following local elections held in Trincomalee district.

Figure 14  
**Kinniya Pradeshiya Sabha<sup>5</sup>: Organisation Chart before the 2006 Elections**  
*source: Kinniya PS with amendments*



<sup>5</sup> From 14<sup>th</sup> April 2006 the Pradeshiya Sabha was divided and an Urban Council created. Elected bodies have been put in place following local elections held in Trincomalee district.

### 5.7.5 Other planning agents at local level

A plethora of other planning agents operate and intervene in local level planning. Out of these, the parastatal Central Government agencies are the most conspicuous ones since they have been given legitimacy for their activities. This has not always been the case. Prior to 1989, local authorities had more powers in respect of planning functions than nowadays. For about three years in the period 1991-93 all powers were devolved and the districts were in fact weakened as compared to the local authorities. Significantly, the Divisional Secretariat came *under* the Provincial Government. Thereafter this set up was unconstitutionally changed through a circular to the advantage of politicians at the Central Government. This is the situation that remains to this day, and the powers of Local Governments are still being undermined. After all one has to keep in mind that before 1989 town planners and engineers were placed in UCs and MCs, but were removed afterwards to create national agencies such as National Water Supply and Drainage Board (NWSDB), National Housing Development Authority (NHDA), Urban Development Authority (UDA), and others.<sup>6</sup>

The figure on planning institutions (see end of this section) is an attempt to illustrate the existing planning framework from a Local Government point of view. Although we cannot claim that it shows the complete picture, it nevertheless clearly demonstrates the extent to which national institutions such as ministries and specific agencies take over the role as key planning organisations, leaving Provincial and Local Governments normally at the receiving end. According to this, a ministry at national level, Ministry of Urban Development, is mainly responsible for spatial planning and provision of technical support. In addition, the Ministry of Nation Building (former 'RRR') is of special importance to NEP, as it produces district development plans. Other ministries carry out sector-related programmes not shown in the figure. Several sector agencies (NWSDB, NHDA, CEA, UDA) provide for the entire set of physical and infrastructure development such as public utilities, housing, environmental and settlement planning.

Policy-making however, is fragmented between all these institutions, which is visible in poor coordination and total lack of strategic planning. Proper development planning is made more complicated. Another inhibiting factor is the ambiguous division of responsibilities between the centre and the provinces (especially exacerbated in the NEPC), which makes it difficult to improve administrative capacity at provincial and local levels. Local authorities generally lack capacity for land management and enforcement capacity for development control. Coordination of all relevant development actors is inadequate. Thus it is apparent that a multi-headed, hydra-like construct exists especially in the area of physical planning.

#### Urban Development Authority

An important agency in physical planning at local level is the UDA. We have looked into its workings more in detail because physical planning is currently totally neglected by provincial, district and local administrations. As mentioned before, their understanding of planning is mostly confined to sector, economic and investment plans without drawing a link to the spatial dimensions and impact of planned activities.

UDA maintains several offices in the NEP. The main regional office for the Eastern Region is located in Trincomalee, while two more offices were established in Batticaloa and Kalmunai in response to the tsunami. Jaffna and Vavuniya offices cover the Northern Region. It must be noted though that UDA operates only in the so-called cleared or government-controlled areas.

According to the Town and Country Planning Amendment Act No:49 of 2000, UDA carries out physical planning activities for declared urban development areas. However, the National Physical Planning Department (NPPD) formulates guidelines and policies for UDA and is in charge of the Eastern and Northern Regional Physical Plans. Generally urban development areas comprise all Municipal and Urban Councils. However, a large number of Pradeshiya Sabhas have been included in this category. For example, almost the entire Trincomalee District was declared a UDA area in 1991. Obviously the term 'urban' is somewhat misleading, as it refers to a region in which plans for local authorities are formulated. UDA is currently working in Trincomalee for tsunami resettlement in Kinniya, and on a physical plan for Kantale, among others. In 2001 a plan for Trincomalee Town and Gravets was also prepared. UDA officials maintain that their plans are comprehensive in terms of economic, environmental, social, and spatial aspects.

