

# Sri Lanka Presidential Election

21 September 2024



The Commonwealth



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REPORT OF THE COMMONWEALTH OBSERVER GROUP

# Sri Lanka Presidential Election

21 September 2024



The Commonwealth

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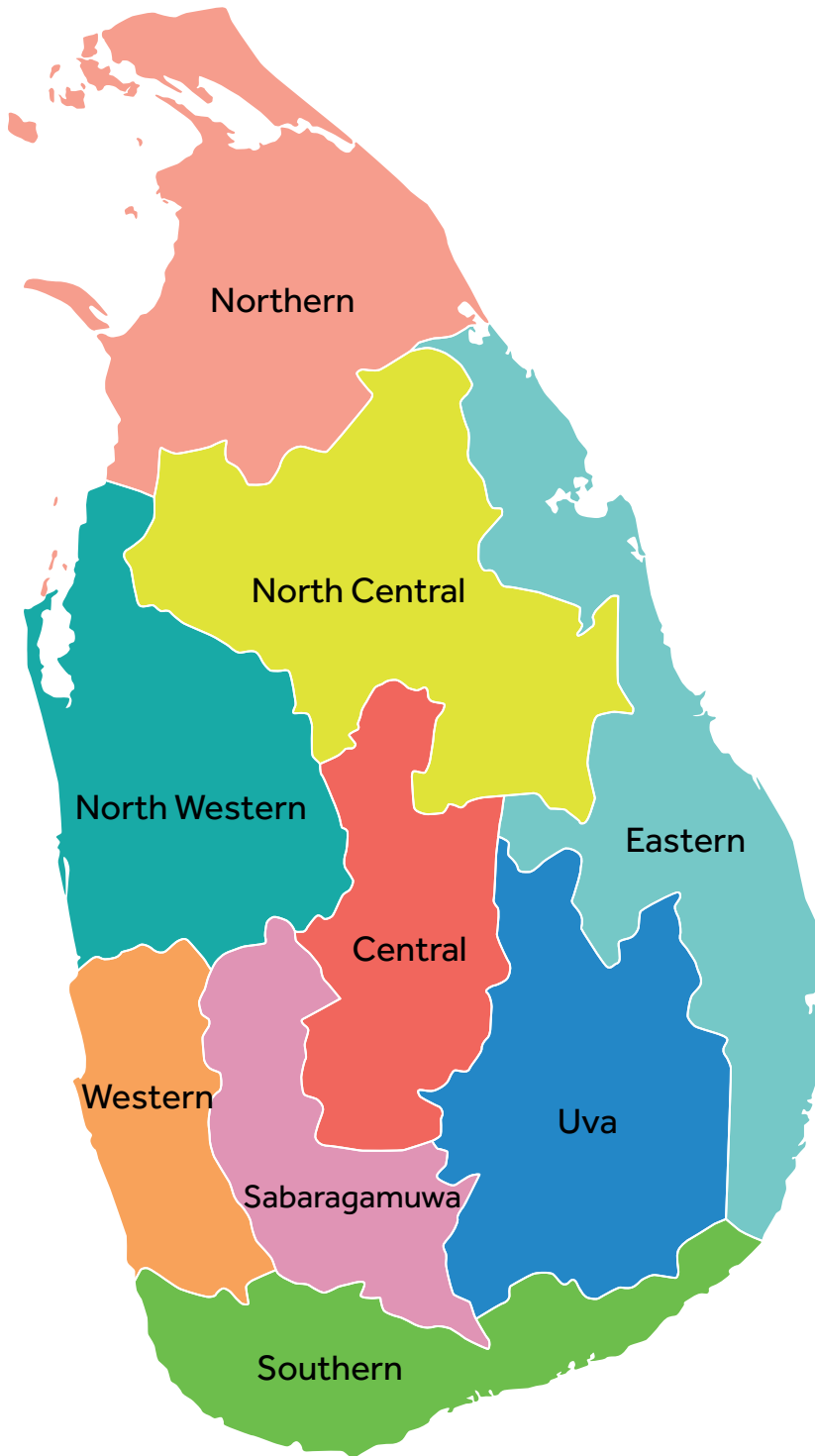
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# Map of Sri Lanka





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# Letter of Transmittal to the Commonwealth Secretary-General

**Commonwealth Observer Group  
Sri Lanka Presidential Elections  
21 September 2024**

Dear Secretary-General,

As Chairperson of the Commonwealth Observer Group to the 21 September 2024 Presidential Election in Democratic Socialist Republic of Sri Lanka, I am pleased to submit to you our Final Report. Noting that this was the Commonwealth's 200th election observation mission since it began election observation in 1980, it was an honour to chair this Group of eminent persons drawn from across our family of Nations.

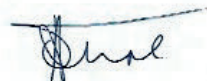
Sri Lanka is to be commended for a number of electoral reforms that were introduced ahead of this election. These include the regulation of campaign expenditure legislation, the introduction of the tactile frame (stencil) for the visually impaired voters and the use of sign language at polling stations and the provision of identification cards for Persons with Disabilities (PWDs). These are welcome developments.

With regard to women's participation and representation, our Group noted that although there have been improvements in previous elections such as the election of female representatives at the parliamentary level and the adoption of a 25 percent quota at the local authority level, the overall representation of women in political offices remains low. There were no women candidates among the 38 aspirants for the 2024 Presidential Election.

The Group commended the professionalism, transparency, and dedication of polling officials, however, it was noted that some voters and polling staff did not appear to fully understand the preferential system of voting. Most ballots indicated a single preference or the use of mixed symbols. In addition, the counting staff did not appear to be fully conversant with the process.

The Group's overall assessment is that the electoral process as a whole, was credible, and transparent. We commend the people of Sri Lanka for turning out in their numbers in a peaceful and orderly manner on what was also International Peace Day. In accordance with our mandate, we submit our detailed findings and recommendations in the attached report to help further strengthen the electoral process in Sri Lanka. We hope that these findings are received in the constructive spirit in which they are offered.

On behalf of the Commonwealth Observer Group, and in my own name, I would like to express our gratitude for the opportunity to contribute to the democratic process in Sri Lanka.



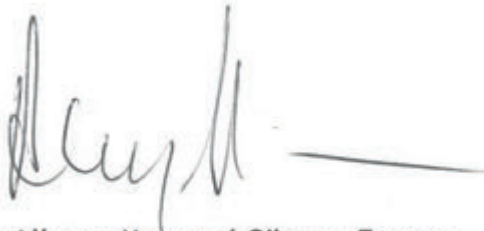
**H.E. Danny Antoine Rollen Faure**  
**CHAIR**



**Mr Ian Hughes, Supervisor of Elections,  
Antigua and Barbuda Electoral  
Commission, Antigua and Barbuda**



**Dr Tres-Ann Kremer, Regional Director-  
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**Hon Allyson Maynard Gibson, Former  
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**Ms Sara Naseem, Former  
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**Mrs Josephine Tamai, Chief Elections  
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Department, Belize**



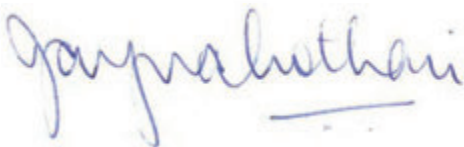
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**Ms Sharon Bhagwan-Rolls, Programme  
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Network, Fiji**



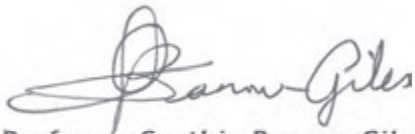
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# Acronyms and Abbreviations

<b>ACMC</b>	All Ceylon Makkal (people's) Congress
<b>CARICOM</b>	Caribbean Community
<b>COG</b>	Commonwealth Observer Group
<b>CSO</b>	civil society organisation
<b>DIESL-TWG</b>	Technical Working Group on Disability Inclusive Elections in Sri Lanka
<b>EC</b>	Election Commission
<b>ECSL</b>	Election Commission of Sri Lanka
<b>HRCSL</b>	Human Rights Commission of Sri Lanka
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ITAK</b>	Ilankai Thamil Arasu Katchi
<b>JVP</b>	Janatha Vimukthi Peramuna
<b>LGBTQI</b>	lesbian, gay, bisexual, trans, queer/questioning and intersex (persons)
<b>LTTE</b>	Liberation Tigers of Tamil Eelam
<b>MP</b>	Member of Parliament
<b>NGO</b>	non-governmental organisation
<b>NPC</b>	National Peace Council
<b>NPP</b>	National People's Power
<b>PAFFREL</b>	People's Action for Free and Fair Elections
<b>PEAM</b>	Pre-Election Assessment Mission
<b>PLOTE</b>	People's Liberation Organisation of Tamil Eelam
<b>PWDs</b>	persons with disabilities
<b>REEA</b>	Regulation of Election Expenditure Act No. 3 of 2023
<b>SLFP</b>	Sri Lanka Freedom Party
<b>SLMC</b>	Sri Lanka Muslim Congress
<b>SLRs</b>	Sri Lankan rupees
<b>SJB</b>	Samagi Jana Balawegaya
<b>SLPP</b>	Sri Lanka Podujana Peramuna
<b>TELO</b>	Tamil Eelam Liberation Organisation
<b>TNA</b>	Tamil National Alliance
<b>UNCRPD</b>	UN Convention on the Rights of Persons with Disabilities
<b>UNFGG</b>	United National Front for Good Governance
<b>UNP</b>	United National Party
<b>UPFA</b>	United People's Freedom Alliance

## Commonwealth Observer Group



Front row (from left to right): Hon. Allyson Maynard-Gibson KC, H.E. Danny Faure (Chairperson), Hon. Maryan Street MNZM.

Second Row: Ambassador Aderemi Ajibewa, Dr Victor Shale, Ms Jayna Kothari, Ms Sharon Bhagwan-Rolls, Ms Josephine Tamai, Ms Sara Naseem.

Back row: Mr Ian Hughes, Professor Cynthia Barrow-Giles, Professor Mandla Mchunu, Mr Amir Wasim, Dr Tres-Ann Kremer.

## Commonwealth Secretariat Support Staff



Front row (from left to right): Tiffany Chan, Emma Beckles, Lindiwe Maleleka, Temitope Kalejaiye.

Back row: Lindsey Adjei, Sarthak Roy, Kuganathan Puvanendran

# Executive Summary

Following an invitation from the Election Commission of Sri Lanka, the Commonwealth Secretary-General, the Rt Hon. Patricia Scotland KC, constituted a Commonwealth Observer Group (COG or 'the Group') for the Presidential Election that was held on 21 September 2024. The historical significance of this deployment is that it marked the 200<sup>th</sup> milestone of the Commonwealth's election observation since 1980, covering 39 countries. His Excellency Danny Faure, former President of the Republic of Seychelles, led the Group, which comprised 13 eminent persons from political, civil society, election management, diplomatic and legal backgrounds. The Group was supported by a seven-person staff team from the Commonwealth Secretariat.

Upon arrival in Sri Lanka, the Group met with a broad range of key stakeholders to gain a comprehensive picture of the electoral process, political environment and preparations for the Presidential Election. It continued with stakeholder engagements in all nine of Sri Lanka's provinces following its deployment on 19 September 2024. Specifically, the Group met with Election Commission officials, political party representatives, candidates, the police, local media representatives, local civil society organisations (CSOs) and voters.

The 2022 protests known as '*Aragalaya*' had the most impact in shaping the context and environment of the 2024 Presidential Election. The protests caused power alternation, with Parliament electing Mr Ranil Wickremesinghe as President to complete the term of the ousted President Gotabaya Rajapaksa.

Mr Wickremesinghe and 39 other male aspirants contested the 2024 Presidential Election. According to public opinion and surveys, this election was a 'four-horse race' between President Ranil Wickremesinghe, who was contesting as an independent candidate, Mr Sajith Premadasa of the Samagi Jana Balawegaya (SJB), Mr Anura Kumara Dissanayake of the National People's Power coalition (NPP), and Mr Namal Rajapaksa of the Sri Lanka Podujana Peramuna (SLPP).

The Constitution of Sri Lanka provides for the election of the President to serve as both Head of State and Government for a five-year term. The Constitution also establishes a five-member Election Commission to conduct and supervise the registration of voters, all public elections and referenda. The Presidential Elections Act of 1981, the Registration of Electors Act No. 44 of 1980, and the Regulation of Election Expenditure Act No. 2 of 2023 form part of a comprehensive legal framework operationalising the constitutional provisions for the election of a president.

The legal framework provides for an alternative vote electoral system, also known as a 'majority preferential' system for the election of a president. The system enables voters to rank their preferred candidate on the ballot paper. To win elections, candidates must obtain 50 per cent plus one vote, failing which a second counting of the valid votes is used to determine voters' second preferred candidates. Only the top two candidates qualify for the second count, while the rest of the candidates are eliminated. The candidate who gains more votes from the second count wins the election without a 50 per cent plus one requirement.

Following the counting of ballots on 21 September 2024, the Election Commission ('the Commission') announced the results, which showed that none of the candidates obtained the 50 per cent plus one threshold. Consequently, the Commission activated the second count provision for the first time in Sri Lanka's Presidential Election history to determine a winner. Accordingly, the preference votes for Mr Anura Kumara Dissanayake and Mr Sajith Premadasa were considered. They had obtained 5,634,915 (42.31 per cent) and 4,363,035 (32.76 per cent) in the first count, respectively. Mr Anura Kumara Dissanayake emerged victorious after the second count, obtaining 5,740,179 of the valid votes against Mr Sajith Premadasa's 4,530,902 votes.

On 23 September, His Excellency Danny Faure, the Chair of the Group, issued an Interim Statement (Annex IV), highlighting the Group's preliminary findings and observations on the 2024 Presidential Election. The Group noted the election was credible and transparent, and commended the people of Sri Lanka for

turning out in large numbers in an orderly manner. While the Group also commended the professionalism, transparency and dedication of polling officials, it was noted that some voters and polling staff did not appear to fully understand the preferential system of voting. The Group also noted some challenges, especially in the pre-election environment. These included: the misuse of state resources; the need to develop a more effective regulatory framework for campaign financing; and the necessity to strengthen and enforce the Media Code of Conduct.

This report presents a comprehensive account of the Group's observation of the 2024 Sri Lanka Presidential Election and offers recommendations to further strengthen electoral processes in Sri Lanka.

## Recommendations

### The Legal Framework and Election Administration

#### *The Legal Framework*

We urge the Government of Sri Lanka to consider the following:

- To consider imposing a donation limit from private sources to candidates and political parties in order to reduce the possibility of undue influence or bias in the campaign phase.
- To work in collaboration with the Election Commission to set a limit on contributions by entities and their related parties awarded contracts by public corporations or state-owned entities.
- To meet with political parties and the media to define a framework for spending on advertisements in broadcast and print media.
- To review the statutory and regulatory framework to enable the Election Commission to initiate legal action, thereby strengthening its independence and enhancing its capacity to take legal action in cases of electoral offences and corrupt practices.

We urge the Election Commission to consider the following:

- To meet with political parties to define a framework where governance may continue without giving the incumbent an advantage in utilising state-owned assets and resources.
- To set strict money laundering guidelines to prevent the use of illicit funds in a campaign.
- To promulgate strict penalties, including fines and disqualification of candidates, for the violation of campaign finance laws
- There was no information available on the Election Commission website on complaints of misinformation, disinformation, hate speech or any other matter as would adversely impact elections. The Election Commission is encouraged to monitor, evaluate and publish data on the frequency and volume of complaints received and action taken in relation to the complaints.
- Add to the website the international treaties governing elections;
- Create a place on the Election Commission website providing public data about election complaints, investigations and outcomes; and
- Ensure that the content of its website is accessible to visually impaired voters.

#### *Election Administration*

- It is recommended that the structural independence of the Commission be safeguarded to avoid perceptions of bias and complicity from the public.
- It is recommended that to avoid incidents where the government interferes with its independent functioning, the Election Commission must take all legal measures to protect its institutional integrity and operations.

- The Election Commission is encouraged to put in place a formal process for regular updating of the Code of Conduct.
- It is recommended that to ensure that polling staff understand the entire election results value chain, the Commission develops a comprehensive training manual and conducts training on an ongoing basis to develop a database of well-trained officials in readiness for deployment.
- To address the glaring female representation deficit in Presidential Elections, the Group recommends promoting gender equality in political parties and removing barriers to women's participation in politics.
- To enhance regulation of the role of money in politics and elections and promote accountability, the Group recommends reviewing the legislation to ensure that it includes elements of public and private funding of political parties and candidates and what is currently in the Regulation of Election Expenditure Act No.3 of 2023 regarding expenditure ceilings.
- To ensure the Election Commission's efficient and effective implementation of the Expenditure Act in the current form or a revised version of the public funding law, the Group recommends the enhancement of the Election Commission's institutional and operational capacities.
- To ensure the effective participation of all sectors of society in the electoral process, the Group recommends that the Election Commission, working with relevant statutory bodies, should review and resubmit the electoral reforms to Parliament introducing advance voting and mobile voting stations to enable essential services and infirm voters to vote where they live.
- The Election Commission should initiate programmes to increase awareness of the rights of persons with disabilities and the elderly.
- Participation and Inclusion

## The Legal Framework

We urge the Government to Sri Lanka to:

- Strengthen independent bodies such as the National Human Rights Commission to enable an inclusive electoral process and to do so in a timely manner. These bodies can assess the participation of various groups and recommend improvements.
- Reform and enable legislative frameworks and practice that protect and preserve all freedoms in the interest of its inclusive democratic society.
- Strengthen peacebuilding and reconciliation architectures to enhance and encourage dialogue with a view to enabling a more inclusive electoral environment.

## Civil society organisations (CSOs)

- The Parliament should ensure a legislative framework for civic space to operate freely in accordance with fundamental rights and freedoms, the Sri Lanka Constitution, and the international laws and norms to which Sri Lanka has subscribed.
- The Election Commission is encouraged to facilitate a standing consultative forum with a broad cross-section of CSOs working across democracy, human rights, good governance and civic engagement – issues that are all critical for an inclusive electoral environment.
- The Government of Sri Lanka is encouraged to enhance peace and reconciliation efforts to ensure minority voices are meaningfully engaged in order to mitigate further violent conflict.

## Women's political participation

- Recalling the 2019 Commonwealth Observer Group Report, the Group reiterates the urgent need for political parties to adopt mechanisms to strengthen women's participation within the decision-making levels of party structures and as candidates.

- The Election Commission and other state authorities should provide gender disaggregated data.
- The Election Commission should consider the establishment of a gender-inclusion working group that brings together representatives of diverse women's rights organisations and networks.

### Youth political participation

- The Election Commission and other state authorities are encouraged to provide age-disaggregated data, to better inform decisions that can enhance a range of electoral processes – including youth inclusion.
- The Election Commission should
- regularise its engagement with youth constituencies with a view to further encourage their active participation and inclusion in voter education and wider electoral processes.
- develop a partnership with youth constituencies as it reviews and plans its next cycle of work and strategic objectives.

### Participation of ethnic and religious minorities

- The Election Commission is urged to improve voter education and enumeration outreach in marginalised areas, so that internally displaced persons are aware of how they might be able cast their ballot with ease.
- The government and other stakeholders are encouraged to strengthen national efforts for dialogue and to bolster the capacity of domestic mechanisms and CSOs that support peaceful and more inclusive societies.

### Persons with disabilities and other marginalised groups

- The Group urges the Election Commission to enhance its collection of disaggregated data as an aide to inform its selection of polling stations.
- The Election Commission, in collaboration with DIESL-TWG, is encouraged to conduct further accessibility audits of polling stations to ensure full access for all voters with disabilities.
- The Group urges the Election Commission to ensure that election materials, political materials and voter instructions are made available in all accessible formats to persons with disabilities.
- We submitted that the Election Commission must also deploy mobile voting units and temporary subordinate voting sites to increase access for PWDs.

### Voters on remand

- The Group urges the Election Commission to develop and issue guidelines that will ensure persons on remand who have not been convicted are able to vote. Prison authorities must collaborate with the Election Commission and other relevant stakeholders to ensure the fundamental right to vote by all eligible persons is respected.

## Campaign and the Media

### The Campaign

- Parties and candidates must provide a record of the money they receive in donations and money spent, in an audited financial statement.
- Candidates should be required to declare their assets and liabilities.

- The Group recommends that, in order to preserve and maintain an environment conducive to the conduct of credible elections, the Election Commission should encourage political parties contesting elections to consider jointly signing a Code of Conduct, pledging to maintain peace and order throughout any campaign, on election day and in the immediate post-election period.

## The Media

- As the Supreme Court has given a ruling in this matter, the Election Commission should consider meeting with the media and political parties to enable the enactment of this Bill.

The Group urges the government to:

- Consult with media stakeholders to come up with a regulatory framework for public and private media's coverage of elections.
- Review and amend existing laws to ensure alignment with international media freedom.
- Strengthen self-regulatory mechanisms for media outlets and enhance transparency in media ownership and funding.
- is encouraged to work with the media and civil society to address concerns regarding the Online Safety Act and ensure citizens can freely use social media and other online platforms to exercise their right to free expression
- The Group also encourages Parliament through legislation to consider establishing a media ombudsman to address public complaints.
- Civil society organisations must continue to proactively advocate for media policy reforms, monitor media freedom and report violations.
- Social media companies should enable CSOs to access tools and resources that can effectively address the mis/disinformation landscape and track spending.
- The Election Commission should continue collaborative efforts with civil society organisations to combat mis/disinformation
- International development partners should increase their commitment to capacity building and resourcing for fact-checking initiatives.

## Voting, Counting and Results Process

- Postal voting is an advance voting, therefore, to allow for more participation, the Group recommends that the categories of persons eligible to vote by post be reviewed to include non-essential and other workers.
- Every effort must be made by the Election Commission to ensure that women can function in the role of a senior presiding officer (SPO).
- The Election Commission should endeavour to identify buildings and other sites that are more accessible to the elderly and persons with disabilities (PWDs).
- In areas where this is not possible, additional measures to aid PWD voting, such as providing ramps and wheelchairs, may be considered.
- Better training of poll workers is required to ensure that the procedures are uniformly applied.
- To address the challenge of inaccessible polling stations, the Group recommends the Election Commission to consider mobile and temporary polling facilities.

- It is recommended that deposit fees for nomination of candidates be substantially increased, as the present fees are extremely low and do not serve as a deterrent to persons without a significant following. Currently, nomination fees stand at SLRs50,000 (US\$165) for candidates nominated by a recognised political party and SLRs75,000 (US\$247.60) for candidates nominated by any other political party or by an elector.
- It is recommended that the number of persons required to nominate a candidate should also be increased.
- While the initiative for the issuance of a 'special identity card' to voters who are identified as disabled voters is commendable, additional voter education is required to ensure that PWDs are aware of the process they are required to follow to get assistance.
- With the introduction of the tactile stencil ballots for the first time, more education needs to be carried out to ensure that all polling day staff and visually impaired voters are aware of the existence of these stencils and trained in how to properly use them.
- Though tactile stencil ballots were present, it is recommended that ballot papers are also provided in braille language.
- The Election Commission should recommend to the government to make provision in legislation for voting by persons with disabilities.
- The security forces must continue to work with each other and co-ordinate plans for elections to strengthen areas where necessary for future elections.
- While the communication strategy of the Election Commission must be commended, there is need for more education to be done with the media, candidates and political parties, especially around communicating with voters on the importance of the manner of marking their preference on the ballot paper. For future elections, this will be beneficial to candidates, parties and voters in ensuring that the rejected ballot rate is reduced.
- Political parties and candidates must refrain from engaging in vote buying, treating and undue influence strategies.
- The Election Commission should devise a strategic plan to more effectively monitor and enforce existing regulations.
- The Group heard from the Election Commission that the 2024 election, with a record number of candidates, was uncharted territory for the Commission, necessitating greater attention to education of the electorate on the preferential vote system. Nevertheless, the Group notes that the number of rejected ballots can be further reduced through greater attention to voter education.
- The Election Commission should work closely with civil society groups and international organisations on voter education.
- The Election Commission is encouraged to work closely with political parties to ensure consistent messaging to the electorate, which should help in reducing the total number of rejected ballots.
- The Election Commission should consider implementing an alternative to the current system of counting centres for the tabulation of the votes. This will eliminate many of the major issues associated with vote tabulation at counting centres.
- The Group therefore strongly recommends counting of votes should take place at the individual polling stations. This will result in more efficient tabulation and reduce the need for the recruitment of thousands of poll workers and security officers, and reduce the financial burden on political parties and independent candidates, who must recruit representatives for both the polling stations and the 1,274 counting centres.

