

# INTRODUCING ADVANCE VOTING FOR SRI LANKAN ELECTIONS

## EXECUTIVE SUMMARY

Sri Lanka's electoral framework currently provides for restricted advance voting, essentially for polling officials and public servants engaged in election duties or emergency services on election day. The strictly limited opportunity for voters to cast an early vote, as well as the lack of other alternative voting mechanisms and accessibility measures, has effectively disenfranchised certain categories and types of voters, basically any citizen unable, for any reason, to vote in-person at their regular polling station on election day. While the political will to overcome this challenge has been lacking over the years, the introduction of advance voting for a broader segment of the electorate has recently garnered wider support amongst electoral stakeholders.

This briefing paper examines the various models for advance voting, and the advantages and disadvantages, associated risks, and potential impacts which should be considered in deciding whether to employ it and if so, through which method. The overarching question for decision-makers should be whether advance voting will improve electoral integrity and active democracy or compromise the security of the electoral process and undermine public trust. In this regard, the advantages of early voting measures must be weighed against the ability to regulate them properly, securely and transparently, as well as their effect on public confidence in the election process.

This paper suggests a roadmap for considering advance voting options, as well as recommendations for moving toward effective adoption and implementation of such electoral reform. In brief, the recommendations are as follows:

- Prioritize the effective enfranchisement of all eligible voters, clearly identifying those categories of voters that do not have an opportunity to vote. Consider the secondary aim to make voting more convenient for the general electorate through advance voting.
- Finalize key policy decisions on the parameters of advance voting opportunities in terms of the eligibility to advance vote, model(s) to be utilized, period for early voting, and for which elections it will be available to the electorate.
- In selecting and delineating an advance voting mechanism(s), decision-makers should take key factors into account such as cost-effectiveness, logistical challenges, potential risks, and public trust. Political factors should not be considered.
- Consideration can be given to utilizing the current hybrid model of advance voting used for polling officials and public servants, while broadening eligibility and modifying its features to reach a broader segment of the electorate.

- The methods and procedures for the designated advance voting model(s) should be established in terms of its operations and, most importantly, with respect to incorporating safeguards to maintain the integrity of, and public trust in, the electoral process.
- Employing other alternative voting methods and accessibility measures to enfranchise voters should be considered for use on election day itself, to complement the introduction of an advance voting mechanism(s).
- Undertake the electoral reform process well in advance of the next election and employing an inclusive, broad-based consultation process to ensure relevant stakeholders, including key civil society organizations, have a genuine opportunity to be heard.
- Develop a legal framework for advance voting that is coherent, consistent, unambiguous, and transparent, including relevant regulations and procedures subsequently adopted by the election management body.
- Undertake robust public outreach communications on the new rules and procedures on advance voting, in easy-to-understand and accessible formats. Segments of society with lower voter participation can be targeted with messaging on the importance of voting.

## 1. INTRODUCTION<sup>1</sup>

The introduction of advance voting in Sri Lanka has for more than two decades been promoted by the civil society sector, to facilitate voter enfranchisement in general and, in particular, for traditionally underrepresented voters. While voter turnout in Sri Lanka has been relatively high in past elections, with more than 77 per cent of eligible voters casting ballots in the 2015 parliamentary elections and more than 82 per cent in the 2019 presidential election, the effective disenfranchisement

of certain categories and types of voters is a shortcoming in Sri Lankan elections.

In light of the 2020 parliamentary elections taking place amidst the covid-19 pandemic, the issue of early voting came to the forefront in Sri Lanka, garnering broader support amongst stakeholders who recognized that holding elections during a health pandemic could seriously limit voter participation, a foundation of the electoral process. Voter turnout in the 2020 parliamentary elections, at 70 per cent, was significantly lower than in recent elections. Furthermore, a considerable decrease in electoral violence and violations in Sri Lanka in recent years, seen in the past as an obstacle to further enhancing enfranchisement through advance voting, has opened the door for serious consideration of such voting measures.

This briefing paper suggests a roadmap for considering advance voting options for Sri Lanka, as well as recommendations for moving toward effective adoption and implementation of such electoral reform. It intends to facilitate inclusive and broad-based discussion amongst electoral stakeholders on the introduction of advance voting for future elections.

The prospect of establishing advance voting in Sri Lanka is examined from an international and national perspective and considering international obligations and good practices for democratic elections. Various electoral stakeholders provided invaluable input to this paper from a domestic perspective, including representatives from civil society and international organizations who work on voting rights, political participation, and electoral reform in Sri Lanka.<sup>2</sup>

<sup>1</sup> This briefing paper was authored by Marla Morry, an international lawyer and electoral expert. Due to the covid-19 pandemic, Ms. Morry drafted this paper as a home-based project.

