How Numbers Can Mislead: Does Retaining the Limit to The Appointment of Cabinet and Other Ministers Solve Administrative Inefficiency?

This article will discuss how, besides the obvious financial costs borne by having to maintain large cabinets, the focus on cabinet size alone conceals other problematic aspects impacting the way our governments function. Little attention is paid to the instability that arises within ministries as they are changed multiple times within a short time span. The inefficiencies arising from the merging of ministry portfolios as a result of unrelated sectors being clumped together escape unnoticed. They hide the costly implications associated with cabinet formation in Sri Lanka - the inability to maintain smooth coordination, hold Ministers and Government agencies accountable and to ensure the Cabinet functions in accordance with its mandate.

The Cabinet of Ministers is responsible for directing government policy and making decisions relating to national issues, resolving current national problems, and approving bills tabled in Parliament which are thereafter passed into law. The 19th Amendment to the Constitution placed a cap on the number of Cabinet Ministers to 30. In addition, the total number of non-Cabinet Ministers and Deputy Ministers appointed was limited to 40. The 20th Amendment initially proposed to remove these limits and allow the Executive to appoint an unlimited number of Ministers to the Cabinet. However, this clause was later removed[1] and the limit of 30 Cabinet ministers and a total of 40 non-Cabinet and Deputy ministers was retained when the 20th amendment was passed in Parliament on the 22nd of October 2020.

Following the General Elections held on the 5th of August 2020, the 9th Parliament of Sri Lanka elected initially comprised a Cabinet of 28 Ministers. Although this number is much lower than the usual 'jumbo'-sized cabinets by previous governments, it masks the deep-rooted problem of inefficiency within Sri Lanka's administrative system. This inefficiency is illustrated in light of the recent new appointments made late last year to the two new Ministries (the Ministry of Public Security, a Ministry of Technology[2]) and State Ministry (State Ministry of Primary Health Services, Pandemics and COVID Prevention[3]) created just three months after the initial appointments to the present Cabinet.

The Problems with Cabinet Formation in Sri Lanka

There are two problems in the current structure of Ministries, which hinder the government from fully reaching their potential, realizing their mandate and ensuring effective and efficient governance of the public sector.

1) The ***proliferation*** of ministries to accommodate political interests and their resulting ***instability***

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[1] 'Cabinet sets a limit on the number of Ministers in proposed 20A' *Economynext,* 20 October 2020, available at https://economynext.com/cabinet-sets-a-limit-on-the-number-of-ministers-in-proposed-20a-74931/ [Last accessed November 24, 2020]

[2] 'Sarath Weerasekara likely to be new Cabinet Minister for Public Security' *Economynext,* 23 November 2020, available at https://economynext.com/sarath-weerasekara-likely-new-cabinet-minister-for-public-security-76238/ [Last accessed November 24, 2020]

[3] 'MP Sudarshani Fernandopulle gets new State Ministry portfolio' *DailyFT,* 1 December 2020, available at http://www.ft.lk/news/MP-Sudarshani-Fernandopulle-gets-new-State-Ministry-portfolio/56-709595 [Last accessed December 1, 2020]

2) The ***irrationality*** in the way ministry portfolios are designed and their resulting ***dysfunctionality***

The *proliferation* of ministries to accommodate political interests and their resulting *instability*

Apart from Cabinet ministers, the 1978 Constitution also allows for the appointment of other (non-Cabinet) Ministerial positions such as State Ministers, Deputy Ministers and Senior Ministers. It does not explicitly clarify the differences between Cabinet and non-Cabinet Ministers such as State Ministers in terms of function and status, except to the extent of providing that non-Cabinet ministers' cannot attend Cabinet meetings. As a result, although the 19th and 20th constitutional amendments limited the number of Cabinet ministers that could be appointed, successive governments have found this ambiguous difference between Cabinet and non-cabinet ministers serves as a loophole to increase the number of ministers with the same powers, privileges, and functions as Cabinet ministers. This has enabled the proliferation of Ministry portfolios.

