

The Constitutional Assembly

Report of the Sub-Committee on
Public Finance

Hon. Chairman,
Steering Committee,
Constitutional Assembly.

According to a resolution passed by the Constitutional Assembly on 5th May 2016 six Sub-Committees were appointed to make the recommendations with regard to the amendments to the Constitution of the Democratic Socialist Republic of Sri Lanka.

The Sub-Committee on Finance comprising the following members was entrusted to submit its proposals on the Chapter XVII (Finance).

- Hon. Bandula Gunawardana (Chairman)
- Hon. (Dr.) Sarath Amunugama
- Hon. V.S. Radhakrishnan
- Hon. (Dr.) (Mrs.) Anoma Gamage
- Hon. (Dr.) Harsha De Silva
- Hon. Eran Wickramaratne
- Hon. Muthu Sivalingam
- Hon. Keheliya Rambukwella
- Hon. Sunil Handunnetti
- Hon. E. Saravanapavan
- Hon. Tharaka Balasuriya

The Committee, convened its first meeting on the 06th June 2016 and decided to obtain views of the experts and intellectuals in the field of management of Public Finance. Accordingly, the retired senior officials of the Central Bank, Auditor General's Department, Inland Revenue

Department etc., were requested to present before the Committee to share their expertise views with the Committee.

In addition to that many intellectuals of various other institutions were also given the opportunity to present their views before the Committee.

The Committee also considered views of the political parties, and the Public Representations Committee for the preparation of this report.

On behalf of the Committee, I would take this opportunity to record my deep appreciations to the intellectuals, expert resource persons, Public Representation Committee representatives and Political Party Representatives for their invaluable contribution for making this effort a success.

I would also like to extend my sincere gratitude to the Secretariat for its dedicated support in the secretarial work.

Bandula Gunawardana (M.P.)

Chairman

Sub-Committee on Finance

31st August 2016

COMMITTEE MEMBERS

- Hon. Bandula Gunawardana (Chairman)
- Hon. (Dr.) Sarath Amunugama
- Hon. V.S. Radhakrishnan
- Hon. (Dr.) (Mrs.) Anoma Gamage
- Hon. (Dr.) Harsha De Silva
- Hon. Eran Wickramaratne
- Hon. Muthu Sivalingam
- Hon. Keheliya Rambukwella
- Hon. Sunil Handunnetti
- Hon. E. Saravanapavan
- Hon. Tharaka Balasuriya

RESOURCE PERSONS

1. Prof. W.D. Lakshman - Former Vice Chancellor of University of Colombo
Former Chairman of the Institute of Policy Studies of Sri Lanka
2. Prof. Sirimal Abeyrathna - Dept. of Economics. University of Colombo
3. Mr. Sarath Chandra Mayadunne - Former Auditor General
4. Mr. Asoka Gunawardena - Former Chairman, Public Finance Commission

5. Mr. Chandra Jayarathna - Former Chairman, Chamber of Commerce
6. Mr. W.A. Wijeywardena - Former Deputy Governor, Central Bank
7. Dr. Saman Kelegama - Executive Director, Institute of Policy Studies of Sri Lanka
8. Dr. (Ms.) Dushni Weerakoon - Deputy Director, Institute of Policy Studies of Sri Lanka
9. Mr. D.D.M. Waidyasekera - Senior Editorial Consultant, Institute of Policy Studies of Sri Lanka
Former Commissioner of Inland Revenue
10. Dr. Nishan De Mel - Director, Verite Research (Pvt) Ltd
11. Dr. (Mrs.) Anila Dias Bandaranaike - Former Assistant Governor, Central Bank
12. Mrs. Rose Cooray - Former Deputy Governor, Central Bank
Former Director General, Fiscal Policy and Economic Affairs