# 1. Introduction

To provide readers with important background information on the context in which Commonwealth Observer Groups (COGs) operate, this introductory chapter begins with a brief summary of COG methodology. It concludes with an overview of this methodology as applied to the 2024 Sri Lanka Presidential Election.

International election observation methodology

Since 1980, the Commonwealth has observed 200 elections in 39 countries. International election observation serves several purposes, including:

- promoting the openness and transparency of the electoral process;
- deterring improper practices and attempts at fraud;
- enhancing public confidence in the process, thereby contributing to acceptance of election results;
- diffusing political tensions through diplomacy and mediation; and
- strengthening international standards on electoral best practices.



Observers (from left to right) Aderemi Ajibewa, Maryan Street, Cynthia Barrow-Giles and Mandla Mchunu at a briefing session

## The Revised Commonwealth Guidelines: key provisions

*The Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries* ('the Revised Guidelines') were agreed by Heads of Government at the 2018 Commonwealth Heads of Government Meeting (CHOGM) in London, United Kingdom. The key provisions include the following:

1. COGs are independent, including of the Secretariat  
'Members of a COG are invited by the Secretary-General ... in their personal capacity as an eminent Commonwealth citizen, not as a representative of any member country, government or political group.'
2. Observers, not monitors  
Unlike some citizen observer groups (monitors), which are permitted to intervene or offer assistance to electoral officials in a limited manner, Commonwealth observers – as with all international observers – cannot and do not interfere in any way with any aspect of the electoral process.
3. Taking forward COG recommendations  
The Revised Guidelines encourage member countries to establish 'domestic mechanisms', such as multi-stakeholder meetings or committees, to review and take forward recommendations made by a COG.
4. Whole-of-election-cycle approach  
Election observation is ideally not a standalone activity. Where possible, the Secretariat seeks to support stakeholders in the implementation of these recommendations through a range of methods, including the production of expert publications, the training of election management body staff, the facilitation of peer-to-peer knowledge exchange and, crucially, bespoke technical assistance to national stakeholders upon the submission of a formal request.



*Observer Jayna Kothari reviewing the deployment plan for the 2nd Phase of the COG*

## The strength of Commonwealth Observer Groups

While all international election observer missions adhere to the 2005 Declaration of Principles for International Election Observation, each organisation's methodology has slight variances that reflect its unique strengths. The strength and value of Commonwealth observer missions lie in three key characteristics:

1. Eminent observers

While COGs are smaller in size than some other international observer missions, they comprise eminent persons from across the Commonwealth in their respective fields of expertise, such as senior politicians, electoral commissioners, diplomats, and human rights, legal and media experts. The biographies of all the observers can be found in Annex I.



Observers (from left to right) Sharon Bhagwan-Rolls, Sara Naseem, Josephine Tamai and Ian Hughes at a briefing session

2. Diversity and peer-to-peer learning

COGs reflect the geographical diversity of the Commonwealth itself, with observers selected from each of the world's five continents. This inculcates a genuine spirit of peer-to-peer learning on election administration and democratic reform.

3. Political mediation through the Chair's good offices

COGs are normally chaired by a former Head of State or senior diplomat, invited based on careful consideration of a number of factors that ensure they are a 'good fit' for the election in hand. The respect afforded to such high-profile leaders allows COG chairs to enter into a 'good offices' role in instances of post-election political disputes and non-acceptance of election results. Such good offices roles have played a vital part in ensuring peaceful transitions between governments on many occasions.

More information on the role and mandate of observers can be found in the *Commonwealth Handbook on Election Observation*. For more information on the Commonwealth's efforts to promote democracy, please visit the Commonwealth Secretariat website.



*Observers (left to right) Allyson Maynard-Gibson and Amir Wasim reviewing the daily briefing schedule*

## Deployment of a COG to the 2024 Sri Lanka Presidential Election

Following an invitation from the Election Commission of Sri Lanka, the Commonwealth Secretary-General, the Rt Hon. Patricia Scotland KC, constituted a COG for the Presidential Election on 21 September 2024. The Secretary-General's decision was informed by a Pre-Election Assessment Mission (PEAM) undertaken by a core Secretariat staff team to Sri Lanka in July 2024.

During the PEAM, staff met with key stakeholders, including political parties, representatives from civil society, youth and the media, the Election Commission, the police, judicial administration, international organisations, and diplomatic missions.

Following the PEAM, an analysis of the political and electoral landscape in Sri Lanka, a country assessment, and stakeholders' input were synthesised into a report, which informed the Secretary-General's decision to approve a COG to Sri Lanka.

### Composition

The Commonwealth Observer Group (COG or 'the Group') was led by His Excellency Danny Faure, former President of the Republic of Seychelles. He was joined in the Group by 13 other eminent persons from across the Commonwealth. They were drawn from various backgrounds across the political, civil society, election management, diplomatic, academic, media and legal fields. A seven-person staff team from the Commonwealth Secretariat supported the Group. A full list of members can be found in Annex I.



*The Chairperson of the Observer Group H.E. Danny Faure possess a question at the Police Briefing Session*

## Terms of reference

The mandate and agreed terms of reference for the Group were as follows:

- The Group is established by the Commonwealth Secretary-General following an invitation from the Election Commission of Sri Lanka.
- The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.
- The Group will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the member country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth, including its Charter, and other international commitments.
- The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.
- The Group is to submit a report to the Commonwealth Secretary-General, who will forward it to the Government of Sri Lanka, Election Commission of Sri Lanka, leaders of political parties, and thereafter to all Commonwealth member governments.



*Observers (left to right) Tres-Ann Kremer and Victor Shale preparing for deployment.*

## Activities

The Group was in Sri Lanka from 14 to 27 September 2024. An Arrival Statement was issued on 16 September (Annex II).

Between 16 and 18 September, the Group met with a broad range of stakeholders to gain a comprehensive picture of the electoral process, political environment and preparations for the Presidential Election. These included representatives from the Election Commission of Sri Lanka, the Attorney General, candidates and representatives of political parties and civil society, the Senior Deputy Inspector General of Police, international and citizen observers, the media, fact-checking organisations, and representatives from Commonwealth High Commissions in Colombo.

On 19 September, members of the Group were deployed to the nine provinces of Sri Lanka. The areas covered were Central, Eastern, North Central, North Western, Northern, Sabaragamuwa, Southern, Uva and Western areas. While on deployment, observers met with presiding officers, returning officers, political party representatives, candidates, the police, local media representatives, local CSOs and voters.

On 23 September, the Chair of the Group issued an Interim Statement (Annex IV), highlighting the Group's preliminary findings and observations. The Chair noted that the election was credible and transparent, and commended the people of Sri Lanka for turning out in large numbers in an orderly manner and hoped that the peaceful environment would continue in the post-election phase. While the Group also commended the professionalism, transparency and dedication of polling officials, it was noted that some voters and polling staff did not appear to fully understand the preferential system of voting.

The Chair also noted some challenges, especially in the pre-election environment. These included: the misuse of state resources; the need to develop a more effective regulatory framework for campaign financing; and the necessity to strengthen and enforce the Media Code of Conduct. Unlike the 2019 Presidential Election, there was no female candidate in the election.

The final report was drafted in Colombo and was concluded prior to the departure of the Group on 27 September 2024.



*Moments of humour during the deployment briefing session*

## 2. Political Background

### Historical background

The first Sinhalese arrived in Sri Lanka late in the sixth century BC, probably from northern India. Buddhism was introduced circa 250 BCE, and the first kingdoms developed around the cities of Anuradhapura (from circa 200 BCE to circa CE 1000) and Polonnaruwa (from about 1070 to 1200). In the fourteenth century, a south Indian dynasty established a Tamil kingdom in northern Sri Lanka. The Portuguese arrived in 1505 and controlled the coastal areas of the island in the sixteenth century followed by the Dutch in the seventeenth century. The island was ceded to the British in 1796 and became a crown colony in 1802. The whole island, including the last Sri Lankan Kingdom – the Kandyan kingdom – came under British rule in 1815. As Ceylon, it became independent in 1948; its name was changed to Sri Lanka in 1972. Prevailing tensions between the Sinhalese majority and Tamil minority resulted in an armed Tamil separatist struggle that erupted into an open conflict in July 1983. Fighting between the Sri Lankan Government and Liberation Tigers of Tamil Eelam (LTTE) continued for over a quarter century. Although Norway brokered peace negotiations that led to a ceasefire in 2002,<sup>1</sup> the fighting slowly resumed and was again in full force by 2006. The government militarily defeated the LTTE in May 2009.<sup>2</sup>

Besides the ethnic conflict, in April 1971, the then Janatha Vimukthi Peramuna (JVP), led by Rohana Wijeweera, launched an anti-state insurrection after recruiting and arming youth in southern Sri Lanka.<sup>3</sup> The government quickly suppressed the insurrection. In 1987, in another insurrection, thousands were killed, allegedly both by the JVP and the state, but the government ultimately defeated the rebellion.<sup>4</sup> After a hiatus, the JVP returned to democratic electoral politics in 1994.<sup>5</sup>

### Post-conflict environment

During the post-conflict years under President Mahinda Rajapaksa, the government initiated infrastructure development projects, many of which were financed by loans from China. President Rajapaksa's Government faced significant allegations of human rights violations and a shrinking democratic space for civil society. In 2015, a new coalition government headed by President Maithripala Sirisena of the Sri Lanka Freedom Party (SLFP) and Prime Minister Ranil Wickremesinghe of the United National Party (UNP) came to power with pledges to advance economic, governance, anti-corruption, reconciliation, justice and accountability reforms. However, implementation of these reforms was largely considered to be insufficient.

### Demography

Sri Lanka's welfare measures have heightened expectations of the government among people. Sri Lanka's last official census was taken in 2023, and the report is pending publication. According to the previous census of 2012, Sri Lanka's majority ethnic community, the Sinhalese, comprises 74.9 per cent of the island nation's population. Numerically, the second largest ethnicity is the Sri Lankan Tamils, who make up 11.1 per cent of the population. The third largest ethnicity is the Sri Lankan Muslims or Moors, who comprise 9.3 per cent of the population. The fourth largest ethnic group is the Tamils of Indian origin, known as '*Malayaga Thamizhar*' (Hill Country Tamils), who are 4.1 per cent.<sup>6</sup>

1 See: [www.sdafa.co.uk/the-norwegian-conflict-management-approach-in-sri-lanka-the-limits-of-weak-mediation-bias](http://www.sdafa.co.uk/the-norwegian-conflict-management-approach-in-sri-lanka-the-limits-of-weak-mediation-bias)

2 See: [www.aljazeera.com/news/2009/5/17/sri-lankas-tamil-tigers-defeated](http://www.aljazeera.com/news/2009/5/17/sri-lankas-tamil-tigers-defeated)

3 See: [www.cambridge.org/core/journals/modern-asian-studies/article/abs/thoroughly-modern-revolutionaries-the-jvp-in-sri-lanka/B0A26D65FF21D3482B08E9C9E1236415](http://www.cambridge.org/core/journals/modern-asian-studies/article/abs/thoroughly-modern-revolutionaries-the-jvp-in-sri-lanka/B0A26D65FF21D3482B08E9C9E1236415)

4 See: [www.bbc.co.uk/news/world-asia-30017905](http://www.bbc.co.uk/news/world-asia-30017905)

5 See: <https://personal.lse.ac.uk/venugopr/jvp%20modern%20asian%20studies.pdf>

6 See: [www.ft.lk/columns/Ranil-Sajith-divide-causes-splits-in-Muslim-political-parties/4-765897](http://www.ft.lk/columns/Ranil-Sajith-divide-causes-splits-in-Muslim-political-parties/4-765897)

The three numerical minorities, namely the Sri Lankan Tamils, Muslims and Indian Tamils, together make up 25.5 per cent of the population. Since the people of all districts vote together in the Presidential Election, the entire island is transformed into a 'single' constituency – with a 74.9 per cent Sinhala majority and 25.5 per cent minorities. Historically, Sri Lanka's main political parties have launched election campaigns on populist platforms, amplifying promises to raise subsidies and welfare measures, reduce taxes, and employ university graduates to a highly bloated and inefficient state sector.

## Traditional political parties

Sri Lanka's politics has been typically dynastic, with a few elite families dominating its political leadership. The country's two main parties, the centre-left Sri Lanka Freedom Party (SLFP) and the centre-right United National Party (UNP), have been in competition for more than 70 years. President Ranil Wickremesinghe has been party leader of the UNP since 1994. Mahinda Rajapaksa, who became Sri Lanka's President in 2005, came to power from the SLFP. It was also during his presidency in 2009 that the LTTE was militarily defeated and the conflict in Sri Lanka ended. Since then, the Rajapaksa family, who are from the deep south of Sri Lanka, has dominated politics.

In 2014, a section of the SLFP, of which the then-President Mahinda Rajapaksa was Chairman, defected and signed an agreement with the UNP. This led to the SLFP's Maithripala Sirisena contesting as a common candidate and winning the Presidential Election in 2015 and Ranil Wickremesinghe becoming the Prime Minister. Policy differences between Sirisena and Wickremesinghe resulted in this union breaking down earlier than intended. Among other things, the 2019 Easter Sunday bombing attacks were blamed on a lack of co-ordination between the Sirisena–Wickremesinghe Government.

In 2016, the Rajapaksas formed a party of their own, the Sri Lanka Podujana Peramuna (SLPP). The SLPP launched an all-out campaign against then-Prime Minister Wickremesinghe in the Presidential Election of 2019, accusing him of neglecting national security in the wake of the Easter attacks. The SLFP joined forces with the SLPP and Gotabaya Rajapaksa, the younger brother of former-President Mahinda Rajapaksa, swept to power with 52 per cent of the vote.<sup>7</sup> The UNP candidate, Sajith Premadasa, the son of a former President (Ranasingha Premadasa), ousted Wickremesinghe as opposition leader. Premadasa went on to do to the UNP what the Rajapaksas had done to the SLFP: breaking away from the main political party and creating his own.

At the Parliamentary Elections in August 2020, Premadasa contested as a member of the newly formed Samagi Jana Balawegaya (SJB), winning 54 of the 225 seats. The UNP, one of the country's oldest parties, was reduced to a single seat. After almost one year of not being able to decide who from UNP should take that seat, Ranil Wickremesinghe returned to Parliament to occupy that single seat.<sup>8</sup>

Gotabaya Rajapaksa's image was built on being a doer and a maverick. Far from hindering him in his bid for office, his lack of political experience catapulted him to victory. He had served in the Sri Lanka Army for 20 years before migrating to the United States in the 1990s. When his older brother Mahinda was President from 2005 onwards, Gotabaya returned to Sri Lanka and served as Secretary of Defence during the final phase of the war against the Liberation Tigers of Tamil Eelam (LTTE) from 2005 to 2009.

After being elected President in 2019, Gotabaya appointed his brother Mahinda as Prime Minister. His government passed a controversial constitutional amendment in 2020, which enabled another brother, Basil, who is a dual US citizen,<sup>9</sup> to enter Parliament. According to analysts, while Gotabaya was theoretically Executive President, it was his brothers, most prominently Basil and Mahinda, who were seen as the pillars of the government.

7 Hashim, A (2019), 'Gotabaya Rajapaksa wins Sri Lanka election', *Al Jazeera*, 17 November, [www.aljazeera.com/](http://www.aljazeera.com/)

8 *Colombo Page* (2021), 'Ranil nominated as UNP National List MP', 31 May, [www.colombopage.com/](http://www.colombopage.com/)

9 Press Trust of India (2020), 'Sri Lanka govt's proposed 20th Constitution Amendment faces resistance within ruling SLPP: Party members', *The Hindu*, 13 September, [www.thehindu.com/](http://www.thehindu.com/)

## Tamil political parties

The premier political representative of the Sri Lankan Tamils is the Tamil National Alliance (TNA), which is an alliance of several Tamil political parties which won ten seats in the 2020 elections. The TNA is fractured now with two of its three constituents, the Tamil Eelam Liberation Organisation (TELO) and People's Liberation Organisation of Tamil Eelam (PLOTE), forming a new alliance called the Democratic Tamil National Alliance (DTNA) with three other parties including the Eelam People's Revolutionary Liberation Front (EPRLF). The chief TNA constituent, Ilankai Thamil Arasu Katchi (ITAK) now stands alone. Of the original ten TNA parliamentarians, the ITAK has six Members of Parliament (MPs) while the TELO and PLOTE have three and one respectively.

The largest trade union and chief political party representing the Up-Country Tamils is the Ceylon Workers Congress (CWC). In fact, it is the Tamil People's Alliance (TPA) that has the largest number of Up Country Tamil MPs in Parliament. The TPA is an alliance of three parties, namely the Democratic People's Front (DPA) led by Mano Ganesan, the National Union of Workers (NUW) led by Palani Digambaram, and the Up-Country Peoples Front (UCPF) led by V Radhakrishnan.

## Muslim political parties

The Sri Lanka Muslim Congress (SLMC) was founded in 1981 following a meeting organised by likeminded Muslim intellectuals in Kattankudy, Batticaloa.<sup>10</sup> The SLMC received official recognition as a political party in 1986. The other prominent Muslim organisation at the time, the Muslim United Liberation Front (MULF), joined the Tamil United Liberation Front (TULF). By the mid-1990s, the SLMC had established itself as the foremost party representing the Muslim community in the country. Witnessing the success of the SLMC, the MULF also agreed to merge with the SLMC in 1996. Following the demise of the founder leader, MHM Ashraff in 2000, Rauff Hakeem succeeded Ashraff as the leader of the SLMC.<sup>11</sup> A dissident faction of the SLMC founded the All Ceylon Makkal (people's) Congress (ACMC – formally known as the All Ceylon Muslim Congress) after a prolonged intra-party dispute within the SLMC.

## 2015 Presidential Election

- The 2015 Presidential Election, held on 8 January, was conducted two years ahead of schedule. The incumbent, President Mahinda Rajapaksa, was the United People's Freedom Alliance's (UPFA) candidate, seeking a third term in office after an amendment to the Constitution which enabled him to contest for a third term.
- The United National Party (UNP)-led opposition coalition chose to field Maithripala Sirisena, the former Minister of Health in Rajapaksa's Government and General Secretary of the SLFP – the main constituent party of the UPFA – as its common candidate.
- Sirisena was declared the winner after receiving 51.28 per cent of all votes cast compared to Rajapaksa's 47.58 per cent. The result was generally seen as an upset.
- When Rajapaksa called the election in November 2014, he had looked certain to win. On 11 January 2015, the new government announced a special investigation into allegations of an attempted coup by Rajapaksa.

<sup>10</sup> Sri Lanka Muslim Congress (2017), 'Our History', <http://slmc.lk/about-us/sri-lanka-muslim-congress/>

<sup>11</sup> Jeyaraj, DBS (2016), 'Muslim Congress Leader Rauff Hakeem Faces Political Challenges in East', Blog Post, 8 July, <http://dbsjeyaraj.com/dbsj/archives/47185>

## 2015 Parliamentary Election

- The 2015 Sri Lankan Parliamentary Election was held on 17 August 2015, ten months ahead of schedule, to elect 225 members to Sri Lanka's 15th Parliament. The incumbent UNP-led United National Front for Good Governance (UNFGG) won 106 seats, an increase of 46 since the 2010 election, but failed to secure a majority in Parliament.
- The main opposition United People's Freedom Alliance (UPFA) won 95 seats, a decline of 49.
- The Tamil National Alliance (TNA), the largest party representing Sri Lankan Tamils, won 16 seats, an increase of 2 from 2010.
- The remaining 8 seats were won by Janatha Vimukthi Peramuna (6), Sri Lanka Muslim Congress (1) and Eelam People's Democratic Party (1). Prime Minister Ranil Wickremesinghe, leader of the UNFGG and UNP, was able to form a national government with the support of UPFA MPs loyal to President Maithripala Sirisena.

## 2019 Presidential Election

- On 16 November 2019, Sri Lanka held a Presidential Election to elect its eighth Executive President.
- For the first time in Sri Lanka's electoral history, the incumbent President, the Prime Minister and the Leader of the Opposition (former two-term President Mahinda Rajapaksa) were not contestants.
- Thirty-five (35) candidates were nominated for this election. The two leading candidates were the New Democratic Front's (NDF) Sajith Premadasa, the incumbent Minister for Housing and Deputy Leader of the UNP; and the SLPP's Gotabaya Rajapaksa, who was a former Defence Secretary. They both represented two separate political alliances. Mr Rajapaksa won the election by obtaining the required majority.

## 2020 Parliamentary Election

- After much debate on the validity of conducting elections amid a global pandemic, Sri Lanka's Parliamentary Elections took place on 5 August 2020. The election signified the strong return of the Mahinda Rajapaksa-led SLPP, both at the executive and legislative levels.
- For the 196 electoral district seats in the 225 member Parliament of Sri Lanka, more than 7,000 candidates competed to enter Parliament. With a voter turnout of 71 per cent, the SLPP secured 128 seats, followed by SJB with 47 seats, the TNA with 9 seats, and the National People's Power (NPP), which is a coalition of leftist political parties including Janatha Vimukthi Peramuna (JVP), with 3 seats.
- The percentage of votes polled in favour of SLPP showed a significant shift of majority Sinhala votes in favour of the party.
- One of the important aspects of the elections was that for the first time, the traditional Sinhala political parties such as the UNP and the SLFP were not the main contenders. That position was ceded to the Rajapaksa-led SLPP and the Sajith Premadasa-led SJB.

## 'Aragalaya' crisis

When Gotabaya Rajapaksa took office as Sri Lanka's eighth Executive President in November 2019, the country's foreign reserves stood at nearly US\$8 billion.<sup>12</sup> A few months later, in March 2020, Sri Lanka went into a lockdown due to the COVID-19 pandemic. By the end of the following year, its foreign reserves

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12 *EconomyNext* (2020), 'Sri Lanka ends 2019 with US\$7.6bn in forex reserves', 12 January, <https://economynext.com/>

had fallen to less than US\$4 billion.<sup>13</sup> By December 2021, it was down to less than US\$2 billion.<sup>14</sup> Sri Lanka entered 2022 with limited foreign reserves to finance its ever-increasing bill for imports, particularly for fuel, gas and electricity.<sup>15</sup> Having failed to resolve its balance of payments crisis, notwithstanding arrangements with several countries, in April 2022 the government was forced to default on its debts for the first time in Sri Lankan history.<sup>16</sup>

Sri Lankans suffered through frequent power cuts of up to 13 hours, a fuel shortage that made people wait for fuel for days in queues, and shortages in essential medicine and food. The power cuts and fuel shortage also had a major impact on the middle class who could not work from home or get around, which in a rare instance brought together Sri Lankans across class, religious and ethnic differences to unite against the government.

