

**REPRESENTATIVE DEMOCRACY**

**&**

**ELECTORAL REFORMS IN SRI LANKA**

## Introduction

Democratic elections are widely recognized as a foundation of legitimate government. By allowing citizens to choose the manner in which they are governed, elections form the starting point for all other democratic institutions and practices. This inevitably makes an electoral system in a multi-ethnic and a multi-cultural society a critical component to ensure democratic principles. Prior to discussing about the electoral reforms in Sri Lanka it is important to understand different types of electoral systems used in the world to elect their representatives. With a historical analysis on Sri Lanka's electoral system thereafter, the paper will then focus on the report by Hon. Dinesh Goonawardena and committee on electoral reforms and the developments that have taken place in Sri Lanka since then.

## Ten types of Electoral Systems

It is important to briefly state the ten types of electoral systems that have been considered by students of voting methods in democracies. Much have been written about these and the literature regarding them are well known to those who have been students of "Voting in Democracies" (Lakeman and Lambert in Prof. Marasinghe, 2007) and those Institutions which have the study of "Voting in Democracies" as a major undertaking in their work (Plant Commission – Peter Kellner and de Hondt Systems).

Any elaboration of each of these could fill the pages of an entire book. What are given here are thumb-nail impressions of each of the electoral systems while the French and the German systems would receive some extended comment. The ten enumerated here are sources from which combinations of voting systems in democracies have been fashioned. Many of them in their raw form are largely unsuitable for any direct application in democracies. They may have elements found in them useful for structuring voting systems for democracies. With that caveat the following summaries are provided to introduce them to scholars who may desire to utilize them.

**No 1.** First, the voting process referred to as the **First Past the Post (FTPT)**. This is the simplest and commonly used among many members of the Commonwealth, particularly in Canada and the UK. The United States also follows this method. Each voter votes for one candidate whom they might prefer and the Candidate that receives the greatest number of votes is elected. The problem experienced in this method of election is that the Candidate who receives the largest number of votes may not be the

Candidate who had received the majority of the total number of votes cast in that voting unit. This method could however be used, to elect multiple members in multiple member constituencies.

**No 2.** Second, what is commonly referred to as **Run – Off voting (r.o.v.)**. In this system voting takes place in two rounds. The first round is essentially to choose the candidate who could obtain a 50% of the total vote cast. If no single candidate obtains that 50% figure of the total number of votes cast in that voting unit or constituency, a second round of voting is held. This second round is the “Run-off – Vote”. Normally, it is the top two candidates who had obtained the two highest totals, yet falling below the 50% of the total number of votes cast in that voting unit or constituency that participate in the – “Run-off Vote”. There being only two candidates in the “Run – Off- Vote”, the question of “first – past -the -post” does not arise. The person who gets the highest number of votes obtains the majority of the votes cast at the “run-off-voting” and gets elected.

**No 3.** Third, is referred to as the **single transferable vote (stv) system**. This is a system devised to elect multiple candidates in a constituency. This electoral process may be used where there has been the demarcation of a District as a single constituency as in Sri Lanka, under the 1978 Constituency. The transferability is established by the voter marking “1” against the candidate whom they consider as their first preference, and “2” against the name of the candidate of their next preference. There may even be a third preference. The preferences are counted and accounted for in obtaining the final total of votes cast for a candidate. This might result in a candidate being elected by a combination of the preference votes rather than from the principle vote.

**No 4.** Fourth, system may be regarded as the **single transferable proportional vote (stpv) system**. In this process, the lowest polling candidate is eliminated from the race and the votes cast in that candidate’s favour gets redistributed, proportionately, to the other remaining candidates. This process of elimination and redistribution proceeds until the number of candidates entitled to be elected in that voting unit or constituency is reached. Here there is no quota and therefore all candidates whatever the total number of votes they may have received could get eliminated and their votes redistributed until the required pre-ordained number of candidates for that voting unit or constituency is reached.

**No 5.**Fifth, this is **the alternative vote (av) system**. This is the same process as the one that adopts the single transferable vote (stv) system, except that unlike the STV system, there is only one candidate to be elected out of the group of contestants. The procedure for counting the votes is the same as the STV system, except that there is no reallocation of any surplus votes.

**No 6.** Sixth, is **the Supplementary voting system (sv)**. This is a scaled down version of the Alternative Vote (av). Here the voter has only one preference vote while in the single transferable vote (stv) system and the alternative vote (av), the voter has more than one transferable vote. The only transferable vote in this system is referred to as the supplementary vote.

