The 2019 Sri Lankan Presidential Election:
A Deepening Political Divide

ANFREL International Election Observation Mission Report

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# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary</td>
<td>5</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>7</td>
</tr>
<tr>
<td>Organization Profile</td>
<td>9</td>
</tr>
<tr>
<td>Mission Profile</td>
<td>11</td>
</tr>
<tr>
<td>Executive Summary</td>
<td>15</td>
</tr>
<tr>
<td><strong>Election Laws and Administration</strong></td>
<td>19</td>
</tr>
<tr>
<td>Constitutional and Legal Framework</td>
<td>19</td>
</tr>
<tr>
<td>Electoral System</td>
<td>38</td>
</tr>
<tr>
<td>Election Commission of Sri Lanka</td>
<td>40</td>
</tr>
<tr>
<td>Voter Registration</td>
<td>45</td>
</tr>
<tr>
<td>Political Party Registration and Regulation</td>
<td>46</td>
</tr>
<tr>
<td>Electoral Dispute Resolution</td>
<td>49</td>
</tr>
<tr>
<td>Needed Legislation/Policy in Sri Lankan Elections</td>
<td>50</td>
</tr>
<tr>
<td><strong>Election Environment</strong></td>
<td>55</td>
</tr>
<tr>
<td>Campaign Period</td>
<td>55</td>
</tr>
<tr>
<td>Vote Buying and Misuse of State Resources</td>
<td>61</td>
</tr>
<tr>
<td>Voter Awareness and Education</td>
<td>65</td>
</tr>
<tr>
<td>Media and Freedom of Expression</td>
<td>71</td>
</tr>
<tr>
<td>Political Participation of Women</td>
<td>76</td>
</tr>
<tr>
<td>Vulnerable Sector Issues</td>
<td>80</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>CSOs, Domestic Election Monitoring Organizations and INGOs</td>
<td>84</td>
</tr>
<tr>
<td><strong>Electoral Process</strong></td>
<td>89</td>
</tr>
<tr>
<td>Postal Voting</td>
<td>89</td>
</tr>
<tr>
<td>Election Day: Opening, Polling, Closing and Counting</td>
<td>90</td>
</tr>
<tr>
<td>Voter Turnout and Invalid Votes (Spoiled or Tendered Ballots)</td>
<td>93</td>
</tr>
<tr>
<td>Announcement of Results and Post-Election Period</td>
<td>95</td>
</tr>
<tr>
<td><strong>Recommendations</strong></td>
<td>98</td>
</tr>
<tr>
<td><strong>Photo Gallery</strong></td>
<td>104</td>
</tr>
<tr>
<td><strong>Annexures</strong></td>
<td>114</td>
</tr>
<tr>
<td>Official Results</td>
<td>114</td>
</tr>
<tr>
<td>ANFREL Deployment Statement</td>
<td>115</td>
</tr>
<tr>
<td>ANFREL Post-Election Statement</td>
<td>116</td>
</tr>
<tr>
<td>ANFREL Interim Report</td>
<td>117</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>----------</td>
<td>----------------------------------------------------------------</td>
</tr>
<tr>
<td>ANFREL</td>
<td>Asian Network for Free Elections</td>
</tr>
<tr>
<td>CaFFE</td>
<td>Campaign for Free and Fair Elections</td>
</tr>
<tr>
<td>CBO</td>
<td>Community Based Organization</td>
</tr>
<tr>
<td>CMEV</td>
<td>Centre for Monitoring Electoral Violence</td>
</tr>
<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>EC</td>
<td>Election Commission of Sri Lanka</td>
</tr>
<tr>
<td>ECMU</td>
<td>Election Complaint Management Unit</td>
</tr>
<tr>
<td>EDR</td>
<td>Election Dispute Resolution</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>FEMBOSA</td>
<td>Federation of Election Management Bodies of South Asia</td>
</tr>
<tr>
<td>HRO</td>
<td>Human Rights Organization</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>IEOM</td>
<td>International Election Observation Mission</td>
</tr>
<tr>
<td>INGO</td>
<td>International Non-Governmental Organization</td>
</tr>
<tr>
<td>JVP</td>
<td>Janatha Vimukthi Peramuna</td>
</tr>
<tr>
<td>MP</td>
<td>Member of Parliament</td>
</tr>
<tr>
<td>NDF</td>
<td>New Democratic Front</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Government Organization</td>
</tr>
<tr>
<td>PAFFREL</td>
<td>People’s Action for Free and Fair Elections</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>PEA</td>
<td>Presidential Elections Act</td>
</tr>
<tr>
<td>PSP</td>
<td>Participatory Strategic Plan</td>
</tr>
<tr>
<td>PWD</td>
<td>Person with Disability</td>
</tr>
<tr>
<td>SLAF</td>
<td>Sri Lanka Air Force</td>
</tr>
<tr>
<td>SLPP</td>
<td>Sri Lanka Podujana Peramuna</td>
</tr>
<tr>
<td>SLFP</td>
<td>Sri Lanka Freedom Party</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration on Human Rights</td>
</tr>
<tr>
<td>UNP</td>
<td>United National Party</td>
</tr>
</tbody>
</table>
Ayubowan!

The Asian Network for Free Elections would like to express its gratitude for its supporters, partners and colleagues in the promotion of democracy and enabling the successful implementation of the 2019 Sri Lankan Presidential Election Observation Mission. This endeavor, the 11th election observation mission conducted by ANFREL in Sri Lanka since 2001, solidifies the organization’s role in the growth of democracy in the country. This report contains within it features of the recently-held elections which the organization sees improvements can be made, as well as good practices can be culled from. It has been an honor to see such a vibrant practice of suffrage rights take place.

ANFREL expresses its gratitude to the Election Commission of Sri Lanka for welcoming and facilitating the participation of international election observers. The EC spared no effort to ensure that the accreditation of election observers are straightforward and smooth. Such openness to partner with both international and domestic stakeholders is something that we saw as a big portion of the 2019 Election’s success.

ANFREL also extends its thanks to the domestic election stakeholders in Sri Lanka, especially its members, the People’s Action for Free and Fair Elections (PAFFREL) and the Centre for Monitoring Election Violence (CMEV), for offering assistance to our election observers during their deployment in their respective areas.

We also thank the diplomatic community and international organizations, who engaged with ANFREL’s activities throughout the mission. Their support to civil society only helps in bringing about the growth and vibrancy of democratic development.

Our gratitude also goes to the ANFREL member organizations as well as our committed and skillful observers who rose to the challenge of preparing for, and carrying out their mission in a very short period of time. Their continuous efforts, day and night, made this comprehensive
mission report possible thanks to their findings and recommendations. To our local staff and volunteers, we also express our thanks for helping the mission succeed.

I would also like to thank the core team for the hard work. I would like to express admiration to the professionalism of our electoral analysts Ms. Ona Caritos and Ms. Bidyalaxmi Salam.

Finally, we wish for democratic sustainability in Sri Lanka as the oldest democratic country in Asia and which granted equal suffrage opportunities for both males and females earlier than many countries in the world.

Chandanie Watawala
Executive Director
Formed in November 1997, the Asian Network for Free Elections (ANFREL) has established itself as the leading NGO in Asia working for the promotion of democratic elections. ANFREL’s primary work is focused on election observation, developing and training civil society groups that are actively working on democratization in their home countries, and undertaking campaign and advocacy activities to address electoral challenges and foster democratic development in the region.

Since its formation and prior to the 2019 Sri Lanka Mission, ANFREL has conducted 64 election observation missions across Asia, with over a thousand international election observers participating in these missions. ANFREL draws its observers from a network of member civil society organizations in Asia, all working on strengthening political processes through inclusion, accountability, transparency, and inter-stakeholder collaboration. Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is locally developed rather than externally imposed. By engaging in elections in various countries, our observers develop a strong understanding of best electoral practices, knowledge that can then be utilized to strengthen electoral processes in their respective home countries.

In addition to direct election observation programs, ANFREL also carries out training and capacity building programs for civil society, the media, and other institutions working on elections and democracy-related issues. Providing capacity building training, either directly or indirectly, to local organizations has been an integral part of most of our election observation missions to date. ANFREL believes that capacity building for local stakeholders is one of the most important elements in democratization efforts, which is why it regularly holds regional or country-specific workshops to develop the abilities of democracy advocates.
Finally, ANFREL also carries out election-related advocacy and campaigning, including the dissemination of information and publication of materials related to elections and other democratic processes, as well as lobbying for electoral reforms both on the national and international stage. Since 2012, ANFREL has also organized the Asian Electoral Stakeholder Forum (AESF), which brings together election-related civil society groups and election management bodies from across Asia and beyond to foster greater understanding and cooperation for addressing the remaining challenges to free and fair elections in Asia. By engaging diverse electoral stakeholders through our advocacy and campaign work and bringing together observers from across the region to participate in our observation missions, ANFREL seeks to create an environment conducive to democratic development in the spirit of regional solidarity.

ANFREL’s three areas of work - election observation, capacity building, and advocacy - support and complement one another to further our mission of improving the quality of elections across Asia.
ANFREL’s International Election Observation Mission (IEOM) to the 2019 Sri Lankan Presidential Election is composed of nine long-term and 29 short-term international election observers, and two electoral analysts (EAs), and two core team members representing 18 countries across and beyond Asia. The mission was led by Mr. Damaso Magbual, former chairperson and spokesperson of ANFREL. The long-term and short-term observers were deployed for 21 days and 11 days, respectively. The EAs and core team members were deployed for 40 days and 45 days, respectively. The team covered all 25 administrative districts in the country.

The IEOM team observed the pre-election period, postal voting and Election Day. The team conducted campaign observation, interviews with key electoral stakeholders, desk research and observation of election day operations. ANFREL covered 31 polling stations during the days allocated for the postal voting (November 1-7) and 507 polling stations on Election Day (November 16) across all 25 administrative districts.
ANFREL IEOM released its interim report on November 18, which provided an assessment of the election environment, covering campaign period and cooling days, as well as conduct of postal voting and election day operations. Election day observation covered the electoral processes from the opening of the polls to the counting, consolidation and publication of results.

In January 2020, the Mission released this comprehensive mission report which covers and assesses extensively all facets of the successful poll. The comprehensive report also covers a set of recommendations which seeks to enable a sustainable growth of democratic electoral processes in Sri Lanka.

Furthermore, our comprehensive report on the 2019 Sri Lankan Presidential Election also includes an overall assessment of the post-election environment including the quality of electoral dispute resolution. In our collective efforts to enhance the electoral system and conduct in the region, ANFREL takes this opportunity to present a set of recommendations for electoral stakeholders based on the findings of our IEOM. We hope and urge that relevant stakeholders, at local and international level as well as government and non-governmental bodies, consider the recommendations provided in this report.
The Eighth Presidential Election was held on November 16, 2019 under the framework of the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka. The election was successful, largely peaceful and orderly. The EC needs to be particularly acknowledged for delivering on its constitutional mandate to ensure an electoral process that has drawn confidence of people and political parties alike. The resounding success of the election was due to the acceptance of the election outcome by all contesting parties in a welcome demonstration of democratic maturity, yielding a quick and swift transfer of power.

Through the deployment of international election observers throughout the country, the mission witnessed how the Sri Lankan people emerged and participated in deciding the future of their country. This report presents ANFREL’s final assessment of the electoral process, which was crafted with internationally recognized democratic election norms and principles in mind.

The 83.72% voter turnout shows the reinforcement of public faith in the ballot and the prospects of change it can bring. Therefore, it is necessary that all issues both observers and voters saw emerging from the process be addressed immediately in order to continue and strengthen public trust in elections. Of the 15,992,096 registered electors, 13,387,951 went out to exercise their suffrage rights. While laudable, ANFREL would like to recommend that a more thorough voter and civic education initiative could be done to improve this number in future elections.

Despite some procedural inadequacies such as insufficient safeguards to protect voters’ secrecy, generally unclear definition of the role of police officials inside polling stations and differential understanding of election officials on handling tendered and spoilt ballots, the voting process on Election Day ran smoothly. However, the smoothness of the process was not felt by all voters. Almost all polling stations observed by ANFREL observers posed accessibility challenges to persons with
disability (PWDs), especially wheelchair-bound and elderly voters. ANFREL recommends to the EC, relevant government agencies, and electoral stakeholders including civil society organizations (CSOs) to pay required attention to creating a more enabling environment for particularly elderly voters and PWDs.

The campaign environment was dominated by only four major candidates in a field that had 35 contestants. Such dominance was further aggravated by the incessant and uncontrolled spending of several candidates in both traditional and social media. Given the lack of legal framework to monitor and control campaign spending by political parties and private campaigners, the playing field is heavily tilted towards moneyed candidates. ANFREL recommends to the Sri Lankan Parliament to consider an immediate passage of campaign finance laws to make elections more inclusive to candidates representing diverse income groups. In addition, the EC may also consider measures to prevent candidates supporting the candidacy of their opponents, which Sri Lanka has seen in this election.

The political parties utilized both traditional and non-traditional campaigning methodologies. The media, both public and private, were perceived by most stakeholders to have been biased towards their preferred candidates and parties. The media and political parties’ relations are so entangled in a sense that media institutions are oftentimes owned by personalities who are closely affiliated with political parties. Such biases should be avoided in future elections ideally through an initiative of media entities to police themselves and their members to ensure the fulfillment of the right of voters to have access to unbiased information about election contestants and their manifestos. Social media also played host to a lot of issues which include hate speech, misinformation, and disinformation, contributing to the negative discourse which adversely affected the electoral environment. It is recommended for the EC to continue its partnerships with the different online platforms to develop programs and policies that would curtail effects of hate speech, misinformation and disinformation in future electoral exercises.
ANFREL observers found the postal voting process to be peaceful and orderly. This exercise can be further improved by expanding the privilege to similarly situated government employees and private individuals. In addition, the location of these postal voting stations should be assessed further to make it more conducive to voters who are eligible to avail this facility. Furthermore, ANFREL would like to recommend addressing the lack of legal framework and alternative voting procedures for sectors which are currently disenfranchised, specifically remand prisoners and migrants who are studying or working outside of Sri Lanka.

Sri Lankan voters seem to possess the basic knowledge about elections but are largely unaware of the complexity as well as advantages of preferential voting. Most of the voters interviewed by the mission relayed that they only know how to vote for only one candidate. Such basic knowledge deprives voters the opportunity to fully exercise the full breadth of their voting rights, specifically voting for more than one candidate, which all eligible Sri Lankan citizens are legally given. Hence, the EC should strive to provide more comprehensive voter education to the Sri Lankan voters. Local election organizations should also take it to task to provide voter education to people in the peripheries, and not just focus in urban areas.

Although the November 16 Presidential Election showcases the positive developments in the conduct of future elections in the country honed through years of compromise and cooperation among various election sectors, further improvements can be made to make the electoral process more inclusive, transparent, and accountable to inspire even greater confidence of diverse communities that inhabit the island.
Election Laws and Administration

Free, fair, orderly, genuine, peaceful are just some of the words used to describe the conduct of an election. These words are dependent on the electoral legal framework of a country. If the electoral laws are too restrictive, then the effect would most likely impinge on the exercise of electoral rights. On the other hand, if it is too loose or too vague, then it would cause confusion, eventually impinging also on the exercise of electoral rights. Therefore, it is necessary that the electoral legal framework be analyzed in its form (how the laws are worded) and in its substance (how the laws are implemented), taking into account as well the legal international instruments that a country has adopted and has ratified. These international legal instruments form part of the electoral legal framework of a country.

The first section of this report would present the law, its majors sections, controversial provisions/sections and/or implementation of the law, international instrument basis and recommendations to concerned government agencies, civil society organizations on how to improve such law in accordance with internationally recognized electoral standards and principles.

Constitutional and Legal Framework

The 2019 Presidential Election was conducted under the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka (“1978 Constitution”), Presidential Elections Act, No. 15 of 1981, Registration of Electors Act, No. 44 of 1980 and Elections (Special Provisions) Act, No. 28 of 2011. Supplementing these laws were the guidelines, directives and orders issued by the EC.

Aside from above mentioned, Sri Lankan elections are also guided by international instruments like the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all forms of Discrimination
Against Women (CEDAW), International Convention on the Elimination of all forms of Racial Discrimination (ICERD), Convention on the Rights of People with Disabilities (CRPD) and the United Nations Convention Against Corruption (UNCAC). The country has signed and ratified all these instruments. As a member country of the South Asian Association for Regional Cooperation (SAARC), the country also follows conventions created by the regional bloc regarding democracy and human rights.

The 1978 Constitution
of the Democratic Socialist Republic of Sri Lanka

The 1978 Constitution provides that Sri Lanka is a unitary State, free, sovereign, independent and a democratic socialist republic. It also provides for a unicameral Parliament and an Executive President. It guarantees fundamental rights and freedoms, including freedom of expression, association, assembly, and participation.

The 1978 Constitution outlines in Chapter 7, No. 30 the election and term of office of the President. In Chapter 14, Numbers 88-102, the following are covered: enfranchisement and exemptions, qualifications and disqualification for election as member of Parliament, disqualification for election as President, free, equal and secret elections, election of the President, Delimitation Commission, Electoral Districts and their name proclamation and non-functioning of a public officer or an officer of a public corporation during election period. Lastly, Chapter 14A Numbers 103-104 detail the office, powers and functions of the EC.

The President shall be elected by the people and shall hold office for a term of five years. Every person who is qualified to be an elector shall be qualified to be elected to the office of the President unless he or she
possesses any of the disqualifications.\(^1\) Any citizen\(^2\) who is qualified to be elected to the office of the President may be nominated as a candidate for such office by a recognized political party or if he or she is or has been elected member of the Parliament, by any other political party or by an elector whose name has been registered in any register of electors. The poll for the election of the President shall be taken not less than one month and not more than two months before the expiration of the term of office of the President in office. Another option is for the President, at any time after the expiration of four years from the commencement of his first term of office, by proclamation, declare his intention of appealing to the people for a mandate to hold office, by election, for a further term. No person who has been elected twice to the Office of the President by the people, shall be qualified thereafter to be elected to such office by the people.

The President is the head of state, head of the executive and of the government, and the commander in chief of the Armed Forces. He should ensure that the Constitution is respected and upheld, promote national reconciliation and integration, ensure and facilitate the proper functioning of the Constitutional Council and institutions and on the advice of the EC, ensure the creation of proper conditions for the conduct of free and fair elections and referenda. Aside from powers, duties and functions expressly conferred or imposed on, or assigned to the President by the Constitution or other written law, the President shall have the power\(^3\):

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1. He has not attained the age of thirty five years, he is not qualified to be elected as member of Parliament (for example, interest in any contract made by or on behalf of the State or a public corporation as the Parliament may prescribe), if he has been twice elected to the office of the President by the people and if he has been removed from the office of the President (Parliament resolution passed by not less than ⅔ of the whole number of members voting in its favour the removal of the President). Chapter 7, Section 92 of the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka.