OFFICIALS SUMMONED

1. Dr. R.H.S. Samarathunga - Secretary to the Ministry of Finance
2. Mr. H. M. Gamini Wijesinghe - Auditor General

INVITEES

1. Hon. Vasudewa Nanayakkara (M.P.) - Democratic Left Front
2. Hon. A. Aravindh Kumar (M.P.) - Up Country People's Front
3. Hon. M.A. Sumanthiran (M.P.) - Committee Member Steering Committee
4. Mr. Themiya Hurulle - Committee Member Public Representations Committee
5. Dr. S. Vijesandiran - Committee Member Public Representations Committee
6. Mr. D. Kalansooriyaarachchi - Democratic Left Front
7. Mr. G. V. D. Thilakasiri - Democratic Left Front
8. Mr. Somaweera Chandrasiri - Vice President of People's Alliance
9. Mr. Thissa Yapa - Secretary of People's Alliance

1. DELIBERATIONS:

The Sub-Committee on Finance (Committee), with Hon. Bandula Gunawardena at the Chair, held eight meetings, since first convening on 06 June, 2016. The Committee noted that:

- The subject area of the Committee is constituted by Chapter XVII of the Constitution.
- The Steering Committee(SC) would inform the Committee as to specific matters to be considered under public finance.
- The Committee could obtain observations of the General Treasury if required and co-opt any experts if so desired.
- The Committee's deliberations would necessarily extend to provincial and local finance.

1.1 Terms of Reference:

The terms of reference (TOR) for the Committee as set out by the Steering Committee comprised of the following:

1. Allocation of funds between the centre and the periphery.
2. Observations of the Treasury to be called.
3. Public Enterprises – Mechanisms for control and reporting.
4. Role of the Finance Commission and its composition.
5. Independence of the Finance Commission etc.
6. Function of the Central Bank and provisions for its independence.
7. Duties and functions of the Auditor General and the Audit Services Commission. The need for internal and independent audit divisions for each Provincial Council.

8. Appointment, removal and security of tenure of the Auditor General.
9. Whether the functions of the Public Finance Committee, COPE and PAC should be given constitutional status.
10. Comprehensive accountability regime.

The Committee in its deliberations noted that the substantive content of the TOR concerned the following six areas:

- a. Central, Provincial and Local finances and the role, status and composition of the Finance Commission.
- b. Finances of Public Enterprises and mechanisms for their control and reporting.
- c. The Central Bank, its functions and provisions for its independence.
- d. Audit, Auditor General and the Audit Services Commission. Their duties and functions and the appointment, tenure and removal of the Auditor General.
- e. Whether to accord constitutional status to the functions of Parliamentary Committees appointed for oversight of public finances such as the Public Finance Committee, COPE and PAC.
- f. A comprehensive accountability regime for public finance.

The Committee decided to deliberate on the above matters in the context of the provisions of Chapter XVII, moving from an analysis of the weaknesses in the working of the current constitutional framework for public finance, conceptual issues and underpinnings of reform imperatives, to making specific recommendations to address matters referred to in the TOR, and including any other matters considered important to the efficient and effective management of public finance of the

Republic. In doing so, the Committee took account of the issues and recommendations identified in the Report of the Public Representations Committee on Constitutional Reforms (PRC).

1.2 Weaknesses in the working of the current constitutional framework for public finance:

The view was expressed that certain provisions in the current constitution with regard to public finance management are obsolete. On the one hand, the country is moving towards a concept of "economic policy good governance". In the context of the scale of investment required to move to upper middle income status and very high human development, it is necessary to establish effective parliamentary control and thorough supervision over "projects" undertaken utilizing public finance. It is imperative that people are made aware of the advantages and disadvantages of major public investments undertaken whether as public or public-private partnerships.

On the other hand, the public sector continues to function in a centralized manner which in turn makes for centralized control of public finance. Decentralization of responsibility is fundamental to improving efficiency and accountability in the management of public finance, whether of public institutions and enterprises or subnational levels of government. Financial controls work in ways to restrict initiative and innovation, locking institutions and enterprises as well as subnational governments in a regime of operational uniformity.

