

Proposed Handbook for Polling Stations for the Sri Lanka Elections



People's Actions for Free & Fair Elections (PAFFREL)

Content

Chapter I	: Introduction
Chapter II	: Legal Framework
Chapter III	: Existing Polling Stations Layout in Sri Lanka
Chapter IV	: International Best practices: Case Studies
Chapter V	: Proposed Handbook on Polling Stations in Sri Lanka
Chapter VI	: Recommendation

Chapter 1: Introduction

Sri Lanka is one of the oldest democratic nations in Asia, all citizens of Sri Lanka who have completed 21 years of age were granted universal franchise in the year 1931, unless they were subject to any special disqualification. The age of right to cast vote was lowered from 21 years to 18, by the Elections Amendment Act No, 11 of 1959. The first elections to the State Council of Ceylon was held in June 1931 for electing 50 members to the legislature and which has given equal voting rights for men and women. Since then under different Constitutions, Sri Lankan eligible voters exercise their rights for electing their representatives to the national and local level.

At present in 1978, the Constitution of the Democratic Socialist Republic of Sri Lanka is the highest law of the country and which has given sovereignty of the people to exercise universal franchise, elect the executive president and the legislators¹. The same Constitution Article 89 has stipulated that every Sri Lankan citizen who attains the age of 18 years and registered voters are qualified to vote. According to present data 17 million persons are eligible to vote².

National level elections are, namely, the Presidential election, which is generally held for every five years, Legislator or Parliamentary elections held in every five years too, and some special national elections such as referendums will be held occasionally, when necessary to change the Constitution. Provincial council elections and Local Authorities elections are titled as local elections are supposed to be held periodically according to the local elections law even though some local elections are delayed for so long. The Election Commission of Sri Lanka is the main principal organ under the Constitution and has been given authority to organise and manage the both national and local elections. For the administrative purposes, Sri Lanka has divided into 24 electoral districts and under the districts has divided further constituencies. Voter registration, political party registration, voter education, coordinating with electoral actors, drafting necessary bills and regulations are some of the tasks continuing by the Election Commission in addition to organising and managing the elections in a free and fair manner.

On 5 May 2021, Sri Lanka parliament appointed a Select Committee of Parliament of Electoral Reforms seeking possible proposals for identifying appropriate reforms of the Election Laws and the Electoral System and to recommend necessary amendments. Hence, there are many groups³

¹ <https://www.parliament.lk/files/pdf/constitution/1978ConstitutionWithoutAmendments.pdf>

² 30 June 2022, https://elections.gov.lk/en/voters/voters_statistics_E.html

³ Committee received 160 representations from the stakeholders including Non- Governmental Organizations, religious organisations, women's groups, representatives of various cultural and ethnic groups and the general public. When the clarifications or elaborations were found necessary, the Committee examined oral representations of the representatives of various civil organisations and those who had submitted written representations to the Committee. The Secretaries of 69 recognized political parties were requested by letters to submit their representations to the Committee and if necessary appear before the Committee to submit oral representations. Accordingly, 36 recognized political parties submitted their oral/written representations to the Committee (<https://www.parliament.lk/uploads/comreports/1655963940091379.pdf#page=41>)

including election observer groups such as People's Action for Free and Fair Elections (PAFFREL), Centre for Monitoring Election Violence (CMEV) and Asian Network for Free Elections (ANFREL) made their recommendations to the Committee based on their experience for long years. The Report of the Committee has been submitted by the chair of the Committee, Hon. Dinesh Gunwardhane to the parliament on 22 June 2022⁴. The report has recommended many areas for improvement including passing of legislation for campaign finance and increasing women participation etc.

However, the current political conflict may be an obstacle for the near future intentions of reform for good governance. The political cultural transformation will probably take several years for significant results to appear. Hence, no other way to go forward - people themselves have to make demands for more democratic governance and put pressure on incumbent governments for positive pro-people reforms.

The year 2019 ANFREL presidential elections mission report⁵ and the European Union Mission report⁶ were highlighting the insufficient safeguards to protect voter's secrecy at the polling stations. Casting a vote on an election day is a fundamental right of the eligible voters which should be arranged according to the accepted international principles, national laws and regulations etc. Voters cannot be deprived of casting ballots except the disqualifications set forth in the laws. In addition, voting arrangements should protect the secrecy of the vote ensuring free and fair manners. Latest elections were recorded as 2020 Parliamentary elections and total 12,985 polling stations setup across the country for voting process⁷.