**No 7.** Seventh is referred to as **the approval voting (av) system**. Each voter is allowed to vote for as many or as few of the list of candidates. The total number of such votes would determine the winning candidate or the winning candidates.

**No 8.**Eighth, is voting under what is described as **the Party List System (pls)**. The principle here is that a voter shall have two votes. One in which he shall mark his preference of the political party and the other in which he shall mark the preference of his candidate. This allows for the plugging in of a preferential voting system or some other selection process of the candidate, of the voter's choice. Members of Parliament are chosen under this system according to the proportion in which the political parties have obtained votes. That determines the number of candidates that each political party may become entitled to receive. Additionally, Members of Parliament may be chosen according to the order in which they may appear on the list of candidates presented by the various political parties contesting the election. Some Party List Systems have pre-ordained threshold points. If any political party were to obtain a number of votes below that threshold, the votes cast for that party does not provide any Members of Parliament. Some Party List Systems have worked out a number of elaborate arrangements for the redistribution of those wasted votes. The versatility of the Party List System is one of its most attractive features. This system could be combines with a system of single or multiple transferable votes as mentioned above.

**No 9.** Ninth, is **the Additional Member System (ams) of voting**. This system is used where an additional member or members become needed to complete a composite

number of Members of Parliament that the overall Voting system has ordained. Additional Member System is not used by itself, but in conjunction with others. It is sometimes utilized where the Preferential voting system is used or any other system is used where the numbers of elected Members of Parliament fall short of the number of seats found in the legislature. This system is of particular importance to supplement the voting system found in the present German Constitution.

**No 10.** Tenth, is **the Mixed Member System (mms)**. The mixture arises out of the election being held for two very different categories of seats. One for single member constituencies and the other for election of Members of Parliament from Party lists. There might be other forms of mixtures. The results of one category of elections will have no bearing on the other category and both categories of Members of Parliament once elected shall have an equal status in the legislature. Additional Member System (ams) helps to balance the allocation of Party List seats with the constituency seats to form the total number of seats required to establish the legislature. In the present, Mixed Member System (mms), the voting system is such that the number of Members of Parliament elected under one category does not affect the numbers elected under the other category. Numbers elected under the List system and those elected under the constituency system, together form the total membership of the legislature. No additional members are needed to compliment the required number of seats to form the legislature.

### **Some Specific Case Studies: France & Germany**

**France:** The French National Assembly comprises of 577 Single-member constituencies. This membership has been formed out of 555 constituencies from Metropolitan France, 17 from a combination of “Overseas Departments” and “collectivites territoriales” and 5 for “Overseas territories”, a total of 577. Other than for a brief period in 1945 / 46 French electoral system did not apply Proportional Representation.

The election for the President of the Republic presents a perfect system for a “Run-Off Vote”. If no Presidential candidate at the first balloting obtains a majority (50%) of the votes cast then the first two candidates who have obtained the two highest number of votes would become eligible to face the “Run-Off Vote” which must be held within 15 days of the first ballot. President Sarkozy’s 31.18 % on the first vote was transformed into 53.06 % in the “Run -off-

Vote”. Mlle. Segolene Royal’s 25.87% on the first vote yielded 46.94% on the second vote. With only the first two highest scorers facing off in the “Run – Off – Vote” This produced a majority vote for the Presidency.

The process for the election of Members to the National Assembly provides a mirror image of the process for the election of the President of the Republic. Electoral system to the National Assembly takes place in two stages. In the first stage, and in each of the 577 constituencies, constituency wide elections are held. A candidate who obtains 50% or more of the total number of votes cast with a 25% or more of those registered on the electoral rolls voting, is elected without more. If both of these requirements are not fulfilled, then there would be a “Run-Off Vote”.

The “Run-off-Vote” will be held for the two candidates who had scored the two highest number of votes, but had failed to obtain the 50% of the total votes cast at the first vote with a 25% or more of those enrolled as voters voting at that vote. Therefore there will only be two candidates in the “Run-off-Vote” in each of the relevant constituencies. The two political parties whose candidates are participating in each of the constituencies in the “Run-Off-Vote” has the power, if the party so wishes, to enrol together with the principal candidate for the “Run-off-vote” a “substitute candidate”.