The critical areas of weakness were identified as follows.

a. Objectives of public finance:

The absence of a coherent set of objectives on public finance to guide the working of the system, whether relating to purpose (well-being of each citizen, safeguarding environment and resources) performance (efficiency, effectiveness and sustainability) or oversight (financial integrity, responsibility, transparency and accountability).

b. Maintaining a focus on sustainable growth:

There is also an absence of a focus on realizing sustainable growth and prosperity through efficient and effective economic decision making/management and control; equitable, fair allocation and judicious use of natural/national resources and public finances.

c. Scope of Parliamentary responsibility for public finance:

The lack of clarity in regard to the responsibility of Parliament to provide oversight with respect to ensuring financial integrity, accountability and responsibility in the management of public finances, covering revenue collection, particularly taxation, expenditure and budgeting and accounting and auditing and the need for more effective control/reporting mechanisms.

d. Control over public expenditure:

Effective control over public expenditure constitutes a cornerstone of an efficient public finance framework. While Article 150 of the present constitution deals with

the withdrawal of monies from the Consolidated Fund, there is a lack of accountability in the ensuing use of funds.

e. Control over borrowing and contingent liabilities:

There is a lacuna in regard to control over borrowing and contingent liabilities. At present gross borrowing limits are specified under the Annual Appropriation Act as given in the budgetary outturn presented to Parliament in the Budget Speech.

f. Structuring of the budget process:

A firm legal basis for a structured budget process is lacking in the current constitutional framework, covering preparation, approval, execution, post-review and analysis and resulting accountability and providing for openness, transparency and public consultation in budget making.

g. Governance of public finance:

The disclosure of information on public finance as a control and monitoring mechanism is inadequate. The FMRA Act was introduced pursuant to the objective of instilling good governance and effective implementation of the principles of responsible fiscal policy. However, there is a lack of provisions for compliance, accountability and consequences of violations of the FMRA as well as independent budget monitoring.

h. The marginalization of provincial and local finance:

Substantive provisions relating to provincial and local finance are set out in the 13th Amendment. The separate treatment of National finance from Provincial and Local finance undermines the fiscal foundations of devolution. Ensuing public finance responsibility of the provincial and local spheres for the provision of public services, lack accountability, restricts autonomy of decision making and fiscal space for adequate engagement in growth and development.

1.3 Framework for recommendations:

The areas of weakness identified above require adequate provision to cover the principles of controls with regard to the three main aspects of public finance, i.e., revenue (taxation), expenditure and budgeting, and accounting and auditing. The management of public finance in Sri Lanka is broadly governed by the Constitution, the Annual Appropriation Act, and the Fiscal Management Responsibility Act, while financial control of State Owned Enterprises (SOEs) are subject to the Finance Act and the Public-Sector Accounting Standards issued by the Ministry of Finance together with the Institute of Chartered Accountants. It is noted that some countries have provided for parliamentary control over public finance and related principles with the attendant processes being enshrined in their Constitutions dealing with especially budget preparation, approval, execution and budget accountability. Other countries give only the broad framework, leaving the processes to be covered in legislation that provide detailed provisions. Sri Lanka has several laws that

govern these areas, as pointed out above, and it is imperative that these form a framework, are consistent with each other and their implementation is well coordinated to ensure that the overall objectives of public finance are achieved.

In moving from the foregoing analysis of the weaknesses of the current public finance regime as well as issues in respect of the TOR for the Committee, to formulating recommendations for strengthening constitutional oversight of public finance, the Committee gave consideration to the principles that would address each of those weaknesses as follows:

a. Maintaining a focus on sustainable growth and development:

A clear set of objectives to be achieved is necessary to drive performance of public finance to a dynamic productive state beyond the current static maintenance mode.

b. Scope of Parliamentary responsibility for public finance:

There is a need for Parliament to provide oversight with respect to ensuring financial integrity, accountability and responsibility in the management of public finances, covering revenue collection, particularly taxation, expenditure and budgeting and accounting and auditing through control/reporting mechanisms.

c. Structuring of the budget process:

It is necessary to provide for a firm legal basis for a structured budget process with public consultation and participation. The budget is central to the public finance process and parliamentary responsibility would be enhanced through greater openness, transparency and participation and information on inputs, outputs and outcomes of the applications of government resources.

