



New Proposals For Free and Fair Elections in Mauritius



24 April 2023

**The Electoral Commissioner
Electoral Commissioner's Office
Port Louis**

Dear Mr Rahman,

Following various issues that have cropped up during and since the last general elections and with a view to continually improving the registration of electors, the voting and counting process and to reinforce trust in the overall elections process, the Mauritius Labour Party ("**MLP**"), together with the Movement Militant Mauricien ("**MMM**") and the Parti Mauricien Social Démocrate ("**PMSD**") hereby submit a set of proposals to the Office of the Electoral Commissioner ("OEC").

We understand that some of the reforms required to ensure that elections in Mauritius are at all times free, fair and credible require legislative changes which can only be enacted by the legislature if there is the political will to do so.

Our proposals to the OEC therefore focus essentially on those reforms, upgrades, safeguards relating to processes which can be implemented by the OEC under the **current** legislation and the implied and express constitutional powers with regard to registration of electors, conduct of elections and proclamation of results.

We are convinced that our proposals will enhance the capacity of the OEC to achieve the objectives set out in the OEC's website, namely:

- *"to provide independent, impartial, ethical and professional electoral service to all stakeholders in the electoral process and to maintain strong public confidence."*
- *To demonstrate excellence and leadership in electoral matters.*
- *To serve the needs of electors and legislators alike in an innovative, cost-effective and professional manner.*
- *To enforce electoral legislation and carry out all our statutory functions impartially, using resources efficiently, effectively and economically.*
- *To increase public confidence in the electoral system by the introduction of modern technology.*
- *To promote and maintain openness and transparency.*
- *To encourage best practice in the conduct and organization of elections.*
- *To encourage greater participation in, and increased understanding of, the democratic process.*
- *To make sure that all voters have access to the electoral system.*
- *To maintain an accurate register of electors for National Assembly Elections, Local Government Elections and Rodrigues Regional Assembly Elections.*
- *To provide training to election officers.*
- *To register political parties as and when required.*
- *To provide a level playing field to political parties so that elections are seen to be free and fair.*

At the outset, we believe that it is important to emphasise that the "vision" and "mission" of the OEC would imply and necessarily require:

- (i) Full transparency about the whole electoral process;
- (ii) Clearly established procedures for each stage of the electoral process;
- (iii) That there should not be any undisclosed component of the process or any unannounced element (like the "computer rooms", for instance, the existence of which was not communicated to candidates and the public.) as clearly mentioned below in the following judgements:

Extract from Judgment in case of Adrien Duval v/s Electoral Commissioner:
"We are of the considered view that an election must not only be conducted in a fair and transparent manner but must be seen to be so conducted. In this respect all candidates must be given prior notice of any additional arrangements put in place in order to avoid any controversy."

Extract from Judgement in case of Ezra Jhuboo v/s Electoral Commissioner:
"The candidates are undoubtedly amongst the main protagonists in the election process and failure to inform them of the presence of the computer room in the compound of the counting center is of serious concern as it unnecessarily creates a situation whereby doubts as to the integrity of the counting process may arise."

- (iv) Uniformity in the process (unlike the purported use of T-squares by some officers in some constituencies); and
- (v) Making public and with full details all such documents and processes that eventually lead to the proclamation of results.

We have carefully reviewed and analysed the critical aspects of the electoral process and we hereby submit our observations and proposals which are broadly categorised under four sections, namely:

- (1) Right to vote, Registration of Voters and Changes to the Register
- (2) Electoral campaign, Ensuring fairness by the Police and the MBC
- (3) Voting day / security and integrity of ballot papers and ballot boxes
- (4) Counting Day, Computation of Results/Publication of Partial Results and Proclamation of Final Results

(1) Right to Vote, Registration of Voters and Changes to the Register

- 1.1** We believe that the fact that electors who turn out to vote only to find that their names have been removed from the electoral register amounts to a violation of a fundamental constitutional right.

MLP/MMM/PMSD Proposal #1: We recommend that, except where a registered elector has passed away as evidenced by the records of the Civil Status office, no name should be removed from the register until and unless the elector has been invited by registered letter sent to his last known address asking him to show cause why his name should not be removed and giving the elector a reasonable time (we suggest a minimum of 3 weeks from delivery of letter) to affirm his rights.