Unsurprisingly, what was in essence an economic predicament spiralled out of control into a political crisis. From March 2022, Sri Lankans from every corner of the country began taking to the streets in unprecedented numbers, demanding the resignation of the President and his government.<sup>17</sup> On 31 March, they held a demonstration in front of the President's personal residence, which turned violent.<sup>18</sup> In mid-April, people rallied at the Galle Face Green in the country's capital, Colombo, and created a makeshift community, naming it 'Gotagogama': literally, Gota go village.<sup>19</sup> Through social media, the protesters popularised the tagline #GoHomeGota, reinforcing popular demands for the President's exit.<sup>20</sup> The mass street protests, which ended with President Rajapaksa resigning and leaving the country, and the dramatic storming of the presidential residence, were unprecedented: never before had a relatively spontaneous collection of citizens demanded fundamental reforms to the political system; nor had a people's movement succeeded in bringing down the President.

Beyond calls for the resignation of President Gotabaya Rajapaksa and his government, the *Aragalaya* protestors also made a series of demands. These included the provision of temporary relief to all citizens, for the recovery of illegally earned resources from the corrupt political class, and political reform, including the abolition of the executive presidency and a new constitution.

Although the *Aragalaya* demanded 'system-wide changes' following the departure of the Rajapaksas, not much changed in the system. Local government elections have not been held since 2018. They were scheduled to be held in 2022, but were postponed to 2023, and were later postponed indefinitely. This was against the ruling of the Election Commission of Sri Lanka (ECSL), but President Ranil Wickremesinghe said it was too risky to conduct polling during an economic crisis.<sup>21</sup>

## Background to the 2024 Presidential Election

Sri Lankan politics has in the past always been something of a two-party affair. Thirty-nine (39) candidates competed for the 2024 Presidential Election.<sup>22</sup> For the first time, there was a perceived three-cornered race. The three main contenders provided three very different and distinct alternative ways forward to the

13 *EconomyNext* (2021), 'Sri Lanka foreign reserves reach US\$3.1bn by Dec 29: CB Governor', *EconomyNext*, 29 December, <https://economynext.com/>

14 *EconomyNext* (2021), 'Sri Lanka central bank forex reserves negative by US\$1.9bn in Dec', 21 February, <https://economynext.com/>

15 Srinivasan, M (2021), 'India extends another \$500 million LoC to Sri Lanka for emergency fuel import', *The Hindu*, 19 January, [www.thehindu.com/](http://www.thehindu.com/)

16 Hoskins, P (2022), 'Sri Lanka defaults on debt for first time in its history', *BBC News*, 20 May, [www.bbc.com/](http://www.bbc.com/)

17 *EconomyNext* (2022), 'Sri Lanka president declares health, electricity services essential amid ongoing protests', 12 February, <https://economynext.com/>

18 Francis, K (2022), 'Protests demand Sri Lanka leader resign over economic crisis', *Associated Press*, 1 April, <https://apnews.com/>

19 Athauda, D (2022), 'Sri Lanka economic crisis: Demonstrators rename protest site to Gotago village', *WION News*, 13 April, [www.wionews.com/](http://www.wionews.com/)

20 *Al Jazeera* (2022), '#GotaGoHome: The hashtag that defined Sri Lanka's revolution', 16 July, [www.aljazeera.com/](http://www.aljazeera.com/)

21 See: <https://thediplomat.com/2023/02/sri-lanka-government-develops-cold-feet-calls-off-local-elections/>

22 Of the 39 candidates, Idroos Mohamed Ilyas, an independent candidate from the north-western Puttalam district, died on 23 August. See: [www.deccanherald.com/world/sri-lanka-presidential-election-candidate-idroos-mohamed-ilyas-passes-away-3161718](http://www.deccanherald.com/world/sri-lanka-presidential-election-candidate-idroos-mohamed-ilyas-passes-away-3161718)

Sri Lankan people. The 2024 Presidential Election became an intense battle between the key contenders – President Ranil Wickremesinghe, who was contesting as an independent candidate, Opposition and SJB Leader Sajith Premadasa, and JVP-led NPP Leader Anura Kumara Disanayake (AKD). There was also the last-minute entry of SLPP candidate Namal Rajapaksa, the son of former President Mahinda Rajapaksa, which added an interesting dimension to the contest.

President Ranil Wickremesinghe was heading a government lacking a popular mandate, with the support of the Rajapaksa's SLPP parliamentary group. His main contention was that he brought stability to the country and its economy; therefore, he should be given a full term as president to continue the work he had been doing to help the country recover from bankruptcy. Ending the fuel queues, controlling inflation and managing the economic disaster were presented as his achievements and the rationale for entrusting him with a popular mandate for five more years. According to analysts, his administration's suppression of civil liberties and democratic space – including the Online (Censorship) Bill, a draconian Counter Terrorism Bill – demonstrated governance that was no better than its predecessor. Even more worrying was the administration's confrontational and adversarial approach to the apex judiciary, the Supreme Court, where it had received a string of setbacks – from suspension of the President's appointment of the Inspector General of Police (IGP), to the suspension of a wind power plant in Mannar, to suspension of the government's awarding of Sri Lanka's online visa system to a foreign company via an unsolicited proposal.<sup>23</sup> The Bar Association of Sri Lanka was critical of the Wickremesinghe administration's response to the Supreme Court's interim relief decision on the IGP case.

The surprising surge in public support from late 2023 for what is often referred to as the 'third force' JVP-led NPP, with a parliamentary group of only three MPs and its leader Anura Kumara Disanayake, is likely based on two factors. The first was real political support for a system change, as articulated in the *Aragalaya* protest movement, and the general belief, especially among younger voters, that the JVP offered the best chance of that change from 'business as usual' in national governance. The second reason was that with the public's political repudiation of the Rajapaksa's and their SLPP, people were drawn to the exact opposite of what the Rajapaksa's stood for and represented. The NPP/JVP was seen to best represent the antithesis of the political establishment's business as usual. The JVP, with no experience in governance, was high on ideologically driven rhetoric.

Straddling these two opposite extremes of Wickremesinghe's business as usual and the JVP's system change was Opposition Leader Sajith Premadasa from SJB, who proposed real, even radical, reforms of the Sri Lankan state to bring about governance and political reforms.

Ilankai Tamil Arasu Katchi (ITAK), representing Tamils of Sri Lanka's north and east, had said it would consider backing a presidential aspirant who agreed to its demand for a governance structure based on a federal model. The party's position reiterated its long-standing demand for a just political solution to the country's Tamil question. While some, including from ITAK, its former alliance partners PLOTE and TELO, backed a 'common Tamil candidate', the Tamil National People's Front (TNPFF) called for a boycott of the polls.

While there were Muslim MPs from different political parties in Sri Lanka's Parliament, there were only three Muslim political parties represented there. They were the SLMC, led by Rauff Hakeem MP, the National Congress (NC), led by AHM Athallah MP, and APMC, led by Rishad Bathiudeen MP. Of these parties, the SLMC and APMC joined the Samagi Jana Sandhanaya (SJS) alliance and pledged their support for Sajith Premadasa in the Presidential Election.

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23 See: <https://groundviews.org/2024/08/07/the-status-quo-ante-a-system-change-or-real-reforms/>

# 3. The Legal Framework and Election Administration

## The Legal Framework

### System of government

The Democratic Socialist Republic of Sri Lanka has a semi-presidential system. Sri Lanka's governance structure reflects its commitment to democracy, cultural diversity and the rule of law, showcasing its rich heritage.

The 225 Members of Parliament in Sri Lanka, elected through a form of proportional representation, hold the power to enact laws.<sup>24</sup> The President can summon, suspend or dissolve sessions, with dissolution possible after a year. The Prime Minister, appointed by the President, jointly shares executive responsibilities, particularly in domestic affairs.

The President of Sri Lanka serves as both Head of State and Government and leads a cabinet of elected MPs for a five-year term. Legal immunity is granted to the President during this period. In 2010, the two-term limit was removed.

Sri Lanka's judicial system includes the Supreme Court, Court of Appeal, high courts and subordinate courts. Customary laws and religious practices are respected. The President nominates people for appointment as Supreme Court and Court of Appeal judges. These nominations must be approved by the Constitutional Council. The Judicial and Legal Services Commission is responsible for the appointment and promotion of judges in the lower courts. Members of the Judicial and Legal Services Commission must be approved by the Constitutional Council.

The Constitutional Council ('the Council') was introduced by the 21st Amendment, which was endorsed on 31 October 2022. The Constitutional Council is entrusted with duties under the Constitution, as well as by other laws.

The composition of the Constitutional Council, as per Article 41A, is as follows:

- a. The Prime Minister – Ex-officio.
- b. The Speaker – Ex-officio.
- c. The Leader of the Opposition in Parliament – Ex-officio.
- d. One Member of Parliament appointed by the President.
- e. Five persons appointed by the President, upon being nominated as follows:
  - i. one Member of Parliament nominated by agreement of the majority of the Members of Parliament representing the Government;
  - ii. one Member of Parliament nominated by agreement of the majority of the Members of Parliament of the political party or independent group to which the Leader of the Opposition belongs; and
  - iii. three persons nominated by the Speaker in consultation with the Prime Minister and the Leader of the Opposition.

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<sup>24</sup> See: <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/documents/Sri-Lanka-2019-PE-COG-Report.pdf?VersionId=IVYbCgqZgdx9smW5CeivVvEbQ1qDWLAb>

- f. One Member of Parliament nominated by agreement of the Members of Parliament other than those representing the Government and those belonging to the political party or independent group to which the Leader of the Opposition belongs, and appointed by the President.

As per the Article 41A(2) of the Constitution, the Speaker shall be the Chairman of the Council. The Constitution specifies the process to be followed in appointing the Members to the Council under each of the above categories. In nominating the five persons referred to in sub-paragraph (e) above, the Prime Minister, Speaker and the Leader of the Opposition or the Members of Parliament shall ensure that the composition of the Council reflects the pluralistic character of Sri Lankan society, including professional and social diversity.

The persons who are not Members of Parliament to be appointed under sub-paragraph (e) above shall be persons of eminence and integrity who have distinguished themselves in public or professional life and who are not members of any political party. Those nominations shall be approved by Parliament.

Recommendations for nominations are made to the President for the appointment of chairpersons and members of commissions specified in the Schedule to Article 41B of the Constitution.

Commissions specified in the Schedule to Article 41B are as follows:

- i. The Election Commission
- ii. The Public Service Commission
- iii. The National Police Commission
- iv. The Audit Service Commission
- v. The Human Rights Commission of Sri Lanka
- vi. The Commission to Investigate Allegations of Bribery or Corruption
- vii. The Finance Commission
- viii. The Delimitation Commission
- ix. The National Procurement Commission.

All laws and subordinate legislation in Sri Lanka are enacted or made and published in Sinhala and Tamil, together with a translation in English.

## The Constitution of the Democratic Socialist Republic of Sri Lanka

The Constitution of Sri Lanka guarantees fundamental rights and freedoms, including freedom of expression, assembly, association and participation in elections. The legal foundation for the conduct of elections in Sri Lanka is set out in Chapters XIV and XIVA of the Constitution.<sup>25</sup>

The 21<sup>st</sup> Amendment 2022, significantly reduced the powers of the executive presidency while retaining the office. Changes include limiting the President's ability to act without the Prime Minister's advice, removing sole power to appoint ambassadors, and requiring concurrence from the Prime Minister and Leader of the Opposition for pardons.

The amendment also reintroduced the Constitutional Council, which is responsible for appointments to key bodies like the Election Commission and Supreme Court. The role of the Prime Minister is enhanced, making them Head of the Cabinet with a reduced number of ministers.

An Audit Service Commission was introduced, which is responsible for the state audit service, with new provisions to prevent undue influence. The Amendment also modified the National Police Commission, ensuring consultation with the Inspector General of Police and mechanisms for handling public complaints.

25 See: [www.parliament.lk/files/pdf/constitution.pdf](http://www.parliament.lk/files/pdf/constitution.pdf)

Most provisions of the Constitution can be amended by a two-thirds majority in Parliament. The amendment of certain basic features, such as the clauses on language, religion and reference to Sri Lanka as a unitary state, require both a two-thirds majority and approval in a nationwide referendum.

## Election of the President

The key legal documents for the conduct of the Presidential elections are:

- i. the Constitution of the Democratic Socialist Republic of Sri Lanka (as amended);
- ii. the Presidential Elections Act No. 15 of 1981 (as amended);
- iii. the Registration of Electors Act No. 44 of 1980; and
- iv. the Regulation of Election Expenditure Act No. 2 of 2023.

The Constitution of Sri Lanka provides for the election of the President under Articles 30, 31 and 32.

Article 30(1) states that the President shall be the Head of State and the executive head of the government and shall be elected and shall hold office for a term of five years, thereby shortening presidential term from six to five years.

Article 31(5) provides that the election of the President shall be conducted by the Commissioner of Elections, who shall fix the date for the nomination of candidates for such election and the date on which the poll shall be taken.

Article 31(6) mandates that Parliament shall make a law for the provision for: (a) the nomination of candidates for the election of President; (b) the register of electors to be used at and the procedure for the election of the President; and (c) the creation of offences relating to such election and the punishment therefore and all other matters necessary or incidental thereto.

## Presidential Elections Act No. 15 of 1981

The legal framework governing Presidential Elections in Sri Lanka is the Presidential Elections Act No. 15 of 1981. This Act outlines the procedures and regulations for conducting Presidential Elections, including:

- i. eligibility criteria for candidates;
- ii. the nomination process;
- iii. campaigning rules;
- iv. polling procedures; and
- v. vote counting and declaration of results.

The Act has been amended several times over the years to accommodate changes in the political landscape and electoral system. Some key amendments include:

- introducing provisions for postal voting and increasing the deposit required from candidates;
- the introduction of a limit on campaign expenditure and tightened restrictions on campaign financing; and
- increasing the number of preferential votes that voters can cast and introducing new regulations for the use of social media during campaigns.

Additionally, the Presidential Elections (Special Provisions) Act No. 2 of 1981, provides for specific procedures for conducting Presidential Elections in certain circumstances, such as when the President dies in office or resigns before the end of their term.

## Registration of Electors Act in Sri Lanka No. 44 of 1980

The Registration of Electors Act in Sri Lanka No. 44 of 1980, governs the registration of voters for elections in the country. It outlines the procedures and requirements for individuals to be included on the electoral register, ensuring that eligible citizens can exercise their right to vote.

All Sri Lankan citizens who are 18 years of age or older on the qualifying date and are not subject to any disqualifications mentioned in the Constitution are eligible to be registered as electors.

The Act specifies various disqualifications that prevent individuals from being registered, such as being of unsound mind, serving a prison sentence or being convicted of certain offenses.

The process involves the preparation of an electoral register for each electoral district. The Commissioner of Elections appoints district secretaries/government agents as registration officers, and the process is carried out under their supervision.

Enumeration officers visit households to collect information and fill out enumeration forms. Special enumerators are appointed for urban areas.

The electoral register is revised thrice annually to include new eligible voters and remove those who are no longer eligible.

The Act provides for a mechanism for individuals to claim inclusion on the register if they are wrongly omitted and for objections to be made against the inclusion of individuals who are not eligible.

Provisions are made for appeals against decisions of the registration officer regarding claims and objections. The Registration of Electors Act is crucial in upholding the democratic process in Sri Lanka by ensuring that the electoral register is accurate and up-to-date.

The Presidential Elections Act, 1981, Registration of Electors Act, 1980 and related legislation form a comprehensive legal framework for conducting free and fair Presidential and other elections in Sri Lanka. They allow eligible citizens to participate in elections and choose their representatives, thus playing a vital role in the country's governance. These laws ensure that the electoral process is transparent, accountable and upholds the democratic principles enshrined in the Constitution.

## Legal Establishment of the Election Commission

Chapter 14A, Section 103, of the Constitution establishes the Election Commission of Sri Lanka ('the Commission'). The Commission is responsible for the conduct and supervision of the registration of voters, all public elections and referenda.

Legal provisions on the establishment of independent commissions were introduced to the Constitution of the Democratic Socialist Republic of Sri Lanka by the 17th Amendment to the Constitution, passed in the year 2001.

A singular methodology was introduced by the Constitution for the appointment of members to the commissions. Seven commissions were proposed to be established under this amendment, and the Election Commission was one of them. Additionally, the names of members and chairpersons for the Election Commission and other commissions had to be recommended by the Constitutional Council, which was established by the 17th Amendment.

This constitutional amendment has garnered criticism by civil society organisations (CSOs), which are of the view that the Constitutional Council should be responsible for nominating and recommending members of the Commission for appointment by the President, as was the case in the past under the 19th Constitutional Amendment. It was on this basis that some questioned the independence of the Election Commission.

## Composition of the Election Commission

The Election Commission comprises the Chairperson and four other members. The President appoints the members of the Commission, including the Chairperson, after obtaining the observations of the Parliamentary Council in line with the 20th Amendment to the Constitution, passed in 2020.

This is a change from the 17th, 18th and 19th Amendments to the Constitution. The Election Commission proposed by the 17th Amendment consisted of five members. The quorum for a meeting was three. Subsequently, the 18th Amendment reduced the members of the Election Commission to three persons. The 17th and 18th Amendments enabled the President to appoint members of the Commissions without the recommendation of the Parliamentary Council.

In 2015, the 19th Amendment was passed due to strong pressure and requests made by CSOs, political parties and others. The composition of the Election Commission consists of five members and the quorum of three remains unchanged.

The Constitution specifies the qualifications to be members of the Commission as:

- a. two persons who have excelled in the fields of administration and education; and
- b. a retired officer of the Department of Elections who has held an office of the rank of Deputy Commissioner of Elections or above.

These should be appointed as members of the Commission, out of whom one member should be appointed as Chairman by the President. Under new provisions, the President cannot refrain from appointing persons recommended by the Constitutional Council.

The Constitution provides that no Member of Parliament or provincial council, a member of a local authority, an officer of judicial service or a public officer should be appointed as a member of the Election Commission. The term of office of members of the Election Commission is five years. The procedure followed in removing a judge of the Supreme Court or the Court of Appeal should be followed in removing a member from office during the period of the term of office.

## International standards, commitments and instruments

In addition, Sri Lanka has committed to some significant international and regional instruments, as well as standards and values relevant to the conduct of elections. These include:

- i. the International Convention on Civil and Political Rights (CCPR), 1980;
- ii. the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), 1981;
- iii. the International Convention on the Elimination of all forms of Racial Discrimination (CERD), 1982;
- iv. the UN Convention on Rights of Persons with Disabilities (UNCRPD), 2016;
- v. the South Asian Association for Regional Cooperation – Charter on Democracy, 1985; and
- vi. the Commonwealth Charter.

### The UN Convention on Rights of Persons with Disabilities (UNCRPD)

The UNCRPD is an international human rights treaty that exists to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all disabled persons.

Sri Lanka signed the UNCRPD on 30 March 2007, and ratified the same on 8 February 2016. The Convention entered into force for Sri Lanka on 9 March 2016. By ratifying the UNCRPD, Sri Lanka demonstrates its deep commitment to building an inclusive and empathetic society founded on equality and justice. Under the UNCRPD, Article 29 protects participation in political and public life. It states as follows:

*'29. States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:*

- a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
  - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;'

There is some national legislation that requires access and reasonable accommodation for voters with disabilities, as follows:

- i. Physically disabled persons who cannot use modes of public transport to reach a polling station to cast their vote can also request for special transport facilities, by requesting the returning officer of the district under Article 83(4)d of Parliamentary Elections Act No. 01 of 1981 or Article 82 (4) (d) of Presidential Elections Act No. 15 of 1981 for reasonable accommodation at all polling stations for people with all types of disabilities, so as to facilitate elderly voters and voters with disabilities to cast their votes at polling stations:
  - a. within the polling area, priority is given to voters with disabilities for the issuance of ballot papers;
  - b. election officials to provide assistance to disabled voters where needed.

The Elections (Special Provisions) Act No. 28 of 2011, makes provision for a voter who is subject to disability to be accompanied by a person when voting at elections. This provision of the law read with the UNCRPD would mandate the requirement that all special provisions as needed, including transport, and special assistance that is required for voters with disabilities are made available.

## Key acts affecting an election

### Protection of the Rights of Persons with Disabilities Act 1996

The 1996 Act is considered as the seminal piece of legislation to give effect to the national policy on the rehabilitation, welfare and relief of persons with disabilities in Sri Lanka. However, it does not deal with voting rights for persons with disabilities. The only provisions relating to the advancement of the rights of persons with disabilities is under Section 23 of the Act, which states as follows:

#### **'Sect 23. Provisions for the protection advancement of persons with disabilities**

1. No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.
2. No person with a disability shall, on the ground of such disability, be subject to any liability, restriction or condition with regard to access to, or use of, any building or place which any other member of the public has access to or is entitled to use, whether on the payment of any fee or not.'

This can be read and interpreted to mean that during elections, all voters with disabilities should be able to access the buildings that other voters are using to cast their vote.

## The Regulation of Election Expenditure Act 2023

The Regulation of Election Expenditure Act 2023 is one of the recommendations taken forward after the 2015 and 2019 Presidential Election by Commonwealth observers, among other things, to address the abuse of incumbency. It applies to all elections, including Presidential Elections.

The law states that the Election Commission shall, in consultation with the recognised political parties, and the independent groups contesting such election, fix by an Order published in the Gazette, a sum of money in Sri Lankan rupees to be used for the purpose of calculating an authorised amount, which shall be calculated taking into consideration the prevailing inflation rate and the National Consumer Price Index of Sri Lanka.

It provides that a candidate at an election shall not incur expenditure in excess of the authorised amounts in such election. Any expenditure in excess of the authorised amount, except where the candidate proves that such expenditure was without any sanction or knowledge of the candidate, would amount to an offence of an illegal practice and would be liable to penalties.

Under Section 5, a candidate cannot, directly or indirectly, accept or receive a donation or contribution in cash or kind from: (a) a government department, a public corporation or a company in which the government or a public corporation owns any shares; (b) a foreign government, an international organisation or a body corporate incorporated or registered outside Sri Lanka; (c) a company where the foreign shareholding in such company, either direct or indirect, is 50 per cent or above; or (d) any person whose identity is not disclosed. Any violation of this would be an offence.

Under Section 6, presidential candidates are required to within 21 days of the date of publication of the result of such election, submit a return of all donations or contributions accepted or received by such candidate, with complete details of the amounts received and from whom the donation or contribution was received, and a return of all expenses incurred by such candidate. After submitting these returns, the returning officer would permit the inspection of these returns and accounts. There is no requirement to disclose expenditures pre-election. For the 2024 Presidential Election, the Election Commission stipulated a spending limit of 1,868,298,586.00 Sri Lankan rupees (SLRs) (equivalent USD \$ 6.3 million) per candidate.

Any candidate who fails without reasonable cause, to comply with the provisions of such declaration of returns would commit an offence of an illegal practice in an election and would be liable to penalties specified by laws relating to the illegal practice.