This is not a commonly used procedure but it is done by some of the French Constituency parties. Both the “substitute candidates” and the “principal candidates” who obtain the highest number of votes in their respective categories, then they are elected. The two elections are conducted as two parallel elections voted at the same time. It is possible that the principal candidate and the “substitute candidate” may sometimes be elected from two different political parties from among the political parties participating in the “Run-off-Vote”. The roles which the two candidates play are quite different. If the winning candidate were to become incapable of representing the constituency due to, death, ill health, conviction by a court of law for a criminal offence, resignation or by being appointed a Diplomat or a Cabinet Minister by the President of the Republic, or suffers a disqualification to remain a member of the National Assembly, then the “substitute candidate” who too had been elected by obtaining the highest number of votes in that category, would take the place as the next member of the National Assembly for that constituency. This eliminates the need for by-elections, although by-elections are recognized under this electoral process whenever there is no “substitute candidate” or he becomes unavailable for substitution.

## Representative Democracy & Electoral Reforms in Sri Lanka

---

*Research Department - One Text Initiative*

There are three principal characteristics of the French electoral system which require noting. First, there are two votes that are sometimes used so as to obtain a perfect majority of 50% + in the French electoral process. Second, both the first vote and the “Run-off-Vote” are not based on the first-past – the post electoral system but on a 50% majority basis. Third, the introduction of the second, ” Run-Off-Vote” prevents a skewed election result as the first-past-the -post obtained for Sri Lanka at the 1977 General Election.

**Germany:** The lower House of Parliament, the Deutsche Bundestag presently has 598 members. But as will be explained later this figure might increase at each general election by 3 or 7 seats by a process which produces extra members called “over-hangers”. This will be explained later.

Of the basic 598 members, 299 are elected in single constituencies by first -past -the- post. These constituencies are located within each of the 16 Lander (State). The number of constituencies is increased each time there is an increase of the population in any constituency by 25%. This is done by redrawing the constituency boundaries within each Lander (State).It is important that the re-drawn constituencies must fall within the boundaries of the Lander which would then have an increased number of constituencies within that particular Lander. Re-drawing of constituencies should not be such as to fall outside the boundaries of the Lander (State) in which the population increase had occurred.

As mentioned earlier the first group of 299 members who are elected first- past-the -post do not raise any particular problems, other than those that are associated with the choosing of people’s representatives that may not represent the true will of the voters of that constituency. Sri Lanka has a long history of experiences with such problems until 1978 when Proportional Representation was introduced. Particularly when one is reminded of the skewed results obtained at the 1977 General Elections.

However, the second group of 299 members elected by proportional representation raises a number of matters that require careful consideration. This category introduces the use of two votes. One vote for the political party of the voter’s choice and the other for the candidate, again of the voter’s choice. Under the German System a political party may place the name of one person on both for the first-past-the post list and the same candidate on the proportional representation list. If the names of candidates of a particular political party are placed on both lists and they win under both lists, their election under the first -past -the- post- list is the only list under which their election is recognized. They become constituency members. Their election

under the proportional representation list is discounted and others on that list are pushed up so that they would be elected to maintain the proportion that that political party had obtained under the proportional representation system.

As an example, if the "Grey party" had named Mr. Green, Mrs. Yellow and Miss Blue in both lists, so as to ensure that their importance to the "Grey Party" was so significant that their party was greatly interested in securing their entering the Bundestag, under one list or another. If one or more of these valued members get elected under both lists, then their election under the first-past-the-post list would be the only basis upon which their election to the Bundestag would be recognized. Their election under the proportional system would be discounted.

At that point a re-adjustment of the original list of candidates submitted by the "Grey Party" would be automatically made, by pushing up the candidates ranking lower than those who had been elected under both lists. The ones pushed up would fill the positions of those whose election under the proportional representation had been discounted. This is done so as to maintain the proportion which the "Grey party" may have obtained under the Proportional representation system. We shall assume that the "Grey party" had obtained 10% of the vote in that Lander (State) entitling them to 2 seats.

Supposing the "Grey Party" had won 5 seats under the first-past-the -post in constituencies within that Lander (State). The rule is that " if under the proportional system list a particular party had won less seats(two seats in the case of the "Grey Party"), than under the constituency system ( five seats in the case of the "Grey Party"), under the first-past-the-post system, in that Lender (State), the "Overhanging Seats", as they are referred to, the three seats, are not taken away, but are left with the "Grey Party". These are referred to as the "Overhanging Seats". There is no adjustment made with the "Grey Party" or with any other party contesting in that Lander (State) regarding those "Overhanging Seats".

Those extra three seats are given to the Lender (State) as seats belonging to the "Grey Party" . The only adjustment that the German Electoral system immediately makes is that the total number of seats allocated for that Lander (State) would be increased by three and the total number of seats in the Bundestag would accordingly go up by three, to 601 seats.

