CHAPTER III

INTRODUCTION OF PROPORTIONAL REPRESENTATION SYSTEM: RATIONALE AND PRINCIPLES
After the United National Party (UNP), under the leadership of J.R. Jayewardene, won five-sixths majority in parliament in the 1977 general elections, introduced a new constitution for the country. The constitution combined some functional aspects of the previous constitution (1972) and features of the American, French and British styles of government. The UNP took its overwhelming parliamentary majority as a mandate to introduce a constitution that would promote rapid economic development while ensuring political stability. The UNP's role models in this exercise were Lee Kuan Yew in Singapore and General Park in South Korea, with their "hard-headed" politics. While representative democracy was to be fostered, social stability was to be maintained. Jayewardene was of the view that the western model of the previous constitution, which banked on the first-past-the-post electoral system, contributed to instability. When the UNP government won the election in March 1960, it remained in power only for four months. In the next general election in July 1960, the SLFP formed the government. This turmoil could have been avoided, Jayewardene said, with proportional representation and the Presidential system. Justifying the introduction of the proportional representation system, he said:

In England the whole idea of proportional representation is changed. Now Liberal Party has almost convinced the Labour Party that they should bring legislation to have proportional representation. In Europe the European parliament is going to elect members to the whole of Europe on the basis of proportional representation.¹

He added:

Universal franchise and the free exercise of the vote are necessary prerequisites of democracy. However, the electoral system, which prevails here today, where the elector elects his legislature according to the defined electoral areas, is not necessarily the best for our country. In some democratic countries political parties put forward a list of names of candidates seeking election; the legislators are then chosen from this list, the number depending on the votes cast for each party... Today electoral system in our country precludes the best-equipped men and women from taking part in our political life.

The fact underlying Jayewardene's predilection at a personal level was that the Kelaneya electorate had defeated him in 1956.2 Because of the landslide swing against him, he shifted to Colombo South from 1960 March. N.M. Perera notes:

Jayewardene was shrewd enough to realise that the days of the United National Party (sic. are) were numbered. The tradition of our country is a violent swing from one party to the other and the next swing (sic. will) would virtually wipe out his party if the simple majority rule continued to operate. A scheme has to be devised to mollify the swing. Analysis of the past elections has revealed a basic support of close to thirty per cent for his party. Even in the (sic. worse) worst debacle of 1956 the UNP garnered a near twenty nine per cent of the votes cast. The answer therefore lies in proportional representation. This will ensure a reasonable representation in the legislature in proportion to its strength in the country. It would certainly eliminate the humiliating rout of 1956.3

The UNP was also well aware of the anti-incumbency factor in every general election. With its five-sixths majority in parliament, this might imply a humiliating rout for the UNP in the next election. A legal expert from Colombo University explained that as a party, the UNP had a stable vote bank, which fluctuated from 5 to 10 per cent; but it resulted in 30 to 40

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per cent loss of its members in parliament. The proportional representation system would allow the UNP to maintain its stable support in parliament.4

Events proved right the UNP's foreboding about its declining electoral appeal. In the Presidential election of 1982, the UNP secured 52.91 per cent of the votes and the SLFP 39.07 per cent.5 Support for the SLFP had increased by 9.2 per cent over its showing in the 1977 parliamentary general election, while the UNP's appeal improved only by 2.0 per cent. Sarath Muttetuwegama, a member of Parliament representing the Communist party of Sri Lanka, said in Parliament: “According to the Daily News of 3rd of November (1982), the President was going to have this referendum because he said the UNP would have won 120 out of 196 seats and the SLFP 68 seats if he had gone for general election.”6 Even on the basis of the previous system (according to constituency-based voting), the SLFP would have increased its strength by 6 seats and UNP strength reduced by 7 seats.7 On the basis of the vote cast in the presidential election also, the UNP's strength would have declined.8

4 N. Selvakumaran, lecturer, Faculty of Law, University of Colombo, in an interview during fieldwork, on 17 July 2002.
7 In the 1982 general elections, on constituency basis the UNP won 137 seats and the SLFP 14 seats. See for details, Wiswa Warnapala and Dias Hewagama, n. 5, pp. 72-108.
8 Article 62(2) of the 1978 constitution specified the parliamentary term of office as no longer than six years (which would have meant that the extension should have been only up to December 1988). With the 4th amendment to the constitution, the UNP extended the life of the 1977 parliament and continued till 4 August 1989. See The Constitution of the Democratic Socialist Republic of Sri Lanka-1978 (Colombo: Government Publications, 1978).
The UNP admitted that it benefited in a disproportionate way from the proportional representation system. It accepted that the system was disadvantageous to the SLFP in the 1977 general election. UNP leaders also pointed out that in the 1977 election five of the SLFP members were elected from the multi-member constituencies because of the division of UNP; otherwise, only two of them would have possibly won their seats.9

