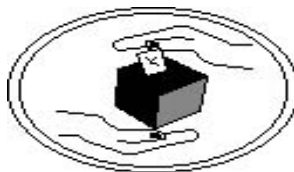


THE LOCAL GOVERNMENT ELECTION 2006

SECOND INTERIM REPORT

16.02.2006 TO 26.03.2006



PAFFREL

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1. Introduction

In the entire elections history of Sri Lanka we are passing the first period in which 8 elections were held within 8 years. This phase which began with the Presidential Election 1999 goes through the Local Government Elections 2000, the General Election 2001, Local Government Elections 2002/3, Provincial Council Elections 2004, and Presidential Election 2005 and culminates in the Local Government Elections 2006. It can be shown by simple calculations that unless there takes place an unforeseen or urgent change "A period of yearly elections" of this nature would begin again from 2014. However, the underlying story in this phenomenon which outwardly appears humorous, is that at least a sum not less than Rs.6,000 million out of the national income of our country has been spent on these 8 elections. Therefore, it is highly pertinent and reasonable that these elections are monitored to ascertain whether they are held in a free and fair manner so as to make them beneficial to all categories of the population from the infants cuddled in the bosoms of mothers to the elderly, because these monies spent on elections are the monies that should be spent for their benefit. We were compelled to monitor the Local Government Election 2006 with this background in mind.

2. Methodology of Analysis

- In this report there will be a discussion on 5 main institutions concerned with this Local Government Election. They are as follows:
 - (1) Commissioner of Elections and his Department
 - (2) Police Department
 - (3) Political Parties and Independent Groups
 - (4) Behaviour of the Media
 - (5) PAFFREL Organization.

- The data needed to prepare the report were collected from a number of sources. They can be categorized as follows:
 - (1) PAFFREL District Organizers and Divisional Coordinators
 - (2) Other Civil Organizations
 - (3) Groups of Individuals
 - (4) Media
 - (5) Political Parties and Independent Groups

- Except the inferences included in the report all other information has been verified and confirmed at least through two of the following organizational structures :
 - (1) PAFFREL District and Divisional Coordinators
 - (2) Citizens Committees
 - (3) Police Department
 - (4) Officials of the Elections Department
 - (5) PAFFREL monitors

- All the information which were not confirmed through at least two institutions have not gone into this report, whatever their sources were.

- In analyzing incidents names of the victims and those responsible for perpetration of such incidents were avoided as far as possible.

- The essential elements contained in the first interim report forwarded on 15.3.2006 are reflected in this report too.

- The position of the last three days up to the day of the poll which has not been covered in this report will be dealt with in our final report.

3. Background to the Local Government Election 2006

3.1. The last Local Government Election that was held prior to the Local Government Election that is scheduled for 30th March 2006 was held in 4 stages. It started on 20.03.2002 and ended on 08.03.2003. Accordingly the term of office of one Local Government Authority has to terminate in 2007. The official terms of 17 other Local Authorities were to end only in May this year. However receiving of nominations for 330 Local Authorities including these Local Authorities and comprising 18 Municipal Councils, 42 Urban Councils and 270 Pradeshiya Sabhas began on 9th February 2006 and ended on 16th February 2006. These elections will be held on the basis of 2004 electoral register. Accordingly the total number of eligible voters is 13,327,160. The total number of candidates contesting this election is 30,504 comprising 23,864 candidates from recognized political parties and 6,640 candidates from independent groups. The total number of members to be elected is 4,442. Out of 1,883 nominations submitted by recognized political parties and independent groups 219 nominations were rejected as they had not been submitted in accordance with section 31 (1) of the Local Government Authorities Elections Ordinance.

3.2. With the Election Commissioner's announcement fixing the dates for the Local Government Election two petitions were submitted to the Court of Appeal challenging some matters arising from the Commissioner's announcement.

Out of these, the particulars about the petition forwarded by the PAFFREL Organization are given under paragraph 4.5. The petition submitted by the United National Party to the Court of Appeal on 07.02.2006 seeking the issue of an order not to hold this election on the basis of 2004 electoral register got rejected due to its legal deficiencies. The third petition submitted to the Court prior to the submission of nominations contained matters against Muslim Congress. The Colombo District Court which considered this petition issued an interim order on 15.02.2006 to the effect that the Chairman and the Secretary of Muslim Congress should refrain from signing the nomination papers of that Party. This order was subsequently cancelled on 01.03.2006.

Subsequent to the acceptance of nominations 42 cases have been filed in courts. In accordance with the court orders issued in respect of 9 of them, holding elections for 21 Local Authorities on 30.03.2006 may not be possible. Additional particulars on this are given at 2.7 of our interim report forwarded on 15.03.2006.

3.3. The outstanding feature of this Election is the fact that production of identity cards has become mandatory for voting. This is the first time in the entire electoral history of Sri Lanka that such a law is coming into force. This could be considered as a major supporting force in reducing electoral malpractices such as impersonations.