d. Control over public expenditure:

Greater openness and participation in the use of funds is necessary to bring about greater accountability. Provisions in the form of a framework of guiding principles could further contribute to effective control of public expenditure.

e. Control over borrowing and contingent liabilities:

It is important to define gross borrowings clearly to capture all borrowings, including those of state enterprises on behalf of the Government, as well as overdrafts which create a liability on the Consolidated Fund. Additionally, contingent liabilities may eventually have to be met with public funds and therefore need to be restricted to relevant approved limits. However, the deliberations noted that it would not be prudent to impose limits in the Constitution and that an elected Government should have the flexibility in making decisions on the management of the economy according to the prevailing context, noting however the imperative

of eradicating undisciplined financial management for political expediency.

f. Governance of public finance:

The disclosure of information on public finance constitutes the cornerstone in the governance of public finance. Provisions are necessary with regard to compliance, accountability and consequences of violations of fiscal responsibility. Adequate independent budget monitoring is necessary to guarantee good governance of public finance.

g. The marginalization of Provincial and Local finance:

It is necessary to bring provincial and local finance within the framework of public finance for greater efficiency in the allocation of public resources. The financing of provincial and local spheres should be brought within the framework of the allocation and use of public finance of the State and provide for:

- a. revenue raising powers guaranteeing an adequate level of fiscal autonomy required to initiate and innovate service provision responses to local needs;
- b. equitable shares of national revenue to compensate for fiscal disabilities, both vertically and horizontally;
- c. borrowing powers providing access to capital resources required for improving service provision;
- d. Budgetary competences to spend on provincial priorities.

- e. Progressive enhancement in access to resources enabling provincial and local spheres to respond to improved levels of service delivery claims of citizens in the respective jurisdictions.

1.4 Guidelines for formulating recommendations:

Following guidelines received the consensus of the Committee in making its recommendations on the matters referred for deliberation:

- a. Separate Public Finance from Audit into two distinct areas to be addressed in separate chapters.
- b. Use the framework of the Chapter on Public Finance in the current Constitution for identifying gaps, new provisions and amendments.
- c. The Constitution should only provide for principles within a broad framework. Specifics should be laws (e.g. FMRA, Finance Commission).
- d. Avoid writing into the Constitution strict rules and regulations so as not to place the government in a straitjacket and restrict flexibility as to how emergent economic problems are addressed.
- e. Unify/Consolidate public finance function across national, provincial and local spheres.
- f. Take into account good governance imperatives of sound fiscal management in the Constitution.
- g. Take into account recommendations of the Public Representations Committee (PRC) in deliberating on the matters referred to the Sub-Committee.

2. RECOMMENDATIONS OF THE PUBLIC REPRESENTATIONS COMMITTEE (PRC):

Recommendations of the PRC in respect of Public Finance are set out in Section 16.2.7 of the Report. The PRC makes only three recommendations in regard to Public Finance. These are:

- a. Retain Articles 148 to 151 of the present Constitution on Public Finance.

Comment:

The Committee proposes retaining Articles 148 – 151 of the present Constitution, while building on the provisions in recognizing fiscal powers of the provinces.

- b. Finance Commission should be appointed by the President on the recommendation of the Constitutional Council. Should not be within the Treasury. The percentage from the total Government Revenue and the percentage and criteria for allocating funds transferred by Parliament among the provinces should be prepared by the Finance Commission and submitted to Parliament.

Comment:

The current constitutional provisions provide for the appointment of the Finance Commission by the President (the 13th Amendment), on the recommendation of the Constitutional Council (19th Amendment). The Finance Commission is not within the Treasury.

- c. Minimum allocation to the PCs and LGs should be 25% of state revenue generated through taxation or borrowing

and that should be allocated amongst the PCs and LGs by the Finance Commission (proposed ratio is 18% for PCs and 7% for LGs). One member proposed that in order for devolution to be meaningful, the minimum allocation to the PC be 40% of state revenue (30% to PCs and 10% to LGs).