2. A citizen of Sri Lanka shall for all purposes be described only as a “citizen of Sri Lanka ”, whether such a person became entitled to citizenship by descent or by virtue of registration in accordance with the law on relating to citizenship. Chapter 5, Section 26, No.2 of 1978 Constitution of the Democratic Socialist Republic of Sri Lanka.

to make the statement of government policy in Parliament at the commencement of each Parliament session

to preside at ceremonial sittings of Parliament

to summon, prorogue and dissolve Parliament

to receive and recognize, and to appoint and accredit, Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents

to appoint as President’s counsels, attorneys at law who have reached eminence in the profession

to keep the Public Seal of the Republic, and to make and execute under the Public Seal, the acts and appointments of the Prime Minister, other Ministers of Cabinet, Chief Justice and other judges of the Supreme Court, the President of the Court of Appeals and other judges of the Court of Appeals

to declare war and peace

to do all such acts and things, not inconsistent with the Constitution or written law, as by internation law, custom or usage, the President is authorized or required to do so

While a person holds office as President of the Republic of Sri Lanka, no civil or criminal proceedings shall be instituted or continued against the President in respect to anything done or omitted to be done by the President, either in his official or private capacity. Nevertheless, any
person can make an application before the Supreme Court for infringement or imminent infringement by executive or administrative action of any fundamental right (freedom of thought, conscience or religion, freedom from torture, right to equality, freedom from arbitrary arrest, detention and punishment and prohibition from retrospective legislation, freedom of speech, assembly, association, occupation, movement, etc. and right of access to information) or language provided in the 1978 Constitution.

The voting for the election of the President shall be free, equal and by secret ballot. Every voter while casting his or her vote for any candidate may, when there are three candidates for election, specify his second preference. If there are more than three candidates for election, the voter may specify his second and/or third preferences.

**Recent changes to the 1978 Constitution**

Since its promulgation, the 1978 Constitution has been amended nineteen times. The last three amendments (17th, 18th and 19th amendments) show the dynamism of Sri Lankan politics in relation to the country’s fundamental law. The 17th amendment came into effect in October 2001. This amendment introduced the Constitutional Council and Independent Commissions. According to the Center for Policy Alternatives, these bodies were necessary to the depoliticization of key public institutions with a view to promoting good governance. One of the Independent Commissions was the EC. But for the 2005 Presidential Elections, the conduct of the elections was still under the Department of Elections and the Election Commissioner. This was because the EC was not yet established because of the non-appointment of members to the Constitutional Council.

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Shortly, within a few years after this amendment, in April 2006, President Mahinda Rajapaksa made appointments to the Public Service Commission and the National Police Commission without recommendation from the Constitutional Council. Such appointments were made irrespective of actions instituted in courts and opposition of many organizations. Thereafter, the former president made further appointments, again without the recommendation of the Constitutional Council, to judges of superior courts, members of the judicial service commission, attorney general, auditor general, inspector general of the police and secretary general of Parliament. This was in clear contravention of the 17th amendment. Upon expiration of the terms of the former president’s appointments in the Public Service Commission and the National Police Commission, the Cabinet of Ministers transferred the powers of these two offices to the Ministry Secretaries and the Inspector General of the Police. Again, a clear contravention of what was provided in the 17th amendment.

As the 17th amendment was seen as an additional layer of bureaucracy by the President, the 18th amendment was adopted in September 2010. In essence, the 18th amendment reversed the 17th amendment by replacing the Constitutional Council with a Parliamentary Council and placing the independent commissions under the president’s authority. In addition, the two-term limit of the President was removed. Powers of the independent commissions were also reduced. In particular, the EC’s composition was reduced to three (3) members from the original of five (5). The EC’s power to issue guidelines has also been limited to matters which were directly connected to the conduct of an election or referendum. Lastly, the EC now has power to direct both public and private media to comply with its guidelines.

The 19th amendment was passed in May 2015. The changes brought about by this amendment were: reintroduction of the two-term limit of the President, reduction of President’s term of office from six (6) to five (5) years, the President can no longer remove the Prime Minister on the former’s discretion and reintroduction of the Constitutional Council. In the case of the EC, it was again authorized to prevent the political party
in government from using state resources. But its powers with regard to regulating media was again limited to State media.

After winning the 2019 Presidential Election, President Gotabaya Rajapaksa, in his first address to the Sri Lankan Parliament, sought constitutional and electoral reform for a strong executive and legislature and sovereignty of the people. One member of Parliament, Mr. Wijedasa Rajapaksa sought to increase the percentage of votes that a political party or independent group should get for their candidates to be elected in office. Another amendment he sought also was to strengthen certain powers of the president. For example, the president no longer needs approval of the Constitutional Council to make appointments to the senior courts. Another example is enabling the President to hold the Ministry of Defense and any other Ministry positions. In effect, Mr. Wi-

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Jedasa’s proposed amendments intended the Constitution to partially revert to its 18th Amendment form.

One of the fundamental aspects of genuine elections is the independence of the Election Management Body (“EMB”). In the Bangkok Declaration on Free and Fair Elections, it provides that the fearless independence of EMBs should be guaranteed by a state’s constitution and other legal frameworks. In Sri Lanka’s context, the EC started out as just a department. But because of the recent amendments, most notably the 17th and 19th amendments, it has become an Independent Commission.

Although it can be said that then Department of Elections was perceived to be independent by almost all election stakeholders, both domestic and international, it has always encountered the issue of being influenced by the appointing authority. This was because the Commissioner of Elections was directly appointed by the President. With the 17th and 19th Amendments, it transformed into an independent commission. Being so, its Commissioners are no longer perceived to be beholden to the appointing authority. This is because the President is constitutionally mandated to follow and appoint solely from a list of recommendations of the Constitutional Council.

The independence of EC is under threat once again with the talk of changing the Constitution under the new government in favor of restoring the presidential power to appoint election commissioners. The Sri Lankan Parliament is urged to secure the role and power of the Constitutional Council in the process of appointing election commissioners is maintained; thus, avoiding the placement of the power to appoint commissioners on the hands of a single person.

Although the 1978 Constitution clearly delineates the powers and functions of the EC, its relation to other branches, bodies and agencies in the government, there are two provisions which are in conflict with each other. This was highlighted by the Center for Policy Alternatives in its paper entitled, A Brief Guide to the 19th Amendment to the Con-
stitution. These two provisions are Article 41 (b) (6) which provides that the EC is not responsible and answerable to the Parliament but in Article 104 (b) (3) it provides that the EC is responsible and answerable to the Parliament. Because of conflicting provisions in the constitution, this might cause confusion in the future. Worse, it can be used to undermine the independence of the EC. It is recommended that this should be immediately clarified, even though it has not caused any problem yet as to the election administration work of the EC.

**Presidential Elections Act (No. 15 of 1981)**

The Presidential Elections Act (No. 15 of 1981) is the primary law that governs the conduct of the entire electoral exercise. It has four major sections namely voter and candidate registration, material organization of the polling and counting procedures, appointment of election administration officers in the districts, and offenses and petitions.

The 1978 Sri Lankan Constitution affords its citizens the fundamental right of assembly. But this right is suspended by Section 69, the section on restriction of processions. It provides that no persons shall, at any time during the period commencing on the day of the nomination and ending one week after the date on which the result of the poll taken is declared by the Commissioner, conduct, hold or take part in any procession except for May 1 (Labor Day) processions or religious or social purpose processions. Such restriction unduly hampers and restricts the exercise of this right of every Sri Lankan. It is recommended that this section be removed from the law and subject such right to just administrative limitations only. This administrative limitation is aptly provided in Section 77 of the Sri Lankan Police Ordinance No. 16 of 1865 which provides that no procession should be taken out or held in any public place in any area, unless notice in writing of such procession has, at least six hours before the time of commencement of such procession, been given to

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the officer in charge of the police station nearest to the area where
the procession will take place.

Section 74 of the Presidential Elections Act prohibits any person, from
the day of nomination up to the day following the poll date, to do the
following: post in any public or private premise the flag or banner of
any candidate, post any handbill, placard, poster, notice, photograph of
a candidate, symbol, sign or drawing on any place to which the public
have a right of or are granted access, post any handbill, placard, poster,
notice, photograph of a candidate, symbol, sign or drawing on or
across any public road and post any handbill, placard, poster, notice,
photograph of a candidate, symbol, sign or drawing in or any vehicle.
This provision is violative of the constitutionally guaranteed exercise of
one’s freedom of expression. Part of the expression is the outward show
of support of a person to a candidate through cut-outs, posters, and
other campaign paraphernalia. This is a right universally recognized,
with strict parameters on how to limit its exercise. Aside from being
violative of one’s exercise of the freedom of expression, this provision
also has negative implications on the quality of the playing field among
candidates. It is common law that one’s private space is his own private
kingdom, as long as it does not pose as nuisance or danger to others.
Aside from violative of the exercise of one’s ownership of property, the
prohibition also violates the constitutional guarantee of one’s freedom
of expression. Part of expression is the outward show of support of a
person to a candidate through cut-outs, posters, etc. This is a right uni-
versally recognized, with strict parameters on how to limit its exercise.
Aside from being violative of the exercise of private property rights and
freedom of expression, this provision also has negative implications on
the quality of playing field among candidates.

In an interview, a candidate lamented over the fact that he could not
afford staging big assemblies or organizing hundreds of meetings in the
villages. He wanted to make use of cut-outs, posters or billboards to
campaign for himself. Due to this prohibition, he was just reduced to
installing a sticker of his face on his campaign vehicle, as well as meet-
ing as many people as he can. It is recommended that this provision be
removed, allow the use of billboards, cut-outs in private places (without an assembly to justify it) for private individuals, and allow the use of billboards, cut-outs for candidates only in public places.

According to the Universal Declaration on Democracy, civil and political rights are fundamental in nurturing a vibrant democracy. These are important components in one’s right to vote and be elected, the essence of which are based on the freedom of assembly and expression, access to information, and the right to organize political parties and carry out political activities. It is clear that Sections 69 and 74 deprive Sri Lankan voters and candidates of these basic civil and political rights. The Sri Lankan Parliament should remove these two provisions from the Presidential Elections Act. While ANFREL rec-

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7 Declaration affirms the principles of democracy, the elements and exercise of democratic government and the international scope of democracy. Adopted by the Inter-Parliamentary Union, September 1997.
ognizes the rationale behind the two provisions, the EC can identify public poster areas which will give the political parties the freedom to post campaign materials, while maintaining public order.

Section 24 (2) of the Presidential Elections Act provides for the time of opposition to nomination of candidates. It says that no objection to a nomination paper shall be allowed unless it is made to the Commissioner between 9:00 a.m. and 11:30 a.m. on the day of the nomination. This is violative of the international standard of an effective redress under election adjudication. While the system does provide this opportunity to object, the short period to submit objections effectively undermines the intent of the process.

An effective redress under this situation is the ability to prepare a substantive opposition to a nomination. The limited window to oppose denies would-be-opponents the opportunity to examine the nomination documents of the candidate. Article 22 of the Bangkok Declaration on Free and Fair Election further provides that a fair and neutral system of dispute resolution is critical for the integrity of an election. When mechanisms for handling disputes are deficient, citizens and candidates feel that their voices are not being heard and lose confidence in the election process and the results. Expeditious decisions cannot be made to the detriment of the right to a fair trial or the ability to prepare a defense. Considering the short calendar of the Sri Lankan election, and at the same time keeping in mind the principle of an effective redress mechanism, it is recommended that this window be lengthened. The period should be carefully examined and analyzed by the EC, together with all electoral stakeholders, so that they could arrive at a more effective time frame for opposition to presidential nominations. After careful examination and analysis, the EC should propose the necessary change to this provision to the Sri Lankan Parliament. The change should make effective the right of stakeholders to genuinely challenge a candidacy, based on

8 IFES. 22 January 2020. See at: https://www.ifes.org/sites/default/files/guarde_final_publication_0.pdf.
disqualifications provided in law, but at the same time does not affect the EC’s preparation.

As the Sri Lankan constitution espouses universal franchise, it is imperative that Section 23 (2) of the Presidential Elections Act be amended to include other government employees, who are working on election day, aside from those enumerated from letters a to c of this section. Such an amendment would enable government employees who have historically not been able to exercise their right to vote because of work on polling day. It is further recommended to study the extension of such privilege to select groups in the private sector, who can’t vote on election day. Sectors which can benefit from such extension to the private sphere are students who are studying in distant schools/universities, workers who are in outside constituencies, internally displaced peoples, migrants and citizen election observers.

**Registration of Electors Act, No. 44 of 1980**

According to the Constitution and the Registration of Electors Act, any Sri Lankan citizen can be registered as a voter who has reached 18 years of age on the qualifying date (June 1), has not been found or declared to be of unsound mind under any law in force, has not been serving or has not served imprisonment during the immediate preceding seven years and is ordinarily resident in any electoral district on the qualifying date (June 1). In addition, no person may have his name entered or retained in more than one voter register or more than once in the same voter register.

The qualifying date above and the lack of legal provision for supplemental voter registers in the Registration of Electors Act of 1980 deprived around 200,000 young voters, to as much as 700,000\(^9\) Sri Lankan citizens who have attained the age of 18 years after June 1, 2019.

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2018. The latter number was essentially 5% of the total Sri Lankan voting population.

The Constitution of Sri Lanka provides for universal franchise, consistent with major international instruments it has signed and ratified. As discussed in a previous section of this report, the requirements to be a Sri Lankan elector are to be of a certain age and inclusion in the electoral register. Unfortunately, the Registration of Electors Act 44 of 1980 included a qualifying date on when an elector would be included in the register. This unduly deprives voters who are 18 years of age after this qualifying date. It is suggested for the Parliament to amend this law to have a supplemental register to include those who turned 18 after the qualifying date.

An integral part of a credible electoral process is an accurate voter’s roll. According to the Bangkok Declaration on Free & Fair Elections, the election management body or other body responsible for the list should strive to maintain a voter list that is complete, current and accurate. One arrangement that was troubling on election day was the instruction of the EC Chairman that voters from Puttalam, who were assigned to vote in Mannar, cannot go back to their place of origin until 2:30 in the afternoon. According to the instructions, this was an effort to prevent double voting.

It should be noted that this complication arose because of an eviction which happened in 1990. Although it is quite understandable why this is still practiced in the Northern Province, to prevent double voting in future electoral exercises, it is recommended that the EC follows another provision in the Bangkok Declaration. The document encourages electoral management bodies to maintain the accuracy of voters list through rigorous and transparent auditing system which includes pre-election check and updating, updates based on proper objections of voters, and a post-election evaluation. In the future, it

is also recommended that the voter’s roll should include the picture, thumbprint and signature of the voter. This is to prevent scrupulous individuals from using the identity of other voters. The EC should also carefully study and analyze if they would want to capture the voter’s data with the use of biometrics. Capturing biometrics has been widely used in voter registration of a number of countries and has been proven effective in detecting errors or fraud, including double or multiple listing, and stolen identities.

_Elections Act No. 28 of 2011_

Elections Act No. 28 of 2011, provides voters with physical disabilities to be assisted by a person of their choice when they exercise their right to vote. To avail of this privilege, physically disabled voters should first seek approval from the returning officer. A certificate of eligibility would be given to the voter once approved by the returning officer. On election day, this certificate of eligibility should be presented to the senior polling officer for the physically disabled voter to be assisted by his person of choice. If a physically disabled voter would not be able to do this, on election day, the voter can just ask for the assistance of the senior polling official for the former to vote.

It should be noted that this law only provides for voters with physical disabilities. The Convention on Rights of Persons with Disabilities (CRPD) states that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Although the 1978 Constitution provides for universal franchise, this law does not, as it only captures voters with physical disabilities. It is recommended to the Sri Lankan Parliament to amend this law to include all voters with disabilities. Given that the law only captures voters with physical problems, the assistance it provides is limited also. It is further recommended to the Sri Lankan Parliament, with the expansion to include all voters with disabilities, that the assis-
tance be nuanced, depending on the type of disability that a voter has.

It is worth mentioning that the voter, with his assistant, will still be accompanied by the senior presiding officer and the junior presiding officer when the voter and his assistant will vote. This is contrary to the principle of vote secrecy. It is recommended to the Sri Lankan parliament that this provision in the law be amended to provide that only the voter and his assistant will vote, without the presence of the senior presiding officer and the junior presiding officer. Article 29 of CRPD provides for such, that contracting states should protect the rights of persons with disabilities to vote by secret ballot in elections and referendums.

The CRPD also obligates that states ensure voting procedures, facilities and materials are appropriate, accessible and easy to understand and use. Unfortunately, the procedure provided for in the Elections Act
No. 28 of 2011 is not accessible. PWD voters are mandated to do the same procedure every election, if they want to be assisted by a person of their choice. This is the same situation when it comes to application for special transport facilities by Physically Disabled Voters. A PWD voter needs to get a medical certificate from a Registered medical practitioner. After this, this voter submits the application form to the Registering Officer, at least seven days before the date of the poll. For this to be rectified, the EC should have a database of all PWD voters in the country, with the necessary information on what kind of assistance that they need on election day. This way, the process would not be repeated every election time for PWD voters.

**Election Commission Guidelines**

As the primary government agency in charge of the conduct of Sri Lankan election, the EC is authorized to issue out guidelines, orders and directives to effectively carry out this function. In this election, the EC has come out with a number of guidelines to guide all electoral stakeholders.

One of the first guidelines was on the date of nomination for candidates, location of nomination and the date of poll. Another guideline was on the code of conduct for political parties, independent groups and candidates of the elections. In the Dili Indicators of Democratic Elections, a code of conduct signed by all political parties and other stakeholders for them to commit to prevent election conflict and violence is an important element to have free and fair campaigning. This is especially true and important in countries just coming off or recovering from unrest or war. Although voluntary, the signing of the code enhances the confidence of electoral stakeholders in the electoral process. This guideline has seven major sections covering rule of law, general conduct, election propaganda activities, poll day, hate speech or speech prejudicial to national harmony, other important matters and other matters. Although this code is voluntary, some of its sections are complemented by other laws which provide for penalty, like fine or imprisonment, if such sections are not followed or violated.
Symbols used by the parties were also covered in a guideline by the EC. Another guideline was directions to prevent use or misuse of government movable or immovable properties. This is an explicit provision in the 1978 Constitution which gives the EC the power, during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation. The Dili Indicators of Democratic Elections, under free and fair campaigning, provides that there be no abuse of government resources to advantage or disadvantage any political party or candidate. In this election, this was a major issue.

Most of the complaints received by the EC, election monitoring organizations were on use of government resources. Another concern was monitoring the use of government vehicles, and publicly-owned venues. Although use of these resources were allowed, as long as payments were made, monitoring if payments were made could be an issue. It is recommended to the EC to prohibit altogether the use of government vehicles, government buildings during the election period to prevent unnecessary advantage of one candidate over another.

There was also a guideline for voters who were reasonably fearful to vote in their polling station because of prevailing conditions. Exercise of one’s right to vote includes with it the right to vote freely, without any fear of reprisal or retribution. The historical basis for this guideline was the situation faced by voters in the northern and eastern provinces of the country during the civil war era. While conditions have changed, the need to reinforce such guideline is still there, for example regarding the situation of Muslim voters in the recently concluded election. This guideline could have helped these voters exercise their right freely. However, only a few voters are aware of the guideline. It is recommended for the EC to conduct a targeted public education drive, especially to minority groups, for them to avail of this right.

Media was also covered by a guideline. Under the 1978 Constitution, the EC shall have the power to issue from time to time, in respect to the holding of any election or the conduct of a referendum, guidelines as the Commission may consider appropriate to any broadcasting or
telecasting operator or any proprietor or publisher of a newspaper, as
the case may be, as the Commission may consider necessary to ensure
a free and fair elections. Under Article 9 of the Bangkok Declaration on
Free and Fair Elections, on Impartial Coverage by the Media, state me-
dia should provide equitable space and time to all political parties and
candidates and be fair in their coverage of opposition parties. It further
provides that private media should strive to provide fair-minded cover-
age and analysis throughout the electoral cycle.