<sup>2</sup> Due to the covid-19 pandemic, online meetings were held with representatives of the following organizations: People's Action for Free and Fair Elections (PAFFREL), Centre for Monitoring Election Violence (CMEV), Asian Network for Free Elections (ANFREL), Enable Lanka (a disability rights organization), Viluthu Centre for Human Resource Development, Law & Society Trust, and International Foundation for Electoral System (IFES), as well as a women's rights advocate. As this report was drafted during the 2020 parliamentary elections process, due to time constraints faced by key electoral actors the author was unable to consult with the national election commission, political parties, and relevant national authorities.

## 2. OVERVIEW OF ADVANCE VOTING

In this briefing paper, the concept of advance voting (also called early voting) is used to refer to a process by which voters in a public election can vote prior to the scheduled election day. Early voting can take place remotely, such as via postal voting (also called by-mail voting), or in-person, usually in designated advance polling stations.<sup>3</sup> The eligibility and time periods for early voting vary widely among jurisdictions and types of elections.

The introduction and broadening of advance voting mechanisms (in-person and postal voting) is becoming more common, with the number of early voters around the world increasing in recent years. In some countries, voters' use of advance voting methods has increased election by election. Early voting, however, remains controversial. The overarching question for decision-makers should be whether advance voting will improve electoral integrity and active democracy or compromise the security of the electoral process and undermine public trust. In this regard, the advantages of early voting measures must be weighed against the ability to regulate them properly, securely and transparently, and their effect on public confidence in the overall election process.

Advance voting, and its various models, has advantages and disadvantages, associated risks, and potential impacts to be considered in deciding whether to employ it and by which method. On the one hand, early voting can increase voter participation by facilitating voting for citizens who, for various reasons, could not otherwise vote at their assigned polling station or for whom election day voting is inconvenient, and may ensure participation for traditionally underrepresented voters. Advance voting can reduce the burden on election day poll workers and relieve congestion and long wait times at polling stations, which can especially benefit persons with disabilities and the elderly who vote in-person on election day. In addition to streamlining election day

operations, an early voting option can minimize risk to poll workers and voters during a public health crisis.

At the same time, cost implications of postal and in-person advance voting, as well as logistical challenges and security risks especially related to by-mail voting, need to be considered. Opponents of advance voting note that it can have an adverse impact on the informed choice of advance voters, as these voters may have less information relevant to the election than those who vote on election day. This is particularly so if voting takes place very early, before key campaign messaging, candidate debates, or significant news events. The strategies and costs of election campaigns can also be impacted where advance voting is employed, which can potentially benefit well-resourced large parties and incumbents. In addition, wasted votes are a risk where a candidate withdraws from the race or dies after advance votes have been cast. Some argue that unconditional advance voting weakens civic cohesiveness that is associated with election day voting.

In introducing and delineating early voting mechanisms, associated risks should be considered, such as undue pressure or intimidation of conventional postal voters by family members or others, different types of electoral fraud, and loss or damage of advance voting materials. The legal framework for any advance voting mechanism must ensure the same level of secrecy, accountability, transparency and integrity of the vote as voting in person on election day, to ensure compliance with international standards and best practices for democratic elections. When any of these principles are undermined, whether by systemic failure or in practice, it risks diminishing the public's trust in the electoral process and results. In this respect, voter education is key.

As with electoral reform in general, political considerations should not enter into any decision-making process on introducing or broadening advance voting. Such politicization has evidently occurred in some countries looking to expand early voting due to the covid-19 pandemic, such as in the United States. In Sri Lanka, mainstream political forces have been unresponsive to civil society's efforts to introduce advance voting measures

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<sup>3</sup> While advance voting can be implemented using web-based technologies, this paper does not discuss internet voting as an option due to the complex and highly controversial nature of this voting method.

to support voter inclusion and accessibility or even temporary measures to allow voting in quarantine centres during the current pandemic.

### 3. CURRENT LEGAL FRAMEWORK FOR ADVANCE VOTING IN SRI LANKA

The legal framework for national elections in Sri Lanka establishes the option to advance vote for a limited group of voters.<sup>4</sup> According to the legislation, government staff engaged in election duties on election day, some government workers who are in essential work, those serving in security forces, and candidates contesting outside their registered constituency can vote in advance.<sup>5</sup> While this advance voting mechanism is referred to in the legislation as “postal voting”, it is in effect a kind of hybrid system, more akin to an in-person advance voting system.

By certified application, such voters can apply for early ballots which are delivered in bulk by insured postal service to the relevant public institutions.<sup>6</sup> On two prescribed days, election officials at these institutional workplaces issue the “postal” ballots to the voters who cast their votes in-person and in secret at the institution, in the presence of partisan and independent observers. Certified declarations on the voter’s identity and secrecy of the vote are completed. The marked ballots, placed in a secret envelope and then a secure outer envelope that identifies the voter, are forwarded in bulk by the institution to the election offices, through insured postal service. Advance ballots are separately counted on elec-

tion day.<sup>7</sup> This limited advance voting model has worked effectively over multiple elections and apparently enjoys a relatively high level of public trust.

