

Manjula Gajanayake, National Co-ordinator, CMEV  
Rohana Hettiarachchi, Executive Director, PAFFREL

## **Election Monitoring Process and its directions in Sri Lanka:**

Elections can be identified as the center point of any democratic governance system in the world. While there is possibility to interpret what an election is in theory in terms of diverse range of perspectives, most of the citizens in the globe have a pragmatic knowledge of elections. Thus, no other democratic practice as the election that embeds citizens in any country. The practice that allows discretion for people to elect a representative in order to get including him/her and others governed goes to the 17<sup>th</sup> century. The simple procedure of an election is that it a process of taking the decision by the citizens to elect a group of person to hold the governance system of a country. Holding periodic elections have been a mandatory element of all democratic states. However, it is a fact to be considered, whthere all such elections are democratic.

## **Democratic Elections:**

Jeane Kirkpatrick, Scholar and former U.S ambassador to the United Nations, noted “Democratic election are not merely symbolic ..... They are competitive, periodic, inclusive, definitive elections in which the chief decision makers in a government are selected by citizens who enjoy broad freedom to criticize government, to publish their criticism and to present alternatives.<sup>12</sup>The term ‘inclusive’ referred in Jeane Kirkpatrick’s above text denotes that everyone has participated. Thus, the maximum and effective participation of all stakeholders becomes a pivotal element of a democratic election. Election monitoring has also become a powerful element which enhances the quality by ensuring inclusiveness of any election.

## **Election Monitoring:**

As mentioned above, in an inclusive election, election monitors will have to necessarily be one of the stakeholders. Election monitors have an nimportant role in terms of ensuring the integrity of any election. Additionally, election monitors assist diverse range of stakeholders including the election candidates to safeguard and promote their civil and political rights. As per the Oxford dictionary, the term ‘Observe’ is defined as ‘the action of registering and reporting of something or somebody as being significant after close watching’. Thus, one of the core expectations of election monitoring is to highlight the manner in which the election process is carried out and the highpoints thereof. Universal Declaration of Human Rights states;

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<sup>1</sup> A brief overview of the meaning of Democratic Elections, Joseph Tany MBI, CJDHR, Cameroon Journal on Democracy and Human Rights (<http://www.cjdhr.org>) , VOI.1 No.1-June 2007

Regardless of any classification or unjust restriction stated in clause 2

(A) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(B) Everyone has the right of equal access to public service in his country.

(C) The will of the people shall be the basis of the authority of government, this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.<sup>3</sup>

That is how the space of any citizen of a country to actively participate in his/her discretion in any election of that country has been protected through the Universal Declaration of Human Rights.

### **Election Management Body and Election Monitoring:<sup>4</sup>**

Election management body is the institution established in a country with essential legal powers and having the mandate to hold elections or properly manage the function connected thereto. Election management body has the statutory responsibility of conducting elections in line with the respective legislative provisions of the respective country. The election management body which had such powers in Sri Lanka was the Department of Elections and it was converted in to the Election Commission with effect from November 13, 2015.

Accordingly, the official election management body in Sri Lanka is the Election Commission. Election monitoring generally takes place in an independent manner aside the election management bodies. However, generally, election monitoring is also taken within the legislative framework with regard to election. Furthermore, it is a responsibility of the election management bodies to strengthen the election monitoring processes in order to ensure and promote the trust of people on the electoral process. Among the possible services from the election management bodies; giving approvals for election monitoring, providing ICT materials required for awareness raising of voters on the electoral process and voting methods, and providing training opportunities can be cited as core facilities.

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<sup>3</sup> 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