As a long term adjustment, if there is vacation of a seat by one of the members of the "Grey Party", for whatever reason, that vacant slot in the "Grey Party" will not be filled. That vacancy

would be used to adjust the membership of the Bundestag to bring it back to the figure of 598 members.

The reverse of this process occurs where the “Grey Party” in a particular Lander (State) fails to obtain the threshold of 5% of the votes cast in that Lander (state) under the Proportional representation system or had failed to obtain at least three seats from the first-past-the-post list pertaining to that Lander (State). This is a constitutional requirement that all German political parties must fulfill to remain in the election within that Lander (State). Supposing the “Grey Party” in a particular Lander (State) had failed to fulfill those two requirements, then the “Grey Party” gets completely excluded from both the electoral processes in that Lander (State) namely; from the first-past-the-post list and also from the proportional representation list.

Notwithstanding this if only one or two of the “Grey Party” candidates had been elected under the first-past – the – post system and not the three that would have been required for the “Grey Party” to remain in the electoral process, the election of that one or two members of the “Grey Party” under the first -past- the-post system remain nonetheless valid and unaffected by the exclusion of their political party, the “Grey Party” from the electoral process. Notwithstanding the fact that the “Grey Party” now having been excluded from participating in the electoral process in that Lander (State), the one or two of the candidates elected under the first-past-the-post system would now take their seats in the Bundestag, from that Lander (State), not as members of the “Grey Party” but as “Independents”. They are freed from their party affiliations. Such members are referred to as “Lone Rider” in German parliamentary language.

With an understanding on various electoral reforms in large around the world and specific focus on France and Germany; the discussion will focus on the electoral history in Sri Lanka.

### **Electoral Reforms History in Sri Lanka: The Westminster System**

Since 1931, Sri Lanka has resorted to a whole range of electoral devices: single and multi-member constituencies, weightage for rural areas, nominated seats for minorities and proportionate system. Since independence, it has changed the structure of its democratic system from a Parliamentary one (1948 to 1977) to an Executive Presidency (since 1978). Almost all the changes were devised to cope with conflicting demands of its diverse population ever since its independence and the episodes of violence that erupted in different phases in its history.

## Representative Democracy & Electoral Reforms in Sri Lanka

---

*Research Department - One Text Initiative*

At the time of transfer of power (1947-1948) Sri Lanka was a unique case in British Colonial history, when a colony seeking its independence already had an electorate based on universal suffrage. In fact, a detail examination of electoral systems was an integral part of the negotiations for the transfer of power. The then Board of Ministers had to gain the support of the three quarters of all the members of the national legislature, the State Council in a situation where representatives of the Sinhalese Majority were insistent on territorial representation and the minorities had represented demanded for “balanced representation” which presupposed the creation of some form of communal electorate. The Ministers squared the circle by adopting an electoral structure based on the weightage in favour of the rural areas. The advantages of such scheme were many.

It was acceptable to the majority Sinhalese because the communal representation was avoided. The sparsely populated areas where the minority were strongest, received increased representation while the rural areas, in which the Kandyan section of the Sinhalese population were dominant also benefited from increased representation. There was an added advantage that by reducing the territorial limits of the constituencies increased minority representation could be ensured, because minority groups were a significant element in some of them. Moreover, it gave weightage to the backward areas in the country against the more popular and prosperous areas. The actual distribution of seats was made by an independent Delimitation Commission.

The island was divided into 9 provinces and province was considered as the unit adopted for demarcation of constituencies, one for every 75,000 persons. The weightage came in the provision that there would be an additional constituency, for every 1000 square-miles of area. The number of such constituencies varied from a minimum of one in the densely-populated Western Province to four each in the Northern Province with its largely Tamil population, Eastern Province with its mixed population (Tamil, Muslim, Sinhalese) and the North Central Province, a backward sparsely populated Kandyan areas. In addition, there were six nominated members to represent the minorities who could not secure elections even under the weightage system. The Soulbury Commission of 1945 which drafted the terms of the transfer of power to Ceylon made another important recommendation: the creation of multi-member constituencies through which ethnic, religious and caste minorities could secure elections.

It must be noted that these democratic principles in delimiting constituencies survived the suppression of the Soulbury Constitution in 1972, passing almost unchanged into the new constitutional structure of the first republic (1972 to 1978).