It should be emphasized that this power of the EC to regulate extends
only to public, State media and not private media. This guideline was
used by the EC to prohibit one of the State agencies in broadcasting
political content without the EC’s approval. A few days later, this order
was recalled by the EC, after drawing flak from various groups and in-
dividuals. It is worth emphasizing that an even playing field will always
be distorted by biased, partial media. But corollarily to this principle is
press freedom which by universal definition is the right to publish and
disseminate thoughts, information and opinions without restraint or
censorship. It is recommended to Sri Lanka media, both public and pri-
vate, to have their own self-governing, self-regulating body composed
of media practitioners all over the different disciplines, including online
media. It is further recommended to the Sri Lankan Parliament, to en-
sure a level playing field, to pass campaign finance laws which would
regulate the use of media, via campaign spending and contribution lim-
its, of candidates in their campaign.

Interestingly, this guideline covered administrators of social media
sites and users of social media. As the regulation or interplay of social
media to elections and democracy is an emerging practice all over the
world, it is recommended to the Sri Lankan Parliament and the EC
to continue with their efforts of forging partnership with online or-
ganizations, especially the social media platforms. Such partnerships
would hopefully lead to policies and programs to temper prolifera-
tion of fake news, hate speech which would unduly affect the cred-
ibility of the electoral process, as well as, endanger some members
of the society. A pending bill is now being discussed in the Parlia-
ment which seeks to penalize fake news for its negative effect to the communal harmony and state security. It is humbly recommended to the Sri Lankan Parliament to reconsider the passage of this bill, given that the country has an existing law\textsuperscript{11} to curb the proliferation of fake news. The careful, equal implementation of this existing law should be sought instead of the passage of a new law.

**Electoral System**

Presidential elections in Sri Lanka have been held since 1982 according to a system called “contingent vote”, also known as “top-two instant runoff voting”. Contingent vote is an uncommon form of preferential voting, designed to simulate a two-round electoral system (like those in France or Afghanistan), although the two have significant differences between them. Sri Lanka is the only country currently using this electoral system in national elections.

The ballot casting and counting process is as follows:

1. Voters choose between 1 and 3 candidates on their ballot paper. If they vote for only one candidate, they can either make a cross or write the number “1”. If they vote for several candidates, voters must rank their preferences using numbers only.

2. Any candidate who receives an absolute majority on the basis of the voters’ first preference is declared elected.

3. If no candidate receives an absolute majority, all candidates except the top two are eliminated, and their votes are re-distributed in accordance with the voters’ second and third choices.

4. Whichever of the top two candidates receives the most votes is declared elected.

Historically, Sri Lanka has never resorted to a second round of counting for its Presidential election. Ever since the contingent vote or top-two instant runoff voting was adopted, a candidate has always managed to get the majority vote at the first round of counting. In the 2019 Sri Lankan Presidential Election, a lot of electoral stakeholders expected a second round of counting. This was due to the tight contest between the two major candidates. With this expectation was the fear that not a lot of Sri Lankan voters knew how to vote using the preferential vote. This fear was confirmed through interviews of ANFREL observers with voters. In these interviews, voters either did not know of the preferential mode of voting and only knew of the one-candidate mode of voting or voters thought that preferential mode of voting was a wrong way of voting. It did not help that some political parties and candidates resorted to spreading this information as well, to benefit them.
Another factor to this lack of knowledge was the lack of consistent public education drive on the part of the EC and other organizations to educate the voters on this mode of voting. It is acknowledged that the EC and other organizations did voter education activities to this end but it was too close to the election day. It is recommended that the EC and other organizations conduct public education activities all throughout the electoral cycle, and not just during the election period. This is in consonance with Article 3 of the Bangkok Declaration on Free and Fair Elections which says that it is the responsibility of the EC and other state entities to conduct voter and civic education that lasts throughout the electoral cycle. It is further recommended that this public education activity is appropriate and accessible to all electoral stakeholders, including those who cannot read, those who speak minority languages and those who are underprivileged or often underrepresented in political processes.

It is worth mentioning, based on ANFREL’s interviews that tea plantation and estate workers lack access to education and social services. One manifestation of which is the lack of basic identification requirements such as the birth certificate to acquire the National Identity Card. Civil society groups, not only those from the election sector, should take a concerted effort in providing them access to these basic services, as well as, electoral and civic education for them to fully and effectively exercise their electoral rights.

**Election Commission of Sri Lanka**

In 1946, the Soulbury Commission for constitutional reforms created a department for the registration of electors and the holding of parliamentary elections, as well as a local authorities elections department. Both departments merged on 1 October 1955 to create the “Department of Elections” under the authority of a Commissioner of Elections. In the 1980s and 1990s concerns were raised about the need for a more independent body in order to ensure free and fair elections.
As a result, the 17th Amendment to the Constitution was introduced in October 2001, providing for the establishment of an independent EC with wide ranging powers. However, the EC was not established then and the Commissioner of Elections was vested with the power to perform some functions of the EC.

Later the need for establishing the EC was emphasized by the Eighteenth and Nineteenth Amendments to the Constitution as well. Accordingly, the proposed EC was established on 17th November 2015 under the Nineteenth Amendment to the Constitution passed on 15th May 2015. The EC is composed of three members, appointed by the President, on the recommendation of the Constitutional Council, from among persons who have distinguished themselves in any profession or in the fields of administration or education. One of the members appointed shall be a retired officer of the Department of Elections, who has held office as a Deputy Commissioner of Elections or above. The President shall, on the recommendation of the Constitutional Council, appoint one of its members as Chairman. Mahinda Deshapriya, Commissioner of Elections from 2011 to 2015, became the first Chairman of the new election management body. The other two members of the Commission are President’s Counsel Mr. Nalin J. Abeysekera and Prof. S. Ratnajeewan H. Hoole.

No person shall be appointed as a member of the Commission or continue to hold office as such if he or she becomes a member of the Parliament, a Provincial Council, or a Local Authority, or is appointed a judicial officer or public officer or enters into employment of the State in any capacity. The provisions of the Constitution and any other law relating to the removal of judges of the Supreme Court and the Court of Appeal from office shall apply to the removal of a member of the Commission from office. A member of the Commission shall hold office for five years from the date of appointment, unless he becomes subject to any of the disqualifications, or earlier resigns from office by writing addressed to the President, or is removed from office, or is convicted by a court of law of any offence involving moral turpitude, or resolution for imposition of civic disability upon him has been passed or vacated office.
The EC of Sri Lanka gets its powers from Chapter 16A of the Constitution (articles 103 to 104J). The task of the EC is to conduct “free and fair elections and referenda” and is charged with securing the enforcement of all laws relating to the holding of the election. It is the duty of all state authorities to co-operate to secure enforcement. Legal challenges against the decisions of the Commissioner are to be heard by the Supreme Court. Accordingly, the EC is entrusted with more responsibility than the Department of Elections in conducting elections in conformity with relevant legislative enactments.

At its establishment, the EC has been conferred with particular powers. It has been conferred with exclusive immunities of:

1. the decisions, provisions or actions of the Commission being final and conclusive, and

2. no civil litigation or cases can be filed against its decisions, subject to the judicial powers under Article 104 (A). Such immunities have been granted subject to the powers of the Court of Appeal on infringement of fundamental rights under Article 126, the power of the Court of Appeal on Presidential Election, Election petitions etc., under Article 130 and the power of the Court of Appeal to hear petitions on election to a membership, under Article 144.

Other than the enacting and protection of regulations in operating electoral procedures, and presentation of annual administrative/election reports to Parliament, the EC is not bound by any other commitment. This is a special conferment of power. Additionally, a special authority has been granted under Article 104 (B) (4) (A) on the misuse of public property and space has been opened for specifying media guidelines on monitoring of government and other media and make provisions thereof during the periods of elections. Further, the EC has been vested with Police powers under Article 104 (C) and powers for the deployment of Armed Forces under Article 104 (D) of the Seventeenth Amendment to the Constitution.
The Chairman of the EC is supported by both Additional and Deputy Commissioners and also by an Elections Secretariat. Those Additional and Deputy commissioners are from the Sri Lanka Administrative Service (SLAS).

A Returning Officer is appointed for each of the 22 Electoral Districts. The Returning Officer is appointed by the Commissioner from among Government Agents/District Secretaries. Assistant Commissioners are also appointed for each of the 22 Electoral Districts. They act as Assistant Returning Officers and are in charge of organising the election in the District as the representative of the Commissioner of Elections.

It is worth noting that the 1978 Constitution provides for an independent and impartial EC, given the limited appointing power of the President, prohibitions to be an EC member (because of conflict or the possibility of it), restrictive process of removing an EC member and limited commitment to other government agencies (in this case, the Sri Lankan Parliament, wherein the EC should report annually). It is also clear on the powers and function of the EC, as well as the powers of the EC over other government agencies. It should be a concern though that all members of the EC would retire at the same time, leaving no experienced member to be at the helm of the Commission. It is recommended that the Sri Lankan Parliament amend this section in the Constitution, increasing EC membership to five (5), so that staggered of terms would be possible and to ensure continuity in election administration. It should be remembered that in the 17th Amendment of the Constitution, the membership of the EC was previously set to 5.

The EC has demonstrated transparency in its dealings with political parties and observer groups. In this election, the EC has met with party agents and local election groups to discuss electoral issues and updates. It also opened its doors to observer groups and furnished timely accreditations to domestic and international observers. In ANFREL’s experience, the EC has extended all possible assistance to the group to make its observation work more effective and easier.
Almost all of ANFREL’s observers were accommodated by the EC’s district offices. Relevant election information was given to the observers once it was requested. However, in one district ANFREL observers found it difficult to deal with the District EC. ANFREL observers assigned to that district were requested to submit additional documents, which other districts did not request, to access polling and counting stations.

From the conduct of postal voting up to the counting of ballots, the EC opened up the entire process to party agents, and local and international observers. This was the first time ANFREL and other international observers were given access to the counting centers. ANFREL observers were also invited to EC activities such as the training of polling officials and deployment of polling materials. In an isolated incident, an ANFREL observer was asked by the official to leave mid-way through the training program of polling officials. The reason for the EC was due to confidentiality.

One transparency measure the EC should adopt in future electoral exercises is the segregation of voter information, for example, the number of PWD registered as voters and number of elderly voters. Such voter information is essential to a more effective program of action, not only for the EC, but also for other interested groups. Another transparency measure is the use of an election calendar at the start of the election period. Such a calendar would be beneficial to all electoral stakeholders, especially in their preparation and schedule of activities. Although the EC has been constantly in touch with all electoral stakeholders, especially political parties and candidates, through meetings it called all throughout the election period. An election calendar would greatly benefit everyone and reduce the need for constant coordination/communication to the EC with questions that an election calendar would be able to answer right away.
Voter Registration

Registration of electors and revision of electoral registers are done annually. At the district level the EC is represented by an Assistant Commissioner of Elections (who is also the Assistant Registering Officer) to direct and control the revision work under the supervision of the District Secretary (former Government Agent), the administrative head of the District. Enumerators are village level Government officers/ Grama Niladari

The Commissioner of Elections appoints them (District Secretary) as the Registering Officers of the respective Districts. The Registering Officer appoints enumerators and conducts training classes for them to visit houses for compiling the names of voters. Enumerator provides the Registration form (BC form) to the Chief occupant of each household. Special Enumerators are appointed for work in the Metropolitan area. (e.g. Colombo Municipal Council Area). Enumerator fills the acknowledgement form “Revision of Electoral Registers” which is attached with the registration form (BC form). Chief Occupant signs it & gives back to the Enumerator to certify that the registration form (BC form) is received from the Enumerator. Chief occupants of each household are expected to fill all required information in the registration form (BC form).

The Enumerator undertakes the collection of the registration forms (BC forms) from each household. The electoral registers are revised and prepared with reference to a qualifying date. i.e. all Sri Lankan citizens of age 18 years or above on June 1st are eligible to be registered at a qualifying address. After collecting the completed documents (BC form) at the District Offices, all names to be deleted (“A” List) and names to be included (“B” List) will be compiled and exhibited for a 28 day statutory period during the months of November / December each year.

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12 Chief occupant should list down all residents in his or her house as of June 1, even though they may be temporarily absent, and who are not less than 18 years of age on such a date.

As discussed in a previous section of this report, non-provision for supplemental registers unduly deprives 18 years old voters of their right to vote. It is recommended that the Sri Lankan Parliament amend the Registration of Electors Act to accommodate these voters via supplemental registers.

It is also recommended to the Sri Lankan Parliament to amend the above law to provide the right to vote to other vulnerable sector groups like migrant workers, remand prisoners, PWD and older voters. A separate voting law for migrants (includes registration & voting) should be considered by the Sri Lankan Parliament. For remand prisoners, the EC should craft guidelines on registration and voting of these remand prisoners, as there is no legal prohibition for them to exercise their franchise. For PWD and older voters, the EC should build its own database of PWD and older person voters, including information on their type of disability and type of assistance needed. It is suggested that the form enumerators use should be amended to include information on these.

**Political Party Registration & Regulation**

Any person who is qualified to be an elector can be nominated as a candidate at a Presidential election, but in addition to the qualifications stipulated for voters, a candidate must also be at least 35 years of age, and not be disqualified on the basis of Articles 91 and 92 of the Constitution. Presidential candidates also cannot hold dual citizenship, and they must produce an affidavit affirming that they do not meet any grounds for disqualification. Such was the issue which hounded then-President candidate Gotabaya Rajapaksa in courts after several cases were filed against him due to him allegedly holding an American citizenship at the time he submitted his candidacy credentials.\(^\text{14}\)

\(^{14}\) *Daily FT*, 3 October 2019, 'Legal Battle over Gota’s citizenship status begins'. See at: http://www.ft.lk/top-story/Legal-battle-over-Gota-s-citizenship-status-begins/26-686960.
Candidates can be nominated by a recognised party or an unrecognised party or by a fellow citizen. The Parliamentary Elections Act No. 1 of 1981, as amended by Parliamentary Elections Act No. 59 of 2009, provides for the recognition of political parties. As of the time of the Presidential election, there are seventy (70) recognized political parties. In the case of an independent candidate not representing a recognised political party, he/she must have been a Member of Parliament before the nomination.

A candidate nominated by a recognised party must pay a deposit of 50,000 Rs, while other candidates must pay a deposit of Rs 75,000. If the number of votes secured by a candidate does not exceed 1/8 of votes cast, he/she will forfeit the deposit.

In this election, 20 candidates were supported by political parties and the remaining 15 were independent candidates. There were talks after the end of nomination, filing and deposits of bonds that some of these candidates were just supporters of the other major candidates while some were just using the election platform as leverage to be known by the people. An added advantage to a major candidate, if he or she has proxy candidates, was the ability to appoint more political party agents inside the polling stations. Under Presidential Elections Act No. 15 of 1981, each contesting political party and independent group can appoint two agents. This was confirmed when a number of candidates were seen to be joining and even endorsing the candidacy of their opponent. In a statement, EC Chairperson warned of sanctions for candidates who would be found supporting the candidacy of their opponents.

This number of candidates also affected the administrative aspect of the elections. There was a need to print 26-inch long ballots, to purchase more ballot boxes and to hire more election officials. In effect,

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15 Also called dummy candidate.

16 Also called proxy candidate.

the cost of the election went higher because of this record number of candidates.

Because of proxy candidates and higher election costs, there is now a proposal to discourage such a situation from happening again via the imposition of higher bond/deposit for candidates who want to contest in the presidential election. Given that the right to run is a right enshrined in UDHR and ICCPR, the Sri Lankan Parliament and the EC should carefully assess and study how much the bond increase should be. This is to ensure that candidates and political parties who genuinely would want to run in the election be not prevented from such by the high bond. At the same time, the bond increase should deter proxy candidates or dummy candidates run.

Given that one of the requirements to run as President is endorsement or nomination of a recognized political party, the regulation and monitoring of political parties should be looked into carefully by the EC.
In a statement, the EC said that it would take action against political parties which have not submitted documentary evidence of its existence through the years. This should be an action seriously pursued by the EC to prevent political parties from being used as pawns of dummy or bogus candidates. In fact, according to the Parliamentary Elections (Amendment) Act, No. 58 of 2009, a recognized political party ceases to be recognized if: it fails to submit required documents under the law, if it does not nominate one single candidate for two consecutive Parliamentary general elections and when it does not give the required notice to the EC upon changes to its Constitution, party bearers, office address, etc.

**Electoral Dispute Resolution**

For this election, the EC established an Election Complaint Management Unit (ECMU) in its national office as the center of 25 sub-election complaint management units which were setup in its district offices.

ANFREL observers found the ECMU to be accessible and transparent. It has provided information on the quantity and the typology of complaints. To further promote transparency, efforts should be made to inform stakeholders on how the various cases handled by the unit are being resolved. It would also encourage public trust in the dispute resolution processes when they are acted upon in a timely manner. While the office received around 3,729 complaints\(^\text{18}\), a high number of election complaints is not indicative of an effective electoral dispute resolution procedure.

It is suggested to the EC to institutionalize the Election Complaints and Management Unit. Given that accountability is an integral part of election integrity, the ECMU institutionalization would be the right move forward to address the thousands of complaints filed before it.

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Although there is a legal unit already in the structure of the EC, the office has other functions and priorities assigned to it. Hence, the need for a specialized unit to focus on election adjudication. Coupled with accountability, the EC should also ensure transparency on its resolution of complaints filed before it, giving notice to all interested parties.

It is worth highlighting that under PEA, Section 71 (4), a prosecution for an offense under Sections 66, 67, 68, 69 and/or 70 shall not be instituted without the sanction of the Attorney General. Section 66 covers offenses relating to nomination papers, ballot papers, official poll cards, etc. Section 67 covers individuals not allowed to canvass or act as agents. Section 68 covers acts prohibited on polling day. Section 69 covers restriction on processions. Section 70 covers restrictions on public meetings. As these are election offenses, the EC should be authorized to institute actions against offenders who contravene or violate any of the aforementioned provisions. It is recommended to the Sri Lankan Parliament to authorize EC to institute complaints on its own, without the need for the sanction of the Attorney General.

**Needed Legislation/Policy in Sri Lankan Elections**

**Campaign Finance**

According to the Bangkok Declaration on Free and Fair Elections, fair elections demand that there be an adequate oversight of campaign finance. In addition, governments and lawmakers must ensure that there exists a rigorous legal framework that fairly regulates political donations and campaign expenditures and allows for transparency of donations and expenditures. Unfortunately, Sri Lanka does not have any campaign finance laws. This has been a recurring issue in the country every election time. The lack of campaign finance laws was further highlighted with record breaking expenses of the major candidates in

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this election, as observed by the Center for Monitoring Election Violence (CMEV). CMEV estimated that campaign-related expenses of all candidates will reach some Rs. 3.796 billion, more than the amount incurred in the 2015 elections (Rs. 2.705 billion), and five times as much as what was spent by candidates in 2005 (Rs. 712 million).

Before the November 2019 Presidential Election, the EC was able to submit a cabinet paper to the Cabinet of Ministers. This was given approval with the Cabinet of Ministers agreeing in principle that laws should be brought in to regulate this sector. The EC proposals require the political parties and independent groups to submit an audited financial statement within two months of the release of election results including funding sources. This provision is very important. While excessive use of money impacts the level playing field for candidates representing diverse income groups, equally important are the concerns about the sources of money being used to finance

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20 According to the final campaign expenditure estimates by CMEV (following table), which covers the period from October 13 to November 13, 2019.
political parties and their election campaigns. Regulation of the use of money in electoral contests is, therefore, guided increasingly by various political finance-related international obligations. Foremost among these, the United Nations Convention Against Corruption (UNCAC) emphasizes that all States must enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties. Sri Lanka signed and ratified the convention and should bring its political finance regulations in conformity with its international obligations.