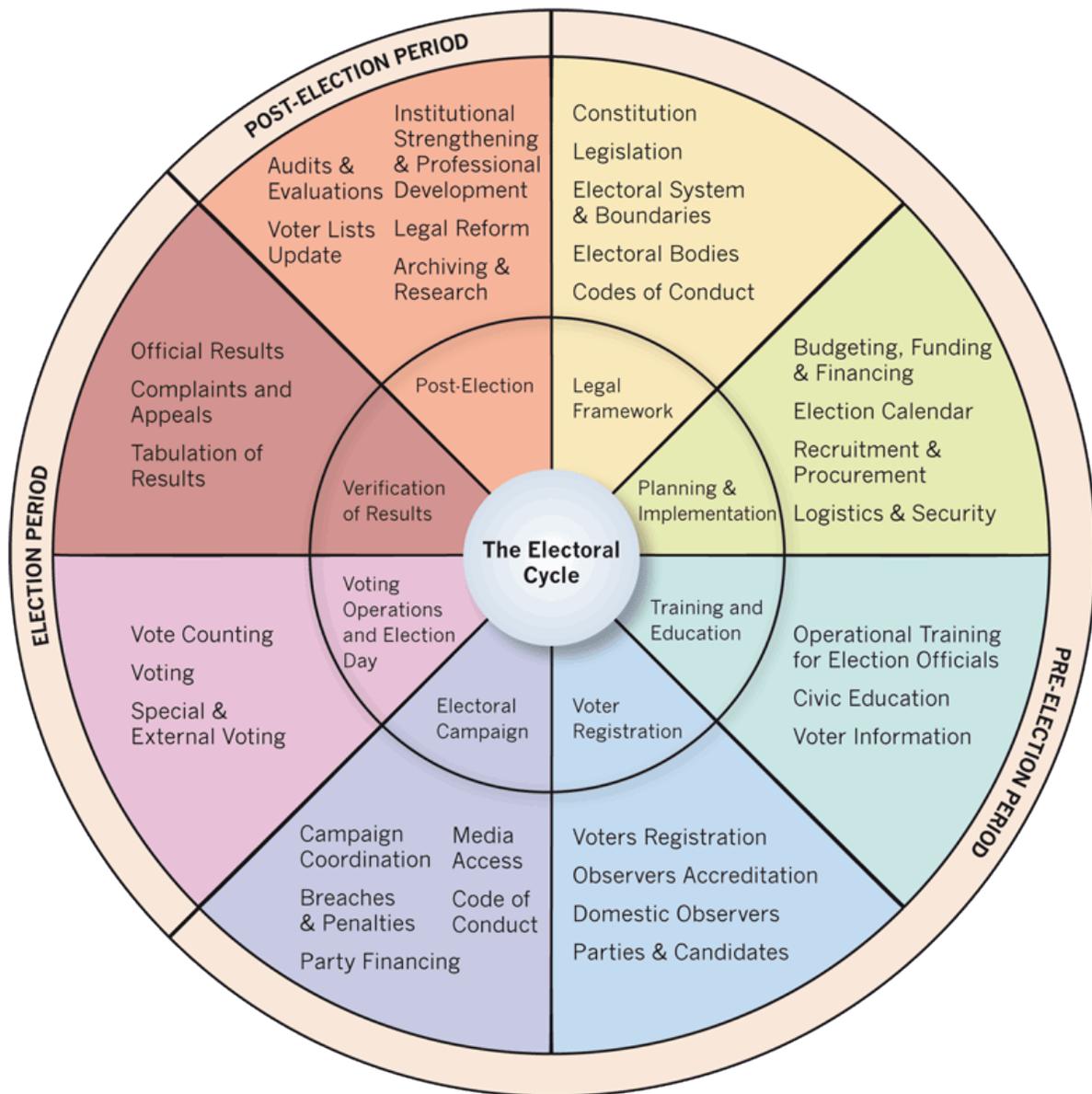
2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government, this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures

<sup>4</sup> An EMB is an organisation or body which has been founded for the sole purpose, and is legally responsible for, managing some or all of the essential (or core) elements for the conduct of elections, and of direct democracy instruments. These essential (or core) elements include determining who is eligible to vote, receiving and validating the nominations of electoral participants (for elections, political parties and /or candidates), conducting balloting, counting votes, and tabulation of votes-Introduction to Election Administration –Glossary published by IFES in 2016

## Election Cycle and Stakeholders in election:

Election cycle is a main tool which reflects core elements to be included in an election along with international standards related to an electoral process. There are three key phases;



Source: *The International Foundation for Electoral Systems (IFES)*

- ✓ Pre-election period
- ✓ Election-Day
- ✓ Post-election period

Thus, it is obvious that election monitoring in all the three phases mentioned above is an essential factor. Additionally, election management bodies can intervene in ensuring a more systematic election monitoring process. Introducing a code of conduct for election monitors, providing accurate information and guidance to be used in trainings and awareness programs can be noted as some of the initiatives election management bodies can implement. Regardless of the relationship having with election management bodies, election monitoring institutions should be able to conduct their monitoring mission in an independent and fair manner. The support received from different stakeholders is far more significant in terms of ensuring the trust of the electoral process. Consequently, the stakeholders of an election are indicated below. In an electoral process, these stakeholders can collaborate in terms of respective policies and pragmatic grounds and their influence could be direct or indirect.

