

“**கிசலூமி தூர்வகிசன் கடூலா கமிர்லா கிசுலகன்**
அனலத்து குடிமக்களுக்கும் நிபாயான பிர்திநித்துவம்
FAIR REPRESENTATION FOR ALL CITIZENS”

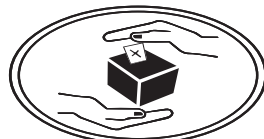


**மகிவரலா றுமகே கங்லேமில கடூலா
காரிலேலிஷு னேரீலி காரக கலாலி
கலர்லு யேலகல**

தேர்தல் முறைமையின் சீர்திருத்தங்களுக்காக பாராளுமன்றத்
தெரிவுமுவிற்ற ப.வ்ரலின் முன்மொழிவுகள்

**PAFFREL'S PROPOSAL TO THE PARLIAMENTARY SELECT COMMITTEE
FOR REFORMS TO THE ELECTORAL SYSTEM**

FAIR REPRESENTATION FOR ALL CITIZENS



PAFFREL

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2021**

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PREFACE



The PAFREL has submitted its proposals for all Parliamentary Select Committees (PSCs) appointed to revise the electoral system in Sri Lanka. The PAFREL also has submitted its written proposals to the Parliamentary Select Committee appointed by the Speaker on May 05, 2021 to amend the Electoral System. In addition, these proposals were orally presented before the Parliamentary Select Committee on 14th July 2021 in the Parliament of Sri Lanka.

As soon as the Parliamentary Select Committee was appointed, we took the initiative to make the public aware of it and encouraged them to submit proposals. We also sought to discuss this matter with all the political parties represented in Parliament and were able to discuss face to face with several political parties; and with several other parties through Zoom technology and over the phone. Apart from that, discussions were held with Hon. Minister Dinesh Gunawardena, the Chairman of the Parliamentary Select Committee, Members of Parliament and the Councilors of Local Government Institutions.

In addition, PAFREL has formulated these proposals based on discussions held with various groups which include Civil Society Organizations at district level, University Lecturers, Trade Union Leaders, and University Students, PAFREL coordinators, the Board of Directors of PAFREL and its staff.

The PAFREL would like to thank all those who have extended their support and shared their views in this regard. We firmly believe that this proposal will be of use to the Parliamentary Select Committee in revising the electoral system in the future.

Rohana Hettiarachchi
Executive Director
The PAFREL

The factors needing attention in revising the electoral system in Sri Lanka

01. Fundamental features of a representative system in democratic political systems

- i. Every facet of public opinion must realistically and proportionately be represented in the Legislature. In order to ensure that the fundamental elements of how constituencies are formed, the voter should cast his vote, the manner in which the vote is counted & the representatives elected and how the vacancies in the legislature are filled should be included in the electoral system .
- ii. Simplicity is one of the basic democratic characteristics that should be in a system of representation. It must be easy for every voter to understand.
- iii. It must have the ability to set up a stable government. (This does not have much impact on an Executive Presidential system)
- iv. It must be capable of promoting people's confidence in the electoral system.

The fundamental purpose of the electoral system will be defeated if the public does not have faith in it, no matter how positive and effective it is. Therefore, it is important to act, from the beginning to the end, in such a way that it will ensure the people's trust in it.

Deciding an electoral system for a country cannot be made in isolation. The electoral system must always conform to and be in line with the constitutional structure of the country. It implies that the system of governance or the nature of the political executive must be considered here. There are several governance models.

- ❖ The Cabinet Executive model
- ❖ The Presidential Executive model
- ❖ The semi-presidential or Presidential and Cabinet mixed model

This means that the nature of the political culture, the pattern of behaviour of the voters, nature of the system of political parties in any political system invariably exert an impact on the operation of the electoral system of representation. In addition, when considering a new electoral system of representation, it is important that we must go beyond the technical aspects and pay close attention to factors such as the essence of the system of representation itself and the quality of it. At the same time, the electoral system must be designed being conscious of the future economic, social and political well-being of the country.

02. The allegations against the current electoral system must be considered.

01. Not having a people's representative responsible for the division.
02. Distance between the voter and the people's representatives.
03. Need for carrying out political campaigning in a larger area.
04. High cost involved.
05. Corrupt people having more opportunities to win.
06. Inability to form stable governments.

03. Allegations against a simple majority system should be considered.

- i. Improper representation of public opinion (in a multi-party system, even a person not preferred by the majority is likely to get elected. Such a problem will not arise in a two party system
- ii. The voter has no space to elect the candidate of his choice.
- iii. The leader of the political party has unlimited power in selecting the candidate.
- iv. It induces the people's representatives to make decisions based on their party members/region instead of making national decisions.
- v. Obtaining nominations being crucial for the prospective candidates, they are likely to follow the party leader even if the latter behaves undemocratically.
- vi. In view of the nature of the existing political party system, it is likely that even persons without a popular base could be elected to Parliament.
- vii. The candidates will be reluctant to contest certain constituencies (due to Block Vote). This will prevent the entry of the deserving people to Parliament, whom it really needs.