Given that the next Parliamentary Election will happen four months from the conduct of this election, it is recommended to the Sri Lankan Parliament to withhold the passage of the campaign finance bill and instead just wait for the new Parliament to pass it. An important and historical legislation like this one should be the result of numerous discussions among all electoral stakeholders. These discussions can be complemented by a review of good campaign finance regulation practices all over the world.

**Electoral Observers (Domestic & International)**

It is surprising to find that Sri Lanka has no domestic law to govern domestic and international election observation. In 1988, when PAFFREL was started, it was through the advice and guidance of the then Department of Elections that election monitoring of domestic observers officially started. The only official document to regulate domestic election observation was a code of conduct which encouraged election monitoring institutions to act in accordance with it. In 2004, after a prolonged demand for election monitoring acceptance from civil society activists, Election Commissioner Mr. Dayananda Dissanayake granted approval for election monitoring to PAFFREL and CMEV. It was through this recognition that observers of these two organizations were allowed access to polling stations. It was just recently, in the 2015

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Presidential election, that counting centers were accessed by these two observer groups. Election Observation, as recognized in the Colombo Pledge, is a tool to promote accountability and propagate democratic values. Being an important tool and the long practice of election observation in the country, it is recommended that the Sri Lankan Parliament enact a law or amend existing electoral laws to have a domestic law framework for election observation. This way, election observation is regulated according to what is provided in this law, and not subject to administrative decisions which could detrimental or ineffective to the spirit and purpose of election observation.

**Online Media in Elections**

Another legal vacuum is the lack of a legal and policy framework to govern the use of online media in elections. In the Media Guidelines issued by the EC, there is a provision which provides that the same guidelines shall be applicable to administrators of social media sites and their users. This a vague provision which can be used to overextend the coverage of the guideline, to private users and not just to state/public media. Given the critical role online media has played in Sri Lanka’s most recent elections, the EC, in partnership with all interested groups, should develop and enact measures to regulate online media during elections. This should be a separate document from the document/guideline for State/public media. It is further recommended to include in the passage of the campaign finance law, a provision to include the online expenses of political parties and nominees their online expenses.

However, such regulations should be crafted in a manner that they do not impinge upon the fundamental human rights of online and social media users.
Election Environment

Campaign Period

Political activities aiming the 8th Presidential Election of Sri Lanka started extensively onwards the EC’s announcement on September 18, 2019 of the dates of candidate nomination (October 7) and Election Day (November 16). Prior to the official nomination of candidates, voters and public in general witnessed wide-spread activities in regards to nomination such as negotiations and/or bending alliance among and within political parties and members. The period also brought to public domain the possibility of the country witnessing the highest number of candidates running in a presidential election. The 2015 presidential election had a total of 19 candidates contesting the election.

From popular political parties and candidates to new political alliance fielding candidates and also with several others such as independent candidates in the race, a total of 35 candidates made to the list of contenders. Though this election had several new faces, in addition to no candidates who were holding top official position in the country, the candidacy included prominent and powerful individuals, mainly two candidates, and their chances in the contest deemed a close-tie. The two candidates were- Mr. Sajith Premadasa, fielded by NDF, was the Minister of Housing Construction and Cultural Affairs in the previous ruling government, and the son of former president Mr. Ranasinghe Premadasa; and Mr. Gotabaya Rajapaksa, fielded by SLPP, is a former secretary for the Ministry of Defense, and brother of the former president Mr. Mahinda Rajapaksa. These features especially the close-ties between the above-mentioned two candidates were feared by various stakeholders and voters for potential clashes, including violent ones, among them and their supporters in the period leading to the election as well as post-election period.

ANFREL observed that the six-week long election campaign period in the run-up to Sri Lanka’s November 16, 2019 Election remained largely
peaceful and orderly. The election campaign period was free of major and widespread violent activities and electoral violations. Several stakeholders interacted by our Observers also reflected that the campaign period to be comparatively better than previous presidential elections in the country. There were no serious constraints reportedly faced by political parties, candidates and supporters in conducting election campaign activities. Likewise, most voters and civil society groups & organizations including media outlets and journalists interacted in different provinces in the country reported to have experienced a relatively free environment where they could express their political opinions without much fear of retaliation or backlash.

In addition to findings from ANFREL Observers, reports of EC as well as national election monitoring bodies such as PAFFREL indicates that most complaints filed on electoral violence and violations consist only a few which are violent in nature including cases of threats and intimidation. Majority of complaints received by relevant agencies are related to the issues of misuse of public resources, media bias and wide-spread dissemination of fake news, hate speech and messages.

However, ANFREL urges relevant stakeholders mainly the EC and law enforcement bodies to follow-up, and act timely and accordingly to investigate impartially all the cases brought to them. While it is commendable that the country witnessed one of the most non-violent elections, it is important that such a practice is upheld and enhanced. To do so, mainly the EC and also judiciary and police among others such as political parties and organizations can play a significant role by effectively performing their duties.

It is also important because, contrary to other parts of the country, a large number of voters interacted by our observers, mainly in the northern, eastern and northeastern parts, reported to have experienced some forms of violence, intimidation or threat; a sense of fear; and self-censorship of political views. It is important to note that the 2019 Presidential Election was announced and dated shortly after and at the backdrop
of the Easter Bombings in April 2019. Religious and ethnic minorities are reported to have fears of looming discrimination and violence against them, even in the post-election period. Aftermath of the Easter attacks, in addition to security measures that are deemed discriminatory towards religious minorities, hate-speech by political figures, supporters as well as religious leaders targeting particular communities were meted out in an election environment where ‘national security’ was the main campaign rhetoric.

Unlike in other countries such as Thailand, Sri Lankan religious leaders are entitled to exercise all their civil and political rights. In fact, they are politically active. These leaders’ involvement ranged from being non-partisan, like the Catholic Church leaders educating their community about the qualities of a good leader, to partisan, from Buddhist monks participating in political assemblies up to even running as a nominee in the elections. There were two buddhist monks among the 35 candidates in the 2019 Presidential Election. During the official campaign period, several religious leaders actively campaigned with their favoured candidates and political parties. In various large scale campaign gatherings, the presence of monks with the candidates on stage were widely observed.

While there is no prohibition on religious persons or groups campaigning for election, involvement of influential religious leaders was viewed with skepticism for its impact on followers. A situation of fear was erupted among the minority communities when influential buddhist monks, also known as the ‘hardline’ group, assembled for the first time after the Easter bombings to discuss their candidate for presidential election. The outcome of the gathering was particularly feared by many as it was attended by the influential head of Bodu Bala Sena, a


Buddhist nationalist group accused of propagating and inciting violence against Muslims. This leader was also cited in contempt of court but was recently released from jail. Numerous civil society and human rights groups condemned his release from jail upon receiving presidential pardon. Issuing presidential pardon to the nationalist Buddhist monk just months before the election was also criticised, in a country where Sinhala Buddhist make up 70% of the population. It has been viewed as a political move to attract voters ahead of the election.

The election campaign period was also perceived to be less vibrant, mainly in comparison with previous elections in the country. Strict adherence to Section 74 of the Presidential Elections Act by the EC, law enforcement bodies as well as political parties and public in general led to a minimal use of election related paraphernalia. The streets and other public spaces during the 2019 election campaign period remained vastly free of posters and billboards. Several voters interacted by our Observers expressed feeling unlike ‘election environment’ due to less campaign activities around them, mainly those at smaller scales. In addition, interviews conducted by our Observers with CSOs reveal that feeling of ‘less vibrancy’ among many voters could also be due to lack of active (horizontal) engagement amongst them resulting from viewing presidential election less relatable than parliamentary election.

In the days leading to Election Day, a strong coordination between the EC and police was observed in preventing and controlling violation of Section 74. A rigorous move was carried out by disallowing any vehicles to carry stickers or posters of political parties and candidate’s symbol or message, while simultaneously increasing public awareness on the regulation. Electoral stakeholders hoped the lesser presence of election campaign paraphernalia may have promoted a better playing field for


the diverse contending candidates in the 2019 presidential election. Such hope did not materialize as these candidates were left with expensive options of campaigning, leaving them with limited opportunities to introduce themselves, their platforms and programs to the voting public.

Further, ANFREL also observed that election campaign activities were predominantly about and dominated by the two powerful candidates of NDF/UNP and SLPP. A widespread feeling among the public was observed that media outlets also generated more news about the perceived (two) leading candidates from the major political parties as compared to others. In the 2019 election campaign while heavily employing some of the traditional methods such as mass rallies and door-to-door visits, the use of social media as a platform for campaign and outreach to voters was extensive. Several members of CSOs and voters interacted by our Observers reported that only some candidates out of the thirty-five could conduct large-scale campaign activities due to resource
available/accessibility to them including established political presence in the ground.

Besides the candidates fielded by NDF and SLPP, other candidates/parties that featured popularly among the public domain are Mr. Anura Kumara Dissanayaka- National People’s Power, General Mahesh Senayake- National People’s Party and Dr. Ajantha Perera- Socialist Party of Sri Lanka. The candidate fielded by National People’s Power is the present leader of Janatha Vimukthi Peramuna (JVP), also known as People’s Liberation Front, which led two armed uprisings in the country in 1971 and 1987 against the ruling governments of that time prior to entering electoral politics.

Like other prominent political parties, the election campaign period witnessed several mass rallies and gatherings of JVP-led coalition in different parts of the country. The candidate fielded by the National People’s Party, which is supported by the National People’s Movement and several civil organizations- is a former Army Commander retired in August 2019. Dr. Ajantha Perera, an academic and environmental activist, also became one of the popular candidates among the thirty-five in the presidential candidates list. In addition to her varied contributions in regards to environmental issues, being the only female candidate in 2019 Presidential Election Dr. Perera attracted wider public attention as compared to many other candidates.

In the period before Election Day, there was a strong public speculation that not all candidates were serious in their participation in the presidential race and do not have the intention to win. Referring to the total number of candidates, voters and experts interviewed by ANFREL observers opined that several of these candidates were there only with the agenda to malign the vote base of their opposing parties/candidates. Aside from the high costs the government had to endure due to the large numbers of candidates, the prevalence of these farcical candidates can have negative implications on the outcome of the polls. Several stakeholders interviewed by the mission, mostly from the civil
society sector, expressed hope and willingness to assist in curbing the practice while maintaining competitiveness of the process. There were instances where some candidates were found to have violated government notification on the code of conduct for contesting political parties, independent groups and candidates of the elections.

ANFREL also observed that many political parties and candidates actively campaigned through social media. This includes parties/candidates who primarily campaigned through social media as well as those conducted actively through traditional methods too. Furthermore, it was also found that voter’s engagement during the election campaign period was significantly high on social media platforms such as Facebook, Twitter, YouTube and WhatsApp. One of the main concerns expressed by stakeholders and voters in general for and during the election campaign period was ‘misuse of social media platforms’. It was widely believed that social media was also used for fake news, misinformation and disinformation. The existing measures by relevant officials to tackle the issue were considered to be insufficient by several voters who were interviewed during our mission. Considering that the use and accessibility to social media in Sri Lanka is ever increasing, ANFREL hopes that measures to effectively tackle misuse of social media are soon developed in the country. This involves clear guidelines on content moderation of platforms such as Facebook, Twitter and Youtube, and so on.

**Vote Buying and Misuse of State Resources**

While the 2019 election campaign period remained free of major violent activities, numerous misconduct by state officials as well as political parties were reported and speculated. Interviews with civil society members and voters also reveal that there was a widespread belief among the public of vote buying, which is illegal and a fraudulent practice in Sri Lanka under section 66(d) of Presidential Elections Act No. 15 of 1981. A high perception among the public on the prevalence of vote buying was reported by the majority of ANFREL Observers de-
ployed across the country. It was commonly reported by voters, mainly in rural areas, that exchange of votes with goods and services or more in particular, monetary exchange are likely to take place during campaign period as well as eve and/or on Election Day.

Civil society organizations and local media persons interviewed by ANFREL Observers reported that they often are unable to report cases or file complaints of possible vote buying due to lack of evidence. It was informed that obtaining evidence or having witnesses to come forward is extremely challenging and hence preventing reporting cases of different forms of electoral fraud. Distribution of cement bags, roof sheets, agricultural materials by political parties are reported to have occurred in several electoral districts prior to the Election Day. Further, ANFREL found that voters from minority communities are more vulnerable to wider forms of electoral frauds. For instance, it was reported that minority voters in eastern regions were not only offered monetary exchange in return for their votes but in various cases to voluntarily refrain from casting ballot.

Often relevant agencies responsible to prevent and track such on-goings view reports of vote buying as attempts by supporters of political parties/candidates to discredit their opponents. Also, during the campaign period, the All Ceylon Makkal Congress (ACMC) expressed fears of possible vote buying mainly in Mannar area (in Mannar district, Northern Province). The leader of ACMC stated in public of possible organized vote buying targeting voters from minority communities and appealed to the voters to stand firm on their choice without letting election fraud affect their decision27.

Moreover, there were also instances of minority voters being particularly targeted through attempts to forcibly fail them from voting on Election Day. There were reports of several military unauthorized road-blocks in several areas in the northern and eastern provinces on Election Day. In a highly condemnable incident on November 16, 2019, a

convoy of buses carrying mostly Muslim voters from Puttalam district to their polling stations in Manar district was attacked with gunfire and stone pelting. Fortunately, there had been no reported casualties and all voters with assistance managed to cast their ballots. Further, police officials had reported to the EC of military in Northern Province for stationing unauthorized roadblocks that could discourage voters from accessing polling stations. In this case, upon bringing the matter to the notice, they were dismantled. There were other isolated reports as well of roadblocks where cut-downs of trees were left unattended on roads, thereby blocking passage or causing difficulty for voters, Muslim voters majorly, to polling stations. Several media groups and civil society groups speculated these events as an attempt by then opposition party-SLPP, to limit votes of their main contender to whom minority communities were expected to be likely voting for.

ANFREL saw that allegations of misuse of public resources were widespread in the run-up to the 2019 Presidential Election. The issue also remained as one of the top concerns for various electoral stakeholders our observers interacted with. Among all forms of electoral violations officially reported to relevant stakeholders including the EC, cases of misuse of public resources stood the highest in number. Even though there are existing legal provisions, including the EC guidelines on ‘preventing the use or misuse of government movable or immovable properties’, the Chairperson of the EC had issued a letter that was sent to all secretaries, heads of state institutions and the chairperson of statutory boards some weeks before the election campaign period. The letter pointed out that spending excessive public money on various propaganda campaigns projects or other developments and to promote the image of politicians, will be treated as a misuse of public funds.

Some of the commonly reported incidents of misuse of public power and resources were related to the recruitment of government jobs at

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various levels and departments prior to election; use of government vehicles and buses for election campaign activities; involvement of government officials in election campaign activities; government inaugurating new projects and/or attending inaugural functions; and use of media. Transparency International Sri Lanka (TI) brought the matter of possible misuse of public resources by senior politicians and candidates to the notice of the EC and public domain.\textsuperscript{29} It speculated that politicians and candidates using helicopter services of Sri Lanka Air Force (SLAF) for campaign activities may possibly amount to violation of guidelines issued by EC in gazette notice 2141/52; and appealing to the EC for necessary actions. The matter also brought in the limelight the long-standing demand and criticism of the lack of regulation on election campaign finance, including funding source and expenditure.

Similar to the reduction in the occurrence of violent activities in the period leading up to the 2019 presidential polls, there has been a drop in the number of cases regarding misuse of public resources as compared to 2015 presidential election. However, the decline of violent activities is in significant numbers, for misuse of public resources, the reduction is only marginal. Further, citizen’s monitoring organization report highlights a drastic gap in the number of violations of electoral laws reported during the pre-election, cooling-period, Election Day and post-election period.\textsuperscript{30} For instance, while the total numbers of election law violations during the pre-election, election day and post-election period are 186, 266 and 1 respectively; the total number of election law violations during the ‘cooling-period’ was 1185.

In addition, the majority of ANFREL’s Observers reported a deep sense of distrust by a large number of voters on grounds concerning (mis) use of public resources in support of favorable candidates contending in the election. Media outlets, mainly the state-owned ones, were per-

\textsuperscript{29} Colombo Page, 12 November 2019, ‘TISL questions use of SLAF helicopters to transport politicians to campaign rallies’. See at: http://www.colombopage.com/archive_19B/Nov12_1573537384CH.php

ceived with great skepticism by several electoral stakeholders during
the election period. Voters hope that reported cases on misuse of public
resources will be effectively investigated by the EC. ANFREL joins the
hope of the people that relevant authorities will deal with the issue and
redress complaints on misuse of public resources in an effective and
impartial manner.

Voter Awareness and Education

The high voter turnout in the 2019 Sri Lankan Presidential Election
is also a reflection of the country’s rich tradition of electoral poli-
tics. In general, various stakeholders through various forms partici-
pate actively within their capacity in elections in Sri Lanka. ANFREL
observed varied engagements conducted by the EC as well as CSOs
and citizen election monitoring organizations to enhance electoral knowledge and increase awareness among the masses. From time to time, relevant state agencies and CSOs also conduct joint activities to achieve the same objective. Programs and activities for voter education are conducted at several levels and of different types by concerned stakeholders. In addition to the EC and CSOs, media outlets and political parties also engaged in imparting voter education through various means.

The role to impart voter education among the public lies primarily under the EC. Also, voter education in Sri Lanka is conducted as a part of a broader electoral framework; in which it is one of the components. The Commission does not necessarily conduct voter education activities targeting a particular election—presidential/parliamentary election. It is provided mainly through the four-year long cycle of Participatory Strategic Plan (PSP)\(^{31}\), which is also designed for imparting voter education country-wide among other activities. Voter education as part of PSP is implemented at both national and district levels, through the respective ECs at district levels. Interviews with EC officials by our Observers reveal that besides voting information, the focus of PSP also encompasses raising awareness among the public on topics such as democracy, universal adult franchise, electoral laws and so on. Under this Plan, provisions for outreaching to different stakeholders are laid out, which includes not only CSOs and CBOs but also schools and college students.

However, despite some impressive facts such the country’s long-history of electoral politics, high political participation and initiatives of voter education by several stakeholders, ANFREL found that electoral awareness among a large number of populations to be low. Furthermore, a severe inadequacy among many voters about electoral knowledge, especially on the mechanics of voting, was also observed. Even though lack of electoral knowledge and awareness was widespread mainly in rural

areas, it was also common to an extent in urban centers too including Colombo. Interviews with voters and other stakeholders conducted by our Observers revealed that contrary to public awareness about political on-goings during the election period, voters’ knowledge about electoral regulations and processes concerning presidential election in particular was gravely low.

It was widely observed that the 2019 Presidential Election was a tight race between two candidates, followed by other relatively prominent candidates’. For instance, the former military commander who actively served in the Sri Lankan army for decades to others such as the leader of JVP, who was also fielded as a presidential candidate. The election environment was also marred by divisive rhetoric by political parties, supporters as well as public in general at various platforms including social media. The divisive rhetoric that became highly prominent in this election’s campaign period was mainly articulated at the backdrop of the 2018 anti-Muslim riots and the 2019 Easter Sunday bombings, devastating incidents that still run fresh in the minds of the people.