- Political parties and candidates
- Officials of election management bodies
- Executive unites of the state
- Legislative
- Grievance handling institutions regarding elections
- Judicial system
- Election monitors – national and international
- Media
- Voters
- Civil society organizations and
- Donors and institutions providing support for activities affiliated to elections

### **Election Monitoring Institutions in Sri Lanka:**

In 1931, Sri Lanka received universal franchise and in order to hold elections in a systematic manner, the Department of Elections was established in 1947. It was in two fold.<sup>5</sup> Since then, 16 national level elections have been conducted in this country with the leadership of the Department of Elections including the referendum held in 1982. Additionally, there have been number of other elections held in this country. Historically, even since the State Council, it can be observed that election related violence activities had been reported. Notably, some of those violence incidents had been grave enough to reflect adverse impacts on the respective election results, creating a detrimental situation for a free and fair status of elections. Thus, there were certain elections in this country in which gravity of the violence was significant to be highlighted. When referring to reports of some of those elections, it is obvious that serious

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<sup>5</sup> Parliament Elections Department and Local Government Election Department

issues are brought in to discussion with regard to the free and fair conduct of such elections. Among those, North Western Provincial Council election held in 1999, Referendum held in 1982 and the District Development Council Election in Jaffna held in 1981 were very much debated in the society. In addition to that, the Presidential election held in 2005 became the election in which the least voter turnout was ever recorded in one whole province, i.e., in all five districts in the Northern Province. It was an ill-fated experience where the violence directed by the LTTE in the Northern Province resulted a boycott of voting. Additionally, elections held during the period of 1988 – 89 were also not conducted in a peaceful political atmosphere due to the prevailing strife in the southern parts of the country. It is noteworthy that, in all such elections conducted in difficult circumstances, the officials of the Department of Elections have done a remarkable service while facing life threats and with least facilities.

### **Historical Background of Election Monitoring:**

It appears that in elections held before 1977, there had not been considerable number of election violence activities reported. However, in elections held in this country after 1977, as a result of organized violence activities conducted by various political parties, the civil society had been engaged in election monitoring at different levels. The increased election violence led to more civil society organizations becoming eager for comprehensive election monitoring. Particularly, one of the common features of election violence activities experienced in elections held after 1965 was that, the winning political parties had destroyed the property of supporters of defeated political groups while assaulting them. During the said era, most of the government servants, teachers in particular, were targeted and one common way of harassing such public servants was giving transfers to remote areas soon after an election. At the same time, the absence of a strong and experienced civil society capacitated to implement systematic election monitoring missions in the country was seen as a major challenge in ensuring the integrity of elections. With the weaknesses highlighted during the referendum held in 1982, the need for an election monitoring mechanism once again drew serious attention of the civil society in general. The persons who took the leadership to establish a sustainable mechanism of election monitoring included honorable Father Tissa Balasooriya, Dr. Godfrey Goonathilake and Charles Abeysekera. It can be noticed that Wimal Fernando has also put a huge effort in regularizing the election monitoring processes. Along with this encouraging context, civil society actors formed the 'people's movement for a free and fair election' and started its monitoring effort with the election held in 1988. This became the first instance that a designated civil society literally involved in election monitoring. The core organizations took the leadership in this regard included, citizens for national harmony, MARGA institute, organization for society and religion, Sarvodaya<sup>6</sup>. The election monitoring process being implemented with a combination of national and internal observers became a broad process. Thus, the report released by the Election Department at that time witnessed that the then Election Commissioner, Mr. Chadrananda De Silva had done a commendable job in that regard. Following is a text extracted from the said report;

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<sup>6</sup> Report of the commissioner of elections on the second presidential election of Sri Lanka held on 19<sup>th</sup> December 1988, National Poll Observers, Part XII, page 89, published on 01- 1993

“National Election Monitors – after two weeks from the date of nominations for this election, it should be monitored. Voters’ attention was drawn for a request made by a group of Sri Lankans. More than 20 non-governmental organizations had joined this process which was initiated by Mr. Godfrey Goonathilake, the Director of MARGA institute and the Executive Vice Chairman of Committee for National Harmony. On 25<sup>th</sup> November, a group led by Mr. Goonathilake came to meet the Election Commissioner and while agreeing to the proposal, necessary advices and guidance were sought from the Election Commissioner”.<sup>7</sup>

At a time when neither international donors nor the domestic well-wishers had realized the significance of election monitoring, a special mention should be made with regard to the fact that this group took the leadership of election monitoring effort without any remuneration or an established fund.<sup>8</sup> When referring to meeting notes related to the above process, it was obvious that members of that group had spent their own personal money for election monitoring. In relation to the historical background of election monitoring, special emphasis should be mentioned role of the civil society regarding their engagement in the North Western Provincial Council Election held in 1999. It was time in which national and international actors respecting the democratic values were shattered and frightened with the prevailing gravity of political violence which resulted even the Department of Elections lost the grip of administering the said election. However, in order to create a public debate on advocating for a re-poll (foot note 6) and in refusing to experience any such election in this country, the Centre for Monitoring Election Violence together with number of like minded activists worked tirelessly. To that end, the leadership of driving this whole debate within the society was led by civil society actors such as Dr. Paikiasothy Saravanamuttu, Sunanda Deshapriya, Waruna Karunathilake and Dr. Arjuna Parakkrama.

