

PAFFREL

PEOPLE'S ACTION FOR FAIR & FREE
ELECTIONS

REPORT

ON

THE PRESIDENTIAL
ELECTION
DECEMBER 1988

THE PRESIDENTIAL ELECTION 1988 - REPORT

BY PAFFREL

PART 1

The Background

Early in 1988 several non-governmental organizations came together to consider how they could best respond to the new problems that were emerging, with the prospects of several nation-wide elections being held during the year. It seemed that 1988 would bring momentous changes, and elections to the Provincial Councils were to be held throughout the country. It was most likely that the Presidential election, which had to be held before 3.1.89, according to the Constitution, would be held before the end of 1988. There was also the strong probability that the ruling party in response to mounting popular demand would opt to hold the General Elections to Parliament during the same year.

Meanwhile, the violence that had erupted after the signing of the Indo-Sri Lanka Accord in July 1987 had grown in intensity. Political killings of members of parties that had supported the Accord were a daily occurrence. Some prominent members and many active supporters of the U.N.P. and U.S.A. were victims. The country was experiencing new types of violence; armed groups were indulging in acts of brutal reprisal against each other; forms of coercion such as enforced hartals and protest demonstrations were subjecting the people to unprecedented hardship; and repressive emergency regulations and security operations which were the State's response to these developments were leading to serious violations of human rights. The democratic institutions and the electoral processes had never before encountered a situation which was as unfavourable to them as what was prevailing in the country. In many areas the citizens appeared to be under a regime of terror managed by a group which for the most part remained "nameless" and "faceless" and with whom the normal processes of free communication and open dialogue were not possible.

Despite the deteriorating conditions the Government went ahead to hold the Provincial Council elections on a staggered bases from 28th April to 9th June. The elections had a number of consequences, both positive and negative. The parties that faced the polls and campaigned for election to the Provincial Councils displayed unusual courage; there were several candidates and supporters, some of whom were assassinated before and others immediately after the Provincial Council elections. Amidst the general intimidation and obstruction the public service went ahead and helped to conduct the elections. Therefore the Provincial Council elections helped to give a limited degree of credibility to the effort to affirm the democratic process. They also indicated that a large section of the people responded positively to the Provincial Council system and the democratic opportunities

that were offered. The Provincial Council elections helped to prepare the ground for the other major national elections that were to follow. At the same time they drew attention to the formidable problems ahead. The low poll and the general intimidation in certain areas had left room for election abuses which could have given unfair advantage to the ruling party, with its access to State resources. Violence and the threat of violence had disrupted election campaigns and prevented a large proportion of voters from going to the polls. These were all grim auguries of what could occur on a large scale at the national elections.

In September, 1988 the Government announced that the presidential election would be held on 19th December. The Opposition parties, while welcoming the announcement, raised a number of important issues regarding the conditions under which it would be held. The conditions that were essential for a fully democratic election were perceived differently by different groups. A public appeal which had wide support from various groups - religious leaders, the Opposition Political Parties and non-Governmental Organizations - urged the Government to dissolve Parliament and form an Interim Government with representation also from the Opposition Parties in order to ensure a fair and free election. An urgent appeal addressed by the ven. Mahanayakes to the main political parties led to brief negotiations for a dissolution and the arrangements that should follow. These, however, came to an abrupt end with the Government insisting that an indispensable condition of any such action was the participation of the J.V.P. and its willingness to give up violence. Alongside the appeals from groups who were acting within the lawful democratic framework, the violent opposition to the holding of a Presidential election increased in intensity. The militant parties opposing the election put forward a number of demands which they demanded had to be met before they stopped their campaign and agreed to enter the democratic process. Many of these conditions were unacceptable to the Government.

PAFFREL - its formation, objectives and organization

In October, 1988 the NGOs that formed PAFFTEL decided to work together to motivate and organize citizen action in order to help promote the conditions necessary for a fair and free election. Some of the underlying assumption regarding the need for such an effort and its usefulness are discussed in Part 2 of the Report. In a Statement issued early in 1988, - "Citizens Agenda for Peace and Democracy", a group of NGOs and concerned citizens, many of whom were participants in PAFFREL, discussed some of the broader issues concerning the civic responsibility of non-partisan citizens in forming and protecting the values that should guide the political life of the country. Initially 23 NGOs and religious groups joined in forming PAFFREL. As work proceeded many individuals and small organizations in the Districts volunteered support and participated in its work.

At all its discussions PAFFREL members voiced a wider concern for the general situation in which the election was held than could be expressed

through an election watch. The crucial problem was that of general intimidation that might prevent voters from exercising their basic rights. PAFFREL members also agreed that they should address themselves as best a responsible to the problems of violence arising out of election rivalries. It is in this context that PAFFREL set itself three main objectives:-

- i. Motivate and encourage voters to exercise their basic democratic rights and to the poll;
- ii. Promote a community effort that would prevent violence before, during and after the elections;
- iii. Undertake an Election Watch which would help to prevent abuses and violations of Election Law and which would observe the manner in which the poll was being conducted throughout the country in as many areas as possible.

At the outset, there are several aspects of PAFFREL's work which need to be emphasized. First, PAFFTEL initiated its work at a time when the disruption of civil life and the campaign of violence were at its height. It was unable to organize its activities in certain area, particularly the deep South. As a result, its efforts to enlist wider support to carry out its activities were not as successful as it desired. Nevertheless, PAFFREL members who participated and had to work in the field, acted with commitment and resolve. Second, PAFFREL had to be wholly non-partisan and strictly impartial in its activities and observations. This was a redoubtable challenge in a situation in which the participants had their political preferences which they were going to express when they voted. Difference in approach were reflected in the discussions of PAFFREL, in the deliberations which preceded decisions and the way in which the formulations of the final report were negotiated among the members. The outcome, however, has been gratifying. That the group was able to hold together and maintain its non-partisan character was in itself a laudable achieve and augurs well for future citizen action. Third, the organization itself was informal in character; it had no well-defined structure or strong central secretariat. The work was shared among the participating NGOs and the venue of its meetings was also located according to the convenience and availability of the premises. Fourth, PAFFREL could not mobilize independent financial support for its initiative. It had to depend on the support of its member NGOs, voluntary work and generous contributions from its individual members.

The organization of PAFFREL consisted of a co-ordinating committee at the national level composed mainly of heads/representatives of participating NGOs, District Committees which organized the activities in their Districts and local groups which worked in areas which varied in size. The National Co-ordinating Committee met regularly, and nearly every day during the week immediately preceding the elections.

One of the first tasks of PAFFREL was to prepare a set of documents and a working kit which provided guidelines to the participants in the election watch. These documents included handbills and communications to the public which explained the nature of the challenge facing the country and the obligations of the citizens in responding to it. Other material included a checklist of election offences regarding which election observers had to be vigilant, and specimen forms for recording the observations. The set of documents PAFFREL used in its work is contained in the Appendix to this report.

After PAFFREL worked out its organizational details a delegation met the Commissioner of Elections and the Deputy Inspector General of Police in-charge of Elections and discussed the framework within which PAFFREL could operate. Thereafter, PAFFREL communicated with the three Presidential candidates indicating the nature of the programme which it had planned to carry out and sought their co-operation. The Elections Commissioner and the D.I.G. agreed to recognize PAFFREL members as a local NGO group functioning as election observers and gave instructions accordingly to their staff. PAFFREL received the ready cooperation of the political parties and the public service engaged in election duties. Under the arrangements PAFFTEL members were not entitled to enter the polling stations to make first-hand observation of the conduct of the election during voting. PAFFREL, however, overcame this problem by organizing groups of voters in certain polling stations to stagger their voting to enable them to keep the polling process under observation for the major part of the day. As a method this could have been effectively applied if it could have been widely organized. However, regrettably this could not be done for a variety of reasons, not the least of which was the late commencement of work by PAFFREL.

