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INTER-PARLIAMENTARY UNION

## **Association of Secretaries General of Parliaments**

### **COMMUNICATION**

by

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on

**“Election of the President by Parliament”**

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## **The History and the Background**

The Sri Lankan Constitution provides for the election of an Executive President for a period of five years. The Executive power of the People, including defence of Sri Lanka, has to be exercised by the President of the Republic, elected by the People. Once elected, the President cannot be removed unless by way of an impeachment motion, which has to be signed by two thirds of the whole number of Members of Parliament or in the alternative by one half of the whole number of Parliament and the Speaker has to be convinced that the allegations contained in the motion warrant further inquiry by the Supreme Court. Once accepted the motion has to be carried with two-thirds majority of the Parliament and forwarded to the Supreme for inquiry. Accordingly, the Office of the President is well protected by the Constitution.

The Constitution vests substantial powers on the President, including dissolution of Parliament after two and half years of it being elected. The President appoints the Prime Minister and the Cabinet of Ministers.

President Gotabaya Rajapakse was elected as the 8<sup>th</sup> Executive President of Sri Lanka on the 18<sup>th</sup> November 2019, with an overwhelming majority, succeeding Maithripala Sirisena who was the 7<sup>th</sup> Executive President of Sri Lanka. Within a short time after elections, Sri Lanka together with many other countries of the world had to face severe repercussions with the onset of the covid -19 pandemic. In combination with a certain degree of economic mismanagement and balance of payments issues, a major economic and debt crisis emerged which led to high inflation, shortage of fuel and cooking gas, major surge in cost of living and power outages.

In this background, a mass movement supported by some opposition parties, calling themselves 'Aragalaya' or 'Struggle' took to streets calling for the resignation of Hon.Gotabaya Rajapaksa, the incumbent President and his Government.

In July 2022, the protesters stormed the President's House and the President's Office in Colombo, forcing the President to resign from office on the 14<sup>th</sup> of July 2022, by a letter addressed to the Speaker. Consequent to the resignation of Hon.

Gotabaya Rajapaksa from office of the President, the Parliament elected the Hon. Ranil Wickremasinghe as the 9<sup>th</sup> President of Sri Lanka on the 20<sup>th</sup> July, 2022 for the balance period of Presidency of the Hon. Gotabaya Rajapaksa.

### **The Election of the President**

The incumbent President Hon. Gotabaya Rajapaksa, by a letter dated 14<sup>th</sup> July, 2022 addressed to the Speaker, resigned from the Office of the President. The Speaker summoned a Party Leaders meeting immediately thereafter and informed the Party Leaders the process of electing a President for the balance period of the Presidency of the Hon. Gotabaya Rajapaksa in keeping with the provisions of Article 40 of the Constitution and the 'Election of President Special Provisions Act No. 02 of 1981'. At this meeting, the Speaker gave an undertaking to the Party Leaders that the election process will take place, adhering to the highest norms of transparent and accountable procedures,, as envisaged in the Constitution. He also appealed to the Political Leaders, Government Officials, Security Forces and the People to extend their fullest cooperation at this critical hour. The Speaker particularly, appealed to the people to allow their Members of Parliament to attend Parliament without any obstacles to participate in the process of electing a new President and promised to complete the task within a period 7 days. The Party Leaders were informed that the Parliament will be summoned to meet on the 16<sup>th</sup> of July at 10 am, to make the formal announcement on the resignation of the President and to inform the date for accepting of nominations.

The Constitution provides that, in the event of a vacancy in the office of the President, prior to the expiration of his term, the Parliament shall elect as President, one of its Members who is qualified to be elected to the office of President. Any person so succeeding to the office of the President, shall hold office only for the unexpired period of the term of office of the President vacating office. The Constitution further provides that, such election will be held soon as possible after and in no case later than one month. The particular Article goes on to say that the election shall be by secret ballot and by an absolute majority of the votes cast in accordance with the procedure as Parliament may by law provide.

In compliance of the above legal requirements, particularly the Presidential Elections (Special Provisions ) Act No. 2 of 1981 the necessary steps were adopted.

The Law provides that the occurrence of the vacancy will operate as summoning of the Parliament to meet within three days. The Law obligates the Secretary General to issue a Gazette notification to summon the Parliament to inform the Parliament that a vacancy has arisen in the Office of the President and to announce the date on which the nominations will be received for the election of the President.