A Select Committee of the National State Assembly was convened to consider constitutional changes, which invited the views of recognized political parties and various organizations. In favouring the introduction of the proportional representation system, the committee's report said:

The present system of parliamentary elections has been the subject of considerable criticism in that the representation in the legislature is not fairly representative of political opinion in the electorates. Thus in 1970 the Sri Lanka Freedom Party with 36.9 per cent of the total votes was able to secure 60.3 per cent of the total number of seats in the legislature, while the United National Party with 37.9 per cent of the total votes was only able to secure 11.3 per cent of total number of seats. The converse occurred in 1977, when the United National Party with 50.9 per cent of total votes secured 83.3 per cent of the seats, whereas the Sri Lanka Freedom Party with 29.7 per cent of the total votes secured only 4.8 per cent of the seats. Apart from this unfairness, this situation is not conducive to political stability.10

The new constitution incorporated a system of proportional representation, which would ensure a more exact representation in the

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parliament of the voters’ preference regarding competing parties or independent groups.\textsuperscript{11}

Jayewardene also expected that the proportional representation system would help in weakening the parliament so that the executive President could enjoy unimpeded power. The executive presidency had a major role in the new constitution. Whenever the ruling party lacked majority, the President’s absolute power and his supremacy would sustain the functioning of the government, ensuring a stable government even if there was a necessity to have a coalition government and even if the President did not belong to the ruling party.\textsuperscript{12} The President had to get support from all sections, including minorities; and could not be purely a Sinhala person. He had to command the confidence of the people throughout the island irrespective of caste, race or creed. The executive Presidency would be able to maintain stability in the country and the whole country could express its view as that of the executive.\textsuperscript{13}

Jayewardene was an admirer of the Presidential system followed in the USA and France. These models, in his view, did not suffer from the

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\textsuperscript{12} See for details, \textit{National State Assembly Debates}, n. 9, Columns, 1235-1238.

\textsuperscript{13} See A.J. Wilson, \textit{Gaullist System in Asia: The Constitution of Sri Lanka} (1978) (London: Macmillan, 1980). Apparently, the proportional representation system creates fractional legislature immediately after the election. When there is no party in command of a majority, the President or the Prime Minister makes efforts to construct a majority and negotiate with the leaders of any party and obtain their support.
demerits of the Westminster model of government. In fact, the introduction of the proportional representation electoral system and Presidential form of government were to be complementary to each other to maintain political stability and economic development in Sri Lanka.

Jayewardene had earlier pushed for the proportional representation system, both in and out of power, but there was resistance to the idea even within the UNP. In 1973, Jayewardene took over the party leadership of UNP and his ideas on constitutional reforms were incorporated in the election manifesto. The UNP’s overwhelming victory in elections was a positive endorsement to constitutional reforms. The new constitution came into force on 4 February 1978 following the suggestion of the select committee.

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15 The UNP leader Senanayake was wedded to British constitutional institutions and traditions. He eschewed any constitutional innovations unknown to the British system and he always discouraged every move towards constitutional changes initiated by Jayewardene, either when he worked as Prime Minister or opposition party leader. See J.R. Jayewardene, Selected Speeches and Writings, 1949-1978 (Colombo: J.R. Jayewardene Cultural Centre, 1979), p. 144.

The UNP-led coalition formed the government in 1965 when Jayewardene was virtually deputy Prime Minister. While the country faced severe political crisis because of the shortage of rice, Jayewardene had his own suggestion to meet the crisis; but Prime Minister Dudley Senanayake put it aside. Then their relations were severely strained for several reasons. However, Jayewardene’s proposal for a departure from the parliamentary form of government for a Presidential one received consideration by the cabinet. In the period 1965-70, when the UNP was in power led by Dudley Senanayake, the relationship was even more forthright. In 1971-72, during the debates in the Constitutional Assembly to draft a new republican constitution to replace the Soulbury constitution, Jayewardene suggested an amendment on 2 July 1971 to adopt an executive Presidential system where the President is directly elected for a certain term. However, it was rejected not only by the United Front government but also by Dudley Senanayake. See K.M. de Silva, “J.R. and the making of the Constitution of 1978,” in J.R. Jayewardene of Sri Lanka—A Political Biography 1956-1989, vol. II (Colombo, 1994), pp. 378-79.

16 Report of the Select Committee, n. 10.
There was no public debate on the constitutional changes, and the Bill was not even presented to the ruling party before it was placed in the National State Assembly. It was taken up only at the cabinet level, and the debate on the Bill was held only for two weeks in parliament. Political parties not represented in parliament (the CP and LSSP left-wing parties) could not also participate in the process.