### **Electoral Reforms History in Sri Lanka: Proportional Representation**

Sri Lanka, a pioneer in the implementation of universal franchise in a pre-independence colonial setting, also became, in the 1980's the pioneer in the transition from the first-past-the-post system to a form of proportional representation. Elections to the national legislature for 46 years since the first general election in 1931 had been fought under the former system. As we have seen, the allocation of seats were on the basis of one per 1000 square miles in each province and one per 75,000 (after 1975, raised to 90,000) peoples. At the end of every decade, the Delimitation Committee revised the constituency boundaries.

The draw-backs of the Westminster system paved the way for the introduction of the new system. First there was the inevitable distortion in the electoral system through which a sizeable "Indian" Tamil population was excluded because they had no votes. Thus the weightage given to the area and the calculation of seats according to the number of inhabitants benefited the Sinhalese majority much to the disadvantage of the minority. Second, after 1970 the winning party or coalition tended to get lopsided majorities. In 1970 the SLFP and its allies with just 48% of the vote obtained 76.7% of the seats, while in 1977 the UNP with 50.9% of the vote won 83% of the seats. The eventual result of such large parliamentary majorities was a weakened opposition. Thus in 1970 the UNP with 37.9% of the vote gained only 11.3% of the seats, and in 1977 the Sri Lanka Freedom Party with 29.7% of the vote won only 4.8% of the seats.

The second of these drawbacks rather than the first was the principal reason behind the decision to abandon the Westminster electoral system. In this system, as it was in the 1970's elections could be and indeed were fought in the Sinhalese areas of the country with little or no consideration of minority views (save perhaps those of the Muslims).

The PR system incorporated in the 1978 constitution was the Hamilton Method, first proposed by Alexander Hamilton in 1772, and was also known as the method of the Largest Remainder. Under this system, the whole country was divided into a number of multi-member electoral districts by a Delimitation Commission appointed by the President of the Republic from among persons not actively engaged in politics. The Delimitation Commission divided the country into 22 electoral districts, of which 21 coincided with the existing administrative districts, and one consisted of three administrative districts. The constitution lays down that the total number of seats in Parliament shall be 196 of which 36 seats are so distributed that each province has 4. The commission was also charged with the function of distributing the rest of the seats equitably among the electoral districts. Neither the distribution so made nor the boundaries of these

electoral districts can be altered save by a constitutional amendment. The Hamilton Method is used for the apportionment of the remaining 160 seats. At every election these seats are reapportioned among electoral districts according to the electoral register used.

With the 1978 constitution, there came a change in the system of allocating seats on an area basis, each of the nine provinces now received four seats. The old system (1947 to 1977) had given the Tamils of the North and the East a significant weightage on an “area” basis. Of the 25 area seats, the Northern and Eastern provinces had 8, but it was 8 out of 36. Nevertheless, because of a vitally important change in the method of determining the voting strength of electoral districts from “Population” to “registered electors” the advantages hitherto enjoyed by the Sinhalese rural voter since the general election of 1952 were substantially reduced. However, the numerically minority communities in the North and the East were slightly better off in the number of legislators they could elect, but more importantly, the prospects of the members of minority groups in the Sinhalese majority areas both Tamils and Muslims, securing election to Parliament improved substantially, given more representation for Muslims and Tamils of Indian origin unlike before.

There were of course other advantages stemming from the operation of the PR system in the country. A repetition of the lopsided majorities gained by the victorious parties at the general elections of 1970 and 1977 was not a possibility until very recently. However, the representatives of ethnic minorities are still holding a stronger bargaining power than within the FPP system. Even more important than PR for its implications for ethnic relations in the island is the new system of direct election of the Executive President under the 1978 constitution. Moreover, the Sri Lankan experiment with PR has one other unusual feature: its extension to local government elections at all levels – from village councils to urban councils and municipalities. From the experience gained in these elections the mechanics of the PR system in which the parties effectively determined the composition of the state in rank order, a change was made to give a voter three votes which could be used on behalf of three candidates on a party list. The voter had to choose one party list in preference to others but within that list he/she could select any of the individual members. This change first used in local government elections was introduced in elections to the national legislature as well at the general elections of 1989 and 1994.

In practice, a many of the assumed advantages of the PR system at the time of introduction have been falsified with the elections in 2010 where the stronger bargaining power of the numerically minority parties have reduced significantly within a majority Sinhalese votes being secured by a

single party/coalition. On the other hand, PR system that was expected to be an effective safeguard against the amendment of the constitution without due regard being paid to the interests of the minorities is no more a valid logic. Introduction to the 18<sup>th</sup> amendment at the cost of abolition of the 17<sup>th</sup> amendment could be highlighted as the best example of this sort. Moreover, the system has led to aggressive and far from deadly competition not only between party candidates but also among fellow candidates from the same party over voters from supporters of their own party that even has led to violent killings and fights among them. It has also placed the better known and better financed candidates at an advantage placing utmost pressure on the candidates to finance their campaigns. This has indirectly increased the malpractices and corruption among the candidates, particularly in power to secure their financial stability for a mega political marketing campaign.