Civil society organisations (CSOs) and political parties with whom we spoke expressed concerns about the implementation of this legislation and that there is no mandate to disclose contributions prior to the election. The sheer extent of the Presidential Election campaign, which covers the entire country, also complicates the task of poll monitors. People are not able to track expenditure before the poll notice is issued. It is only once the Election Commission issues the notice for the election that poll monitors can monitor election expenditure. There is no limit on donations, or funding from private sources, leaving open the possibility of undue influence by wealthy individuals. Public corporations and state-owned companies may not make contributions, but companies awarded contracts by these companies may make contributions. Concerns were also expressed about monitoring and controlling use of state resources by the incumbent. Concerns have arisen about the Election Commission's lack of resources to monitor and investigate as well as its lack of capacity to be proactive by initiating court cases.

## The electoral system

Sri Lanka operates an alternative vote electoral system for the election of a president. Also known as a 'majority preferential' system, this electoral system enables voters to rank their preferred candidate. To win elections under this system, candidates must obtain 50 per cent plus one vote, failing which a second counting of the valid votes is carried out to determine voters' second preferred candidates. The candidate who gains more votes from the second count wins the election, meaning that such a candidate may not necessarily obtain the 50 per cent plus one threshold required for the first count.

The Commonwealth Observer Group found that among other factors, security demands for holding elections, especially in a country transitioning from war, and the high election costs were some of the key considerations for the choice of the electoral system. In this election, precisely because of the record number of candidates, it was anticipated in many quarters that a second count would be required, necessitating the resort to the voters' second and third ranked choices.

## Recommendations

We urge the Government of Sri Lanka to consider the following:

- To consider imposing a donation limit from private sources to candidates and political parties in order to reduce the possibility of undue influence or bias in the campaign phase.
- To work in collaboration with the Election Commission to set a limit on contributions by entities and their related parties awarded contracts by public corporations or state-owned entities.
- To meet with political parties and the media to define a framework for spending on advertisements in broadcast and print media.

We urge the Election Commission to consider the following:

- To meet with political parties to define a framework where governance may continue without giving the incumbent an advantage in utilising state-owned assets and resources.
- To set strict money laundering guidelines to prevent the use of illicit funds in a campaign.
- To promulgate strict penalties, including fines and disqualification of candidates, for the violation of campaign finance laws.

## Dispute resolution and electoral offences

The Presidential Elections Act 1981 outlines a series of election offences and corrupt and illegal practices.

Corrupt and illegal practices include bribery, treating, undue influence, impersonation, illegal voting, false statements and intimidation (defined in page 78). Each offence is punishable by a fine and/or imprisonment. Additionally, the Act outlines procedures for filing an election petition to complain of an undue return or undue election.

Election offences include forging or destroying any nomination papers, ballot papers or official poll cards, fraudulently defacing a mark placed by any voter on ballot papers and voting at an election illegally. All these offences shall be liable to a sentence of imprisonment not exceeding two years and disqualification from voting for seven years.

The Group noted that the Election Commission had largely complied with the provisions of the Act, ensuring that all electoral stakeholders acted within the confines of the law. Several electoral stakeholders spoke highly about the Election Commission's impartial implementation of the law regarding electoral offences.

According to the Act, any voter or candidate with cause may present a petition. Petitions are submitted to the Supreme Court, within 21 days after the publication of the official results of the election in the Gazette. The Supreme Court will hear and decide election petitions by a bench of at least five judges, which would include the Chief Justice.

In addition to the Presidential Elections Act 1981, there are also offences prescribed under the Regulation of Election Expenditure Act 2023 relating to non-filing of returns for donations received and expenditure during the Presidential Election. These would amount to an offence of an illegal practice in an election and would be liable to penalties specified.

Under both laws, petitions must be filed in the Supreme Court for electoral offences and for corrupt practices during elections.

There is great trust in the Supreme Court, as election petitions are taken seriously. The Supreme Court has passed important judgements on election petitions.

## Recommendation

- The Group recommends the Government of Sri Lanka to review the statutory and regulatory framework to enable the Election Commission to initiate legal action, thereby strengthening its independence and enhancing its capacity to take legal action in cases of electoral offences and corrupt practices.

## Online Safety Act No. 9 of 2024

The Online Safety Bill in Sri Lanka was passed into law on 24 January 2024, as the Online Safety Act No. 9 of 2024. It has generated significant controversy due to concerns about its potential impact on human rights vis-a-vis freedom of expression, as guaranteed by the Constitution, and online privacy. CSOs have raised three key concerns with the establishment of the Act, in terms of:

1. the establishment of a Commission with broad powers to regulate online content and enforce the Act's provisions;
2. it defining a wide range of content that can be deemed illegal, including 'false statements', content that threatens 'national security' or 'public order', or that promotes 'feelings of ill-will and hostility' between different groups; and
3. the imposition of harsh penalties for violations, including imprisonment and fines.

Political parties, CSOs and the Election Commission have expressed concerns about the regulation and its enforcement. These parties indicate the necessity of collaboration between all those interested to minimise and eliminate the intended harm.

## Recommendation:

- There was no information available on the Election Commission website on complaints of misinformation, disinformation, hate speech or any other matter as would adversely impact elections. The Election Commission is encouraged to monitor, evaluate and publish data on the frequency and volume of complaints received and action taken in relation to the complaints.

## Accessibility of the law and the voting process

Sri Lanka is ranked as 'tier 2 – Advancing' by the International Telecommunications Union global cybersecurity index rating, with around 66.7 per cent<sup>26</sup> of households having access to the internet according to DataReportal.

Democracy is strengthened when citizens understand the electoral process. Trust and confidence in the electoral process are enhanced by transparency and accountability by those who administer that process. The laws relating to elections are available on the website of the Election Commission of Sri Lanka. While the website is easily navigated by people not visually impaired, it is not clear if it is accessible to visually impaired voters. The website sets out the laws and processes that impact voters, political parties and the conduct of elections.

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26 See: <https://datareportal.com/reports/digital-2023-sri-lanka>

## Recommendations

We encourage the Election Commission to:

- Add to the website the international treaties governing elections;
- Create a place on the Election Commission website providing public data about election complaints, investigations and outcomes; and
- Ensure that the content of its website is accessible to visually impaired voters.

## Procurement

There is no Public Procurement Act in Sri Lanka. However, the country is set to implement a new Public Procurement Law aimed at curbing corruption and malpractices in the procurement process. Procurement manuals and guidelines are promulgated by the Ministry of Finance.

## Election Administration

### Election Commission of Sri Lanka (ECSL)

#### Constitutional Status of the Election Commission

Article 103 under Chapter XIV of the Sri Lanka Constitution establishes the Election Commission. Between July 2023 and January 2024, after receiving recommendations of the Constitutional Council, the President appointed the five Commission members, for a five-year term.

Any member of the Commission can be removed from office on the grounds of proven misbehaviour or incapacity. Such removal is done through a Presidential Order, which must be carried by the total number of Members of Parliament (including absent MPs) in line with constitutional procedures applied for the removal of judges of the Supreme Court and the Court of Appeal. Any member of the Commission must vacate his/her position if he/she becomes a Member of Parliament, a member of a provincial council or local authority, or joins the judiciary or becomes a public service employee.



*The Observer Group meets with the Chairman and other members of the Election Commission of Sri Lanka*

## Independence of the Election Commission

### Appointment of the Commission



*Members of the Election Commission of Sri Lanka*

The structural independence of the Commission has been impacted by successive constitutional amendments, enacted as from 2001 to 2022, the 17th to the 22nd Amendments. These have reshaped the composition of the Commission from an Elections Department headed by an Election Commissioner to a three-member and later a five-member Commission. The Commission's appointment procedures have been the subject of a constitutional 'seesaw', caused by political changes depending on whether a reformist or a populist-authoritarian President was in office. The counter-balancing mechanism regarding the appointment of independent public bodies, such as the Commission, has swung from the Constitutional Council to the Parliamentary Council and back to the Presidential Council, depending on the politics of the day. The composition of these 'fourth pillar' structures and their dynamics have also changed from a majority to a minority of civilian members, as is the case currently.

### Recommendation:

- It is recommended that the structural independence of the Commission be safeguarded to avoid perceptions of bias and complicity from the public.

### Funding of the Election Commission

The Commission receives its funding directly from the Consolidated Fund through the Treasury and accounts to a Select Committee of Parliament. For the 2024 Presidential Election, the Election Commission requested SLRs10 billion (US\$33,084,400) and was provided with this amount, which enabled the Commission to prepare well in advance for the election.

The Group was, however, informed that the Commission lacked financial autonomy, and was therefore not always able to carry out its statutory obligations. For instance, the Local Government Elections initially planned for 2023 were indefinitely postponed due to the government withholding funds. This was viewed as an adverse development, creating doubt about the Commission's independence.

## Security of tenure

The commissioners enjoy the same security of tenure as the judges of the Supreme Court and the Court of Appeal. This creates a layer of institutional independence, as they cannot be easily removed. This security of tenure has added another dimension of public confidence in the commissioners.

## Recommendation

- It is recommended that to avoid incidents where the government interferes with its independent functioning, the Election Commission must take all legal measures to protect its institutional integrity and operations.

## Public confidence

While the Commission is a creature of statute and not insulated from political interference, during the period leading to the Presidential Election, the level of trust in the Commission had risen and numerous stakeholders were satisfied with the Commission's competence and that it was not under any form of undue influence or interference. The stakeholders who the Group met were not concerned about the Commission's alleged bias. The political contestants were also happy with the Commission's performance, and none filed any injunction against the Commission.

## Operational structure of the Election Commission



*A meeting with the Assistant Commissioner of Elections in Anuradhapura*

The Commission's Election Secretariat is headed by the Commissioner-General, who is the de facto chief executive. There are 25 electoral district offices across Sri Lanka's nine provinces, which are headed by deputy or assistant commissioners depending on the size of the district area. During the elections, the Commission appoints certification officers (COs) to manage the postal voting processes, returning officers (ROs) and assistant returning officers (AROs) from the civil service.

For the 2024 Presidential Election, the Commission deployed approximately 200,000 public servants, drawn mainly from the education sector, to serve as election staff. It designated senior presiding officers (SPOs), junior presiding officers (JPOs) and election clerks, according to competency levels. To reach voters on the ground, the Commission deployed village officers – who were also drawn from the state.

Furthermore, the Commission is also empowered to enlist the secondment or deployment of security structures to safeguard the electoral processes, whenever needed.



*Observers outside Ratnapura Election Office*

## Voter registration

According to Article 89 of the Constitution, a person of unsound mind is not eligible to register; nor is a person who has been incarcerated for a period of imprisonment of six months within a seven-year period preceding an election unless pardoned by a court; nor a person who received a death sentence that was transmuted into a six month term of imprisonment within a seven-year period preceding the election.

Following the conclusion of the 2019 Presidential and 2020 Parliamentary Elections, the Government of Sri Lanka took steps to improve the registration of voters. Accordingly, the Registration of Electors (Amendment) Act No. 22 of 2021, makes provision for the Election Commission to register eligible voters attaining the age of 18 years thrice annually. This enabled the Election Commission to act more effectively and proactively in ensuring the enfranchisement of Sri Lankan youth. The Election Commission advised that, given the amendments to legislation, 6,093 new electors were registered on the 2024 electoral register in the first quarter of 2024. The Election Commission is to be commended for its work in ensuring that concrete steps have been taken to ensure that every eligible Sri Lankan has a reasonable chance of participating in this important democratic activity and therefore contributing to the credibility of the election.

These developments, the Group notes, will serve to bolster voter confidence in the system and increase the rate of voter participation in the process. For the 2024 Presidential Election, the Commission reported that it registered 17,140,354 electors out of a population of approximately 22 million people.

The compilation of the electoral register was conducted using online and house-to-house methods. According to the Registration of Electors Act No. 44 of 1980, the exercise commences on the first day of June of any year and concludes on 31 May of the following year. Registration is conducted at the district level by registration officers, who are appointed by the Election Commission. The registration officers dispense registration forms, which must be filled in by the head of the household – who also attests to the ages of the occupants of the house or family members. Following the enumeration exercise, the new register is displayed for four weeks to allow electors to submit claims and objections. The registration officer must certify the register and then give notice in the Gazette and at least one newspaper in each of the three official languages (Sinhala, Tamil and English).

Prior to 2012, the register of electors was certified annually, on or around 31 May. Now, the register is certified between 31 October and 31 December of the same year. The Election Commission – on its website, via gazette notification and mass media – provides information on the timetable for revision of the electoral register.

A Code of Conduct for contesting political parties/independent groups and candidates of the elections is on the Election Commission website. The parties with whom we spoke indicated willingness and attempts to abide by the Code of Conduct. Every election presents challenges, and this is especially so in the rapidly changing environment of technology, artificial intelligence (AI) and social media. The willingness of parties to abide by a Code of Conduct presents a unique opportunity to formalise a process for all stakeholders to make suggestions for improvements, upgrading and implementing of best practices.

### Recommendation:

- The Election Commission is encouraged to put in place a formal process for regular updating of the Code of Conduct.

## Staff recruitment and training

The Commission engages civil servants as expansion staff during the elections. Its criteria include recruiting experienced civil servants who have worked with the Commission in previous elections. The recruited officials included returning officers (ROs), assistant returning officers (AROs), senior presiding officers (SPOs), junior presiding officers (JPOs), certification officers (COs) and chief counting officers (CCOs) from the public service, mainly from the education sector. The Commission trained these officials in readiness for their deployment for postal voting and polling day. In turn, the trained officials trained the staff supporting them in their different roles. The Group observed that all the polling staff performed their functions adequately in line with the statutory mandate and requirements.

### Recommendation:

To ensure that polling staff understand the entire election results value chain, the Group recommends that the Commission develops a comprehensive training manual and conducts training on an ongoing basis to develop a database of well-trained officials in readiness for deployment.

## Registration of political parties

Section 7 of the Parliamentary Elections Act 1 of 1981 prescribes how recognised political parties must be registered with the Commission for the purpose of contesting elections. The Parliamentary Elections Amendment Act 58 of 2009, which modified Section 7, requires the Commission to publish a notice every year before the 31 January calling upon the Secretary of a political party, other than a recognised political party, to apply to be treated as a recognised political party for the purpose of contesting elections.

For the application of recognition of a political party to succeed, the party must satisfy certain criteria, inter alia: that the office bearers including a woman, are present at the credentials' inquiry convened by the Commission, that all required documents have been submitted, and that the Commission is satisfied that the entity is a political party that can contest elections under the Act; and that the party has been engaged in politics for a continuous period of at least the previous four years.

At the beginning of each year, the Commission shall publish a list of recognised political parties. Upon application, the Secretary of the party must submit its Constitution, audited financial statements, a list of office bearers, which must show the presence of women in the leadership structure, and the party's set of governing policies.

By the time of the Presidential Election in September 2024, the Commission had registered 83 political parties.

## Delimitation of boundaries

The Constitution of Sri Lanka establishes the Delimitation Commission. The Delimitation Commission's mandate is to delimit electoral district boundaries, which may be contiguous with the provincial boundaries or sub-divisions (Sections 96(2), 98). The 2024 Presidential Election occurred within 22 electoral districts. The Election Commission established 160 polling divisions and 13,421 polling districts.

Although the Delimitation Commission's determination of the number of representatives for some of the electoral districts had been a source of contention for some electoral stakeholders in the past, the Group did not observe any controversy arising out of the current delimitations during the 2024 Presidential Election.

## Nomination of candidates

Eligibility for nomination as a presidential candidate must satisfy two criteria. First, a would-be candidate must be a citizen of Sri Lanka in terms of Section 26(2) of the Constitution, which provides for citizenship by descent or registration. In addition, Section 81 of the Constitution also states that presidential candidature is subject to the civic disability test. An individual who is a subject of an imposition of civic disability cannot be a candidate.

The second nomination prerequisite is that presidential aspirants must be nominated by an eligible voter or any legally recognised political party. The law also requires prospective candidates' nomination documents to include a deposit of SLRs50,000 (US\$163.29) for political party-sponsored candidates and SLRs75,000 (US\$244.93) for independent candidates. The deposit amount is only refundable if the candidate secures at least one-eighth of the votes cast. Accordingly, the Election Commission announced that the 35 presidential candidates who received votes below this threshold forfeited their deposits. The Group found from the Election Commission that the deadline to pay these deposits was 4 August 2024.

The Group concludes that the Election Commission administered the nomination of candidates strictly following the elaborate procedures and processes outlined in Sections 8–17 of the Presidential Elections Act No. 15 of 1981, regarding presidential candidates' nomination, submission, nomination deposits by candidates, objections and gazettelement.

The number of candidates increased from 35 during the 2019 Presidential Election to 39 in 2024, comprising 22 candidates from recognised political parties, 1 from another political party and 16 independents. One of the 39 candidates died before the elections, reducing the total number of candidates to 38. The Group noted concerns by members of the public that no female candidates were running for the highest office.

The Group was informed by the Commission that the unprecedented number of presidential candidates significantly impacted the ballot paper design and voter education. The Commission maintained the single-column design, but with extended length. Consequently, the Election Commission had to procure large ballot boxes to accommodate the size of the ballot paper. In addition, the Commission had to orientate polling and counting staff to handle the new ballot paper. The increased number of candidates also meant that the Commission intensified voter education to ensure that the voters were not confused by the large number of candidates.

## Recommendation

- To address the glaring female representation deficit in Presidential Elections, the Group recommends promoting gender equality in political parties and removing barriers to women's participation in politics.

## Campaign finance

The Sri Lankan legal framework does not provide public funding for political parties and independent candidates for election campaigns or constituency-related work. The Regulation of Election Expenditure Act No. 3 of 2023 requires that political parties and candidates make complete disclosures of campaign expenditures and private funding and donations. The electoral stakeholders consulted cited a lack of financial resources for most aspiring candidates as a significant impediment to them being able to contest elections. Section 5(1) of the Regulation of Election Expenditure Act No. 3 of 2023, prohibits political parties and candidates from receiving funds from the following:

- a. government departments, a public corporation or a company incorporated under the Companies Act No. 7 of 2007;
- b. a foreign government, an international organisation or a body corporate incorporated or registered outside Sri Lanka;
- c. a company incorporated in Sri Lanka under the Companies Act No. 7 of 2007; or
- d. any individual whose identity is not disclosed, to promote the election of such political party, independent group or candidate.

The Act also provides that the Election Commission fixes an amount that political parties and/or candidates can spend per voter within five days of the close of the nomination process. The calculation comprises 'the amount in Sri Lankan rupees resulting from the multiplication of the total number of registered voters in the electoral districts in the Island, by such amount of Sri Lankan rupees as may be fixed for that election by the Election Commission...', and it takes into consideration the prevailing inflation rate and the National Consumer Price Index of Sri Lanka. The Election Commission set the ceiling at SLRs1,868,298,586.00 (US\$6,101,359), comprising SLRs1,120,979,151.60 (US\$3,660,815) for independent candidates and SLRs747,319,434.40 (US\$2,440,543) for political parties' candidates.

Two main observations concerning the implementation of this Act stood out during the Commonwealth Secretariat's Pre-Election Assessment Mission (PEAM). First, electoral stakeholders expressed concerns regarding the governing party's access to state resources due to the incumbent's comparative advantage. This included the reported increase in public servants' salaries before the election, in violation of the Election Commission's 26 July 2024 directive preventing the direct or indirect use of movable or immovable properties belonging to the state, state corporations or statutory boards during the election for promotion of or in prejudice to any party and candidate. During its deployment throughout the nine provinces during the polls, the Group noted incidents of abuse of state resources that affirmed the PEAM's earlier findings.

Second, the demands of the Regulation of Election Expenditure Act No. 3 of 2023 on the Election Commission posed glaring capacity challenges. Section 6 of the Act requires political parties, independent groups and candidates to submit returns to the Election Commission of all donations and expenses incurred during an election within 21 days. Failure to comply with this requirement may result in the Election Commission imposing penalties. Section 7(1)(b) also requires the Election Commission to publish within ten days in at least one national newspaper in the Sinhala, Tamil and English languages, acknowledging receipt of the returns by political parties and independents.

The Group noted that while introducing the Regulation of Election Expenditure Act No. 3 of 2023 was a progressive development, its implementation depended on several factors. For instance, implementation requires that the Election Commission and other relevant actors, such as the tax authority, establish mechanisms to monitor the flow of funds from the source to the beneficiaries. By the time of the 2024 Presidential Election, the Election Commission did not have the infrastructure, financial or human resources to conduct the monitoring effectively. Cognisant of the preceding Election Commission monitoring limitations, civil society organisations, including the People's Action for Free and Fair Elections (PAFFREL), the Centre for Policy Alternatives (CPA), HASHTAG Generation, and Transparency International Sri Lanka, jointly launched an online platform to monitor campaign expenditures.

## Recommendations

- To enhance regulation of the role of money in politics and elections and promote accountability, the Group recommends reviewing the legislation to ensure that it includes elements of public and private funding of political parties and candidates and reflects the provisions of the Regulation of Election Expenditure Act No.3 of 2023 regarding expenditure ceilings.
- To ensure the Election Commission's efficient and effective implementation of the Expenditure Act in the current form or a revised version of the public funding law, the Group recommends the enhancement of the Election Commission's institutional and operational capacities.

## Procurement of electoral materials

The Election Commission procures electoral goods and services within the centralised procurement framework of the Government of Sri Lanka under the National Procurement Agency. The procurement of materials and services for the 2024 Presidential Election occurred against the background of the Local Government Elections, planned for 2023, and the 2024 Presidential Election a year later. Therefore, the procurement involved purchasing, constructing and maintaining machinery on the one hand and purchasing office supplies and electoral materials on the other. The Election Commission's 2023 *Performance Report* shows that while the former procurement category was ongoing, it had procured enough of the latter (mainly non-sensitive materials) in 2023.

Most electoral stakeholders the Commonwealth Observer Group consulted expressed satisfaction with the Election Commission's capacity to procure the requisite polling materials. The Commission's national office procured almost all the election materials, while the electoral districts procured only selected items from district-level suppliers, ensuring ease of maintenance and repairs where required. In November 2023, the Commission issued the Registration of Suppliers for Supplies and Services for 2024. Ballot boxes, ballot papers, security seals and indelible ink were among the required items.

Except for ballot paper printing, which the Government Printer has the exclusive right to produce, the Election Commission sourced all the other materials, such as the poll cards, postal envelopes, stickers and voting booths, from local private suppliers. The Commission informed the Group that the allocation of printing works for poll cards and stickers depended on the printers' data printing ability.

The Group noted that the National Treasury released election funds on time, making it easy for the Election Commission to procure materials at relatively cheaper prices. The Commission informed the Group that the cost of election materials would likely increase, because fewer suppliers were expressing an interest in supplying election materials due to the late payment to service providers in past elections.

## Logistics and distribution of materials



Observer Aderemi Ajibewa (left) engages the staff manning the online materials tracking system.

The Group noted an elaborate electoral logistics supply chain regarding the flow of election material from the source to the end user, the various stages and actors in the chain, and the process for election materials' storage, issuance and retrieval.

The Election Commission distributed election materials using two channels. The first distributed election materials from storage at the national warehouse to the 22 electoral district warehouses. The second channel involved distributing the bulk of election materials directly from the suppliers, mainly

based in Colombo, to the 22 electoral districts using these private suppliers. In this latter arrangement, the Election Commission and the suppliers administered a materials tracking system, ensuring all materials reached their intended destinations.

The Commission also distributed sensitive and non-sensitive election materials, including postal ballots, from electoral district warehouses to polling stations a day before the 21 September 2024 polling day. The Group observed that the Election Commission complied with all reverse logistics protocols when moving all voting materials from polling stations to the counting centres after the polls closed. It accounted for postal votes in all the counting centres the Group observed.



