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Constituency Delimitation

The Electoral Boundaries Commission is responsible for constituency delimitation. As per the Constitution, the process must be and is done transparently with full opportunity given to all stakeholders including civil society to make representation.

The Constitution provides clearly that the Commission may “take into account representations made to it in respect of any proposed alteration of a boundary” and it has to give public notice of any proposed alteration to be made and fix the manner in which

and the time frame for any representation to be made.¹

It is stipulated by law that every ten years, consultations take place for any modification to the electoral boundaries. This last occurred in 1999.

Voter Registration

Voter registration is an annual exercise. The Commission organises a house-to-house registration update at the beginning of each year. During April each year, the Commission issues a public

notice through the written media, radio and television for voters to come to designated offices in each constituency to verify the voter’s register and to ensure that they have been duly registered. Corrections, if required, are then effected and the lists become official by 15 August.

When it is finally published, the Register of Electors comes into force on 16 August of each year and remains in force until the next Register is compiled and comes into force.

For the current elections, the official voter’s register of August 2004 will therefore be

¹ The Electoral Boundaries Commission Regulations 1976

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used. Those who reached their eighteenth birthday after that date and were registered between August 2004 and April 2005 will not be on the voter's list; 5,000 such voters are in that situation.

On this issue, the Sachs Report recommended the continuous registration of voters until the day of the writ for elections.

The total number of registered voters is 817, 305 for the 21 constituencies voting in the 299 polling stations. See Table One at the end for the lists of constituencies, number of polling stations and voters per constituency.

Political Party Registration

Under the 1968 National Assembly Elections Regulations (Regulation 7), the Electoral Commissioner published a notice on 10 May 2005 calling for the Application for Registration of Political Parties/Party Alliances. The notice invited each political party wishing to be registered under paragraph 2(1) of Schedule 1 to the Constitution to apply to the Electoral Commissioner on or before 20 May 2005. At the close of the period, 70 parties were registered. There were no rejections and they are listed as follows:

- Alliance MSM/ MMM
- Alliance Sociale
- Comité D'Action Musulman Mauricien
- Conservative Party
- Démocratie Mauricienne
- Démocratie Union Socialiste Mauricien (DUSM)
- Ekta Party
- Front Progressive du Peuple Rodriguais (FPPR)

- F.S.M- Front Solidarité Mauricienne
- Freelance Front Populaire Musulman (FPM)
- Groupe de Cinq
- Hindu Shive Sena
- Hizbullah National Party
- Independent Forward Bloc (IFB)
- L'Alliance Pour La Justice
- Lalit
- Les Vertes Fraternelles
- Majority Party (Partie de la Majorité)
- Mauritius Labour Party
- Parti Travaillist (PTr)
- Mauritius Party Rights
- MDN Raj Dayal (Mouvement Démocratique National Raj Dayal)
- Millenium Party
- Mouvement Authentique Mauricien (MAM)
- Mouvement Civique D'Action de No 14
- Mouvement Démocratique Mauricien (MDM)
- Mouvement Justice National
- Mouvement Libération Militant (MLM)
- Mouvement Mauricien Pour La Paix (MMP)
- Mouvement Militant Mauriciens (MMM)
- Mouvement Militant Socialiste Mauricienne (MMSM)
- Mouvement National Mauricien (MNM)
- Mouvement Patriotique
- Mouvement Popiler
- Mouvement Progressive Militant
- Mouvement Républicain
- Mouvement Rodriguais
- Mouvement Socialiste Démocrate
- Mouvement Socialiste Indépendent
- Mouvement Socialist Militant (MSM)
- Mouvement Solidarité National (MSN)
- Mouvement Solidarité Travailleur Mauricien Rodrigues Agalega (MSTMRA)
- Mouvement Traivailleurs Mauriciens
- Mouvement Travailliste Socialiste (MTS)
- Mouvement Populaire Lendroit
- Muslim League
- Muvmen Premye Me
- National Socialist Party
- Organisation du Peuple de Rodrigues
- Parti Action Libéral
- Parti Anti Esclavages
- Parti Congress National (PPM)
- Parti Libération Mauricien (PL.M)
- Parti Mauricien Sociale Démocrate (PMSD)
- Parti Mauricien Xavier Duval, PMXD
- Parti Socialiste
- Parti Socialiste Mauricien
- Parti Zenfants Malaise
- Party Malin
- Patriotic Reformist Organisation
- Rajput Socialist Party
- Ralliement des Rodriguais Responsables (RRR)
- Rassemblement des Travailleurs Sociaux
- Rassemblement Socialiste Mauricien (RSM)
- Rezistants ek Alternativ
- Tamil Council
- Top Dhamaka Vrai Rouge
- Union Mauricienne
- Union Patriots Illois Mauricien
- Voice of Hindu

All parties were allocated symbols at the time of their registration. These were featured on the official ballot paper against the names of their candidates.