The purpose of this study is to examine the existing polling station layout procedure in Sri Lanka and present suitable recommendations for improving the identified areas for ensuring free, fair and democratic elections compared with best practices in other countries in the region or beyond. Therefore, the handbook is designed to assist the Sri Lanka Elections Commission to organise the Election Day process including setting up of polling stations in fair, transparent, peaceful and public acceptance; in accordance with the existing laws and regulations. Indeed, which consider the existing and available resources and infrastructure too.

⁴ <https://www.parliament.lk/uploads/comreports/1655963940091379.pdf>

⁵ <https://anfrel.org/final-mission-report-2019-sri-lankan-presidential-election/>

⁶ https://www.eeas.europa.eu/eom-sri-lanka-2019/eu-eom-publishes-final-report-november-2019-presidential-election_en

⁷ <https://news.lk/news/political-current-affairs/item/30486-election-2020-today-12-985-polling-stations-across-the-island>

The objective of the Study is

- to study the existing polling procedure of Sri Lanka to identify the areas to improve as per the international standards
- to study the available best practices to export to the proposed polling stations handbook
- to develop the polling station handbook which can be proposed to Sri Lanka Election Commission for future use

The scope of Study focuses following areas:

- Study the existing legal framework and practice in relation to free, fair elections in Sri Lanka
- Identify the available best practices from the countries either Asia or non-Asia or both
- Study the challenges for ensuring the free, fair elections specifically casting vote freely (Eg. Laws, regulations, availability of resources, bureaucracy etc)
- Study the existing EU, Commonwealth, ANFREL, FEMBOOSA and other local election monitoring organisation recommendations of past Sri Lankan elections
- Introducing recommendations which may help for increasing the standards of free, fair elections in particular polling stations setup

The proposed study used the mixed-method qualitative and the quantitative approaches. Hence proposed study is based on basically secondary data. The reviewing secondary data are, Sri Lanka elections laws, regulations, polling stations procedure, recommendations to the proposed parliamentary committee on electoral reforms, reports of the parliamentary committee for electoral reforms and the previous elections observations report from domestic and international observer groups in Sri Lanka. Further, available polling stations procedures in Great Britain and Myanmar.

Chapter 2: Legal Framework

Sri Lanka is one of the oldest democratic nations in the world which ensured franchise rights in 1931 under the Donoughmore Commission. From then Sri Lankan citizen enjoying their political rights without any gender discrimination. There have been changes to the electoral system through various new laws, regulations, however fundamental principles of the democratic government electing through the periodic elections remain the same.

The Constitution of Sri Lanka is the highest law of Sri Lanka and which stipulates the franchise or right to vote. Article 88 of the Constitution states that every person, unless disqualified by the Article 89 of the Constitution, shall be qualified to be an elector or voter. However, qualifications for the voter should be guaranteed on the name of such person being entered in the Voter Registry.

In Sri Lanka, the Election Commission is an independent body and it has been given power by the Constitution to organise the elections in a free, fair and credible manner. Further it is supported by the relevant election laws of the country. Specifically, Section 9 of the registration of Elections Act No 44 of 1980. The same Act, section 9 (3) guided for setting up the polling stations, such as,

- not more than 1500 registered voters
- accessibility of the voters, polling stations should not be more than 3.5 KM from voter's residence
- Consider topography of the area
- locations and nature of building of polling stations etc.

Important to highlight that, the law has given authority for the Election Commission to decide the size of the polling stations according to the needs and reality⁸. For example, the Election Commission can decide to have separate polling stations for internally displaced persons even though there are more than 1500 registered voters.

Further,

Further, the Parliamentary Elections Act No 01 of 1981 has given power to alter the polling stations due to emergency situations such as manmade disaster like electoral violence or natural disaster like flood, fire etc. Hence, the Returning Officer of the relevant district may rearrange the polling stations for ensuring free, fair polling process.

The current law is not discussing or considering the accessibility of the voters who are sick, elderly, pregnant, persons with disabilities when they set up the polling stations. In general, Sri Lanka polling stations are mostly set up in school classrooms, religious places, community halls or other public institutions. There are no specific arrangements for above said marginalised communities. For example, if the polling stations are set up in hill areas or the upper floors of the building, there is less access for the above marginalised groups. Very rarely we can see that ramp facility arranged at the polling stations even though the Election Commission has data on persons with disabilities.. Braille ballot papers were introduced from the 2020 parliamentary elections as a pilot project in Nuwaraeliya district. We hope that in future elections, there will be more accessibility for the people in need.