Usually UDA develops physical plans for Pradeshiya Sabhas on request. Its main function is to provide guidance and assistance to Local Governments in planning and issuing building construction permits. UDA does not have seconded staff within each local authority (this is misleadingly and incorrectly displayed in the official PS Kinniya organisational chart). Lengthy procedures for plan preparation and approval with abundant stages and au-

<sup>6</sup> Personal communication with Ms Wijailudchumi, former CLG, NEP.

thorities involved characterise the planning process. Draft plans climb up the ladder to the highest authority, i.e. the Ministry of Urban Development. This structure reflects the highly centralised administration of Sri Lanka and planning in particular, where a national ministry decides about such small places like Mutur or Kantale. Normal phases of plan preparation are as follows:

1. Request from a local authority submitted to UDA
2. UDA prepares a draft plan
3. UDA submits plan to the local authority for their assessment (60 days/2 months), as well as to other authorities (NWSDB and NHDA), which are asked to contribute in their capacity to the plan proposal
4. UDA makes changes and amendments based on comments received
5. UDA submits plan proposal to the National Planning Committee which is concerned only with urban development
6. Then it is passed to the board of Managers, UDA
7. Finally it is submitted to the Ministry of Urban Development

It seems that a genuine permanent cooperation between relevant sector agencies such as NWSDB, CEA and NHDA does not take place beyond the formal involvement in the above-mentioned process. A formalised relationship or coordination arrangement between NEPC and UDA is equally absent. UDA officials argue there should be a physical planning department at provincial level, but there is no such thing in Planning Secretariat. Similarly, there is only a sporadic connection with the Chief Secretary. UDA attends provincial meetings during which information is exchanged, but there is no official relationship. UDA officials have the feeling, which is probably correct, that physical planning is often neglected in such meetings. So at times it might seem difficult to include the physical dimension in meetings. These unspecified relationships have their roots in the contradictory legal framework at national level (e.g. devolution vs. UDA Law) that would specify procedures of coordination. Some UDA officers even believe the UDA should come under the NEPC to guide and assist it.

Even though the UDA is a national agency, its Northeast offices are grossly neglected. The Trincomalee office seriously lacks basic resources to carry out its functions. It does not have enough computer facilities (maps are still drawn manually) and communication facilities. The staff usually take a bus to carry out fieldwork in the entire Eastern Region. The office is chronically understaffed, with four only professional planners. Two main reasons can be identified for this condition. On the one hand there are no professionals in town and country planning available in the Northeast, so that UDA depends on recruiting people from other places. This creates the second main problem, for nobody is interested in coming to Trincomalee from Colombo. As a result, current staff in UDA is entirely Singhalese, thus contributing to constraints in their work. They are for instance, not able to enter LTTE-controlled or other Tamil-dominated areas, and so they are limited in carrying out their full function.

The ethnic dimension is very serious in this case, as Tamil planners and staff would be crucial in building capacity at UDA. It also carries further implications. A participatory planning process is unlikely to be conducted if the planning staff has difficulties in getting admission to the respective area or does not speak Tamil, even if they wanted to conduct such a process. Apparently the ethnic divide is a huge hindrance in this respect to the planning process and indicates the importance of who prepares a plan and how it is generated. The example demonstrates the significance of a conflict-sensitive planning approach, which we deal with below.

### **Role of NGOs**

As indicated earlier, so-called NGOs and INGOs are important and dominant development agents at the local level. Particularly in the aftermath of the tsunami the number of these organisations has gone up significantly, raising the question of how they contribute to the needs and requirements of the people and how they could be linked to local level administration. Several issues arise in this respect, the most important being the lack of coordination and consistent planning to guide development agencies. There seems to be no proper mechanism at national, provincial, district or local level to coordinate the activities of NGOs. But there are other reasons of relevance at local level.

On the one hand, NGOs find it difficult to find their way through the bureaucratic jungle of approval and permits for their proposed activities, complaining about delays and non-transparent decision-making process. The result is that they attempt to circumvent authorities whenever possible and to minimize contacts. Nonetheless, it appears most collaboration takes place with the Divisional Secretariats while Local Governments are largely neglected. Only very few NGOs, it seems, take on this challenge and consider changing the situation. One such attempt has been launched recently by People in Need (PiN), which decided to support the Divisional Secretariat in Kinniya to improve its capacities in coordinating development activities.