Comment:

The current constitutional provisions provide for the Government allocating adequate funds, in consultation with and on the recommendation of the Finance Commission to meet the needs of the Provinces. A minimum share of government revenue is not fixed to transfer to Provinces. The Committee was of the view that it would not be meaningful to fix a share of revenue of the government for transfer to PCs and LGs, rather more appropriate would be to provide for criteria on the basis of which the share of revenue to be transferred to PCs and LGs would be determined.

The rest of the recommendations in Section 16.2.7 are in respect of Audit and Auditor General and are dealt with separately.

3. RECOMMENDATIONS:

The Committee makes the following recommendations on the basis of the above analysis of good public finance requirements.

I. Assignment of the Portfolio of 'Finance' in the Cabinet of Ministers:

(1) The Head of State or Government shall not hold the portfolio of Finance in the Cabinet of Ministers.

II. Maintaining a focus on sustainable growth and development:

(2) The following principles shall guide the practice of public finance in all spheres of government in the Republic.

- a. Clarity in fiscal responsibilities of the spheres of government.
- b. Efficient and equitable sharing of resources between the spheres of government and the units of provincial and local governments.
- c. Equitable sharing of resources between the present and the future generations.
- d. Transparency and accountability in the application of public finance.
- e. Prudent and responsible use of public funds.
- f. Fiscal responsibility and reporting

Above principles will be given effect by National Policy.

III. Parliamentary responsibility for public finance:

- (3) No tax shall be imposed except by or under the authority of the Parliament.
- (4) Provincial and Local spheres of government shall have access to adequate sources of revenue.
- (5) Funds of the Republic not allocated by law to specific purposes shall form one Consolidated Fund into which shall be paid the produce of all taxes, imposts, rates, duties, fees and all other revenues and receipts of the Republic not allocated to specific purposes.
 - (i) The interest on public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund and such other expenditure as Parliament may determine shall be charged on the Consolidated Fund.
 - (ii) A Fund established for a dedicated purpose can be used only for such purpose unless so approved by Parliament.
- (6) All revenues received by a Provincial Council, all fees accruing to the Provincial Council, all loans raised by such Council and all monies received by such Council in repayment of such loans shall form one fund called the Provincial Fund of the Province.
- (7) All revenues received by a Local Authority, including rates received for services provided under respective laws, proceeds of all costs incurred by such Local

Authority in the performance of its duties, all fees charged by the Local Authority for services provided, all loans raised by the Local Authority and all monies received in repayment of such loans shall form one fund called the Local Authority Fund of the respective Local Authority.

IV. Structuring of the budget process:

- (8) Budget and budgetary processes at the National, Provincial and Local levels shall be guided by principles of sound financial management of the economy and ensure fullest transparency and accountability in accordance with a law or statute.

V. Control over public expenditure:

- (9) Withdrawal of monies from the Consolidate Fund, a Provincial Fund or a Local Fund shall be in accordance with law or Statute and for the purposes and in the manner provided for under the Constitution.
 - (i) Withdrawal of sums of money from the Consolidated Fund shall be under the authority of a warrant issued under the hand of the Minister in charge of the subject of Finance.
 - (ii) No such warrant shall be issued unless the sum has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to

take place or is otherwise lawfully charged on the Consolidated Fund.

- (iii) Where the President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, he may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund and the expenditures of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which new Parliament is summoned to meet.
 - (iv) Where President dissolves Parliament and fixes a date or dates for General Election the President may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may, after consultation with the Commissioner of Elections, consider necessary for such elections.
- (10) No Bill or motion, authorizing the disposal of, or other funds of the Republic, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in Parliament except by a Minister, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet may authorize.
- (i) All monies so withdrawn shall be retained and disbursed by the relevant ministry or department or other institutions or enterprises as the case may

be, for the purposes and in the manner as set out in the warrant of authority, under the accountability and subject to the direction, control and oversight supervision of the designated Chief Accounting Officer.