**OPPOSITION VIEWS**

The select committee’s proposal to amend the First Republican Constitution of Sri Lanka (1972) was, in effect, to virtually replace the essential structure of the constitution, in which the electoral system was a significant factor.\(^{17}\) The SLFP, LSSP, CP and TUL\(^{18}\) and other parties from the Tamil community except Thondaman of CWC rejected the amendment.

**Views of the SLFP**

The SLFP did not actively participate in the debates on the constitutional changes. Sirimavo Bandaranaike complained that the select committee was hand-picked by the UNP. The procedure of presenting the Bill as an urgent Bill also effectively deprived any public debate. She said:

> The Sri Lanka Freedom Party feels that the people of the country should have been given at least as good an opportunity to study the implications of this bill as was given by my Government when the republican constitution of 1972 was being drafted.

> We oppose this bill firmly and unequivocally. It will set our country on the road to dictatorship and there will be no way of turning back. This bill will

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\(^{17}\) Wilson, n. 13, p. 29.

\(^{18}\) The TULF refused to serve on the select committee because of the political compulsion that emerged out of the ethnic riots of 1978, where the Tamils were deeply affected in several ways.
mark the end of democracy in Sri Lanka as the late Mr. Dudley Senanayake realized when the same idea was put to him in the United National Party. The urgency with which this bill is being rushed through this house is ominous for it could mean that the Government is contemplating actions, which will require more than its existing parliamentary majority, the assumption of absolute power.\textsuperscript{19}

Expressing her dissent to the Select Committee report, she said:

The Sri Lanka Freedom Party and its members in the National State Assembly would not have participated in the deliberation of the Select Committee if the purpose was to draft a new constitution. The questionnaire issued by the committee was also on the basis of amending the existing constitution and not for drafting a new one.\textemdash Thus on the fundamental premise that the resolution of the National State Assembly enables the special committee only to revise the exiting Constitution and not to draft a new one, we of the Sri Lanka Freedom Party are opposed to the Report of the Select Committee for the reason that it has prepared a new draft Constitution and not amendments to revise the existing Constitution.\textsuperscript{20}

She also pointed out that till 11 May 1978 the SLFP was not aware of any link between the exercise of this committee with drafting an entirely new constitution to replace the existing one. In the two drafts put forward, there was no clause by which the existing constitution would be replaced with a new one.\textsuperscript{21}

The SLFP’s objection to the new system also included mushrooming of parties, distancing of the legislator from voters and irresponsibility on that count, absence of by-elections, and authoritarianism of party leaders. It said:

Proportional representation will result in the proliferation of political parties. The MP will become the name on a list, a remote figure having no contact with the voter, with no responsibility for the development of any particular area or for the welfare of the people who live therein. Public

\textsuperscript{20} \textit{Report of the Select Committee}, n. 10, p. 149.
\textsuperscript{21} Letter to the President of Sri Lanka, 19 May 1978, in Annexure III, ibid.
opinion will not be tested during the entire life of the National State Assembly, since there will no longer be by-elections, but merely the replacement of one name on a list by another. The people will have little choice in the election of candidates, which will under this system depend entirely on the whim, or fancy of a party leader.22

The SLFP argued that the previous plurality electoral system had enabled stable governments with clear-cut majority. The introduction of proportional representation would lead to minority governments, which would be weaker and unstable. Minority or coalition governments became more likely in the system.23 This system was also very complex for voters in backward areas and it amounted to disenfranchisement of the simple rural voters. In addition, with the larger electorates, the Member of Parliament would become a remote figure with less contact with the voter.24

Later on, the SLFP propounded the view that efforts should be made to minimize the demerits of the proportional representation system, such as avoiding the cut-off and district basis proportional representation to maintain voter-MP relationship.25 This modification from its initial reluctant approach was possibly because the SLFP rethought its stand, that

22 Report of the Select Committee, n. 10, p. 149.
23 The SLFP Memorandum, ibid., pp. 166-67.
25 See Annexure II, Memorandum of the SLFP to the Select Committee on the revision of the Constitution, Report of the Select Committee, n. 10.
even if it were in opposition it could maintain its strong position in the legislature, under the system of proportional representation.26

**Opinion of the Left Parties**

Some parties like the CP and LSSP, which had lost their seats at the general election in 1977, and could not participate directly in the process of drafting the constitution. Their voice was not reflected in the select committee. N.M. Perera and Colvin R. de Silva, however, made themselves heard on the issue.27 Generally, their opinion was that the UNP mainly benefited in terms of stability and strength in parliament with the introduction of the proportional representation system. When Athauda Senevirathne28 questioned the move in parliament, Jayewardene answered: “As one single party always we have gathered more votes than other parties, so even if we lose we would be in a strong position and opposition too would be stronger. At the same time we can still be in power if we had proportional representation system.”