4. The Role of PAFFREL

4.1. As was done in previous elections PAFFREL has set up its organizational network with the cooperation of persons who do not have direct affiliations with political parties but are attached to civil society organizations scattered country-wide. In this instance Lanka Sarvodaya Shramadana (incorporated) Society plays a major role. In addition, about 350 other civil society organizations engaged in various social activities in rural and urban areas of the country extend their cooperation to PAFFREL in monitoring this election. In this manner arrangements have made to deploy 15,000 stationary monitors on the basis of two for each polling station and about 1,000 mobile monitors to monitor the activities on the day of the poll at the polling stations where Local Government poll is to be held.

4.2. PAFFREL Organization has set up a solid organizational structure to station a large number of monitors all over the country as shown above. To facilitate the coordination between this organizational network and PAFFREL headquarters, 19 District Organizers have been appointed. Among their duties will be the supervision of activities of our Divisional Coordinators and compiling and forwarding to the PAFFREL headquarters the daily and weekly reports received from the Divisional Coordinators. The supervision of organizations at the Divisional level and the selection of stationary monitors for polling stations will be done by a Divisional Organization. The methodology adopted to prevent anomalies in reporting to the headquarters about

the incidents covered by this report has been described under monitoring methodology.

4.3. The chief among the aims of these citizens' committees formed by enlisting the dignitaries such as the retired public servants, civil society activists, religious leaders residing in each of the electoral areas, would be to prevent any possible conflict situations pertaining to the election in localities where these committees can exert an influence and the development of mutual cooperation and goodwill among the community. Over 160 citizens' committees of this nature have been set up all over the country.

4.4. It is also expected to deploy 250 vehicles to serve the monitoring activities on the polling day.

4.5. By a petition submitted to the Court of Appeal on 31.01.2006 PAFFREL pleaded that the Elections Commissioner and the Commissioner for the Registration of Persons be directed to implement a programme to issue Identity Cards before the Local Government Election, to all the voters who do not have Identity Cards. Accordingly it was decided at the sittings of the Court of Appeal on 16.03.2006 that the voters who do not have the National Identity Card or any other valid Identity Card should obtain their ballot papers by producing his / her photograph certified by the Grama Niladhari and the Divisional Secretary of the area. The voters who are able to produce an Identity Card or a certified photograph of this nature can get the opportunity to vote only at this Local Government Election by confirming his / her identity through a special form that will be available with the Senior Presiding Officers. At this juncture when the dream of making the identity card mandatory at elections, has become a reality we, the PAFFREL Organization who were the strong beginners of that strenuous agitation have a feeling of happiness with humility.

5. The Field Covered by the Report

5.1. The role of the Elections Commissioner

5.1.1. The Independent Elections Commission was one of the Commissions that were proposed to be established through the 17th Amendment to the Constitution. Unfortunately it could not be made a reality during the last few years. Therefore, the onus of conducting elections in a fair manner continues to be in the hands of a single individual - namely, the Elections Commissioner. The meticulous impartiality, commitment and efficiency displayed by the Elections Commissioner in performing the difficult task of holding several elections within a limited period of time as mentioned in the introduction of this report, receives our acclamation. In addition, we record below a few of our observations regarding the activities of the Elections Commissioner and his Department.

5.1.2. Arrangements regarding the conduct of the poll

- The total number of voters who are eligible to vote at the Local Government Election is 13,327,160.
- Poll is due to take place in 10,803 polling stations in 10,452 polling divisions.
- As restraining orders have been issued in respect of 20 Local Authorities in 7 Districts the likelihood of conducting polls in respect of those institutions on 30th March is rather remote.

Following are the Local Authorities in question -

Colombo District	-	Seethawakapura Pradeshiya Sabha
Kandy District	-	Gampola Urban Council, Udapalatha Pradeshiya Sabha, Wattegama Urban Council and Patha Hewaheta Pradeshiya Sabha
Galle District	-	Galle Municipal Council and Elpitiya Pradeshiya Sabha
Ratnapura District	-	Balangoda Pradeshiya Sabha
Ampara District	-	Ninthavur Pradeshiya Sabha, Navithanveli Pradeshiya Sabha, Pothuvil Pradeshiya Sabha, Kalmunai Municipal Council, Addalachchanai Pradeshiya Sabha and Akkaraipattu Pradeshiya Sabha
Mannar District	-	Mannar Urban Council, Mannar Pradeshiya Sabha, Nanavittan Pradeshiya Sabha, Musali Pradeshiya Sabha and Mannai Pradeshiya Sabha
Puttalam District	-	Puttalam Urban Council

- Accordingly out of 330 Local Authorities, in nearly 6%, elections will have to be held again.
- In addition to these, on 20th March the Elections Commissioner, after considering the acute security problems that could arise, have decided to postpone the elections in 6 more Districts. They are Jaffna, Batticaloa, Vavuniya, Kilinochchi, Mullativu and Mannar. On this

basis, the Local Government Election in respect of Northern and Eastern Provinces have been postponed for second time. In these areas a Local Government Election was held for the last time in the year of 1998. Accordingly we observe that the people in these areas are continuously losing the opportunity of participation in solving their problems at the village level.