Candidate Nomination

At Party Level

There is a semblance of democracy in the main parties but no real internal democracy, certainly not in terms of process

for selection and choice of candidates. There are no primaries, even at party level. The party leaders determine the choice, either alone or in conjunction with a small team of close collaborators, selected by the leaders themselves.

The selection of candidates by the two alliances follows a very complex process. This involves negotiation as to the distribution of number of candidates for each partner, the ethnic and sub ethnic allotment and positioning by constituency, gender factor and the specific choice of candidates for individual constituencies by the opponent, amongst others.

The MSM-MMM-PMSD alliance made its list of candidates public three weeks before the official nomination day while the Alliance Sociale presented its list ten days after the former.

In the case of all the other parties, the selection was made by the party leader.

At Formal Level

As per the writ for election issued by the President of the Republic on 9 May 2005 and after the dissolution of the National Assembly, 30 May 2005 was the day officially designated for the nomination of candidates for the elections.

On 9 May, the Electoral Commissioner issued a public notice in the media concerning the election of 62 members of the National Assembly under the National Assembly Elections Regulations 1968, (Regulation 6), informing as follows:

Returning Officers will on 30 May 2005 between the hours of 9 a.m and 3 p.m at the Nomination Centre for each constituency (list of such centres given in the notice) proceed to the nomination and if there is no opposition, to the election of three members for each of the twenty constituencies of Mauritius and of two members for the constituency of Rodrigues. Every nomination paper must be signed by any eight or more registered electors of the constituency in which the candidate seeks election. The nomination paper must specify the name, address and occupation of the candidate as well as a declaration by the candidate

- *That he is qualified*
- *The party, if he so wishes, duly registered, to which he belongs*
- *The community to which he belongs within the meaning of paragraph 3 (4) of Schedule 1 to the Constitution*
- *That he has not been and will not consent to be nominated as a candidate for election as a member of the National Assembly in any other constituency.*

Application for a Nomination Form for each candidate is posted on a notice board outside the room in the Nomination Centre where the applications are received. The nomination paper is therefore immediately available to any member of the public for both public scrutiny and challenge, should there be any. Six hundred and seventy six

candidates were nominated at the close of the Nomination Day. The law provides for a period of seven days to be given for candidates to withdraw their nomination, if they so wish.

On 6 June, the Electoral Commissioner's Office announced that 42 candidates had voluntarily withdrawn their nomination papers for forthcoming National Assembly elections.

The total number of candidates therefore contesting the general elections stood at 634 as at 6 June. This changed to 645 following the successful challenge of the Electoral Commission's decision, as referred to later.

The highest number of candidates was 44 in Constituency No 9, whilst the lowest number was 6 in Constituency No 21.

The parties/alliances that fielded the highest number of candidates were as follows:

- **Alliance MSM-MMM-PMSD** – 60 candidates, present in all constituencies.
- **Alliance Sociale** – 60 candidates, present in all constituencies
- **Front Solidarite Mauricienne** – 55 candidates in all except one constituency
- **Parti du Peuple Mauricien** – 51 candidates in all except two constituencies
- **Lalit** – 32 candidates in all constituencies. However this party has placed a minimum of one candidate per constituency and two in certain others.
- **Front Populaire Musulman** – 28 candidates in 10 constituencies

- **MDN Raj Dayal** – 26 candidates in 14 constituencies

Thirty other parties fielded between 1 and 11 candidates. Forty one parties who underwent the registration exercise, did not field any candidates. Two hundred and thirty one independent candidates were nominated over all constituencies. This constitutes 36% of the total number of candidates contesting the elections. Constituency No. 2 had the lowest number of independents with 2 candidates. Constituency No. 9 had the highest number of independents with 26 candidates. The 10 urban constituencies had a total of 69 independent candidates. The 10 rural constituencies had a total of 162 candidates.

In terms of women's representation, the MSM-MMM fielded 10 women out of a total of 60 candidates and the Alliance Sociale, only 6. Lalit had the highest level of representation 50% of its 26 candidates were women. A total of 59 women, or 6% of the total candidates, stood for elections.