04. Other social and political issues to be considered

1. The new electoral system should be one that would contribute to creating a positive environment for the future economic, political and social development of the country.
2. The new system must help overcome the shortcomings of the existing system.
3. It should help to reflect the public opinion in its correct perspective.
4. The number of seats in Parliament shall not exceed 225.
5. The proposed new system should not cause a drastic reduction in the number of representatives the political parties have at present .

We wish to submit the following proposals in the light of the factors outlined above

Proposal No. 1

Maintain the existing proportional representation system and rectify its defects

Proposal No. 2

Adoption of a mixed electoral system combining the first past the post method and the system of pre-listed candidates while maintaining the system of proportional representation

In this context , the ratio of 50% -50% is the most appropriate ; the ratio of 60% -40% also could be considered. In a situation where a multi-party system is in operation, increasing the ratio gap will not contribute to representing the public opinion fairly. The method of hanging seats could be a solution in such situations though it could lead to an increase in the number of public representatives.

Proposal No. 3

Reduce the size of electoral districts

Maintain the existing system and increase the number of electoral districts from 22 to 40 taking into account the geographical and population factors, and other circumstances as well, so that the expenses incurred by candidates could be reduced and the closeness between the candidates and the voters improved.

Whichever of the above proposals implemented, the following methods could be used to minimize or rectify the existing weaknesses.

Weakness 1

Huge cost incurred by the candidate and the greater likelihood of corrupt people winning.

Solution

I Limiting the election expenses

Changing the electoral system alone will not help limit the spending by candidates. Even if the size of the constituency is made smaller, the candidates who are financially strong can afford to spend large sums of money on a small constituency. It can even develop to the extent of buying over the voter. The laws that restrict the amount that can be spent by the candidate should be introduced to prevent this situation; it will lead to restricting the amount spent by any candidate to some extent regardless of whether they are financially sound or not.

II. Laws should be enacted to make receipt of money from anti-social activities an offence punishable by depriving the candidature or the seat in the event the candidate is elected. Also legal provisions limiting the amount of assistance that a candidate can receive from an individual or an institution should be in place.

III Campaigning activities should be standardized

IV. The Election Commission should provide basic details of each candidate to every household along with the official ballot paper. A relevant form for that should be prepared by the Election Commission.

Weakness 2

Absence of a public representative responsible for the constituency, and the wide distance between the voter and the representatives

- I. Though it is necessary to have a member who is responsible for a division/ward in the local government system, it takes a different form when it comes to parliamentary elections. The role of the Members of Parliament should be limited to legislative policy-making, financial control and examining the work of the government. Under the circumstances, the district / division that he comes from is not so important.
- II. Appointment of a Member of Parliament for a specific constituency will not be a crucial issue if development and welfare activities are distributed across the country fairly and transparently and the institutional structure of the country is functioning properly.

- III. It should be specified that all political parties and groups contesting elections should prepare their nomination list in such a manner that it will ensure that at least one of their candidates is nominated for each constituency so that it could be possible to have a member for each constituency regardless of the political party he or she represents.
- IV. Implementation of proposal No. 2 and 3 will help reduce the gap between the people's representatives and the voter.

Weakness 3

Emergence of unstable governments Solution

1. When the proportional representation system was introduced it was assumed that it would lead to the emergence of weak governments. But past experience has shown that it is not so and strong governments have been formed under the proportional system. However; it is not a strong factor in an executive presidential system.
11. It is most likely for the same political stream that wins the Presidential election to secure a majority in Parliament also by holding the Presidential and Parliamentary elections on the same day.
111. This situation can be prevented by maintaining the system of allocating bonus seats currently in operation.

In addition to the above proposals relating to the system of representation, we wish to emphasize the following points also.

1. Adoption of a mixed electoral system which combines the good features of the system of simple majority and the proportional representation system is most appropriate.
2. It is advisable to adopt a system that combines the first past the post system which gives one member for each constituency and the proportional system for the district.
3. Attention should be paid for naming certain constituencies having specific population compositions as multi-member constituencies; and Laws should be enacted (preventing the nomination of two representatives of the same ethnicity) to ensure the specific ethnic characteristics of such constituencies are preserved.
4. The Ratio of 50% -50% is the most appropriate in this case, but even 60% -40% too can be considered.
5. It is advisable to restrict the total number of Members of Parliament to 225.
6. The element of proportional representation should be maintained in such a way to ensure that the seats are distributed in proportion to the number of votes polled by each party and independent group.

7. Also, the possibility of voting for one party and giving preference to a candidate of another party (dual ballot system) may be considered.
8. The electoral system and the ballot paper should be made simple and easy to understand.
9. The minimum percentage of votes that a party / independent group should obtain to be qualified for a seat should be 3%.
10. We wish to propose that a sequential list system is introduced to minimize the unlimited power exerted by the party leader in selecting the candidates in a mixed electoral system.
11. Laws should be enacted so that a certain percentage of the Best Losers are given a chance when the members from the list are appointed.

