

Provincial Council Election – North-Central and Sabaragamuwa Provinces

Second Interim Report (19th August 2008)

1. Introduction

In the first observation report issued by us on 30/07/2008 on the election of North-Central and Sabaragamuwa Provinces, the background that led to two elections and the role of the PAFFREL organization and other organizations have been elaborated. Exactly as we stated there, although the level of interest of common citizens on this elections, which have come about at an unexpected time, is not seen as high, it is observed that close supporters who are steered by main political parties are acting with great dedication for candidates of their political parties. Due to the contest prevails in engaging maximum efforts and resources by political parties, including the followers, to protect the political power and secure the authority, severe stress, uneasiness and antagonism prevail in both provinces. Within this dialogue we had discussed on the pressure that may be directed towards our country due to this environment. We consider it as a great responsibility of our organization, being election observers as well as an organization that deeply contemplate on good governance and of future generation. But, we leave that discussion to the last section of this report and concentrate on the postal voting, which is a part of the election.

2. Postal Vote

On two days of 7 – 8 of August, 2008, during which the postal voting was scheduled, more than 80% out of 51,248 eligible postal voters voted, and except for a small incident, we observed that it was held peacefully. Further, a special feature of this election is that only two days, i.e., August 14 – 15, have been allocated for those who could not cast their votes on previous two days.

It had been experienced at number of elections held previously that generally the percentage of voting of postal voters at every election was about five to six percent higher than the percentage of other voters. Accordingly, it may be assumed that about seventy five percent would vote at the forthcoming elections.

It would be a serious shortcoming if we do not mention on one special matter on the postal voting conducted this time. That is the postal voting held at the Department of Agriculture and Agrarian Services at Arangala of Polonnaruwa District. The person who was the Certifying Officer and who was in charge of that center, had held the postal voting on one day before the due date, i.e., 06th of August, at his own discretion. The excuse that he had given was that as he had to travel abroad on the following day, he had held the postal voting on 06th of August.

It is the officers of the executive grade who are experienced government officers, possess wide knowledge on Establishment Code, Financial Regulations and Election Laws, are appointed as Certifying Officers. Observing that even these types of persons have come down to the level of treating election duties and Election Laws, and the discipline very lightly and leniently, would startle an impartial and intelligent person. We are fortunate to some extent if we could forget this incident, considering it as a mere personal negligence. Unfortunately it is not so. This is only a logical step of the process of ignorance and abasement of the law, which has been taken place in the country for some time. It is strongly recommended by PAFFREL Organization to take suitable action to prevent these types of incidents and causes thereto. We suggest that serious attention should be drawn not only by the Police and the Commissioner of Elections, but also by all legislative, executive and judicial power structures which hold the responsibility of establishing authority of the law in the society and also upon the society

3.1. Provincial Councils Elections and the Commissioner of Elections.

It could be stated, as a word of thanks, that the Commissioner of Elections is making a serious effort to conduct Provincial Councils Elections in a fair manner. Whatever the attempts made by the Commissioner of Elections and the staff of his Department to conduct the elections of a country in a fair manner, it would be successful only if an environment is made allowing such efforts fruitful. As an example let us discuss the statements made by the Commissioner of Elections at the press conference on 16th July, 2008. At the conference he stated that at the time of the declaration of the elections, there was not enough time at least to obtain the copies of electoral lists. According to him, the number of employees of the Department is 525. Although there were 32 vacancies, approval was not granted to fill these posts. Thus, it was revealed that he had to employ 150 undergraduates of University of Rajarata continuously for number of days, in the preparation of voter's lists of Anuradhapura District. Department of Elections is the principal organization that implements the elections which would

determine the future of the country and the rulers of the country to be elected through the casting of votes of the citizens. As the calendar of elections has been changed solely on political needs and without having a fruitful dialogue with the Department, this department has to commence its activities with severe constraints due to lack of facilities and without having enough time for preparations.