Challenge to Nomination: A Landmark Judgement

On Nomination Day, all eleven candidates of a party called the Resistance and Alternative who presented themselves in four constituencies were denied nomination on the grounds that they had refused to indicate their ethnic group as prescribed by law. The candidates of that party had designated themselves as "Mauritian" where ethnic information was required. Paragraph 11 of Regulation 12 of the National

Assembly Regulations provides that "the decision of the Returning Officer that the nomination paper of a candidate presenting himself for election is invalid may be questioned by that candidate within five days of that decision by way of a motion to the Supreme Court for an order directing the Returning Officer to insert his name on the list of candidates."

Resistance and Alternative challenged the Electoral Commission in the Supreme Court.

The case was promptly heard and the decision of the Electoral Commission was reversed. In the judgement, the Honourable Judge of the Supreme Court concluded as follows:

It is within the spirit of the Constitution, as rightly pointed out by Sir Hamid Moollan Q.C., that laws be made to ensure the proper functioning of the best loser system, which despite many adverse criticisms, nonetheless forms part of our Constitution. Accordingly, as also pertinently pointed out by Sir Hamid, a provision imposing the sanction of nullity of nomination for non declaration of community is in line with that aspect of the spirit of the Constitution.

However, the fact that such a provision furthers the proper operation of a supplemental election system introduced into the Constitution will not shield it from unConstitutionality and consequent invalidity if it runs contrary to the spirit of the Constitution from another angle by being repugnant to other Constitutional provisions

designed to protect fundamental rights.

I accordingly hold that the provision in paragraph (5) of Regulation 12 of the National Assembly Elections Regulations 1968 is, to the extent that it purports to provide that the nomination of a candidate in view of a general election shall be deemed to be void and of no effect if he has not made a declaration in compliance with para (4c) of that regulation, is repugnant to section 1 of the Constitution, and has been invalidly enacted.

The Judge ordered the Returning Officers of the Electoral Commission to insert the names of the 11 candidates on the list of candidates for the elections.

This judgement has once again raised debate on the appropriateness of the Best Loser system with some reinforcing the call to get rid of it through changing the electoral system in line with the Sachs Report proposals, and the suggestions of others who vehemently oppose the elimination of the system on the grounds of safeguarding minority ethnic group representation.

Campaign Process

A description of Mauritius in full election campaign mode is interesting. The whole country was covered with posters promoting the party, the leader or the candidates, "killer" posters denigrating their opponents and the colour of the different contestants. Trying to destroy the displays of their opponents has often been a major factor in causing clashes between activists of different

camp. At the time of writing, this had not been the case. Activists and their displays were in peaceful coexistence.

The campaigns were essentially articulated around major public rallies in all constituencies, localised night meetings and door to door canvassing.

The outgoing government also made use of official functions such as the laying of foundation stones and inaugurations of all types of projects to gather crowds and make political speeches. This was decried by the challenger who has lodged a formal protest with the Electoral Commission.

As from 20 June, the public T.V. station began formal political broadcast programmes.

Civic/Voter Education

Minimal civic or voter education programmes were undertaken by the Electoral Commission, taking the form of short talks on public television to inform voters on how to vote. The public broadcaster further ran a daily ten minute long programme on television providing information on the geography of each constituency, the number of voters and names and locations of polling stations. The use of public television is appropriate as Mauritius has a hundred per cent TV ownership.

Political parties also informed voters on how to vote and generally distributed mock voter bulletins where they explained the same information, although obviously using these bulletins to promote themselves.

There is no real call for voter education to be improved as the

need is really not felt. The regular practice of running elections and the level of literacy is such that practice has clearly demonstrated that voters are knowledgeable about how to vote. An average of 80% voters turn out at each general election to vote and in the last election the percentage of spoilt or invalid voter bulletins was only 0.88. Some civil society organisations and individuals do, however, feel there is a need to educate voters on how to make choices, but this is a different debate and it is incumbent on the CSOs to take appropriate action.

Role of Security Forces

The Police Commissioner made it public that he had issued an official circular to all officers recalling their obligation of neutrality and their duty to ensure law and order. There were at the time of writing no complaints by any party of biased behaviour from the police force.

Printing of Ballot Papers

Ballot papers are printed by the Government Printing Office and verified by each Returning Officer (assisted by his staff) before being sealed. They are kept under police custody until the morning of Poll Day when they are conveyed to their respective polling stations. The process is accepted by all as being secure and tamper proof.

Persons Voting by Proxy

The categories of persons entitled to vote by proxy are specified in the relevant regulations for each type of election. They include, *inter alia*, members of the police force and election officers

engaged in the performance of election duties.