01.

The need for an early voting system

Nearly two million registered voters in Sri Lanka are not able to go to the polling booth and cast their vote on Election Day. The analysis of results of some elections held in Sri Lanka reveals that the change in the result has been dependent on very thin margins.

In such a situation, nearly two million people losing their right to vote is a serious issue. This category of voters can be classified into two main groups.

1. Those who are in the country, but unable to go to the polling booth on Election Day due to practical reasons.
2. Those who have got registered as voters in the country but staying out of the country for various reasons

Many countries in the world have adopted several methods to safeguard the right to vote of such voters.

- ❖ Early voting method
- ❖ Postal voting system
- ❖ Mobile voting system
- ❖ Online voting system
- ❖ Transferring the right to vote to someone else (Proxy voting system)
- ❖ Casting vote through the embassy
- ❖ Installation of overseas polling centers
- ❖ Installation of polling centers near workplaces.

The use of a pre-voting system is the most popular among these methods. Of the countries that use these methods, 35 have adopted the early voting system. Another 17 or about 35% use the postal voting system. Of 48 countries in the Asian region, 33% use the early voting system, 40% use mobile voting system and 19% use postal voting system. Mobile voting is widely used in Europe, It has a high usage of 59%. It is about 40% in the Asian region. The postal voting accounts for 32% in Europe, and 19% in Asia. The use of it in African and South American countries accounts for about 4% and 7% respectively.

The experience of several countries like Thailand that are very similar to Sri Lanka reveals that even a farmer or worker, who knows in advance that he will not be able to go to the polling booth on election day could cast his vote at the specific polling station of the district in which his vote is registered, on the day before the election. The system of voting through embassies is implemented in the Maldives, our nearest country, for its voters living abroad. Sri Lanka has the largest number of Maldivian voters who stay outside their country. Consequently, the Maldivian Embassy in Sri Lanka is made into one of their polling stations. Many other embassies too follow the same system. In Myanmar, Election officials and observers used to visit the disabled and elderly voters whom they had identified in advance, at their homes and facilitate them cast their vote in advance. The mobile polling stations are operated for remand prisoners in Afghanistan, where democracy is not so strong. South Korea has adopted a methodology for its fishing community to cast their vote while being in the sea.

The practice in Sri Lanka

Of the early voting systems, only the postal voting system is in operation in Sri Lanka currently. It is also restricted only for the public officers who are involved in election duties. Consequently, a substantial number of people in Sri Lanka are unable to cast their vote on election day for practical reasons, the categories of groups unable to vote are indicated below.

- ❖ Private security personnel
- ❖ Those who provide public transportation services
- ❖ Election observers
- ❖ Those who are engaged in the health sector
- ❖ Hospitalized patients receiving long-term treatments
- ❖ Urban workers
- ❖ Employees of companies that provide uninterrupted supply of products and services

A methodology can be devised to enable such people to cast their vote. It is important to consider the possibility in regard to the 5 types of elections held in Sri Lanka, separately.

1. Presidential Election
2. Referendum
3. Parliamentary election
4. Provincial Council Election
5. Local government election

It is easy to provide this facility for all the people to cast their vote regardless of where they stay in the country on Election Day in the first two elections mentioned above as the entire country is treated as one single constituency when holding the presidential Election and referendums. But the provision of this facility in respect of Parliamentary and Provincial Council elections poses some difficulties as, according to the present system; it involves the dispatch of relevant ballot papers to a large number of districts. This is further complicated in local government elections as the ballot papers have to be dispatched for nearly six thousand constituencies/wards.

Who can be accorded the right to vote at the first stage?

It is extremely important that the right to vote is offered to both groups that stay in the country as well as out of the country. It is the responsibility of the government to ensure that the right to vote of the citizens is protected, especially of those who earn foreign exchange for the country staying out of Sri Lanka. Therefore, policy decisions must be taken in this respect and the right to vote of all voters must be protected through the Constitution. However, if it is implemented without having a formal mechanism in place to address the practical issues that may arise in the process might lead to creating a distortion of the universal suffrage.

The citizens of the majority of countries which facilitate their citizens living abroad in preserving and exercising their right to vote are economically strong; and those countries have advanced political practice. And the vast majority of those voters staying abroad are white-collar workers with some education. Most of the methods that can be introduced for such groups are difficult to be applied for the majority of Sri Lankans staying abroad...

The majority of Sri Lankans living abroad belong to the category of unskilled workers; most of them are domestic workers or drivers. The facility of casting the vote through embassies in far away countries which could be commonly used for this purpose, will not be practically possible to be adopted for such people. Also, the implementation of this system through embassies which are managed by political appointees could lead to influencing the voters. Therefore, it would be advisable to separate the Sri Lankan citizens working overseas into several categories and provide the opportunity first to those who could easily be given the chance to exercise the right to vote. It would be appropriate to design a formal and transparent system before providing this facility for others.