It is more appropriate to identify People’s Action for Free and Fair Elections (PAFFREL) as a product of a commendable effort of a group of learned and scholarly persons who worked hard on election monitoring. Apart from the personal characters mentioned above, there are few individuals who had hugely contributed to regularize the election monitoring processes. Namely, Dr. Paikiasothy Saravanamuttu, Kingsley Rodrigo, Sunanda Deshapriya and Sunila Abeysekera can be recognized as the core group of persons in this regard.<sup>9</sup> With the inception of PAFFREL, later, the Movement for Free and Fair Elections, led by Mr. Wimal Fernando also joined in election monitoring. Subsequently, Centre for Monitoring Election Violence (CMEV) was formed specifically for the sole purpose of monitoring election violence. The Centre for Policy Alternatives (CPA), Free Media Movement (FMM) and Inform Human

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<sup>7</sup> National Election Monitors, XII section, Election Commissioner’s report of the election held on 19<sup>th</sup> December 1988, May 1992.

<sup>8</sup> The group referred previously had been recognized by the Election Commissioner as ‘non-state voluntary group’

<sup>9</sup> In addition to actors mentioned above, Bogoda Premarathne, Fank J, MGS Mohideen, KDWijesinghe, Bernard Silva, Rathanasara Thero have also considerably supported and contributed for the development of election observation processes.

Rights Documentation Centre (INFORM) were the founder members of CMEV.<sup>10</sup> At present, there are seven institutions involved in election monitoring.

- ✓ People's Action for Free and Fair Elections (PAFFREL)
- ✓ Centre for Monitoring Election Violence (CMEV)
- ✓ Campaign for Free and Fair Election (CaFFE)
- ✓ Movement for Free and Fair Election (MFFE)
- ✓ Mothers and Daughters of Lanka (MDL)
- ✓ National polls Observation Centre (NPOC)
- ✓ Transparency International Sri Lanka (TI-SL)

Apart from those institutions mentioned above, organizations such as the Network for Election Monitoring of the Intellectuals for Human rights (NEM-IHR), Bar Association of Sri Lanka, Sri LankaDiriyaFoundation have also joined election monitoring occasionally. However, since its inception, PAFFREL and CMEV continued to actively engage in election monitoring even during the non-election periods by conducting programmes including building voters' awareness.

### **Legal Background and Approval:**

Since the date of issuing the official declaration for an election, until the date of endorsing and releasing the gazette notification regarding the election of public representatives; an election monitoring body should carefully administer its monitoring mission. Additionally, there are number of areas, including reforming electoral processes on which election monitoring body can continue to work on even during non-election periods. It is therefore, reasonable to expect that the election monitoring institutions should have some kind of a legal recognition. In the absence of a specific law or a legally recognized framework regarding the election monitoring efforts since the beginning of election monitoring in 1980s,,it has been continued in the form of civil citizens' initiative until todote.<sup>11</sup> It was appeared that the Depatment of Elections was of the opinion that the election monitoring by civil society as something which make their job easier. However, during national level elections in the country, there are reported incidents

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<sup>10</sup>CMEV produces a comprehensive final report in all three languages with regard to its monitoring mission for each and every election. One special feature of this reporting is that it includes a specific table which indicates all tabulated figures related to violence activities. Dr. ArjunaParakkrama and Dr. PaikiasothySaravanamuttuhave taken the leadership in establishing such a comprehensive reporting system in CMEV. (<https://www.ndi.org/files/Monitoring-and-Mitiqating-Electoral-Conflict.pdf>, [www.cmev.org](http://www.cmev.org))

<sup>11</sup> As of today, the Election Commission does a considerable work in collaboration with any available election monitoring institutions, if any. One of the key initiatives in this regard is introduction of a Code of Conduct and encouraging election monitoring institutions to act in accordance with such regulatory systems. A guideline was included in the monitoring effort of the very first non-government voluntary group mentioned above. The main components thereof were; issuing an identity card signed by the district focal point of that non-government organization, submitting a district list of such observers, inability of such observers to enter in to polling centers or counting centers, informing them to send a message to Senior Presiding Officer or the Assistant returning officein case of an emergency and referring to mobile police in needed. National Poll Observers, XII section, Page 99, the Final Report of the Second Presidential Election held December 19, 1988, May 1992.

that the election monitoring institutions and leaders of those institutions had been accused and threatened by politicians of ruling parties. The statement of the Secretary of People's Alliance government, Mr. D.M. Jayarathne who stated that the government would take legal actions on criminal defamation against Dr. Pakyashothy Saravanamuttu and others involved in election monitoring of the North Western Provincial Council Election can be cited as one of such political threatnings. Absence of a proper and appropriate legislative framework regarding election monitoring from 1980s can highlighted as a serious gap. However, when considering the relevant international organizations and international conventions to which Sri Lanka is either a member or a signatory; the absence of an acceptable legislative framework for election monitoring in this country is a fact to be concerned. . However, nonexistence of such legislative framework has not been seriously and visibly debated as a result of the positive collaborations extended by the department of elections towards the domestic and international observers. Further, it is not an exaggeration to state that the election monitoring institutions have done a commendable contribution to the overall integrity of the election process in both national level elections held recently.