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26 The first-past-the-post system benefited the SLFP particularly on two occasions. In the July 1960 general election, it received 33.59 per cent of the votes and secured 75 seats and formed the government, while the UNP obtained more votes (37.57 per cent) and received only 30 seats. In the 1970 general election, the SLFP defeated the UNP and formed the government even when it secured fewer votes than the UNP. See “The Leader of the opposition exposes President’s statistical jugglery”, speech by President J.R. Jayewardene at the UNP convention held on 6 December 1986 at the Sugathadasa Indoor Stadium (Colombo, 1986), p. 2.


28 Member of Parliament from LSSP. In 1994 he left the party and joined with People's Alliance Party. He expressed his opinion in an interview during the fieldwork.
MEP leader Dinesh Gunawardene said:

J.R. Jayewardene's idea was that even though the UNP was defeated in the general election their votes were higher than those of the others. Numerically, the system that could give the UNP always a majority and stable government would, under proportional representation, he thought would benefit the UNP and create more stable government.29

Gunawardene added that the experience later in 1994 had proved Jayewardene wrong. He had expected that the proportional representation system would prevent a coalition against the UNP, but in practice after the introduction of the proportional representation system the SLFP, CP, LSSP and other minority parties brought groups together and formed a government against the UNP.

The CP leader Raja Collure said that Jayewardene planned to eliminate the left parties in the democratic process.

In 1978, J.R. Jayewardene introduced the proportional representation system. It was to be used to eliminate left's representation in parliament. Therefore, they introduced high cut-off point of 12.5 per cent and the system was introduced along with the provisions that prevented ad hoc alliances. The formation of the alliance becomes necessary because of the political division in the country at the beginning.30

It was, in fact, a trend that most of the time the UNP was defeated by the SLFP whenever the latter formed a coalition with left parties. This may have been a reason for introducing proportional representation with a high cut-off point.

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29 Member of Parliament from MEP, in an interview during fieldwork in August 2002 at Colombo.

30 Raja Collure, a Member of Parliament, in an interview in August 2002 at Colombo.
The Minority Communities’ Opinion

The greatest concern of the minorities in the debate was to secure adequate representation for their respective communities. The Ceylon Workers Congress (CWC) representing the interests of the plantation Tamils led by S. Thondaman, which was associated with the UNP, initially welcomed the introduction of the principle of proportional representation, even though he was not fully satisfied with the system and condemned the cut-off points. He said:

The threshold vote (cut-off vote) for proportional representation has been fixed at one-eighth of the total votes.\(^{31}\) The consequences of fixing the minimum vote at so high a point could lead to wiping out the representation of several recognized political parties to the benefit of representation of the major political parties. In the pluralist society with a wide majority in party affiliation and competing cultural and ethnic interests it is essential that each of these group interests should find representation in the national legislature. The present formula by denying them this representation would seriously weaken participation of these different groups in the democratic process of this country.\(^{32}\)

The Bill is a departure from the normal system of single majority voting to proportional representation. This is a welcome change, although I cannot say that I am fully satisfied. We suffered the worst under the old system. I was wondering whether this is the only system we can think of. Since this is constitutional change, we must consider whether a more favourable system can be worked out. The moment you shut out 5 per cent of the voters you disenfranchise 5 per cent of the voters.

Other countries’ conditions are different. In other countries there is protection for minorities. In this country we have had heavy representation for the minority community. This is quite unusual in any part of the world. Past experience has shown that only two parties have come to power in this country. Some time ago the UNP got only 17 seats; today they have 140 seats. In 1970 the SLFP got 99 seats or 100 seats; this time they got 8 and one independent they have managed to make it 9, half the number of TULF that secured 18 seats. Therefore you should not blindly follow other countries. The minorities have no protection here, and

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\(^{31}\) It has been changed to 5 per cent by the 14\(^{th}\) constitutional amendment and all of the parliamentary general elections were held under 5 per cent as the cut-off point.

wherever there is any change to be made, you must take into account the local condition.33

Though he was of the opinion that the change was a big sacrifice, he welcomed this move. From Thondaman’s mixed reaction, it would appear that he did not clearly declare his ideas against the proportional representation system because of the alliance with the UNP, and his party wanted to get some benefits from the government.

The Tamil political parties did not actively participate in the debates of the constitutional changes because of their dissatisfaction over the post-election violence and their loss of confidence in the government policy on a unitary state. A Member of Parliament and Secretary of the TULF A. Amirthalingam noted: “TULF did not participate in the select committee to change the constitution because of two reasons: first, it was a unitary constitution that they never approved; and the second reason was the indifference of government to the 1977 riots”.34 He said that he would have thought that proportional representation might help his party to continue in power and also prevent any party or group from gaining two-thirds majority and from changing the constitution.

