

Parliamentary Elections (Amendment) Bill
Second Reading - 26th April 2010

Speech by Viswa Sadasivan, NMP

Preamble

1. Mr Speaker, Sir, I thank you for the opportunity to participate in this debate.

2. I would like to speak on two aspects of the Parliamentary Elections (Amendment) Bill:
 - on what constitutes election advertising, and
 - implications of the 24-hour “cooling off” period on the eve of Polling Day.

Election Advertising

3. Section 61 of the principal Act, paragraph (c) of subsection (6) states that “the transmission by an individual to another individual, on a non-commercial basis on what is commonly known as the Internet, of his own political views”, is allowed. But in the Amendment Bill, this is deleted and substituted with a new paragraph (d), which says that “telephonic or electronic transmission by an individual to another individual” for the same purpose, is allowed. I would like to ask the Minister what the reason is for this change. Can we take it that the term “electronic

transmission” includes the Internet, as well as other new means of electronic transmission, such as podcasts, and if so, that there is no material change to using the Internet in election advertising on a one-to-one basis?

4. As we know, the way the Internet is used has evolved significantly over the years: from a one-to-one communication, to one-to-many, and today it is not uncommon to have many-to-many communication through Facebook, YouTube and other sites. As such, under the broad definition of election advertising why does it appear that the Bill seeks to restrict the use of the Internet to a one-to-one communication? To me, this restriction is not necessary. I would suggest that the Bill avoid specifying the nature of communication on the Internet, and simply state that the use of the Internet for communication during the “election period” is permitted. Unless there is some other intent for restricting it to a one-to-one communication - in which case, it is important for the Minister to explain.

5. Also, under section 61 of the principal Act, in paragraph (d) of subsection (6), it is stated that, “the publication of any news relating to an election in a newspaper in any medium or in a radio or television broadcast” is permitted. However, in the Amendment Bill, this paragraph is deleted and replaced with two new clauses under a new paragraph (c). It would appear that the Bill seeks to restrict the

publication of election news to a newspaper in any medium that is “permitted to do so under the Newspaper and Printing Presses Act.” Similarly, the Bill proposes that only radio and TV broadcasts by those licensed under the Broadcasting Act will be permitted to provide election news coverage. What this means is that online publications - which include popular bulletins such as “theonlinecitizen.com”, “Yawning Bread” and “Temasek Review”, as well as some very popular blogs - which, by their very nature, are not officially licensed, will now not be permitted to publish election news. If this interpretation of the Bill is correct, it is disappointing. In an election, is it not important for voters to have the benefit of a wide spectrum of views, interpretations and perspectives to help them make a choice on Polling Day? Haven’t government leaders themselves stressed the need for people to make considered, informed, and balanced choices at the Poll? How does restricting non-mainstream perspectives serve this end? If the government is concerned about irresponsible conduct, surely there is adequate recourse through legislative means - the Sedition Act, the Penal Code, libel laws, just to list a few. This amendment is firstly, difficult to justify, secondly, a challenge to enforce, and thirdly, likely to be counter-productive by stimulating increased traffic to these internet sites.

6. It is imperative and useful for the Minister to explain how “election advertising” is defined, and whether there is any form of restriction in communicating personal points of view pertaining to the election through the Internet and other electronic and telephonic means such as through “Facebook”, “Twitter”, blogs and podcasts. And if indeed there are restrictions, what are the reasons? More importantly, why does the Bill seek to deny Internet and telephone-based sites the right to publish news and perspectives on the election?

7. As we continue to project ourselves as a open, progressive society, it is increasingly important that any restriction on the use of telephones, the Internet or other electronic means for communicating ideas and views is justifiable, not just from the government’s perspective but, more importantly, from the people’s point-of-view. Given the widespread use of these communication means - a rapidly growing phenomenon - any restriction that is deemed unjustified will be seen as an erosion of basic rights, and is likely to be defied or circumvented, which we know, is not difficult to do.

“Cooling Off” Period

8. Mr Speaker, Sir, I would now like to move on to talk about the “Cooling Off” period - 24 hours just before Polling Day.