The call for the need for an “acceptance for election monitoring” is prolonged demand of the civil society activists. After considering diverse range of factors related to the said demand, in 2004, steps were taken to grant the approval by the Department of Elections for election monitoring. This decision was taken during the time period of the Election Commissioner, Mr. DayanandaDissanayake. The then Election Commissioner , Mr. DayanandaDissanayake granted the approval for election monitoring to PAFFREL and CMEV. Thus, it is quite evident that even when there was no legislative power to grant such an approval, merely for the purpose of ensuring free and fair elections, the decision to grant approval for election monitoring should be appreciated.

Accordingly, having received the acceptance and authorization from the department of elections, both PAFFREL and CMEV implemented their election monitoring efforts in an advanced and broad manner. PAFFREL and CMEV can be recognized as the only two election monitoring bodies which have the official approval to deploy their observers in any polling station during an election in this country.<sup>12</sup>Notably, other election monitoring institutions too are having the space for conducting election monitoring efforts under certain restrictions.

As per the Constitution, “in electing the President or Members of Parliament, the casting of vote shall be done freely, equally, secretly”. It is a debatable aspect that in order to monitor such broad process, there is no legal provision being introduced in this country. While the said fact remain the same, by allowing the national election observers to enter and monitor inside the counting centers, the department of elections brought a new perspective to the overall election monitoring processes in this country. For the first time, facilities were given to enter

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<sup>12</sup> In the Parliamentary General Election 2015, there were 12, 314 polling stations.

300 counting centers for election monitoring at the Presidential election held on 8<sup>th</sup> January 2015.<sup>13</sup>

Despite election monitoring is not a statutory right in Sri Lanka, International Convention for Civil and Political Rights (ICCPR) to which Sri Lanka has also been a signatory; has endorsed the fact that any citizen has the right to participate in any act of any state. Additionally, Declaration of Global Principles for Non- Partisan Election Observation and Monitoring by Citizen Election Observers and Monitors has also recognized that taking part in election monitoring is a citizens' activity.<sup>14</sup>The need for an independent observation in casting vote and counting has been specifically mentioned in this statement. Further, Sri Lanka is a member of Inter Parliamentary Union – IPU and when it introduces the criteria for a free and fair election, independent election observers' intervention has been made mandatory.

### **International and National Observers:**

Despite the actions taken by the department of elections to grant approval for national election observers in 2004, even before this time, the department had granted approval and facilitated international observers to conduct election monitoring in Sri Lanka. Thus, in addition to the election observer representatives from the Commonwealth and the European Union, currently, there are number of international election observing institutions coming to Sri Lanka for monitoring purposes. Further, Association for Asian Election Authorities (AAEA), in collaboration with the department of elections has continuously contributed for overall election observation processes in Sri Lanka. Additionally, both PAFFREL and CMEV have been receiving the support from international observers for a long time in their election monitoring efforts. Mostly, one of the key international observation institution in the region which engage in election monitoring in national level elections such as the Presidential election or Parliamentary General election is the Asian Network for Free Election – ANFREL Foundation. Similarly, Forum of Federation in Canada, in collaboration with CEMV, used to engage in election observation for a long time in Sri Lanka. Since the Election Commission is a member of the Forum of the Election Management Bodies of South Asia (FEMBoSA), it engages in election observation all the time. The last national level election in Sri Lanka was the election in which highest number of international observers attended. In addition to the international observers invited by the PAFFREL and CMEV, the department of elections had also invited around 40 international election observers. Moreover, with the sponsorship of European Union, 150 international observers joined the monitoring process.<sup>15</sup>

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<sup>13</sup> In the Presidential and Parliamentary General elections held in 2015, 1600 counting centers (including 312 postal vote counting centers) had been established at district levels. In terms of deploying election observers, 300 counting center observers, one observer for five counting centers, allowed to enter and conduct election observation exercise and PAFFREL, CMEV and other election observation bodies had a mutual understanding as to how to locate election observers in the given space.

<sup>14</sup>Global Network of Domestic Election Monitors (2012) Declaration of Global Principles for Non- Partisan Election Observation and Monitoring by Citizen Election Observers and Monitors.