These downfalls in the PR system pressured all the parties to collectively agree for the need for changes in the system over years, mainly because of the diluting link or rapport between the voters and the elected members with voters becoming more tenuous than under the constituencies of the old Westminster System.

### **Further Electoral Reforms: Proposals from the Select Committee of Parliament on Electoral Reforms (Hon. Dinesh Gunawardena Committee Report)**

On a motion moved by the leader of the House on the 4<sup>th</sup> April 2006, Parliament resolved that a Parliamentary Select Committee was to be appointed to further consider reforms to the existing system of Parliamentary, Provincial Council and Local Authority Elections and other related matters, based on the interim report on the 23<sup>rd</sup> January 2004 and to make recommendations in respect of further changes considered necessary to the existing election laws. Thereafter, a Committee consisting of 32 members, representing all parties in Parliament was appointed on the 7<sup>th</sup> April 2006 under the Chairmanship of Hon. Dinesh Gunawardena that presented its recommendations, observations and proposals in June 2007.

Based on the submissions, proposals and evidence presented, the committee presented its observations to the Parliament as below.

#### **1. System of Elections:**

- a. A mixed system, a hybrid of the first past the post system and the proportional system as the most suitable electoral system for Parliamentary elections in the country

- b. Such a system should ensure the establishment of a stable government and a strong opposition, equitable representation to numerically minority parties and communities, closer nexus between voters and their elected representatives and the democratic representation of the people's mandate.
- c. The proposed system of elections should give weight to the elimination or minimizing violence, undue expenditure at elections and misappropriation of state resources at the time of elections
- d. The system proposed should further be easy to comprehend and relatively easy to administer. Preferential voting system should completely be eliminated from the system

### **2. Parliamentary Elections:**

- a. The Parliament to be constituted of 225 seats comprised of 140 Constituency Members, 70 District Members and 15 National List Members of Parliament.
- b. 140 Constituency MPs: The country was proposed to be divided into 140 single member constituencies to return 140 MPs to Parliament on the 'first-past-the post system'. As such the proposed recommendations required a fresh delimitation to re-demarcate 140 polling divisions.
- c. 70 District MPs: 70 members were proposed to be elected on the basis of a 'district proportional representation system' based only on the votes polled by the 'other candidates' who contested but did not qualify under the FPP system. The number of seats to be allocated for each respective district may be determined on a 2:1 ratio (Ex: 100 FPP seats:5 DPR seats) The proposed ratio is subject to change according to the circumstances (area, population and ethnic diversity) prevailing in each district.
- d. 15 National List MPs: Each party according to the proposals are expected to submit a list of candidates at the time of nominations to constitute a national list. The list could contain names of contesting (for constituencies) as well as non contesting candidates. All parties should take steps to ensure fair representation of women candidates in the national list.

### **3. Provincial Council Elections:**

The committee was of the view that the present proportionate system and preference voting should be replaced with a mixed system of election combining the first-past-the

post system and the proportional representation system on a 2:1 ratio which is in line with the proposed Parliamentary elections system.

#### **4. Local Government Elections:**

It was proposed to reintroduce the ward system based on the first-past the post system with the possibility of electing 30% of representatives under the proportional representation system based on the same principle involved in Parliamentary and Provincial Council elections. The present boundaries of the local government authorities should be re-demarcated to form an electoral unit, which is territorially and demographically smaller than the present unit, to increase the participation of the community and community organisations and to facilitate management and diversification of development and economic needs of the area and ensure a democratic representation of minorities and communities.

Subsequent to the proposals of the Parliamentary select committee the first amendment to the electoral reforms in Sri Lanka was brought in October 2012.

#### **Local Authorities Elections (Amendment) Acts No 22 & 23 of 2012**

The Local Authorities Elections Bill was placed in Parliament in 2010 with the objective of addressing a range of problems that are caused within the current electoral system, including election-related violence, limited accountability of politicians to their electorates and political instability resulting from parties being unable to secure majorities due to the current system.

The main change being proposed by the new law is to shift away from the proportional representation system where representation to an elected body is decided by the proportion of votes secured by a political group within the local authority and to move to a hybrid system which would be a mix of PR and First-Past-the-Post.