1.2 To avoid the possibility and/or perception of manipulation of the electoral register, we believe that the Electoral Register both in hard copies and in electronic versions should at all times be under the sole custody and control of the OEC. To avoid tampering and to maintain integrity of the data, the Electoral Register should be kept in such a way that it cannot be tampered with. The OEC should also keep an exact replica both in hard and soft copies as a back-up for control purposes

MLP/MMM/PMSD Proposal #2: The OEC should have their own completely secure hosting infrastructure to store and maintain the register. Only designated high-ranking officers of the OEC should have access to the server and physical records. Any changes to the data stored should be authorised/electronically signed off by TWO of these officers. In addition, a description of any change made should also be entered into a hard copy "register of changes made" and signed off by the two officers who made any change.

1.3 We believe that it is important to allow electors to check whether their names are on the currently prevailing register at all times. Electors should similarly receive a confirmation of being registered upon request at any time by electronic message on their designated mobile phones or other electronic means (e.g. their registered e-mail address).

MLP/MMM/PMSD Proposal #3: The online access for electors to check their names on the last updated register and to check where they will vote, should permanently be kept open to enable electors to verify / confirm their registration at any time. We are also proposing a major change within the process of electoral registration whereby the electoral register be kept open at all times during the year to enable new electors to register either online or be allowed to register in person at the OEC. The said register should be kept open until at least 2 weeks before the polling day.

1.4 As per the most recent statistics, there are around 750 persons who pass away every month.

When an election is held (say) in November of any year, it is the register compiled essentially from data obtained during the preceding months of January and / or February which is used. There will consequently be a significant disparity between electors who should be able to vote by virtue of their rights as citizens and the list of electors as compiled with data which is 9-10 months old.

MLP/MMM/PMSD Proposal #4: A monthly list of persons being progressively struck out of the register as a result of death should be published on the OEC's website. With respect to deceased electors, the OEC should also publish on its website and at each voting centre the full list (broken down by constituency) of deceased persons between the date of publication of the register and the polling day i.e. the list of all names struck out by the OEC after the latest register was published.

MLP/MMM/PMSD Proposal #5: The OEC should publish names of all eligible voters at any given time on its website (*only names of the voters i.e. excluding addresses to eliminate the risks that they could be used for marketing etc.*), broken down by constituency and then by voting centre.

MLP/MMM/PMSD Proposal #6: Immediately after the writs of elections are published, the lists of electors for each constituency should be posted in all designated voting centres for that constituency and should be readily available to the public for viewing purposes. The final list should be published once the electoral register is closed 2 weeks before the polling day.

MLP/MMM/PMSD Proposal #7: All ballots related to a particular election should only be printed by the Government Printing and not outsourced to outside private contractors. This will ensure that the security around the printing of ballots is only restricted to one location only and that the movement of ballots to polling centres can be better controlled.

1.5 We have noted that the spelling of the names of some electors vary from one register to another and some are missing. **Table 1** in **Annex A** provides a breakdown of such discrepancies.

MLP/MMM/PMSD Proposal #8: The OEC must ensure that the spelling of names of electors in the register should be consistent with the spelling of the names on the National Identity Card (NIC). It is crucial that the name of an elector is correctly recorded as any misspelling of his name could deprive the elector of his constitutional right to vote.

(2) Electoral Campaign and Ensuring Fairness by the Police and the MBC

To ensure a fair and equitable treatment of all candidates, political parties and the public at large and to prevent abuses, it is important that the OEC issue clear guidelines to the Police and the MBC and ensure proper enforcement thereof.

MLP/MMM/PMSD Proposal #9: The OEC should ensure an equitable allocation of time not only for political broadcasts but also during news broadcasts and programmes *related to current affairs* and ensure compliance with the guidelines. If guidelines are not followed accordingly, the OEC must seek appropriate relief from the Supreme Court to ensure that guidelines are being followed.

MLP/MMM/PMSD Proposal #10: The OEC should ensure that the MBC provides a right of response by any aggrieved party within 24 hours. The response should be aired in each of the news bulletins or programmes in which the statements complained of were initially broadcast.

MLP/MMM/PMSD Proposal #11: The EC should issue guidelines for the Police and all public officers to act diligently and impartially during the electoral campaign, polling day and on counting day.

(3) Voting day / Security and Integrity of Ballot Papers and Ballot Boxes (Pre-Voting and Post-Voting)

Any fraudulent attempt to cast a vote in lieu of a deceased person or to manipulate the electoral process for the benefit of any political party or person vitiates the electoral process.