During the period leading to the polling commencing from mid-November, PAFFREL organized several meetings at which the participating NGOs were thoroughly briefed regarding the activities, the methodology and the approach to be followed, particularly in the context of the widespread demand for the dissolution of Parliament. The participating NGOs thereafter organized meetings of members in the areas in which they had undertaken to work and distributed to literature and working kits that had been prepared for dissemination by PAFFREL. Some of the groups, particularly the religious groups, gave their theme to activities which promoted the first two objectives and devoted less attention to the poll watch. This applied to the work of the Nidahas Bhikku Sangamaya and to some of the religious organizations in the Western Province.

On 3rd December, the Government announced that Parliament would be dissolved on 20th December and that elections to the new Parliament would be held on 15th February, 1989. Although the date of the dissolution did not set at rest some of the apprehensions regarding the possible abuse of State power by the ruling party in respect of the Presidential Election, the announcement eased part of the prevailing tension and provided a firm

time-table to which the electorate and political parties could look forward. However, there was no significant change in the law and order situation. The campaign of violence and the disruption of essential services continued unabated. About 10 days prior to the date of the Election PAFFTEL devoted several meetings to a full discussion of the prevailing situation and the likely impact on the fairness and freedom of the Election about to be held. On 16th December it issued a status report which provided an overview of the conditions at that time. The status report was to serve as a point of reference for its observations of the election and the assessments based on them. The main points in the report are as follows:

1. Death threat against participation in the elections were made island-wide, especially in the Southern, Uva, NCP and Northern Provinces.
2. All contending Parties had suffered from the violence. Meetings were disrupted, supporters and Party workers killed.
3. It was alleged that in some locations the security forces were putting up posters in favour of the ruling party candidate under cover of the curfew. It was also reported that official curfews were being imposed selectively to impede some of the Opposition party meetings.
4. Opposition Party workers in several areas were arrested on the ground that they were involved in terrorist activity.
5. In the North and East, the presence of the IPKF would restrict the freedom of the voters.
6. Kachcheris in many districts were not functioning. According to reports, military co-ordination officers had taken over civil functions in at least one area.
7. The election for the NE Provincial council held on 19th November in the Trincomalee, Baticaloa and Mannar districts had been held under conditions which seriously curtailed the freedom of the voters.
8. The State Administrative Services Association had in a public notice called attention to the fact that public officers including those involved in the election could not carry out their duties owing to threats affecting their life and property.

The status report concluded by stating that efforts to ensure a credible and acceptable outcome of the election would have to be concentrated on the following:-

- The International Monitoring Committee - The Committee would have to be provided with every facility to observe the elections freely and give their considered assessment.

- As large a voter turnout as possible - It is only a large voter turnout that would help in preventing serious violations of election law and in giving credibility to the outcome of the election.
- Security arrangements - These would have to be strengthened on polling day to inspire confidence among the public and promote a large voter turnout.
- Citizen participation in the Election Watch - The efforts of local citizen groups to maintain an election watch and promote a large voter turnout need to be strengthened by the widest possible citizen participation.

As Election Day approached PAFFREL made the final arrangements for its observations during polling day. It became clear that the election watch could not be carried out systematically in all parts of the Island. What it was able to organize was a limited watch in 13 Electoral Districts where PAFFREL was able to form District Committees or groups. In addition, there were individual polls watchers in several areas who volunteered to participate in the PAFFREL watch. The polling divisions that were covered by the Districts Committees were the following:-

Anuradhapura	Mannar
Avissawella	Matale
Chilaw	Matale
Colombo	Moratuwa
Gampaha	Mulativu
Jaffna	Nintavur
Kalutara	Puttalam
Kandy	

The Kataragama area also came under watch.

In addition on these, individual polls watchers functioned in the following areas, each covering two or three polling booths.

Biyagama	Kolonnawa
Dehiwela	Kamburupitiya
Dodangaslanda	Matara
Galewela	Mihinatale
Galgamuwa	Nugegoda
Kalawewa	Ratmalana
Kollupitiya	valaichenai

Yapahuwa

Further members of the National Co-ordinating Committee traveled to observe conditions in Galle, Kurunegale, Ampara, Kegalle and Matara Districts.

The consequences of the limited coverage of the PAFFREL programme or its general assessment of the election are discussed in some of their aspects in Part 3. Right at this point it should be noted that on the basis of its observations PAFFREL is not in a position to make a definitive pronouncement on the election as a whole for the reasons elaborated in Part 3.

SUMMARY OF REPORTED INCIDENTS AND OBSERVATIONS

PART 2

Reports including checklists of malpractices, were received at the PAFFREL head office from co-ordinating groups and individuals, in writing, in messages over the telephone or in direct oral communications to members of the National Co-ordinating Committee. They were supplemented by the observations made by members of the National Co-ordinating Committee during their visits to the areas where local groups of PAFFREL were working.

The reports received and direct observations made by PAFFREL are presented in three sections. The first relates to the situation during the period of PAFFREL's work leading up to the two days prior to the poll. These reports generally confirm what was already reviewed in the status report and depict a situation which was well known to the public through news reports carried by the media. The PAFFREL groups list the typical incidents prior to the elections occurring in the districts where they were active. These reports do not add to the knowledge available regarding the conditions prevailing during the period. They are reproduced here for the purpose of comprehensive coverage of PAFFREL activities. Section 2 gives a similar summary for the day preceding the poll where the violence, intimidation and acts of disruption had a more immediate bearing on the poll. In this section, too, the typical incidents - killings and death threats to intimidated voters are reported. The PAFFREL reports contain several references to killing of S.L.F.P. supporters and acts of violence against them. The third section contains the observations of the PAFFREL groups and reports received directly by them on the election day.

SUMMARY OF IMPORTANT INCIDENTS AND OBSERVATIONS

A. PRIOR TO THE DAY PRECEDING THE DATE OF THE POLL

1. Arrest and Detention

PAFFREL was aware, and it was general knowledge, that very large numbers of persons had been taken into custody and held in custody for protracted periods without trial or even without charges being framed against them. Specific reports on this matter were not called for by the National Co-ordinating Committee, nor submitted.

2. Curfew

Curfew were imposed by Government, unofficially by militant groups and by the IPKF. During the period of electioneering they hampered the holding of meetings and limited their duration. At Moratuwa the official curfew's commencement was advanced on the day of the SLFP's meeting and deferred on the day of the UNP's meeting.

3. Destruction of Property

There was widespread destruction of both public and private property over a long period of time. Specific reports were received of destruction on days shortly before the poll from:

- Kalutara - Post offices burnt down, destruction of public property.
- Kegalle - Culvert blasted, power lines cut.
- Gampola - electrical installations destroyed.

4. Violence, intimidation and killings

These had long been occurring in all parts of the country. Specific reports received by PAFFREL were in respect of the immediate pre-election period.

(a) Violence

- Kalutara - Sporadic violence
- Horana - Householder tied to a tree for reported partiality to SLFP.

(b) Intimidation

- Colombo North - postern in Bolemendhal tenements threatening death to persons votng.

(c) Killings

The media continued to report killings by unidentified armed groups. There were also reports of killings in which the police and security forces were involved. Reports received by PAFFREL did not contain reference to the killings in the period immediately preceding pre-poll day.

B. ON TGE DAT ORECEDUBG TGE POLL

(a) Violence

Ampitiya – A SLFP polling agent injured by shooting.

(b) Intimidation

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|----------------|---|
| Harispattu | - shot fired in the air |
| Senkadagala | - slogans across road threatening death to voters. |
| Mahanuwara | - threatening anti-poll posters. |
| Jaffna | - throughout the District alleged threats by IPKF if people did not vote and by LTTE if they did. |
| Mannar | - situation similar to that in Jaffna District. |
| Kalutara North | - death threat notices to voters. |
| Uggalboda | - threatening notices against voters. |
| Horana | - SLFP activist's vehicle burnt, and voters threatened. |

(c) Killings

- | | |
|----------------|--|
| Dangolla | - five persons, reportedly UNPers, shot dead. |
| Panadura | - seven active members of the SLFP shot dead at the house of Dr. Neville Fernando. |
| Kalutara North | - two persons killed. |
| Matugama | - one person killed. |

C. ON THE DAY OF THE POLL

(a) Violence

- Jaffna – Throughout the District PAFFREL group received reports of IPKF coercing people to go to the polls.