Prior to introduction of the 1978 Constitution, Sri Lanka used the FPP system where the local authority was divided into electoral wards, where the candidate who wins the highest number of votes in a ward secures a seat in the local authority. One of the main advantages of the FPP system is that candidates are directly elected from small constituencies so, theoretically at least, are more accountable to their voters than under a PR system. In a PR system candidates contest from larger areas such as an entire local authority as opposed to sub-units within that authority (wards).

## Representative Democracy & Electoral Reforms in Sri Lanka

---

*Research Department - One Text Initiative*

The PR system ensures greater representation of opinions and groups across the political spectrum, including minor parties, which are more unlikely to win seats through the FPP system. The FPP can produce results where parties obtain more than two-third majorities in elected bodies though they may have obtained barely 50% of the vote. The PR system makes it more difficult for a single party to be an outright winner, resulting in coalition politics, hence is seen to be more unstable.

The advantage of a hybrid system is that it seeks to promote the benefits of both systems while limiting the problems they bring with them. The particular hybrid model proposed through the law allocates more seats under the FPP system, i.e. ensuring greater political stability.

# Representative Democracy & Electoral Reforms in Sri Lanka

Research Department - One Text Initiative

Summary of the key components of the Local Authorities Elections (Amendment) Act No 22 of 2012

## Delimitation

### National Delimitation Committee

Recommendations for delimitation of wards to be made by 5-member National Delimitation Committee appointed by the responsible minister

#### Four principles for the division of wards:

(a) ratio of the ethnic composition and need to ensure representation on the basis of ethnic ratio (b) geographical area and physical features of LA (c) population and population density of LA (d) level of economic development of LA

### District Delimitation Committees

- The minister *may* appoint district level committees that act under the direct supervision of the National Level Committee
- District level committee should consist of representatives from: the department of elections, provincial ministry of local government, survey-general's department, department of census and statistics and a public officer (selected by the minister)

## Nomination

### Nomination Paper

Any contesting party or groups of persons have to submit one nomination list for all wards

Nomination paper consists of two sections:

- (a) Group 1 – list of candidates. One per ward unless there are multi-member wards.
- (b) Group 2 – List of additional persons, including both replacements for Group 1 and PR list.

A candidate can be nominated for only one ward.

### Nominations for candidates to be appointed under the PR system

(1) The number of nominations in the PR list will be 30% of the seats available under the ward system (e.g. 10 ward LA – 3 seats under PR)

(2) In the case of the sum arrived at being an integer and a fraction, it will be the integer that will be accepted. (e.g. 3.8 will be 3)

### Nomination of Women and Youth

25% of the nominees may be women and youth

### Payment for Nomination

Nomination payment required for both recognised political parties and independent groups.

Parties will be required to make payment of Rs. 5,000 per name on the nomination form.

Independent groups Rs. 20,000 per name

## Declaration of Results

### General Wards

Shall declare elected as member of the ward the name of the candidate of the party that obtained the highest number of votes in the ward.

Shall also declare the number of votes received by all the other parties in the ward

### Multi-member Wards

The name of the candidate of the party that obtained the next highest number of votes shall be declared as the 2<sup>nd</sup> member and so on.

### Single party or group contesting in a multi-member ward

If only one party or group has contested in a multi-member ward, the party secretary can nominate a person from the category of additional persons in the nomination paper.

## Election of Members from the PR System

Formula for deciding if the % of PR seats will be 30% or lower

$$\frac{B}{A + B} \times 100 = D$$

A = Total votes polled by winning candidates  
B = The total votes polled by losing candidates who polled more than 5%  
D = deciding % of PR seats

\* If D exceeds 30, then the number of PR members will be 30% of the total number of members to be elected to all wards of that local authority area.

\* If D is less than 30%, then the number of PR seats shall be d% of the total number of members to be elected to all wards of the local authority area.

\* This number will be rounded down to the nearest integer (X)

### Formula for PR Seat Allocation

X = the number of seats calculated above  
Q = qualifying number

$$Q = \frac{B}{X}$$

The votes received by the balance candidates of each party are divided by Q and each party's entitlement to seats is arrived at on the highest balance principle

### Selection under the PR system

Once the entitlement is known for each party or group, the respective secretary or leader nominates the members from the list of additional persons

### **Downfalls of the new system**

**Not a fixed FPP: PR system:** The magic formula of 70% for FPP and 30% for PR has been spoken of by some of the proponents of the law, when the law itself does not contain a provision for a fixed system and where PR is maximum 30% of the total 100% of FPP. To simplify the proportion above – if there were 10 seats in a local authority and there was a 70% for FPP: 30% for PR system – the authority would be divided into a maximum of seven wards each which would elect a member and three members would be decided through examining the totality of votes in the entire authority. The law actually sets a maximum of 30% of seats for PR but this proportion can reduce if the losing candidates do not poll enough votes. The net effect is that the system does not advantage political groups unlikely to win through the FPP/wards, which effectively makes it more difficult to ensure representation from across the political spectrum in local authorities.