At the same time, the electoral legal framework effectively allows the disenfranchisement of various categories and types of eligible voters, representing a breach of international standards that guarantee voting rights. In particular:

- Voters in hospitals, quarantine centres, and long-term care facilities are not provided any opportunity to vote;<sup>8</sup>
- Citizens who cannot travel to a polling station due to complete immobility (i.e. voters who are homebound due to physical disability, serious illness, or infirmity) or who are quarantined in their home do not have any possibility to vote;<sup>9</sup>
- While voters with some mobility, or other physical challenges can request the election administration to provide transport to a polling station and/or for an individual of their choosing to assist in casting their ballot, both cases involve a protracted application process requiring an annual medical certificate to certify the disability. This is an unnecessary obstacle, particularly for permanently disabled voters, which may in effect disenfranchise those voters in need of transport or assistance to vote;<sup>10</sup>

<sup>7</sup> In the 2015 parliamentary elections, some 500,000 voters cast advance ballots. The practice of separately counting advance ballots of such public officials can undermine secrecy of the vote should an overwhelming number vote alike.

<sup>8</sup> For the 2015 parliamentary elections, the election commission set up a polling station in a long-term mental health care facility but did not do so for any health care facilities during the 2020 elections.

<sup>9</sup> Disability rights activists, since 2015, have intensively campaigned to make the election process more accessible and inclusive for persons with disabilities, including through advance voting, particularly postal voting (including automatic receipt of postal votes for those voluntarily registered as a person with permanent disability). While the national election commission in principle supports extending postal voting to persons with disabilities, it has taken the position that amended legislation or a court decision is required to do so, as the commission lacks the authority.

<sup>10</sup> A recent household survey conducted by a disability rights organization in 15 of the 22 electoral districts found that a least 900,000 voting-age Sri Lankans have a disability or condition preventing them to vote in-person or unassisted.

<sup>4</sup> Section 26 of the 1981 Parliamentary Elections Act and section 23 of the 1981 Presidential Elections Act.

<sup>5</sup> For the 2020 parliamentary elections, due to the covid-19 pandemic, the election commission adopted a special decision to include frontline healthcare workers within the categories of those eligible to vote in advance.

<sup>6</sup> For parliamentary elections, advance voting applications must be received not earlier than the 7th day and not later than the 14th day and for presidential elections not later than the 10th day after the call of the election.

- Many polling stations are physically inaccessible, or their layouts are not suitable, for wheelchair-bound voters, potentially leading to the disenfranchisement of such voters;
- Pre-trial detainees, all of whom have the right to vote, and those prisoners eligible to vote, are not provided any possibility to cast a ballot;<sup>11</sup>
- Voters who fear leaving their homes or being at a polling station due to health risks, social unrest, or other physical threat cannot vote other than in person on election day;<sup>12</sup>
- Due to the lack of an absentee voting mechanism in the law, voters who are away from their district of registration on election day, for whatever reason, are effectively disenfranchised;<sup>13</sup>
- Voters living in remote areas, far from their registered polling station, and voters residing or temporarily abroad over election day do not have an opportunity to vote.<sup>14</sup>

Of concern to some stakeholders during the 2020 parliamentary elections was that persons in quarantine centres and self-quarantine, due to the covid-19 pandemic, were not given an opportunity to vote. Several weeks before election day, the national election commission made a special decision to allow persons in quarantine

<sup>11</sup> According to official statistics, Sri Lanka has some 22,000 pre-trial detainees. In a court case recently launched, calling for effective enfranchisement of pre-trial detainees through mobile voting, the election management body took the position that the current election legislation does not permit voting to take place in remand centres.

<sup>12</sup> Section 24 of the 1981 Parliamentary Elections Act allows the election management body to change the location of a polling station due to any emergency, but it does not allow for individual voters to request a change in voting location.

<sup>13</sup> This includes, for instance, internally displaced persons, internal migrant workers, such as domestic workers and those who work in the agricultural and informal trade sectors, university students who are living away from their permanent residences, election campaign workers and election observers deployed across the country, and those travelling for business or pleasure over election day. In addition, recently married women who have moved to their husband's locality (in another electoral district), a common practice, are effectively disenfranchised.