Facilitating the voting of people living in the country

Providing this facility for the registered voters who stay in the country, but are unable to go to the polling station in person on Election Day for various practical reasons is much easier than giving it to those staying overseas. This category can be divided into three main groups.

1. Those who are unable go to the polling booth on Election Day but could make it on another day.
2. Those who are unable go to the designated polling booth on Election Day but make it in another polling station closer to their place of work.
3. Those who are unable to go to any of the polling booths on Election Day or before that, due to health or legal reasons.

Methods that can be easily implemented in Sri Lanka and the type of elections they can be adopted.

As a beginning, one of the above systems can be easily introduced within Sri Lanka in respect of the presidential election and referendums because in both elections, the whole country is treated as a single constituency and the voter could cast his vote while staying anywhere in Sri Lanka. In the second phase, the adoption of this system should be considered in respect of Parliamentary Elections as well, as it is an election that determines the well-being of the country. Inclusion of Provincial Council and Local Government Elections could be considered in the third phase.

02.

It is possible to identify several methods that can be implemented practically in Sri Lanka

Postal voting system

As this is already in operation in respect to the public officers on election duty, it could, based on a system of early registration, be easily extended to include persons in the private sector who are engaged in essential services and also employees in other institutions which have a formal mechanism and a significant number of people working. However, initiation of this will require some legal amendments.

2.2 Method of early voting

In each electoral district a selected number of polling stations can be kept open a few days before the Election Day so that the voters who knew in advance that they will not be able to go to the polling booth on election day due to the nature of their duties or very important events in their personal lives or for any justifiable reason, could cast their vote after having an early registration.

2.3 Setting up of alternate polling centers on Election Day

There are a significant number of voters who are unable to go to the designated polling booth on Election Day but could go to a polling booth in the electoral district where they work. There is a possibility of setting up special polling centers for such people or directing them to some identified polling centers. This system can be easily implemented for institutions which have a significant number of voters working in them, such as factories, private security services and private hospitals. This system was practically implemented in the country during the war. It can be implemented by making a minor amendment to the existing law.

2.4 Setting up of mobile polling centers

This method can be applied practically for people who are unable to go to their polling station on Election Day. For example, this system can be implemented for pre-registered or identified persons such as remand prisoners, patients hospitalized for prolonged periods (like the patients in the Apeksha Hospital at Maharagama), and persons who are unable to go to the polls due to physical disabilities. This system is being practiced in many countries by election officials on or before the Election Day. Representatives of political parties and election observers can also participate in such mobile polling centers.

03.

Limiting campaign finance by candidates

Universal suffrage is the highest attribute of democratic rule and it becomes a reality by holding free and fair elections. The independence of an election means the freedom it offers the voters to express their independent will through the ballot paper. Campaigning is an essential aspect of an election. But if the will of the voter is influenced through excessive campaigning and the use of monetary power, and the candidate's victory rests on his/her financial strength, it will certainly defeat the objectives of the universal suffrage and result in creating a distortion of democracy.

At the same time, it will defeat the principle of "fair ground" that should prevail in an election. To prevent this situation, legislation to limit campaign finances by the candidate should be introduced so that the maximum amount of money that can be spent on each election will be determined by the geographical location of the area and the size of the electorate. Accordingly, the amount of money that can be spent will depend on the number of voters in the electorate, which may fluctuate depending on the changes in the size of the population. Such an Act should specify the institutions and individuals from which a political party or a candidate could or could not receive financial support, and each candidate should, prior to the election, open a separate account for election expenses and all funds received and expenses incurred shall be made through this account. At the end of the election, each candidate must submit an audited report of receipts and expenses; a mechanism must be introduced to check and monitor them. Necessary legal provisions should be introduced to cancel the candidacy or the seat of those who ignore the rules, fail to provide correct and accurate information and violate the limits imposed.

The drafts already prepared in this respect, one by PAFFREL in collaboration with the Election Violence Monitoring Center, and the other by the Election Commission can be used as the basis for this purpose.

04.

Holding elections on the same day

The Election Commission spends between RS 6000-10000 million for each election; also a lot of time of politicians, government officials and voters that can be spent on development is wasted in elections.

- 4.1. Legislation should be enacted so that the Presidential and Parliamentary election can be held on the same day according to current time frames.**
- 4.2. Similarly, legislation should be enacted to prevent the practice of holding Provincial and Local Government elections intermittently.**

05.

Implementation of an election calendar

It is an obvious fact that the ruling political party and its leaders decide on the dissolution of relevant public institutions that fall within the 4 types of elections held in Sri Lanka and the date of holding the election without having a specific methodology and taking into account the situations favorable for them to win. The authority the ruling political parties have got to decide on election days as they wish should be withdrawn from the election law.

- 5.1. The time frame of holding of all elections shall be prescribed by law and the Election Commission shall be vested with the power to decide the date of the election.**
- 5.2. No public representative institution shall be dissolved before it completes its official term except on exceptional grounds clearly specified in the law.**
- 5.3. The Provincial Council Elections should be held on the same day for all Provincial Councils except in special instances specified in the Constitution.**
- 5.4. Elections for Local Government Institutions except on special occasions should be held at once for the whole country.**

06.