Voting by proxy is provided for under The National Assembly Elections Regulations, 1968, Regulations 38 (d) and 38 (e) and includes: "Any public officer who is registered as an elector in Rodrigues and who is now serving in Mauritius; or who is registered as an elector in any constituency in Mauritius and is now serving in Rodrigues."

APPOINTMENT OF POLLING DISTRICTS & POLLING STATIONS			
Constituency		No	Voters
Name	No	Polling Stations	
Grand River North West and Port Louis West	1	12	37,518
Port Louis South and Port Louis Central	2	8	23,878
Port Louis Maritime and Port Louis East	3	12	22,145
Port Louis North and Montagne Longue	4	12	42,432
Pamplemousses and Triolet	5	17	51,606
Grand Bay and Poudre D'Or	6	14	44,907
Piton and Rivière du Rempart	7	17	38,042
Quartier Militaire and Moka	8	20	38,257
Flacq and Bon Accueil	9	19	47,185
Montagne Blanche and Grand River South East	10	18	44,077
Vieux Grand Port and Rose Belle	11	19	36,456
Mahebourg and Plaine Magnien	12	13	33,998
Rivière des Anguilles and Souillac	13	13	31,118
Savanne and Black River	14	21	53,002
La Caverne and Phoenix	15	16	49,537
Vacoas and Floréal	16	13	40,957
Curepipe and Midlands	17	11	42,223
Belle Rose and Quatre Bornes	18	10	40,073
Stanley and Rose Hill	19	10	36,633
Beau Bassin and Petite Rivière	20	12	39,405
Rodrigues	21	12	23,856
TOTAL	21	299	817,305

Source: Notice of the Electoral Commissioner in *L'Express* newspaper, 1 June 2005.

Polling Stations

299 polling stations were used for the general elections with a total of 1,884 voting rooms and approximately 7,536 voting booths. This was calculated to provide adequate voting facilities for all those eligible to vote between the official voting times: between 6h00 a.m and 18h00, except in Rodrigues where it was from 5h00 a.m to 17h00 to avoid any unduly long queues. The polling stations were well secured. Within the clearly marked 200-metre parameter around the polling station, voter canvassing was strictly prohibited and no person or vehicle was allowed to show any distinctive political marking.

The law enforcement officers ensured the compliance of one and all, despite their status. This included ministers still in office who remained under obligation to observe these rules. In the polling stations, accredited yard and classroom agents of all parties and candidates were present and allowed to carry out their designated functions.

Secrecy of the Ballot

Secrecy of ballot is fully ensured in the elections. The voter receives a voting paper which is stamped before everyone present with the Electoral Commission's official stamp. The voting booth provides adequate seclusion for confidentiality of voting. The voter has to fold the paper after voting so as not to reveal the vote, but only the stamp mark, before dropping it into the transparent ballot box. There is no distinctive marking of any

type that could allow identification of the voter.

Secrecy is, however compromised, when it comes to severely handicapped persons, namely the blind. In such cases, the voter is assisted by a polling room by an officer from the Electoral Commission who, after verbal instructions received from the voter, enters the vote on the ballot paper.

While serious consideration should be given to having ballot papers in Braille, it must be said that the officers concerned are held in high trust by voters.

Security of Ballots After Voting and Before Counting

Counting is done on the day following polling day. This involves the security of expressed ballots between the close of voting at 18h00 and the start of counting formalities at 06h00 the next day.

Ballot boxes are fully sealed and secured under supervision of all candidates and agents. All boxes per constituency are centrally stocked in the polling station of that constituency where counting will be done. The boxes are stocked in a room made inviolable by all possible security means. A number of party or candidate agents are allowed to remain within the precincts of the station to keep an all-night watch on the safe room while the paramilitary provide official security. This system has proved to be tamper proof in all previous elections.

The question of counting immediately after close of voting has been raised. There

have been mixed views about doing so, mainly because all the main stakeholders concerned will, by then, be tired with the potential of making mistakes or engaging in acrimonious exchange being greater. Furthermore, many believe that night time may be too propitious for organised or spontaneous violence from activists who would gather outside the counting station.

The use of electronic voting machines would resolve the issue by providing almost instantaneous results after close of voting. However, the use of this voting mechanism is still being debated.

Counting

The official exercise started in the presence of candidates, official agents and the counting agents of all parties. After opening the ballot boxes, all ballots are mixed and put in rolls of one hundred. The mixing is done to ensure that no one can clearly attribute a voting pattern to one polling station and the corresponding geographical area. A number of counting rooms operate simultaneously so as to achieve rounds of one thousand. Counting is done manually and is completed between six hours for the constituencies with less voters to about eight hours for those with highest number of voters.