The role and responsibilities of Senior Presiding Officers and Presiding officers are therefore critical and should be properly spelt out. All the underlying processes – right from the time ballot papers are issued and until proclamation of final results – should be very clearly spelt out and communicated in full transparency to all candidates and the public in general. It has been noted during the 2019 elections that, in many cases, some of these officers acted according to their whims and caprices and/or did not have a clearly defined approach.

Moreover, it is also important to prevent people fraudulently voting on behalf of others. Given the high number of voters, many of whom are unknown to the officers operating inside the voting rooms, it is not always possible for an officer to ensure that he is issuing a ballot paper to the right person without asking that person for a proper and reliable identification document.

It is also very important that the OEC issues clear directives for the handling and safekeeping of ballot boxes after voting centres close at 18.00 hrs.

MLP/MMM/PMSD Proposal #12: The OEC must:

- (a) on the eve (or earlier) of voting day publish details of number of ballot papers to be issued for each voting centre with their respective unique serial numbers.
- (b) re-introduce Yard Agents. For the 2010 general election, the EC decided to do away with yards agents. By doing so only candidates and their main agents could have access to polling centres' yards.

However, during the election day, there were no control on who really were given access. We strongly recommend that yard agents should be re-introduced for better control and transparency during election day.

MLP/MMM/PMSD Proposal #13: Valid identity documents to allow an elector to vote should not include bus passes, birth certificates or any other documents, except the National Identity Card or passport.

MLP/MMM/PMSD Proposal #14: At close of polling immediately after ballot boxes are sealed, OEC MUST reconcile ballot papers issued prior to start of voting with votes cast and unused ballot papers and publish a detailed account. The relevant details to be published would at the very least include: (a) number of ballot papers issued for each voting centre; (b) serial numbers of all ballot papers issued to each centre; (c) serial numbers of ballot papers issued to voters; and (d) the total number of ballot boxes eventually sealed for each voting centre. The OEC should strictly enforce this procedure in all the constituencies.

MLP/MMM/PMSD Proposal #15: As the voting progresses, the number of voters in each room of a polling station should be communicated to polling agents and candidates every hour and also affixed along with the serial number of ballot papers issued.

MLP/MMM/PMSD Proposal #16: Communication of names of electors who have already voted and those on the list of electors who have not voted yet should not be communicated to any other party, including the OEC officials, as provided by law. Directives should be issued by the OEC that any such unauthorised communication would constitute a serious electoral offence.

MLP/MMM/PMSD Proposal #17: On polling day, the OEC should ensure that mobile phones are not allowed in the voting rooms and apply strict control on the usage of mobile phones by its officers and other staff working in polling stations.

MLP/MMM/PMSD Proposal #18: On polling day, the OEC and its officers present should ensure that each voter insert their ballots in the ballot boxes after verifying that the serial number of the ballot paper matches that issued to the voter.

MLP/MMM/PMSD Proposal #19: At the close of polling the total number of ballot papers issued at any given polling centre to voters and their distinct serial numbers should be posted in that polling centre. The data published should include a breakdown of number of ballot papers issued in each room in that polling centre and must be signed by the relevant officers from each voting room.

MLP/MMM/PMSD Proposal #20: At the close of polling, the relevant officer of the OEC should in the presence of agents of respective parties running for the general elections, affix a sealed tag including a serial number on each ballot box before being transferred to the centralised counting room of the said constituency and counting should start immediately thereafter. Wherever necessary, the counting should be delegated to a fresh batch of officers. Provision should be made to allocate valid access cards to new counting agents.

MLP/MMM/PMSD Proposal #21: All "resources" (manpower including recruitment, printing of ballot papers, computers, vehicles transporting ballots and ballot boxes into and out of voting centres) to be used during elections up to and including counting should be under the sole and total control of the OEC. The detailed procedures would typically include appointment of all officers to be deployed for elections, the printing of ballots under the strict supervision of OEC officers with all proper security measures, the distribution of ballot papers to polling centres, verification / reconciliation of ballot papers by centre, sealing of ballot boxes (after voting closes).

Counting of Votes

There is consensus amongst the population and candidates that vote counting should start on the same day that voting takes place to reduce the risks of manipulation/fraud. This would require legislative changes since the laws currently prescribe that counting should take place on the next day. We request the OEC to submit firm proposals to request the competent authorities to table such legislative changes as may be required to enable counting of votes to start as soon as practically possible on the day that voting takes place.