*The distribution of sensitive and non-sensitive election materials in Jaffna*



*Election Officials at the Colombo District Secretariat preparing for postal voting*

## Postal voting

The Presidential Elections Act No. 15 of 1981, provides for the voting of public servants who cannot vote at their registered polling stations on polling day due to election duty. These public servants include members of the security forces, the police, prison officials, public transport services staff, public servants engaged by the Election Commission as expansion staff for polling and counting, Central Bank of Ceylon employees, and local government workers. The Group noted that the Election Commission received 736,589 special vote applications; it approved 712,321 and rejected 24,268 on the basis that they did not meet the requirements for special voting.



*Postal voting in Colombo*

The Group noted that extending the franchise to these categories left out many citizens who might have been unable to vote on polling day due to travelling across provinces and outside the country for the short or longer term. The Group also noted that while the Election Commission carried out house-to-house voter registration to assist citizens unable to present themselves physically at registration centres, it did not make similar arrangements for the same citizens to vote. The Election Commission informed the Group that it had submitted suggestions for electoral reforms to Parliament in 2023 to address this issue. However, Parliament had been unable to address this request before the election. Specifically, the submission introduced advance voting for essential workers and other voter categories to cast their votes before polling day and mobile polling stations to enable people with disabilities, the elderly and frail voters to vote where they live.

## Recommendation

- To ensure the effective participation of all sectors of society in the electoral process, the Group recommends that the Election Commission, working with relevant statutory bodies, should review and resubmit the electoral reforms to Parliament introducing advance voting and mobile voting stations to enable essential services and infirm voters to vote where they live.

## Outreach and communication

During the consultations with electoral stakeholders, the Group noted that voter education was generally low. The Election Commission mounted voter education initiatives nationwide to inform the public about voting under the preferential electoral system. However, few political organisations or civil society organisations had sufficient programmes, resources or capacity to augment the voter education efforts of the Election Commission. Resources in this respect were inadequate for national coverage.

## Voter education

The Election Commission focuses on voter education. On 1 February each year, it conducts a Voters' Day, under a specific theme. Examples of past themes include: 2013 – 'Vote is Your Right'; 2014 – 'Vote is Your Right, Your Power'; 2015 – 'Sovereignty of the People is meaningless when there is no Universal Franchise'; 2016 – 'Inclusive Electoral Process where no elector is left behind'; and 2017 – 'Vote is Your Right, besides it is your responsibility'. Activities take place in every district to educate voters. As represented on the Election Commission's website, voter education activities, including raising awareness and understanding of the importance of the electoral register, comprise:

- 'Displaying of notices/banners and distribution of leaflets covering all divisional secretariat areas.
- Organising voter education walks, stage and street drama, as well as 'reading out' messages through drum beaters.
- Transmitting messages through digital billboards and screens.
- Art/essay/oratory/ quiz competitions for school children.
- Documentary films.
- Public campaigns through recorded voice cuts/public address systems.
- Affixing stickers on tuk-tuks and private buses used for public transport.
- Advertisements through cable TV and paper advertisements.
- Educating all, including the trainees in technical colleges and youth centres, youth engaged in vocational education, civil organisations/ community-based organisations and media, employees of public and private sectors.'

To increase young people's awareness of the law and involve young people in the democratic process, the Election Commission collaborated with the Ministry of Education in a pilot project from 2017/2020 'to educate students on democracy and universal franchise in selected schools in Kandy and Ampara districts'. The results of this project fed into the current Participatory and Strategic Plan 2022–2025 and was also rolled out in the northern region of Sri Lanka.

International and national obligations in respect of women are acknowledged on the Election Commission's website. The Election Commission acknowledges the legal obligation of 25 per cent representation in local authorities. The website reveals that, at the time of writing, there was 1.9 per cent representation of women. There is currently a push taking place to increase women's representation at the district level. This is being done in conjunction with election observer groups through 'workshops island-wide to educate women on the electoral process, democracy, universal franchise and amendments to the local authorities' election laws'.

There was no evidence on the Commission's website of a focus on educating voters on the rights of persons with disabilities, marginalised groups or the elderly.

## Recommendation

- The Election Commission should initiate programmes to increase awareness of the rights of persons with disabilities and the elderly.

## 4. Participation and Inclusion

The electoral process in Sri Lanka is governed by a framework that aims to facilitate the participation of all citizens in the electoral process, yet various socio-political factors have historically influenced the extent to which this goal has been achieved.

### Historical context

The electoral landscape in Sri Lanka has been shaped by its colonial past, ethnic diversity and civil conflict. The country has a multi-ethnic society, primarily comprising Sinhalese, Tamils and Muslims, each with distinct political aspirations and grievances. The civil war, which lasted from 1983 to 2009, significantly impacted political participation, particularly among the Tamil population, who felt marginalised and disenfranchised. Post-war, there has been a concerted effort to rebuild trust and encourage participation among all ethnic groups, but challenges remain. Ensuring that all ethnic communities feel represented in the electoral process is vital for national unity and social cohesion.

### Legal framework

On the domestic front, Sri Lanka has several legal and institutional frameworks aimed at promoting and protecting the fundamental rights and freedoms of citizens and which formally provide an iterative framework to achieve inclusive elections.

Article 15 of the Sri Lanka Constitution, as referenced in Chapter 3 of this report, imposes restrictions on the fundamental rights enshrined in Articles 12, 13 and 14 and declares that they are each subject to '*such restrictions as may be prescribed by law*'. This is for varying respective reasons, such as, racial or religious harmony, parliamentary privilege, national security, public order, the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. Therefore, given the possible latitude in application of the Sri Lanka Constitution, a rights-based approach by those with legislative authority, robust governance checks and balances, a strong civil society, and a free media are extremely important to enable meaningful electoral participation and inclusion.

The Human Rights Commission of Sri Lanka (HRCSL) is referred to in Article 41B(6e) of the Constitution, but it is not formally established by it. The HRCSL is an independent commission established in 1997 pursuant to the enactment of the Human Rights Commission Act No. 21 of 1996. The functions of the HRCSL are to promote and monitor protection of fundamental rights guaranteed by the Constitution and ensure compliance by the Sri Lankan state with international human rights standards. The HRCSL has a broad mandate as well as powers, *inter alia*, to investigate complaints of fundamental rights violations and grant suitable redress, including compensation. The HRCSL also has unfettered access to inspect and monitor any place where a person is deprived of liberty.

The HRCSL reportedly played a role in fostering participation and inclusion during the 2024 Presidential Election. In August 2024, the HRCSL issued guidelines to government officials and police officers, urging them to respect the fundamental rights of voters, as enshrined in the Constitution. The guidelines gave notice that the HRCSL would closely monitor, '*whether public officials are fulfilling their responsibilities properly to ensure a free and fair election*'. And that, '*where necessary, inquiries and investigations will be carried out, and measures will be taken against officers if they are found to have violated any fundamental right*'.

On 19 September, the HRCSL wrote to the Election Commission on the need to raise awareness of legal procedures relating to preferential votes. In this letter, the HRCSL advocated the development of action plan to combat any misinformation or incitement to violence should there be a second round of counting.

While the timing of the letter was notably very close to the election and might have affected its impact, stakeholders welcomed the guidelines, nevertheless. The voter turnout of 79.46 per cent also lends support that those eligible to vote were sufficiently motivated to participate.

Relatedly, Sri Lanka implemented the 2017–2021 National Human Rights Action Plan (NHRAP), which outlined the country's commitment to human rights and specified actions to be taken to promote inclusivity, including political rights. In its December 2022 Universal Periodic Report to the United Nations Human Rights Council, Sri Lanka reported that an inter-ministerial structure had been formulated to monitor the implementation of the key performance indicators (KPIs). There is no NHRAP for the current period.

The country and its citizens can also rely on existing international treaties to enhance participation and inclusion of all citizens in the democratic process. Some of these international treaties have been previously referenced in Chapter 3, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and the Political Rights (ICCPR). Additionally, in 1980, Sri Lanka ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in 1981, ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

In 2023, the country adopted its first National Action Plan on Women, Peace and Security (WPS) (2023–2027). This adds to the country's legal and policy frameworks to protect and empower women in line with international commitments set out in UN Security Council Resolution 1325 (2000). The National Action Plan aims to provide targeted support for women who have been and continue to be, directly harmed by conflict, violence and climate insecurity; strengthen the security of marginalised women and girls, and support the economic empowerment of women through access to equal opportunities and resources.

When the abovementioned instruments are collectively considered, it can be concluded that Sri Lanka does have formal legal frameworks and mechanisms to enable an inclusive electoral environment. However, particularly in the context of political instability, social unrest and long-held grievances about inequality, the Group is aware that effective implementation of international and domestic mechanisms to foster and enable an inclusive electoral environment often face challenges. In that regard, the Group noted comments from some stakeholders that the Prevention of Terrorism Act (PTA) had been used to infringe on civil liberties; and that in 2023, Sri Lanka's ICCPR Act was used to arrest persons for online religious commentary. Stakeholders also raised concerns about the January 2024 Online Safety Act, which they said could be used to intimidate persons from freely speaking on politically charged issues online. As Sri Lanka charts a more inclusive path for all its citizens, enabling legislative frameworks and practices that meaningfully protect and preserve all freedoms will be in the interest of a more inclusive electoral environment and process.

## Recommendations:

We urge the Government of Sri Lanka to:

- Strengthen independent bodies such as the National Human Rights Commission to enable an inclusive electoral process and to do so in a timely manner. These bodies can assess the participation of various groups and recommend improvements.
- Reform and enable legislative frameworks and practice that protect and preserve all freedoms in the interest of its inclusive democratic society.
- Strengthen peacebuilding and reconciliation architectures to enhance and encourage dialogue with a view to enabling a more inclusive electoral environment.

As previously stated, there are various aspects of Sri Lankan society that impact a participatory and inclusive electoral process and environment. This chapter will hereafter consider the roles of various actors to enable inclusive elections and confront the challenges therein. The following actors will be addressed: civil society organisations (CSOs), women's political participation, youth participation, persons with disabilities (PWDs), other marginalised groups, and persons on remand.

## Civil society organisations (CSOs)

Parliament enacted the Voluntary Social Services Organizations (Registration & Supervision) Act in 1980, which registered non-governmental organisations (NGOs) that receive government grants or which require visas for expatriate staff to be mandatory. This was amended by the Voluntary Social Services Organizations (Registration & Supervision) (Amendment) Act No. 8 of 1998, which permitted government-appointed boards of management for NGOs involved in fraud or misappropriation of funds. This was further supplemented by the Voluntary Social Services Organizations Regulations No. 1 of 1999, which laid down the procedure for boards of inquiry and provided that records of financial accounts, membership, officeholders and minutes be maintained by all NGOs. It further mandated that all NGOs register with the National Secretariat for the Registration of NGOs.

On 30 January 2024, the Director General of the National Secretariat for Non-Government Organizations shared with a collective of civil society organisations a draft law to repeal and replace the Voluntary Social Services Act of 1980 (VSSO) titled the Non-Governmental Organizations (Registration and Supervision) Act. The selected CSOs were reportedly given three weeks to respond. A coalition of Sri Lankan civil society organisations sent a letter on 28 February 2024 to the government, conveying that the proposed law would **'violate the fundamental rights to freedom of association and expression'** and would be deleterious to the services delivered by civil society organisations.

The Group was informed that CSOs were actively involved in delivering voter education programmes with the support of international donors such as the European Union (EU) and the International Foundation for Electoral Systems (IFES).

CSOs raised concerns about misuse of state resources and increased misinformation and disinformation during the campaign period. Organisations such as Hashtag Generation and the Centre for Policy Alternatives actively monitored social media while Transparency International and the People's Action for Free and Fair Elections (PAFFREL) monitored campaign expenditure.



*PAFFREL briefs the COG*

Ahead of the Presidential Election, PAFFREL launched a comprehensive election monitoring campaign that was rolled out in three phases: 1) pre-election monitoring; 2) election-day monitoring; and 3) post-election monitoring.<sup>27</sup> In the pre-election monitoring phase, PAFFREL deployed more than 160 long term observers (LTOs) to cover every polling station in the country.<sup>28</sup> For postal voting, 900 observers were deployed in politically sensitive areas. In addition to this, PAFFREL also deployed to 25 Election Dispute Resolution (EDR) Centres, observers in all 25 districts to cover the EDR processes. For polling day, more than 4,000 election observers were deployed.

The National Peace Council (NPC) is another CSO that is working to support inclusion in Sri Lanka's political space. The NPC was established in 1995 and is an independent and impartial non-government organisation consisting of an inter-religious group of individuals and organisations. The organisation makes a concerted

<sup>27</sup> PAFFREL (2024), *1st Interim Report*, [www.paffrel.com/elections/elections-results-and-reports/media-releases/1st-interim-report](http://www.paffrel.com/elections/elections-results-and-reports/media-releases/1st-interim-report)

<sup>28</sup> *Ibid.*

effort to strengthen public support for negotiated political settlements in situations of high conflict. Its mandate is to support activities of advocacy, research, training, mobilisation and dialogue for peace and conflict transformation.

On 26 August 2024, the NPC put forward a 'Position Paper by Members of Religious and Civil Society and the Academic Community from all parts of the country to Presidential Candidates seeking their Commitment to Resolving Sri Lanka's Ethnic Problem'. The paper was compiled after extensive discussion and consultations conducted over a period of several months. It was presented to the presidential candidates to include in their manifestos, along with the pledge that they would support its implementation regardless of the outcome of the election. The Group was not informed whether the paper received consensus support from political parties.

The Group is agreed that civic space is crucial for effective democratic governance. In open societies, citizens and civil society organisations are able to organise, participate and communicate about their lived experiences, including on how they wish to be governed. In this connection, the Group commends the crucial role played by civil society in Sri Lanka in the long pre-election period and on election day.

## Recommendations:

- The Parliament should ensure a legislative framework for civic space to operate freely in accordance with fundamental rights and freedoms, the Sri Lanka Constitution, and the international laws and norms to which Sri Lanka has subscribed.
- The Election Commission is encouraged to facilitate a standing consultative forum with a broad cross-section of CSOs working across democracy, human rights, good governance and civic engagement – issues that are all critical for an inclusive electoral environment.
- The Government of Sri Lanka is encouraged to enhance peace and reconciliation efforts to ensure minority voices are meaningfully engaged in order to mitigate further violent conflict.

## Women's political participation



*A female junior presiding officer*

In 2023, the country adopted its first National Action Plan on Women, Peace and Security (WPS), for the period 2023–2027. This adds to the country's legal and policy frameworks to protect and empower women. Recalling Sri Lanka's history and progress, the plan states that, '**National participation and empowerment of women is a key step in preventing instability and threats to national security from rendering women vulnerable to violence and harassment.**'

In 2022, women in Sri Lanka constituted 52 per cent of the population and 56 per cent of the voting population.<sup>29</sup> Despite this, and as previously acknowledged in this report, there were no women candidates among the 38 presidential hopefuls in the 2024 elections. In the 2019 Presidential Election, there was one female candidate. Although there

29 Lankapuvath News Agency (2022), 'Women, who make up 52% of Sri Lanka's population and 56% of the electorate, must be networked for their political rights – Dr Sudarshini Fernandopulle', <https://english.lankapuvath.lk/2022/03/25/women-who-make-up-52-of-sri-lankas-population-and-56-of-the-electorate-must-be-networked-for-their-political-rights-dr-sudarshinifernandopulle/>

have been improvements, such as the election of female representatives at the parliamentary level and the adoption of a 25 per cent quota at the local authority level, the overall representation of women in Sri Lanka's political offices remains low.

Political parties have a critical role to play in enabling greater women's political participation. Political parties that engaged with the Group appeared to be highly male-centric institutions and did not articulate robust internal frameworks for gender-sensitive and other inclusive nomination and participatory processes. A review of manifestos and final campaign statements highlighted political party commitments to supporting economic and social security of families, including local farmers, by ensuring the continuous supply of essential goods and to end child-hunger and fuel subsidies. Policies pertaining to enabling women in the country's decision-making processes were not readily evident. In the week leading up to the election, one candidate promised to appoint a woman as Prime Minister, if he were to be elected President.<sup>30</sup>

The Group was informed by stakeholders that women played a critical role in the grassroots political period after the *Aragalaya* crisis and leading up to the holding of the Presidential Election. Some stakeholders said that while women were politically mobilised and gave impetus to what was expected to be a high voter turnout, this phenomenon of their active participation in grassroots campaigns was largely ignored by the media.

Furthermore, Hashtag Generation's August 2024 update drew attention to harmful campaign content targeting women involved in politics and governance intensifying in the lead up to the elections.<sup>31</sup>

The Group noted that women were visible during election day: as voters, party agents, citizen observers and security officials. Women made up a significant number of polling staff. However, we observed that most senior presiding officers (SPOs) were men.

## Recommendations:

- Recalling the 2019 Commonwealth Observer Group Report, the Group reiterates the urgent need for political parties to adopt mechanisms to strengthen women's participation within the decision-making levels of party structures and as candidates.
- The Election Commission and other state authorities should provide gender disaggregated data.
- The Election Commission should consider the establishment of a gender-inclusion working group that brings together representatives of diverse women's rights organisations and networks.

## Youth political participation

The youth demographic in Sri Lanka represents a significant portion of the electorate. Notably, Sri Lanka's *Aragalaya* in 2022 was largely viewed as a youth-driven movement, characterised by social media youth activism and student politics. The Group was informed that at various points, the *Aragalaya* protests had cut across ethnic divides, which have troubled the country for decades, and was able to highlight struggles that were considered peripheral to the majoritarian core.

The Sri Lankan National Youth Services Council (NYSC) is the state-run entity under the purview of the Ministry of Youth and Sports, with a mandate to support youth policies and activities. It was established pursuant to Act No. 69 of 1979 and has offices covering each province as well as each district to serve Sri Lanka's young people. The Group was informed by stakeholders that prior to the 2024 Presidential Election, the National Youth Council was being inappropriately utilised as a vehicle for campaigning by the then-incumbent President, who was convening a number of campaign-style 'Gen Z Dialogues'. We were informed that the Election Commission issued instructions that the use of the NYSC in this way should cease.

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30 President Anura Kumara Disanayake appointed Harini Amarasuriya as Prime Minister.

31 Hashtag Generation, August Update.



*An excited first-time voter*

A youth-based advocacy group, Youth to Lead Sri Lanka, spearheaded a pivotal meeting with the Election Commission. It:

- Requested the Election Commission to intervene and support in introducing a youth quota for other tiers of governance such as the Provincial Councils (PCs) and Parliament. It said that the current composition of elected members of these institutions did not reflect this demographic of the country, which is 25 per cent of the population.
- Advocated for a 'mixed member system', where voters can cast separate votes for both parties and candidates on a single ballot paper. In the group's view, the existing proportional representation (PR) system could unfairly disadvantage new candidates, especially youth candidates, due to their lack of funding and other resources.
- Recommended that the EC re-evaluate the party registration process, taking practicalities into consideration. Despite there being 84 registered parties in Sri Lanka, they claimed that some of those parties were not actively engaged in politics or were limited to a few individuals.
- Recommended establishing an expert committee to monitor, identify and analyse potential loopholes or shortcomings that may arise in the implementation of the newly introduced legislation.
- Emphasised the importance of strictly adhering to qualifications and disqualifications of MPs, as outlined in the Constitution, when granting candidacy for the Parliamentary Election, as well as the qualifications and disqualifications of members of other tiers of governance as specified by their respective laws.

Globally, young people are actively engaged in and driving political social media campaigns – even influencing how political actors and governance institutions interact and message on various social media platforms. This is no different in Sri Lanka, where the Group was informed that young people were digitally mobilised across all economic groups.

The Group was informed that there were 1.5 million new voters, but as the data were not disaggregated by the EC, we have not been able to ascertain precisely how many of these were young persons. In the absence of disaggregated data available from the Election Commission, the specific needs of first-time voters, including youth, remain unaddressed. CSOs such as Hashtag Generation worked in collaboration with the EC to encourage young people and particularly first-time voters to register.

On election day, the Group observed that young people showed up to the polls to exercise their franchise, and that there was a commendable number of youths among the polling staff and working as party agents.

## Recommendations:

- The Election Commission and other state authorities are encouraged to provide age-disaggregated data, to better inform decisions that can enhance a range of electoral processes – including youth inclusion.
- The Election Commission should regularise its engagement with youth constituencies with a view to further encourage their active participation and inclusion in voter education and wider electoral processes.
- The Election Commission should develop a partnership with youth constituencies as it reviews and plans its next cycle of work and strategic objectives.

## Participation of ethnic and religious minorities

Sri Lanka is a multi-ethnic and multi-religious population of 22 million, where ethnicity and religion frequently overlap. The ethnic groups are 75 per cent Sinhalese, who are mostly Buddhist, 11.2 per cent Tamil, who are mostly Hindu, and 9.3 per cent Moors, who are mostly Muslim. Christianity is practised by 7 per cent of the population. Article 9 of the Sri Lanka Constitution gives 'foremost place' to Buddhism and resolves to protect Buddhism while assuring the rights of religious minorities.

This diversity of ethnicity and religion has been a driver of conflict in Sri Lanka. The Group was informed that ethnicity and religion were not at the forefront of the 2024 presidential campaign. Nonetheless, the historical effect of conflicts and disasters have multiple impacts on a civilian population, including their political and socio-economic life. For example, there were some historically internally displaced persons in Northern Province who experienced difficulties in voting. Some Tamils informed the Group that they had travelled long distances to places from which they had been displaced and those who were not able to get transportation organised were not able to vote.

The Presidential Elections (Amendment) Act provides that any registered voter who believes that they would not be able to cast their vote in the area where they are located can apply within one week of nomination to vote at another polling station determined by the Election Commissioner. A final decision is required within a week from the Commission. Such votes are counted along with the votes of the electoral district where such elector is registered. Furthermore, enumerators are appointed to visit houses to compile the names of voters in each household. Electoral registers are updated thrice annually.

## Recommendation:

- The Election Commission is urged to improve voter education and enumeration outreach in marginalised areas, so that internally displaced persons are aware of how they might be able cast their ballot with ease.

Throughout Sri Lanka's post-independence history, smaller parties have represented the interests of the country's ethnic and religious minorities. These parties are important partners for mainstream parties, sometimes even playing the role of 'kingmakers' and deal-clinchers. The 2024 Presidential Election was no different in this respect, with Tamil and Muslim parties playing that strategic role.

Given the diverse Sri Lankan landscape and historical and unresolved ethnic tensions, the importance of a national reconciliation process and the unaddressed legacy of the 1983–2009 civil war cannot be overstated. In this regard, the Group is of the view that CSOs with a focus on peace and reconciliation are vital to encouraging inclusion and participation in democratic processes.

## Recommendation:

- The government and other stakeholders are encouraged to strengthen national efforts for dialogue and to bolster the capacity of domestic mechanisms and CSOs that support peaceful and more inclusive societies.

## Persons with disabilities and other marginalised groups



Tactile frames for the visually impaired

While Sri Lanka ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2016, persons with disabilities (PWDs) in the country still face several challenges in participating fully in the electoral process.

In recognition of these challenges, a Technical Working Group on Disability Inclusive Elections in Sri Lanka (DIESL-TWG) was established in 2017. The mission of the Working Group is to foster collaboration with the Election Commission and relevant stakeholders in a non-partisan manner to ensure that all persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, as per the principles laid out in Article 29 of the UN CRPD.<sup>32</sup> Ahead of the election, and as a result of collaboration with this Working Group, a number of reforms were introduced. These included the introduction of tactile frame (stencil) for the visually impaired voters, use of sign language at polling stations and provision of identification cards for PWDs.