<sup>15</sup> Apart from the above mentioned international observation institutions, some of the regional level election monitoring organizations are given below: ( Global Network of Domestic Election Monitors (GNDEM), Asian Network for Free and Fair Elections (ANFREL), Southern African Development Community Election Support

The involvement of international observers is always debatable. A country like India does not grant approval for international election observers while there are number of countries who always expect and welcome the same. Involvement of international observers in election monitoring process in this country did not happen in an ad hoc manner. At the initial stages, it was a huge challenging task with the doubt created in the minds of many; whether these international observers would bring detrimental effects to the election mechanism in Sri Lanka?. The first national level election to which international observers intervened in an organized manner was the second Presidential election held on 19<sup>th</sup> December 1988. According to the powers vested on the Election Commissioner through the Constitutional provision, article 103, no provision was available to the Commissioner to enforce the election monitoring thereunder. In such context, allowing and facilitating international election observers created a debate. However, the then Election Commissioner, Mr. Chandrananda De Silva has had the opinion that the above decision would bring the electoral process to an advanced stage. Thus, an opening was created to get the first international observers' team engaged in election observation task.<sup>16</sup> Apart from the department of elections, persons directly involved in this effort were Nevil Kannangara, Dr. Neelan Theruchivam, Jehan Perera and Jeevan Thiagarajah.<sup>17</sup>

At present, the national election monitoring bodies have gained a reasonable recognition and have become key stakeholders in the electoral process in the country. It should also be mentioned that there is no unanimous opinion on election observation of diverse range of national and international observer groups. One of the features of the changing political stance towards election observation is that, no sooner an opposition political party comes to power, the stance on election observation which they had before obtaining the power gets completely changed and the support for election monitoring processes gets completely ignored. Additionally, it has been a normal practice that the ruling parties tend to perceive that election observers are their enemies.

Similar to the facilitation provided by the department of elections to international observers, during the second Presidential election, it granted the approval for national election monitoring groups too to get involved in the observation process. Around 20 civil society organizations participated in the election observation process and they performed in 18 electoral districts. Though ensuring the facilitation from various stakeholders was accomplished by the department of elections, the official approval to enter into polling centers was not granted.

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Network (SADCESN), West Africa Election Observers Network (WAEON), East and Horn of Africa Election Observers Network (E-HORN), Acuerdo de Lima, European Network of Election Monitoring Organizations (ENEMO), Arab Network for Democratic Elections (ANDE), Election Network in the Arab Region (ENAR), European Platform for Democratic Elections (EPDE)

<sup>16</sup> The first international observer team consisted of 16 members representing Bangladesh, India, Nepal and Pakistan.

<sup>17</sup> The final report of the Election Commissioner of the second Presidential election held in Sri Lanka on 19<sup>th</sup> December 1988, page 82, 1993, Session reports IV.

The role of an election monitoring institution in a modern democracy can be explained in two ways. Mainly, it can act as a pressure group for the purpose of influencing an election or the overall process for a positive direction. On the other hand, the other decisive role an observer group can play is that the contribution to reform the electoral processes to make it more people centric. If not for the contribution and involvement of PAFFREL and CMEV along with other election monitoring bodies, a fairly reasonable space would have still existed preventing the Election Commission, having not received due powers, to ensure a free and fair election. As a result of the commendable efforts done by the PAFFREL by approaching and seeking the guidance from the judiciary, the National Identity Card was made mandatory to cast the vote and it largely assisted to minimize range of election malpractices. Despite the need for a re-election aroused as a result of grave election malpractices in a particular polling center thereby creating a situation of annulling the polling, no legal power had been vested with the Election Commissioners at that time. In consequent to the move taken by the CMEV to file a fundamental rights petition before the Supreme Court, the powers of the Election Commissioner were enhanced and even today, in case of any election malpractice, the said Supreme Court decision has allowed to annul the polling and to go for a re-polling. Apart from those judicial actions, the election monitoring institutions have done a remarkable job in order to draw the road map of the electoral reforming process of this country.

Once, these organizations accomplished the contribution of citizens through “Activism through Dialogue” and even today, it is a positive tendency to experience that these organizations are still working hard to ensure an electoral process that reflects the aspirations of citizens of this country. One of the examples of a result of collaborations between the election monitoring organizations and the department of elections is that the coordinating center for election violence being functioned on the Election-Day. This center was established in 2001 and the core responsibility of it is to receive all election violence related incidents being reported from various parts of the country and providing immediate solutions. This mechanism works well with the leadership of the Election Commissioner and the support of all other official thereof. The role of the election monitoring institutions was decisive regarding the setting of background to get the Department of elections converted in to the Election Commission. That was a persistent expectation of the civil society and in order for the Election Commission to function independently, the support and collaboration on the part of election monitoring institutions will also be required in future too.