⁸ Registration of Electors Act, No. 44 of 1980, Article 9 (2)

Accessibility to the polling stations for all voters are important to ensure in every election, which was interpreted in the Dr. Ajith C.S Perera Vs Attorney General case⁹. The Supreme Court says that all government public places should have access facilities... the selection of schools to be taken as polling stations, it should be places accessible to all.

Chapter III: Existing Polling Stations Layout in Sri Lanka

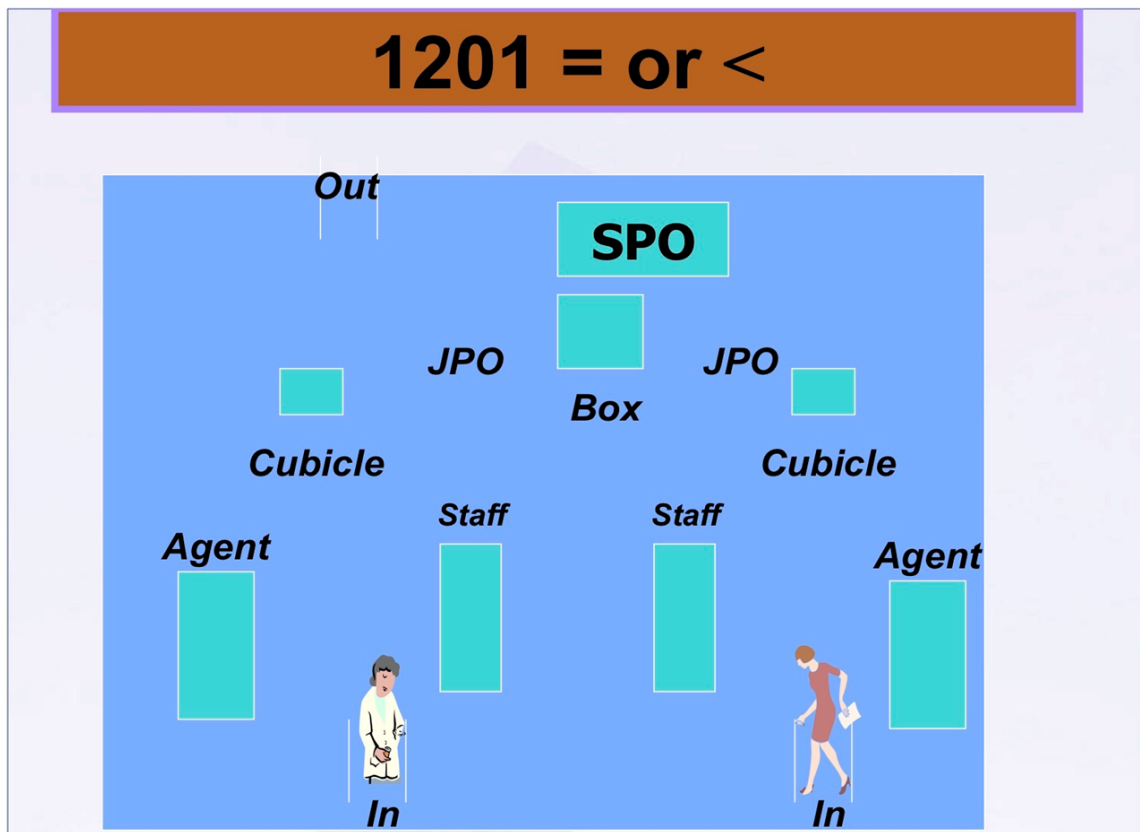
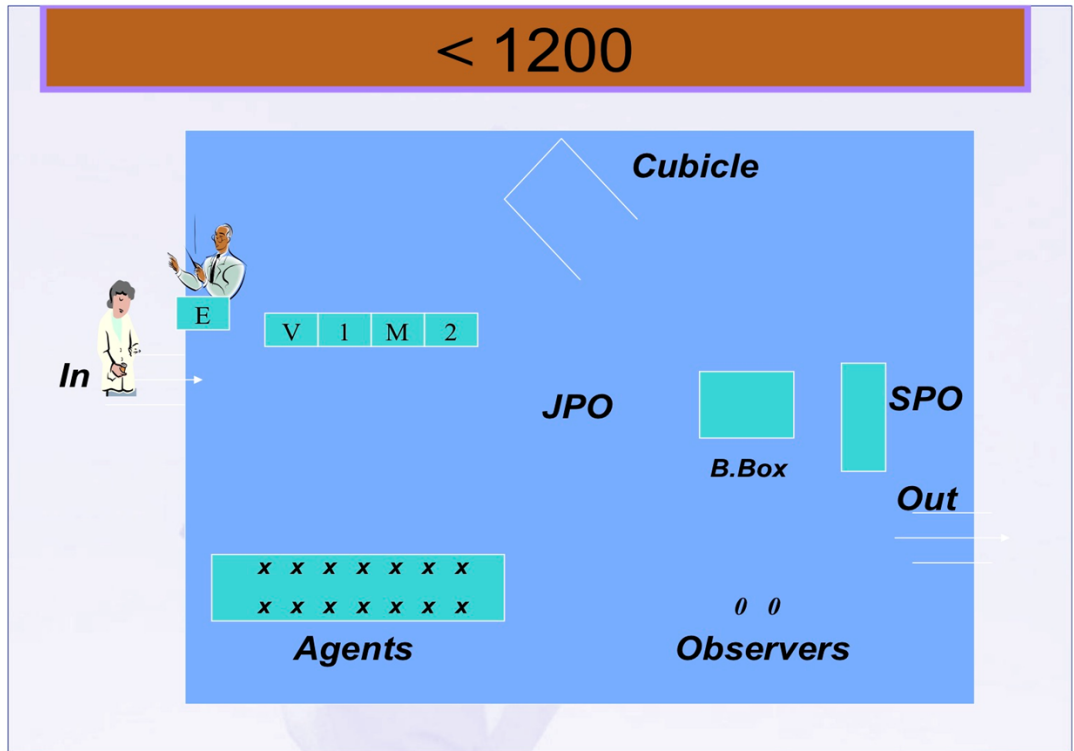
Two-way arrangements for polling stations are set up according to the registered voters in the polling area, (1) more than 1,201 or more registered voters, (2) less than 1,200 or less registered voters.