In 2020, following recommendations arising from an accessibility audit, the Election Commission in collaboration with the DIESL-TWG developed a tactile ballot guide.<sup>33</sup> On election day, the Group observed that tactile frames (stencils) for visually impaired were

provided at polling stations. The Election Commission, in partnership with civil society and community leaders, also worked to improve the number of polling stations in accessible locations. In this regard, and as will be discussed further in later chapters, additional improvements are required in this area.

Noting the terrain and location of some polling stations, some PWDs struggled to exercise their franchise with dignity. The Group observed that the location of some polling stations meant that some PWDs were unable to access them without assistance.

### Recommendations:

- The Group urges the Election Commission to enhance its collection of disaggregated data as an aide to inform its selection of polling stations.
- The Election Commission, in collaboration with DIESL-TWG, is encouraged to conduct further accessibility audits of polling stations to ensure full access for all voters with disabilities.
- The Group urges the Election Commission to ensure that election materials, political materials and voter instructions are made available in all accessible formats to persons with disabilities.
- We submitted that the Election Commission must also deploy mobile voting units and temporary subordinate voting sites to increase access for PWDs.

<sup>32</sup> Disability Inclusive Elections in Sri Lanka – Technical Working Group (DIESL-TWG) Terms of Reference.

<sup>33</sup> International Foundation for Electoral Systems (IFES) (2021), 'Making Electoral Processes in Sri Lanka More Inclusive', [www.ifes.org/news/making-electoral-processes-sri-lanka-more-inclusive](http://www.ifes.org/news/making-electoral-processes-sri-lanka-more-inclusive)

## LGBTQI community

In March 2023, Equal Ground Sri Lanka, an organisation working towards ensuring the rights of individuals with diverse gender identities, expressions and sexual orientations, launched the report *A Brief Quantitative Research on Civil and Political Rights of the LGBTQI community Living in Sri Lanka*. The report presented data that many lesbian, gay, bisexual, trans, queer/questioning and intersex (LGBTQI) persons had refrained from voting during the 2020 Parliamentary Elections due to discrimination based on sexual orientation and/or gender identity and past sexual and other forms of abuse of those who were present at the polling station. The Election Commission pledged to enact necessary policy adjustments to safeguard the voting rights of the LGBTQI community in forthcoming elections. Civil society stakeholders informed the Group that the Election Commission, in collaboration with domestic and international civil society groups, conducted several engagements with LGBTQI groups to encourage and enable their participation and inclusion in the Presidential Election.

## Voters on remand

Section 6 of the Presidential Election Act No. 15 of 1981 disqualifies only those convicted of corrupt or illegal practices. Article 89(d)(e) of the Constitution is clear that not all prisoners are disqualified from voting. The said article stipulates that only a person who is **'serving or has during the period of seven years immediately preceding completed serving of a sentence of imprisonment (by whatever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years or is under sentence of death or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of such sentence'** is disqualified to vote. In the event of a free pardon, Article 89 further provides for the disqualification to cease.

In June 2024, a writ petition was filed in the Supreme Court by Sudesh Nandimal Silva, a former prisoner and Head of the Committee for Protecting the Rights of Prisoners (CPRP), who had been unable to vote while jailed due to the absence of a voting process for prisoners on remand. The petitioner advanced that the Election Commission was directly vested with the unfettered authority to issue the requisite guidelines for an effective mechanism to facilitate eligible prisoners on remand custody to vote, and that the Election Commission's failure to adhere to its mandate under Articles 103 and 104B should be deemed as an illegal act requiring judicial review. The petitioner further stated that the absence of a facility for eligible prisoners to cast their votes was in violation of the rights guaranteed by the Constitution.

The petition stated that, according to the Prisons Department data as of May 2024, there were 19,867 remand prisoners in Sri Lanka, accounting for 64 per cent of the total prison population<sup>34</sup>.

On 5 September 2024, the Human Rights Commission convened a meeting with the Election Commission, Department of Prisons and domestic election monitoring organisations to discuss issues pertaining to persons in prisons who were eligible to vote in accordance with the law. The key challenges identified included logistical constraints and ensuring security and the integrity of the voting process within the prison facilities. It was reported that the officials of the Election Commission assured the HRCSL that suitable measures would be taken to protect the prisoner's right to vote and it stated that certain steps had already been taken in that regard. However, the Group was informed by the Election Commission that eligible voters who were in prison on election day did not vote.

## Recommendation:

- The Group urges the Election Commission to develop and issue guidelines that will ensure persons on remand who have not been convicted are able to vote. Prison authorities must collaborate with the Election Commission and other relevant stakeholders to ensure the fundamental right to vote by all eligible persons is respected.

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<sup>34</sup> At the time of publication of this report, the outcome of this petition was still pending.

## Conclusion

Inclusivity in Sri Lankan Presidential Elections is essential to foster a democratic environment where all citizens can participate in governance. Addressing the challenges of ethnic representation, gender equality, youth engagement and the inclusion of marginalised groups is vital for building a more equitable electoral process. It is evident that while there are prevailing strains on participation and inclusivity, the legal framework and other societal actors and norms are commendably activating checks and balances to keep Sri Lanka on a democratic path and preserve participation and inclusivity in the electoral process. Continuous efforts towards electoral reforms, civic education and engagement, will play a significant role to ensure that the voices of all Sri Lankans are heard in the political and related electoral landscape.

# 5. Campaign and the Media

## The Campaign



*Commonwealth observers at a campaign rally*

expression, freedom of peaceful assembly, and freedom of association. More importantly, Section 72 of the Presidential Elections Act No. 15 of 1981 (Amended) & Elections (Special Provisions) Act No. 21 of 2023 regulates campaign activities by making corrupt practices – such as exercising undue influence, bribery, false statements and intimidation – illegal.<sup>35</sup>



*Security Officials enforcing restriction on the display of candidate posters*

that all presidential candidates, political parties and independent groups are to 'refrain from displaying any election campaign notices, posters, photographs or paintings with the objective of promoting the election of a party or an independent group or a candidate during the silent period. This prohibition clearly states that campaign activities must cease 48 hours before the election begins. During this silent period, political parties and candidates must also refrain from organising musical shows or releasing advertisements through print or electronic media. The Group noted that no party or independent candidate signed the EC's Code of Conduct.

On 26 July 2024, the Election Commission of Sri Lanka notified the public that the date for the 2024 Presidential Election would be 21 September 2024. The Commonwealth Observer Group was informed that campaigns commenced immediately after the official announcement of the election date. The Election Commission stated that all campaign activities for the Presidential Election must end by midnight on 18 September 2024.

### Legal framework

The Constitution of the Democratic Socialist Republic of Sri Lanka, Chapter 111 (Fundamental Rights) Article 14, guarantees citizens participation in political activities, including freedom of speech and

It is instructive to note that Section 74(A–D) of the Act contains provisions relating to restrictions on the display of handbills and posters of candidates. All campaigns are legally required to end 48 hours before election day as a 'cooling-off' period. Accordingly, from midnight on 18 September 2024 until election day on 21 September 2024, a 'silent period' was in effect. The Act further stipulates that anyone engaging in campaign activities after midnight on 18 September would be fined SLRs50,000 and/or face imprisonment of no less than one month.

The Election Commission's Code of Conduct for Contesting Political Parties/ Independent Groups and Candidates of the Elections, of 5 January 2018, states

## Campaign rallies and freedom of assembly



*Campaign rally of Samagi Jana Balawegaya (SJB)*



*Campaign rally for National People's Power (NPP)*



*Campaign rally for Sri Lanka Podujana Peramuna (SLPP)*

Presidential candidates used various platforms, such as door-to-door visits, rallies, billboards, posters, musical road shows, and both print and electronic media to advertise their manifestos.

On 18 September 2024, several campaign rallies for the four leading candidates were held. Rallies for Anura Kumara Dissanayake from National People's Power (NPP); Opposition Leader Sajith Premadasa from Samagi Jana Balawegaya (SJB); the incumbent President Ranil Wickremesinghe, running on an independent platform; as well as Namal Rajapaksa from Sri Lanka Podujana Peramuna (SLPP) were observed in Colombo. Three of these rallies were observed by the Group.

The political parties as well as candidates were granted permission by the Election Commission to campaign at the allocated times and venues. The campaign proceeded without intimidation or interference from other political parties. It was conducted in a peaceful and vibrant atmosphere.

The fundamental rights of candidates, political parties and supporters to assemble and campaign were observed. There were many armed security officials present at the campaign rallies to prevent incidents of violence. Their presence was visible but not intimidating.

During the time the Group was at the rallies, there was no apparent violation of the Electoral Code of Conduct, such as distribution of materials like party t-shirts, money or alcohol.

However, stakeholders informed the Group during the briefings that parties did not strictly adhere to the relevant parts of Section 74(A-D) with respect to exerting undue influence, using hate speech and intimidation. There were violations of laws recorded by People's Action for Free and Fair Elections (PAFFREL) from 26 July to 15 September 2024 in terms of pre-election violations and abuse of state power.<sup>36</sup> These violations included but were not limited to: acts of violence and abuse of state power and resources; employees' notable misuse of state property; use of state vehicles for election campaign purposes; appointments, transfer and promotions of state officials in order to influence the election; use

of state officials and security resources for election campaign purposes; carrying out election campaign activities; harassing and inconveniencing the public; and giving incentives to voters.

36 PAFFREL (2024), 'Update to 15 September', [www.paffrel.com/images/violence%20summary%20sheet/2024/Morning%20Eng.pdf](http://www.paffrel.com/images/violence%20summary%20sheet/2024/Morning%20Eng.pdf)

## Campaign finance

For the first time in Sri Lanka, the Regulation of Election Expenditure Act (REEA) No. 3 of 2023 regulated campaign finance during the election.<sup>37</sup> This Act set a regulatory framework for political finance and campaign expenditure and stipulated for the Presidential Elections a campaign limit of 109 Sri Lankan rupees (SLRs) per voter.

Section 4(2) also states that where a candidate incurs expenditure in excess of the limit, they are committing an illegal practice and are liable to penalties imposed under the law. The law also prohibits the acceptance of certain donations or contributions by way of gifts, loans, advances or deposits from government departments/agencies, foreign governments, international organisations or corporate or registered entities outside Sri Lanka.

Although this is a step in the right direction to limit election-related corruption, measures are needed to identify and punish/dissuade electoral offences. The mandate of the Election Commission under Article 104B of the Constitution secures the enforcement of electoral laws, regulates the use of state resources during elections, provides guidelines for print and electronic media on election reporting, and regulates campaign financing/expenditure as per the REEA No. 3 of 2023. The aim is to create a level playing field for all candidates.

The Group was informed of allegations of the misuse of state resources in the lead up to this election by several stakeholders, including political parties and civil society organisations. The Group was also informed of isolated incidents of physical and online intimidation.

The introduction of the campaign finance law has imposed some discipline on candidates and parties. However, it is not a complete deterrent. Base costs and costs for events can easily be manipulated.

## Recommendations

- Parties and candidates must provide a record of the money they receive in donations and money spent, in an audited financial statement.
- Candidates should be required to declare their assets and liabilities.

## Assessment of mood and electoral violence

The mood of this campaign was calm, compliant and anticipatory. There was a sense of quiet excitement as voters' hopes were raised that this election might bring something new to politics and the administration in Sri Lanka. Several stakeholders, from political parties to civil society organisations, said to the Group that there was far less violence and intimidation attached to this campaign than any other campaign in the recent past. This was certainly borne out by the Group's observation of people on the street, and at campaign rallies, both before and after the election.

As indicated above, PAFFREL's monitoring of the pre-election period from 26 July to 17 September recorded no incidents of murder, abductions, attacks with explosives, shootings, or threats and intimidation with firearms. There were more than 60 confirmed incidents of other forms of violence, including assaults and grievous assaults, damage to property (both movable and immovable), intimidation and threats, and attacks on political party or candidate offices.<sup>38</sup> As per PAFFREL's findings, there were also 17 unconfirmed incidents of these latter forms of violence. Our Group did not see any evidence of who the perpetrators or victims were, and this information was not otherwise confirmed by the police. Certainly, the Group observed no intimidation or threat of any kind during our observations.

<sup>37</sup> See: [www.parliament.lk/uploads/acts/gbills/english/6287.pdf](http://www.parliament.lk/uploads/acts/gbills/english/6287.pdf)

<sup>38</sup> PAFFREL (2024), 'Update to 17 September', [www.paffrel.com/images/violence%20summary%20sheet/2024/2024-09-17%2010.00%20AM%20-%20ENGLISH.pdf](http://www.paffrel.com/images/violence%20summary%20sheet/2024/2024-09-17%2010.00%20AM%20-%20ENGLISH.pdf)

This was the case despite the absence of a Code of Conduct being signed between all political parties. It is preferable to have such a code signed by all political parties contesting an election, to maintain peace and good order throughout the election campaign. However, this campaign was not harmed by the lack of one, it seems.

## Issues in the campaign

Major subjects of debate at the citizen level concerned trust in the state, the need for a long-term economic philosophy based on Sri Lanka's circumstances, and the need for effective political leadership in handling foreign relations and domestic politics. In particular, the two dominant issues in the Sri Lankan presidential campaign were the economy and ending widespread corruption. The historical reasons for the prominence of these issues have been addressed in Chapter 2. Calls for system-wide changes had been present for a long time, but the collapse of the Sri Lankan economy in 2022 caused those voices to be raised in a persistent call for reform. In April 2022, the debt-to-gross domestic product (GDP) ratio rose to 120 per cent and the government was forced to default on its international debts for the first time in the country's history. Engagement with the International Monetary Fund (IMF) was pursued too late to avoid real hardship for Sri Lankans.

Power cuts, fuel shortages, as well as shortages of essential medicines and food galvanised public opinion. One consequence of this was that opposition to the government united people across class, religious and ethnic differences, as previously described. As well as political resignations, the people called for constitutional change, including the abolition of the Executive Presidency, greater accountability from political leaders, temporary relief for all citizens, and the recovery of illegally earned resources through corruption.

This backdrop is still being felt in 2024. People are still experiencing real hardship and two years after the popular uprising (*Aragalaya*), they feel that their demands have not been met.

Anura Kumara Dissanayake (of the NPP) consistently promoted policies that were pro-poor and anti-corruption. He claimed to offer a different kind of leadership, promising more generous welfare schemes and the cutting of taxes. His rebranding of his party's past revolutionary image assisted in apparently cementing his popularity among younger people – to whom he represented genuine change.

Sajith Premadasa, of the newly formed Samagi Jana Balawegaya (SJB), promoted policies of equal access to education, healthcare and social services, and the building of a resilient economy. Premadasa said he would complete the constitutional work on the 13th Amendment, which provides the legal framework for devolution of power to the provinces. He was the only candidate to commit to this.

Ranil Wickremesinghe was seen to have made some progress in stabilising the economy and strengthening the Sri Lankan rupee, but not enough to make a real difference to the level of hardship people were experiencing. He stood as an independent candidate in this election, on a platform that the country should continue with the reforms made to date.

The fourth prominent candidate was Namal Rajapaksa of the Sri Lanka Podujana Peramuna party (SLPP). He promised to run the government differently, with greater inclusivity. Key policy platforms included lowering the tax burden, providing food subsidies for low wage earners, and establishing information technology zones to provide young people with career and job opportunities.<sup>39</sup>

The Group was informed by stakeholders that in the past, race, religion and ethnicity had been central to campaigns, but these issues played a minimal part in this election campaign. Policy was paramount in the minds of voters in this election.

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39 Ibid.

## Recommendation:

- The Group recommends that, in order to preserve and maintain an environment conducive to the conduct of credible elections, the Election Commission should encourage political parties contesting elections to consider jointly signing a Code of Conduct, pledging to maintain peace and order throughout any campaign, on election day and in the immediate post-election period.

## The Media

The Constitution of Sri Lanka guarantees freedom of expression and the right of access to information under Articles 14 and 14A. Respect for freedom of expression has been improving in the country over the last decade, and a law on the Right of Access to Information was enacted in 2016.

Sri Lanka has no independent media regulatory body. The state plays a key role as a media owner and as the main regulator. The Sri Lankan Press Council (SLPC) registers and regulates print media and receives public complaints.

More than 100 printed publications, including 20 daily newspapers, are regularly published in Sri Lanka. Four news organisations – the state-owned Associated Newspapers of Ceylon Limited (ANCL/Lake House), Wijeya Newspapers Limited, Upali Newspapers (Pvt) Limited and Ceylon Newspapers (Pvt) Limited – own the majority of the readership share of the publications.<sup>40</sup> The Media Ownership Monitor, which examined the ownership structures of 46 media outlets, including TV and radio stations, discovered that 23 families and individuals can be connected to the ownership of at least 44 media outlets.<sup>41</sup> Stakeholders reported that most major media organisations were owned by influential families having links with politicians, while there were also TV channels that were directly owned by politicians, including a candidate for the 2024 Presidential Election.

According to the Sri Lanka Press Institute (SLPI), there are currently 21 terrestrial TV channels available in Sri Lanka. The SLPI monitored 11 of the most popular channels, finding that Sirasa, ITN, Derana, TV1 and Hiru allocated the most time to election-related news during their prime time. However, most of this coverage focused on the campaigns and statements made by candidates, with less than 10 per cent dedicated to other important topics such as voter education and violations of election rules.

While media freedom, as enshrined in the Constitution, was largely respected, allowing the press to cover campaigns and elections without intimidation, media ownership continues to shape the narrative around elections and key issues. There are no clear regulations or guidelines to govern media ownership and operations, and cross-media licences are granted, allowing media organisations to publish newspapers and run TV channels simultaneously. According to a study conducted by Reporters without Borders, 'fewer than one in five Sri Lankan citizens have access to politically independent media'.<sup>42</sup>

## Broadcasting Authority Bill

The Government of Sri Lanka in 2023 announced its intent to provide a legal framework that is acceptable to all sectors of the media industry, including broadcast media and other media institutions. The country's Cabinet Spokesperson said this legislation would aim to ensure comprehensive regulation of electronic media.

Concerns were expressed by political parties and CSOs that the proposals would be a violation of the right to expression enjoyed by citizens through Article 14 of the Constitution.

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40 Media Ownership Monitor (2024), Print Media (Verite Research, 24 September), <https://sri-lanka.mom-gmr.org/en/media/print/>

41 Ibid.

42 Reporters Without Borders (2024), 'Sri Lanka', RSF, 24 September, <https://rsf.org/en/country/sri-lanka>

The Sri Lanka Telecommunications (Amendment) Bill, the short title of the Bill, was gazetted on 26 April 2024 and placed on the Order Paper in Parliament on 10 May 2024. The Supreme Court heard the matter on 27 and 28 May 2024, after several petitions were filed challenging the constitutionality of the Bill. The Supreme Court ruled that it had the jurisdiction to determine the constitutionality of the Bill and various sections of the Bill, prior to the presentation of amendments to the Bill.

At the time of writing, the Bill had not been enacted.

## Recommendation:

- As the Supreme Court has given a ruling in this matter, the Election Commission should consider meeting with the media and political parties to enable the enactment of this Bill.

## Media coverage of the campaign

Biased media coverage remained a significant concern during the 2024 Presidential Election, with many stakeholders, including major political parties, acknowledging the media's lack of independence and impartiality. Representatives of working journalists also agreed that the media often prioritised financial interests over impartial reporting, giving preferential treatment to certain candidates based on financial ties or political affiliations.

Most TV channels showed overt support for specific candidates. As observed during the 2019 Presidential Election, stakeholders also expressed concerns that the Election Commission lacked the authority to control media coverage and ensure balanced reporting during the coverage of the 2024 election. Various studies and stakeholder opinions indicated that most private TV channels supported the independent candidate Ranil Wickremesinghe. Meanwhile, Hiru was shown to favour Sajith Premadasa and ITN (Wasantham) leaned towards Anura Kumara Disسانayake. A similar trend was noted in newspapers, which allocated more space to Ranil Wickremesinghe, followed by Sajith Premadasa and Anura Kumara Disسانayake in terms of coverage.



Examples of media coverage in the campaign period

An analysis of print and electronic media content during the campaign period supports these claims, indicating that the media is heavily influenced by ownership. Leading newspapers, such as *Ceylon Today* and *Daily FT*, published full-page advertisements on 18 September – the last day of the campaign. One of the full front-page advertisements was an endorsement of Sajith Premadasa, featuring nearly 200 university professors and academics. *The Daily Mirror* also carried two consecutive full front-page advertisements of the incumbent President Ranil Wickremesinghe. This practice is considered unethical by professional journalists, as it deprives readers of their paid-for right to unbiased information.

Journalists and stakeholders expressed the view that while the Election Commission of Sri Lanka (ECSL) has some control over state media, it exercises no authority over private media. The ECSL lacks the necessary mechanisms to monitor private media effectively. Nevertheless, journalists expressed satisfaction with the media guidelines issued by the ECSL, commending the Commission for consulting with editors before finalising these guidelines.

Ahead of election day, the media reported that the ECSL Chair, during a seminar, warned against any violations of the ECSL guidelines. He stated that media outlets found in breach of these guidelines would not receive the official election results and would be prohibited from publishing or broadcasting them. When asked how the EC could prevent them from publishing or broadcasting the results, journalists informed the Group that the EC had obtained their official email addresses and contact details for result releases. Consequently, the EC could enforce this warning by withholding the results. Although journalists might still obtain the results from alternative sources, these indirect routes could cause delays in their reporting, allowing others to break the news first. This situation is critical for TV channels and online media, as they stressed that 'time is money'.

While stakeholders were able to use the right to information to hold the government to account for the misuse of state resources, delays in the provision of information proved to be a challenge. Civil society representatives also raised concerns about a subsequent piece of legislation, the Data Protection Act, which they believe could potentially undermine the provisions of the Right to Information Act (RTI) 2016.

## Election day and post-poll coverage

On polling day, several newspapers published on the front page information on how to cast a preferential vote with the help of graphics. They also published key statistics about the elections, like the number of registered voters and polling stations in each district. The newspapers gave wide coverage to the security arrangements made by the authorities to maintain peace, thus enhancing the confidence of the electorate to come out and cast their vote.

On 22 September 2024, a day after the polling, the newspapers were seen giving equitable coverage to all the main candidates. They also published the photos of the main candidates casting their votes in different polling stations. Notwithstanding the complaints about its role during the campaign period, the Group observed the media to have played a positive role during its coverage of election day and the post-poll phase.

## Recommendations:

*The Group urges the government to:*

- Consult with media stakeholders to come up with a regulatory framework for public and private media's coverage of elections.
- Review and amend existing laws to ensure alignment with international media freedom.
- Strengthen self-regulatory mechanisms for media outlets and enhance transparency in media ownership and funding.
- The Group also encourages Parliament through legislation to consider establishing a media ombudsman to address public complaints.
- Civil society organisations must continue to proactively advocate for media policy reforms, monitor media freedom and report violations.

## Social media

The 2024 Presidential Election saw a continued increase in the use of social media for political campaigning, building from the 2019 Presidential Election. Stakeholders reported that candidates in the election were increasingly abandoning traditional advertising methods in favour of cost-effective social media strategies,

especially following the enactment of the new Regulation of Election Expenditure Act No. 3 of 2023. According to media reports,<sup>43</sup> many of the 38 candidates contesting the election opted not to utilise airtime slots, choosing instead digital channels where they could disseminate information without the financial burden of traditional media expenditures. With approximately 200,000 individuals entering the voting population for the first time and nearly 1 million new voters overall, this election also saw a surge of first-time voters more integrated with social media and technology.