- (ii) The Chief Accounting Officer for this purpose will be the Secretary to the Ministry, as herein before mentioned, who will be accountable to retain and disburse such funds assuring the realization and achievement of the goals and outcomes desired from the allocation of such funds.

[This recommendation will require amendment to the current Article 52 (2) as follows:

The Secretary to a Ministry, subject to the policy direction of his Minister, shall exercise general administrative control, supervision and oversight over the departments of government and other institutions assigned to the Minister as subjects and functions of the Ministry in terms of Articles 43 (2) and 44(2); and will be designated the Chief Accounting Officer of such Ministry and in such capacity will be answerable, conjointly with the Minister, to the Cabinet and Parliament for the effective discharge of the accountability for the subjects and functions assigned.]

VI. Control over borrowing and contingent liabilities:

- (11) The executive power of the Republic extends to direct or indirect borrowing upon the security of the Consolidated Fund of Sri Lanka, within such limits as the Parliament

may fix from time to time and to give such guarantees as may be so fixed.

(12) Notwithstanding any of the provisions in this Chapter, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(i) The Minister of the Cabinet of Ministers in charge of the subject of Finance, if satisfied -

a. That there is need for any such expenditures; and

b. That any provision does not exist for such expenditures, may, pending subsequent approval by Parliament, authorise provision to be made therefore by an advance from the Contingencies Fund.

c. After each such advance, a supplementary estimate shall, within a period of three months, be presented to Parliament for the purpose of replacing the amount so advanced.

(13) A Provincial Council may by Statute establish a Contingency Fund in the nature of an imprest to be entitled the Contingency Fund of the Province, into which shall be paid from time to time such sums as may be determined by such Statute, and such Fund shall be placed at the disposal of the Minister of the Board of Ministers of the Province in charge of the subject of Finance to enable advances to be made by such Minister

out of such Fund with the consent of the Chief Minister of the Province for purpose of meeting unforeseen expenditure and after each such advance, a supplementary estimate shall, within a period of one month, be presented to the Provincial Council for purposes of replacing the amounts so advanced.

VII. The marginalization of Provincial and Local finance:

- (14) Equitable shares of nationally raised revenue shall be provided to the Provincial and Local spheres adequate to fulfil expenditure responsibilities assigned to these spheres of government.
- (15) A three-year medium-term fiscal devolution framework for the allocation of such shares of nationally raised revenue shall be tabled in and approved by Parliament, within the framework of which, annual allocations shall be provided for the provincial and local spheres from government's Annual Budget.
 - (i) The determination of medium-term and annual equitable provincial and local shares shall provide for:
 - a. The determination of the respective shares of national, provincial and local spheres;
 - b. The determination of each province's share of the provincial share;
 - c. The determination of each local authority's share of the local share;

- d. Any other allocations that may be made from the national share to a Province or a local authority area for specific purposes.
- (ii) Such determination of medium-term and annual equitable shares shall take into account:
- a. National public finance obligations;
 - b. Autonomy, equity, efficiency and adequacy in fulfilling responsibilities in respect of the subjects and functions assigned to the provincial and local spheres of government;
 - c. Needs, norms and performance of provincial and local spheres in fulfilling responsibilities in respect of subjects and functions assigned to such spheres of government;
 - d. Efficient and equitable sharing of resources in the application of public finance in development programs between national, provincial and local spheres.
 - e. Progressive enhancement in access to resources enabling provincial and local spheres to respond to improved levels of service delivery claims of citizens in the respective jurisdictions.
- (16) The apportionment of the provincial equitable share between provinces shall have the objective of equalizing the fiscal capacities of the provinces to fulfil expenditure

responsibilities of the provinces and be guided by the Principles of Public Finance and take into account:

- (i) Population of each province.
 - (ii) Land area of each province.
 - (iii) Equitable access to services to include all people in the province.
 - (iv) The need to progressively reduce social and economic disparities between provinces.
 - (v) The status of public services provided in each province in respect of the subjects and functions assigned to the provincial sphere.
 - (vi) Any disabilities encountered by the province in the delivery of services in respect of subjects and functions assigned to the provincial sphere.
- (17) Annual allocations of the equitable provincial and local shares shall be disbursed by the National Treasury to each Provincial Treasury.
- (i) The Provincial Treasury shall disburse the equitable share of the provincial local sphere as provided for under 11.6.1 below.
- (18) The provincial and local spheres of government shall be competent spending authorities.
- (i) Impose taxes, levies and duties as provided for in the assignment of taxes to the Provincial sphere of government under the Constitution and as

provided for in the respective laws governing the Local sphere.