LTTE fired at polling stations, exploded land mines, shot at buses, cut the finger of a person who had voted.

(b) Intimidation

- Colombo North** - death notice on walls of tenements, Bloemendhal.
Jaffna - throughout the District IPKF reported to have ordered people to vote and LTTE to have ordered them not to.
- Mannar** - situation similar to that in Jaffna. (LTTE violence noted above was intended to intimidate as well as to discourage voting).
- Horana** - voters threatened not to vote.
Agalawatte - posters close to polling station, warning people not to vote.
- Moratuwa** - PAFFREL group observed an individual presumably a UNP supporter. In green, drunk threatening harm unless vote was cast for UNP candidate.
- similar situations observed in a second polling station.
- At Galpitahagoda Road PAFFREL group received report that voters were physically prevented from going to a polling station allegedly by certain UNP Urban Council members.

Kurunegala District widespread threats against voting, allegedly by JVP and by UNP supporters, directed at persons who were believed to be SLFP supporters.

(c) Killings

- Uda Dumbara** - One UNP supporter killed.
Dangolle - Five reportedly UNP supporters killed.
Jaffna - One army major killed.
Mannar : Vankalai - Two killed.
Kalutara North - Pemaloka Thero, patron of SLMP, killed in his temple at Wadduwa.
Matugama - One person killed.
Yapahuwa : Doraweruwa - Two persons shot dead.
Gobbewela - a teacher, Sirisena, killed.

(d) Destruction of Property

Kalutara District - widespread destruction of public property, disruption of supply of electricity and of public transport, interruption of postal services. Power transmission and telephone lines pulled down, Waskaduwa Post Office burnt down, and also in Maggona, Kegalla power lines cut, a culvert at Meepe blasted.

- Gampola** - Electrical installations destroyed.
Horana - Post-office burnt.

(e) Posters

- Colombo North - buses carried posters of Mr. Premadasa and Mrs. Bandaranaike
Posters in and around polling stations, mostly of Mr. Premadasa
- Dangolla - posters on walls close to polling stations
- Nintavur - citto

(f) Registers of electors

- Senkadagala - about 100 persons who were registered for the Provincial Council Election not on the Register for Presidential election.
- Colombo North - some persons in the same situation.

(g) Conduct of the Poll

(1) Amalgamation of polling stations, clustering of polling stations and changes of site of polling stations

- Jaffna - the number of polling stations reduced to about a third of the original number.
- Galewala - removed to Haragama, two miles away in the Yapahuwa electorate.
- Yapahuwa - about six polling stations clustered together.

(2) Obstruction of access to polling stations

Kandy, Gampola, Harispattuwa, Hasalaka, Madugalle;
Trees felled and placed across roads.

Uggalboda - - do -

Kegalle - - do -

Yapahuwa - - do -

Jaffna - telephone lines cut, transport disrupted, bombs near polling stations, land mines - all reported to be work of the LTTE.

(3) Poll Cards

Path Dunbara, Dodanwela - No cards received by electorate Jaffna

(4) Polling Station Staff

Galewela - no staff present, later Police notice stated polling station removed to Harasgama, 2 miles away in Yapahuwa.

- Dodangaslanda** - no staff present. A school Principal, reported to be a UNP supporter, taken in the Dodangaslanda MP's car and installed as Senior Presiding Officer.
- Kalawewa** - staff arrived after 10.00 a.m. polling commenced at 11.00 a.m.

(5) Late commencement of polling

- Kandy** - Nugawela, Barigama, Harispattuwa, Udadumbara,
Hasalaka - all commenced late.
Kalawewa - commenced at 11.00 a.m.

(6) Polling Agents

Islandwide most polling stations had no USA polling agents. Jaffna had no polling agents at all.

Elsewhere UNP and SLFP generally well represented. PAFFREL group observed certain areas where the SLFP had fewer representatives, as well as other areas where the SLFP was not as well represented as the UNP.

(7) Impersonation

Most reports complained that "indelible" ink was easily removable. The reports, however, did not contain information of actual cases of impersonation.

(8) Low polling

In a number of polling areas observed by the PAFFREL groups polling was very low, more particularly in the Northern and Southern provinces and the Kurunegala District. At some polling stations not a single vote was cast, and at some others only two or three.

(h) Conduct of armed forces

- Jaffna** - The PAFFREL group states it received reports that the IPKF compelled people to go to the polls under threat and checked fingers subsequently for "indelible" ink marks.
- Mannar** - - do -
- Vankalai** - Two citizens killed in IPKF shooting.

The interim report contained a general assessment of conditions during polling day based on the numerous observations made by the PAFFREL groups as contained in the reports received up to the time of writing the report. Since then several other reports on the Jaffna District and areas in Kurunegala and Anuradhapura have been received. The reports received later, however, relate to areas where the poll was low and the conditions for voter participation and a free and genuinely democratic

election were far less favourable than in most other areas observed by PAFFREL. The present report reproduces the relevant section of the interim report which provides an overview of the conditions that are given in greater detail by location in the preceding summaries.

II. OBSERVATIONS MADE BY PAFFREL MEMBERS

In the guidelines provided to PAFFREL observers, a list of violations of election law was given and they were requested to pay special attention to serious offences which can distort the genuine expression of the people's democratic will as those which had occurred during the referendum. In their direct observations PAFFREL members have reported that conditions during the poll in most of the areas covered by them were generally free of violent incidents and polling had been orderly given the prevailing circumstances. The voter groups who were involved in the poll watch had not reported any serious violation in regard to management of poll. However, in certain areas, particularly those in which the poll had been low (eg. Parts of North Central Province and Southern Province) observers reported that an atmosphere of grave tension and fear prevailed.

Reports from all areas covered indicate that there were a considerable number of polling stations where the parties were not represented by their agents. The party most affected was the S.L.M.P. In several areas such as Kalutara and Galle many polling stations observed did not have U.N.P. polling agents, while the S.L.F.P. was similarly affected, particularly in the Southern Province.

Posters carrying threats of death against those who exercise their vote were observed by PAFFREL participants in several areas that they visited.

Several observers reported that the commencement of the poll was delayed in some of the polling stations that were observed. Most of these reports came from the Central and Southern Provinces. Observers also noted that in areas which had been subjected to a high level of intimidation by groups which were opposed to the holding of the Presidential election, voters had begun polling later in the day; as a result there were voters still to cast their vote before the poll closed.

Observers noted several instances where voters who had voted in the P.C. elections found that their names were not in the current electoral registers.

One general observation common to almost all reports was that the ink mark placed on the finger of voters was easily removed.

Outside the Colombo and Gampaha Districts in the areas surveyed by the PAFFREL groups, a large number of voters, probably the preponderant majority, had not received their polling cards. There

were several instances where the location of the polling station had been different from the location used for the P.C. election or where stations had been clustered, thereby causing an initial delay in polling, extending at times up to two to three hours.

Observers had noted a few instances where groups of supporters wearing green caps were acting suspiciously, suggestive of preparations for impersonation e.g. in one location in Colombo city one such group was seen removing the "indelible" mark from the fingers of a number of voters in a manner which suggested that they were being mobilized for impersonation, although this could not be conclusively established.

Group of party supporters, identifiable by the colour of the caps they wore were congregating close to the polling stations or travelling in private vans or vehicles. These observations were made mainly in an around the Colombo District. None, however, reported that their behaviour was disorderly or resulted in any visible intimidation of voters.

The PAFFREL observers noted that the election law relating to the display of posters, flags and banners was violated with impunity by all three parties.

In many areas that they visited, PAFFREL members observed that there was little or no public transport.

Some PAFFREL members had observed vehicles on the road which did not carry registration numbers, giving rise to the suspicion that these were State vehicles being used for election purposes.

ii. REPORTS RECEIVED BY PAFFREL AT ITS COLOMBO OFFICE AND BY ITS OBSERVER GROUPS

PAFFREL received several complaints and allegations of violations of a more serious nature. These include the following:

Politicians of the ruling party had intimated polling agents of the S.L.F.P. in order to prevent them from representing their party at the polling station to which they were assigned. Where allegations referred to the Colombo and Gampaha Districts PAFFREL observers attempted to check on these allegations and found that in all the polling stations observed, polling agents were present.

