

LALIT's Position Paper on Electoral Reform

Based on struggles LALIT has participated in since 1976, LALIT's *Commission on Electoral Reform* met on six Saturdays over a 12-week period in 2010. We came up with proposals on how to further democratise the electoral system and how, at the same time, to eliminate the communalism in the First Schedule of the Constitution which sets up the Best Loser System. Here is an outline of our position.

Subjects Treated

- Do away with anti-democratic restrictions on candidature
- Increase Legislature Size, decrease relative weight of Executive
- Keep Constituencies
- No more communal seats, nor communal calculations
- Add a dose of PR
- Ensure women candidates
- Constituency for Diego Garcia & Chagos
- Institute the right of recall
- Dissolution of Parliament
- Ban financing of Political Parties by private companies
- Indirect funding by the State
- Electoral expenses, tightening up of the law
- Powers of the ESC
- Code of Conduct
- Appendix with summary of Collendavelloo and Sachs proposals
- Appendix with LALIT's argumentation re political party funding

Anti- Democratic Restrictions on Candidature

So as to democratize candidature for the National Assembly

Amend the Constitution so as to:

1. Remove all language and literacy barriers to candidature for the National Assembly.
2. Ensure the right of all citizens to stand in all elections, whether they work in the civil service, parastatals or the private sector, subject only to accepting "leave without pay" for the duration of the campaign.

Increase Legislature Size, Keep Constituencies, No More Communal Seats, A Dose of PR, Women's Participation, Chagos included

So as to promote the following political principles:

- To democratise the National Assembly by giving more weight to the Legislature and less to the Executive,
 - While maintaining the principle of accountability of MPs to a Constituency,
 - To do away with communal classification of the electorate and candidates,
 - To introduce a dose of proportional representation for different political currents,
 - To decrease discrimination against women by Parties,
 - To represent Chagos, including Diego Garcia;
- Reduce the number of Ministers to 15 (thus saving tax payers money on the Executive Branch), while at the same time using this saving towards funding an increase in the number of MP's, i.e. in the size of the National Assembly to 104, as follows;
 - Electors elect, on their first of two ballots, 4 MPs in 20 constituencies, plus 3 in Rodrigues, plus 1 in a new constituency called "*Chagos including Diego Garcia*", where registered Chagossians will vote until Chagos is freed. This part of the election will use the same First-Past-the-Post system we already have for 62 seats but for 84 seats;
 - Electors also vote for a Party of their choice, on a separate ballot, at the same election; this would be the same as is already done in Rodrigues for the Regional Assembly. What it means is that political parties will have submitted to the ESC for prior publication a "Party List", in order of precedence, selected from amongst their candidates in Constituencies, a list which alternates men and women candidates (the list can be any length judged necessary by the Party, so long as the gender alternation can be maintained), for the allocation of 20 MPs from the Party Lists.

- The number of MPs elected by Party is totted up after the first ballot and compared with the number of votes obtained on the second Party List ballot. Then 20 seats are allotted proportionately to those Parties that are least well represented *compared with the total number of Party List votes they got* (20 seats being allocated, skipping any of those on a Party's list who are *already* elected in the first ballot). This exercise should, however, in no case alter the winner in a case where a Party has gained an overall majority of seats on the first ballot.

The Right to Recall at all levels

So as to further democratise the electoral system

- To allow for more accountability and a further democratization of the Parliamentary system (which is potentially more democratic than the Presidential one),
- To introduce the fundamental democratic principle of the right to recall,
- Once 84 members are elected and once 20 Party List candidates are nominated by the ESC, the National Assembly meets immediately (as is the case in the Rodrigues Assembly) under the chair of the previous Speaker, who chairs the election of a new Speaker, who then chairs the election of the new Leader of the House. Should no-one yet command a majority, the outgoing Prime Minister remains Prime Minister, until a new Leader commands a majority;
- The new Leader of the House goes to the President to get sworn in as Prime Minister;
- As soon as is feasible, the Prime Minister proposes his Cabinet to the House, which ratifies it by voting “yes” or “no” without debate (as they are elected by the people), and then Ministers are sworn in by the President;
- The Leader of the House can at any time be revoked by a majority of MPs, on a vote of no confidence presented by the Leader of the Opposition – as is already the case;
- The Cabinet or any Minister can be revoked at any time, as the Cabinet or as Minister, on the basis of a motion presented by the Leader of the Opposition and which the Speaker accepts as having a serious political or moral argumentation for revocation, and which gets a majority in the House;
- At any time, the Prime Minister can re-shuffle his Cabinet and bring his new Cabinet before the House for ratification;
- Any MP can be revoked by a majority of signatories in an Electoral Petition in the relevant Constituency, whether they were elected in the first or second ballot, on condition that the Electoral Petition is judged by the ESC to be based on valid reasoning, for example, non-implementation of the political program on which the MP was elected (a program which will need to be submitted to the ESC at the time of the Election), crossing the floor, or other serious political reason for loss of confidence like electoral malpractice;

Dissolution of Parliament

- So as to maintain popular sovereignty

The Prime Minister may dissolve the National Assembly and call early elections at any time, thus giving the power back to the people.

However, once the National Assembly is dissolved, the dates (*echeances*) are then set and announced, within the legal limits, by the Electoral Supervisory Commission.

On the Financing of Political Parties

It should be illegal for any company or private enterprise to finance any political party. LALIT proposes the introduction of specific legislation to outlaw the funding of or donations to political parties by companies whether in money or in kind. The Sachs Report already proposes this. LALIT does not agree with the State granting financial support for political parties either.