### **The Conduct of the Election**

The Secretary General of Parliament issued a Gazette notification, summoning Parliament to meet on the 16<sup>th</sup> of July, 2022 at 10 am.

Accordingly, the Parliament met on the 16<sup>th</sup> July and the House was officially informed of the vacancy and a date was fixed by the Secretary General of Parliament for the acceptance of nominations for the succeeding President. The Law requires that such date being a date not earlier than 48 hours and not later than 7 days of the date of the meeting. The Law also provides that the Secretary General shall be the Returning Officer for the election of the President.

The Secretary General informed the House that the Parliament will meet on the 19<sup>th</sup> of July at 10 am to accept nominations and the following rules will apply ;

- That any Member of Parliament who intend to propose another Member as a candidate for the election of the President must obtain his consent to hold that post in writing and the said letter shall be handed over to the Secretary General at the time the name is proposed,
- The Member whose is to be nominated shall be present in the House at the relevant time and his name shall be seconded by another Member who is also present in the House. However no debate will be allowed in the House.
- If only one Member is nominated and seconded by the House, he will be declared as having been duly elected as the succeeding President by the Secretary General of Parliament.
- If more than one Member is nominated, elections will be held for the office of the President within 48 hours after having accepted nominations.
- The Fixing of the date for elections will be by way of a resolution passed by Parliament.
- The Member intended to be nominated must be a person who is qualified to hold the office of the President.

As informed by the Secretary General of Parliament, the Parliament met on the 19<sup>th</sup> of July and three names of Members of Parliament were proposed and were duly seconded by three other Members of the House.

Thereupon the Parliament resolved to meet again on the 20<sup>th</sup> July, 2022 to conduct the election for the electing of the President. The Secretary General and his team of officials had to make all preparations to conduct the secret ballot within a time span of 24 hours, having printed the necessary ballot papers and making arrangements to facilitate the ballot within the Chambers of the Parliament. All preparations were done and a rehearsal was also carried out addressing all possible eventualities. The ballot could involve counting several rounds to ascertain which candidate has secured the absolute majority after having eliminated the candidate who would have got the least number of votes. Extra sets of ballot papers were also printed in different colours to face any situation where a vote has to be cancelled and a new poll has to be conducted. Separate boxes were prepared with numbers representing the three candidates being fixed on them, to facilitate the counting of the ballots. Score sheets were printed to enable officers to maintain the records, including the total number of ballots cast, the number of valid votes polled and the number of spoilt votes and the number each candidate received and the absolute majority required.

As resolved, the Parliament met on the 20<sup>th</sup> of July 2022 to elect the President for the balance period of the presidency of the former President Gotabaya Rajapaksa.

At the commencement of the sittings the Secretary General explained to the Members of the Parliament, the rules pertaining to the conduct of the elections ;

- At the very inception, the quorum bell will be rung for five minutes informing the Members of Parliament that the election will take place in the Chamber shortly,
- The empty ballot box will be shown to all Members before the commencement of the poll and sealed in their presence.
- For the purpose of casting their vote, the names of the Members will be called in the order they are placed in the division list, commencing with the Speaker being called to vote first.
- The Secretary General will place his initials on the reverse side of each ballot paper at the time they are handed over to the Member.

- If a Member inadvertently spoils a ballot paper, he can request for a new ballot paper before he puts it in the box and the Secretary General can issue a new ballot paper after having cancelled the previous ballot paper.
- The Members have to mark the ballot papers in the consoles provided for this purpose but will not be allowed to photograph the marked ballot paper.
- The Members who are absent when their name is called will be called again after all other names are called at the end.
- Each Candidate by himself or by appointing another Member can observe the counting of the ballots at the table.
- By law, Members are required to mark the ballot paper with the no 1 and they could also express a second preference by also inserting no 2 in front of the name of a candidate. The law specifically provides that ballot papers which are not marked with no 1 are invalid.
- If a Member inserts any signature or other sign on the ballot paper, the law stipulates that the respective ballot paper should be treated as an invalid ballot.
- A ballot paper without the initials of the Secretary General on the reverse side is also invalid.
- The Members were also told that since the Constitution mandates a secret ballot, they should desist from displaying the ballot paper to the House.

Accordingly, the election of the President was conducted on the 20<sup>th</sup> July ,2022 at 10 am and in the first round itself the leading candidate received 134 votes securing an absolute majority and was declared elected as the 9<sup>th</sup> Executive President of Sri Lanka.

7<sup>th</sup> March, 2023