Mahathma Gandhi once stated that “the essence of the democracy cannot be plated outside and it has come within”. Thus, as long as there is a positive response from the citizens, the efforts of election monitoring bodies cannot be weakened and the spirit of such activism can only be achieved by realizing the diversity of citizens of the country and addressing their true concerns.

One of the allegations towards election monitoring institutions in this country is that the discrepancy of figures produced by different institutions. However, the numbers with regard to election violence incidents could not necessarily be tallying with the data released by the Department of Police or the Election Commission. While stating that such discrepancies are not

intentional or organized manipulation; no monitoring institution would like to disseminate false information and make detrimental effects reflected on their organizations.

**The Reporting Process of Election monitoring Organization on Election Related Violence:**

**Source: Based on the final reports of last three Parliamentary General Elections issued by the PAFFREL and CMEV**

<b>Year and Date of Election-Parliamentary General Elections</b>	<b>Pre-election incidents reported by PAFFREL</b>	<b>Pre-election incidents reported by CMEV</b>	<b>Election-Day incidents reported by PAFFREL</b>	<b>Election-Day incidents reported by CMEV</b>
<b>April 02, 2004</b>	<b>293</b>	<b>1747</b>	<b>100</b>	<b>448</b>
<b>April 08, 2010</b>	<b>313</b>	<b>414</b>	<b>108</b>	<b>524</b>
<b>August 17, 2015</b>	<b>1096</b>	<b>918</b>	<b>211</b>	<b>335</b>

**Source:....Previos final reports published by Paffrel and CMEV at the end of all 3 parliamentary General Elections.**

However, the allegations in connection with political interests and affiliations being raised with regard to some of the organizations and activists cannot be simply ignored. The intervention of the Election Commission in that regard is important and decisive. Creative manner in which the collaborations being initiated by the Election Commission with election monitoring organizations including the awareness raising among voters is at an appreciable stage today. While organizations such as the PAFFREL, CMEV and CAFÉ continue to focus on the overall election process of the country, institutions like Transparency International Sri Lanka keeps it focused more on the misuse of state property and inappropriate usage of media. Additionally, Mothers and Daughters of Lanka is led by a group of women civil society actors. The responsibility of driving these election monitoring organizations towards an effective and results oriented direction lies with the citizens of this country. As emphasized by the Supreme Court of this country, the franchise is also one way of freedom of expression. An election is a gigantic process of a country that combines the physical and human resources in a short period of time. Having financial resources does not merely accomplish the successfulness of the entire process and it essentially requires an efficient group of public officers who are not biased. Even the election monitoring bodies should reflect the same non-partisan status from their actions. It is a massive responsibility ranging from adherence to guidance and code of conduct imposed by an election management body to establishing a broad monitoring network. The greater extent to which the election monitoring is now embedded in the overall election process indicates by the total number of election observers deployed for observation tasks during the last Parliamentary General Election. Thus, approximately 25,000 observers were deployed by

various election monitoring institutions operating in this country.<sup>18</sup> It should be noted that even though such a huge number of people have involved in election observation process, countable number of minimum cases regarding their political affiliations or negligence have been reported. When administering such an effective and efficient election monitoring effort, the department of elections has also extended a priceless support. The Election Commissioner then, Mr. Mihinda Deshapriya, had the maturity, experience, humbleness and strategic skill to analytically understand the strengths, expertise and best practices of each and every election monitoring institutions and make all of them as an integral part of the overall election process.

The table presented below reflects the manner in which the election observers were deployed by different election monitoring institutions. The table has been produced based on the data of final election reports of PAFREL and CMEV only in connection with Parliamentary General Elections held recent past.

**Manner in which the election observers were deployed by different election monitoring institutions in recent national level elections:**

**Source: Press releases and other relevant documents published by Paffrel and CMEV during previous parliamentary General and Presidential Elections.**

<b>Year &amp; Date of Election</b>	<b>Number of filed monitors deployed by PAFREL during the election period</b>	<b>Number of filed monitors deployed by CMEV during the election period</b>	<b>Number of static monitors deployed by PAFREL on the election day</b>	<b>Number of static monitors deployed by CMEV on the election day</b>	<b>Number of international observers deployed by PAFREL on the election day</b>	<b>Number of international observers deployed by CMEV on the election day</b>
General Election – April 02, 2004	342	153	19865	4074	102	25
Presidential Election - November 17, 2010	1422	161	19625	4592	108	17
General Election – April 08, 2010	1256	163	8339	3629	16	-
Presidential Election – January 26, 2010	1280	170	2884	3500	14	18
General Election – August 17,	1264	193	13034	3173	14	21

<sup>18</sup> It is appeared that there is a higher interest among the general public to get engaged in election observation processes. However, the main challenge faced by such people is that there is no proper system for people involved in election observation to cast their votes, particularly when someone locates in a remote area from his/her registered residence.