Amirthalingam, speaking before the commencement of the debate on the second amendment to the Constitution Bill, which consisted of changes in the structure of the government, electoral reforms, and seats, said that his party was not interested in participating in the debates

33 For details, see National State Assembly Debates, vol. 24, no. 2, 2 December 1977, columns 2454-2467.
34 Ibid.
because of communal violence. High cut-off points, he said, would reduce the representation of minorities.

Even though the opposition initially suggested a higher cut-off point, the policy was changed later because of the possibility of benefits. The Tamil Congress (TC) pointed out that the TULF was interested in higher cut-off points in order to eliminate some other political parties from the Tamil areas. Vinayagamoorthy of the TC said:

We opposed the proportional representation system when it was introduced in the 1978 constitution because it would eliminate the smaller parties from the democratic process. Initially they introduced the system with the cut-off point of 12.5 per cent. TULF also supported the proportional representation system with the same purpose particularly in the northern and eastern provinces to eliminate other small Tamil parties.

The TULF’s opinion about the list system was that each party should file its list of candidates, and then the party members who were left out but aspired to be candidates would together form a group of independents. This might prolong the nomination period, and lead to mushrooming of

35 Amirthalingam, speaking on the constitutional reforms, said in parliament: “When our house is on fire can we worry about the colour and texture of the curtain whatever it be blue or green? ... on the basis of the promises held out in the UNP manifesto and because of the total failure of the last government to meet the legitimate rights and aspirations of the Tamil people a preponderant majority of the Tamils living outside the northern peninsula voted for the UNP. What has happened? Within one month they have suffered. Many have been killed, raped, their houses have been burned down and their property looted.” See Daily News, 4 October 1977; see also National State Assembly debates, vol. 23, no.10, p. 1286.

36 See Fourteenth Amendment to the Constitutional Bill (Colombo: Government Publications, 1988), p. 129. Participating on the debates of the Fourth amendment to the constitution, Dew Gunasegara said: “The TULF wanted the imposition of the 12½ per cent cut-off point in order to arrest the growth of other parties in the North and East. There was the Tamil Congress at the time but they wanted objectively to prevent favourable left oriented grouping that might emerge in the course of time. So having that in mind they suggested this. It was they who suggested, not the UNP. The UNP probably agreed to this in order to come to some compromise. That is how this 12½ per cent of cut-off point originated ...”

37 Interview with Tamil Congress leader T.Vinayagamoorthy in Colombo.
numerous groups of independents and dissident candidates. There were also accusations that the party leaders aimed their strategy at certain winning wards and used their discretionary powers, not to absorb more number of aspirants.

The TULF finally charged that the seat allocation in the new system led to further advantage of the Sinhalese majority. While in the earlier Constitution, the Northern and Eastern provinces—where Tamils are concentrated—had eight out of the 25 seats allocated on area basis, under the new Constitution they had only eight out of 36 seats. It was thus argued that the Sinhalese majority areas had been given a gift of 11 seats. At the same time, the Sinhalese-majority area of the highlands had gained extra seats, as the non-citizen plantation Tamil population was also calculated in allocating seats to them.

In a multi-ethnic society like Sri Lanka, proportional representation system is practically important. Under the plurality system, Tamils were represented through regional political parties, and the Muslims principally through the two mainstream political parties. Ethnic minorities were not, however, adequately represented in parliament. According to the distribution of population up to 1983, 55 per cent of Tamils resided outside the Northern and Eastern provinces. No mainstream political party nominated a Tamil to stand for parliament from a constituency outside those provinces. This was the main shortcoming of the electoral system of

38 See National State Assembly Debates, n. 24.
plurality. If it were a system of proportional representation with the list method, it would have been possible for members of the ethnic minorities to be elected to parliament if they were included in the list of the majority-dominant area. The Tamil Congress Youth Front leader G.G. Ponnambalam said about proportional representation: “It is a very large subject. As far as proportional representation is concerned, we accept it on principle, but as to the variation which should be adopted we would like to have some time to consider that.” He objected to the provision coming as part of in the constitutional changes.39

The Ceylon Minority Tamil Liberation Front expressed a similar opinion.40 In their view, the proportional representation system would provide more benefits to the major organized political parties and not small organizations. Their organizer, Mashellamani said:

We want a separate ministry to look after our interest. You want to introduce proportional representation. Our people are economically unsound. So, naturally the political parties exploit them; they are in different parties. Therefore, we may not be able to support the proportional representation in Parliament; we have that fear. We have not formed a party. Hence we demand for a separate Ministry.41