- a. A Provincial Council may, however, raise revenues from sources that are not in conflict with the revenue entitlements of National or Local spheres provided that such are reasonable, consistent with the constitutional Principle of Subsidiarity and necessary to augment provincial resources to meet progressive realization of social and economic entitlements of the citizenry of the Province.
 - b. Where revenue from such sources a Province shall allocate a share prescribed by the Finance Commission and such share shall be allocated according to principles formulated by the Provincial Finance Sub-Committees as provided for under 10.6.1 below.
 - c. A Provincial Council shall have the power to grant incentives by exemptions from such revenue payments where it is in the Provincial interests of competing for investments and growth opportunities.
- (ii) Borrow money and access grant funds domestically to the extent permitted by or under any law made by Parliament.

- a. Five members who have distinguished themselves, or held high office, in the fields of finance, law, administration, business or learning, ensuring that the three major communities are represented in the Commission.
 - b. Three members to represent the provinces in accordance with the procedure laid down in law.
 - c. One member to represent local government in accordance with the procedure laid down in law.
 - d. The President shall appoint one of the members from among those to be appointed under (i) above as Chairperson of the Commission.
- (iii) Every member of the Commission appointed under (3) (a) above shall, unless resigns earlier, hold office for a period of five years. Members appointed under (3) (ii) and (3) (iii) shall hold office as provided for in law.
- (iv) The Commission shall make recommendations to the President on matters envisaged under the Chapter on Public Finance, in respect of Allocation of equitable shares of revenue to provincial and local spheres of government and Provincial and local spheres as competent spending authorities, and in so doing take into

account provisions set out under the respective Articles.

- (v) The Commission shall make recommendations on the apportionment of the equitable share of national revenue allocated to the local sphere between the provinces.
 - (vi) Provincial Finance Sub-Committees constituted under the law shall apportion the provincial local allocation between the respective local authorities of the province.
 - (vii) The Commission shall make its recommendation on any other matter relating to provincial and local finance as may be referred to it by the President.
 - (viii) The President shall cause every recommendation made by the Commission to be laid before Parliament, and shall notify Parliament as to action taken thereon.
 - (ix) Parliament shall take due cognizance of the recommendations of the Finance Commission in the approval of matters pertaining to provincial and local finance.
- (20) A Forum of Finance Ministers chaired by the Minister in charge of Finance in the Cabinet of Ministers and comprised of Ministers in charge of Finance in the provincial Boards of Ministers shall meet bi-annually to allow for adequate consultation between the national, provincial and local spheres of government in matters

relating to provincial and local finance. Secretary to the Treasury and the Chairperson of the Finance Commission will function as joint secretaries to the Forum.

VIII. Governance of Public Finance:

- (21) Reporting to Parliament on the National Budget.
- (22) Reporting to Parliament on the state of borrowing and contingent liabilities by the Central Bank of Sri Lanka.
- (23) The Finance Commission to table a report in Parliament, annually, on the state of provincial and local finance.

IX. Other:

- (24) Votes of Constitutional Offices covering cadres, salaries and terms and conditions shall be subject to approval of Parliament.

Proposals for Government Audit and Auditor General Matters proposed as amendments to the Constitution (In respect of Articles 153 and 154)

Current Article – Chapter XVII – Finance

Articles 153 and 154 being shown under Chapter XVII – Finance suggests that government audit is classified as a sub section of government finance.

Recommended Amendment

It is necessary that government audit should be shown under a separate chapter, and not as a sub section of government finance.