A few counting agents of the S.L.F.P. were arrested on their way to the counting centre.

Several similar allegations retarding arrangements for impersonation, unauthorized entry of politicians of the ruling party into polling stations and intimidation of the polling staff were made to PAFFREL by

the representatives of the S.L.F.P. as well as voters. Many of these were transmitted to the International Monitoring Group as they referred to areas which were covered by that Group and were not adequately covered by the PAFFREL groups. Those which related to areas in which PAFFREL observers were present were examined as best as possible. The PAFFREL observations are contained in the previous section. One report which was received from a PAFFREL observer from the North Western Province at the time the interim report was prepared alleged that a polling station: where election staff and not reported, was manned by a political supporter of the ruling party. The later report states that this refers to a polling station in Dodangaslanda where no election staff had reported. A school Principal, who was described to the PAFFREL group as a UNP supporter, was transported to the polling station allegedly in the Dodangaslanda MP's car and installed as Presiding Officer.

PAFFREL received numerous reports of acts of violence, killings, attacks on polling staff and attempts to disrupt the poll. These included the attacks on the S.L.F.P. supporters as well as those of U.S.A. and U.N.P.

iii. THE IMPACT ON PARTIES AND THE ELECTION OUTCOME

On the observations made by the PAFFREL groups the shortcomings that were noted affected all parties, with the S.L.M.P. being worst affected in matters such as representation by polling agents. This assessment applies equally to the general intimidation of voters and the widespread violence that preceded the election. Before the announcement of the date of the Presidential election the parties that suffered most from the campaign of violence mounted by the militant movements opposing the Indo-Sri Lanka accord were the U.N.P. and the U.S.A. Many of their party supporters were killed and their party organizations disrupted. As the election campaign got under way, the S.L.F.P. increased towards the end of the campaign when the disorganization of the party apparatus could have had crucial repercussions in the areas where they occurred. PAFFREL groups observed that allegations and counter allegations were being made by the two main parties regarding the violence and disruption of meetings, each attributing these to the other. As a result there was some confusion and doubt in the mind of the public concerning the real identity of the persons responsible for these acts. Without doubt, the general intimidation and incidence of violence was such that under cover of the situation that prevailed, it was possible for party supporters to attack their opponents without being easily identified.

THE SCOPE AND LIMITATIONS OF A CITIZEN'S WATCH

At the commencement of work, PAFFREL realized that during the short period available, it was unable to organize itself to undertake an election

watch that would have given an adequate coverage to enable it to pronounce on the freedom and fairness of the election in all parts of the country. In order to make such an assessment covering the election as a whole it would at least have had to cover a representative sample of polling booths. In the case of an election, even a representative sample, while it may give a reliable indication of the probability of the occurrence or the absence of election violations, may not be entirely adequate for the purpose of making a definitive pronouncement. Blatant violations could well have occurred in a few polling stations in a manner which could have vitiated the whole election, and these polling stations may have not been included in the sample and would have gone unobserved. An election watch undertaken by citizens will seldom be able to fulfil the conditions that would enable it to make a definitive pronouncement of this nature on the entire election. To be able to do so it would have to cover the preponderant majority, if not all the polling stations.

The major political parties by their very participation in the election are able to have their agents in polling stations, who supported by the rest of the party organization, can maintain such a watch. This watch, however, is undertaken by each party in its own interests. Nevertheless, in a multiparty system the balance of interests of the contesting parties could ensure that the necessary vigilance will be exercised in a manner that protects the interests of all. Does this mean that in normal conditions where several well-organized parties are taking part in an election, a citizens' election watch would have no significant role to play? On the contrary, in all situations an active, vigilant citizenry can play a very important role in promoting the conditions for a free and fair election. The relative strength of contesting parties is not equal in all electorates and these inequalities by their very nature leave room for intimidation and other abuses. The intensity of party rivalries and the actions of small groups of ardent supporters of each contesting party result in abuses, breaches of the peace and election offences which violate the rights of the common voter and frustrate his expectation of a free and fair election. An impartial group of citizens who organize themselves to see whether the democratic rules of the game are being observed on the rare occasion on which the people are given the opportunity to exercise their sovereignty can make a vital contribution to the strengthening of the democratic process. In the case of Sri Lanka the active participation of citizens in this process becomes all the more important as we have still a long way to go before we can qualify as a mature and genuine democracy. It is with an awareness of these general needs that PAFFREL undertook its task, but the need for such action became much more imperative in the conditions in which the Presidential election was being held.

PAFFREL's observations and its report on them will not satisfy those who seek a clear, unequivocal verdict on the election. Given the constraints that have been described PAFFREL decided to make its observation wherever it was able to mobilize the participation of NGOs and citizen groups. It could not, and, therefore, did not aim to undertake a watch which

would have qualified it to judge the election as a whole. Its observations, wherever made, enable it first to speak for the areas it had covered and second in doing so note those instances where the conditions necessary for a free and fair election were being violated. If its direct observations did not disclose large scale and major violations of the election law as occurred, for example, in the 1982 Referendum, it cannot consequently conclude that such violations did not occur elsewhere in locations where it did not have observers. As PAFFREL's observations covered a fairly large sample of the urban electoral areas with a relatively high poll the probability that similar conditions prevailed in other urban areas with a high poll is strong. But in several areas where the level of general intimidation remained high and the poll was low PAFFREL cannot make any reliable assessment. It has to be noted that it is in these areas where polling agents were often not present and where election offences could have gone undetected that the scope for electoral abuses would have been greater. But PAFFREL's interest extended beyond that of determining the fairness of the specific election it was observing. It was concerned also with the norms and values that the political parties brought to the conduct of the election and these go beyond the letter of the law to the spirit that ensures the voter his or her right to a free and fair election. At the same time PAFFREL has used its observations to comment on the quality of the electoral process and inquire how it could be improved for the future. It has to appreciate that PAFFREL's effort is the first organized initiative of its kind taken by citizens.

PAFFREL hopes to learn from its experience, widen its participation and organize itself better for its future activities. It would be possible to undertake more activities that considerably improve the democratic process if it is able to mobilize greater participation of concerned citizens. A citizen body which does sustained work in this field can contribute in various areas pertaining to the conduct of free and fair elections including full registration of voters, legislative changes and numerous other related matters. A small group of public-spirited citizens for each polling station area can give a full coverage in an election watch which can be highly effective and provide the basis for a reliable assessment of the entire election. Given the risks that PAFFREL members had to face and the reluctance of some to participate openly in the election watch, PAFFREL devised a simple method of staggered voting by participants in the polling stations where they were registered. In this manner a group of voters would be able to keep a polling station under regular observation without drawing attention to themselves. If there are a sufficient number of concerned citizens who would join PAFFREL in this task the method suggested could be readily employed.

RECOMMENDATIONS

Based on the experience of the Election Watch PAFFREL wishes to make the following recommendations:

PAFFREL received numerous complaints relating to non-registration of voters. Although there are procedures at present which enable citizens

to verify whether their names are included, these have not been fully effective. The present situation can be substantially improved through better administrative supervision of registration and greater vigilance on the part of citizens and political parties. The units of supervision under the Commissioner of Elections could be made smaller to ensure more intensive supervision; after the initial collection of householders' lists a sample checking of the registration can be undertaken. The political parties must have a more regular system of checking on electoral registers. What would perhaps be more effective to ensure full registration would be a group of concerned citizens in every polling station area undertaking the responsibility of keeping the electoral register under surveillance.

PAFFREL received several complaints of irregularities in the registration of voters. The S.L.F.P. made a specific complaint that the same names were registered under several polling station in the Kekirawa Electorate. This complaint had been forwarded to the Commissioner of Elections. Again, it should be possible for the Commissioner to select samples of identical names and investigate these on the field. It has, however, to be noted that there may be genuine instances of several voters having the identical names, particularly in the case of common names such as Ran Banda, Silva, Perera, where you may have several persons sharing common first and family names.