Amid these political dynamics in the period leading to the poll day, CSOs, media and expert groups had exponentially highlighted the likely scenario of the two leading candidates unable to obtain 50% or more of the total votes. This speculation put forth the high chance of the 2019 Presidential Election having to undergo ‘second round of vote counting’ had any of the candidates fail to obtain majority, and thereby paving way for the ‘second preferred’ candidate. The EC of Sri
Lanka provides for the voters a preferential system of voting. One of the main concerns raised in regards to this possibility was the voters’ usage of the preferential system against commonly practiced voting nature- one candidate.

Among other electoral knowledge including existing regulations and voter rights, ANFREL found that voter awareness on the preferential voting system was one of the lowest aspects. This was reported from all the electoral districts where our Observers were deployed. The level of voter awareness on preferential voting system also differed, indicating a high disparity among voters in terms of their knowledge about the electoral system in the country. While several voters were found to be unaware or never heard about the system, a large section of voters were reported in a doubtful state regarding the system.

Pamphlets distributed by political parties and supporters to the public during the campaign activities included information about ballot paper and casting vote. It was also found that political parties and supporters promoted marking the ballots with the “X” mark; and not preferential wise or with any information on that regard in the campaign materials. Many voters also expressed being confused about the voting system as information they received were different from one another. As stated above, voter education is provided by various stakeholders in different forms but one of the main sources of electoral information for the voters remains television even though social media has also become a main source. While media outlets, both private and state-owned, were reported to have been biased, voter education provided through the mediums did not stand out prominently but rather perceived to focused more on disseminating election activities, mainly campaign activities and events. Staff of state-owned media broadcasting outlet, Sri Lanka Rupavahini Corporation, shared during an interview that voter education on preferential voting system in coordination with the EC was broadcasted only a few days before the poll day. In addition, media coverage on the election also pertain mainly to information about political parties and candidates rather than educating voters on the electoral process or the importance of choosing the right candidate.
The preferential voting system in Sri Lanka, introduced in 1978 Constitution\(^{32}\), has been there for over 40 years but not widely used or known by the general public. Various stakeholders including the EC as well as CSOs and experts expressed that voting for only a candidate has been practiced by the majority of voters. And, it was due to this factor, voting for one candidate was not considered invalid by the EC in past elections. There was a widespread confusion among the public regarding the marking of ballots, since voters can opt to select a single candidate or perform preferential voting.\(^{33}\)

Not only due to lack of voter awareness on the voting system, there were reports of false information being disseminated by the supporters of one of the leading candidates\(^{34}\) in the eastern parts of the country that may have not only heightened public confusion but affected the result. ANFREL observers deployed in electoral districts with large numbers of ethnic and religious minorities were also reported about occurrences of dissemination of false information on the voting system in an attempt to spoil/invalid ballots of voters who were perceived to not vote for their preferred candidate. For example, some voters in the eastern province were informed to mark three ‘Xs’ on their choice of candidates.

It was widely observed by several election monitoring groups, both national and international, about the set-up of ballot booths inside many polling stations across the country which did not ensure ballot secrecy fully. Polling officers interviewed by ANFREL observers informed that such a set-up was done due to space constraints. And also because of the EC’s instruction to track on misuse of ballots or import of fake ballot inside the polling booths, booths were placed in front of the senior polling officer’s desk. Though ballot secrecy was not ensured inside many polling stations and in some cases, they were clearly visible from


\(^{33}\) Voting for a single candidate requires the voter to use a cross (X) or the number one (1) for it to be valid. On the other hand, exercising preferential voting requires the voter to select two to three candidates by ranking his/her preferred candidate with numbers one, two, and three.

the area where party agents were seated. However, it was noticed that voters did not view this as a violation of their electoral rights or sought secrecy; and no cases were officially reported regarding ballot secrecy. While ANFREL’s interactions with electoral stakeholders suggested that such a polling station set-up is common tradition in the country. Nonetheless, it was also speculated that voter’s acceptance of such a polling station set-up could be due to lack of voter education among the public.

Among the voters in general, low voter education was found to be most severe among the ethnic minorities residing in the central parts of the country. Tamil populations in the central and neighboring provinces are generally referred to as Indian origin Tamils, differentiating them from other Tamils predominantly residing in the Northern and North-eastern provinces. A large number of Indian origin Tamils, whose ancestors were brought to the island during the British colonial period to work in tea plantations, continue to experience discrimination and neglect.

Basic human rights issues faced by the majority of Tamil tea plantation workers make them one of the most vulnerable groups in the country, if not the most vulnerable. Stricken with poverty and social exclusion to an extent, interviews of plantation workers and their families revealed that access to higher education is difficult for them. Among many issues which they experience, language barrier is highlighted as one of the major challenges in their access to opportunities and knowledge or information, including from mainstream media which largely utilize Sinhala as a language. Though they mainly rely on media for electoral information and political events, it was relayed to us that not all relevant information gets transmitted wholly or extensively in the local news, both television and newspapers.

The EC officials at some districts informed ANFREL observers their apprehension to conduct voter education on preferential voting in order to avoid being perceived as biased towards a party/candidate. Effective voter education programs that are voter oriented must be
prioritized. Stakeholders conducting voter education programs must also aim at empowering and enabling voters to make an informed voting decision.

**Media and Freedom of Expression**

The outright bias in the media is one of the main challenges in the 2019 Sri Lanka Presidential Election. Observed both in state-owned and privately owned media, the bias compromised the access of the public to truthful and fair coverage of the election that people can use to make informed decisions. This, on the backdrop of a problematic media ownership landscape and lingering press freedom issues in the country.

In an analysis of the coverage of select newspapers, the Sri Lanka Press Institute (SLPI) found that New Democratic Front candidate Sajith Premadasa received the most “supporting” coverage in state newspapers while Sri Lanka Podujana Peramuna candidate and the eventual winner Gotabaya Rajapaksa got the most “supporting” coverage in private newspapers. Now-President Rajapaksa got the most “opposing” coverage in state newspapers.

The media heavily focused on Rajapaksa and Premadasa who received 49 percent and 43 percent of media coverage, respectively, regardless of whether the news reports were supporting, opposing, or neutral. The rest were distributed among the other 33 presidential hopefuls.

Interestingly, based on SLPI data, the news coverage tended to be on the extreme opposites as reports were either “supporting” or “opposing” with the least media coverage being “neutral.” SLPI media monitoring looked at news item, headline story, opinion, and photographs on the front page and editorials of mainstream Sinhala (nine weekly, seven daily), English (seven weekly, six daily), and Tamil (12 weekly) newspapers in relation to the presidential election from October 7 to November 12, 2019.
Although limited in scope, the result of the media monitoring is emblematic of the prevailing problem of media bias in the country especially during elections. It also showed how the State-media provided favorable coverage for the candidate of the ruling party while providing a considerable amount of “opposing” coverage for the opponent.

**Media ownership**

But the editorial independence of the Sri Lankan press has been undermined by the media ownership landscape where State-owned media tend to favor the ruling political party while privately owned media face conflicts of interest because of either the direct ownership of politicians or the ties that bind media owners and politicians\(^\text{35}\).

See at: https://www.ifj.org/fileadmin/user_upload/IFJ_SAPFR__SRI_LANKA.pdf
There are over 75 daily and weekly print publications, 20 television stations, and 50 radio stations in Sri Lanka according to the 2018 Media Ownership Monitor project of Reporters Sans Frontieres (RSF, Reporters Without Borders) and Verite Research. The study indicates that “media outlets, especially in the print medium, are not free of political affiliations” and that at the time of the study, “at least 6 companies are either directly owned by an individual holding political office or by persons related to individuals in political positions.” It explored the ownership of 46 media outlets across three sectors including online space and traced ownership of “at least 44 media outlets back to 23 families and individuals.” But of all media owners, the state “remains a numerically large player across print, television, radio, and online media” with ownership of at least 30 media outlets.

**Incidents**

The influence of owners over the editorial content of media outlets were observed in several instances during the election period. In one instance, a radio news editor was threatened and fired by a media owner for refusing to broadcast “fabricated” and “biased” information.

K.M. Razool, a Capital FM Tamil-language news editor, said that on 16 October 2019, he was shouted at, threatened, and nearly assaulted by Vincendrarajan Sathsivam for “refusing to publish a dubious item favourable to Gotabaya Rajapaksa.” Sathasivam, the head of Trymas Media, the company that owns Capital FM, “is reportedly very close to a politician in the city of Jaffna who is supporting Rajapaksa’s candidacy.” This prompted RSF to call on presidential candidates “to give firm pledges to respect press freedom.”

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36 Media Ownership Monitor Sri Lanka. See at: https://sri-lanka.mom-rsf.org/

37 Sri Lankan presidential candidates asked to guarantee editorial independence, 6 November 2019
In another instance, EC chief Mahinda Deshapriya told state-owned television station Independent Television Network (ITN) in a letter that “ITN cannot broadcast any political content without clearing with the Election Commission until the conclusion of the election on November 16.”

Said to be the first time a Sri Lankan election chief has censored a TV station, the order also covered live events which would need approval from the commission before being transmitted. The ban stemmed from a complaint that ITN aired a program “alleging (that) loyalists to the previous government had thwarted a corruption probe into the family of former president Mahinda Rajapaksa” which “harmed” opposition candidate Gotabaya Rajapaksa, the brother of the former president. Deshapriya immediately backtracked after the backlash he received from the order for the unfair treatment as other media outlets were also accused of being biased.

Several media groups also called out the move of State-run broadcaster Sri Lanka Rupavahini Corporation from the purview of the Media Ministry to the Defence Ministry under presidential powers during the election period saying it violated the people’s right to “unbiased, impartial media system” and was a “misappropriation of state property for political purposes.”

**Post-election**

Sri Lanka, despite the seeming bias in the media and its struggle with editorial independence, has actually improved its state of press freedom. From the rank of 162 out of 180 countries in the Press Freedom Index of RSF in 2013, Sri Lanka ranked 126th out of 180 countries in 2019. It is a far better ranking that it started to gain after the shift in po-

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political leadership from the Mahinda Rajapaksa regime which has been described as the “dark decade” but does not necessarily mean an improvement in the conditions of journalists in the country.

The failure of Maithripala Sirisena, who he took over as president in 2015, to follow through on his promise to reopen investigations into all the media killings under the previous administration and to ensure mechanisms are in place to strengthen freedom of the press are seeing its fruits post 2019 election. Just a few months in the lead up to the election alone, a military intelligence official said to be linked to attacks on at least three journalists was reinstated\(^{40}\) and at least three Tamil journalists have been victims of police attack in 2019\(^{41}\).

Several incidents have been observed post-election including the police raid of local news website News Hub searching for references to Rajapaksa in their computers and servers on 26 November 2019, mere days after the inauguration of the new president. Other cases of intimidation and attacks on journalists include police interrogations and physical attacks by unidentified groups of men\(^{42}\).

**Assessment and Recommendations**

A free press is needed to ensure that the public’s access credible information to help them make informed decisions and be free and self governing. The press serves as an agent for checks and balance but an environment not conducive to the free practice of journalism undermines the very core of the people’s right to know. It is imperative that press freedom is protected and strengthened as a precondition not just of a free and fair election but of a genuine democracy.

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\(^{40}\) Sri Lankan army reinstates official suspected in Lasantha murder, other attacks, 15 May 2019
See at: https://cpj.org/2019/05/sri-lankan-army-reinstates-official-suspected-in-l.php

\(^{41}\) Alarming resurgence in Sri Lankan police attacks on Tamil journalists, 6 June 2019

\(^{42}\) Journalists beaten by unidentified groups, interrogated by police in Sri Lanka, 16 December 2019
See at: https://cpj.org/2019/12/journalists-beaten-by-unidentified-groups-interrog.php
Equally, the media has the responsibility to ensure that journalism is practiced to the highest standard and that ethics and professionalism are upheld.

There have been efforts to ensure media fairness during the 2019 election, like the EC’s issuance of a media guideline. Although the implementation and compliance to the guideline fell short, the guideline could’ve been a starting point for the media to commit to fair and balanced coverage of the election.

A review of the guideline and its implementation could be undertaken but there should be a strong commitment among the media ranks to uphold media ethics. At the same time, media owners should ensure editorial independence and should be transparent on any potential and actual conflicts of interest. Also, the State’s commitment to press freedom should extend to State-owned media outlets in that it should not be mere mouthpiece of the government but a beacon of the press as agents of truth.

There are independent mechanisms available like the Press Complaints Commission of Sri Lanka and fact-checking efforts of various organizations but these would only work if media stakeholders are empowered and knowledgeable of the functions and responsibilities of the press. Media and information literacy could help fill the gap.

**Political Participation of Women**

Female population in Sri Lanka has not only been in a steady increase but also exceeded the number of male population. As of 2012, 51.6% of the Sri Lankan population is growing in the sex ratio of 93.8 males per 1,000 women. Furthermore, 56% of registered voters in the country are women. In the arena of formal politics, Sri Lanka is one of the foremost states in the world that has had elected female leaders in

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the country’s top political positions. Ahead of most countries, in 1960 and 1994, Sri Lanka had its first female prime minister and president, PM Sirimavo Bandaranaike and President Chandrika Kamaratunga, respectively.

However, despite these progressive facts, representation of women in formal politics in Sri Lanka has been rather very low\(^\text{45}\). Formal politics in Sri Lanka continue to be a male dominated domain. The 2019 Presidential candidate Ajantha Perera, who was the only female out of 35 total candidates, is also the first woman to have contested a presidential election since former president Chandrika Kamaratunga. Even in the Parliament or at the local government, the number of male members greatly surpasses the women. Currently,

\(^{45}\) Ceylon Today; 4 November 2019, ‘Women’s political participation in SL’. See at: https://ceylontoday.lk/print-more/44246
women hold under 6% seats in the Parliament\textsuperscript{46}, 13 female parliamentarians out of 225\textsuperscript{47}.

Political participation of women has mostly been confined around as voters and/or party workers. With the number of population as well as registered voters in the country, the 83.72% voter turnout comprised of more females who exercised suffrage than male voters. ANFREL observers could not get gender disaggregated data, mainly regarding the number of registered voters and/or of the voter turnout. EC officials at district level during discussions often mention ‘gender equality’ as a reason for not creating gender disaggregated data.

In order to increase political representation of women, the Sri Lankan government has taken up affirmative measures based on quota system. Section 27F of the Local Authorities Elections (Amendment) Act, No. 16 of 2017 mandates compulsory 25% reservation for women in each local government entities, the three-tier system comprising Pradeshiya Sabha, Urban Councils and Municipal Councils. The existing affirmative measure is applicable only in the composition of local government entities. The 2018 Sri Lankan Local Authorities Election was held under it. Nonetheless, this initiative is yet to be extended to parliamentary or national level. Besides, even after the compulsory quotas for women in local government, their active participation in politics is reported to be still rare\textsuperscript{48}.

Aside from a quota system, another affirmative measure to increase women’s political participation can be found in the Parliamentary Elections Act, No. 58 of 2009. Section 2, letter (d) of the law provides that every recognized political party shall ensure the inclusion of one or more women office bearers in the list of office bearers of such party. Unfortunately, no incentive or penalty is provided in the same law for compli-

\begin{footnotesize}
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\item \textsuperscript{46} Parliament of Sri Lanka website. See at: https://www.parliament.lk/en
\item \textsuperscript{48} \textit{Ceylon Today}, 4 November 2019, ‘Women’s political participation in SL’. See at: https://ceylontoday.lk/print-more/44246
\end{itemize}
\end{footnotesize}
ance or non-compliance with this section. In one country, increase or decrease in the budget given to political parties is dependent on their compliance on the mandatory percentage of women in their candidate pool. It is recommended to the Sri Lankan Parliament to amend this provision for women to be at least 30% of the total number of office bearers of recognized political parties. It is further recommended to the Sri Lankan Parliament to add another provision which provides for incentives and penalties for compliance or non-compliance with such.

Women’s participation in formal politics in Sri Lanka is directly or indirectly influenced by the socio-cultural gender beliefs and norms. Currently, the space and access to electoral politics has largely been confined among men. The sets of constraints outnumber factors that enable women’s active participation in politics. Patriarchal values that put women in a more disadvantaged position than men in their participation in formal politics continue to affect voter behavior. Family and spouse support remains one of the main enabling factors for women in participating in politics. In the nomination process too, often political parties favour men upon women, except women politicians who hail from influential families.

Further, women face more speculations in their participation in formal politics based on their gender and undergoing scrutiny whether or not they are fit based on their behaviour and appearance against gendered expectations. Also, women in general are more likely to face difficulties in access to funding. This has been one of the biggest difficulties for women in participating in formal politics which requires a large budget. It becomes all the more challenging for women to participate in formal politics in an environment where corruption and bribery even during election seems to be prevalent at a high rate.

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Overall, ANFREL saw a wide gap that despite high participation of women as voters, women’s political participation in Sri Lanka remains very low. Deep-seated sociocultural issues that discourage women’s active political participation needs to be tackled alongside temporary measures to enhance their political participation. ‘Woman’ as a group must not be perceived as a homogenous group. It must also take into consideration diverse experiences faced by women from different religious and ethnic backgrounds among other differences such as economic capability, educational qualification, disability etc.

**Vulnerable Sector Issues**

ANFREL observed that voters from vulnerable groups are more likely to face challenges in comparison to other sectors of Sri Lankan society who enjoy voting rights. The challenges may differ from one group to another depending on the nature of their vulnerability. Persons with disability (PWD), elderly, migrants, internally displaced people (IDPs), tea plantation workers and families, and remand prisoners are some of the groups ANFREL observers identified to be vulnerable groups face issues that may infringe upon their political rights. Sociopolitical pressures imposed upon these vulnerable sectors will most likely to cause them some voluntarily abstaining on their political right, despite being fully eligible.

Physical accessibility has been the main issue facing PWDs in exercising their voting right. This issue is also common among elderly voters. On the other hand, the provision for postal voting (early voting) is not extended to registered voters who are residing outside the country and IDPs. In the case of remand prisoners, though they are legally entitled with voting rights, there are no provisions to ensure them this right on the election day or postal voting. Whereas, for tea plantation workers and their families, in addition to a lack of electoral information, they are confronted with a set of challenges that pose as barriers in their electoral participation. The challenges include difficulties during voter registration and accessibility to polling stations as well as possible
interference by company officials and also pressure from local leaders to vote for their favored candidate in the poll. Also, structural and day-to-day socio-economic issues facing them put the majority of tea plantation workers in political margin and peril as potential victims of political and electoral misuse.

A growing concern in Sri Lanka and also during the 2019 election environment is the rising divisiveness in the society on religious and ethnic grounds. At the backdrop of increased ethnic and religious polarization mainly since the Easter bombings on April 21, 2019, voters from ethnic and religious minorities\(^\text{51}\) (Muslim and Tamil voters) were confronted with targeted attacks, creating an atmosphere of fear and hostility which enveloped the campaigns. Election campaign activities and manifestos were also dominantly crafted around secu-
rity discourse. Hate speech including speeches or statements inciting violence against religious minorities were reportedly being delivered during campaign activities by certain political leaders and supporters ahead of the election.