2015						
Presidential Election – January 08, 2015	1549	180	11845	3600	35	-

**Source: Based on the final reports of the last Presidential and Parliamentary General Election issued by the PAFFREL and CMEV**

Conclusionas:

Specially in regard to institute a legal framework for election monitoring with regard to the integrity of any election; both domestic and international election observers are doing a decisive role. Thus, it essentially enhances the transparency and the accountability of a particular election while becoming a pivotal element which increases the public trust on elections. Therefore, in order for the election observation bodies to engage in such an effective election monitoring exercise; putting all necessary support mechanisms becomes the responsibility of the Election Management Bodies in states. No proper legislative framework has been developed in relation to election monitoring institutions so far in Sri Lanka and it functions only at the discretion of the Election Commission.

One of the core aspect to be concerned in this connection is that the Right to Vote has not yet been guaranteed by the Constitution as a fundamental human right in this country. Despite no specific mentioning is included in the Constitution, Justice Mark Fernando, in a Supreme Court judgment in an issue regarding the postponement of five provincial councils' election, has stated that the right to vote is an integral part of the freedom of expressions guaranteed by the Constitution<sup>19</sup>. Additionally, article 93 of the Constitution has stated that the election should be held in a free and fair manner.

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<sup>19</sup> *Extracts from the judgment of The Supreme Court in Karunatileke and Deshapriya Vs Dayananda Dissanayake, Commissioner of Elections and Others ( SC Application No 509/98), delivered by a Bench consisting of Chief Justice G.P.S.de Silva, Justice Mark Fernando and Justice D.P.S. Gunasekera on Wednesday 27 January 1999. The judgment which has been hailed as a "historic judgment" was delivered by Justice Fernando with Chief Justice G.P.S. de Silva and Justice Gunasekera agreeing. "A Provincial Council election involves a contest between two or more sets of candidates contesting for office. A voter has the right to choose between such candidates, because in a democracy it is he who must select those who are to govern - or rather, to serve - him. A voter can therefore express his opinion about candidates, their past performance in office, and their suitability for office in the future. The verbal expression of such opinions, as for instance, that the performance in office of one set of candidates was so bad that they ought not to be re-elected, or that another set deserved re-election - whether expressed directly to the candidates themselves, or to other voters - would clearly be within the scope of 'speech and expression'; and there is also no doubt that 'speech and expression' can take many forms besides the verbal. But although it is important for the average voter to be able to speak out in that way, that will not directly bring candidates into office or throw him out of office; and he may not be persuasive enough even to convince other voters. In contrast, the most effective manner in which a voter may give expression to his views, with minimum risk to himself and his family, is by silently marking his ballot paper in the secrecy of the polling booth. The silent and secret expression of a citizen's preference as between one candidate and another by casting his vote is no less an exercise of freedom of speech and expression than the most eloquent speech from a political platform. To hold otherwise is to undermine the very foundation of the Constitution."*

In the context of discussion in and around the constitutional reforms and corresponding debates of introduction of electoral reforms; specific focus and weight have to be given to election monitoring processes and formation of a legislative framework which regularizes the same. It is quite evident that the legal protection for the election monitoring efforts and the observers involved such monitoring missions will certainly be of great value in ensuring the integrity of the election process. A free and fair election is not just an effort of one or few stakeholders and it has to be achieved through unbiased and efficient coordination among all concerned stakeholders. Thus, it is crystal clear that establishing and regularizing the election monitoring processes in line with a proper legislative framework will be a definite means of protecting democratic rights of citizens in Sri Lanka.

Following explanations are for some of the terms relevant to election monitoring.

***Department of Elections:*** *As per the Nineteenth Amendment to the Constitution, an Election Commission has been established. Thus, the Department of Elections does not function any further and the roles and responsibilities thereof are administered in a much broader manner by the Election Commission.*

***Static Observers:*** *Persons appointed by election monitoring organizations to conduct election observations tasks within polling stations on the Election-Day.*

***Mobile Observers:*** *Persons appointed and deployed by election monitoring organizations using mobile vehicles to conduct election observations tasks in and around the vicinity of polling stations.*

***Filed Coordinator:*** *Persons appointed and deployed by election monitoring organizations to conduct election observation tasks during pre-election, election-day and post-election periods at the electoral and Divisional Secretariat levels.*

*Photo....*

*Picture taken by a female election monitor of the Centre for Monitoring Election Violence (CMEV) which reflects an incident of forceful stuffing of ballot boxes by political supporters during the North Western Provincial Council election held in 1999.*