This can be illustrated for example in the current Cabinet under President Gotabhaya Rajapaksa, comprised of 28 Cabinet Ministers and 40 State Ministers. The composition of ministry portfolios held by these ministers has been seeing multiple changes in light of the recent appointments made to the newly formed ministries, such as through the appointments of MP Admiral Sarath Weerasekara (previously the State Minister for Provincial Councils and Local Government) as Minister of Public Security,[4] MP Dr. Sudarshani Fernandopulle (previously State Minister of Prison Reforms and Prisoners Rehabilitation) as the State Minister of Primary Health Services, Pandemics and COVID Prevention[5] etc. These appointments demonstrate the proliferation of Cabinet ministries under the pretext of State ministries, appearing to be enabled by the ambiguity between Cabinet and non-cabinet ministerial positions in the constitution. The motive behind such appointments, as in the past, have been deemed largely political.[6]

This phenomenon is not limited to the present Cabinet alone and can be observed even in past Cabinets. As seen in Exhibit 1,[7] from 2015-2019 alone the overall makeup of ministries changed 32 times, involving either the creation of ministries or the shifting of departments between ministries. Exhibit 1 does not include the multiple changes, such as the constant shuffling of departments, agencies, and other bodies that took place between ministries, between 2010-2019. If this was taken into consideration, the number of revisions made to ministries would have been significantly larger for the same period.

Exhibit 1: Number of revisions made to the overall composition of Ministries (2010-2019)

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[4] 'Sarath Weerasekara sworn in as Minister for Public Security', *Daily Mirror,* 26 November 2020, available at http://www.dailymirror.lk/breaking_news/Sarath-Weerasekara-sworn-in-as-Minister-for-Public-Security/108-200640 [Last accessed December 1, 2020]
[5] 'MP Sudarshani Fernandopulle gets new State Ministry portfolio' *DailyFT,* 1 December 2020, available at http://www.ft.lk/news/MP-Sudarshani-Fernandopulle-gets-new-State-Ministry-portfolio/56-709595 [Last accessed December 1, 2020]
[6] Weliamuna J., 'Position Paper on Mega Cabinets', *The Island,* 19 January 2006, available at http://pdfs.island.lk/2006/01/19/p8.pdf [Last accessed December 16, 2020]
[7] The numbers in Exhibit 1 were compiled using the available published Extraordinary Gazettes issued through notification by the President on the official Department of Government Printing site for the period 2009-2019.
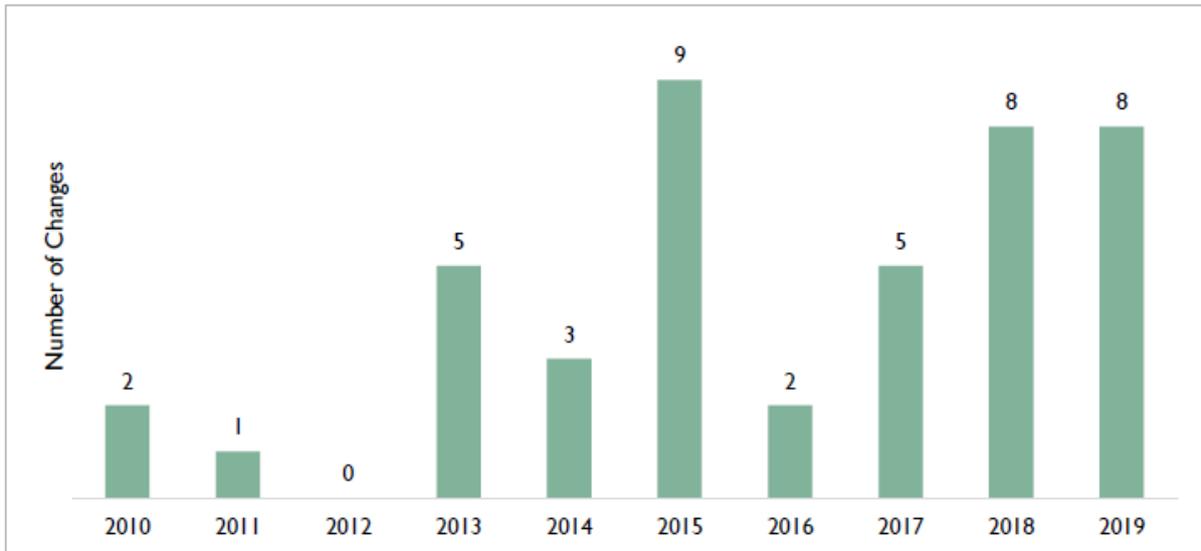
The instability within ministries due to the proliferation of ministries to accommodate the political interests of politicians leads to a second problem – the irrationality in the assignment of subjects to ministry portfolios.