<sup>14</sup> Official statistics report 1.4 million Sri Lankan migrant workers abroad, while unofficial reports say 2 million. This would include foreign service staff and military working abroad who are also effectively disenfranchised.

centres and self-isolation to cast their ballots in advance of election day, by way of a mobile voting mechanism. However, this decision was subsequently reversed following complaints from multiple political factions on grounds that the legislation requires voters to cast votes in-person at ordinary polling stations on election day.<sup>15</sup> These circumstances during the current pandemic further highlight the need for electoral reform in Sri Lanka to ensure the enfranchisement of all eligible voters, which can make a significant difference particularly during a time of civil strife or insecurity, such as a public health emergency.

Whether through introducing or broadening advance voting opportunities or the use of other alternative voting methods, the above-noted categories of voters should somehow be effectively enfranchised. While different advance voting models (fixed or mobile in-person advance voting, postal voting, and/or a hybrid method) can effectively facilitate voting for these diverse types of voters, other alternative methods (and accessibility measures) can be utilized on election day itself.<sup>16</sup> This includes, for instance, fixed or mobile voting at institutions that house voters (remand centres, prisons, hospitals, long-term care facilities, quarantine centres), mobile voting for home-bound voters, and the use of absentee voting certificates for voters outside their electoral district. Out-of-country voting can take place in advance at foreign missions and/or by post.<sup>17</sup>

<sup>15</sup> During the 2020 parliamentary elections, voters in home-based quarantine were required to obtain prior approval from the Ministry of Health to cast their ballots in-person at their respective polling stations.

<sup>16</sup> This paper focuses on the use of advance voting models as a tool to enfranchise or strengthen enfranchisement of voters, rather than other alternative mechanisms. Certain voting methods can be conducted both in advance and on election day, such as mobile voting.

<sup>17</sup> In discussions with the author of this paper, some stakeholders voiced concerns that in-person out-of-country voting at embassies or consulates would not be a feasible and/or a trusted option for certain voters, and favoured a by-mail or online voting option for voters abroad.



## 4. ADVANCE VOTING: METHODS, PROCEDURES, AND SAFEGUARDS<sup>18</sup>

Providing mechanisms for advance voting will allow voters who cannot attend a polling station on the general election day to vote on a special day, or series of days, prior to election day. A balance between voter accessibility and cost-effectiveness is needed as providing these additional mechanisms can add significantly to materials, premises, staffing costs, and security needs. However, elections conducted using one traditional method of early voting, by-mail, has shown to be extremely cost-effective, as compared to the in-person model of advance voting.

While the principle of voter accommodation is an important one, once voting takes place outside the confines of a regular polling station it is evidently more difficult to control. Therefore, when employing advance voting mechanisms, whether in-person or by-mail, all possible and reasonable steps should be taken to continue to safeguard the secrecy of the vote and other procedures that would otherwise be in effect at a regular voting place, prevent abuse and fraud, and secure sensitive voting materials. It should be recognized that all safeguards and guarantees available for in-person voting are not fully possible with conventional postal voting, including a high level of proof of identity and eligibility, personal and secret voting free from undue pressure and intimidation, complete security for all voting material as it moves through the process, and partisan and independent observation of the voting process.<sup>19</sup>

In-person early voting can take place at an election office, a standard polling station, or other designated premises.

<sup>18</sup> The author acknowledges the ACE Electoral Knowledge Network ([aceproject.org](http://aceproject.org)), an online repository of electoral knowledge, which provides comprehensive information and specialised advice on every aspect of electoral processes.

<sup>19</sup> In discussions with the author of this paper, some interlocutors voiced concerns that in certain communities in Sri Lanka, female voters, including domestic workers, may be particularly susceptible to undue influence and intimidation as conventional postal voters. Certain inter-ethnic and intra-ethnic conflict in parts of the country was also cited as a factor which could potentially trigger insecurity for voters in a conventional postal voting system.

Mobile advance voting, whether at an institutional housing complex or at a voter's house would fall under the category of in-person early voting. In certain societies, vote by-mail elections can be seen as an advancement from traditional in-person voting methods, whereby the voter requests the ballot to be sent through the national postal service by the election management body to the voter's personal address (or the materials are automatically sent), which are then returned by the voter to an election office, either by post or in-person. Successful mail voting systems depend on a reliable, secure, and efficient mail delivery service.<sup>20</sup> In the last decade, some countries have turned to holding elections entirely by mail and analysis of these has revealed cost advantages and generally a positive effect on voter turnout. However, additional safeguards are needed in postal voting systems to minimize the risks.

Hybrid advance voting models exist, such as in Sri Lanka where the limited advance voting system involves ballots sent by the election management body, in bulk by post, to the relevant institutions, with the latter returning the marked ballots via the same method. Voters do not personally receive and send back the ballots by post, nor do they vote in their homes as is done in full-fledged postal voting systems. In addition, a combination of both in-person and by-mail early voting facilities are in place in some jurisdictions such as in-person advance voting at polling centres with the option of conventional by-mail voting for select categories of voters such as home-bound or out-of-country voters. Even those countries with universal postal voting often have some opportunity for in-person advance voting, including the option to personally cast a postal ballot at a polling location.