- Hundreds of thousands of people who have been displaced due to the long-standing civil war and the Tsunami disaster are residing scattered outside their places of permanent residence. We observed that there were no provisions under the Local Authorities Elections Act to make facilities to cast their votes at other places. Therefore these persons will be denied the opportunity to cast their votes.
- Postal voting took place on 21st and 22nd March. 216,850 were eligible for postal voting. This was less than the number of 323,451 of eligible postal voters at the last Presidential Election. The shortfall was 106,601. The reduction is nearly 30%. One reason for this reduction may be the general apathy for the Local Government Election. Parallel to this, the percentage of persons who used the postal vote too has gone down this time. Our report shows that the percentage who used the postal vote facility was about 60%. However, the Elections Commissioner has decided to give time till 30th March to use the postal votes by persons who are eligible to cast their votes by post. We feel that this concessionary step is a salutary sign.
- One outstanding feature of this postal voting was the absence of any violation of election laws, malpractices or violent acts in the postal voting centres. This is undoubtedly a good sign. PAFFREL believes that the honour of conducting the postal vote in this exemplary manner goes mainly to the Department of Elections headed by the Elections Commissioner, the Police Department headed by the Inspector General of Police and the leaders of the contesting political parties and the independent groups.
- The difficult and hard steps taken by the Elections Commissioner to make the national identity card or any other document of identity mandatory in establishing the identity of voters at polls receives our unreserved commendations. Though there could be the possibility of certain weaknesses cropping up at this election where such an identity document is going to be made mandatory for the first time, this no doubt will be a long step taken towards making the country's democracy much more meaningful. Any identity card issued by a public official with authority to do so or a photograph certified by the

G.N. and the D. S. of the area have been validated for the purpose of establishing identity for voting. Voters who cannot produce any of these documents of identity also can establish their identity by placing his / her signature or thumb impression on a form available with the S.P.O. Therefore, we note that the Elections Commissioner has taken steps to avoid any inconvenience to the voters.

- However, we believe that while there is confirmation in the past elections and in this election too that media, especially the state media, had shown a leniency towards some political parties, the actions taken by the Commissioner of Elections to remedy that situation were not sufficiently effective. Especially PAFFREL is of the view that as the duty and the authority of appointing a competent authority to supervise the state media are vested with the Elections Commissioner, if the objective of appointing such an authority is to be realized, such appointments has to be made not just one or two days prior to an election but from the date of submitting nominations.

5.2. The implementation of the General Legal System of the Country

At a first glance it can be observed that during the pre-election period of this Local Government Election, the number of violent activities that has taken place is at a low level. Although a comparison of the last Presidential Election with this Local Government Election is to a certain extent not suitable, the 52 incidents that have taken place in connection with this election shows a reduction compared with the 172 incidents of violence that took place at the Presidential Election. Compared with the Local Government Elections in 1999 and 2002/2004 too, there is a reduction in the number of incidents of violence. (See Annex No. 1) However, leaving aside the number of incidents, when we consider the degree and the depth we see a continuous increase of pre-election violent acts when compared with the month of February in which the election propaganda activities started (Annex No. 2 and No.3)

5.2.1. The Independent Police Commission which is important to perform police functions with efficiency and free of undue influences, has become inactive from last year, viz. from 26.11.2005. We have received complaints to the effect that the intervention of the police is inadequate in controlling some acts of violence. As one simple example the display of unauthorized posters, banners etc. all over the country can be cited. The police have to take sufficient steps to prevent these acts. We feel that election violence acts are generated through conflicts that take place in connection with these displaying.

5.3. Other observations and the Conclusion

The matters commented upon under the headings in the foregoing and the data shown in Annex 2 and 3 are based only on incidents and issues found to be correct by verification through the reporting parties, our District and Divisional Organizers, the police or the relevant state institutions. We have with us a large number of complaints which could not be fully established due to certain practical difficulties.

Many of the election laws in our country were introduced to Sri Lanka either in the years close to 1979, the year in which television media was introduced, or before. As an example, when the Act No. 15 of 1981 regarding the Election of President was enacted only about 2 years had elapsed after the introduction of television. At that time only 2 television channels were in operation in Sri Lanka. As of today, there are eleven or more such channels. In important events such as consulting public opinion in an election it is natural for political parties to get attracted towards these highly modernized technology instead of conducting their propaganda activities only through conventional handbills, posters etc. Therefore, on many occasions there is a possibility of the needs and evaluations of certain electronic and print media organizations becoming congruent with those of a political party or candidates. In a decisive moment like an election this will create a deep division in the society and as a reflection of the same, in the media as well. Therefore, it finally erupts as a conflict between the governing party and the opposition parties and also as a conflict between the state media and the private media. Our observations have revealed that there is a need to amend the electoral laws to curb rather than encourage the grave political affiliations that take root in the two media sectors – viz. the state media and the private media.