The *irrationality* in the way ministry portfolios are designed and their resulting *dysfunctionality*

When the Executive gives into the political interests of politicians, they do so by increasing the number of ministries. This is achieved by (i) the splitting of related subjects in a single sector across multiple ministries (fragmentation) to create new ministries. A clear example of this can be seen in Exhibit 2 below, where in 2013, the agriculture sector was split into 8 individual ministries.

Exhibit 2: Revisions made to the Agriculture Sector over the years
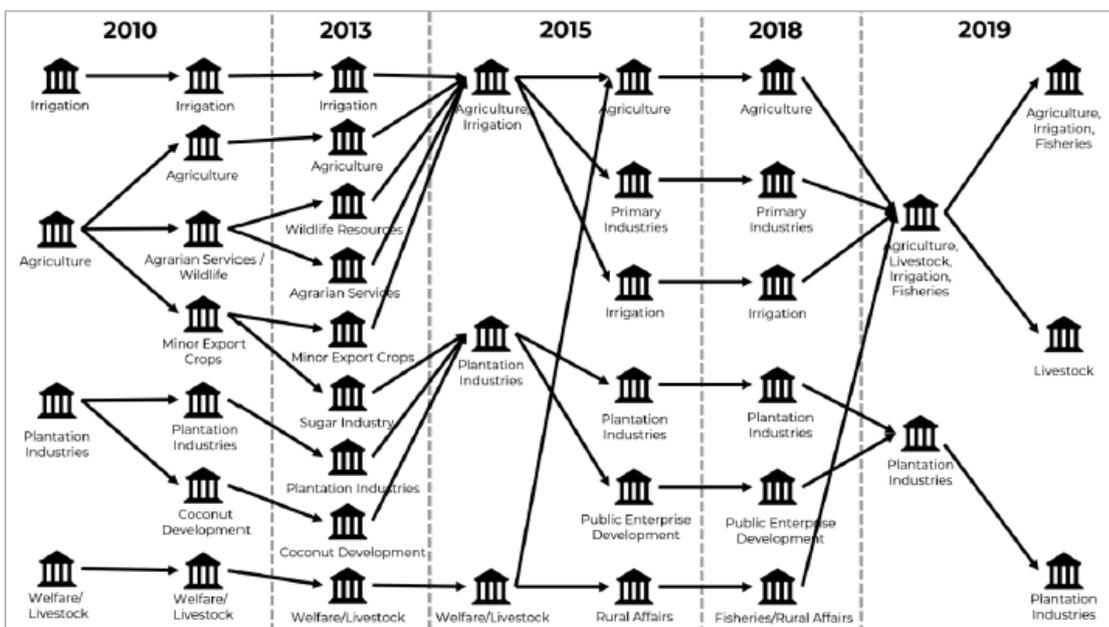
Another result is (ii) the combining of subjects from unrelated sectors under a single ministry (misalignment). On the basis of political interests, subjects are split across several ministries alongside other subjects that do not belong to the same sector. For example, the Ministry of Tourism Development, Wildlife, and Christian Religious Affairs in the Cabinet appointed by President Sirisena prior to the 2019 Presidential election exemplifies this misalignment. It combined subjects from three unrelated sectors into one ministry.

An example of misalignment within the current Cabinet is how the subject of Women and Child Development was brought under the purview of the Ministry of Education, which largely covers education related subjects such as education reform, Open Universities & Distant Learning Promotion, Vocational Training, Dhamma, Pirivena & Buddhist learning Institutes, Pre-Schools & Primary Education etc.

These problems are not a trend of only our recent governments as discussed in the examples above. Rather, they haves plagued Cabinets as far back as 1988, as evidenced by the 7th report of the Administrative Reforms Committee (ARC) appointed by President J.R. Jayawardena in 1986[8]. Noting that the government was highly fragmented, which impeded its smooth and efficient functioning, the report recommended that the formation of ministries should be underpinned by rational reasoning, with the consolidation of ministries that fell under the same sector while separating those that contained unrelated subjects between different ministries.