Identifying the shortcomings of the present Election Law and updating electoral process

6.1 Establishment of a formal mechanism for receiving and hearing election related complaints

In order to safeguard the independence and fairness of any election there should be a proper and transparent mechanism for all parties involved in the election to report their problems or election irregularities and to resolve them expeditiously. We wish to make the following suggestions in this regard.

- 6.1.1. The Elections Commission commencing from the nomination date should operate a mechanism under its jurisdiction and with the participation of all stakeholders to receive election complaints.
- 6.1.2. This mechanism should be decentralized at district level and the respondents should be able to lodge their complaints easily.
- 6.1.3. All stakeholders and the general public involved in the election should be made aware of this mechanism and process.
- 6.1.4. All complaints received should be investigated fairly and without political discrimination; investigation of such complaints should be in accordance with a specific methodology.

- 6.1.5. Also, all parties should be made aware of the process and it must be uniform and should not vary from district to district.
- 6.1.6. A transparent mechanism should be set up so that the relevant complainants and all other parties could be aware of the measures taken in respect of each complaint
- 6.1.7. Each complaint should be investigated and depending on the nature of the complaint it should be mediated within a very short period of time, and the relevant parties should be informed of the solution offered .

6.2. Prevention of the abuse of state power and public property

A review of the past elections has revealed the misuse of state power, public property, government development projects and public officials willingly or unwillingly for the promotion of the interests of political parties and candidates, regardless of the political party that was in power. To prevent these incidents, the existing laws should be reviewed and adapted to suit the current needs; and a mechanism should be devised to empower the Election Commission to take legal and administrative action against these practices.

6.3. Updating the fines and the Election Law

The penalties and punishments for violating election laws should be updated periodically.

6.4. Criteria for Rejecting Nominations

Under the existing legal provisions, the Elections Commission could reject nominations of a prospective candidate (in accordance with the provisions of the relevant Elections Acts) taking into account only a few technical issues. However, legal provisions should be made to examine the disqualifications specified in the law in regard to the candidacy of a person submitting nominations.

Examples -Develop a methodology to check dual citizenship (each candidate should provide an affidavit with his / her nomination paper stating that he / she is not disqualified for contesting the election.

6.5. Ensure the right to information of every voter

- 6.5.1. Official announcements made by the Election Commission and the manifestoes, presented by political parties shall be published in the vocal and sign languages, Braille and sound Media.
 - 6.5.1.1. It is a responsibility of the Election Commission to give reasonable publicity for this requirement and monitor it .
- 6.5.2. A mechanism should be devised to encourage the use of sign language during news broadcast, at least until the end of the election period to give an opportunity to the beneficiaries get have an access to timely important information.

6.6. Rules and regulations of campaigning

- 6.6.1. Since media institutions make a significant impact on shaping the opinion of the voter through their media practice during an election, it is important that laws empowering the Election Commission to maintain media balance should be enacted.
- 6.6.2 A separate mechanism should be put up under the supervision of the Election Commission to monitor and ensure whether the criteria issued by the Election Commission to maintain media balance during the election period are being adhered to. At the same time, attention should be paid to adopting methods such as not releasing election results and refraining from providing official information to media institutions that ignore the criteria issued by the Election Commission .
- 6.6.4 Steps should be taken to incorporate the contents of recent criteria issued to the media , into the Act as legal matters.
- 6.6.5 There should be uniformity in the legal provisions enacted in regard to election campaigning (Presidential, Parliamentary, Provincial Councils, Local Government) and election campaign period .
- 6.6.6 The Election Commission should be empowered to prevent propagation of false information, misinterpretation of information and publicity campaigns conducted by social media in violation of election laws.
- 6.6.7 Legal provisions should be incorporated into the Election Campaign Act so that the responsibility of preventing the organized election campaigning through mobile phones and land phones would be imposed on telephone companies. Monitoring of this and prosecuting wrongdoers should be pursued by the Election Commission.
 - 6.6.7.1. Legal provisions should be incorporated into the Elections Campaign Act imposing the responsibility of not carrying out organized election campaigns through social media and on social media platforms. The regulation of this and prosecuting culprits shall be the responsibility of the Election Commission

6.7. Under the existing law, the legal provisions available for granting leave for people working away from the designated polling stations are weak. Therefore, new laws should be enacted and penalties imposed to motivate the employers to grant adequate leave for the people working under them.

6.8. Selecting the Polling booth

It has been reported that certain polling centers used for past elections have had some influence on the voters; caused difficulties for disabled voters in reaching them .It is therefore suggested that

the selection criteria for polling centers should be updated so that the voters will have easy access to them; it is also important that selecting locations which may have a psychological impact on the voter should be avoided.

6.9. Expressing the dissent of the Voter (NOTA)

If a voter does not want to cast his vote for any political party or candidate contesting the election, a system must be set up for him or her to express their opinion .