This overwhelming abundance of security and nationalist rhetoric during the election environment caused widespread fear among religious and ethnic minorities in the country. Though campaign rhetoric of SLPP candidate primarily focused on ‘national security’, the presidential candidate of UNP and its supporters also campaigned about the same, aside from other highlights such as economy, corruption, reconciliation among others, etc. Promises to give prominence to Buddhism while respecting the practice of other religions, and protection of military officials accused of war crimes petrified ethnic and religious minorities of the 2019 Presidential Election of a return to the country’s horrific past of repression and human rights abuses. During discussions, the majority of voters from ethnic and religious minorities interacted by ANFREL’s observers expressed hopelessness considering either of the leading candidates coming to power. However, they also shared their firm stand to utilize their ballot in support of the ‘lesser evil’ candidate among the prominent ones.

ANFREL recognizes the efforts of the EC to promote inclusion and accessibility among all voters. Prior to the poll day, the EC implemented a number of programs to educate PWDs and elderly voters including provisions to assist accessibility to polling stations and in casting ballots. On the other hand, the discussion of our observers with voters reveal that no assistance was extended to increase accessibility of elections to vulnerable groups like tea plantation workers and remand prisoners. In the case of residents at tea plantation sites, polling stations are often situated at a distant location usually requiring transportation. Also, several workers and their families do not possess documents such as residence/ housing or even postal address in their name.

ANFREL believes that the EC should not be faulted for the disenfranchisement of Sri Lankan migrants, including more than one million Sri Lankan migrant workers. The failure to enfranchise such an overwhelming portion of eligible voters lies on the inability of the lawmaking body to enact an implementing law. The Sri Lankan Parliament, in coordination with the EC, concerned government agencies and other interested groups, should pass a bill giving the opportunity to vote for Sri Lankan migrants.

Accessibility of elections does not only pertain to Election Day but starts from registration of voters. Data on the number of PWDs, elderly voters and type of assistance they need should be captured immediately during voter registration. It can be addressed in the revision of the registration forms used by the enumerators. This will assist the EC more effectively in preparing beforehand to resolve the concerns of PWD and elderly voters. Likewise, the EC should make necessary measures to ensure that tea plantation workers and their families are not deprived of voter registration just because of the lack of access to identity documents; or any interference by tea plantation officials. Campaign information should also be made more accessible to vulnerable sectors. Campaign can be made more accessible, for example, by requiring sign language interpreter inserts in all television campaign commercials of candidates.

Prior to voting, the EC, together with other government agencies and NGOs, can assess the terrain of identified polling stations so that necessary changes or measures could be assisted by a person of the voter’s choice. However, the PEA allows the voter to be assisted by a person of his or her choice but the process should be done in the presence of the presiding officer and another member of the polling staff. Given that one of the fundamental principles in election is the secrecy of the vote, the presence of the polling officials contradicts this principle. While it is understandable that the officials are present to ensure that the actu-

al choice of the PWD is marked correctly, the certificate of eligibility and the disqualifications for the person of choice (assisting person) are enough safeguards. The Sri Lankan Parliament should look into revisiting the relevant section in the PEA to remove the presence of the Presiding Officer and any other polling staff when a PWD is voting, while accompanied by a personal assistor.

Furthermore, the EC should also create guidelines for ensuring voting rights of remand prisoners as nothing in the law prohibits them from voting. It is the lack of guidelines that restrict remand prisoners from exercising their vote.

It is worth noting, based from the interviews of ANFREL observers, that there is a low appreciation and awareness of the challenges faced by vulnerable sector groups when it comes to exercising their electoral rights. The EC and election observer groups in the country should include this in their voter education manual to increase the knowledge of the general public as to the situation of vulnerable sectors in elections.

**CSOs, Domestic Election Monitoring Organizations and INGOs**

Election related civil society groups in Sri Lanka have been actively engaging with different stakeholders and issues even during the pre-election period. Some of them have conducted voter education in different parts of the country, prioritizing vulnerable groups. The EC recognizes eight (8) local election observer groups on their website. These are: the People’s Action for Free and Fair Elections (PAF-FREL), Centre for Monitoring Election Violence (CMEV), Campaign for Free & Fair Elections (CaFFE), Movement for Free and Fair Election (MFFE), Mothers and Daughters of Lanka (MDL), National Polls Observation Center (NPOC), Transparency International-Sri Lanka (TI-SL) and Sri Lankan Alumni & Professionals Association (SLAPA). From these eight listed local observer groups, ANFREL was able to talk to volunteers of PAFFREL, CMEV, MFFE and Trans-
An ANFREL observer with PAFFREL volunteers in Polonnaruwa.

The PAFFREL and CMEV are the two accredited groups which deployed more than 4,000 and 1,600 observers, respectively. In addition, MDL deployed mobile observers, 10 vehicles and 100 women observers. CaFFE is the largest unaccredited organization which deployed observers, numbering 2,200, according to their website. PAFFREL, CMEV and Transparency International (TI) engaged in the conduct of voter education activities and recruitment activities for their monitoring efforts. Furthermore, PAFFREL and CMEV observed

the general electoral process, while TI focused on the use or misuse of public resources. These education efforts of PAFFREL, CMEV and other groups are very crucial especially with the general perception that voters are not aware of the preference voting system. As to TI’s education effort on use or misuse of public resources, this is also crucial as the misuse of public resources is widely perceived as the most common violation in this election. It should be noted that aside from the eight mentioned in the EC’s website, there are other groups engaged in election monitoring work that ANFREL was able to interact with. These are Association of Friendship and Love (AFRIEL), grassroots organizations like women’s groups, PWD groups and human rights organizations.

International organizations, both governmental and non-governmental organizations, were also allowed to deploy observers. The three accredited international organizations are the Asian Network for Free Elections (42 observers), the European Union (80 observers) and the Commonwealth (10 observers). All three organizations assessed the conduct of the polls and presented recommendations, which consider existing international norms and good practices. In addition, the EC invited observers from the Forum of Election Management Bodies of South Asia.


56 This is the figure cited by the European Union on the number of their observers on election day. The final EU report relayed 30 LTOs and 30 STOs as their main force.

TO THE POLLING STATION
Postal Voting

Sri Lanka allows postal voting mechanism to state officers who are expected to render election duties, officers and servants engaged in civil services, the personnel of the three armed services (army, navy and air force), police and civil defense force. From September 18 to October 4, EC accepted applications for postal voting. According to EC, they received a total of 717,675 applications, of which 659,029 were accepted, while 58,646 were rejected.

A total of five days was allocated for postal voting. From October 30 to October 31, civil servants were first to avail of this privilege. The three services, police and civil defense force and EC employees had theirs from November 4 to November 5. For those who were not able to vote on these four dates, November 7 was allocated for them to avail postal voting at the District EC office.

ANFREL observers reported that postal voting was peaceful and orderly, with voting process generally organized, and no major incidents of violence or electoral violations reported. It should be highlighted that in one district, retired police officers were permitted to vote by postal voting.

Location of postal voting stations can also be improved. In most of the observed areas, the polling station was set-up at the office of the head of the police or the administrative secretary. Given the number of personnel mandated to be inside the postal voting station, the space allocated for observers and the polling booth, it was not conducive for voting. Adding to this limited space was the constant barrage of police officers/government officials into the offices for everyday office concerns.

The high number of rejected postal voting applications should also be noted. Based on the discussions of ANFREL observers with District EC
officials, the most common reason for rejection of postal voting application was wrong filling-up of the form. This could have been avoided if the EC in coordination with concerned government offices and agencies who are privileged to avail of postal voting, conducted an information session on the correct way of filling up the form.

The purpose of postal voting is to allow government employees working on election day to be able to vote in advance of the poll date. The list of government employees is limited to members of the tri-forces (army, navy and air force), public transportation employees, civil service employees to be deployed on election day, etc. But this exclusive enumeration should be further expanded to prevent disenfranchisement of government employees who are similarly situated but are not part of the list. It is also recommended to extend such privilege to similarly situated members in the private sector, specifically students studying in distant schools/universities, internally displaced peoples, migrants, out-of-constituency workers, and citizen election observers.

Election Day: Opening, Polling, Closing and Counting

On Election Day, 13,387,951 Sri Lankan voters trooped to 12,845 polling stations to exercise their right to vote. When the polls closed at five o’clock in the afternoon, these votes were transported to and counted at the 1,355 counting centers.58

ANFREL’s observers deployed in 25 administrative districts witnessed a largely peaceful and orderly Sri Lankan 2019 Presidential Election on November 16. Observers reported a high voter turn-out and participation of young, elderly voters and PWDs across the country. The environment around and inside polling stations was almost free of electoral violations and violent activities. The polling process starting from checking voter’s identity to casting of ballot was observed to be done in a transparent manner. Notwithstanding a few instances of restrictions,
ANFREL’s observers were allowed to freely observe the polling process as well as transfer of ballot boxes to counting centers and the subsequent counting process.

However, it was observed in several polling stations that the roles of polling staff and police during the voting process were not clear. Armed police were observed inside many polling stations including some of them assisting voters to booths and exit. Keeping in view the best electoral practices, future avoidance of involvement of police in responsibilities other than providing security will only enhance the quality of election. However, the police appeared to have a more defined role during the counting process at the designated centers where they were generally seen guarding the counting rooms from outside.

Another observation made was regarding procedures to deal with spoilt and tendered ballots. Several election officials had understood the procedures to handle the spoilt and tendered ballots differently, which could be due to unclear guidelines or gaps in communication.
Based on the widely held standard of voters’ secrecy, ANFREL observers found the inside setting of most of the polling stations to have compromised ballot secrecy. The polling booths were placed in a manner that anyone around the area could view the choice of the voters on the ballot paper. In many instances, the polling booths were placed in close proximity to the Senior Presiding Officer’s desk. However, voters or party agents in none of these polling stations highlighted the matter to the staff during or after voting.

While polling stations observed were all setup on the ground floor of the buildings, accessibility to these premises remained a challenge mainly for elderly voters and PWDs in more hilly terrains of the country. Despite being located on the ground floors, use of narrow pavements and stairs was required to reach many polling stations.

Though the EC listed eight identification cards (national identity card, valid passport, valid driving licence, government pensioner’s identity card, elders’ identity card, bikku/priest identity card, temporary identity card and special permit with the photograph issued by the Department of Registration of Persons) that could be used by eligible voters to cast their vote, there were instances where polling staff did not accept senior citizen cards as a valid identifier. ANFREL observers also witnessed several voters who came to the polling stations being turned away due to invalid identification documents. Improvement in the outreach of voter education will help prevent confusion among eligible voters about identification cards to be used on election day leading to their disenfranchisement.

The use of 2018 voter registration list for the 2019 presidential election is believed to have disenfranchised several hundred thousand eligible voters, mostly the first time voters. Besides, the absence of provisions for overseas voting disenfranchised around a million Sri Lankan overseas migrant workers. Provisions to facilitate voters such as students and workers unable to be present at the place of their vote registration on election day may also be considered.
Electoral Process

Some inconsistencies at polling and counting stations were encountered regarding the presence of international observers. Though less in number, few observers were refrained or not permitted completely to observe the counting process. In other instances, some district election commissions had additional requirements for international election observers on election day.

Voter Turnout and Invalid Votes
(Spoiled and Tendered Ballots)

<table>
<thead>
<tr>
<th>Category</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Votes</td>
<td>13,252,499</td>
<td></td>
</tr>
<tr>
<td>Rejected Votes</td>
<td>135,452</td>
<td>1.01%*</td>
</tr>
<tr>
<td>Total Polled</td>
<td>13,387,951</td>
<td>83.72%</td>
</tr>
<tr>
<td>Registered Electors</td>
<td>15,992,096</td>
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The total number of registered voters for the 2019 Sri Lankan Presidential election was 15,992,096. 83.72% (13,387,951) of this total number went out to vote on election day. 135,452 or 1.01% from this total number of votes was found to be invalid. According to Section 51 of the Presidential Elections Act, No. 15 of 1981, a ballot paper is rejected when:

1. When it does not bear the official mark;
2. If it bears a marking which can identify the voter;
3. If the ballot bears uncertain marks;
4. If a voter did not vote for any candidate, or

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* Official Election Commission data relay a much lower 0.89% ballot rejection rate since the number of rejected ballots is computed against the registered voters. Ballot rejection should be computed against the voter turnout, hence we used the above figure.
5. Did not follow marking instructions for preferential voting or voting for only one candidate.

ANFREL would like to commend the voting public, as this low number of rejected ballots is an indication of a public which knew how to vote correctly in the poll, as well as in making sure that their votes are actually counted.

Section 42 of the PEA defines a spoilt ballot as a ballot which cannot be conveniently used as ballot paper, with no fault on the part of the voter. The voter will then submit such spoilt ballot to the Presiding Officer. The Presiding Officer will then decide if the ballot was not spoiled because of fault on the part of the voter. If the Presiding Officer finds no fault on the part of the voter, the voter will be given another ballot. On the other hand, Section 43 of PEA defines a tendered ballot as a ballot, of different color from the rest of the ballots, given to a voter whose name was voted upon previously by another person. This person will make and subscribe to a declaration that he is the particular elector named in the register and another person has voted for him or her.

There is no data available on the number of spoiled and/or tendered ballots. Such data is valuable to all election stakeholders especially in the area of public education and accountability. It is recommended that this data be made part of the information that the EC should collect and disseminate to the general public after each conduct of an electoral exercise. This principle is espoused in the Colombo Pledge which calls on all electoral stakeholders to promote, embody and implement, the right to information, with a particular focus on proactive disclosure of election information and data on a timely basis.
Announcement of Results and Post-Election Situation

Barely 24 hours after the polls closed, the EC was able to announce the winner of the election. Mr. Gotabaya Rajapaksa was able to get 6,924,255 votes, more than 50% of the constitutional requirement to win the 1st round of counting. The president elect Gotabaya Rajapaksa (GR) of SLPP and Sajith Premadasa (SP) of NDF respectively received 52.25% & 41.99% of the total votes polled in the presidential election held on November 16, 2019. Even before this announcement, President Rajapaksa already claimed victory in a statement released mid-day of September 17. Shortly thereafter, Mr. Sajith Premadasa conceded defeat.

The following day, September 18, Mr. Gotabaya Rajapaksa was formally sworn in office before Chief Justice Jayantha Jayasuriya in BC Ruwanwelisaya Buddhist temple in Anuradhapura. A few days later, President Gotabaya appointed his brother Mr. Mahinda Rajapksa as Prime Minister, following the resignation then Prime Minister Ranil Wickremesinghe.

Amidst all of these political changes, several clashes between supporters of rival political parties, as well as mob violence targeting members of the Tamil community in Sabaragamuwa province were reported. The victims of these incidents were allegedly reported not to have voted for President Gotabaya Rajapaksa60.

It was also reported that the police raided the offices of some websites that supposedly supported the candidacy of Mr. Sajith Premadasa. Another police raid was conducted on a news outlet named Media Hub, wherein these outlet employees were forced to unlock their computers for examination. At this same time, the police conducted an eight-hour interrogation of a journalist of a separate news outlet. Media Hub and this journalist were known to be critical of the Rajapaksa family. An incident involving an employee of the Swiss em-

bassy also became prominent news, not only covered by local but also by international media. Allegedly, this Swiss embassy employee was abducted and detained by mysterious men to force her to hand information to them about Sri Lankans who have recently sought asylum in New Zealand and the names of Sri Lankans who aided these fleeing Sri Lankans.\textsuperscript{61} A case has been filed against this Swiss employee, on the ground that she falsified this kidnapping incident. As of publication, the case is still going on. At the same time that this became news, President Gotabaya ordered a blanket travel ban on 700 members\textsuperscript{62} of the Sri Lankan Police Unit who were said to be investigating the Rajapaksa family.

Two weeks into power, President Gotabaya exercised his power under Article 70 of the Sri Lankan Constitution. He prorogued the Parliament from December 3, 2019 up to January 3, 2020. It is said that proroguing is a strategy to get a majority status in Parliament. When Parliament commenced last January 3, President Gotabaya made pronouncements as to constitutional and legal reforms he wanted to happen under his government. As discussed in an earlier section of this report, this was to repeal the 19\textsuperscript{th} amendment of the Sri Lankan Constitution and the increase of the percentage of votes that a political party or independent group should get for their candidates to be elected in office.


Winning Party By Electoral District
2019 Sri Lankan Presidential Election

Considering the observations reported by the members of the ANFREL international election observation mission detailed throughout this report, Sri Lanka’s path towards democratic maturity becomes clearer and clearer. However, despite these significant improvements, we would like to present proposals to solidify these developments.

In order to achieve full representation of the people’s through peaceful electoral processes, ANFREL would like to submit the following list of recommendations for stakeholders to consider and hopefully implement ahead of the next elections. To this effect, we hope to see all stakeholders and members of the civil society join in a productive debate and work together to improve on the current situation and attain long-term democratic stability. ANFREL will proudly continue to support all of Sri Lanka’s efforts in pursuing the establishment of genuine, periodic, free and fair elections.

**Regarding the Electoral Process**

- EC guidelines should clarify the role of the police within the polling area; best practice avoids the participation of the police in the polling process aside from providing security;

- To further promote accountability, the EC should provide aggregated information on the number of spoilt and tendered ballots;

- All stakeholders should strive to protect voter secrecy by reconsidering existing guidelines on polling station set-up and ensuring no person remains behind the voters as they vote;

- The EC, with the assistance of local government units, should promote accessibility by performing polling station audits prior to election day. Reconsider any polling station which does not fit accessibility guidelines and include sensitivity training as to vulnerable sector voting for polling officials;
• The EC, CSOs, the media, and the academe should conduct wider voter education on the necessary requirements to vote, furthermore, polling officers should receive better instructions on identification of voters;

• All stakeholders should work together to create a set of policies which enable the voting rights of migrant workers, students, and workers through postal voting or other alternative voting procedures;

## Regarding the Legal Framework

• The Parliament should introduce a working campaign finance regulation as part of the electoral system, which should formed through inclusive consultation among electoral stakeholders;

• The EC and other relevant stakeholders should work together on crafting guidelines on the responsible use of social media during electoral campaign period;

• The Parliament should remove legal provisions, such as Sections 69 and 74 in the Presidential Elections Act, which negatively affects the fairness of the playing field, and clarify vague provisions such as Article 41 (b) (6) and Article 104 (b) (3);

• The EC should provide a working mechanism to properly scrutinize the qualification of candidates, such as increasing the time to present opposition to or contest the qualification to presidential nominees through a thorough due process;

• To limit the participation of farcical candidates, such as those posing as proxy and dummy candidates, it is recommended for the Parliament and the EC to agree on imposing a higher candidacy bond and higher vote quotas to reimburse those bonds;

• The Parliament should amend Section 23 (procedures for advance voting) to include other government employees similarly situated like the tri-forces and sectors from the private sphere
like students, workers, migrants and citizen election observers. Furthermore, an implementing law should be made by the Parliament to enable remand prisoner voting.