<sup>20</sup> Based on the author's discussions with stakeholders, opinions vary on the reliability of Sri Lanka's postal system for the purposes of conventional postal voting, that is mailing ballots to voters' home addresses and the individual return of ballots by mail. Some interlocutors expressed high confidence in the reliability of the national postal service based, in part, on the fact that under the current system all voters are individually sent election notifications through the postal service. Other interlocutors noted concerns such as some voters not having mailing addresses connected with their place of residence, changes in street names and division of properties, and the lack of efficiency of the postal service. As noted earlier, the national postal service is effectively utilized in Sri Lanka's hybrid postal voting system, whereby ballots are delivered and returned in bulk through the national postal service, albeit using an insured service.

While promoting maximum accessibility, services may be duplicated in these settings.

Critical issues for early voting could be better defined in the legislation. These include (1) the period of early voting; (2) any qualifications required of early voters; (3) methods of defining locations at which early voting may take place; (4) voting secrecy and count frameworks, especially for postal voting; (5) information required from early voters voting outside their electoral district of registration. Other issues such as opening hours of early voting offices and the numbers of early polling places used should be left to the electoral management body to determine.

### ELIGIBILITY TO ADVANCE VOTE

Some countries make early voting processes available to any voter who wishes to use them, referred to as “no-excuse” or “universal” advance voting. Some universal advance voting systems require voters to submit a request to early vote, particularly in postal voting systems, while many allow voters to vote in advance by default, especially for in-person early voting. Advantages of a request system for in-person advance voting include informed planning on the number and location of early voting places and precise distribution of ballots to those locations.

Universal or broadly available advance voting may not be suitable for all countries in light of the added risks, such as fraud, or logistical challenges, especially with conventional by-mail voting, or due to additional costs. Limited eligibility may therefore be appropriate, in which case the legislation should provide clearly defined and objective eligibility criteria and establish the level of proof of eligibility for early voting, if any. A requirement for documentary proof, as opposed to a signed declaration, may however serve to unduly limit advance voting opportunities.

In its most restrictive form, voters who qualify for an early vote would be limited to those whose official duties preclude them from voting on election day, such as in Sri Lanka. In less restrictive systems, a broader range of qualifications dealing with voters who may not be able to attend their voting stations during normal voting hours

would be available, such as for those who will be outside their electoral area on election day, patients in a hospital or other care facilities, persons who are home-bound due to disability, illness or infirmity, and detainees and prisoners.

It should be noted that eligibility for conventional by-mail voting may not be suitable for institutionalized voters as perceptions of fraud or irregularities can arise where large numbers of mail ballots are requested and/or received from institutions for the aged and infirm or detention facilities, or from security forces on active duty. For this reason, mobile voting stations (whether established in advance or on election day), though more costly, are generally considered to be a more effective means of enabling access to voting for such institutionalized voters.

### PERIOD FOR ADVANCE VOTING

Periods for early voting can vary widely. In restrictive systems, where relatively small numbers of voters will be eligible to advance vote, a single early voting day may be designated. In universal or broad-based advance voting systems, typically voting periods are in the range of five to fifteen days. Even a limited few days of early voting period could secure most of the advantages of the practice while limiting the most severe democratic costs that could come with a long advance voting period. Consideration should also be given to the most suitable days of the week to conduct in-person advance voting, whether weekdays, weekend days, or a combination of both.

The period for advance voting should ensure that there is sufficient time for printing and distribution of all materials prior to the commencement of the voting period. If ballots with candidate or party details are used, it is critical that there is enough time between close of nominations and commencement of early voting for ballots to be printed and distributed. Early voting, particularly postal voting, would generally not be suitable for systems where later changes can be made to parties or candidates standing for election. Timelines for postal voting should be sufficient for material to be dispatched to and returned from voters in all areas.

For by-mail voting, the deadline for ballots to be included

in the count could be on or before the closing time for regular polling stations on election day or extended beyond voting day. Setting the deadline for receipt on or before election day will not cause any delay to finalization of the results but may limit accessibility, especially in countries with remote areas with infrequent postal services. Up to two weeks after election day could be allowed for receipt of by-mail ballots, though this could involve additional control costs and delays in finalizing the election results.

### CONTROLS ON ACCOUNTABLE VOTING MATERIALS

Where advance voting mechanisms are available over several days, control of sensitive ballot materials becomes critical. The number of ballot papers delivered, used, and returned should be formally and transparently recorded, for both in-person and by-mail advance voting systems. The security of sensitive materials, such as cast ballots, unused ballots, and voter lists, must be maintained until the start of counting. Periodic reconciliations of accountable voting materials must be maintained, at least until the end of each day's advance voting operations, similar in form to the reconciliation of materials conducted at regular polling stations. For postal voting, more frequent checks of accountable voting materials are advisable.