6.10. Period of silence during election time

6.10.1. Introducing clear legal provisions regarding the period of silence during election time.

6.10.2. Making those provisions equally applicable to all elections.

07.

Ensuring adequate representation of women.

25% minimum women's representation in Parliament, Provincial Councils and Local Government bodies in Sri Lanka, operative at present must be consolidated by electoral law. In addition, attention should be focussed on the possibility of taking practical action to increase it to 50%.

- 7.1. At present the minimum representation of women in the active parliaments, provincial councils and local government bodies in Sri Lanka is 25% by election law. In addition, practical action must be taken to increase that representation to 50%.**
- 7.2. In preparing the nomination list for all the above three bodies , it is proposed that a system is set up providing space for a minimum of 25% women to contest the election while another 25% is nominated through the list. (This proposal needs to be amended in line with the electoral system envisaged to be adopted in the future; however, the present quota should not be changed following the anticipated changes to the electoral system.)**
- 7.3. Legislation should be enacted in such a way that each electoral district would be able to elect at least one woman representative regardless of the number of votes polled in the parliamentary elections. In this case the female candidate who has secured the highest percentage of votes among the other female candidates in the relevant district should be selected. The number of seats that the relevant political party should get in the respective district has to be counted with the one already allocated for women's representation.**
- 7.4. If a political party is entitled to more than 3 seats from the National List, every 4th person elected should be a woman. Accordingly, women should be appointed as the 4th, 8th & 12th member etc ... of the National List.**

- 7.5. The Political Parties Registration Law should be amended to make it mandatory to have at least 30% representation of women on the Executive Board of a political party at its registration.**

08.

Declarations of assets and liabilities

- 8.1. A duly prepared declaration of Assets and Liabilities should be submitted by all candidates to the Election Commission at the time of submitting nomination papers.**
- 8.1.1. The Election Commission may introduce a new format for this purpose outside the existing format specified in the Assets and Liabilities Act.
- 8.1.2 The Candidacy /the seat in the representative body shall be terminated if the declaration of assets & liabilities is not submitted or revealed at any moment, that incorrect information has been included in the declaration .
- 8.2. The declaration of assets and liabilities shall be made a public document and it shall be the responsibility of the Election Commission to make it a public document.**
- 8.3. A mechanism should be set up to examine the declarations of assets and liabilities submitted by the people's representative , annually.**
- 8.4. Laws pertaining to offences related to declaration of assets and liabilities should be updated**

09.

Selection of Candidates from the National List

This proposal applies so long as the existing electoral system remains unchanged

- 9.1. The number of Members elected from the National List shall be limited to 29.**
- 9.2. Only qualified, educated, intelligent persons specialized in different fields could be nominated for the National List**
- 9.3. They must be the representatives of ethnic and any other groups which are not represented at all or not adequately represented in the respective representative institutions.**
- 9.4. Each party should provide the details of persons nominated for the National List: the level of education, the field in which he or she has knowledge and experience, the group which is not represented or not adequately represented. The Election Commission should provide a formal form for this purpose**

- 9.5. The National List with names of the nominees , their expertise and the group/s represented by them should be made public at the time of handing over the nominations.**
- 9.6 . The National List shall consist only of the persons nominated in this list and under no circumstances the defeated candidates or any other person not included in the original list should be appointed from the National List. If any appointment is made to the National List outside this condition , the number so appointed should be limited to a maximum of three persons or 30 per cent for each contesting party / alliance or independent group.**
- 9.7. The political parties / independent groups winning more than three seats from the National List should ensure that every 4th member appointed should be a woman. Accordingly, a woman should be appointed as the 4th ,8th ,12th member of the list and so on .**

10.

The Election Commission

- 10.1. An appropriate system should be set up to protect the independence of the Election Commission when members are appointed to the commission .**
- 10.1.1. The members appointed to the Election Commission should be Sri Lankan citizens only, and not dual citizens.
- 10.2. At least one member of the Election Commission must be a woman.**
- 10.3. The Elections Commission should be vested with all the powers in directing all state structures/units (with respect to elections) the service of which is required to hold free and fair elections.**
- 10.4. The Election Commission should focus its attention on providing a basic profile of each candidate to all households along with the official ballot paper. An appropriate form for this purpose should be introduced by the Election Commission , and each candidate should submit his / her personal information to the Election Commission along with the nomination papers .**
- 10.5. A mechanism endowed with proper powers should be set up to deal effectively with election related complaints received and to investigate them.**
- 10.6. The laws should be enacted empowering the Election Commission to act expeditiously on election complaints and to prosecute the culprits.**

10.7. The Election Commission should establish a separate service unit to protect the independence and impartiality of the officers operating under its jurisdiction.

10.8. The Annual Accounts of all recognized political parties, list of names of chief officers, declaration of Assets and Liabilities of party officers and party Constitution should be published on the official website of the Election Commission.

11.