During this period, and till the 1980s, the Muslims were represented through the two major political parties, the SLFP and the UNP. Most of the Muslim members were represented from the UNP in the parliamentary elections, and their dependency did not allow them to articulate their opinion freely. M.C.M. Bakeer Makar, President of the All Ceylon Muslim

40 The organization formed in Jaffna by a group for the economically and educationally poor. Parliamentary Series, Ibid.
41 Ibid, p. 255.
League, said about the introduction of the proportional representation system:

We feel that some form of proportional representation is necessary. Our society is multi-racial, multi-religious, and multi-lingual. Proportional representation must take cognisance of these factors. Unless you do so, the communities will be badly affected. We will be at the mercy of the heads of parties. We are in favour of proportional representation, provided some adequate provision is made in the Constitution whereby they can assure the minorities that their parties would not be overlooked or thrown overboard. We are for proportional representation. What we say is that some form of recognition should be given to the minorities...

When parties nominate candidates they must make some provisions for certain interests to be represented, just as under the present system where you have a concentration of certain interests an electorate is carved out. Something must provide to compel the parties to recognize at least one member on the basis of population. That will give a sense of safety to minorities and make them certain that one of their members will be recognized. Unless that is done there is no chance for minorities at all and you will not be recognizing minorities at all. Minorities must feel that they are not ignored and that they are part of the population.42

In the 1980s, when Muslims’ dependency on the major political parties declined, they changed their opinion on the introduction of preferential votes and demand a low cut-off point.

Public Opinion

The general opinion about the constitutional changes brought about by the UNP was that all these favoured the major political parties. One academic, Rohan Edrisinha, spoke about the impact of the dominant political culture on the changes in the electoral system:

Sri Lanka has a very centralized, hierarchical and an almost authoritarian political culture and that is why there are some features in our particular system of proportional representation that tend to favour the large political parties. The bonus seats were introduced because there was fear that proportional representation would create too much fragmentation.

When proportional representation was introduced in the 1978 constitution, there was a high cut-off point, 12.5 per cent, and we never saw it implemented. It was changed for political reasons. So, I think that our political culture is very centralised. They like strong and authoritarian government. That has been a big problem with regard to our constitution making. In fact, our constitutional government has been a failure in the last 50 years, because there has been the dominance of major parties ... rather than constitutional values.\(^{43}\)

P. Saravanamuttu, another scholar, noted:

J.R. wanted to prevent two-thirds majority in future, and made all changes with five-sixths majority. He deliberately introduced the proportional representation system and changed the situation, which they had in the past. He anticipated that there would be no chance for a party to form the government with two-thirds majority. This situation would be preventing any changes in his constitution in future, particularly his pure political calculation to prevent the opposition from coming and overturning the changes.\(^{44}\)

The UNP’s motivation in introducing proportional representation was not just the principle of proportion, but also to bring about the much-needed fragmentation of parties. The fact that the UNP had a vote bank of an approximately 30 per cent even when it lost in 1970, probably convinced Jayewardene that proportional representation would be advantageous to the UNP in the long run. Nevertheless, in terms of the fairness of the system, proportional representation is the fairer electoral system than first-past-the-post.

The UNP introduced the system basically for its own benefit, but the party lost the parliamentary general elections in 1994 and 2000. In practice, the proportional representation system has not only been not beneficial for the UNP but also brought about a balance and gave stable strength to

\(^{43}\) Rohan Edrisinha interviewed during fieldwork in August 2002.

\(^{44}\) P. Saravanamuttu interviewed during fieldwork in August 2002.
SLFP. It is also giving reasonable representation to all minority parties in Sri Lanka.

**STRUCTURE OF PROPORTIONAL REPRESENTATION SYSTEM**

The 1978 constitution covers the proportional representation system under Article XIV and the fourteenth and fifteenth amendments. Three major sections lay down the structure of the system, namely, (1) seat allocation to the electoral districts, (2) the system of voting, and (3) the conversion of seats into votes.

**Seat Allocation**

Under the previous system, the Delimitation Commission allocated the seats on the basis of population as well as area. For the parliamentary general election, the seats were allocated on district basis. Article 98, which laid down the procedure of seat allocation, said that several electoral districts shall together be entitled to return 196 members. The Delimitation Commissions, which were appointed by the President to define the electoral districts, consisted of members who were not involved in electoral politics. The Commissions recommended the division of Sri Lanka into not less than 20 and not more than 24 electoral districts within the provincial boundaries. Each of Sri Lanka’s nine provinces, thus, had two or more electoral districts. Each electoral district would be an