• To maintain the EC’s independence and integrity, appointments to the management body should remain based on the recommendations from the Constitutional Council, increase EC membership to 5, and provide for staggered terms for the members of the body;

Regarding the Voter Registration

• The EC should continue an active voter registration system which encourages regular updates on the voter registry, thus ensuring the good quality of the registers;

• The Parliament should amend Registration of Electors Act to have supplemental registers after the cut-off date to allow for the enfranchisement of all voters aged 18 on election day, thus resolving the huge numbers of disenfranchised youth;

• The EC should maintain the accuracy and veracity of the voter list, and improve it by identifying number of male/female voters, numbers of PWD voters, number of elderly voters per constituency;

• Sri Lankan stakeholders should study the use of biometrics in capturing voter information to further promote the veracity of its voter data; registration process should capture data on differently abled and the elderly to better prepare the local election commission on the needs that should be provided to these sectors during the polling;
Regarding Accountability and Electoral Dispute Resolution

- The Parliament should institutionalize Election Complaints and Management Unit (ECMU), and promote public access to the body by establishing an open data site containing updates on the cases being heard;
- Parliament should amend Section 71 of the Presidential Elections Act to give EC prosecutorial power, thus empowering the institution to efficiently resolve election-related cases;
- To lessen the prevalence of the government resources use, the EC and the Parliament should work on guidelines regarding the absolute prohibition on the use of government vehicles and buildings during the election period;

Regarding Transparency and Inclusion Measures

- The election management body should ensure consistent application of transparency measures in all stages of the electoral process, from the national down to the local levels;
- Proper policy should be crafted by the EC and the Parliament on the rights and responsibilities of international election observers, domestic election observers, and other relevant stakeholders;
- The EC should continue to ensure proper data keeping by keeping a record of voter information which identifies the all relevant information that would make inclusion and identification easier;
- The EC and election monitoring bodies should perform an audit of postal voting locations and PWD accessibility of voting venues to ensure they are adequate;
- The EC, the media and the civil society should conduct an information drive on how to properly fill out the postal voting application form;
Regarding Media

- The Parliament should enact a law creating a stronger media self-regulation mechanisms to address breaches on media ethics, as well as the forming a stronger independent self-regulation institution

- A more comprehensive media fairness guideline during campaign period should be created by the EC and the media self-regulation institution to cover both public and private media;

- For EC to continue talking to online media platforms to explore and develop policies, programs to temper effect of fake news, hate speech in elections

Regarding Voter Awareness

- Perform a concerted, long-term and sustainable effort among the EC, the civil society, academic institutions and the media to explain the optional preferential system so voters can fully understand and express their voting rights;

- All stakeholders should perform targeted public education drive for minorities, and multilingual voter education should be conducted to ensure that all voters receive information in a proper manner equally;

Regarding Vulnerable Sectors and Women’s Political Participation

- The Parliament should work on amending laws which prevent migrants from exercising their voting rights, the EC, civil society, and migrant advocates should be consulted to create this enabling law;

- The Parliament should amend the Parliamentary Elections Act,
No. 58 of 2009 for women to hold at least 30% of the total number of office bearers of recognized political parties. Parliament should provide for incentives and penalties for compliance or failure on the part of political parties to do such;

• The EC and the Human Rights Commission, and other concerned authorities should work together to ensure and promote the voting rights of tea estate workers and other vulnerable sectors;

• The EC should use accessibility materials such as Braille manifestos and sign language interpreters in televisions to ensure inclusive campaigns;

• The EC should enforce a mechanism to allow PWDs to be assisted by their person of choice upon voting, in a manner that ensures their privacy; sensitivity training should also be conducted as part of the polling officer training;

• ANFREL recommends that capacity building initiatives among political parties be made to further enhance women participation in politics.
ANFREL observers talking to voters in Jaffna (top) and a fisherfolk in Puttalam (bottom).
Female voters from Galle (top) and firewood harvesters from Batticaloa (bottom).
Campaign events in Ampara (top) and Kandy (bottom).
Election paraphernalia: old ballot boxes made of wood (top), new ballot boxes made of carton (lower left), and plastic ballot boxes (lower right).
Sorting of postal ballots witnessed by ANFREL observers in Trincomalee (top) and a discarded campaign material outside an advance voting venue in Ratnapura (bottom).
A queue of women voters in Ratnapura (top) and an elderly voter being assisted out of a polling station in Polonnaruwa (lower left).
A voter holding a voter slip and national identity card (top) and Muslim voters in Monoragala (lower right).
A total of 13,387,951 or 83.72 percent of registered voters voted on election day.
ANFREL Head of Mission Damaso Magbual and Board Member Elberel Davaa present the interim report of the mission during a press conference in Colombo, Sri Lanka.
## ANNEX 1: Official Results

### Official Results

#### Presidential Election 2019

**ALL ISLAND RESULT**

<table>
<thead>
<tr>
<th>#</th>
<th>Name of the Candidate</th>
<th>Party Abbreviation</th>
<th>Votes Received</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aparakke Pungunananda Thero</td>
<td>IND01</td>
<td>7,611</td>
<td>0.06%</td>
</tr>
<tr>
<td>2</td>
<td>S. Amarasinghe</td>
<td>IND02</td>
<td>15,285</td>
<td>0.12%</td>
</tr>
<tr>
<td>3</td>
<td>Idroos Mohamadhu Illiyas</td>
<td>IND03</td>
<td>3,987</td>
<td>0.03%</td>
</tr>
<tr>
<td>4</td>
<td>A. H. M. Alari</td>
<td>IND04</td>
<td>2,903</td>
<td>0.02%</td>
</tr>
<tr>
<td>5</td>
<td>Aniyawansa Dissanayake</td>
<td>DUNF</td>
<td>34,537</td>
<td>0.26%</td>
</tr>
<tr>
<td>6</td>
<td>P. M. Edirisinghe</td>
<td>DWORS</td>
<td>2,139</td>
<td>0.02%</td>
</tr>
<tr>
<td>7</td>
<td>Sarath Keerthiratne</td>
<td>IND05</td>
<td>3,599</td>
<td>0.03%</td>
</tr>
<tr>
<td>8</td>
<td>Chandrasekara Herath Hithami Koralalage Saman Siri</td>
<td>IND06</td>
<td>976</td>
<td>0.01%</td>
</tr>
<tr>
<td>9</td>
<td>Sirinunga Jayasuriya</td>
<td>USP</td>
<td>3,644</td>
<td>0.03%</td>
</tr>
<tr>
<td>10</td>
<td>Ajantha De Zoysa</td>
<td>RJA</td>
<td>11,705</td>
<td>0.09%</td>
</tr>
<tr>
<td>11</td>
<td>Aruna De Zoysa</td>
<td>DNMP</td>
<td>4,218</td>
<td>0.03%</td>
</tr>
<tr>
<td>12</td>
<td>Anura Kumara Dissanayaka</td>
<td>NMPP</td>
<td>418,553</td>
<td>3.16%</td>
</tr>
<tr>
<td>13</td>
<td>Duminda Nagamuwa</td>
<td>FSP</td>
<td>8,219</td>
<td>0.06%</td>
</tr>
<tr>
<td>14</td>
<td>Rohan Pallevatta</td>
<td>JSP</td>
<td>25,173</td>
<td>0.19%</td>
</tr>
<tr>
<td>15</td>
<td>Ketagoda Jayantha</td>
<td>IND07</td>
<td>9,467</td>
<td>0.07%</td>
</tr>
<tr>
<td>16</td>
<td>Saman Perera</td>
<td>OPPP</td>
<td>2,368</td>
<td>0.02%</td>
</tr>
<tr>
<td>17</td>
<td>Anuruddha Polgampala</td>
<td>IND08</td>
<td>10,219</td>
<td>0.08%</td>
</tr>
<tr>
<td>18</td>
<td>Wannakulasooriya Miriyone Georgeus Fernando</td>
<td>IND09</td>
<td>13,641</td>
<td>0.10%</td>
</tr>
<tr>
<td>19</td>
<td>Sajith Premadasa</td>
<td>NDF</td>
<td>5,564,239</td>
<td>41.99%</td>
</tr>
<tr>
<td>20</td>
<td>Battaramulle Selarathana Thero</td>
<td>JSP</td>
<td>11,879</td>
<td>0.09%</td>
</tr>
<tr>
<td>21</td>
<td>Badda Gamage Nandiniethra</td>
<td>NSSP</td>
<td>1,841</td>
<td>0.01%</td>
</tr>
<tr>
<td>22</td>
<td>Sarath Manamendra</td>
<td>NSU</td>
<td>3,380</td>
<td>0.03%</td>
</tr>
<tr>
<td>23</td>
<td>M. K. Shivasingan</td>
<td>IND10</td>
<td>12,256</td>
<td>0.09%</td>
</tr>
<tr>
<td>24</td>
<td>M. L. A. M. Hizbulah</td>
<td>IND11</td>
<td>38,814</td>
<td>0.29%</td>
</tr>
<tr>
<td>25</td>
<td>Gotabaya Rajapaksya</td>
<td>SLPP</td>
<td>6,924,255</td>
<td>52.23%</td>
</tr>
<tr>
<td>26</td>
<td>Namal Rajapaksha</td>
<td>NUA</td>
<td>9,497</td>
<td>0.07%</td>
</tr>
<tr>
<td>27</td>
<td>A. S. P. Liyanage</td>
<td>SLLP</td>
<td>6,447</td>
<td>0.05%</td>
</tr>
<tr>
<td>28</td>
<td>Ashoka Wadigamangawa</td>
<td>IND12</td>
<td>2,924</td>
<td>0.02%</td>
</tr>
<tr>
<td>29</td>
<td>Piyasiri Wijayayake</td>
<td>IND13</td>
<td>4,636</td>
<td>0.04%</td>
</tr>
<tr>
<td>30</td>
<td>Ajantha Perera</td>
<td>SPSL</td>
<td>27,572</td>
<td>0.21%</td>
</tr>
<tr>
<td>31</td>
<td>Rajiva Wijesinha</td>
<td>IND14</td>
<td>4,146</td>
<td>0.03%</td>
</tr>
<tr>
<td>32</td>
<td>Pani Wijesiriwardane</td>
<td>SEP</td>
<td>3,014</td>
<td>0.02%</td>
</tr>
<tr>
<td>33</td>
<td>Samaraweera Weeraranni</td>
<td>IND15</td>
<td>2,067</td>
<td>0.02%</td>
</tr>
<tr>
<td>34</td>
<td>Subaramaniyam Gunarathnarn</td>
<td>ONF</td>
<td>7,333</td>
<td>0.06%</td>
</tr>
<tr>
<td>35</td>
<td>Mahesh Senanayake</td>
<td>NPP</td>
<td>49,655</td>
<td>0.37%</td>
</tr>
</tbody>
</table>

**Total Valid Votes**: 13,252,499 (82.87%)

**Rejected Votes**: 135,452 (0.85%)

**Total Polled**: 13,387,951 (83.72%)

**Registered No. of Electors**: 15,992,096

**Time**: 14:34:22 PM

**Date**: 17/11/2019

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*Signature of Chairman, Election Commission*

*Signature of Member, Election Commission*

*Signature of Member, Election Commission*

Election Secretariat, Sarana Mawatha, Rajagiriya.

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Generated at: 2019-11-17 14:50:26

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ANNEX 2: ANFREL Deployment Statement

Asian Network for Free Elections (ANFREL Foundation)
105 Suthisan winchai Rd., Samsennok, Huai Khwang, Bangkok 10310, Thailand
Tel: +66 2-693-1867, +66 2-277-6678. Fax: +66 2-694-3228
Email: anfrel@anfrel.org  Website:www.anfrel.org

ANFREL deploys international election observers to promote democratic principles in Sri Lanka’s 2019 Presidential Election

Press Release
Colombo, Sri Lanka
October 23, 2019

The Asian Network for Free Elections (ANFREL) is pleased to announce the launch of its International Election Observation Mission to Sri Lanka’s 2019 Presidential Election. This engagement in Sri Lanka follows 10 previous election observation missions the organization has conducted in the country since 2001. ANFREL’s team of 41 professional election observers, representing 16 countries, will start arriving on October 23, 2019.

The mission will be headed by Mr. Damaso Magbual of the Philippines, among the most veteran international election observers in the world. The team of 4 core members including 2 electoral analysts, 9 long-term observers, and 28 short-term observers will be covering all electoral districts to engage with election stakeholders, with the aim of promoting democratic norms and good electoral practices. Prior to their deployment in their assigned areas, ANFREL observers will receive briefing in Colombo.

ANFREL is the only Asian international non-governmental organization accredited by the Election Commission of Sri Lanka for the 2019 Presidential Election. The observation mission will be guided by ANFREL’s methodology, tailor-fitted to comply with the Declaration of Principles and Code of Conduct for International Election Observation.

ANFREL hopes to contribute to further strengthening the foundation of democracy in Sri Lanka by enhancing the accountability and transparency of electoral process in the country, as well as promote indigenization of international democratic principles. To support these goals, members of the ANFREL election observation team come largely from independent democracy- and human rights-centered organizations from all over Asia. As such, ANFREL will use tools for assessment such as the Bangkok Declaration for Free and Fair Elections and the Dili Indicators of Democratic Elections which reflect Asian democratic traditions.

Through this engagement, ANFREL hopes to observe a genuine electoral process which ensures the primacy of the people’s will, equal playing field and electoral environment conducive to fundamental human rights. ANFREL believes that the presence of observers can help make the entire process more transparent and accessible to the public. The mission looks forward to continuing fruitful engagement with the Election Commission of Sri Lanka, local civil society organizations, other election stakeholders, and most especially the people of Sri Lanka.

###

Afghanistan – FEFA, TEFA; Bangladesh – FEMA, ODHIKAR; Cambodia – COMFREL, NICFEC; East Timor - Women Caucus; Indonesia – KIP, JPPI; PERLUDEM; India – Lokniti; Maldives-Transparency Maldives; Mongolia - WSP; Myanmar – NMW, PACE; Nepal - NEOC, NEMA; Pakistan – FAFEN; Philippines - IPER, PPCRV, NAMFREL; Singapore – Maruah; South Korea – PSPD; Sri Lanka – PAFFREL; CMEV, Taiwan – CCW; Thailand - Poll Watch Foundation
ANNEX 3: ANFREL Post-Election Statement

2019 Sri Lanka Presidential Poll largely peaceful, orderly — ANFREL

For Immediate Release
Colombo, Sri Lanka
November 18, 2019

The Asian Network for Free Elections (ANFREL) commends the people of Sri Lanka for a largely peaceful and orderly conduct of the 2019 Presidential Election held on 16 November 2019.

A proud moment for Sri Lankans, the election concluded without any major electoral violations or violent activities. The high voter turnout of 83.9 percent is a clear indication of the country’s commitment to staying the course of achieving genuine democratic and mature political processes.

The ANFREL Mission, however observed issues in the polling and counting centers which involve ballot secrecy, voter accessibility, and uneven implementation of procedures. The exclusion of some eligible voters from exercising their electoral right and the level of voters’ civic education were also issues in this election.

While no electoral system is perfect, various stakeholders can collaborate to address these issues to further enhance the country’s electoral processes and also to promote public confidence in them.

All stakeholders, in particular the Election Commission, must continue to exercise the active engagement and vigilance ANFREL witnessed to ensure resolving the issues highlighted above effectively.

The Mission also hopes that the Sri Lankan stakeholders will take into consideration the set of recommendations included in the interim report in future reform efforts to promote an environment conducive to the holding of democratic elections.

As Sri Lanka moves forward, ANFREL urges all the political parties and electoral stakeholders to remain committed to the smooth transfer of power.

“The success of Sri Lanka’s 2019 Presidential Election is an endeavor that can be achieved by placing transparency and openness at the core of a country’s political processes,” said Mr. Damaso Magbual, ANFREL’s Head of Mission.

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ANFREL is the only Asian international non-governmental organization accredited by the Election Commission of Sri Lanka for the 2019 Presidential Election. The observation mission will be guided by ANFREL’s methodology, tailor-fitted to comply with the Declaration of Principles and Code of Conduct for International Election Observation.

Covering different parts of Sri Lanka, ANFREL’s international election observation mission for the presidential election is composed of nine long-term and 32 short-term observers, and two electoral analysts who were deployed to better understand the electoral environment in the country.
INTERNATIONAL ELECTION OBSERVATION MISSION (IEOM) TO THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA’S 2019 PRESIDENTIAL ELECTION

INTERIM REPORT

IEOM Profile

ANFREL’s IEOM to the 2019 Sri Lankan Presidential Election is composed of nine long-term and 29 short-term international election observers, and two electoral analysts (EAs). The long-term and short-term observers were deployed for 21 days and 11 days, respectively, and the EAs for 40 days. The team covered all 22 electoral districts in the country.

The IEOM team was able to observe the pre-election period, postal voting and election day. The team conducted campaign observation, interviews with key electoral stakeholders, desk research and observation of election day operations. ANFREL covered 31 polling stations during the days allocated for the postal voting (November 1-7) and 507 polling stations on Election Day (November 16) across all 25 administrative districts.

This interim report contains an assessment of pre-election activities and conduct of postal voting and election day operations covering the electoral processes from the opening of the polls to the counting, consolidation and publication of results.

ANFREL will issue a comprehensive Mission Report in January 2020, which will include details of the information highlighted in this report. The Mission Report will also include an assessment of post-election environment including the quality of electoral dispute resolution and a set of recommendations for consideration of electoral stakeholders.
Executive Summary

The Asian Network for Free Elections (ANFREL) congratulates the people of Sri Lanka on the successful, largely peaceful and orderly conduct of the 2019 Presidential Election held on November 16. The Election Commission of Sri Lanka (EC) needs to be particularly acknowledged for delivering on its constitutional mandate to ensure an electoral process that has drawn confidence of people and political parties alike. The success of election was resounded by the acceptance of the election outcome by all contesting parties in a welcome demonstration of democratic maturity, yielding a quick and swift transfer of power.

Through the deployment of international election observers throughout the country, the mission witnessed how Sri Lankan people emerged and participated in deciding the future of their country. This report presents ANFREL’s preliminary assessment of the electoral process, which was crafted with internationally-recognized democratic election norms and principles in mind.

The 83.9% turnout is the reinforcement of public faith in the ballot and the prospects of change it can bring. Therefore, it is necessary that all issues both observers and voters saw emerging from the process be addressed immediately in order to continue and strengthen public trust in elections.

Despite some procedural inadequacies such as insufficient safeguards to protect voters’ secrecy, generally unclear definition of the role of police officials inside polling stations and differential understanding of election officials to handle tendered and spoilt ballots, the voting process on Election Day ran smoothly. However, the smoothness of the process was not felt by all voters. Almost all polling stations observed by ANFREL observers posed an accessibility challenge to persons with disability (PWD), especially wheelchair-bound and elderly voters. ANFREL recommends to the EC, relevant government agencies and civil society organizations (CSOs) to pay immediate attention to creating a more enabling environment for particularly elderly voters and PWDs.

The campaign environment was dominated by only four major candidates in a field that supposedly had 35 contestants. Such dominance was further aggravated by the incessant and uncontrolled spending of several candidates in both traditional and social media. Given the lack of legal framework to control campaign spending, the playing field is heavily tilted towards moneied candidates. ANFREL recommends to the Sri Lankan Parliament to consider an immediate passage of campaign finance laws to make elections more inclusive to candidates representing diverse income groups. In addition, the EC may also consider measures to prevent candidates supporting the candidacy of their opponents, which Sri Lanka has seen in this election.

The campaign period was dominated by traditional and non-traditional campaigning by candidates. The media, both public and private, were perceived to have been biased by most stakeholders in the elections. Such biases should be avoided in future elections ideally through an initiative of media entities to police themselves and their members to ensure the fulfillment of the right of voters to have access to unbiased information about election contestants and their manifestos.
The postal voting process was also observed to be peaceful and orderly. This exercise can be further improved by expanding the privilege to similarly situated government employees and private individuals. In addition, the location of these postal voting stations should be assessed further to make it more conducive to voters who are eligible to avail this facility.

Sri Lankan voters seem to possess the basic knowledge about elections but largely unaware of the complexity as well as advantages of preferential voting. A majority of them only know how to vote for one candidate. Such basic knowledge deprives voters the opportunity to vote for more than one candidate, which they have been legally given. Hence, the EC should strive to provide more comprehensive voter education to the Sri Lankan voters. Local election organizations should also take it to task to provide voter education to people in the peripheries, and not just focus in urban areas.