Registration of Political Parties

Compared to the size of the population of Sri Lanka, a large number of political parties have been registered. Theoretically, it is a democratic feature, but in practice it reflects a kind of distortion, or an abuse of the democratic space. Over the past few decades following allegations have emerged from the society against political parties in Sri Lanka

- ❖ Political parties are registered purely for economic gains and without having public basis, political ideology or policy.
- ❖ Political parties are formed based on ethnic, religious and caste considerations. Some such parties hamper the coexistence between ethnic groups.
- ❖ Most parties lack internal democracy.
- ❖ The party leader acts in a dictatorial manner.
- ❖ In some parties, key positions are distributed among the members of the same family.
- ❖ Some party leaders lease out their political parties to be used by other groups, for economic gains or in anticipation of positions.
- ❖ Some people use political parties and contest elections to gain popularity without any political basis (example: 35 parties contested the Presidential Election-2019)
- ❖ Certain political parties which do not have a public base enter into coalitions nominally, to support other political groups.
- ❖ About 50% of registered political parties do not contest any political election..
- ❖ Some parties do not hold annual elections to select office bearers
- ❖ Annual audit reports are not submitted on time.
- ❖ There is not enough room for women's representation in the internal structures of the party.
- ❖ There is no formal annual supervision after the registration of the party.
- ❖ A large number of political parties and candidates devoid of political or public base running for elections is a colossal waste of public money.

There should be a space for a group representing a particular political ideology to register a political party to represent its ideology. But registration of political parties for personal gains should be discouraged. To do that, we propose that the political parties registration law shall be amended taking into consideration the following factors in addition to the existing criteria applicable for registration of political parties.

- 11.1. When registering a political party, assurance must be obtained that it has at least a minimum membership of one thousand. (The signature list of Party members can be used for this purpose.)**
- 11.2. Apart from that, it should prove to have been engaged in at least three years of social activities prior to registration . (Relevant criteria for this requirement should be compiled by the Election Commission.)**
- 11.3. The number of office bearers of the party should be at least eleven or more.**
- 11.4. The composition of the Executive Committee of the party and its responsibilities should be clearly specified in the party constitution.**
- 11.5. The appointment of the Executive Committee of the party shall be based on democratic principles and the decision making structure should be proven to be democratic.**
- 11.6. One-third of the executive committee members shall be women and, if the members of the same family are appointed, it shall be limited to a maximum of two family members and the party leader and secretary shall never be of the same family.**
- 11.7. The election of a party leader must take place at least every five years or less, and it must be by secret ballot which must be clearly specified in the party constitution**
- 11.8 The Election Commission shall set up a system to carry out an annual follow-up of political parties, and the Elections Commission shall be authorized to annul the political parties which have failed to meet stipulated conditions , after a proper inquiry into that .**
- 11.8.1. Legislation should be enacted to proscribe the registration of political parties which have not contested three elections consecutively without any justifiable cause; political parties which do not hold annual party conventions, and political parties which are proven to have been sold or purchased for money or any other personal purposes.
- 11.8.2. The Elections Commission shall have the power to impose fines on parties which do not submit their declarations of assets and liabilities and party audit reports on the due date without justifiable cause.
- 11.9. Registration of Regional Parties**
- 11.9.1. Attention should be paid to formulate a methodology for party registration at the local and provincial levels, taking into account the public base of political parties, the purpose and nature of their formation.
- 11.9.2. Provisions should be made to allow the local and provincial level political parties to be registered as national parties after fulfilling certain criteria set by the Election Commission.

12.

Ensuring the right to vote of all voters

12.1. Voter Registration

A system of registration should be set up to enable any citizen to register as a voter at the age of 18 and to ensure the right to vote of all citizens of the country. And all citizens should be able to exercise their right to vote without hindrance.

12.1.1. For this purpose, a foundation registration document should be prepared in the first stage, and it should remain valid for at least 10 years. Also, the legal framework and practical arrangements should be made so that the circumstances of death, change of residence or completion of 18 years can be ascertained and updated immediately.

12.1.2. At the second stage, legislation should be enacted to the effect that, parallel to the registration of birth, the citizens who have attained the age of 18 would be entitled to the right to vote.

12.2. Facilitating the differently-abled voters

12.2.1. Legal facilities and practical arrangements should be made for differently-abled voters to exercise their right to vote without hindrance. In this regard, the present system that requires to obtain medical recommendation from election to election to secure transport facilities and to accompany another person to assist them should be abolished, and a permanent identity card should be issued for those who suffer from permanent disabilities after a basic medical examination, to facilitate them to exercise their right to vote.

12.2.2. At the second stage, when issuing National Identity Cards, attention should be paid for including, at the request of the person concerned, a symbol on the NID, to help identify the disability that he is afflicted with.

12.3. Attention should be paid to introducing Braille or any other technical devices for visually impaired persons so that they could exercise their right to vote at the polling booth without hindrance.

12.4. Issuing a voter ID card

A certain segment of the adult population in Sri Lanka has refrained from obtaining NICs due to not having basic documents required for that. As observed and identified by the Election Commission, majority of such persons do not have even the alternate documents of identification. The fact that they have to obtain a temporary identity card at every election might result in them losing interest in casting their vote. In this backdrop, it is proposed that provisions be made to empower the Elections Commission to identify such people and issue them a voter identification card that can be used only for voting at elections.