PAFFREL received the general complaint that the ink used for making the fingers of voters was very easily removed. This is a matter which should receive the attention of the Elections Department. While PAFFREL appreciates that the placing of an "indelible" mark, (a mark which cannot be removed over a long period) on a person in any part of his body is a matter which affects his personal rights, it should be possible to use an ink which serves the purpose more effectively and cannot be easily removed.

Another matter which deserves attention is the prevailing law and practice relating to posters, banners and flags. PAFFREL observed that all parties violated the laws and regulations on posters with impunity. There are certain provisions such as those concerning the time during which a poster can be displayed, which clearly seems to be unrealistic and not capable of enforcement.

Another aspect which requires some considered action is the lack of knowledge among the public regarding the electoral system in the country and the essential safeguards that have been built into the system. PAFFREL observed that some of the rumours regarding large-scale irregularities and rigging were often owing to ignorance of these safeguards, which leave little room for such irregularities unless there is large-scale corruption and collusion by election staff. While ingenious ways of circumventing safeguards might often be discovered,

the public must know enough of the safeguards in the system both in order to discount blatantly untenable rumours as well as be vigilant in the areas which need vigilance. It should be possible for the Commissioner of Elections to organize a structured programme through the media (eg. Panel discussions over radio and TV; attractive brochures; seminars organized by NGOs from the village level upwards) which could educate the public more fully on these aspects.

PAFFREL would also recommend a regular institutionalized process whereby after a national or provincial election the Commissioner of Elections holds public hearings which enable citizens, public interest bodies and political parties to make their suggestions and recommendations for the improvement of the electoral system.

SOME GENERAL ISSUES AND CONCLUSIONS

PART 3

There are several conclusions and assessments concerning the election on which there would be general agreement. First, the election was held in conditions which were far from normal. The contesting parties were not able to conduct their campaigns freely, and there was widespread intimidation in certain areas of the country resulting in the overall low poll of 55.32%. This was not fully representative and the election was flawed by several infractions and malpractices as noted in our report as well as in the SAARC Committee report. There is no doubt that these two fundamental constraints adversely affected the freedom and fairness of the election as a whole. There are several questions which follow which have far-reaching implications for the democratic process in Sri Lanka and the conventions and norms that should guide that process.

WHAT WERE THE OPTIONS?

The basic question asked by a considerable section of the public including several members of PAFFREL concerns the acceptability and the validity of an election held in the conditions that prevailed. What is considered here is not the constitutional and legal aspects which in fact PAFFREL is not in a position to address, but the norms that should guide a national election to give it political acceptability and democratic validity. These later issues which determine the quality of our democratic system can be approached from different points of view.

First, it could be argued that an election should not have been held until normal conditions enabling full free participation had been restored. Undoubtedly this was the ideal. But the crisis had reached a stage in which

normalcy could be restored only through the electoral process and the democratic verdict of the people. The country was therefore trapped in a vicious circle in which, on the hand, prevailing conditions inhibited the full and free participation in the electoral process, and on the other, the return to full normalcy itself depended on a free and fair election. The general intimidation of the civilian population, the widespread violence and the drastic coercive methods that were employed were of a nature which endangered the continuance of the democratic system. The national response to such a situation had to be the reaffirmation of the system. To move out of the prevailing conditions an election had to be held within these conditions and a free and fair election ensured as best as possible. If it is accepted that this was the soundest political decision that could have been taken in the context that existed, then it was inevitable that from the beginning the election would have suffered from several serious constraints which would have adversely affected its democratic character. This was in fact what eventually occurred.

POSTPONEMENT OF ELECTIONS

Were there any other alternatives to the basic decision to hold an election in the prevailing conditions? Speculation on whether the outcome might have been more democratic had certain alternatives been pursued is of little practical value at this stage. Nevertheless for the purpose of PAFREL's exercise it is useful to examine the options that were available to a Government intent on creating the best democratic environment for a national election. Many such alternatives were discussed during the controversy prior to the elections.

There were those who argued that elections themselves should take second place to the restoration of peace and normal conditions and that the first prerequisite was the formation of an adequately representative National Government which would work collectively towards that end. Such a course of action might have restored the country to normalcy within a short period and created the conditions necessary for a fully democratic election. This would have of course required the postponement of Presidential elections, to which there was a constitutional limit. The likelihood of restoring normalcy within the period available would have been remote in these circumstances and even a National Government would have had to face the prospect of holding elections in conditions which were far from normal. It is possible to speculate that had a National Government been formed and the J.V.P. asked to join it, there might have been a possibility of bringing the violence to an end and holding elections in normal conditions. This of course makes certain far-reaching assumptions about the conditions for J.V.P. participation in a National Government, its willingness to enter the democratic system and its political strategy for achieving power. The formation of a National Government posed other formidable problems which the proponents of this alternative chose to ignore. None of the major political parties had hitherto demonstrated the capacity to subordinate their partisan interests to the larger national interest in any situation in which they saw

the opportunity to gain a significant advantage over their rivals. The sharing of power among parties who had major policy differences among themselves which were vital issues for the forthcoming election would in itself have presented enormous difficulties. Such a National Government would have impeded decisive action and might have prolonged the crisis. The proposal assumed a radical transformation in our political parties and the value systems guiding them that would have overcome these problems.

DISSOLUTION OF PARLIAMENT AND A NATIONAL CARETAKER GOVERNMENT

However, most democratic parties, religious leaders and citizen's groups did not ask for the postponement of elections. Their appeal was for the dissolution of Parliament and the formation of a National Caretaker Government. They argued that these steps would help to create the conditions which would be conducive to a free and fair Presidential election; the dissolution of Parliament and the announcement of the date for Parliamentary elections would have removed the main cause for the widespread violence; it would have also avoided a situation in which the active support of the sitting members of Parliament would have given an unfair advantage to the candidate of the ruling party. A National Caretaker Government would have restored public confidence in the electoral process, particularly when it had been seriously eroded after the 1982 Referendum.

The Non-Governmental Organizations which formed PAFFREL were among the groups which made this appeal. They believed that the action recommended would have created the environment for greater and freer voter participation and resulted in an outcome which would have had fuller popular acceptance. The national crisis as they perceived it had become so intractable that it required an initial effort at national reconciliation and the restoration of confidence in the democratic system if the Presidential election was to provide the clear popular mandate that would have helped the newly elected President to steer the country out of the crisis. As events turned out, Government insisted on the participation of the J.V.P. in any National Caretaker Government that was formed, a condition, which it became clear from the beginning could not be fulfilled. On the rest of the appeal the President responded by announcing that Parliament would be dissolved the day following the Presidential election and fixing the date of the General Election. Although the major problem of the participation of MPs in the election campaign still remained, the decision was helpful in removing some of the deep-seated misgivings regarding the intension of the Government and enable the people to look forward to the full activation of the democratic process.

UNIQUE OPPORTUNITY FOR ENHANCING THE DEMOCRATIC PROCESS

PAFFREL's members fully recognize that despite the serious constraints which beset the election that has been held, it has had major positive outcomes. Attention has been drawn to them elsewhere in the

report. Nevertheless, PAFFREL sees no reason to change the considered view held by most of its members at the time it undertook its task-the view that the dissolution of Parliament and a National Caretaker Government could have greatly contributed to better voter participation and a more representative and democratic outcome than what has been possible without such action. What the country faced on the eve of the elections was a crisis of the democratic institutions themselves. The situation provided a unique opportunity for all political parties, and particularly the ruling party to take initiatives which could have enhanced the quality of the democratic process in the country. In collectively protecting themselves against the violence directed at them and their campaigns they could have set for themselves a code of conduct which could have ensured an election clean and free of violence as between themselves. This was what the average citizen, sick of the orgy of violence that it was living through, deeply desired. Instead it seemed that the parties were ready to use the situation to direct violence and coercion against one another. Some of the killings by unidentified gunmen, the imposition of unofficial curfews and hartals to disrupt some of the campaign meetings and other acts of violence created the impression in the public mind that they were the actions of rival parties rather than those of the militant group which was against the election. It was tragic that the two major parties of the country lacked the statesmanship and the concern for national well-being that could have motivated them to create a more democratic environment for the election.