On the other hand, local level administration, both local authorities and divisional administration, is incapable of tackling the challenge of coordinating and monitoring activities of NGOs efficiently. A pivotal problem is the fact that the present planning process is not inclusive. Real participation and decision-making processes do not take place in a manner that guarantees a product that really reflects strategic needs. The population, CBOs, sector departments, and also NGOs are an insufficient part of such a process. The consequence is that the local level administrations cannot present solid development programmes to the NGOs to guide their intervention. In addition, the fact that the NGOs are mostly left out of the decision-making process means that they do not feel part of it and would therefore not be co-owners of development.

### 5.7.6 Conclusions

Owing to the prevalent administrative circumstances, the government-controlled line of command is the pre-eminent planning authority at district and local level. This situation appears prevalent in most districts, and usually these entities are viewed as the singular actual planning actors, which automatically makes them potential partners for governmental and non-governmental development agencies. While this appears to be current reality in the planning process, it is not entirely clear where the district and divisional administrations derive their mandates from for this role and function. Although the Transfer of Powers (Divisional Secretaries) Act of 1992 opens the possibility of transferring powers and functions to the Divisional Secretariats, we have not found a planning mandate backed by any Act of Parliament. Consequently, strengthening this structure would result in supporting a centralised administration that acts on a top-down approach, whereas the constitutionally defined democratic local authorities, namely the Municipal Councils, Urban Councils and Pradeshiya Sabhas are for the most part reduced to bystanders.

In other words, the Central Government administrative structure has been able to dominate local planning even though there are other central agencies (UDA, NHDA, CEA, etc.), which were created to support the Local Governments in fulfilling their part in planning. In this regard it is also crucial that we do not confuse the term Local Government (i.e. UC, MC, PS) with the DS and GN, which are part of the Central Government structures.<sup>7</sup> On the other hand it is neither possible nor practicable to neglect the key role of Divisional Secretariat and District Secretariat in the planning process. Particularly in the NEP, the rehabilitation and reconstruction activities are mainly carried out through this channel, under the leadership of the Ministry of Nation Building and Development.

As to the actual planning procedures and processes, we believe that the shortcomings and weaknesses of the system are generally well known to most observers and stakeholders involved in it. The fundamental issues from our point of view, however, may be summarised as follows:

1. There are a large number of administrative institutions operating at local level, mainly national sector agencies, the Urban Councils, Municipal Councils, and Pradeshiya Sabhas, and the Divisional Secretariats. Ideally, the Divisional Secretariats should have been the administrative part to the Local Governments (PS, UC and MC). Yet presently they function as two separate institutions more or less independently of each other.
2. Inadequate transparency and accountability characterises the planning process, whereby the main planning actors (Division/District) have no people's representation.
3. Poor coordination and communication and frequent unwillingness to collaborate owing to asymmetrical power relationships among stakeholders and even within departments. The tsunami emergency situation forced the various planning institutions and levels to collaborate better and coordinate their activities. Yet this was a temporary arrangement only, without institutionalisation of such coordination and cooperation efforts. Today, the situation has fallen back to the practices that existed before. A lesson learnt is that if there is willingness and commitment, collaborative planning is possible.
4. Sectoral rather than integrated thinking dominates current planning practice, in part due to the understanding of Local Government as a 'sector'. Spatial/physical planning is conceptually and institutionally isolated from development (socio-economic) planning and budget formulation.
5. There is no unified organisational and procedural framework in place in the various planning units, be it local authorities, divisions or districts.
6. Planning administration across all institutions is largely suffering from insufficient human resources both in terms of vacant positions and skilled professional staff. This issue is strongly connected to the ethnic conflict that limits free movement of Sinhalese and Tamil staff.
7. Central Government exerts a high degree of influence regarding (1) staffing of higher public servants in local authorities, districts and divisions, (2) planning in general through central agencies in districts, and (3) the control of funds for development.

<sup>7</sup> Technically, DS and GN are also part of *local government*, yet this term is reserved in Sri Lanka for the Local Government authorities (UC, MC, PS)

8. The sustainability of interventions of non-governmental organisations is jeopardised because they are not based on proper local development plans, and because they take place largely uncoordinated.

If *spatialised* development planning is to become a genuine part of the democratic local planning system in the future, emphasis must be put on the local authorities. It is imperative to reduce the distance between the two administrative structures at local level in order to improve the planning process and consequently to increase the impact of development activities. While it is recognised that strengthening both Local Governments and Divisional Secretariats is required, the focus will have to be on the first to bridge the gap between them.