Concerns were expressed about the lack of reporting requirements on the global tech companies. CSOs undertook an initiative to track campaign spending. While the REEA provides that payment for advertisements on social media should be disclosed, advertisements are not the only means of messaging in social media. No limits were placed on expenditure on digital platforms, whether in the form of traditional ads, boosting posts or of negative ads and posts. Failures to clearly label or no labelling of ads on broadcast and print media could impact transparency in expenditure. According to DataReportal, at the start of 2024, there were 12.34 million internet users in Sri Lanka, of which 7.50 million were active on social media platforms.<sup>44</sup> With the increasing use of social media, concerns around misuse of social media platforms, and the spread of mis- and disinformation, were raised by stakeholders from political parties, civil society organisations, journalists, and the ECSL. PAFFREL reported that besides the misuse of state resources, violations of social media use would have the largest impact on the elections.<sup>45</sup>

## Legal framework

The Online Safety Act, a law aimed at regulating social media platforms, was passed by the Sri Lankan Parliament on 24 January 2024, in the face of significant opposition from both domestic and international stakeholders. The Online Safety Act gives an 'Online Safety Commission' a wide range of authority, including the ability to determine what are 'prohibited statements', advise internet service providers to remove such content, and disable access for those who are considered offenders. The Act also establishes an intermediary liability framework for social media platforms. In addition, the Act forbids 'communicating a false statement' that endangers public health, national security or order; fosters animosity and ill will among various social classes; or purposefully disrupts any gathering that is legally conducting religious ceremonies or acts of worship.

Activists, the media and civil society, and the UN Office of the High Commissioner on Human Rights, all criticised the bill as having 'a chilling effect on freedom of expression'.<sup>46</sup> Social media platforms, criticised the move to implement regulation of the internet, stating that 'the Bill provides for a draconian system to stifle dissent and Sri Lankans' rights to expression'.<sup>47</sup>

While stakeholders shared their concerns with the Group regarding the Act, they also noted that the Act had not yet been used against dissenting voices on social media. While none of the candidates in the 2024 Presidential Election pledged to repeal the Act, the two main parties contesting for the election made references to protecting 'freedom of expression', with the SJB proposing to introduce a bill that 'removes the provisions against freedom of expression and allows internet service providers to operate their enterprises without hindrance'.<sup>48</sup> The NPP proposed to amend the Act passed by the Wickremesinghe Government to remove clauses that hinder 'freedom of expression'.<sup>49</sup>

43 Abeynayake, R (2024), 'Polls: Be wary of social media', *Sunday Observer*, 15 September, [www.sundayobserver.lk/2024/09/15/opinion/32921/polls-be-wary-of-social-media/](http://www.sundayobserver.lk/2024/09/15/opinion/32921/polls-be-wary-of-social-media/)

44 See: <https://datareportal.com/reports/digital-2024-sri-lanka>

45 *Sunday Times* (2024), 'Social media giants ignore EC request on illegal content', 22 September, [www.sundaytimes.lk/240922/news/social-media-giants-ignore-ec-request-on-illegal-content-572088.html](http://www.sundaytimes.lk/240922/news/social-media-giants-ignore-ec-request-on-illegal-content-572088.html)

46 See: [www.ohchr.org/en/press-briefing-notes/2023/10/human-rights-concerns-over-two-draft-laws-sri-lanka](http://www.ohchr.org/en/press-briefing-notes/2023/10/human-rights-concerns-over-two-draft-laws-sri-lanka)

47 Eliatamby, N (2024), 'World's Social Media and Tech Giants Slam Sri Lanka's Online Safety Bill as a "Draconian System to Stifle Dissent"', *NewsFirst*, 23 September.

48 SJB Manifesto, p 31, [https://cdn.newsfirst.lk/election/manifesto/Sajith\\_manifesto\\_english.pdf](https://cdn.newsfirst.lk/election/manifesto/Sajith_manifesto_english.pdf)

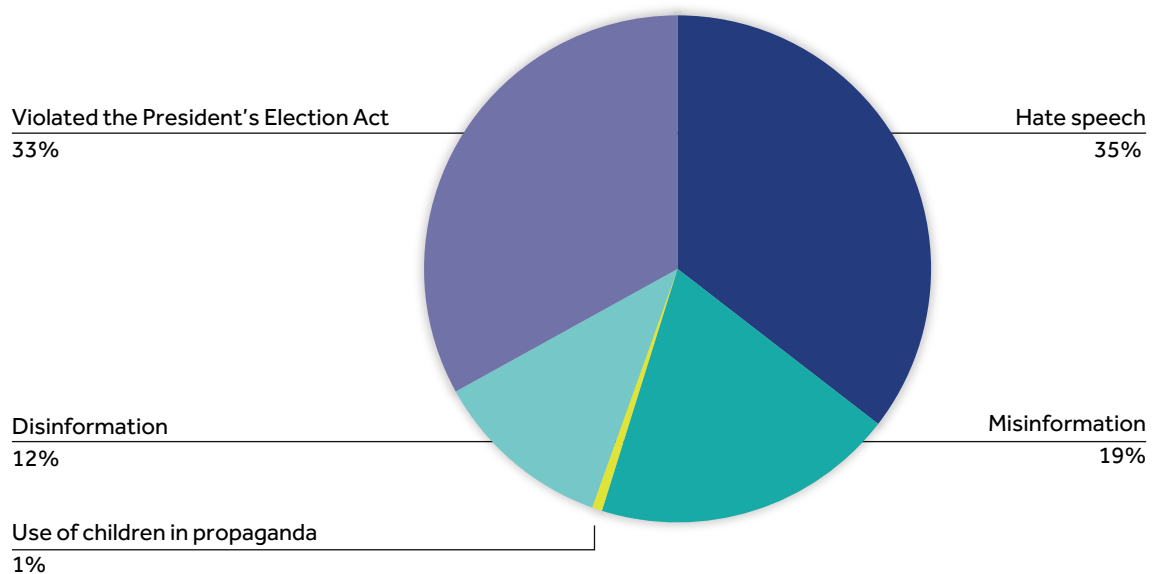
49 NPP Manifesto, p 36, [www.npp.lk/en/policies/npppolicystatement](http://www.npp.lk/en/policies/npppolicystatement)

## Mis- and disinformation

False and misleading information was widely disseminated on social media and messaging apps during the 2024 elections, undermining electoral integrity and public confidence. From when the election was announced, mis- and disinformation increased rapidly, including doctored images and quotes that were meant to mislead voters about the candidates and policies. The Group's observations, as well as reports from fact-checking groups, highlighted how as the elections drew nearer, mis- and disinformation gained popularity over social media platforms, quickly spilling over to messaging applications. These included posts sharing the results of the postal vote, despite the fact that the votes had not yet been counted, misinformation regarding the manifestos of the candidates, as well as misogynistic narratives that targeted women parliamentarians.

The Election Commission sought the support of civil society organisations and formed positive relationships in terms of building coalitions to more effectively fact check, report and take down mis- and disinformation. The Commission's monitoring initiatives, in collaboration with PAFREL and Hashtag Generation, was crucial in reporting and taking down 872 posts that violated election laws in the lead up to the election.

### Breakdown of the 2,010 complaints received by the ECSL on social media posts that violated regulations



Source: *Sunday Times* (2024)

<https://www.sundaytimes.lk/240922/news/social-media-giants-ignore-ec-request-on-illegal-content-572088.html>

However, the Election Commission reported that most of the content that was reported was still awaiting follow-up action from the major platforms just before election day.<sup>50</sup> According to the Commission, despite requests, Meta, YouTube, TikTok and Google had refused to remove 201 posts that violated election laws, while an additional 937 questionable posts were still awaiting follow-up action.

The police also remained vigilant regarding mis/disinformation campaigns. On 16 September 2024, they issued a statement regarding the circulation of old video footage on social media, urging the public to refrain from sharing misleading content and emphasising that legal action would be taken against those that engaged in

50 *Sunday Times* (2024), 'Social media giants ignore EC request on illegal content', 22 September, [www.sundaytimes.lk/240922/news/social-media-giants-ignore-ec-request-on-illegal-content-572088.html](https://www.sundaytimes.lk/240922/news/social-media-giants-ignore-ec-request-on-illegal-content-572088.html)

spreading content that may pose a threat to national security.<sup>51</sup> The videos showed vigilante checkpoints set up by unidentified groups around Bandaranaike International Airport (BIA) on 9 May 2022. The Group notes that key stakeholders were proactive in their efforts to address mis- and disinformation.

## Fact-checking initiatives

Civil society organisations and journalism initiatives were critical in fact checking online narratives. Notably, Fact Check by Verite Research, Hashtag Generation and Fact Crescendo worked to fact check information. However, the proliferation of false information made it very difficult for fact checkers to verify mis- and disinformation.

Meta's CrowdTangle was replaced by Content Library in August 2024 – limiting the tools previously accessible to civil society organisations, watchdog institutions and the media to track disinformation. This could potentially impact the ability of media initiatives and CSOs to address the mis/disinformation landscape and tackle fake news.

## Silent period

As per the Presidential Election Act, campaign activities related to the 2024 Presidential Election ended by midnight, 18 September 2024, marking the beginning of the 48-hour silent period that lasted until election day on September 21.

While the Election Commission and police warned the public about misinformation campaigns being disseminated during the silent period, the police reported having detected an increase in the use of social media to promote candidates during the 48 hours.<sup>52</sup> The Group observed that paid advertisements on online platforms were running during the silent period, including pop-up advertisements of candidates, as well as two exclusive interviews with the incumbent President, which aired during the silent period and was widely shared across social media platforms.

PAFFREL reported that during the 48-hour silent period, 846 violations on social media were reported to the Election Commission in collaboration with Hashtag Generation, in an attempt to have them removed and to initiate legal action.<sup>53</sup>

## Recommendations:

- The government is encouraged to work with the media and civil society to address concerns regarding the Online Safety Act and ensure citizens can freely use social media and other online platforms to exercise their right to free expression.
- Social media companies should enable CSOs to access tools and resources that can effectively address the mis/disinformation landscape and track spending.
- The Election Commission should continue collaborative efforts with civil society organisations to combat mis/disinformation
- International development partners should increase their commitment to capacity building and resourcing for fact-checking initiatives.

51 Newswire (2024), 'Police warn against Misleading Social Media videos', 23 September, [www.newswire.lk/2024/09/17/police-warn-against-misleading-social-media-videos/](http://www.newswire.lk/2024/09/17/police-warn-against-misleading-social-media-videos/)

52 *Ceylon Today* (2024), 'Honour the Silent Period', 23 September, <https://ceylontoday.lk/2024/09/18/honour-the-silent-period/>

53 Warakapitiya, K and I Bandara (2023), 'Silent period image build-up continues on social media, regardless of ban', *Sunday Times*, 24 September, [www.sundaytimes.lk/240922/news/silent-period-image-build-up-continues-on-social-media-regardless-of-ban-571919.html](http://www.sundaytimes.lk/240922/news/silent-period-image-build-up-continues-on-social-media-regardless-of-ban-571919.html)

# 6. Voting, Counting and Results Process

## Background

Political developments in Sri Lanka in the aftermath of the 2019 elections resulted in legal challenges to the electoral framework. Most notably, there was a petition that sought an interim order preventing the Election Commission from holding the 2024 elections until the Supreme Court had interpreted the President's term. On 8 July 2024, Sri Lanka's Supreme Court dismissed the petition, paving the way for the holding of the Presidential Election.

Postal voting is also a feature of the electoral framework. While this is not universally available to all citizens, it is an important dimension ensuring that critical sectors are not disenfranchised and that every vote counts. In Sri Lanka, seven major groups qualify for a postal vote. These are, namely, public sector workers from the following categories:

- i. state officials engaged in election duties;
- ii. staff of the public transport system;
- iii. members of the armed forces;
- iv. members of the police and prisons
- v. members of the civil defence services engaged in duty;
- vi. officers and public servants engaged in essential services, such as telecommunications; and
- vii. candidates.

Under the system, those eligible for postal voting must obtain an application from a designated centre or district elections office. The application requires specific information, such as the polling division name, polling district number, village name, house number, voter's name, serial number from the voters register, place of work, designation, and service class/grade. Once completed and signed, the application is submitted to the postal vote certifying officer, who is required to certify the application and send it to the appropriate district elections office, either by post or in person.

In keeping with Article 30(2) of the Constitution and the Presidential Elections Act No. 15 of 1981, the Election Commission published the Election Order on the 26 July 2024, with the date for nominations fixed for 15 August 2024 and the poll set for 21 September 2024. The EC announced the dates and locations for postal voting in a media release on 29 August 2024.

Postal voting was conducted from 4 to 6 September and 11 to 12 September, with 712,318 electors approved to participate in postal voting of the 736,589 applications received. The Commonwealth Secretariat support staff team observed postal voting in Colombo City on 11 and 12 September 2024. The team observed the Election Commission's efficient administration of the pre-poll arrangements, voting and the closing of polling stations for postal voting, which was in line with the second schedule of the 1981 postal voters' regulations.

After closing the polls, the Election Commission kept the sealed ballot boxes in the offices of returning officers in readiness for counting. The Group observed the counting of postal votes across the country after the polls closed on 21 September 2024. All observer teams expressed satisfaction with the Election Commission's performance during the postal vote counting in their deployment areas.



*Observers on deployment meeting stakeholders on pre-poll arrangements*

For the on-site voting, the Election Commission established 13,421 polling stations across the 160 electoral districts, with polling set to take place between 7:00 am and 4:00 pm. A total of 17,140,354 electors were registered to vote in the 2024 Presidential Election.

## Recommendations

- Postal voting is an advance voting, therefore, to allow for more participation, the Group recommends that the categories of persons eligible to vote by post be reviewed to include non-essential and other workers.

## Pre-polling arrangements

All polling day staff are required to undergo training prior to election day to ensure the effective and efficient management of the polling station. Procedurally, it was the responsibility of the senior presiding officer to ensure that the requisite staff and materials were in place to undertake the conduct of the election. These senior presiding officers worked under the supervision of a returning officer, who was the overall person in charge for a specific district.

The Group observed that the polling staff were present prior to the opening of the polls, to set up polling stations and display the relevant notices for the directions and guidance of the voters.

The pre-poll procedures were meticulously followed at the polling stations observed. The Group observed the checking and accounting for all materials and supplies issued, including ballot papers. During this period, polling staff ensured that ballot boxes were emptied, sealed, locked and placed in full view of all present, including the political party and candidate agents.

## Procedures for accreditation and voting



*The Chairperson of the Observer Group (middle), H.E. Danny Faure arrives to observe the start of the poll.*

Section 30 of the Presidential Elections Act No. 15 of 1981, provides for the start of the poll at 7:00 am of the day appointed under Section 2 and shall close at 4:00 pm of that day. However, election regulation also mandates that the poll closes only after the last person in the queue at the scheduled close of poll has cast their ballot.

Additionally, the legal framework for the conduct of elections outlines clearly the procedures for verification of voters who are to be issued with a poll card and in possession of a valid form of identification. All electors are issued with a National ID Card, but since 2004, voters have been permitted to use any form of identification (ID).

In keeping with well established procedures, the elector is processed by the election workers. This includes identification on the registration list and marking of the voter's finger with indelible ink prior to them being permitted to cast their ballot.

The Group noted that the procedures for accreditation and voting were generally meticulously followed across the country on polling day. The staff at the polling station are to be congratulated for their professionalism in carrying out their election-related duties.

## Assessment of pre-polling arrangements, accreditation and voting

In keeping with Section 30 of the Presidential Elections Act No. 15 of 1981, the procedures for the opening of the polls were fastidiously followed and polling stations were opened promptly. Polling/election officials were present at all polling stations the members of the Group visited and all the election-related sensitive materials were available at every polling station we observed. Officials followed the established procedures efficiently and professionally. With few exceptions, the Group did not observe queues at the polling stations ahead of the opening. Immediately after the opening, there was a steady stream of voters.

All polling stations had a trilingual ballot display and instructions on prohibitions and identification documents. While we were informed by some stakeholders that sign language posters would be put up, in several of the polling stations we visited, there was no evidence of any such posters.

For the most part, the Group observed that PWDs, the elderly and mothers with children were given priority to vote. This was not always the case, however. Notably, in the two districts of Uva, none of the polling stations observed gave the elderly priority. This may have been largely due to the absence of a queue management system in place at these stations.

Polling stations that were inaccessible due to stairs or long inaccessible paths, would have potentially infringed on the rights of disabled voters. Thus, under Article 29 of the UNCPRD, the Election Commission is required to ensure that all its voting procedures, facilities and materials are appropriate, accessible, and easy to understand and use. This requires that the election materials, political materials and voter instructions are made available in all accessible formats to persons with disabilities. There should also be reasonable accommodation for voters with disabilities to vote, by making available arrangements for transport and access to polling stations.

Generally, the process was managed very efficiently by the senior presiding officer and assistants.

## Role of polling staff and polling procedures

Polling stations were staffed by a senior presiding officer and assisted by a staff complement of 7–11 workers. Senior presiding officers are appointed under the specific directions of the Election Commission to conduct the poll in a polling station under Section 25(1) of the Presidential Election Act No. 15 of 1981. The senior presiding officer is assisted by a junior presiding officer and other election day staff. The size of the staff primarily depended on the total number of electors assigned to the polling station. Where numbers were greater than 1,200, polling stations tended to be divided into two queues for expeditious processing.

The Group noted that senior presiding officers were mostly men. We were informed that the decision to use men instead of women was due to the long working hours, which requires sleeping at polling stations the day prior to election day, and that the Election Commission was unable to provide adequate facilities for women during this extended period.

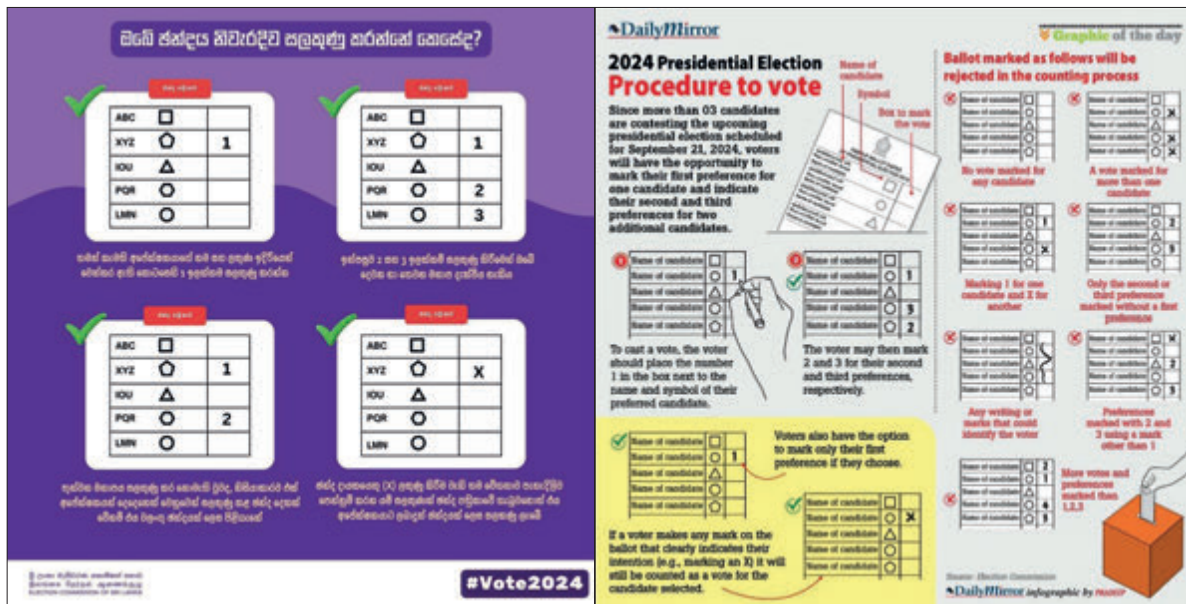


*A voter's little finger marked with the indelible ink*

The Group observed that at 7:00 am, voters were invited to enter the polling station to cast their ballots. Voters were required to present their poll card along with an identification document. It is not mandatory for voters to present their poll card; however, they must present an identification document. The polling staff then verified the identity of the voter, after which another poll staff member verified the voter's information on the voters list and called out the name of the voter in an audible voice to ensure the agents and all present were informed of the name of the voter. The polling staff then placed a mark beside the name of the voter on the voters list. Another polling staff member checked the left little finger of the voter to ensure he/she had not yet voted. Once it was determined the voter had not yet voted, her/his little finger was carefully marked with the indelible ink. Thereafter, the voter proceeded to obtain a ballot paper, which was stamped and issued to the voter. Candidates' names on the ballot paper were listed according to Sinhalese alphabetical order.

The Group observed that after the ballot paper was issued to the voter, the poll card was destroyed and placed in a box. The voter was then directed to proceed behind the polling booth to mark and vote for the candidate of their choice, in order of preference.

The voter was then required to fold ballot paper to conceal the vote prior to placing it in the ballot box. Upon placing the ballot paper in the ballot box, the voter was directed to immediately exit the polling station. The Group observed that this process was meticulously followed until the close of polls at 4:00 pm.



Preferential Voting Procedure. Source: Election Commission of Sri Lanka and Daily Mirror Newspaper

## Recommendation

- Every effort must be made by the Election Commission to ensure that women can function in the role of a senior presiding officer (SPO).

## Selection and layout of polling stations

The selection of polling stations was undertaken in advance of the election to ensure that voters were aware of which polling station they were assigned. Locations were gazetted and communicated to voters prior to polling day as the poll cards indicated each voter's polling station location.

The Election Commission made every effort to organise polling stations in geographically easily accessible locations, primarily in schools and religious sites. However, there were several geographically seemingly 'inaccessible' stations, primarily in the tea growing communities in districts such as Uva, for instance. These isolated rural polling stations, however, served communities that may have otherwise been disenfranchised and the Group observed substantial voting in these communities.

Generally, polling stations were adequately sized given the locations in schools and religious sites. However, many of the schools that were located in the more urban communities as well as in rural areas were not ideal, as the access was often difficult with unpaved, rocky terrain and steep steps. This would have made them problematic for elderly voters and persons with disabilities.

Though the layout of the polling stations was generally good and conformed to what the Election Commission had prescribed, there was a lack of uniformity in this respect. In some cases, the location of the polling booths was near to poll staff and/or so situated that it could potentially compromise the secrecy of the ballot.

Polling stations were equipped with an adequate number of polling booths, which were based on the number of voters who were expected to vote in that polling station. This likely reduced congestion and the potential for bottlenecks and reduced the waiting time for voters. Consequently, it eliminated or minimised voter frustration, which otherwise could have discouraged voters and resulted in reduced confidence in the electoral process. Stations with more than one polling booth allowed for a much quicker process, thereby eliminating long queues.

## Recommendations

- The Election Commission should endeavour to identify buildings and other sites that are more accessible to the elderly and persons with disabilities (PWDs).
- In areas where this is not possible, additional measures to aid PWD voting, such as providing ramps and wheelchairs, may be considered.
- Better training of poll workers is required to ensure that the procedures are uniformly applied.
- To address the challenge of inaccessible polling stations, the Group recommends the Election Commission to consider mobile and temporary polling facilities.