13. Candidature

13.1. Citizenship

The candidates of all elections, party leaders and members of party decision-making bodies should be Sri Lankan citizen's only, not dual citizens.

13.2. 20% of candidates contesting all elections (including women) must be young persons.

13.3. The officers who were in charge of the management of State Power, Wealth and Welfare Activities which include Judicial Officers, Staff Officers, Senior Officers in the Army, Senior Officers in the Police Service, Members of Commissions, Grama Niladharis and Field Officers shall not be election candidates or contestants until 3 years have lapsed following their retirement or resignation from the positions they have held in the state administration.

13.4. Every candidate must produce an affidavit stating that he/she is a person qualified to be a representative of the people and if it is proved before the court that the information produced were false, he or she would be liable to lose the seat in the respective institution.

13.5. Every candidate should submit a statement indicating the purpose of contesting the election and his / her qualifications to the Election Commission. The Election Commission should prepare a suitable format for this and publish the information for the knowledge of the voters.

14. People's Representatives crossing the parties

14.1. According to the system of voting operative in Sri Lanka, the citizens cast their vote for a party. Therefore, legislation should be enacted so that no candidate could change the party except remaining as an independent member in a situation where the person concerned, in accordance with his/her policy, finds it difficult to work with the party that he /she represents, any longer.

14.2. If 1/3 or more of the MPs/local authority members of the party decide to change the party, they should be allowed the opportunity to do so.

14.3. However, crossover from the ruling party to the opposition shall not result in losing the seat of the person concerned. Nevertheless, if the ruling power or the government is changed due to the crossover of a group of members then they should lose their parliamentary seats.

15. The role of the citizens

15.1. Recalling the People's Representatives

The registered voters of the respective electorate shall have the right to request the Speaker to recall the representatives of the people, two years after the election, if they have failed or making no adequate efforts to fulfill the promises made to the people at the election and working against the aspirations of the people.

However, the request should have been signed by more than 50% of the registered civil society organizations in the relevant district or by more than 50% of the voters who have polled for the relevant representative. In such a situation, the relevant Member of Parliament should be given 6 months to correct himself, and if the Speaker is still not satisfied about it, the matter should be referred to a Parliamentary vote.

15.2. Two years after the commencement of office, if it is established that the public representative has not complied with the policy declarations or the promises made, the citizen shall have the right to go to court on the ground of breach of trust, breach of contract and obtain a court order to enforce that the policy shall be implemented.

15.3. The policy statement/ manifesto put forward by a party in an election should be one that is practical, and has a definite time frame and capable of being implemented during its term. The political manifesto must be submitted to the Election Commission 14 days before the polling day, and it must be a document duly signed by the party secretary and the candidate, and one which could be legally challenged.

15.4. Increase Citizens' Access to Legal Action against all Electoral Irregularities. In this case, as the election irregularities committed by political parties, candidates or supporters or any other party during an election affect the country and the future of the country in general, the public or citizens organizations should be allowed to go to court against them without restrictions.

15.5. The Act should make provisions for the termination of court proceedings on the issue referred to it, before it loses its utility value.

16.

Instances of losing the seat

- 16.1. A person convicted for a criminal offense, bribery or corruption offense or guilty of misappropriation of public property or official power should not be permitted to be a candidate of any election for a period of 7 years after being convicted.**
- 16.2. If he/she is found guilty of any of the above offenses even after being appointed as a Member of Parliament, the seat held by him/her should be abolished, and the vacancy created should be filled by the next candidate in the sequential order of the preferential list.**

17.

Delimitation

The delimitation of the 1980s, as well as the delimitation of Local Government and Provincial Councils in the recent past has come under severe public criticism. Therefore, if the delimitation is to be carried out under the proposed new electoral system, the following points should be considered in addition to the factors which are generally being considered in delimitation exercises. In particular, if the existing Grama Niladhari Divisions, Local Government Divisions, Local Government Areas and Divisional Secretariat Areas are taken into consideration as the basis for delimitation, it is important that appropriate measures are taken to diminish the serious disparities in them. Examples: There are instances where there is one Grama Niladhari Division for 1500 people, while it is the same number of divisions for 27,000 people elsewhere. Accordingly,

- 17.1. Remove the anomalies in the existing structure**
- 17.2. Take into account the diversity in each area**
- 17.3. Allow the public opinion to be represented fairly.**
- 17.4. Carrying out the delimitation process in such a way that it would help develop a close relationship between and among each institution (Local Government, Provincial Councils, and Parliament)**

Examples: Designating an 'x' number of Grama Niladhari Divisions as a Local Government Division.

Amalgamating a 'y' number of Local Government Divisions into a Local Government Institution.

Merging a 'z' number of Local Government Institutions and Divisional Secretariats into a Provincial Division.

Merging a 'ø' number of Provincial Council Divisions into a Parliamentary Division



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Annexes

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