Poll workers and other resources arrangements differ from the polling stations according to the more than 1,200 and less than 1,200 registered voters.

	<1,200	1,201 or <
Minimum deployment of polling staff	07	12
Number of police personals	02	02
Minimum floor area of the polling station (ft2)	400	600

⁹ SC(FR) No 221 / 2009

Polling Stations Layout Design



Poll Workers:

Size of the poll workers may differ from the size of the polling stations. Presiding officer will be the main responsible officer of the overall polling station and he/she is assigned with 7 or more poll workers according to the size of the polling station. Each of the poll workers are assigned to do a different role. The assigned police officers may take over peace and order of the polling station.

Role of the Poll Workers

Presiding Officer - Article 28 of the Parliamentary Elections Acts describes the role of the Presiding officer, who is in charge of the polling stations and appointments made by the Returning officer of the respective electoral district.

Junior Presiding Officer - she/he is responsible for carrying out the work assigned by the presiding officer. In the absence of the presiding office, he will be in charge of handling the task of presiding officer. According to the law he/she is titled as Vice Presiding Officer¹⁰.

Polling Clerks (Verification clerk (V-Clerk), No. 1 Clerk (who calls voters) M-Officer (Marking officer and applied indelible ink to fingers), No.2 clerk who issues ballot papers to the voters

Grama Niladiri -Respective Grams Seva area Grama Niladari is assigned to work hand in hand with poll workers for arranging the polling stations and providing logistical support for the poll workers including the foods. However, he/she does not have any authority to engage in the polling process.

Security Personnel - Police are working hand in hand with the election commission to maintain peace and order during the election period. Hence, election day, 2 police officers deploy to maintain peace and order at the polling station. However, the police officers are not authorised to enter inside the polling station and participate in any work of the polling process unless requested by the senior Presiding Officer/s. Strictly prohibited carrying firearms to inside polling premises. In the 2019 Presidential election, ANFREL reported that there are confusing roles between poll workers and police personnel. Therefore, we recommended drawing a line between the role and responsibilities of the two groups.