In the event that appropriate legislative changes are not made effective for any reason by the time of the next general elections, we request the OEC to improve the integrity of the process through the measures set out at **Annex B**.

MLP/MMM/PMSD Proposal #22: The EC should give a unique identification to each ballot box that would enable it to be traced first to its constituency, then voting centre, then classroom number etc. A typical identification for ballot box no1 from voting room no 2, polling centre no 03 in constituency no 10 would be as follows: **C10-PC03-VR02-BB01**.

(4) Counting Day / Computation of Results / Publication of Partial Results and Proclamation of Final Results

The counting process is a critical element of the process and maximum precautions and safeguards must be implemented to ensure integrity and accuracy of the results.

MLP/MMM/PMSD Proposal #23: It has become a new practice before the process of counting starts to call only one counting agent at the table in front and he or she is supposed to sit there throughout the counting to have a look to verify the votes or intention of votes (mark X). This is not transparent and the EC should ensure that during counting each ballot paper is clearly shown to ALL agents.

Steps must also be taken by the OEC to enable prompt proclamation of the results in normal circumstances and there should be full transparency all throughout the process. Issues brought up by candidates, as and when they arise, should be firmly and uniformly dealt with by the Returning Officer and his team.

The Returning Officer must also ensure, with the help of the police, that no member of the public is allowed inside the counting centre unless and until all objections and issues raised by candidates and their appointed representatives have been dealt with. Ideally, all objections raised by the candidates and their appointed representatives should be recorded in writing along with the decision of the Returning Officer in each case.

The surreptitious introduction of computer rooms managed by external parties at the 2019 General Elections created a lot of controversy. We are firmly opposed to the maintenance of computer rooms staffed and operated in the same manner and under the same conditions as those obtained in the 2019 elections. By EC's own admission, as reported in **Jhuboo ES V Ganoo A & Ors** (2021 SCJ 284), Data Transmission Officers ("DTOs") used in the Computer Room were appointed by the Secretary to the Cabinet and Head of Civil Service and were not under the direct control or supervision of the EC.

To restore confidence, we request that no computer rooms should be installed. We believe that, instead of allocating resources towards setting up computer rooms which do not inspire trust because of the opacity in the process, the EC should devote more resources to speed up the counting process and to communicate/publish partial results more clearly along with all related "partial results forms". Releasing partial results, and eventually final results, without also simultaneously releasing the related "partial results forms" will undermine the counting process and the reliability of results. It is therefore critical that the EC makes public all the documents that form the basis of partial results and final results at the same time as these partial results / final results are published / communicated.

We deem it important to point out at this stage that any software/computer program can be remotely manipulated at any time. It would be wrong for the OEC to assume that the figures that would come out from a computerised system would necessarily be free from manipulation or would accurately consolidate and reflect the figures in the underlying "Partial Results Forms" that were input. In brief, IT systems could effectively be programmed or hacked to change overall figures to achieve results that do not accurately reflect the underlying votes.

MLP/MMM/PMSD Proposal #24: It is essential that the OEC computes partial results which are entirely based on manually generated figures and releases the same partial results and eventually final results based on a process over which the Returning Officer personally has

overall control as opposed to a system over which the Returning Officer has no direct and total control. We request that this practice be maintained in all cases without exception.