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46 The 22 electoral districts are: Colombo, Gampaha, Kalutara, Mahanuwara, Matale, Nuwara-Eliya, Galle, Matara, Hambantota, Jaffna, Vanni, Batticaloa, Digamadulla, Trincomalee, Kunagala, Puttalam, Anuradhapura, Polanarawa, Badulla, Moneragala, Ratnapura and Kegalle.
administrative district or combination of two or more administrative districts.47

According to the present constitution, there are 225 members elected on three bases—district basis, provincial basis, and national basis. For the parliamentary elections, electoral districts demarcated together are entitled to return 196 members. An additional 29 members are elected on the national basis.48 Of the 196 seats, 36 members are allocated to the existing nine provinces equally, irrespective of the number of population, geographical area or any other factor. The remaining 160 seats are allocated depending mainly on the number of registered votes in each electoral district through what is known as the method of "smaller divisors". The conversion of votes into seats is discussed later in this chapter.

System of Voting

The method of voting, called the block list system, is the same for local governments as well as national election. It was introduced in Article 99 of the 1978 constitution, which ensured the supremacy of the political parties over individuals, by giving the right to cast their vote only for a party, with the party leadership determining in what order their candidates would be elected. In the election for Member of Parliament, the quota of the number of seats each district is entitled to return, shall be

47 In practice, Vanni was the only electoral district, which combined three administrative districts.

48 See Article 99A of the 14th Amendment of the 1978 constitution of Sri Lanka, n. 8.
specified by the commissioner of elections in accordance with the provisions of Article 98(8).49

Unlike the previous system in parliamentary election, any recognized political parties or a group of independent candidates had to submit one nomination paper setting out the names of members to be elected for the particular electoral district. By increasing the number to three, the aim is to fill vacancies in the event of death, resignation or expulsion of a member. Every elector, in addition to his votes, is entitled to indicate his/her preference for not more than three candidates nominated by the same recognized political party or independent group; an elector can cast vote for a party or group, and is free to refrain from indicating preference for a candidate. However, a voter is not entitled to indicate preference for a candidate unless he/she casts the vote for a party or an independent group. If the number of candidates on the list submitted falls short of the number prescribed, it will be a deficient nomination list and will be rejected.50

Conversion of Votes into Seats

The modified Hamilton method is used to allocate seats in the general election (Hamilton method is explained in chapter I). According to the modification, the party or group which polls the highest number of valid votes in each electoral district is awarded the first seat to the

49 Before the election, seats are allocated to all districts on the basis of the number of registered votes. See Constitution of Sri Lanka (1978), n. 8.

candidate whose name appears first on the list. The process starts before any conversion process begins. This seat is popularly termed as the "bonus seat".

At the next stage, every political party or independent group polling less than $1/20$ (5 per cent) of the votes polled in any electoral district is disqualified. (The cut-off point was 12.5 at first; it has been brought down to 5 per cent by the fourteenth amendment to the constitution in 1988.) In the conversion process, the votes of disqualified parties (below cut-off) or groups eliminated are deducted from the total votes polled for the general election at district level. The number of votes resulting after such deduction from each district is called the "relevant number of votes".

The next stage in the process is the determination of the "resulting number". The resulting number is determined by dividing the relevant number of votes by the number of members to be elected for the district less one. The results are worked up to the nearest figure. Then the number of valid votes cast for each political party or group are divided by the "resulting number" and worked to a whole number to determine the number of seats to be allocated to it for the electoral district. Such number of candidates appearing in the list of political party or group are declared as elected according to the preferential votes in each party at every district.

If, after this, there is one or more member yet to be elected, the Hamilton method of largest remainder is used to allocate those balance

\footnote{See Article 99 (6) a and b of the 1978 Constitution of Sri Lanka, repression, no. 08}
seats. This is from the remaining votes of each of the qualified parties or
groups and the candidate next in the order of preference in a list is declared
elected. The process goes on until all the seats are allocated and all the
vacancies are filled.

The following is a mathematical description of the process phase by
phase:52

1. Counting of votes and determining valid votes for each party or
group at electoral district level.

2. The “bonus seats” are awarded to the party or group that polls the
highest number of valid votes in each electoral district.

3. Disqualifying the parties and eliminating groups that poll less than
1/20 or 5 per cent of valid votes (below cut-off) in each electoral
district.

4. Determining total disqualified votes in each district.

5. Determining the “relevant number of votes”.

\[ RV = EV - DV, \]

where

RV is the relevant number of votes,

EV is the total votes cast in the district, and

DV is the votes disqualified, being less than 1/20 of EV.

6. Determining the “resulting number”.

\[ RN = \frac{RV}{S-1}, \]

52 The researcher developed the formulae, based on the provisions in the Constitution of
where

RN is the resulting number, and

S is the number of seats to be filled up for the electoral district.