Authorised Persons to be Inside the Polling Station

Authorised persons to be inside premises of the polling stations are poll workers who are assigned to work designated polling stations by the Returning officer. Police personnel outside the premises of the polling stations maintain law and order. In addition, the following persons are allowed to be present inside the premises:

- Agents of political parties or independent groups - Maximum 2 per each
- Accredited domestic observers

¹⁰ Parliamentary Elections Act no 1, 1981 - Article 28 (2)

- Accredited international observers
- No media personnel except the special approval from the Election Commission in particular situations
- Agent/s of the Grama Niladhari of the village (maximum 2 persons) for handling the welfare matters and rearrange the polling stations when urgent situations such as flood, heavy rain, violence incident etc.

Sensitive Materials

- Voter registry
- Ballot books (50 ballot papers in one book) and deliver according to the number of registered voters at the Polling Station
- Indelible ink pen
- Ruler
- Pencils
- Polling booth
- Ballot boxes
- Ball point pen for ballot marking
- Log book
- Attendance registry for the poll workers
- Notices
- Information posters
- Clock

Chapter IV: International Best Practices

Example 1: Great Britain Handbook for Polling Station Staff

The year 2019, the Electoral Commission of Great Britain has developed a Handbook for Polling Station staff, which supports Great Britain Parliamentary Elections. The Handbook identified many areas which can be used for Sri Lanka elections.

Roles and the responsibilities of the poll staff including their official title are also much similar to the Sri Lankan election context. However, they are using the first -past-the -post electoral system for its elections. Voters can mark their choice by marking the “X” in the box next to the candidate. The Electoral Commission has assigned the polling staff to ensure that voters are able exercise their rights in secret, without disturbance and peacefully.

Role of each responsible staff:

Returning Officer: Overall responsibility of the assigned constituency include selecting polling stations., training and preparing the poll staff

Presiding officer: Overall responsible persons for the polling stations. Some of the polling premises have more than one polling station. Hence, the presiding officer will manage the polling staff with his poll clerk according to the guideline written in the handbook.

Poll Clerk: Responsible for carryout voting procedure under the supervision of presiding officer or the Returning Officers.

Polling day, even one day, the preparation of the polling day cannot be limited to one day. Prior to election day preparing the polling stations is one of the important things. Poll staff will follow the check lists to organise election day accordingly.

Following are checklist follow for setting up the voting place:

- Is the ballot box accessible for all voters?
- Can a wheelchair user easily get around the polling station and its surrounding areas?
- Are all of the polling booths set up in such a way that it maintains the privacy of voting for all voters?
- Is the low-level polling booth in the most appropriate position for wheelchair access, with sufficient space for a wheelchair to be manoeuvred comfortably?
- Are the notices positioned so that they can be read by all voters, including visually impaired people and those in wheelchairs?
- Are the polling booths positioned to make best use of the available light?
- Are the polling agents and observers positioned so that they do not interfere with the proceedings, but can still observe proceedings?
- Are there chairs available in the polling station for electors

Case 2: From the Myanmar Elections Experience¹¹:

2020 Myanmar general elections were held amid the Covid 19 pandemic and the Union Election Commission of Myanmar (UEC) has provided a handbook for the polling staff stipulating their responsibilities for smooth and peaceful polling process on November 20 elections¹². The Myanmar experience may be important for Sri Lanka as its voting pattern is manual as well as both Sri Lanka and Myanmar are economically underdeveloped countries.

Myanmar was practising the multi-party democratic system under the 2008 constitution. Election system was First-Past-the Post system. The UEC is the main authority for organising the elections, hence under the supervision of the Chair of the UEC and the member of UEC Commissioners at state level worked with state/regional election commissioners for organising the elections according to the election law. In addition, they have worked with international elections groups for receiving the necessary technical assistance as it was democratic elections were new to the country.

The UEC is selecting the polling staff, mostly school teachers and they have been receiving training from the respective state/region UEC officials for organising the elections. The selected polling staff asked to sign the Code of Conduct (COC) for agreeing to complete the task in a fair, transparent and people accepting the process. Main points of the COC: maintain the secrecy of the vote all times, impartiality, disseminate the data, information to the public in timely,

Case 3: Polling Stations Manual from the Canada Elections¹³

The main principle of the manual is that every vote is secret and the elections run smoothly. For these purposes, they are setting up guidelines for the election officers to run the elections in a fair way for every voter. In specifically, manual is guiding election officers to:

- place the voter list and ballot box transparently
- setup voting screen facing away from everyone, which means maintain the secrecy of the polling place
- arrange the logistical material accordingly
- put up the voter education poster which voter can see properly when they are wait in line
- make sure enough room for the voters to line up before they vote
- make sure that voters can access the ballot box after the vote
- clear assign role for the polling staff