Any company or business that provides material for an electoral campaign should inform the Electoral Supervisory Commission of this and of the amount involved, even if they are intended as donations, the value must be specified:

- Printing presses and other duplicating processes.
- T-Shirts and banderole providers
- Providers of sound systems for meetings
- Providers of stages, lorries and tents and “salle verte” for meetings
- Providers of cars for hire and taxis.
- Bus companies

- Providers of petrol and diesel for vehicles.
- TV, Radios and newspapers that cover advertisements.
- Bill Boards and other advertisements provided by service providers.
- Mass postal, call centre or mobile phone providers, or SMS providers
- Rental of premises (or its value if donated).

The provider of the goods and services should be required by law to declare income from electoral campaigns to the ESC, under the heading “electoral revenue”.

Indirect State Funding of basic electoral expenses

Instead of direct funding of political parties, LALIT proposes that the State should ensure that basic electoral facilities be made available *free* for all candidates and parties:

- o Free electoral registers on hard copy and on CD’s be provided to each candidate. This principle is already accepted as electoral registers are sold at a symbolic price. CD’s are now sold at Rs 1,000 for each Constituency. This gives an unfair advantage to heavily funded candidates.
- o Free postage fee (franking) of a specific amount for electoral mailing
- o Free access to public buildings and spaces for all Parties for meetings.
- o No judicial fee to be paid by candidates for submitting their electoral expenses returns
- o Special air-time be allocated to parties in the elections on a pro-rata basis to announce electoral events.
- o Expansion of party political broadcasts that the Mauritius Broadcasting Corporation already does, to private radio (and TV, if and when there is private TV).
- o Government must ensure free public space for bill-posting (instead of all space being sold to the advertisers of products they are selling at a profit).

On electoral Expenses

The electoral expenses allowed to any candidate under law should include:

- o His own and his agent’s expenses, as covered by the Representation of the Peoples Act.
- o Any expenses by well-wishers, as evaluated by him/her or by the Electoral Supervisory Commission, and which the present law excludes as expenses.
- o Any party expenses pro rata, if s/he is member of a Party. This means the cost of a national meeting would be divided by number of candidates, e.g. by, say, 80, whereas the cost of a constituency leaflet would be divided by 4. For these also, the ESC should have a team that checks on expenses. (LALIT already follows this practice.)

For this change, the present sums of Rs 250,000 for a candidate not in a Party and 150,000 for a candidate in a Party should be raised to one sum: Rs500,000 per candidate (including Party expenses and well-wishers’ expenses). We propose this knowing that LALIT spends a quarter of this or less on the totality of its candidates.

We also propose that detailed returns also be made more accessible to public scrutiny by being posted for a month at public buildings such as Village Halls, Community Centres, Municipalities and Post Offices, and on the Internet. We believe that it is public scrutiny that will help to control electoral expenditure of candidates and parties. The electors in different constituencies are in a better position to compare what have been really spent during electoral campaigns and what is stated in electoral returns of candidates.

Powers of the ESC

These changes clearly involve increased powers and increased staff for the ESC. Additional powers should also be vested in the ESC to itself initiate Supreme Court Proceedings against any Candidate/s, on the basis of any serious complaint, that the said Candidate/s is/are over-stepping the legal limits. This means the Electoral Supervisory Commission be granted additional powers to investigate any complaints lodged. If after its investigation the ESC determines that a candidate has made an *omission* of expenses or has made a *false statement* and that this omission or false statement would have produce an over-expenditure according to law, then the ESC be empowered to apply to the Supreme Court for a writ to invalidate the election of the candidate and call for a by-election.

Code of Conduct

LALIT agrees that a Code of Conduct for Parties and candidates and agents and supporters in General Elections should be agreed upon by all major parties, and then be given a legal framework. We also draw attention to the fact that the “right of recall” that we propose will be a brake on electoral fraud and over-expenditure.

Qualification for the National Assembly

Amendment One: The language of the National Assembly

Section 49 of the Constitution reads “*The official language of the Assembly shall be English, but any member may address the Chair in French*”. Our first demand is simple:

Section 49 should read as follows: “*The official languages of the Assembly shall be English and Mauritian Kreol, but any member may address the Chair in French or Bhojpuri.*” As you are aware, Mauritian Kreol is spoken most of the time by 70% of the people, Bhojpuri by 12%, and both or one together with another language some 11%, which brings us to the figure of 93% for Kreol and Bhojpuri (see table).

Kreol	826,152	70.0%
Bhojpuri	142,387	12.0%
Bhojpuri & Kreol	64,106	5.4%
Kreol or Bhojpuri plus another language	66,658	5.7%
TOTAL Kreol & Bhojpuri mother tongues	1,099,302	93.2%
English, French, Other Oriental and other	76,453	6.5%
Not stated	3,093	.3%
TOTAL Population of Republic of Mauritius	1,178,848	100.0%

Central Statistics Office, Census of the Whole Population 2000

Amendment Two: Qualification for becoming an MP

There is another language clause that needs simple revocation. As you know, democracy means everyone can not only vote but also stand for election. In the Constitution, there are only two sorts of qualification for membership of the N.A. The first does not concern us here, and is technical (citizenship and residence), while the second concerns us directly. It demands proficiency in speaking and reading a foreign language, a proficiency which can be challenged by a litigant in the Supreme Court. “A person ... shall not be qualified unless, he – 33(d) *is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.*”

The humiliation of having one’s language ability questioned in public, of course, scares off half of the population from even contemplating running for office. As women are often less confident of their ability, women are more deeply affected. Many working class candidates are excluded from the democratic process by this clause.

So, Section 33 (d) should quite simply be revoked. If parties wish to field candidates, or people want to vote for people who cannot read and write English and French, or cannot read and write at all, they should be free to do so.