NEED FOR DEMOCRATIC CONVENTIONS AND NORMS TO COPE WITH EXTRA-ORDINARY SITUATIONS

For the reasons outlined earlier PAFFREL does not consider itself competent to pronounce on how the constraints imposed by the prevailing conditions affected the legal validity of the entire election. PAFFREL also pointed out in its interim report that speculation on what might have been the outcome had the election been freer serves little purpose. It is possible to arrive at opposite conclusions on different sets of assumptions, each of which can be supported by fairly reasonable arguments. Some of the groups which appealed for the dissolution argued that by taking the recommended action the ruling party would be acting in its own interest; that it would be enhancing its own image and would consequently gain greater popular support. Therefore in the general observations made by PAFFREL, its main concern is to draw attention to the glaring deficiencies of the electoral process as manifested in the Presidential election and inquire how we can act and build the necessary democratic norms and conventions to deal with them in the future. What do we do if a national election has to be held in conditions which inevitably result in a low poll, in which some meeting of the electorate cannot exercise their franchise, and the outcome is not fully representative of the people's will? Could we have an unwritten agreement among parties and democratic conventions where, after a reasonable lapse of time after conditions which enable full voter participation have been restored and before the expiry of the full term of office, the winning party seeks a fresh and more representative mandate? These are issues which

were thrown up in the crisis of democracy that we faced in the recent election. They need to be faced by a democratic system and addressed by truly democratic parties and appropriate conventions evolved to cope with extraordinary situations in a manner which affirms a genuine democratic process.

VIOLENCE AND THE DEMOCRATIC POLITICAL PARTIES

One of the objectives of PAFFREL was to promote conditions in which the citizens as well as the contesting parties would act together to prevent violence before, during and after the election. Post-election violence has been one of the ugliest features of our political life. PAFFREL groups, particularly the religious organizations which participated in PAFFREL's work, paid special attention to this aspect. Most of these groups have reported that the various local communities they visited clearly expressed their deeply felt desire to put an end to this type of violence and to ensure that party politics is conducted in a civilized and humane manner. They had observed, however, that although the party leaders in their public utterances had spoken against such violence, at the local level groups of their supporters were resorting to forms of intimidation and violence as part of the campaign strategy to ensure their victory. What was ironic was that the electoral divisions which were pointed out to PAFFREL as areas where the political for intimidation and well organized violations of election law was high were also those in which leading political figures with a liberal Western education were the chief party organizers, among them even those who had distinguished themselves in the field of law. Again, PAFFREL groups were informed that preparations were being made by groups of supporters of the main Oppositions party to inflict violence on members of the rival party after the election in the event of an Opposition victory. While post-election mob violence has not been as widespread as in 1970 and 1977, acts of mob violence have nevertheless been reported in different parts of the country. What is alarming is the increasing number of politically motivated killings, which have not received due attention. Even politicians who ostensibly subscribe to liberal values appear to consider violence and strong-arm tactics an essential resource for a realistic and successful politician. When violence has become part of the culture of the main democratic parties in this manner it is not a matter for surprise that sections of the youth population have reacted violently to the hypocrisy of the system and have rejected it altogether.

NEED FOR AN ALL-PARTY AGREEMENT ON A CODE OF POLITICAL CONDUCT

It is difficult to see from where the leadership will emerge which will have the commitment and moral integrity to transform our existing political value system and affirm truly democratic values. Here PAFFREL wishes to reiterate some of the elements of the Citizen's Agenda for Peace and Democracy prepared and issued by a group of NGOs in May 1988, to which several of its members subscribed. The Agenda appealed for "a firm

commitment by all political parties to a political code which upholds the basic norms of democratic conduct, and an undertaking to the people that they will protect and strengthen the conditions essential for a multi-party democracy". It stated that a code should include " a commitment to enforce strict discipline within parties to prevent violence during elections and above all post-election violence; the acceptance of the democratic political opposition as a respected and valuable part of the entire system and an explicit definition and observance of conventions which protect its due position;..."

The main initiative must come from within the parties through far-reaching internal reforms carried out by the more progressive sections; The principal role would have to be played by the ruling party which has to display the magnanimity and the national concern which have to be the basis for developing the value system for a genuinely democratic political process. Above all, the non-partisan citizens have to become more active, vigilant and better organized to protect their basic right as voters to a free and fair electoral process and should help to promote the democratic norms and values that should guide the country's political life.

ACKNOWLEDGMENT

PAFFREL wishes to express its deep gratitude to the Commissioner of Elections for enabling it to undertake the election watch, which is the first citizen's initiative of its kind in Sri Lanka. *PAFFREL* also sincerely thanks the three Presidential Candidates for having given their concurrence to the undertaking.

PAFFREL truly appreciates the ready cooperation and encouragement its members received from the DIG (Elections) as well as the security and election staff in the field during the course of their work. All those who took part in the *PAFFREL* are grateful for the opportunity they have had to render service, albeit on a very modest scale, to uphold the democratic process in the most critical time in our recent political history.

PAFFREL STATUS REPORT

16th December, 1988

This status report is not intended as a comprehensive and detailed survey of the situation in which the Presidential election of 1988 is to be held. It is an attempt to present an overview of the prevailing conditions which are imposing severe constraints on the conduct of a fair and free election. It highlights the critical issues which PAFFREL needs to keep in mind in maintaining the election watch that has been planned.

(i) LAW AND ORDER

The past several weeks have witnessed violence and lawlessness on an unprecedented scale in almost all parts of the country. The daily reported death toll has been in the region of 25; the unreported death toll may be much higher. The present campaign of violence, outside the Northern and Eastern Provinces appears to be organized in support of a political agenda, which among its other objectives, opposes the holding of the Presidential Election and demands the dissolution of Parliament. The campaign has resulted in the serious disruption of civilian life in many parts of the country, which includes the disorganization of public administration in several districts and the widespread breakdown of transport services, power supply and communication.

- In the North and the East, prospects of a return to normalcy have improved after the Provincial Elections but armed clashes between the IPKF and the LTTE continue in several parts of the Northern and Eastern Provinces. The responsibility for the maintenance of law and order lies with the IPKF and therefore the Presidential Election will be held in conditions where the military presence will inevitable be at a high level.
- In the Southern Province, military operations and insurgent activity are claiming lives at an increasing rate. Unidentified para military groups are also active in the area. The civilians are living in an environment of deep fear and tension.
- In the hill country, especially Matale and Badulla Districts insurgent activity continues. The level of intimidation of the civilian population in some parts of the Matale District - Rattota and Dambulla - are reported to be high.
- Reports from Kurunegala District indicate that the law and order situation is far from satisfactory.

- The law and order situation and the prospects for the election are relatively less unfavourable in the Western Province, the coastal areas of the North/Western Province and parts of the Central Province such as the Nuwara-Eliya District. It should be noted that these areas contain about 50% of the electorate.

(ii) THE ELECTION CAMPAIGN

- Violence and threats of violence have marred the election campaign of all Presidential candidates. Political meetings of the SLMP have been violently disrupted on many occasions causing death to leading party members and by-standers and serious injury to many others. These attempts seem specifically directed at the SLMP.
- The attendance at election meetings have also been seriously affected by the imposition of curfews both official and unofficial. The official curfew covers the entire country. The duration of the curfew varies in the different parts. The traditional practice of election meetings continuing late into the night is not possible. Unofficial curfews have been imposed in many towns and local areas before an election meeting or on the day of the election meeting. Shops in the area are ordered to halt commercial activity for the day and those not complying, are threatened with reprisals. There are allegations and counter allegations that some of them have been arranged by major political parties. In any case these curfews are imposed to disrupt the legitimate attempt of Presidential candidates and their parties to win support from the people.
- There have been complaints that the emergency powers are being used to harass Opposition party workers and also to take them into custody.
- The access that the electorate has to the candidates is also seriously impaired owing to disruption of transport and electricity. The candidates are not able to travel freely in many parts of the country. Newspapers are not distributed as widely as in the past. The disruption of electricity supply prevents households in most parts of the South and some areas in Western Province from the telecasts on the Presidential campaign.
- In certain areas, groups that are campaigning against the holding of the Presidential election are alleged to be intimidating voters and demanding that they should abstain from voting. Reports that groups are visiting households and making these threats have come from Matale and some parts of the Eastern Province.
- There has been widespread popular agitation for the formation of a National Caretaker Government and the dissolution of Parliament-both being perceived by large sections of the people as essential pre-

conditions for a free and fair elections. The announcement by the Government that Parliament would be dissolved on the date following the date of the Presidential election and that general elections will be held on 15th February has to some extent allayed the fear and distrust entertained by the public.