Guidelines for maintaining the secrecy of the casting vote:

- ballots are identical for every voter
- setting up voting screen to maintain privacy
- mark ballot papers put into ballot box by respective voter

¹¹

https://merin.org.mm/sites/merin.org.mm/files/publication/polling_manual_2020_eng_v3_b5_8-10-2020_with_logos1.pdf

¹² https://merin.org.mm/sites/merin.org.mm/files/publication/polling_manual_2020_eng_v3_b5_8-10-2020_with_logos1.pdf

¹³ <https://electionsanddemocracy.ca/election-simulation-toolkit-0/polling-station-manual>

- ballots are kept in one box and mixing properly

Case 4: Timor-Leste Presidential Elections: Polling Centres Handbook¹⁴

The Timor-Leste polling centres officers guide by the 6 main fundamental principles, which are

- Respect for the law, which means everyone obliged to understood and follow
- Non-partisanship and neutrality- the people of Timor-Leste expect electoral staff to act fairly and without fear or favour
- Transparency - every aspect of the polling and counting must be open to observation, which means that the people are accepting the outcome of the elections end of the day
- Accuracy
- Inclusiveness- fundamental principle of democratic elections is that all voters have equal right to take part in the process without any discrimination due to male, female, PWDs, elderly etc
- Service to voters - make voting experience safe and accessible

¹⁴ <https://drive.google.com/file/d/1yjLeoqtEeNqev6RsNUwT1vkKlj021ale/view?usp=sharing> Timor Leste

Chapter V: Proposed Recommendations

Election day is the most important event of the electoral cycle, which is limited to the one-day process of either national or local elections. The voting system is manual and the poll starts at 7.00 am and closes at 4.00 pm. Except for the one local election in history so far, counting will be done at the identified centralised counting place for tabullised.

Free, fair and credible elections are fundamental principles of every election, all elections stakeholders including election management bodies are working towards to ensure them. The country specific laws and regulations are directed to have credible elections. However, there are no 100% perfect elections in the world, every election is a learning experience and trying to increase the electoral integrity of the democratic countries.

Registered or eligible voters are exercising their rights during the election day and election management bodies are arranging necessary logistical arrangements according to the country specific laws and international principles. The proposed recommendations enhance the voting process which every voter can access freely and maintain the secrecy of the casting ballot.

A Polling Centre is defined as the whole premises including other buildings and the building itself, in which the Polling Centre is located. In Sri Lanka according to the practice, large number polling venues are established at the school classroom, community hall, religious place (hall of the Buddhist temple, church hall etc). We highly recommended that the selecting polling venues should be places which are not influential to the voter design and accessibility of the PWDs voters. In particular, selecting polling venues at the religious places, required to pay additional consideration of the non-political partition of the religious community or head of the religious community. Sri Lankan law does not prohibit the religious to actively participate in politics unlike some other Asian countries such like Thailand.

Sri Lanka has ratified the Convention on Rights of Persons with Disabilities (CRPD), which is assuring the rights of the PWDs including the right to vote. Hence, arranging the polling stations accessibility to the PWDs are an important aspect for respecting voters rights. However, considering the Sri Lanka infrastructure and the economic challenges, which cannot be arranged tramp for all the places. Even though the Election Commission is selecting the venues for polling stations, it is important to consider places which are located in the lower level of the building rather than upper level.

Other important recommendations are enough space for the polling stations venue with basic facilities. At present the size of the venue is < 1,200 size - ft2 -400 and 1,200+ < ft2- 600. The report is happy to suggest that space should be enough for all poll workers to work with necessary ventilation, enough light, chair, desk and amenity facilities. Poll workers are required to work more than 8 hours in one place, if they do not have basic facilities which may violate their health rights. Further security of the place is also important, as no one can intimidate the polling process or disturb it. The space is important as they have to arrange the polling place to keep essential items and easy access to voters without wasting their time.

The logistical items are necessary to transport before and after the poll, hence it is important to have enough parking places and roads to drive vehicles which are used for the election day process.

Polling stations are required to be set up for free access to the accredited persons, such as domestic. International observers, political party agents. Arrange seats for them to see the overall process of the voting except casting the ballot.

Another important thing is recruiting poll workers who can work independently and professionally. They may have to have training for the overall procedure and assign their duties clearly to make sure of the voting process smoothly. Police personnel's are assigned to maintain the peace and order, however make sure they may not be involved in the voting process.

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