



Established 1984

කාන්තාව සහ මාධ්‍ය සාමූහිකය  
பெண்கள் மற்றும் ஊடகக் கூட்டமைப்பு  
Women and Media Collective

## **PROPOSALS ON ELECTORAL REFORM - 15 JULY 2021**

To: THE PARLIAMENTARY SELECT COMMITTEE (PSC) APPOINTED TO IDENTIFY APPROPRIATE REFORMS OF THE ELECTION LAWS AND THE ELECTORAL SYSTEM AND TO RECOMMEND NECESSARY AMENDMENTS

**From: WOMEN AND MEDIA COLLECTIVE; WOMEN'S RESOURCE CENTRE, KURUNEGALA DISTRICT; WOMEN'S DEVELOPMENT CENTRE, BADULLA DISTRICT; WOMEN'S SOLIDARITY FRONT, KANDY DISTRICT; RURAL WOMEN'S FRONT, GALLE DISTRICT AND VILUTHU CENTRE FOR HUMAN RESOURCE DEVELOPMENT, NORTHERN, EASTERN AND NORTH WESTERN DISTRICTS.**

This submission is based on consultative discussions organized by the Women and Media Collective on 12.06.2021 and 16.06.2021 with women politicians, activists and advocates from across the country in Sinhala, Tamil and English. Also included are recommendations from submissions made by us to the Parliamentary Select Committee on Electoral Reforms in May 2004 and to the Public Representations Committee on Constitutional Reform in 2016.

While thanking the PSC for calling for public submissions at this initial drafting stage, we also respectfully urge the Committee to share with the public their findings and pre-final recommendations for another round of consultative discussion. We would also be happy to meet with the PSC to discuss our recommendations more fully.

These recommendations are in two parts; the first section relates to electoral systems reform including increasing women's representation, and the second to electoral reform in general and recommendations to democratise the political culture in Sri Lanka. At the outset we wish to ask that the Committee consider the important task of electoral reform in terms of four key principles: those of ensuring overall proportionality; gender balance, accountability, and the enabling of an ethical and democratic political culture.

### **A. Representative Electoral System**

As citizens of a Republic, the people of Sri Lanka are sovereign and control all political power. Therefore, the country needs an electoral system that reflects the will of the people. In the Proportional Representation (PR) system a direct link can be drawn between the number of seats won and the proportion of votes cast reflecting the will of the people. The principal of proportionality is important for an electoral system because it enables a plurality of representation and ensures

සරසවි මාවත, කාසල් විදිය, කොළඹ 8, ශ්‍රී ලංකාව  
சரசவி தென், காசல் வீதி, கொழும்பு 8, இலங்கை.  
Bairawa Lane, Dasse Galle, Colombo 8, Sri Lanka

that no one is left behind. A government formed without such plurality of representation will cause a inconsistency between policy and the will of the people.

The First Past the Post (FPP) system allows the voter to choose their preferred candidate. The candidate with the greatest number of votes in an electorate wins his/her seat. This ensures accountability between the candidates and their constituency as they are responsible to the people who voted them in. This system however does not necessarily lead to a stable government with equitable representation. As has been the experience in Sri Lanka a party with 30% of votes can obtain 50% of seats in Parliament. This was one of the reasons Sri Lanka moved to a system of proportional representation and this principle of proportionality must be safeguarded in the current electoral reform process. Delimitation boundaries need to be redrawn accordingly as well to ensure fairer representation.

### Reflecting the diversity of Sri Lanka

Sri Lanka's representative democracy should reflect its diversity of ethnic and religious communities, including those which are numerically smaller. These groups should be able to trust their representation in Parliament, Provincial Councils and Local Authorities. Territorially placed ethnic groups may prefer FPP, however those numerically smaller ethnic and religious groups territorially scattered would need PR which is based on a list and proportionality of votes. Since the PR system is more proportionate it also allows for smaller parties to be represented equitably and enables diversity of political opinion.