THE ELECTION MACHINERY

- A recent newspaper report observed that as many as 16 of the 28 Kachcheries were unable to function effectively. Consequently, the setting up of polling stations, the training of election officers and other activities, such as, the distribution of polling cards are behind schedule. In addition, several post-offices in various parts of the country have been attacked by unknown persons and polling cards have been destroyed.
- The State Administrative Services Association has publicly pleaded its case in the face of threats affecting the very lives and livelihood of its members. On the one hand, government servants have been threatened with death if they report to work and, on the other, they have been brought forcibly to their workplaces by the security forces. Senior Administrative Officers have in some cases vacated post or have resigned from government service. In the Badulla District the Military Coordinator has been appointed Acting Government Agent.
- In the Southern Province where the level of violence has been very high, the Provincial Governor said that he would, if necessary, call in military personnel to conduct the election, including the supervision of polling booths.
- The Police authorities have said that 85,000 security personnel have to be deployed in order to ensure the security of polling stations and voters. The staff they have at present fall far short of the required cadre.

BASIC CONDITIONS FOR A FAIR AND FREE ELECTION

Article 93 of the Constitution requires that an election must be "free, equal and by secret ballot". In order to ensure freedom, fairness and equality in the election certain basic conditions have to be fulfilled. To be specific, among other things people should be able to attend election meetings freely and candidates should be free to organize and to canvass for votes without fear or hindrance. The law and order situation must be satisfactory so that the election campaigns may take place democratically and with public participation.

Further, the candidates should have equal access to facilities provided by the State. Such as media publicity and the protection of the security

forces. There should be no foreign or military interference in the election process that may thwart the genuine expression of the people's will.

Finally, the conditions must be such that an adequate voter turnout in all parts of the country is possible. Article 91 (a) of the Presidential Elections Act No. 15 of 1981 emphasizes the importance of this requirement for free and fair elections by declaring that the election of a candidate to the office of President shall be declared to be void if by reason of general intimidation or other circumstances the majority of voters were, or may have been, prevented from electing the candidate whom they preferred. There is no doubt that the prevailing conditions weigh heavily against "freedom, fairness and equality" in the forthcoming election. Nevertheless, a Presidential election is itself seen as the democratic opportunity which can bring the process of steering the country out of its present crisis and the mounting violence. But this can only be achieved if the elected President is accepted as having the mandate of the majority of the voters. This in turn would depend critically on the fairness and freedom with which the election is held. Therefore the best effort has to be made to overcome the constraints in a manner which improves the conditions for the election. Such efforts to obtain a credible and acceptable outcome for the election would have to be concentrated on the following:-

- The International Monitoring Committee – The Committee would have to be provided with every facility to observe the elections freely and give their considered assessment
- As large a voter turnout as possible – it is only a large voter turnout that would help in preventing serious violations of election law and in giving credibility to the outcome of the election.
- Security arrangement – These would have to be strengthened on polling day to inspire confidence among the public and promote a large voter turnout.
- Citizen participation in the Election Watch – The efforts of local citizen groups to maintain an election watch and promote a large voter turnout need to be strengthened by the widest possible citizen participation.

APPENDICES

PAFFREL LEAFLET 9a
13/12/88

**People's Action for Fair
and Free Elections**

GUIDELINES FOR THE ELECTION WATCH

1. How the Election Watch is organized;

The participation of citizens in the Election Watch is organized at several levels. This note deals with the tasks of citizen groups working at the levels of the district, police station area and polling station. The tasks of each group are briefly indicated in the Annexure.

2. How the information should be observed and recorded;

Two standard forms are being supplied for use by the election observers. These can be used by all three groups. Form 1 is an election diary which could be maintained daily up to the date of the poll. Form 2 is for use on the polling date. Even if normal conditions had prevailed, an election watch by independent citizen groups would have helped to promote the conditions which ensure a free and fair election. In most developed democracies the vigilance of citizen groups and their independent monitoring of the electoral process acts as a strong deterrent to the violation of laws and norms governing democratic elections are far from normal and a major responsibility is cast on the citizens themselves. They need to participate actively in promoting the conditions necessary for a free and fair election, in protecting their fundamental rights as voters and in preventing abuses and violations of election law.

Leaflet 9b attached to the Forms gives a list of the offences, as well as the matters relating to the administration of the election which should be observed by the groups participating in the Election Watch. Some of the offences and the scale on which they are committed could have a critical bearing on the election, while there would be other individual offences which would be less important. Matters to which observers should give close attention are marked with an asterisk.

Apart from the individual offences under the election law and the abuses that have been observed in the past, observers would have to pay special attention to the general conditions that are prevailing at present and their implications for the conduct of the Presidential elections. In completing

the forms the observers should therefore take into account the following aspects:-

- a) **The security situation** – the security operation themselves the arrest of persons, the disruption of normal civilian activity, the campaign of violence by groups opposed to the election – these may all affect the turnout of voters in various ways. How have these affected each of the political parties in the conduct of their campaign and how are they affect the voter in so far as his participation in the elections is concerned, even prior to the polling day such as the attendance at meetings, the dissemination and availability of information relevant to the meeting, the issue of polling cards.
- b) **The misuse of State resources** – At an election, the Opposition candidate is usually at a disadvantage. However, in areas where the Government is weak or unpopular, or where the local or Provincial Government is controlled by an Opposition party, State resources could be misused by an Opposition candidate. Observers should pay close attention to this aspect. Abuses can include the use of State equipment and State personnel for the campaign of a candidate, and similar use on the polling day to help the voter turnout for any given candidate.
- c) **The administration of the Election** – Observer groups should pay special attention to matters listed under 10. Rumours and general allegations regarding malpractices, impersonation, misuse of State resources are likely to be widespread and come to the notice of the observers. Most observers may not have the time and resources to pursue and enquire for themselves into most of these rumours and allegations. Nevertheless observers should keep in close contact with election committees in their relevant areas, inform themselves of the various representations made by the contesting candidates at the meetings of these committees and document any relevant information.

3. How information should be transmitted;

The forms are self-explanatory. Information could be recorded in a monitor's exercise book using the standard format. There is bound to be some overlap and duplication in the information from one level to the next is likely to present some problems owing to the breakdown of communication in many areas. The information that is transmitted to the next level could be confined to important items that are likely to affect the conduct of the elections in the areas; observe what merits representations to the authorities, and any other preventive efforts. Rest of the information could be made available to the National Committee of PAFFREL after the poll. In order to facilitate an effective flow of information the district groups would need to designate a person or organization for the district and the police station area who could act as a focal point to receive and transmit

information on which urgent action is necessary. After the poll the election diaries and the documents relating to the watch on the polling day should be forwarded as early as possible to the district coordinator who could thereafter arrange to forward it to the National Committee.

4. How groups could take action and make representation when violations are observed;

How can the Election Watch, both at the district level and below act in the event of violations of election law? There are several courses of action which can be taken. Before polling day, the groups can be in close contact with the election committee that are formed by Commissioner of Elections and the DIG (Elections). There are commissioner at the district, divisional and police station area levels. These committees comprise the police officers and the representatives of the Presidential candidates. The PAFFREL groups would be able to contact these committees and make their representations. They could also inform the representatives of the candidates. In the event of major violations which merit representation at the national level, they could inform the national committee of PAFFREL who could make appropriate representations to the authorities. On the polling day representations could be made to the mobile patrols on duty, the Returning Officer on his visit to the polling booth, the representatives of the candidates and the Senior Presiding Officer. PAFFREL hopes to be able to make arrangements to enable groups maintaining the watch in the polling booth area to contact the Senior Presiding Officer on occasions which merit direct representations to him. PAFFREL will attempt to organize a network for the transmission of complaints and information of an urgent nature which should reach the national committee on polling day.