Although the November 16 Presidential Election hallmarks the conduct of future elections in the country, further improvements can be made to make the electoral process more inclusive, transparent and accountable to inspire even greater confidence of diverse communities that inhabit the island.

**Election Day**

ANFREL’s observers deployed in 25 administrative districts witnessed a largely peaceful and orderly Sri Lankan 2019 Presidential Election on November 16. Observers reported a high voter turn-out and participation of young, elderly voters and PWDs across the country. The environment around and inside polling stations was almost free of electoral violations and violent activities. The polling process starting from checking voter’s identity to casting of ballot was observed to be done in a transparent manner. Notwithstanding a few instances of restrictions, ANFREL’s observers were allowed to freely observe the polling process as well as transfer of ballot boxes to counting centers and the subsequent counting process.

However, it was observed in several polling stations that roles of polling staff and police during the voting process were not clear. Armed police were observed inside many polling stations including some of them assisting voters to booths and exit. Keeping in view the best electoral practices, future avoidance of involvement of police in responsibilities other than providing security will only enhance the quality of election. However, the police appeared to have a more defined role during the counting process at the designated centers where they were generally seen guarding the counting rooms from outside.

Another observation made was regarding procedures to deal with spoilt and tendered ballots. Several election officials had understood the procedures to handle the spoilt and tendered ballots differently, which could be due to unclear guidelines or gaps in communication.

Based on the widely held standard of voters’ secrecy, ANFREL observers found the inside setting of most of the polling stations to have compromised ballot secrecy. The polling booths were placed in a manner that anyone around the area could view the choice of the voters on the ballot paper. In
many instances, the polling booths were placed in close proximity to the Senior Presiding Officer’s desk. However, voters or party agents in none of these polling stations highlighted the matter to the staff during or after voting.

While polling stations observed were all setup on the ground floor of the buildings, accessibility to these premises remained a challenge mainly for elderly voters and PWDs in more hilly terrains of the country. Despite being located on the ground floors, use of narrow pavements and stairs was required to reach many polling stations.

Though the EC listed six identification cards that could be used by eligible voters to cast their vote, there were instances where polling staff did not accept senior citizen card as a valid identifier. ANFREL observers also witnessed several voters who came to the polling stations being turned away due to invalid identification documents. Improvement in the outreach of voter education will help prevent confusion among eligible voters about identification cards to be used on election day leading to their disenfranchisement.

The use of 2018 voter registration list for the 2019 presidential election is believed to have disenfranchised several hundred thousand eligible voters, mostly the first time voters. Besides, the absence of provisions for overseas voting disenfranchised around a million Sri Lankan overseas migrant workers. Provisions to facilitate voters such as students and workers unable to be present at the place of their vote registration on election day may also be considered.

Some inconsistencies at polling and counting stations were encountered regarding the presence of international observers. Though less in number, few observers were refrained or not permitted completely to observe the counting process. In other instances, some district election commissions had additional requirements for international election observers on election day.

- Guidelines should clarify the role of the police within the polling area -- best practice avoids the participation of the police in the polling process aside from providing security;
- Clarify the process regarding the spoilt and tendered ballots;
- Protect voter secrecy by reconsidering existing guidelines on polling station set-up and ensuring no person remains behind the voters as they vote;
- Promote accessibility by performing polling station audits prior to election day, and reconsider any polling station which does not fit accessibility guidelines;
- Conduct wider voter education on the necessary requirements to vote, furthermore, polling officers should receive better instructions on identification of voters;
- Ensure the voting rights of migrant workers, students, and workers through postal voting or other alternative voting procedures;

**Legal Framework**

The 2019 Presidential Election was conducted under the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka, Presidential Elections Act of 1981, Registration of Electors Act of
1980 and Sri Lankan Election Act, No. 28 of 2011. Supplementing these laws were the guidelines issued by the EC. The Presidential Elections Act of 1981 is the primary law that governs the conduct of the entire electoral exercise. It has four major sections namely voter and candidate registration, material organization of the polling and counting procedures, appointment of election administration officers in the districts, and offenses and petitions.

Absence of campaign finance laws to regulate the spending of political parties and candidates and monitor the individual or organizational contributions to their campaigns allowed unchecked and excessive spending in the election. This was also noted by one of the local observer groups, Center for Monitoring Electoral Violence (CMEV), in its preliminary report. While excessive use of money impacts the level playing field for candidates representing diverse income groups, equally important are the concerns about the sources of money being used to finance political parties and their election campaigns. Regulation of the use of money in electoral contests is, therefore, guided increasingly by various political finance-related international obligations. Foremost among these, the United Nations Convention Against Corruption (UNCAC) emphasizes that all States must enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties. Sri Lanka signed and ratified the convention and should bring its political finance regulations in conformity with its international obligations.

Another vacuum is the lack of a legal and policy framework to govern the use of online media in elections. In the Media Guidelines issued by the EC, there is a provision which provides that the same guidelines shall be applicable to administrators of social media sites and their users. Given the critical role online media has played in Sri Lanka's most recent elections, the EC, in partnership with all interested groups, should develop and enact measures to regulate online media during elections. However, such regulations should be crafted in a manner that they do not impinge upon the fundamental human rights of online and social media users.

- Introduce a working campaign finance regulation as part of the electoral system;
- The Election Commission and other relevant stakeholders should provide guidelines on the use of social media during electoral campaign period.

**Voter Registration**

According to the Constitution and the Registration of Electors Act, any Sri Lankan citizen can be registered as a voter who has reached 18 years of age on the qualifying date (1 June), has not been found or declared to be of unsound mind under any law in force, has not been serving or has not served imprisonment during the immediate preceding seven years and is ordinarily resident in any electoral district on the qualifying date (1 June). In addition, no person may have his name entered or retained in more than one voter register or more than once in the same voter register.

The qualifying date above and lack of legal provisions for supplemental voter registers in the Registration of Electors Act of 1980 deprived around 700,000 Sri Lankan citizens who have attained the age of 18 years after June 1, 2018. This number was essentially 5% of the total Sri Lankan voting population. For this not to happen again, the Sri Lankan Parliament should amend
the Registration of Electors Act of 1980 for the provision of supplemental voter registers. This way, young individuals who are not yet 18 years old on the qualifying date, can still have the chance to register via these supplemental voter registers.

- Continue the active voter registration system the country has which encourages regular updates on the voter registry; and
- A revision in the law should be made to allow for the enfranchisement of all voters aged 18 on election day.

**Electoral Dispute Resolution**

For this election, the EC established an Election Complaint Management Unit (ECMU) in its national office as the centre of 25 sub-election complaint management units which were setup in its district offices.

ANFREL observers found the ECMU to be accessible and transparent. It has provided information on the quantity and the typology of complaints. To further promote transparency, efforts should be made to inform stakeholders on how the various cases handled by the unit are being resolved. It would also encourage public trust in the dispute resolution processes when they are acted upon in a timely manner. While the office received more than 3,000 complaints, a high number of election complaints is not indicative of an effective electoral dispute resolution procedure.

- Promote public access to the ECMU by establishing an open data site containing updates on the cases being heard by the body;

**Transparency Measures**

The EC has demonstrated transparency in its dealings with political parties and observer groups. In this election, the EC has met with party agents and local election groups to discuss electoral issues and updates. It also opened its doors to observer groups and furnished timely accreditations to domestic and international observers. In ANFREL’s experience, the EC has extended all possible assistance to the group to make its observation work more effective and easier.

Almost all of ANFREL’s observers were accommodated by the EC’s district offices. Relevant election information was given to the observers once it was requested. However, in one district ANFREL observers found it difficult to deal with the District EC. ANFREL observers were requested to submit additional documents to access polling and counting stations.

From the conduct of postal voting up to the counting of ballots, the EC opened up the entire process to party agents, and local and international observers. This was the first time ANFREL and other international observers were given access to the counting centers. ANFREL observers were also invited to EC activities such as the training of polling officials and deployment of polling materials. In an isolated incident, an ANFREL observer was asked by the official to leave mid-way through the training program of polling officials. The reason of the EC was due to confidentiality.
One transparency measure the EC should adopt in future electoral exercises is the segregation of voter information, for example, the number of male/female voters, number of PWD registered as voters and number of elderly voters. Such voter information is essential to a more effective program of action, not only for the EC, but also for other interested groups.

- Ensure consistent application of transparency measures in all stages of the electoral process;
- Proper policy should be published by the EC on the rights and responsibilities of international election observers, domestic election observers, and other relevant stakeholders; and
- Ensure proper data keeping by keeping a record of voter information which identifies the categories mentioned above.

Electoral administration

Postal Voting

Sri Lanka allows postal voting mechanism to state officers who are expected to render election duties, officers and servants engaged in civil services, the personnel of the three armed services (army, navy and air force), police and civil defense force. From September 18 to October 4, EC accepted applications for postal voting. A total of 717,918 applications were received from public servants but 58,404 of these applications were rejected by the EC1.

A total of five days was allocated for postal voting. From October 30 to October 31, civil servants were first to avail of this privilege. The three services, police and civil defense force and, EC employees had theirs from November 4 to November 5. For those who were not able to vote on these four dates, November 7 was allocated for them to avail postal voting at the District EC office.

ANFREL observers reported that postal voting was peaceful and orderly, with voting process generally organized, and no major incidents of violence or electoral violations reported. It should be highlighted that in one district, retired police officers were permitted to vote by postal voting.

Location of postal voting stations can also be improved. In most of the observed areas, the polling station was set-up at the office of the head of the police or the administrative secretary. Given the number of personnel mandated to be inside the postal voting station, the space allocated for observers and the polling booth, it was not conducive for voting. Adding to this limited space was the constant barrage of police officers/government officials into the offices for everyday office concerns.

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ANNEX 4: ANFREL Interim Report

The high number of rejected postal voting applications should also be noted. Based on the discussions of ANFREL observers with District EC officials, the most common reason for rejection of postal voting application was wrong filling-up of the form. This could have been avoided if the EC in coordination with concerned government offices and agencies who are privileged to avail of postal voting, conducted an information session on the correct way of filling up the form.

For future electoral exercises, the Parliament might want to consider extending this privilege of postal voting to the general public as well. The extension will be particularly useful to voters who are not in their district of residence on Election Day.

- Extend postal voting or other alternative voting procedures for out-of-constituency voters;
- Perform an audit of postal voting locations to ensure they are adequate venues;
- Conduct an information drive on how to properly fill out the postal voting application form

Campaign environment

The campaign environment in the run-up to the 2019 Sri Lankan Presidential Election remained largely peaceful and orderly. It was noticeable that the campaign period was free of major violence and/or electoral violations. Election activities during the campaign period were noticed by many as less vibrant, mainly in comparison with the previous elections. Unlike the campaign period in the past elections, the 2019 presidential election had limited campaigning through posters and billboards. Electoral stakeholders hoped the lesser presence of posters and billboards of candidates may have promoted a better playing field for the contending candidates. In addition, several stakeholders attributed the ‘less vibrant’ campaign period to voters considering presidential election not as much relatable to them as parliamentary elections.

Campaign activities of political parties were dominated by two candidates, Sajith Premadasa and Gotabaya Rajapaksa, and to a limited extend Mahesh Senayake and Anura Dissanayaka. Ajanta Perera received some attention from the media in particular because of being the only woman among the contesting thirty-five candidates. Though traditional methods of campaigning such as rallies and door-to-door visits were still employed heavily, the use of social media as a platform for election campaign was widespread. Several political parties and candidates in this election actively campaigned through social media. It was also observed that voters’ engagement was high on platforms such as Facebook, Twitter, Youtube and Whatsapp. A concern expressed for and during the campaign was the use of social media for misinformation and disinformation. The existing measures by relevant officials to tackle the issue were considered to be insufficient by several voters who were interviewed. Considering that the use and accessibility to social media in Sri Lanka is ever increasing, ANFREL hopes that measures to effectively tackle misinformation and disinformation through social media are soon developed in the country. This involves clear guidelines on content moderation of platforms such as Facebook, Twitter, and Google.
While the campaign environment remained free of major violent activities, there was widespread belief among voters of vote buying. Voters and stakeholders reported inability to file complaints as they found it difficult to obtain evidence of such occurrences. Some of the claims include voters receiving a certain amount of money to vote for a candidate as well as to refrain them from casting their ballot. Religious and ethnic minorities are feared to be more vulnerable to the latter nature of vote buying. Though instances of security issues such as intimation, threat and/or violent activity occurred at a small scale, ANFREL urges concerned authorities to conduct a prompt and effective investigation of the cases.

Furthermore, allegations related to the misuse of public resources remained as one of the top concerns for various stakeholders throughout the campaign period. Government offices, staff and resources as well as media outlets were perceived with scepticism by voters. Voters are hoping that complaints on misuse of public resources will be effectively handled by the EC. ANFREL joins the hope of the people that relevant authorities will deal with the issue and redress complaints on misuse of public resources in an effective and impartial manner. In addition, lack of legal framework to oversee and regulate campaign funding and expenditure of political parties and candidates surfaced as the most concerning issue, reinforcing the urgent need for enactment of laws to regulate political finance.

- Develop policies to curb the spread of fake news and hate speech, which must be done without infringing on the rights to expression and speech; and
- Conduct investigations on the use of state resources, and prevent the occurrence of such by giving the EC stronger investigative power in this regard.

Media

Media persons and journalists interviewed by ANFREL observers expressed a more conducive environment for press freedom in the country since the last 10 years. It remains as one of the most important stakeholders in the political landscape of Sri Lanka. This election also witnessed media’s active role and wide coverage of political events including campaigns of political parties and candidates leading up to the election. Moreover, TV remained the main source of electoral information for voters in the 2019 Presidential Election.

However, both state and private media outlets are widely perceived by the voters as partial to their favoured candidate. The problem of bias in the media could be largely attributed to the media ownership in the country where political ties affect the self regulation mechanism of media outlets as either news reports lean toward favoured candidates or attack opponents.

The bias and proliferation of disinformation in the media adversely affected the equal playing field among the election candidates and above all, undermined the people’s right to know. The EC attempted to address problems in the media through media guidelines but the coverage was limited to state-owned media which was deemed insufficient.
Media as a community should unite to enforce among its ranks the highest standards of ethical journalism and engage media owners in a dialogue for a more independent media practice. The public, meanwhile, as media stakeholders play an important role in strengthening press freedom through an informed and engaged culture of critical media consumption.

- Create a stronger media self-regulation mechanism to address breaches on media ethics;
- A more comprehensive media fairness guideline during campaign period should be created to cover both public and private media;

Voter education

Voter education in Sri Lanka is conducted at different levels by several stakeholders. The role to impart voter education rest primarily with the EC. Civil society groups, media and political parties also engage in providing voter education. However, despite the long history of electoral politics as well as high voter turn-out in this election, voter education was found to be inadequate.

A large number of voters are not aware enough about electoral regulations and processes mainly regarding the presidential election. ANFREL’s mission observed voters’ limited knowledge on voting rights, voting process and related aspects that will enable voters an informed voting decision. One widespread lack or misinformation on electoral knowledge was the preferential voting system. In most cases, voters were found to be unaware of the existence of preferential voting system while a lot interacted by ANFREL’s observers were reportedly confused about its legality.

Voter education was also found to be lowest among the ethnic minorities. Media is still one of the main sources of voter education and electoral information among the majority population in the country. However, several voters from the minority communities expressed inability to access mainstream media due to the language barrier.

EC officials at some districts informed ANFREL observers their apprehension to conduct voter education on preferential voting in order to avoid being perceived as biased towards a party/candidate. Media coverage on the election also pertain mainly on information about political parties and candidates rather than educating voters on the electoral process or the importance of choosing the right candidate.

Political parties and supporters promoted marking the ballots with the “X” mark contrary to what the explanation of the preferential voting system in the media voter education campaigns which were only launched days before the election. This has created confusion among the voters.

Effective voter education programs that are voter oriented must be prioritized. Stakeholders conducting voter education programs must also aim at empowering and enabling voters to make an informed voting decision.
• Perform a concerted effort among the EC, the civil society, and the media to explain the optional preferential system so voters can fully understand and express their voting rights; and
• Multi-lingual voter education should be conducted to ensure that all voters receive information in a proper manner equally.

Vulnerable sectors

ANFREL recognizes the efforts of the EC to promote inclusion and accessibility among all voters. Before the run up to the 2019 election, the EC implemented a number of programs to educate PWDs and elderly voters. Interviews reveal that no assistance were extended to increase accessibility of elections to vulnerable groups like tea plantation workers and remand prisoners. On the other hand, the EC should not be faulted for the disenfranchisement of almost one million Sri Lankan migrant workers, because of the absence of an implementing law to provide them this right. The Sri Lankan Parliament, in coordination with the Election Commission, concerned government agencies and other interested groups, should pass a bill giving the opportunity to vote for Sri Lankan migrant workers.

It should be said that accessibility of elections does not only pertain to Election Day. Accessibility of elections starts from registration of voters. From the registration of voters, data on the number of PWDs, elderly voters and type of assistance they need, should be captured immediately. This can be one in the revision of the registration forms used by the enumerators. This way, the Election Commission can prepare beforehand to address these concerns of PWD and elderly voters. On the other hand, the Election Commission should make necessary measures to ensure that tea plantation workers are not deprived of their right to register, just because of the lack of access to identification documents or the decision of the tea plantation manager to intervene.

Campaign information should also be made more accessible to vulnerable sectors. Campaign can be made more accessible, for example, by requiring sign language interpreter inserts in all television campaign commercials of candidates.

Prior to voting, the Election Commission, together with other government agencies and non-governmental organizations, can assess the terrain of identified polling stations so that necessary changes or measures could be done to ensure that PWDs and older voters will not have a hard time going inside their respective polling stations. The training of polling officials and security officials should also include sensitivity training in their dealings with these kinds of voters.

During voting, the senior polling official and the junior polling officials are the authorized ones to assist a PWD or an elderly voter. Given that the right to vote is a personal one, it should also follow that the voters be given the opportunity to choose the person to assist them in voting, if they cannot do it on their own. The Sri Lankan Election Parliament should look into revising the Presidential Election Act to afford the voter the opportunity to choose their assistant.
The Election Commission should also create guidelines for voting of remand prisoners, as there is nothing in the laws which prohibits them from voting. The failure of these remand prisoners to vote is the lack of guidelines giving them such.

It is worth noting, based on the interviews of ANFREL observers, that there is a low appreciation for the challenges faced by vulnerable sector groups when it comes to exercising their electoral rights. The Election Commission and election observer groups in the country should include this in their voter education manual to increase the knowledge of the general public as to the situation of vulnerable sectors in elections.

- The Parliament should work on amending laws which prevent migrant workers from exercising their voting rights, the EC, civil society, and migrant worker advocates should be consulted to create this enabling law;
- Registration process should capture data on differently abled and the elderly to better prepare the local election commission on the needs that should be provided to these sectors during the polling;
- The Election Commission and the Human Rights Commission, and other concerned authorities should work together to ensure the voting rights of tea estate workers;
- Use of accessibility materials such as Braille manifestos and sign language interpreters in televisions can promote inclusive campaigns;
- PWDs should be given the option to choose who they want to assist them, sensitivity training should also be conducted as part of the polling officer training;
- Policy making bodies should legislate alternative polling procedures to ensure remand prisoners' voting rights.