

## **The Rules of the Game (Proposals on the Legal Framework)**

An election has been compared to a sporting game, played with established rules, carried out by game officials referred to as referees. In a sporting game, say Cricket, the rules are constant regardless of where the game is played whereas election laws vary from country to country. Similarly, the manner in which the game officials are recruited and chosen remain the same. Not so with the selection and appointment of election officials.

ANFREL proposes certain improvement in the “rules of the game” so that future elections will be more meaningful if not credible.

### **An Independent Election Commission**

An election commission is said to be independent when there is transparency in the appointment of its commissioners, i.e. there is check and balance on their appointment such as the participation of the parliament as against a unilateral appointment by the Chief executive. Similarly, they are assured of a security of tenure to serve office for a fix period of time and they cannot be removed except for cause as defined in the law. A commission’s independence is further enhanced when it enjoys ‘fiscal autonomy’, meaning, once its budget is approved, it must be released without difficulty.

### **Expand “Postal Voting” application**

The law limits the privilege of postal voting to government employees doing poll duty. Hence a journalist from a state media can apply for advance voting (postal voting) but not a journalist from a privately owned media. This is discriminatory. Suffrage is a human right and not a privilege granted by the state. International standards favor expanding rather than restricting the right to vote. Postal voting then should include other citizens similarly situated, i.e. they cannot go to the polls on election day, such as nurses, doctors, media personnel irrespective of whether they are public servants or not.

### **Overseas Voting for Migrant Workers**

Migrant workers contribute greatly to the economy of the country through their remittances. Yet, they are denied a voice in the choice of their leaders. The number is huge to be ignored – 1.6 M, all of voting age. Parliament has to consider enacting a law to grant them voting rights. There are more than 40 countries now providing overseas voting for their citizens living abroad. Sri Lanka can surely benefit from the experience of these countries. Giving them the franchise enhances the quality of the electoral process because they are well informed, they are more independent in their choices and they are beyond threats and intimidation of politicians.

### **Campaign Finance**

The current election law has no provision on campaign finance. This is important since it gives meaning to basic human rights such as the right to take part in the affairs of the state as a candidate. Regulations meant to set limits on campaign spending, amount of contributions a candidate or party can receive from individuals or corporations; who can contribute to a campaign so that there is no “conflict of interest” between the donor and the candidate or party; manner of reporting and frequency of

reporting contributions and expenditures; these have all to be defined in the law. Campaign finance ensures a “level playing field” and guarantees equal access to resources necessary in a campaign.

### **Enforcement of Existing Laws**

The “score sheets” of the local observation groups tallying the incidence of electoral violence seem to be growing. There are laws in place that cover these acts – the penal code and the election law. The problem is in the enforcement of these laws. A law is a deterrent to its violation only if the corresponding sanctions are meted out to the offenders.

The practicing journalists are one in saying that so much remains to be done to improve freedom of the press. Needless to say, a robust free press is essential to the growth and development of democracy. Democracy is best tested by the freedom the press enjoys.

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