3.2 The Independent Elections Commission, which has to be appointed under the 17th amendment to the Constitution, has not still been appointed. It may be said that about thirty or forty years ago, it was possible to conduct elections fairly and freely by the Commissioner of Elections, who was a head of a department. But, subsequent to constitutional amendments that had taken place, and new challenges that have to be faced, along with the open economy, executive presidency, proportional voting system and the preferential voting system, which was followed by changes to the political value system, and changes to the social order, are too demanding for one person, however a strong personality that he possesses. It may be under these circumstances that the Commissioner of Elections had to go to the judiciary and make request either to establish the Independent Election Commission or to allow him to retire. But the approval of the judiciary was not given. Therefore, at some occasions the Commissioner of Elections has to wait helplessly.

3.3 Mass media, especially electronic media, may be cited as partial. This had happened under all political parties. Today also it is happening. A tragedy is being displayed in front of our eyes that, while the state media act supporting the government severely, some private media support the opposition in the equally bias manner. We observe that the instructions issued by the Commissioner of Elections to report impartially, instead of severe partiality, a situation in which viewer, listener or reader become stunned, are thrown away. The Commissioner of Election is not in a position to take the media that violate his orders to the courts or to take similar alternate action. This is because there are no legal provisions in to that effect. But he can appoint a Competent Authority especially to control the state media. But he is not in a position to appoint such a Competent Authority for the private media that act equally partially. Therefore, to conduct a fair election the necessity of an Independent Election Commission has become very vital.

3.4 The 3rd clause of the letter issued by the Commissioner of Elections to all Secretaries of Ministries and other government organizations, dated 16.06.2008 and numbered PCE/08/NC-SB/04, prohibiting the misappropriation of government resources, is as follows:

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But what is the reality? Every political party utilizes government properties for election propaganda work, depending on their own capacities. Here also, the Commissioner of Elections has no authority to go to courts to stop this.

In spite of these type of obstacles and constraints, the Department of Elections, under the leadership of the Commissioner of Elections, is making maximum effort to conduct a free and fair election.

04. Provincial Councils Elections and the Police.

It is true that the Police encounter this election under severe constraints. Normal activities of the Police may have got confused due to recently concluded SAARC. But, due to that reason, the Police cannot either relinquish or hand over to somebody else its responsibility in safeguarding law and order. It is not a secret that the prevailing political pattern led by the executive presidential system direct pressure on the Police, as stated in the discussion on the duties of the Commissioner of Elections. Therefore, our society is experiencing mechanisms of the Police officers who received political appointments and promotions are taking action to safeguard the expectations of the political party that bestowed them the “position”, implement whatever the illegal orders given by powerful politicians or any type of politicians who receive the assistance and blessings of such politicians and not to implement the law against them. Under any circumstances, this is a vicious way of having very unfortunate and serious repercussions. What could be the outcome, if the Police, who are there to safeguard

law and order, are inactive when politicians and their henchmen break the law, glaringly, during day time? People get disgusted on the Police; hate; they give up the confidence on the fairness of the government; give up the expectations of the social justice. This would be a fertile ground for the creation of mafia groups that take the law in to their hands. Then law will be shrugged off. All values, policies, institutions would become invalid. The country would be degraded to the level of an anarchical state.

Therefore, although we do have a respect for the good work done by the Police, it should be stated that the action that have been taken by the Police at these elections are not sufficient enough for the satisfaction. But, it should be stated here that the Deputy Inspector General of Police in charge of Rajarata area has taken disciplinary action against number of police officers who had been politically partial and had acted contrary to the law. Further, 06 police officers who had not carried out their duties on the incident of attacking the Sabaragamuwa Chief Ministerial candidate of the U.N.P., Mr. Ranjan Ramanayake, were interdicted by the Deputy Inspector General of Police in charge of the area. This situation could be controlled if the higher police officers take action against such police officers who do not carry out their duties. Although we had criticized the action taken by the Police during last few weeks, we appreciate the action taken on police officers who had not carried out their duties. Further, we expect such impartial service from the police officer during the period of about next week.