### PROCEDURES FOR IN-PERSON ADVANCE VOTING AND COUNTING

Some systems for in-person advance voting require that voters must vote within their electoral district of registration. In such systems, voting procedures would be like those used in ordinary polling stations on election day. Where voters can advance vote outside their electoral district, this in effect becomes an early absentee vote and procedural safeguards should be like those necessary for absentee voting on election day, such as special voter lists and enveloping systems. In-person advance voters should be checked off the voter list to ensure they cannot again vote at a regular polling station on election day. Accredited observers should be permitted to monitor advance polling stations and mobile voting.

The law must clearly state where, when, and how early voting ballots are to be counted and particularly

whether they should be counted separately from, or together with, ballots cast in regular polling stations. Advance votes should be counted only after the close of regular polling, in the presence of accredited observers, and ideally at a central location rather than dispatched to the regular polling stations.

### LOCATIONS AND HOURS FOR IN-PERSON ADVANCE VOTING

In-person advance voting systems should make provision for at least one early voting location in each electoral district. Systems that require advance voters to vote at their regular polling station are an expensive form of multiple day voting. The process can be effective with a limited number of sites in an electoral district (perhaps only one), depending on expected numbers of early voters.

Distances that voters may have to travel to use advance voting facilities and the availability of suitable premises should be considered in determining the number and location of advance voting places. Conducting advance voting within already established electoral district offices can be cost-effective but may not be feasible. Where considerable numbers of advance voters are expected, it would generally be preferable that separate, or at least additional, voting premises be used. It is best practice for advance voting facilities to remain open beyond normal business hours.

### KEY FEATURES OF BY-MAIL VOTING SYSTEMS

While postal voting systems differ extensively in terms of their procedural details, there are necessary basic characteristics for any conventional mail voting system. These include:

Design of postal voting materials. The election management body should be responsible for the design and format of postal voting materials, including ballots and envelopes, any declarations, and special voting instructions.

A signed request from the voter for a mail vote. The cut-off date for receipt of such requests should be aligned with the time sufficient for: (a) the election administration to check and verify the voter's signature and other



personal identifiers that might be required by the legislation and (b) the voter to receive and return voting material before the deadline. A request for postal voting may need to be provided for each election or as a request for permanent registration as a mail voter, the latter possibly based on stricter criteria.

Dispatch of voting materials to the voter immediately on receipt of the request, or by a specified date in case of default by-mail voting systems. Systems for reconciling by-mail voting materials requested, issued, unused, and returned.

Safeguard to verify the identity of the voter. This is typically a requirement for voters to include with their marked ballot a signed (and sometimes witnessed) statement attesting to their identity and eligibility to vote, especially where the identity cannot be verified at the time the vote is cast.

Safeguards to minimize the risk that the vote is not cast in secret conditions and/or that the voter is subject to undue pressure or intimidation. This would apply especially when the postal voter is voting outside of an institutional setting (i.e. at home), where the voter may be particularly vulnerable to pressures. Voters could be required to sign a declaration that the vote was marked in secret and only by the voter and was cast free of undue pressure and intimidation.

Use of voting materials that protect the secrecy and integrity of the cast ballots, even when returned voting material is identified to a specific voter. These may entail double enveloping systems for returned materials so that the inner envelope in which the ballot is deposited is a blank envelope thereby preventing identification of voters or the use of ballot envelopes with detachable flaps containing voter data. The outer envelope should include a tamper-evident security feature.

A method of return. Some include postage paid return envelopes, while sometimes the voter is responsible for the return postage. Some countries have successfully used secure drop-in deposit boxes where voters can return postal votes by hand without postage or allow mail-in ballots to be delivered in-person at designated polling locations or public institutions.

Methods for determining eligibility to be included in the count of returned voting material. These would include measures such as comparing signatures on applications for mail votes and returned declarations on eligibility, with voter registration records, and checking the stamped mail-out date or date of receipt of the vote against cut-off dates. Failure to enclose requested materials, such as proof of identity or a declaration of secrecy, may also invalidate a ballot.

Ensuring that voters do not vote both by-mail and on election day. The two approaches are: (1) when postal vote return deadlines are before election day, the names of voters who have voted by mail can be marked on voter lists before these are provided to polling stations, so that a further regular ballot will not be issued and (2) when deadlines for return of postal votes are before or after election day, voter lists returned from polling stations are checked against voters who have returned mail votes. Where both by-mail and in-person advance voting is available, procedural safeguards should ensure that a voter does not vote in advance both by mail and in-person.