Given that these problems persisted even within past Cabinets, the question arises as to why such problems were not rectified by successive governments in Sri Lanka. The constitutional structure currently in place incentivises these trends as the Executive arm of the government is able to overcome checks and balances of the Legislative arm because it is able to incorporate a large number of MPs into the Cabinet at its own discretion. As long as this situation prevails, and a clear limit on the number of ministries and ministers that can be appointed is absent within the constitutional structure, it is difficult to resolve this issue.

Costs and Consequences

Nonetheless, the tendency to form Cabinets in this manner have contributed to three outcomes that are detrimental to the efficiency and smooth functioning of the administrative system of the country as well as the public sector as a whole; (i) Higher costs, (ii) reduced efficiency, and (iii) reduced accountability.

Higher Direct Costs: Each ministry, once established, has built-in institutional costs that are borne by the public. Regardless of whether it is a Cabinet ministry, each ministry has its own Minister, sometimes a State Minister, a Secretary, Additional Secretaries as well as other ordinary staff, etc. They also require expenses in maintaining an office space, for vehicles, security staff allowances, etc. As a result of this, with every new ministry created and every additional minister appointed, the direct costs that the public must bear to maintain such ministries also increases.

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[8] President J.R. Jayawardene established the Presidential Administrative Reform Committee (also known as the Wanasinghe Committee) in 1986 to examine and report on reforms required in government ministries and departments with a particular reference to the distribution of functions, policies relating to human resources management and development, administrative devolution, financial management and administrative systems and procedures. For more details, refer: R.K. De Alwis, 'A History of and Prospects for Public Sector Reform in Sri Lanka' (2009), available at: https://pdfs.semanticscholar.org/b438/18b242ee6a51efcc24cfc6962cfb7757cfda.pdf

Reduced Efficiency: Little attention is given to the increase in indirect costs associated with the creation of ministries and the appointment of new ministerial positions. These often exacerbate the inefficiencies within the government because more agencies with similar or identical mandates, but part of different ministries, are involved in executing a single activity. This increases the burden of coordination and communication across many ministries, delaying the progress and completion of activities by ministries. It also leads to the diffusion of knowledge and expertise within the public sector as bureaucrats and their expertise are split across several ministries, limiting the potential gains that could be achieved through their collaboration.

Reduced Accountability: The constant reshuffles officials must undergo when ministries are misaligned and fragmented results in a lack of continuity in the oversight of departments and agencies within ministries. Verité Research's Budget Monitoring platform, BudgetPromises.org in its analysis of the 2019 budget found that a major contributor to the lack of openness on the status of implementation of proposals assessed were the frequent changes made to ministerial portfolios. The frequent changes had led to a breakdown in the lines of responsibility[9]. Additionally, institutions like the Parliamentary Committee on Public Accounts (COPA), who provide oversight on the use of resources by government agencies, have also pointed to these changes as a key challenge to their ability in ensuring public funds are not misused[10].

Conclusion

It is evident that the 19th & 20th Amendments' attempt to limit the number of cabinet and non-cabinet ministers do not fully address the concerns associated with ensuring an efficient and accountable government. The current constitutional safeguards address only the tip of the iceberg.

The tendency to create larger cabinets is rooted within the inadequate constitutional checks and balances on the Executive arm of the government, which is largely influenced by political interests. These not only result in the proliferation of ministries, but also results in a much larger problem of institutional instability within government agencies changing hands multiple times over a short period of time.

The resulting consequences of these problems run deep, far beyond the obvious financial costs incurred in having to maintain a large number of ministers and ministries simultaneously. They lead to difficulties and delays in coordinating the progress and completion of activities dealt by ministries as well as the diffusion of knowledge and expertise within the public sector, and finally reduced accountability in terms of administrative and financial responsibility. All of these affect the efficiency and effectiveness of the government, slowly but steadily, and has prevented it from fully realizing its mandate and performing at its fullest potential.

**This article is based on the recently published White Paper by Verité Research titled 'A Rational Method for Cabinet Formation in Sri Lanka'. For more information, read the full White Paper here.[11]

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[9] 'Making Budget 2021 Credible' *The Sunday Morning,* 1 November 2020, available at http://www.themorning.lk/making-budget-2021-credible/ [Last accessed November 10, 2020]
[10] R.K. De Alwis, Administrative Reforms in Sri Lanka: 1950-2005 (2013).
[11] https://www.veriteresearch.org/publication/cabinet-white-paper-sri-lanka/