05. Provincial Council Elections and the PAFFREL organization.

As stated in our first report, we will be employing 2,660 observers for this election. Comprehensive training sessions were held at electoral level on subjects covering election laws, issues pertaining to elections, ethical issues, experiences on previous elections, and methodology of elections in four districts of Anuradhapura, Polonnaruwa, Ratnapura and Kegalle. 60 mobile observation vehicles would be deployed by us on the Election Day, with special attention on areas more susceptible for election violence. During the observation activities, more mobile observation units will be deployed in areas such as Kalawewa of Anuradhapura District, Egodapattuwa of Polonnaruwa District, Nivithigala of Ratnapura District and Rambukkana of Kegalle District, which are more prone to violence. As stated in the first report, one component of our service is to obtain reports from our observers stationed in polling booths, before eight o'clock in the night of the Election Day and submit the reports

on serious violations to the Commissioner of Elections. On the Election Day we are planning to issue a statement by 9.00 o'clock in the night, on the overall situation of the day.

06. Election Violent Activities and Violation of the Election Laws.

A list of such incidents are given here as the Annexure "A". Meanwhile, out of incidents that have been observed by us, we state here few special incidents. We quote these incidents only to indicate the level of challenges faced by the authority of the law and to measure the directions that prevail in our country. We also record that whichever the party that had done these acts against the other party, political parties of our country have contributed, more or less, for the origination of the causes of these incidents. We believe that without comprehensive changes to the election system, which is gradually becoming a liability, and to the Constitution which leads to that system, it would not be possible to contain this situation successfully.

01.It is reported that damaging a boutique of a supporter of the Janatha Vimukthi Peramuna at the Arangala area of Polonnaruwa and shooting to the air was by a person holding a Ministerial post and a team led by him.

02.The charge on intruding on and damaging to an office of a political party located in Thambuttegama of Anuradhapura District and scaring by shooting is also directed towards a Chief Ministerial candidate. This act, purported to be done by him, takes more serious proportion as he is the former Chief Minister.

03.Charges are leveled that the leadership to the team that attacked the supporters of the Janatha Vimukthi Peramuna at the Nivithigala town of Ratnapura District, who were involved in propaganda work and a clamour against the violence, was given by a Minister of the Central Government.

04.Four persons had to undergo treatment at the hospital consequent to a friction that had taken place between two persons of the same political party on 07th August, 2008 at Arangawila of Polonnaruwa. This was a result of a dispute on preferential vote,

05.An attack on an office of the U.N.P. and a shooting had taken place on 04th August, 2008, at Thalawa, Anuradhapura. Later, this office was burnt. 16 such attacks on offices in Anuradhapura District alone have been reported.

06.Mr. Lalith Hettiarachchi, a supporter of the Janatha Vimukthi Peramuna was shot at, at Eheliyagoda, Ratnapura on 08th August, 2008. At present he is being treated at the hospital.

07 Mr. Nuwan Sampath, a supporter of the U. N. P. was shot at and another person was abducted on the 09th of August, 2008, at the Public Fair, Anuradhapura. 03 shootings on individuals and 04 shootings on offices of this type have been reported to us.

08 During this pre-election period, Mr. Ranjan Ramanayaka, the Chief Ministerial candidate of the U.N.P. of the Sabaragamuwa Province was attacked on 13th August. It is a sad situation that the violence has increased up to the point of attacking a Chief Ministerial candidate.

Charges are leveled on every such incident on the insufficient involvement of the Police, or otherwise, partiality cannot be discarded easily. We are moving towards an era that requires a serious change in the political set-up and the election system, which turn factors, which should be examples to the people, in to brutal elements. At this critical hour of the upcoming elections, Paffrel Organization hereby plead, that all individuals and organizations of this country must, without delay, take determined and intelligent steps, to break the vicious circle that turns the person beaten today to the attacker.