5. Post-election violence

The peace groups working at the level of the community should take the opportunity to create conditions which will prevent post-election violence. Religious leaders and respected citizens working in the group could raise this issue openly and motivate the local community to prevent such violence. A separate leaflet which could be the basis on which peace groups could approach this problem is being issued separately.

**LIST OF OFFENCES ADMINISTRATION OF ELECTIONS AND
OTHER GENERAL CONDITIONS**

1. Misuse of ballot papers.

- (i) Foregoing, defacing, destroying of ballot papers.
- (ii) Unauthorized selling of ballot papers.
- (iii) Unauthorized possession of ballot papers.
- * (iv) Taking a ballot paper out of the polling station.
- * (v) violation of secrecy of ballot, by such acts as display of marked ballot paper before insertion of paper into ballot box.

2. Certain acts prohibited on polling day.

- * (i) Canvassing for votes and soliciting votes.
- * (ii) Persuading electors not to vote for any particular candidate or not to vote at all
- * (iii) Distribution of handbills, posters, placards, photographs, drawing of notice relating to election.
- * (iv) Use of megaphones and loudspeakers.
- * (v) Disorderly behaviour within or at entrance of a polling station.
- * (vi) Entry of unauthorized persons into polling booth.

3. processions restricted between nomination day and one week after polls.

No public meeting during the 48 hours preceding polling day and one week after it.

4. Display of handbills, posters, flags, etc.

- * (i) Permitted only on candidate's vehicle – not on any other vehicle.
- * (ii) Handbills, posters can be displayed in public places only on the day of an election meeting.
- * (iii) Not permitted across public roads (except streamers).
- * (iv) Handbills, posters are not to be displayed on any vehicle except candidate's.

5. * Impersonating another voter.

6. * Treating voters (providing drinks, refreshments) to influence voters to vote or refrain from voting for a candidate.

7. Undue influence – this includes –

- * (i) Use or threat of force, violence, inflicting or threatening temporal and spiritual damage, abduction, or use of fraudulent means to induce voters to vote or refrain from voting.
- * (ii) Use of religious occasions, places of worship, to influence voters to vote for any candidate, to display posters etc. to hold election meetings.
- * (iii) Threat to deny membership in religious organization or exclude, in order to influence voter.

8. Bribery.

* Offering, giving, accepting bribes to vote or refrain from voting for any candidate. (includes money, goods, employment)

9. Illegal practices.

- * (i) Payment for transport of voters.
- (ii) Payment for use of house, land, building for display of posters bills etc.
- * (iii) Lending, hiring, employing borrowing vehicles for transport of voters.

10. Administration of Election.

- * (i) Use of force and threat of force on officers who are on election duties.
- * (ii) Use of force and threat of force on candidates, their authorized agents.
- * (iii) Misuse of State resources to promote a candidate.
- * (iv) Entry of unauthorized persons into the polling booths.
- * (v) Failure to use indelible ink to mark voters.
- * (vi) Absence of polling agents of any candidate during polling, owing to use of force or threat of force.
- * (vii) Use of security personnel for manning of polling stations.
- * (viii) Location of polling booth and other arrangements relating to voters' access to polling booth, and secrecy of voting.
- * (ix) Arrangements for safe transport of ballot boxes.
- * (x) Arrangements for counting (The District Committee's function).

11. Other conditions affecting free and fair elections.

- * (i) General conditions relating to law and order-acts of violence, threats of violence, intimidation which disrupt the election before and during the poll.
- * (ii) Disruption of essential services through stoppage of work, hartals.

- * (iii) Security operations, arrests, curfews and other emergency laws.
How do these affect each candidates?

ARE YOU CONCERNED AS AN INDIVIDUAL CITIZEN ABOUT THE RIGHTS YOU HAVE ALWAYS ENJOYED?

YOU may have had the opportunity to express **YOUR WILL** through the **ELECTORAL PROCESS**. Improving this process, regenerating confidence in it and giving it a new dynamism would not be possible unless **YOU** take part in the effort. **OPPORTUNITIES** to carry out this task have to be created by **YOU** and **OTHERS LIKE YOU**, in the neighbourhood, village and town.

A group of Institutions have gathered to offer you assistance, even in small measure to being this task. They have undertaken a task, which can with **YOUR ASSISTANCE** being the process of healing the deep wounds that afflict our country.

PAFFREL appeals to all concerned citizens
to form citizen's groups for free and fair elections.

These groups can act as:

- election watchers, follows events and actions relevant to a fair and free election before, during and immediately after the presidential election on the 19th December.
- Peace groups, citizens can form peace groups which seek and obtain the support of the Maha Sangha and the clergy of all religions to their effort to prevent violence and conflicts among the contending parties leading to violations of election rights of citizens.
- The presence of citizen groups watching an election is by itself a salutary deterrent. It will also organize the people to enable them to take action in the event of an outcome which is blatantly undemocratic.

PAFFREL will:

- contact persons and organizations with the objective of encouraging them to form such groups at different levels.
- gather and document as much information as possible, analyse this information with the utmost impartiality, make representations to the authorities where necessary and keep the public informed.
- supply material and work kits which will provide the guidelines for the organization of the voluntary groups at different levels and the tasks that they can perform.
- arrange for these groups to be in contact with the official election committees at the relevant level to enable the voluntary groups to function effectively and, wherever they observe actual or potential violations of voter rights and the election law, to make their representations.

YOU CAN JOIN PAFFREL by directing your enquiries to:

PAFFREL
C/O CCNH 281, DEAN'S ROAD, COLOMBO 10.
PHONE CONTACT: 595425, 501972, 581365

FORM 1

ELECTION DIARY

DATE:

1. Electoral District :
Polling Station :

Electoral Division :

2. Name and Address of Observer :

3. Information regarding Election Campaign :

(a) Meeting held by each party

- i) attendance low/fair/good/very good.
- ii) attempts at disruption; intimidation:
- iii) conduct of State authorities;
specific complaints :
- iv) acts of violence and threats of violence.

4. Misuse of State resources (vehicles, officers) by any Presidential Candidates:

- i) Purpose for which such resources were used
- ii) Identity of persons/political party using such resources:
- iii) Location
- iv) Time
- v) Number of vehicle if relevant.

5. Other violations of Elections law (refer to annexed list)

i) Type of violation observed

- location
- identity of persons/political party responsible
- time
- whether representations made to proper authorities by aggrieved party/observer/action taken.

ii) Information relating to planned or imminent violations

- action taken by observer or concerned political party

6. General conditions:

- acts of violence by supporters of contesting parties or other groups opposed to election.
- forms of undue influence and/or intimidation of voters/
- stoppages of work
- availability of transport, communication and other public facilities
- security operations

FORM 2

W A T C H O N P O L L I N G D A Y

1. Electoral District : Electoral Division:
Polling Station :
2. Name and address of observer :
3. Arrangements for polling. (refer to annexed leaflet)
- location
 - personnel manning polling station
 - civil administration?
 - military personnel?
 - arrangements for secrecy of ballot
 - polling agents
 - are all parties represented?
4. Type of violations observed (refer to list, annexed leaflet)
- i) location
 - ii) time
 - iii) Identify of persons/political party responsible
 - iv) Number of vehicle if relevant
5. Missue of State resources (vehicles, officers) by any Presidential Candidate:
- i) Purpose for which such resources were used
 - ii) Identity of persons/political party using such resources
 - iii) Location
 - iv) Time

v) Number of vehicle if, relevant

6. General Conditions:

- Attempts to disrupt poll
- Acts of violence
- Are any specific groups of voters/or voters in particular locations unable to exercise their vote freely.

NOTE: Polls watchers recall some of the violations which occurred at the Referendum in 1982. Among the offences which have occurred in part, the following should be noted.

- Unauthorized persons entering the polling station
- intimidation of officials manning the station
- transport of voters
- large scale impersonation
- violation of the secrecy of the ballot.

Although purchase of votes may not be common, there have been allegations that ingenious practices are adopted to purchase votes and ensure that they are cast for the candidates for whom they are purchased.