**Challenges for Minor Parties:** The switch from a PR to a mixed system does make it more difficult for minor political parties, especially those which lack strongholds and rely on gathering dispersed votes from across a local authority to win representation. Minor parties include minority political parties and other small political parties including the CP and the JHU. Minority political parties such as the TNA, SLMC or CWC will continue to win seats in areas where they dominate but in other areas where the communities that they represent are a minority, it will be more difficult. The JVP in particular could lose representation as a result of the switch in the system. Given Sri Lanka's experience of violent conflict, it makes sense to have political groups within the system so that they have some voice, rather than outside the democratic and governance structures.

**High Costs for Independent Groups:** The Sri Lankan political context is a difficult one for independent groups who find it difficult to break in even at the local government level. This law makes it all the more challenging by increasing the amount that a candidate from an independent group needs to pay for nomination from Rs 250 to Rs 20,000. By comparison a candidate from a political party will have to pay Rs 5,000. It needs to be noted that any contesting groups has to file nomination papers including names of candidates for all wards and for 30% of the number of all seats available through the wards. While the rationale for increasing costs may be to make it more difficult for political parties or others to put up front groups and thereby confuse voters, it makes it extremely costly and difficult for the genuine independents who get into politics with the aim of making a difference at the local level.

**Discretionary quota for youth and women:** Sri Lanka has the unenviable record of having one of the lowest proportions of women in elected bodies at the local government level (2%), even in comparison to our South Asian neighbours, with Pakistan at 33%. While there are multiple reasons for this, a key step that has been taken in a number of countries including those in South Asia, has been to establish a quota system where a number of seats are reserved for women. A more conservative approach would be to reserve slots in the nomination papers submitted by political parties and independent groups.

This is what is being proposed by a number of women's groups but this has not been included into the amendment. Despite policy statements calling for increased female representation, including Mahinda Chinthanaya 2005 which calls for at least 25% candidates nominated for local authorities to be women, there has been little positive improvement over the years. The existing legislation has an obligatory 40% quota for youth in the nomination which was introduced to promote youth involvement in democratic politics. The new law seeks to make the youth and woman quota discretionary, so political parties can easily ignore both these sectors of society when choosing candidates. There should be compulsory provision to ensure 20% in the nomination papers are youth and 20% are women.

### **Conclusion**

The discussion explains how electoral reforms in the Sri Lankan context have passed various milestones in its political history from pre-independent era: from a first-past-the post system to a proportionate representation to a mixed system. However the challenges of representative democracy in a multi-ethnic, multi-religious state remains active for the policy makers. While the proposed system, similar to German system will overcome some of the key downfalls of the proportional representative system, there are further possibilities of it creating more concerns on representation of the small parties. Hence, it is for all the political parties to make the effort to demand to review the new law and suggest improvements considering this post-war window of opportunity to make positive contributions to legislative changes that will have significant implications for democracy and governance in Sri Lanka.

### Reference

Fonseka Bhavani; Jayawardena, Supipi and Raheem Mirak (2010) A brief commentary and a table on the Local Government Elections (Amendment) bill 2010, Groundviews, Colombo <http://groundviews.org/2010/10/13/a-brief-commentary-and-table-on-the-local-authorities-elections-amendment-bill-2010/> Accessed in 17<sup>th</sup> February 2013

De Silva, K M (2002) Corruption in Sri Lanka: The National Legislature, 1938-2001, International Centre for Ethnic Studies, Kandy.

Government Publication Bureau (2012) Local Government Elections (Amendment) Act No 22 of 2012

Marasinghe, Lakshman (2007) Ten paradigms for electoral reforms in Sri Lanka, [www.federalidea.com](http://www.federalidea.com), Internet, Accessed 18<sup>th</sup> February 2013

Parliament of Sri Lanka (2007) Interim Report of the Parliamentary Select committee on Electoral Reforms, Colombo

Welikala, Asanga and Edirisinghe, Rohan (2008) The Electoral Reforms Debate in Sri Lanka, Centre for Policy Alternatives, Colombo