9. This idea was first brought to light by the Prime Minister in December last year. He said, and I quote: “...After a very exciting and emotional election campaign, you really ought to have some time to calm down, reflect on the issues and the arguments, and analyse what’s at stake, logically, rationally, and then to go in to the polls to cast your vote in a calm and steady state of mind...”
10. This makes sense to me. Calm and quiet is important as we are making up our minds on how to cast the vote. It is for the same reason that countries such as Australia, Indonesia, Italy and Mexico have a similar practice, and from what I gather other countries are considering the same.
11. The underlying assumption appears to be that during the “cooling off” period, there should be no actions or distractions that could influence voters. Having had the benefit of hearing, seeing and reading about the different perspectives during the campaigning period, the final decision on how to cast the vote has to be the individual’s.
12. It is for this reason that the Bill seeks to disallow “election meetings” on the eve of Polling Day. And an “election meeting” is defined as “a public assembly organised by or on behalf of a candidate nominated for election - to:
 - (a) promote or procure the electoral success at the election for one or more identifiable political parties, candidates or groups of candidates; or

(b) to otherwise enhance the standing of any such political parties, candidates or groups of candidates with the electorate in connection with the election.”

13. I support this proposed amendment.
14. However, if the aim is to prevent undue external influence that directly or indirectly “promotes or procures the electoral success” or “enhances the standing of any such political parties, candidates or groups of candidates”, then, by extension, the Bill should seek to eliminate all other means of external influence during the “cooling off” period.
15. In this regard, any event or activity, not just those that are directly linked to the election, that involves interaction with the public by candidates, should be disallowed. This would include ceremonies, festivals and commemorative events, even if they were scheduled way before the date of the election was announced. Even though, strictly speaking, such events fall outside the definition of “election meetings”, it is evident that they can “enhance the standing” of any political party and its candidates, and by doing so, indirectly influence voting and, therefore, the outcome of the election.
16. Similarly, any media reporting that could directly or indirectly influence the way votes are cast, should be

disallowed during the “cooling-off” period. As such, editorials, campaign summary reports or any other form of content that is subjective in nature and that gives the media latitude to publish opinions should not be allowed. Party Political Broadcasts and a pure listing of candidates for easy reference by voters would be content that does not transgress this principal of being even handed, and therefore can be allowed.

17. If the residual view held by the government is that it is alright for the media to publish campaign summary reports on the eve of Polling Day, then it is only fair and appropriate that the Internet based media, such as online bulletins, be allowed to do the same. It is quite evident that the mainstream and online media perspectives, especially on social and political matters, can be quite different. As such, their campaign summaries are likely to differ - giving voters the benefit of a broader range of views to choose from, without being influenced by one point-of-view. But the better option is not to have to mitigate the pitfalls of external influence, and prevent it from happening in any form, in the first place.
18. Finally, with all these rules and regulations in place to ensure the objective of a “cooling off” period is achieved, there is the question of who monitors and enforces. As it stands, it would appear that the Commissioner of Police is entrusted with this responsibility. But is it fair to expect

him to take on this additional and difficult responsibility of making a judgment call on a matter such as this - that may not fall within his core expertise or responsibility? Would it not be more appropriate to create a high level electoral body - a committee of sorts - to serve as a watchdog empowered to closely monitor the conduct of the media and the political parties for adherence to the rules and to ensure that no party - incumbent or challenger - is given undue advantage? The committee would blow the whistle when it sees a transgression. The Commissioner of Police would then step in to enforce the rule of law. Today, there are enough individuals in our society with the seniority and expertise to serve on such an electoral watchdog body - persons who have earned public trust for their integrity and wisdom, and whose neutrality is beyond question. Such a watchdog body would not only help serve as a much needed neutral arbiter, but would also lend credibility to the electoral process and strengthen and sustain public trust.

Conclusion

19. Mr Speaker, Sir, in conclusion, even with the rules and regulations in place, there will be many moving parts and grey areas when it comes to effectively and correctly implementing the measures to reap the desired outcomes. This is why it is crucial that the reasons and considerations for the amendments to the Parliamentary Elections Act are not only intuitive and fair, but seen to be so. The points I

have raised and the suggestions thereof are in keeping with this spirit - to help sustain and enhance public trust, not just to maintain confidence, in the electoral process. For this, the realities of politics aside, the residual impression on the ground has to be that the amendments are intended to serve the larger, long-term interest of the citizenry and not just the interests of parties contesting in the election. I believe that, indeed, this is the motivation for the amendments.

20. With that, Mr Speaker, Sir, I support the Bill.