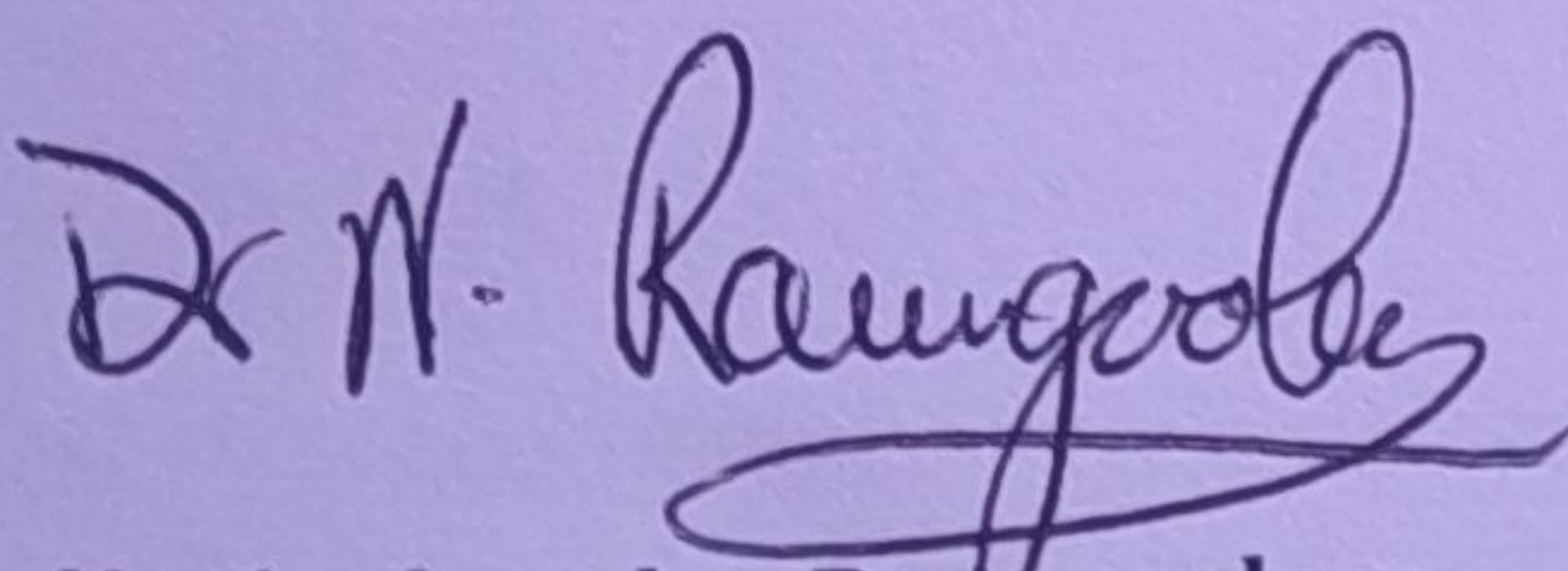
MLP/MMM/PMSD Proposal #25: We suggest that all data input sheets (i.e. partial results forms) that are submitted for compilation of results should simultaneously also be made available to the public. The input sheets should also be signed off by the Presiding / Returning Officer.

Moreover, the candidates or their appointed representatives should be given copies of all partial figures (number of voters, number of ballots counted and results thereof) signed by the officers concerned. In fact, it would be desirable that the OEC also publishes these partial results forms on its website as and when they are compiled. With technology, it should indeed not be difficult to simply scan and publish each partial results form (bearing the signature of the officers) constituency-wise.

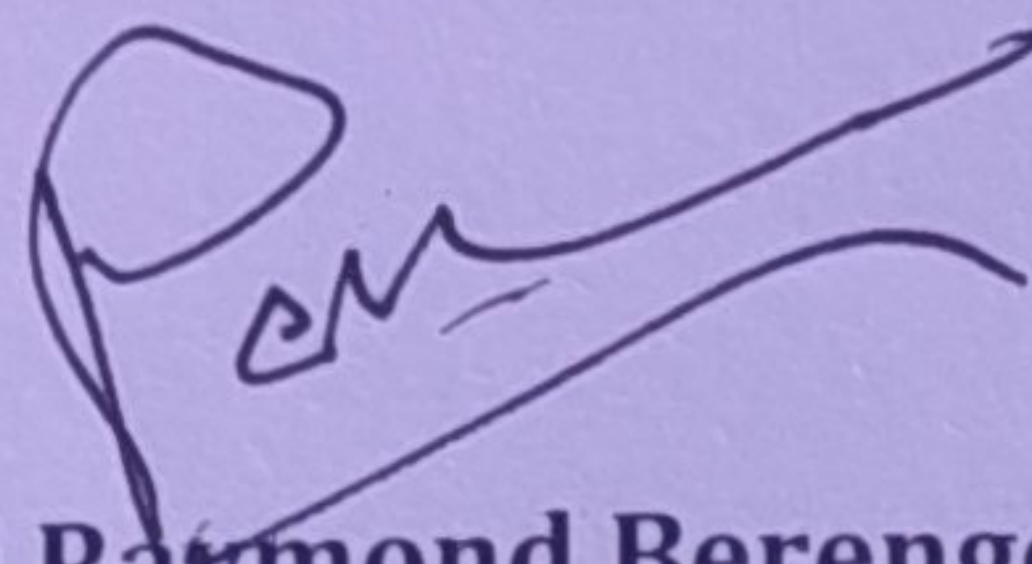
MLP/MMM/PMSD Proposal #26: On counting day, partial results should be made public only after these results are accurately reconciled and validated by the Returning Officer. A print version, showing the breakdown of results from each counting room and duly signed off by the Returning Officer, should be posted every time that partial results are announced. All resources used in compilation of data should be under TOTAL control of Returning Officers. Only data validated by the Returning officers should be communicated /published, a copy of which should be affixed for public scrutiny.