Announcement of Results

At least four interim results are given by the Returning Officer of each constituency. Results are immediately relayed to the population by radio and the public television. The final results are certified in writing

on an official return sheet by the Returning Officer. This is done in the presence of candidates and is then announced publicly to the candidates, agents and activists present at the counting station. Results are later published in the official gazette.

Nomination of Best Losers

The Electoral Supervisory Commission and the Electoral Commission met on 5 July 2005 to determine the best losers. These are nominated to the National Assembly as provided by paragraph 5 of the first schedule of the Constitution of Mauritius², and proclaimed on the same day.

The best losers are as follows: Six were from the ethnic group, General Population. Of three were chosen from the Alliance Sociale, two from the Mouvement Rodriguais and one from the Alliance MSM/MMM.

Two were from the Muslim community, of whom one comes from the Alliance Sociale and another from the Alliance MSM/MMM.

Post Election Review

The results of the elections once again confirmed the inequity of the FPTP system. The Alliance Sociale won 43 seats (61.4%) with 49.4% of votes, while the Alliance MSM/MMM won only 24 seats (34.3%) with 43.3% of votes.

It is ironical that the MSM were less favourable to the idea of reforming the electoral system as proposed by the Select

Committee established to finalise the recommendations based on the Sachs Report. This entailed having 60 members elected on FPTP, 8 best losers and 30 additional members on the proportional representation basis. Furthermore, had the previous MSM/MMM government reformed the system, the Leader of the MSM who lost his seat in his constituency would, through the party list, have been back in Parliament.

The other notable feature of the election is the 6.36% achieved by an independent candidate in his constituency. The candidate, Mr George Ah Yan is a social worker and his score cannot be attributed to ethnic support as his group merely represents one per cent of his constituency, but rather to his long and sustained commitment to social work and civil society advocacy activities.

Immediately after the new Cabinet was appointed, it became evident that 300 health care assistants had been recruited during the electoral campaign. Of these, some 121 were from the constituency of the former Minister of Health who was re-elected to Parliament, while another 60 were from the constituency of his party leader, the former Deputy Prime Minister and Minister of Finance. Allegations of electoral bribery have been discussed, but no formal case has been made by the new government or candidates who opposed the two concerned. The new government cancelled the appointment of the health care assistants who have now challenged that decision by taking the matter to court.

New Parliament

The new Parliament resulting from the 3 July 2005 general elections, and following the nomination of best losers is comprised as follows:

Alliance Sociale – 42 seats made up of 36 Labour Party members of the National Assembly, 2 PMXD, 2 MMSM, and 2 MSD.

MMM/MSM in opposition – 24 seats made up of 11 MSM members, 12 MMM and 1 PMSD

OPR – 2 seats

M.R (Mouvement Rodriguais) – 2 seats

Twelve women were elected constituting 17.1% of the new Assembly, the highest level of female representation in the Mauritian Parliament since independence. This is particularly noteworthy as women candidates, fielded by the two main alliances, represented only 13.3% of the candidates for the two main blocks. The new Parliament chose a non-elected person, Honourable Kailash Purryag as the new Speaker. He is a member of the Labour Party. The Deputy Speaker is Honourable Jean Francois Chaumiere from the Labour Party. Another non-elected person, namely the leader of the M.R (Mouvement Republicain), Rama Valayden has been appointed to the post of Attorney General.

The new ruling alliance appointed 19 Ministers and has indicated it would also appoint five Private Parliamentary Secretaries. With these appointments, the executive

² See *EISA Update: Mauritius* No 1

would then comprise 24 of the seventy Members of Parliament. For the first time in a long while, the executive does not numerically dominate Parliament.

Malaise between President and Prime Minister

A malaise has, as expected, emerged between the Prime Minister and the President. The latter held the post of Prime Minister from 2000 to September 2003, when he resigned and was elected by Parliament as President. He was also the Leader of the MSM, a post from which he resigned in September 2003. He then past the leadership on to his son,

Pravind Jugnauth who became Deputy Prime Minister and Minister of Finance from September 2003 up to the general election of July when he stood as a candidate. Thus the President cannot be perceived to be totally above party politics. Furthermore, at the beginning of the campaign, the President made a partisan political speech at a function where he attacked the then Leader of the Opposition, now Prime Minister, and to crown it all, the President's wife became involved in campaigning for her son's party during the electoral campaign.

Many consider that although his mandate extends to

September 2008, as the President has been politically tainted, it would have been politically correct for him to offer his resignation. He has not done so to date, but the Prime Minister is clearly determined to oust him and has now engaged in shadow boxing and a war of attrition on the President.



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