The results are worked up to whole numbers.

7. Determining the number of members to be elected from every party from the district.

\[ M = \frac{PV}{RN}, \]

where

M is the number of members to be elected from every party, and

PV is the total vote polled by the party in the district.

The result is worked up to whole numbers.

8. If after the above process,

\[ PM+1 < S, \]

where

PM is the total party members elected for the district, and

1 is the bonus seat,

then the party or group with the largest remainder of votes is allocated the next seats.

The process goes on till \( P+1 = S \).

Let us assume that the result of Colombo district is as in Table 3.1, and 20 members are to be elected. The seats for each qualified party would be calculated as given below.
TABLE 3.1
Hypothetical Results in Colombo District

<table>
<thead>
<tr>
<th>Party</th>
<th>Votes obtained</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>1,000,000</td>
</tr>
<tr>
<td>B</td>
<td>600,000</td>
</tr>
<tr>
<td>C</td>
<td>310,000</td>
</tr>
<tr>
<td>D</td>
<td>90,000</td>
</tr>
<tr>
<td>Total Votes</td>
<td>2,000,000</td>
</tr>
</tbody>
</table>

The candidate nominated by party ‘A’ has secured the highest number of votes, will be declared elected as per bonus seat. The number of votes polled by party ‘D’ is less than 5 per cent of the votes polled. Therefore, its vote will be deducted from the total votes. This makes the relevant number of votes 1,910,000. This is divided by the number of members to be elected for the electoral district less by one (20-1). The resulting number is $(2,000,000-90,000)/(20-1) = 1,910,000/19 = 100,526$. Thereafter, the number of votes polled by each political party/group divided by the resulting number (100,526) gives the number of seats each of them is entitled. Within the parties/groups, individuals are elected by their preferential votes. The bonus seat has already been given to the candidate who secured the highest number of preferential votes in the party that polled the highest number of votes in the district, i.e., party A. The candidates securing the next preferential votes get elected as follows:

1. Party A obtained bonus seat.
2. Party A = $1,000,000/100,526 = 9$ (remainder 95,266).
3. Party B = $600,000/100,526 = 5$ (remainder 97,370).
4. Party C = $310,000/100,526 = 3$ (remainder 8,422).
In this manner, 18 members are elected in the first instance (1+9+5+3 = 18), but two members are yet to be elected. The balance is to be allocated to the party with the largest remainder of votes. Accordingly, parties B and A are entitled to the 19th and 20th seats respectively.

Greater parity is found between votes and seats under this system than in the first-past-the-post system. In the present proportional representation system there are 22 electoral districts in Sri Lanka, which are entitled to elect 196 members in this manner. After this process, for the rest of the 29 seats, called National List, the Commissioner of Election appoints particular seats from the National List for members among the political parties or independent groups in the same proportion as the number of votes polled by each party or group to the total number of valid votes at the parliamentary election. Party secretaries or group leaders nominate the National List members, and submit the list to the Commissioner of Election. Under this system, small parties cannot win seats unless they join a major political party because of the need to cover wide areas on the basis of electoral districts and the cut-off point. This is not much different from experience in Sri Lanka's electoral history under the proportional representation system, and the winning party always has greater advantage. In the hypothetical Colombo district results seen earlier, party 'A' has polled only 50 per cent of the votes. If the proportional representation system is applied unmodified, the party is entitled for 10 seats only; but it secured 11 seats, including the "bonus seat". This is the
structure and procedure that Sri Lanka follows now to elect 225 members to parliament.

CONCLUSION

The above analysis reveals that the PR system was introduced for politically motivated reasons. Demerits of the previous electoral system did not form the major reason. The UNP justified that the PR electoral system would rectify the disproportionate electoral effect manifested in the vote-seat ratio, and make coalition governments a political reality in the Island. However, the opposition of other parties reveals that the UNP intended to get consistent benefits for itself. Ultimately, the UNP leadership acted for its own political benefits as well as to maintain the party’s strength in parliament as long as possible.

The overwhelming strength, which the UNP obtained from the previous FPP electoral system, facilitated it to implement arbitrarily the PR system. As a result, unlike other parties, the UNP has maintained its strength consistently in parliament even if it is in opposition. This is evident from the discussion in the following chapters. J. R. Jayewardene’s personal interest and his long-cherished dream to become the executive President of the country had also motivated him to introduce the PR system. Insufficient participation and discussion among political parties has contributed to inclusion of certain arbitrary provisions, which finally helped the personal interests of the UNP leaders and their party.
It must be noted that the structure and process of the PR electoral system is very complicated. This is being analysed in Chapters IV and V. Irrespective of the reasons for its introduction, the proportional representation system has made drastic changes in the democratic politics of Sri Lanka.