We trust that due consideration will be given to our observations and proposals above. Since this matter is of utmost public importance, following our meeting with the OEC, we shall be publishing a copy of this letter on the websites of the **Mauritius Labour Party**, the **Mouvement Militant Mauricien** and the **Parti Mauricien Social Démocrate** and shall also be distributing a copy to local media outlets.

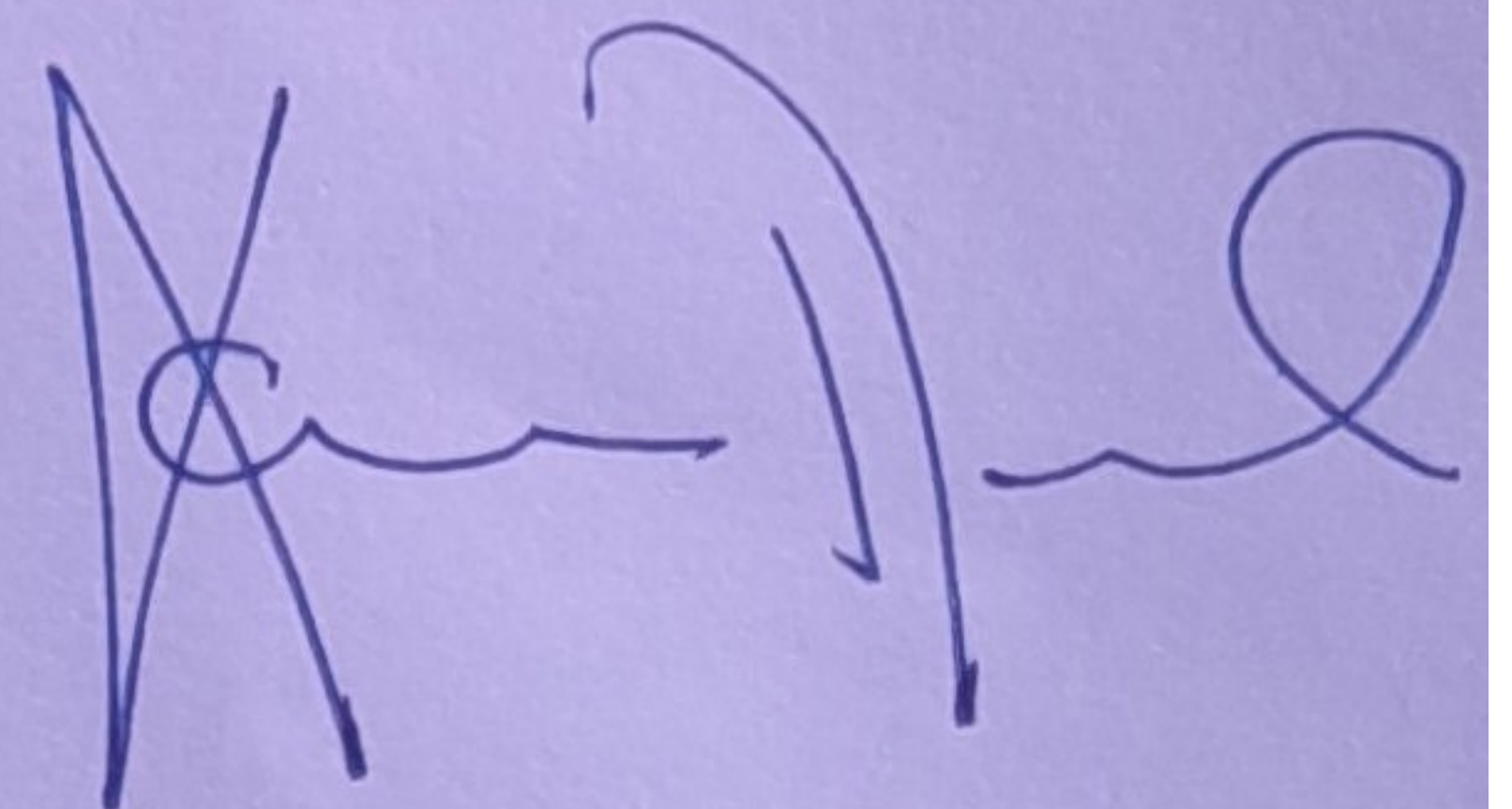
Yours sincerely,



Navinchandra Ramgoolam
Leader (MLP)