Vote count systems that ensure that postal votes are not counted until after close of regular polling. Returned postal voting material could, however, be checked for eligibility, ballot envelopes opened, and ballots placed in ballot boxes prior to the close of voting in ordinary polling stations. Ideally, postal votes should be counted at a central location rather than sent to polling stations.

Guarantees for observation. Observers must be able to observe the verification and counting of returned postal ballots. In systems where postal ballots can be cast in-person in an institutional or mobile setting, observation of the voting process should also be allowed.

Establish offences to prevent abuse in postal voting. Dissuasive legal sanctions for violations of the secrecy of the vote or undue pressure and intimidation during postal voting should apply, as well as for fraud-related offences, such as interfering with the delivery or return of postal ballots.

## 5. COMPARATIVE ILLUSTRATIONS OF ADVANCE VOTING MODELS

Countries that provide advance voting opportunities use different models in terms of modality, eligibility and timing, with some employing more than one model. It should be recognized that those countries that currently offer universal advance voting may have different cost and logistical considerations and level of public trust in the electoral process than may exist in Sri Lanka. In addition, those countries likely also utilize other alternative voting methods, such as election day mobile voting and absentee voting, as well as enhanced accessibility at regular polling stations, that serve to strengthen enfranchisement. In light of the above, the following illustrations of advance voting systems are intended to highlight varying approaches to early voting without endorsing any particular one.

### UNIVERSAL IN-PERSON OR BY-MAIL ADVANCE VOTING

In **Canada**, advance voting is offered to all voters in all federal, provincial, and most municipal elections, without excuse at designated polling centres. Voters need not apply to vote at an advance polling location for federal elections. Advance voting takes place between 9:00 am – 9:00 pm on four days - the Friday, Saturday, Sunday and Monday before polling day. Advance ballots are counted in central locations. In-country postal voting is available in limited circumstances and voting by post is available in federal elections to all out-of-country voters. In **New Zealand**, universal advance voting is available daily starting two weeks before election day.

In **Sweden**, all voters can advance vote at a polling station anywhere in the country any day beginning 18 days before election day (other Scandinavian countries have shorter or longer universal early voting periods). Any individual who, because of illness, physical disability, age, remote location or detention cannot personally go to a polling place may, upon application, receive a mail ballot and choose an eligible ‘messenger’ (such as a family member or remand centre employee) to transfer the cast ballot in double envelope to a voting place. Home-

bound voters may request mobile voting and mobile voting opportunities may be established in hospitals, homes for the elderly, and detention facilities. Voters abroad can vote in advance at embassies or by mail.

In **Germany**, voters automatically receive a postal vote application form together with the notification of elections, at all levels. Those voters who want to vote by post send the completed application to the municipal government office at least three weeks before an election. The request can be made without excuse. Voters can return the postal ballot by mail or drop it off in-person to a municipal office. Voters residing abroad can request a postal ballot for general elections. To be included in the vote count, postal votes need to be received by 18.00 hrs on election day. In **Switzerland**, all voters, including those residing abroad, automatically (without request) receive a postal ballot by mail a few weeks before every election and referendum, which can be mailed back or cast in person.

In the **United States**, which has a decentralized election framework, in-person advance voting is offered in general elections in more than two-thirds of the states, with periods varying between 4 and 45 days prior to election day. The latest early voting day is the Friday before the Tuesday election day and most states with in-person advance voting allow some weekend voting. Voting by-mail is also available in almost all states, with more than half not requiring an excuse. No-excuse permanent by-mail voting is offered in six states and three states conduct all advance voting by mail, with postal ballots automatically sent to all voters.

### LIMITED IN-PERSON OR BY-MAIL ADVANCE VOTING

In **Australia**, where voting is compulsory, voters can submit an application to cast early votes in-person or by post, for a number of reasons, including being outside their electoral district, travelling, impending maternity, being unable to leave one’s workplace, having religious beliefs that prevent attending a polling place, residing more than 8 km from a polling place, being in a hospital or detention facility (if mobile polling facilities are not available), or having a reasonable fear for their safety. There are over 600 advance voting centres. In-person

early voting begins three weeks before election day, on weekdays for the first week, weekdays and Saturdays in the second week, and weekdays in the third week. Out-of-country voters can vote in-person or by post.

In **Japan**, in-person advance voting starting one day after the campaign and ending on the Friday before election day is possible for voters who will be unable to go to the polling station on election day for reasons such as work, illness, hospitalization, living in a care home, or ceremonial duty. Voters with serious physical disabilities can vote by post. In **Malta**, voters who would be outside the country on election day can vote one week before at the premises of the election commission.