### **In the interests of maintaining the principle of proportionality that safeguards plural representation it is proposed that:**

- I. The Mixed Member Proportional (MMP) system which is a mixed electoral system that incorporates a proportional overall result, while allowing voters to choose individual candidates would best serve our needs<sup>1</sup>. An optimum reflection of this would be through a 50:50 division of FPP seats to list seats. A 60:40 division could also be considered. However, a 70:30 split defeats the purpose of proportionality.
- II. The electoral threshold must be established at 2.5% per district to ensure fair representation of parties with smaller constituencies.
- III. No additions or adjustments to the Proportional and/or National List should be possible after it is submitted to the Election Commission.<sup>2</sup>

---

<sup>1</sup> WMC recommendations to the Committee for drafting a new Constitution  
<https://womenandmedia.org/submission-of-proposals-for-constitutional-reform-december-2020/>

<sup>2</sup> ibid

- IV. Preferential voting must be abolished as this has led to adverse intra-party competition. Bonus seats must also be abolished.
- V. In MMP, the voters should be allowed the choice to cast votes for the candidate and the political party separately by two ballots. This gives voters more choice to vote for an individual candidate and a political party separately.

#### Independent candidates and National List

- VI. For single member constituencies individual citizens should be provided facilities to contest as independent candidates without forming Independent Groups
- VII. It is important the National List is used for its intended purpose of bringing in specialized experts, who are not career politicians, to the Legislature.
- VIII. The National List should have women and men nominated alternatively and in order of priority and this order should be fixed at the time of nominations. Appointments from the national list/PR list should be made in this order of fixed priority and no appointments outside the list should be considered.

#### **B. Women's representation and Gender Balance**

Women's representation in politics has been extremely low historically. Political parties have been the gate keepers of representative politics and women have depended on nominations to contest elections. Mainstream political parties have rarely given women more than 6% nominations and hence women were compelled to call for positive measures to reverse this historic imbalance<sup>3</sup>. We applaud the first step taken in this regard whereby a minimum of 10% nominations were allocated to women to contest wards at Local Authorities and women made up 50% of the additional persons list. These mandatory provisions also required the Elections Commission to ensure that women made up 25% of all Local Authorities. This was achieved in all but 16 of the 341 electorates. Overall women won 10% of the wards belying the belief that women could not win seats directly. We therefore call on the PRC to strengthen these positive and affirming provisions so that women's representation at Local Government can be increased beyond 25% and that similar affirmative measures are introduced at the level of Parliament and Provincial Councils. We firmly believe this is an important step in the democratisation of politics in Sri Lanka and a critical step towards achieving parity of representation incrementally.

---

<sup>3</sup> Kodikara, C., The struggle for Equal Political representation of women in Sri Lanka, A Stocktaking Report for the Ministry of Child Development and Women's Empowerment and the UNDP, 2010  
[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=en&user=gSjh2AkAAAAJ&citation\\_for\\_view=gSjh2AkAAAAJ:Se3iqnhoufwC](https://scholar.google.com/citations?view_op=view_citation&hl=en&user=gSjh2AkAAAAJ&citation_for_view=gSjh2AkAAAAJ:Se3iqnhoufwC)

As such we propose that:

- I. In a MMP system women should account for one half of the total candidates nominated to contest FPP seats. The legally mandated quota for contesting Local Authorities currently call for a minimum of 10% nominations for women to contest wards which currently make up 60% of total seats. We ask that this minimum be increased initially to 20% and to reach 50% parity incrementally.
- II. The Electoral laws must provide that the process of elections to any elected body shall have equitable opportunities for both women and men we therefore call for balance in the presence of women and men with each of the sexes accounting for no fewer than forty percent (40%) and no more than sixty percent (60%) of the total number of the candidates on the PR and National lists till parity is reached.
- III. The PR and National Lists should be closed and zippered alternating between male and female candidates, in order of priority. This requirement allows political parties to be transparent in listing the order of potential appointments including giving women an equal opportunity with men to secure appointments. It also provides the voter with a ranked list and makes the process of appointments open, transparent and democratic.
- IV. The closed, ranked lists should be submitted at the time of nominations and appointments made in the declared order, with vacancies filled in the same order.
- V. The Elections Commission's duties and functions as currently provided in Article 104 (b) should include a duty to ensure minimum quota in any registered political parties' list of nominees.

#### Party Structure and Responsibility to ensure women's representation

Although women play an important role in campaigning and mobilizing support for political parties, they are marginalized from decision making structures within parties, and often ignored as potential candidates during elections. To move forward ensuring internal party democracy, political parties must be required to have an equitable system of appointing and promoting party cadre to leadership and decision-making positions. Therefore:

- VI. To correct current imbalance, it should be legally mandated that at least 30% women be appointed to all leadership and decision making bodies within political parties and this should be a mandatory requirement for registration of parties.
- VII. Political parties should formulate clear, transparent and gender sensitive rules for selection of candidates for contesting elections.