Paul Raymond Berenger
Leader (MMM)



Xavier-Luc Duval
Leader (PMSD)

Annex A: Discrepancies (ref: MLP/MMM/PMSD proposal #7)

A nationwide analysis based on previous electoral registers of 2019 and 2021, compared to the last register, that is, the electoral register of 2022, shows vast number of discrepancies in the spelling of names of electors as well as a significant number of names missing, from 2019/2021 registers to 2022 which is in force and which will be used in case an election is declared this year.

For illustrative purposes we are hereby referring below to only one polling center, namely, **DANESWOCK SEWRAZ GOVERNMENT SCHOOL**, in constituency **No 5**, where we have identified a total of **1,346** electors with discrepancies in their names where they are either delisted or variations in the spelling of their names when compared with the 2022 register.

Out of the 1,346 electors with these discrepancies, 299 are not listed in the 2021 register when compared with the 2019 register and 324 not listed, when compared between 2021 and 2022 registers. We have also identified a large number of electors with name errors as illustrated in **Table 1** below.

Our survey also showed that many electors' names and addresses are wrongly recorded on the current register and such errors could deprive them from the right to vote during a forthcoming election. Other polling stations in constituency No.5 also carry almost the same discrepancy patterns.

Table 1.: Breakdown of discrepancies in polling station: "Daneswock Sewraz Government School"

	Total	M	R	R+NE	D	NA+R
D 19/21	488	299	9	55	32	80
D 21/22	858	324	11	499	13	0
Merged	1,346	623	20	554	45	80
%		46.2	1.4	41.1	3.3	5.9
M+ (R+NE)	1,177 87.4%					

***M: Missing,**

***R: Reappear**

***R+NE: Reappear with Name Error**

***D: Deceased**

***NA+R: New Address and Reappear**

Our agents are now actively verifying on the ground (*house to house*) within that polling station to reconcile the above figures and understand the reason behind such discrepancies. We have also seen these discrepancies in other polling stations and verifications on the ground for other polling stations are currently underway. Other constituencies are also being analysed and scrutinised in this way.

Annex B: Proposals for Improved Control on Counting Day

MLP/MMM/PMSD Proposal #B01: The OEC should provide full details of authorised vehicles and officers involved in the transportation of ballot boxes from polling centres to each constituency central counting centre. Such details should include vehicle number and names of public officers (SMF, police, other civil servants) attached to each voting centre and a unique badge with photos for each person appointed by OEC to easily identify them.

MLP/MMM/PMSD Proposal #B02: The OEC should ensure that transportation of ballot boxes is done directly from each polling centre to central counting centre i.e. lorries cannot go from one counting centre to pick boxes from other voting centres. Only pre-registered vehicles escorted by designated police officers (using official police vehicles) should be used to transport ballot boxes from polling centres to counting centres. No private contractors should be used for this purpose.

MLP/MMM/PMSD Proposal #B03: Upon arrival at the centre where boxes are assembled, the escorting police officers must sign a form describing the journey, time of departure from voting centre, time of arrival at counting centre. The officers should also state that the prescribed route was strictly followed, that there was no stop nor any incident and that nobody else nor any other object was allowed on board during the trip.

MLP/MMM/PMSD Proposal #B04: The OEC should provide details of Officers who have responsibility for “guarding” the ballot boxes overnight – number of officers, their names and official position / identification number.

MLP/MMM/PMSD Proposal #B05: After ballot boxes have been placed inside secure rooms in “central counting centres”, (a) no vehicle and (b) no person other than designated police officers and guard agents, should have access to the premises.

MLP/MMM/PMSD Proposal #B06: The OEC should make arrangements to ensure that there are cameras (fully functioning at all times) directed at and inside the room(s) where ballot boxes have been placed overnight.

MLP/MMM/PMSD Proposal #B07: The OEC should have strict control while ensuring that lorries arriving for collection of ballot boxes to be transferred to counting centres do not carry any ballot boxes (even empty ones) and other items related to the election.