Current Article – Article 153 (1)

According to 153 (1), the Auditor General shall be a qualified Auditor. According to Article 154 (8) a qualified Auditor means only a person with professional accountancy qualifications.

Recommended Amendment

Even though a qualified Auditor should be a recognized professional, as it is not proper that the accountancy profession only should be based for it, it is proper that only being a professional should be included in the Constitution, that is as, "There shall be an Auditor-General who shall be a qualified professional". (It is appropriate that the word professional be defined).

**Current article – Article
153 (3) (c)**

153 (3) (c) The office of the Auditor General becoming vacant. It is stated that on reaching the age of 60 years the office becomes vacant.

Recommended Amendment

It is appropriate that this be amended as “the term of office shall be 07 years” in lieu of the age of 60 years.

**Current Article – Article
153 (3) (d)**

On the removal of the Auditor General by the President on account of ill health or physical or mental infirmity.

Recommended Amendment

It is appropriate to repeal constitutional provision 153 (3) (d) and insert in lieu “When the office of the Auditor General becomes vacant, the President shall take action to fill this office within a month, and the Auditor General so appointed shall hold his office for a period of 7 years from the date of that appointment.

Current Article – Article 153 (c) 2 (b)

Under the powers and functions of the Audit Service Commission, “preparation of the annual estimates of the National Audit Service established by law” is stated as a function.

Current Article – Article 153 (c) 2 (c)

Recommended Amendment

It is appropriate to amend as “Notwithstanding any provision in article 152, preparation of the annual estimates of the National Audit Office and the Audit Service Commission established by law, and submitting to the Parliamentary Budget Committee for presenting to the Parliament for Parliamentary approval.

Recommended Amendment

To insert afresh under 153 (c) 2 (c) – “Providing guidance and directions in respect of the duties and functions of the Auditor General; and”

To repeal “now” currently appearing under 153 (c)2 (b)

To insert afresh under 153 (c) 6 –

In making provisions for the Audit Service Commission to

provide guidance and instructions to the Auditor General in accordance with sub article 153 (c) 2 (c), it is appropriate to apply checks and balances without prejudice to the discretionary power given to the Auditor General in the performance of his duties and functions. It is appropriate to make provisions, if he does not accept, subject to the discretionary power that should be available to the Auditor General to either accept or reject any instruction or guidance submitted by the Audit Service Commission in that behalf, for the Auditor General and the Audit Commission to report to the Parliament showing cause.

**Current Article – Article
153 A (1) (a)**

Two retired officers of the Auditor-General’s Department, who have held office as a Deputy Auditor-General or above.

Recommended Amendment

153 A(1)(a) A retired officer of the Auditor-General’s Department, who had held office as a Deputy Auditor-General or above.

153 A(1)(d) An eco-friendly person of excellence and integrity who had been acclaimed in the general professional career, and who is not a member of any political party.

Current Article– Article 153 A (2) (a) (ii)

“is removed from office as provided in this Act;”

Recommended Amendment

“is removed from office as provided in Sub-Article 153 A (3);”

Current Article – Article 153 B (2)

Parliament shall, subject to paragraph (1), provide for meetings of the Commission, the establishment of the Sri Lanka State Audit Service and such other matters connected with and incidental thereto.

Recommended Amendment

Parliament shall, subject to paragraph (1), provide for meetings of the Commission, the establishment of a National Audit Office and the Sri Lanka State Audit Service and such other matters connected with and incidental thereto.

Current Article – Article 154 (1)

(Lack of specific constitutional provisions earlier in respect of the audit of Provincial Councils).

Recommended Amendment

The words Provincial Councils too shall be included in this paragraph.

Current Article – Article 154 (1)

“.....in which the Government or a public company or local authority holds fifty per centum or more of the shares”

Recommended Amendment

“.....in which the Government or a public corporation, company, co-operative or local authority or all institutions defined under article 148 hold (directly or indirectly) fifty per centum or more of the shares....” should be included here.

Current Article – Article 154 (2)

Recommended Amendment

It is appropriate to repeal constitutional provision 154 (2).