- VIII. Parties should encourage, train and support women to enter politics and maintain a list of potential women candidates with a record of active political participation.

### **C. Code of conduct**

- I. A legally binding code of conduct should be established for elected representatives.
- II. Violators of the code should be charged by the Courts and subjected to recall.
- III. A system of recall should be established for elected representatives at all levels of government who violate the code of conduct.<sup>4</sup>
- IV. Penalties should be imposed on political parties for the corrupt and illegal practices of individuals acting as agents of parties as a deterrent. The relevant acts pertaining to elections should be amended to incorporate these penalties.
- V. Election Laws should be amended to ensure that every candidate annexes an affidavit to the nomination paper to declare under oath the following<sup>5</sup>:
  - a. The candidate's educational qualifications and dates on which such qualifications were obtained.
  - b. Whether the candidate has been found guilty of any offence in any Court of Law and the nature of that offence, the outcome of the criminal charge.
- VI. Those with criminal records/convictions should be prohibited from contesting elections.
- VII. Parties should formulate gender sensitive codes of conduct for all cadre including those in representative office and violations should be dealt with immediately.

### **RECOMMENDATIONS TO BE CONSIDERED REGARDLESS OF PROPOSED REFORMS TO ELECTORAL SYSTEMS AND PRACTICES**

The following areas have been identified as fundamental to the full realisation of democratic principles and exercise of franchise. We believe that these recommendations will be beneficial to all political parties and may be adopted regardless of political agenda.

#### **D. Systematic regulation of registered political parties**

---

<sup>4</sup> The Recall of MPs Act 2015 of England and Wales could be taken as a guideline in this regard.

<sup>5</sup> PRC report.

- Parliamentary Elections Act No. 01 of 1981 is the only guideline for determining the activities of political parties. This should be revised according to current needs and contextual changes in consultation with all political parties.
- Mandating enforceable guidelines for political party registration will enable better monitoring and regulation of party activities.
- Women should be appointed to at leadership and decision making positions, a mandatory quota must be put in place. (see point B VI above).

#### **E. Advance Voting**

A system of advance voting should be introduced for the full realisation of the franchise of voters traditionally marginalised on election day.

- A mechanism for introducing electronic voting system with appropriate safeguards should be considered.
- Special polling booths or other advance voting arrangements should be made available to facilitate the voting of factory workers, FTZ workers, pre-trial detainees, prisoners eligible to vote, people with disabilities, voters in hospitals, quarantine centres, and longterm care facilities and senior citizens.
- Migrant workers registered with the government should be permitted to vote and an appropriate mechanism introduced.<sup>6</sup>

#### **F. Campaign financing**

- There should be a legally mandated cap on election related expenditure by and on behalf of candidates and political parties and candidates should be required to name donors and contributors funding election campaigns.
- The Elections Commission should be empowered to monitor and regulate this along with financial regulations through the Central Bank to track sources of funding, including from foreign sources.
- Prospective candidates must make a publicly accessible asset and liability declaration before an election, and if elected every year thereafter until their term of office expires.<sup>7</sup>
- New regulatory guidelines that prohibit the misuse of state property for election campaigning must be formulated. The Elections Commission as competent authority must proactively take legal action against misuse

---

<sup>6</sup> PRC report and WMC recommendations to the Committee for drafting a new Constitution.

<sup>7</sup> *ibid*

of state resources and media by political parties, candidates and their supporters.

- Both ward and list members in Local Authorities should be allocated an equal proportion of financial resources for expenditure in their Local Authority area.
- Candidates should be required to make the requisite declaration to that effect with punishment (amounting to the forfeiture of the seat won) for violation of campaign expenditure rules.

#### **G. Election violence<sup>8</sup>**

- Laws should provide for security to women politicians and eliminate all forms of election covert and overt violence against women candidates, including hate speech and character assassination, whether in the media or by fellow politicians.
- A commonly agreed electoral code of conduct in relation to election violence should be introduced for political parties and their candidates.
- Suitable legislation must be formulated, in consultation with the Election Commission, election monitoring institutions and broader civil society, to curtail hate speech, misinformation and disinformation in state and private media, while protecting freedom of expression and access to information.

---

<sup>8</sup> Final Report on Election Related Violence And Malpractices Parliamentary General Election – 2010, CMEV <https://cmev.org/wp-content/uploads/2010/12/final-report-on-election-violence-and-malpracticesenglish-ge-2010.pdf>