

Inherent dangers of the present system law constitutional administrative essay

Law



**ASSIGN
BUSTER**

All political parties have been targets of the present system. An element of inequity can be noticed by everybody in this system and in that it overthrows from the system a political party which rallies a significant percentage of the electorate. The massive disproportionality between votes polled and seats expected is such that every Mauritian, at one step of his electoral existence, can say that, at least once, frustration was felt with the outcomes of general elections. Today, we are lucky that, the need for reform is felt also at Government level. Mauritian cannot discuss, whether or not, that a political party ought to be excluded from political life when a significant portion of the electorate had voted for them. The circumstances is worse when , at a point of our history, we consider that leaders of the degree of Ramgoolam, Jugnauth, Duval, Mohamed, Bissoondoyal and Berenger could have been expelled from Parliamentary affairs when their parties had polled an important portion of the votes even when they, themselves had polled a substantial number of votes in their respective electorates. How can we continue to live democratically in a system that distorts the requests of the electorate? A system which ousts 20% of the electorate from our democratic fundamentals is not a system that does justice to political actualities. Desperate necessity is felt to reform a system that rejects a SSR or a SAJ in spite of their 40 % vote abilities or a Berenger who in 1987 polled almost 50% of the votes. And even a system which, in the same breath, concedes to its Parliament a party which scores 6% of the votes or even 2%!!! Our FPTP system is that it raises a problem within itself an inherent obstinacy which, if left abandoned, may one day lead us into severe civil disorder. A judicious approach of safeguarding democratic representation through an adequate

electoral reform is required to be found immediately by the political class now in order to get rid of this integral obstinacy. Any simulation will lead to that, in the appropriate framework, to control the majority with less than 45% of the votes are hypothetically possible for a party. In an extreme hypothesis (which has not yet been verified exception models), it is remotely possible for a party to win more than 75% of the seats with a minority of the votes. There is a patent likelihood of a party obtaining the majority with a minority of votes. This would be the standard illustration of the returns annoying the results of the polls. That is not a reason to introduce a system which would intimidate solidity. No correct representation of the population is felt contained by the concrete system as there is no link between the ratio of votes and the ratio of seats in our national assembly. Professor Hansraj Mathur gave a clear cut example in his book Parliament in Mauritius (1991) whereby on the basis on 2 assumptions he stated and clearly demonstrated how there is no correspondence between percentages of votes and seats. The illustrations of the Professor are displayed and described in assumption 1 and assumption 2 as follows: Assumption 1 Assuming that Mauritius has only 3 constituencies, with 3 parties entering the elections and 300000 voters in each constituency and the results represented below are for the 3 constituencies: Theoretical Resultsmauritius electionsIt is openly demonstrated that Party A with 36 % votes signifying 324000 electors in the three constituencies acquire all the seats in the parliament with the first 3 candidates obtaining majority votes would ultimately acquire a seat obviously in the legislation under the FPTP system. Party B with 33. 85% votes representing 304500 voters and Party C

with 30.17% of votes equal to 271500 will not be allocated a seat in the parliament. Party B and Party C number of voters all together amounts a total of 576000 and outnumber party A by 252000 voters, these two Parties B and C will not be represented even though they themselves represent a major total; this is the key flaw in the system. The Parties B and C did not prevailed on top in any constituency. However, under a PR system Party A with 36% of seats would have obtained only 36% of seats, party B would have obtained 33.85% seats and party C obtained 30.17% seats a more reasonable and adequate system. Assumption 2 Assumption 2 shows there is a evidence explaining that there is no surety that any party under the FPTP victorious will have 50% + 1 votes despite the fact only two parties are going for election. In this clarification the hypothesis is based on Mauritius bearing only 3 constituencies with 300 000 voters and votes in each constituency and only 2 parties are standing for election. The results of the elections are illustrated below: elections mauritius Party A obtained 59.4% of vote representing 536250 voters and party B with 40.42% of vote which equal to 363750. Party A won only in constituency 1 and in such a situation party B who won in two constituencies will obtain majority in parliament. It is clearly seen that party A outnumber party B by 172500 still party A will not be represented in the legislature, acknowledged as wastage of votes. Mauritius has experienced a number of general elections whereby there has been no correlation between % of votes and % of seats. elections in mauritius

Retaining the present system

Section I – The Election of Sixty-Two members Our present system returns 62 members to the Assembly on the "first past the post" system. Our terms of

reference enjoin us to retain the present system, which has worked reasonably well over the years whilst calling upon us to devise modalities for redressing the dangers of party under-representation. The First Schedule to our Constitution provides for the return of three members per constituency not including for Rodrigues which returns two members. These members are returned " in such manner as may be prescribed". The Representation of the People Act prescribes the manner in which such election is held. In a nutshell, once Parliament is dissolved, the President must, not later than 55 days, issue a writ of election and appoint the day on which the Poll is to be taken. Within 14 days before submission day, a political party may roll with the Electoral Supervisory Commission. This is for the determination of the election but also for the purpose of filling any vacancy in a best loser seat. Days after " nomination day", candidates are allowed to withdraw from the race and, if there are more than three candidates in a constituency, a poll will be taken. Candidates are either " independent" or have a party affiliation. If they belong to a party, they will have produced to the returning officer a certificate, or " ticket", certifying that they belong to that party and that they are allowed to use the party symbol. Ballot papers are then printed. Names of candidates appear on the ballot paper in alphabetical order and they are each allotted a number. Their logo is printed together with their names, occupation and addresses. On polling day, electors are allowed into designated polling stations where they vote for three candidates of their choice. These three candidates need not be of the same party. The ballot papers are counted on the next day and the three candidates who have polled the highest number of votes are declared to be returned. This is

the "first past the post system". Section II – The Best Loser

SystemAppropriate communities are adequately represented in accordance with their population quota as computed on the basis of the 1972 census(a) on nomination day, every candidate shall declare to which party he belongs and shall also declare to which community he belongs¹⁴.(b) in addition to the 62 members elected as above, 8 seats shall be allocated "in order to ensure a fair and adequate representation of each community" ¹⁵.(c) immediately after the poll, a calculation must be made, on the basis of the 1972 census, to determine which community has scored the highest number of seats.(d) on the basis of that calculation, a community is designated as being under represented and if that community has an unreturned candidate available, that candidate is allocated a seat in Parliament.(e) this goes on until four seats have been allocated.(f) then, four other seats are allocated to candidates of the most successful party who belong to a community that is still under represented. In 1991¹⁶, paragraph 5(4) of the First Schedule was amended so as to provide that in the absence a candidate of the appropriate community, the seat would be allocated to the most successful unreturned candidates belonging to the most successful party, irrespective of community. This 1991 amendment created no upheaval even when it was applied in the 2000 general elections.