## 6. RECOMMENDATIONS

### Recommendation 01

National policy-makers and election administrators should **prioritize the effective enfranchisement of all eligible voters** and as a preliminary step clearly identify those categories and types of eligible voters that do not have an opportunity to vote under the current electoral framework. Consideration can also be given to the secondary **aim to make voting more convenient and accessible for the general electorate**, by instituting a universal or widely available advance voting system.

### Recommendation 02

Taking into account prioritizations, the following **key policy decisions on introducing advance voting should be finalized**: (a) whether universal or limited advance voting will be offered to voters and if limited, for whom it will be available; (b) whether early voting will be offered in-person at designated advance polling locations or by-mail, or by way of a hybrid model, or through a combination of these methods; (c) the period of time that advance voting will be offered and relevant deadlines for in-person and/or by-mail methods; (d) whether newly introduced advance voting mechanisms will apply to all or only some types of elections - national, provincial and local elections - and referenda.

### Recommendation 03

Decision-makers should **consider the feasibility and appropriateness of various advance voting models and parameters taking into account a number of key factors**, as follows: availability of resources and cost-effectiveness, logistical challenges and reliability of the national postal system, potential risk to the integrity and credibility of the electoral process, and maintaining public trust in the electoral process. Such considerations may justify a policy approach to gradually and progressively introduce, and/or broaden the application of, advance voting opportunities in the electoral framework. In any case, political considerations should never factor into such electoral reform decisions.

### Recommendation 04

As one option for an advance voting model, **consideration can be given to broadening eligibility for, and modifying, the hybrid model currently in use in Sri Lanka**. In the absence of universal advance voting, eligibility criteria can be broadened to cover those voters effectively disenfranchised under the current framework. Qualified voters could receive ballots by-mail at their home address and, if able, cast the ballot in-person at polling centres or secure drop-off depots (or delegate someone to do so), within or outside the voter's electoral area. The option to return a ballot by-mail or through mobile voting facilities can be offered to home-bound, hospitalized, and institutionalized voters, while postal voting could be used by remote and out-of-country voters.

### Recommendation 05

Once the advance voting model(s) and its key parameters are decided on, **decisions on the various methods and procedures should be finalized**. In addition to the operational aspects of the regulations, the legal framework should **incorporate safeguards** that aim to protect the secrecy of the vote and the integrity of the electoral process and, in turn, the public's confidence in the election process and results. In this respect, established safeguards should mitigate the risk of voter intimidation and undue pressure,

electoral abuse and fraud, and insecurity of sensitive voting materials. In the end, the framework should ensure a clear, safe, reliable, and credible advance voting process in line with international standards and good practices.

#### Recommendation 06

In addition to broadening advance voting opportunities, **other alternative voting methods and accessibility measures to enfranchise voters could be considered** as part of such electoral reform and advancement. Accessibility measures for in-person voting, in advance and on election day, could be employed to accommodate the elderly and persons with disabilities. These include easily accessible transport to voting sites, unimpeded entry to polling stations with appropriate layout, special measures for the visually impaired to vote independently, and simplified procedures for assisted voting. Alternative voting methods to consider on election day include mobile voting at voters' homes and fixed or mobile voting for institutionalized voters.

#### Recommendation 07

As part of the legislative reform process, democratic principles prescribe **an inclusive consultation process to ensure relevant stakeholders have an opportunity to be heard** on matters of public interest. This increases the sense of ownership and political buy-in and contributes to building public understanding, acceptance and trust in the modified electoral process. A parliamentary working group could be established that includes, alongside actors from all political sides, representatives from the election management body, civil society, including from organizations that support women's rights, persons with disabilities, and youth political participation, and the legal community. Political consensus in adopting the reforms should be strived for to ensure broad political support for the changes.

#### Recommendation 08

In line with international good practice, such **electoral reform should be undertaken well in advance of the election** for which it will be in force, to minimize the risk of politicisation and to provide sufficient time for the election administration, civil society and political parties to understand and prepare for the changes. Following adoption of the legislative amendments, the **national election commission should adopt regulations and procedures** that elaborate on the new advance voting provisions. Overall, the legal framework governing the advance voting system should be coherent, consistent, unambiguous, and transparent, so that the parties that function within it understand what the laws are and what they mean in practice.

#### Recommendation 09

The election management body should **undertake public outreach, communication and education on the new rules and procedures on advance voting**, in easy-to-understand and accessible formats, including for persons with hearing or visual impairment. Supplementary messaging on the importance of voting can form part of the outreach strategy, particularly targeted to groups with lower voter participation. Voter education efforts can be complemented by the civil society sector. Where traditional postal voting is introduced, messaging should include the rights of citizens to personally cast their votes in secret, free from intimidation and undue pressure. The public should be informed of the legal safeguards and security measures in place to protect the integrity of the vote and cautioned about advance voting related offences.

## ABOUT DEMOCRACY REPORTING INTERNATIONAL

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