

PARLIAMENT WATCH – SRI LANKA*

OCTOBER 2010



* Conceptualised, implemented and funded by South Asians for Human Rights; Research carried out and assistance provided by Transparency International, Sri Lanka

Since the election of a new Parliament in 2010, the following months were largely spent on introducing vital amendments to important laws including the Constitution and the local election laws. In September 18th amendment to the constitution was introduced and in October, significant changes were made to the country's local government election law.

Like The Eighteenth Amendment which was passed in Parliament with a 2/3 majority in the House, the Local Government Authorities Elections (Amendment) Bill too was presented to Parliament in October with little discussion both in Parliament and outside.

The impact of the new legislation was not subjected to a robust public discussion despite its impact on our fundamental rights. As objectors to the bill pointed out the First Past the Post dilutes in practice the Constitutional objective of a Representative Democracy as the system is not one that embraces the concept of inclusivity that provides for the inclusion of all possible political opinions. Limiting the representatives chosen by Proportional Representative System to a maximum of 30% diminishes the chance to exercise the fundamental rights and franchise of the people by marginalizing a significant section of our population.

Key highlight of the parliamentary calendar in October, the new bill, contained some provisions that merits intense scrutiny.

The salient features of the bill are:¹

1. It provides significant powers to the secretaries of political parties and leaders of independent groups to make appointments to fill vacancies without providing voters the opportunity to elect a suitable candidate through a by-election.
2. It gives far-reaching powers to the Local Government Minister over the process of demarcating wards in local authorities. (Section 48.)
3. There are no specific guarantees for minority representation, either through the electoral process or through delimitation mechanisms. (Section 2)
4. Although it introduces new measures for local authorities, it broadens the powers of the central government rather than empowering local authorities. (Section2)
5. No political party or independent group can contest in only one ward in the entire local authority but instead will have to contest in all wards in the local authority. Also, payment for nominations has significantly increased for independent candidates — they previously paid Rs. 250 per name but would now have to fork out Rs. 20,000 per name. (Section 22 (3,) 23 (1))
6. Political parties or independent groups are not compelled to include 25% women and youth nominees. Women and youth are grouped together rather than including them as

¹ The PDF version of the bill can be found at <http://www.groundviews.org/wp-content/uploads/LOCAL-AUTHORITIES-ELECTIONS-AMENDMENT.pdf>

separate entities. The provision for a 40% youth quota and for the rejection of a nomination list for non-compliance has been repealed.

Critics of the bill point out that the bill passed in parliament on October 5, 2010 will effectively distance and separate the elected representative from the people by centralizing all power with the party leadership. It will also prevent minority parties/independent groups and concerned individuals from successfully contesting local council elections.

At a seminar organized by the Centre for Policy Alternatives (CPA) on October 04, 2010 on the specific bill, United National Party (UNP) Member of Parliament (MP) R Yogaraja said that it strengthens the two-party system and limits minor parties and independent groups being able to secure seats through proportional representation

He added that by increasing the fee per independent nomination to Rs. 20, 000, the government has effectively prevented professionals from coming forward. Under the existing law, candidates from registered political parties do not have to place a deposit and a contestant of an independent group needs to make a deposit of Rs. 250 only. But under the new law that is now being introduced, the hike in deposit fees would require a political party to deposit massive sums. For example, a party has to deposit around Rs. 500, 000 to contest for the Colombo Municipal Council.

“Even that might be an issue for a political party other than the United Peoples’ Freedom Alliance (UPFA) and the United National Party. With the new system, you cannot compete for one ward. You have to find candidates for all wards to contest for the entire local authority. So an independent group that plans to contest for the municipal council will have to place a deposit of two million rupees. What independent group can afford this kind of money?”²

Presenting the bill to parliament A.L.M. Athulla, Minister of Local Government and Provincial Councils, told the House that the amendments to the bill were necessary and urgent. The existing proportional representation system and the preferential vote have distanced the elected representative from the constituency and led to immense intra party conflict. He added that many local and provincial councillors themselves have been requesting for the proposed amendments as there is a felt need for a new political culture that does not lead to violence and friction.

“There were many requests from local and provincial councils to present this bill. A lot of officials including governors are harassed by the delay in implementing this.”³

Nevertheless, opposition leader Ranil Wickremesinghe pointed out that this bill has taken away certain powers enjoyed by the local authorities and transferred those powers to the centre. His contention was that this was a backward step that would concentrate power on the centre whereas effort should be made to grant more autonomy to the periphery. The minister of Local

² Taking with left hand what’s given with the right hand.

http://www.lakbimanews.lk/archvi/lakbimanews_10_10_24/special/spe6.htm

³ Hansard, October, 5, 2010, Volume 194 - No. 1, page 47-48

<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2847>

Government and Provincial Councils has been given many unchecked powers ranging from the appointment of a Special Commissioner if the Chairperson of a Local Authority is unable to pass the budget to the appointment of delimitation committees.

“The government is going to reduce the powers of the local authorities and confer those powers upon the president.”⁴

The constitution of the delimitation commission and how it can impact on the creation of the newly demarcated wards were the main concerns of the minority parties during the parliamentary debate. A delimitation committee will decide on the division of wards in the coming local council elections scheduled for March 2011. Section 2 of the Bill recommends the creation of a five -member National Delimitation Committee appointed by the Minister of Local Government to separate the wards. The Minister can also appoint District Level Committees if he so desires.

“The District Committees will comprise four government servants and a representative of the Minister. In a post Eighteenth Amendment Sri Lanka, where even the theoretical guarantees of the independence of government servants have been taken away, minority parties fear that they would demarcate wards to suit the parochial needs of the government. The minister has significant powers without any checks and balances. There is no appeal process to challenge a decision made by him either. There is fear that these committees will demarcate the wards to suit the political needs of the government,” UNP MP Joseph Michael Perera said.⁵

Another problem concerning the delimitation exercise is the limited availability of time before the next local authorities election in March 2011. The Minister still has to appoint national and district delimitation committees. The said committees have to implement the process that is now decided on while taking into consideration the ethnic composition, the geographical areas and the special features of the local authority. Considering that the local elections have to be announced by mid January, it gives the committees mere weeks to complete the process, if the elections are to be held under the new law.

As in September when a crucial amendment to the Constitution moved as an urgent bill undermining the need for transparent and accountable governance practices, the local authorities’ amendment bill also was shrouded in secrecy. Under the new law, there is covert exclusion of minority representation and it has further shrunk the space for independent candidates to enter the fray. Such practices of political marginalization had, in the past, cost this country a great deal. Yet it remains, looking at the ongoing processes, a lesson not learnt. This coupled with the legislative lethargy, which was noted above, raises great suspicion whether parliament would protect democracy, fundamental rights and attempt to maintain financial responsibility in the coming election year.

⁴ Hansard October, 5, 2010, Volume 194-No1, page 49
<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2847>

⁵ Hansard October, 5, 2010, Volume 194-No1. Page 87
<http://www.parliament.lk/news/ViewPublication.do?published=Y&documentID=PUB2847>