## Ballot papers

The Group noted that due to the large number of candidates contesting the election, the length of the ballot paper exceeded one and a half feet. The Group further observed that the length of the ballot was longer than the voting tables, requiring voters to manoeuvre the paper in the polling booth to properly mark their choice(s). In a few cases, the cardboard polling booths were placed diagonally on the voting table to provide support for easier marking of the ballot. However, the Group noted that as awkward as this may have appeared to be, it did not negatively impact the speed of voting as voters were able to quickly mark their ballots.

## Recommendation

It is recommended that deposit fees for nomination of candidates be substantially increased, as the present fees are extremely low and do not serve as a deterrent to persons without a significant following. Currently, nomination fees stand at SLRs50,000 (US\$165) for candidates nominated by a recognised political party and SLRs75,000 (US\$247.60) for candidates nominated by any other political party or by an elector.

- It is recommended that the number of persons required to nominate a candidate should also be increased.

## Assistance to cast vote

The Group notes that Section 38(2)(a) of the Presidential Elections Act No. 15 of 1981 allows for disabled voters to be accompanied by a person who shall mark the ballot paper of such voter in the manner directed by the voter in the presence of the presiding officer and another member of his polling staff. This can only be done with the recommendation of the *Grama Niladhari*.<sup>54</sup> The Group observed that the senior presiding officer was in possession of a list signed by the *Grama Niladhari* containing the names of such persons who were eligible to vote in the manner prescribed for incapacitated voters.

The Group further observed that notwithstanding the process outlined in the Act for the marking of ballot paper for disabled persons, some voters were clearly not capable of marking their own ballot and required assistance. In such cases, the ballot was marked by the senior presiding officer and witnessed by another polling staff.

It is commendable that the Election Commission recognised the need and provided training for polling staff on communication in sign language to facilitate voting by hearing- and speech-impaired voters. It is also encouraging to note that for the first time, tactile stencil frames were introduced for the benefit of visually disabled voters to mark their ballot secretly and confidentially. However, some polling day staff were not aware that these tactile stencil frames existed.

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54 A public official, also known as the village officer.

## Recommendations

- While the initiative for the issuance of a 'special identity card' to voters who are identified as disabled voters is commendable, additional voter education is required to ensure that PWDs are aware of the process they are required to follow to get assistance.
- With the introduction of the tactile stencil ballots for the first time, more education needs to be carried out to ensure that all polling day staff and visually impaired voters are aware of the existence of these stencils and trained in how to properly use them.
- Though tactile stencil ballots were present, it is recommended that ballot papers are also provided in braille language.
- The Election Commission should recommend to the government to make provision in legislation for voting by persons with disabilities.

## Role of police on polling day and general security

The security forces of Sri Lanka play an integral part in every election in the country, providing protection, crowd control management, security for campaigns, enforcement of election law, addressing any incident of violence and playing a generally supportive role in ensuring credible elections in the country. The 2024 Presidential Election was no exception. The Group was informed by both the Election Commission and senior police that the police force established 45 election monitoring divisions to provide support to the Election Commission's offices.

Given the significance of the 2024 presidential campaign coming on the heels of a popular uprising, and an election in which an unprecedented number of candidates were competing, an impressive deployment of police officers was undertaken across the voting centres, with two officers stationed at each polling station. The Group was told that 60,000 police officers were deployed for the elections. Additionally, thousands of mobile units and rapid response teams were organised. The Group was also informed that this impressive deployment was further augmented by the addition of 10,000 civil defence officers and soldiers, who were deployed to more vulnerable areas.

The Group was told that given that some polling stations would be maintaining separate queues and voting booths for women, special attention was paid to the deployment of women especially for that expressed purpose. The Group was further advised that 8,000 women police were deployed.

Beyond the polling day security provided by the police on polling day, the security apparatus was also responsible for ensuring the safety of the ballots, including protection for the transportation of ballot boxes to the 45 counting centres across the country and providing security to the four counting centres to manage the results of the election.

The Group observed the presence of police officers at every polling station, many of whom were armed and acted with a degree of professionalism that must be commended. The Group observed that they worked in collaboration with electoral officials to ensure an orderly and peaceful atmosphere, both within and in the general surroundings of the polling station. Police officers ensured that at the close of the polls, polling stations were protected while ballot boxes were being sealed and secured; unused ballot papers were accounted for; forms were carefully filled out and packaged in their respective envelopes; and used and unused supplies were carefully secured for return to the returning officers.

The Group was also informed that the security apparatus had a contingency plan in place for any unintended negative consequence arising out of a failure to elect a president after the first round of the count. A curfew was imposed on election day from 10:00 pm to 6:00 am and then extended to 12:00 noon the next day.

## Recommendation

- The security forces must continue to work with each other and co-ordinate plans for elections to strengthen areas where necessary for future elections.



*COG members with the Police following a briefing session*

## Citizen and international observers

Since 1989, citizen and international observers are a regular feature of the electoral landscape of Sri Lanka and the 2024 Presidential Election was no exception. For the 2024 Presidential Election, the Election Commission issued invitations to the European Union and the Commonwealth Secretariat. Local observer organisations were also accredited by the Election Commission and deployed observers across the country. For the 2024 elections, the Election Commission also accredited an International Observer Group (IOG), directly accountable to the Election Commission, comprising observers from the following 12 countries:

- i. Australia
- ii. Bangladesh
- iii. Bhutan
- iv. India
- v. Indonesia
- vi. Malaysia
- vii. Maldives
- viii. Nepal
- ix. Pakistan
- x. Philippines
- xi. Russian Federation
- xii. South Korea



The COG Chairperson (left) H.E. Danny Faure meets the European Union's Chief Observer Nacho Sánchez Amor

International and citizen observers were present at some polling stations. Members of the Group interacted with the People's Action for Free and Fair Elections (PAFFREL), the Center for Monitoring Electoral Violence (CMEV) and the European Union. In some polling stations, representatives of PAFFREL were stationed for the duration of the poll; in others, the Group observed mobile units that were active across the country.

## Communications and outreach strategy of the Election Commission

Outreach and communications enhance the Election Commission's efforts to ensure citizen participation and election integrity. The Group was satisfied that the Election Commission made a valiant effort to ensure that relevant information was communicated at all levels. It strategically communicated with electoral stakeholders, including recognised political parties and candidates, members of the public in their different spaces, the electronic and print media.

The Election Commission prepared and published a set of operating manuals for all polling station staff before polling day. These were distributed to stakeholders and observers. While the communications strategy of the Election Commission proved effective in most areas, for a variety of reasons the Election Commission seemed less effective in relation to voter education on the correct marking of the ballot paper. The Group observed confusion between the Election Commission and political parties' messaging on the correct marking of ballots under the preferential vote electoral system.

The Election Commission communicated the manner of voting in accordance with the Presidential Elections Act, which provides that voters mark their preferred candidate with an X, or by listing their preferred candidates by marking them from 1 for the first preference, 2 for the second preference and 3 for the third preference. The Group was informed that political parties mobilised people to vote for them by marking X on those parties. This was where the confusion arose because, traditionally, voters tended to simply mark the ballot with an X.

The Group also noted that the Election Commission took proactive measures during the count, when it became clear that no candidate would secure the required 50 per cent plus one of the votes to be declared winner at the conclusion of the first count. While the Election Commission was effective in communicating quickly to the election staff that the second count to be commenced immediately, this was not effectively communicated to the public. Communications with the media was a great strategy to inform citizens to remain calm while the second count was ongoing. To mitigate any potential for conflict, the government declared a police curfew from 10:00 pm to 6:00 am in the first instance, with this later extended to noon of the 22 September. However, the announcement of the curfew occurred mere minutes before the onset of the curfew, which was less than satisfactory.

## Recommendation

- While the communication strategy of the Election Commission must be commended, there is need for more education to be done with the media, candidates and political parties, especially around communicating with voters on the importance of the manner of marking their preference on the ballot paper. For future elections, this will be beneficial to candidates, parties and voters in ensuring that the rejected ballot rate is reduced.

## Role of party agents

Political party agents are important to the electoral process. The Presidential Elections Act No. 15 of 1981 allows for parties to appoint a few categories of agents to represent candidates at various stages of the electoral process. Two polling agents for each polling station can be appointed by the election or divisional agent of the candidates. Five counting agents can be appointed for each counting centre.

At the opening of the polls, the Group witnessed that few polling stations lacked party agents present to observe the opening of the poll process. In most instances between two and eight party agents were observed inside the polling stations monitoring the process. We observed that party agents were unobtrusive and co-operated with election workers and security officers. However, few of the political parties and only one independent candidate were represented by agents. These agents tended to be primarily male but, in some, there were more women.

At the counting centres, for both the postal votes and the on-site votes, counting agents were present to observe the counting process.

The Group observed that political agents conducted themselves professionally and were peaceful throughout the voting and counting process.

## Vote-buying, treating and undue influence

The Presidential Elections Act No. 15 of 1981 and Elections (Special Provisions) Act No. 21 of 2023, provide for corrupt practices, including treating, undue influence and bribery. Specifically, Section 77 of the Presidential Elections Act provides that:

'Every person who, corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides or causes to be given or provided, or is accessory to the giving or providing, or pays or engages to pay wholly or in part the expense of giving or providing any meat, drink, refreshment or provision or any money or ticket or other means or device to enable the procuring of any meat, drink, refreshment, or provision, to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at such election or on account of any such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election, and every elector who corruptly accepts or takes any such meat, drink, or refreshment or provision or any such money or ticket or who adopts such other means or device to enable the procuring of such meat, drink, refreshment, or provision shall be guilty of the offence of treating.'

Section 78(1) specifies, among other things, that:

'Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at an election under this Act, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces, or prevails upon any elector either to give or refrain from giving his vote at such election shall be guilty of the offence of undue influence.'

Additionally, Section 79 provides for an exhaustive list of actions that constitute election-related bribery. These include any action designed to induce an elector to vote or refrain from voting, such as promises to provide employment, provision of gifts, loans, procurement, money, valuables and so on.

Notwithstanding these enabling provisions, it appears that the Election Commission is unable to enforce the provisions of the Act. The Group heard from stakeholders that despite the legal framework forbidding vote buying, undue influence and treating, these continue to be features of the election environment. We were told that among other measures, candidates and parties engaged in the following activities:

- providing fishing nets in some communities;
- the government's promise of bonuses for public servants;
- a commitment to increase public servant salaries by SLRs25,000 (US\$82) in 2025;
- providing an increase in the daily wage of estate workers; and
- providing a pay increase for the military.

## Recommendations

- Political parties and candidates must refrain from engaging in vote buying, treating and undue influence strategies.
- The Election Commission should devise a strategic plan to more effectively monitor and enforce existing regulations.

## Voter turnout

On Sunday 22 September 2024, the Election Commission announced the results of the elections, which included both postal and regular on-site voting.

Presidential Elections in Sri Lanka have consistently registered voter turnout between 73 and 83 per cent, with the single exception of 1988 (55.3 per cent). The 2019 election recorded an 83.27 per cent voter turnout.



*Voters wait patiently to exercise their franchise*

The Election Commission announced that the 2024 Presidential Election turnout was 79.46 per cent or 13,619,916 votes cast, with an impressive 97.8 per cent valid votes. This turnout was slightly lower than the

2019 election turnout. There were 300,300 rejected ballots, which constituted 2.2 per cent of the total votes cast, consistent with previous elections from 1982 to 2019, which experienced a 2 per cent rate of rejected ballots.

The Group also heard from political parties that they were advising their supporters to simply mark their ballots in the traditional/customary manner. We note therefore that voters were exposed to conflicting messaging and that this could lead to some confusion and therefore contribute to the marginally higher level of rejected ballots.

## Recommendations

- The Group heard from the Election Commission that the 2024 election, with a record number of candidates, was uncharted territory for the Commission, necessitating greater attention to education of the electorate on the preferential vote system. Nevertheless, the Group notes that the number of rejected ballots can be further reduced through greater attention to voter education.
- The Election Commission should work closely with civil society groups and international organisations on voter education.
- The Election Commission is encouraged to work closely with political parties to ensure consistent messaging to the electorate, which should help in reducing the total number of rejected ballots.

## Procedure for closing the poll

As previously indicated, polling stations were to close at 4:00 pm. The polling stations observed closed promptly. Almost universally, at the polling stations the Group observed there were no electors in line at the close of the poll.

As a part of the closing and counting procedures, the ballots must be reconciled to ensure all are accounted for. This involves checking the number of ballot papers supplied by the returning officer against the number of spoiled ballot papers (if any), the number of unused ballot papers, and the number of electors whose names are marked on the register.

The ballot slot is sealed and the box is further secured with official tape. Party agents are again allowed to attach their seals to the ballot box, which is then placed in a large transparent plastic bag and further secured with a tamper-proof cable tie.

The senior presiding officer completes the ballot paper account form and packages all materials. They are then transported to the counting centre, following instructions from the returning officer.

The Group observed that the closing of the poll procedures were adhered to and presiding officers and staff were efficient.

## Counting and results tabulation

Counting of the ballots is centralised with the count taking place at counting centres, whether for postal or on-site voting, as opposed to individual polling stations. Counting of the ballots commences when 12–16 ballot boxes from the polling stations in a polling division have been received at the counting centre.

The counting of the postal votes commences before the count of votes from the polling stations. Postal vote counting takes place at a separate counting centre or such number of counting centres as may be determined by the returning officer.

The ballot box is unsealed. All ballot papers are emptied onto a table and the empty box is presented for inspection by other counting officials and observers.

The counting process goes through four stages, which were meticulously followed by the counting agents,

- **Counting** – The counting of ballots takes place to confirm that the number of ballot papers used and unused tallies with the recorded number of ballots issued at the polling station, as per the ballot paper account.
- **Sorting and counting** – The ballot papers are separated by poll workers into bundles of 50, with the validity of the ballot paper also determined during the process. Rejected ballot papers are identified and sorted.
- **Counting and recording** – The preferences marked and the total votes for each candidate, as well as the number of rejected ballots, are recorded at the first count. Each stage is applied separately to each ballot box.
- **Second and third preference counting** – Given that the first count did not produce a winner, the second and third preference counting was triggered by the Election Commission headquarters.

The Group observed that the counting stations were largely inadequate and overly packed with officials, whether election workers or party counting agents and observers. These rooms were generally small, airless and hot, unsuitable for the task. The over-crowdedness of the counting centres is a cause of concern. However, both counting officials and counting agents were diligent and focused on the task. They are to be congratulated for undertaking their task in good spirits and with determination.

## Recommendations

- The Election Commission should consider implementing an alternative to the current system of counting centres for the tabulation of the votes. This will eliminate many of the major issues associated with vote tabulation at counting centres.
- The Group therefore strongly recommends counting of votes should take place at the individual polling stations. This will result in more efficient tabulation and reduce the need for the recruitment of thousands of poll workers and security officers, and reduce the financial burden on political parties and independent candidates, who must recruit representatives for both the polling stations and the 1,274 counting centres.

## Assessment of counting and results tabulation

The counting and results tabulation process was transparent and appeared to be well managed. The change of personnel minimised the risk of human error from tired officials who would have been engaged in the preceding voting process.

Concerns regarding the conditions and environment in the counting rooms were expressed by counting and candidate agents. The Group observed that the number of persons in each counting room ranged between 30 to 50.

The Group observed that the counting procedures were followed meticulously, with agents and citizen and international observers afforded a clear view of the process. The Group notes that the count occurred late into the night and late into the next day.

On 22 September 2024, the Election Commission declared the results as follows:

## Presidential Election results

Name Of Candidate	Political Party	Votes	Preferences (Preferential Votes)	Total Votes
Anura Kumara Dissanayake	NPP	5,634,915	105,264	5,740,179
Sajith Premadasa	SJB	4,363,035	167,867	4,530,902

Source: Election Commission of Sri Lanka



Newspaper reports capturing election day and the post-election period

# Annex I. Composition and Biographies of the Group

## Chairperson of the Commonwealth Observer Group

### HE Mr Danny Faure (Seychelles)

Mr Faure was elected the Fourth President of Seychelles on the 16 October 2016. He was the Head of Government and held the ministerial portfolios of defence, public administration and legal affairs. In addition, in February 2020, at the start of the global COVID-19 pandemic, he also held the portfolio of health. Earlier, Mr Danny Faure was Vice-President of the Republic of Seychelles, holding ministerial portfolios for finance and trade, public administration, and information communication technology. As a young man, Danny Faure worked with the Seychelles People's Progressive Front. He became the Chairman of its Youth Wing and was elected as a member of the Central Committee of the Party. In June 2009, he was appointed Secretary General of the party. With the return of multi-party democracy in Seychelles in 1993, Danny Faure was appointed Leader of Government Business of the majority party in the National Assembly, a post he served for five years from 1993 to 1998.

Mr Faure was appointed as Minister of Education on the 28 March 1998. He was instrumental in putting forward the idea of a virtual university for small states of the Commonwealth in the Ministers of Education Forum and the Commonwealth meeting held in Halifax, Canada. He also served on the Board of the Commonwealth of Learning (COL) from 2014 to 2016, with one of his initiatives being the support of COL on the Blue Economy for Small Island States. Danny Faure is presently the Patron and Chairperson of the Danny Faure Foundation, which was launched on 8 June 2021. He is also a member of the Eminent and Distinguished Persons Advisory Panel of the Eastern and Southern African Trade and Development Bank (TDB).

## Observers

### Mr Ian Hughes (Antigua and Barbuda)

Mr Hughes was appointed the Supervisor of Elections of Antigua and Barbuda in September 2023 and managed his first election in October 2023, the St Mary's South Bi-Election. Prior to this, he held the post of Assistant Chief Elections Officer of Antigua and Barbuda, a post he held from 23 March 2004. He is an elections practitioner and is currently responsible for human resources and training at the Antigua and Barbuda Election Commission. His functions include assisting with the management of the electoral and voter registration systems and the conduct of elections. He assisted the supervisor of elections in the management of the 2004, 2009, 2014 and 2018 General Elections and the 2019 Referendum (CCJ). His experience also includes Local Council Government Elections held every two years in Barbuda. He has served as a member of election observer groups in the Caribbean and Central America, sent by the Commonwealth, the Caribbean Community (CARICOM) and CAPEL. Mr Hughes holds a bachelor's in business administration (BBA) degree in management (summa cum laude) and continues to advance his knowledge and professional development in the field of election management through workshops, conferences, study programmes and training by organisations. These include the Commonwealth Secretariat's Junior Election Professionals Initiative, the International Centre for Parliamentary Studies, the International Institute for Democracy and Electoral Assistance (IDEA), Public Administration International (London), and Building Resources in Democracy Governance and Elections (Bridge) – Guyana.

### **Hon. Allyson Maynard-Gibson KC (The Bahamas)**

ZC Allyson Maynard-Gibson KC, a known advocate for the rights of women and children, is a former Attorney-General and Minister of Legal Affairs of The Bahamas. Of the living former Attorneys-General, she is the longest serving. She was the first Minister of Financial Services and is the first woman to take Silk in The Bahamas. Also, she is the first woman from the Caribbean to serve on the Advisory Council of the Club de Madrid and to serve as an Overseas Bencher of the Honourable Society of the Inner Temple.

A firm believer that the rule of law is the foundation of democracy, while she served as Attorney-General and Minister of Legal Affairs, great strides were made in access to justice, especially through the use of technology, focus on people-centred justice, data-based decision-making, and simplification of systems and processes for access to justice. Allyson was a member of the task force that produced, in 2019, the *Justice of All Report*. In 2018, she served as a member of the first People's Tribunal on Economic Crime in South Africa. In 2020, as a member of the task force, she co-authored three briefings on COVID-19 and its fallout: (1) 'Justice for All and the Public Health Emergency'; (2) 'Justice for All and the Economic Crisis'; and (3) 'Justice for All and the Social Contract in Peril'.

Allyson is a frequent speaker, panellist and writer in the international arena on people-centred justice, including speaking to the General Assembly of the United Nations at the invitation of the President of the General Assembly, HE Csaba Kőrösi, and at the Elders' State of Hope High-Level Gathering on Access to Justice for Women. Here, she participated with the Honourable Mary Robinson and Her Excellency Hina Jilani; IDLO; UN Women; the EU; the World Bank; the UN Office on Drugs and Crime (UNODC).

### **Ms Josephine Tamai (Belize)**

Josephine Tamai holds the position of chief elections officer, Belize. She holds a Master's degree in Business Administration with concentration in Management Studies. Under her management, referenda and several elections, including general, municipal, village council and by-elections, have been successfully conducted. Ms Tamai has served as chief and deputy chief of mission on various CARICOM Electoral Observer Missions. Additionally, she has served as an observer on previous Commonwealth Electoral Observer Missions.

### **Ms Sharon Bhagwan-Rolls (Fiji)**

Sharon Bhagwan-Rolls is a second-generation Fiji Island feminist working on the intersection of gender, the media, communications and peacebuilding through her work in mainstream and community media and community organising. She is a co-founder and Programme Manager of the Pacific Women Mediators Network and Gender Liaison for the Global Partnership for the Prevention of Armed Conflict (GPPAC), engaging in regional intergovernmental and multilateral processes on gender, peace and security issues.

As a member of the World Pulse Global Voice Council, she supports women-led innovative media and communications action – particularly in response to the climate crisis and to amplify peacebuilding efforts.

Sharon is a local member of the YWCA of Fiji, a member of the Women's Resilience to Disasters Board and the UN Women Executive Director's Global Civil Society Advisory Group (CSAG). She is a former co-chair of the Global Fund for Women and former Board Chair of GPPAC.

### **Ms Jayna Kothari (India)**

Jayna Kothari is a Senior Advocate, practising in the Supreme Court of India. She is Executive Director, Centre for Law and Policy Research, India. She graduated from University Law College with a bachelor of arts and bachelor of legislative law (BA LLB) and received a bachelor of civil law (BCL) from Oxford University.

As a Senior Advocate, her area of expertise is in the field of constitutional law, gender and sexuality law, disability rights and discrimination law. She has argued in the Indian Supreme Court during the recent constitutional challenges for marriage equality, challenges to Section 377 of the Indian Penal Code which criminalised same sex conduct, and to the offences of adultery. Her book, *The Future of Disability Law in India* was published in 2012 by Oxford University Press.

### **Dr Tres-Ann Kremer (Jamaica)**

Dr Kremer is the Regional Director – Caribbean at the Tony Blair Institute for Global Change (TBI). She is a senior democratic governance and dialogue expert with more than two decades of expertise in high-level multilateral and bilateral relations. Dr Kremer previously served as Chef de Cabinet at the Caribbean Community Secretariat; Director of the University of the West Indies (UWI) Institute of Crime, Justice and Security; Head of the Commonwealth Secretary-General's Good Offices for Peace and Lead Political Adviser for the Caribbean; and International Capacity Building and Accountability Coordinator for the Amnesty International Secretariat. Dr Kremer has significant electoral observation and electoral capacity building expertise across the Commonwealth.

### **Ms Sara Naseem (Maldives)**

Sara Naseem is the former Advocacy and Communications Manager at Transparency International Maldives. She has worked closely on increasing political and electoral participation of women and youth, and promoting open and transparent electoral processes, democracy and good governance. She played a pivotal role in organising nationwide election observations efforts, including leading the citizen observation efforts for the most recent Maldivian Presidential and Parliamentary Elections. She was a member of the National Advisory Committee convened by the Maldivian Elections Commission. Sara has also contributed to international electoral observation efforts, serving as an Electoral Analyst for the Asian Network for Free Elections during the 2022 Philippines National and Local Elections.

### **Hon. Maryan Street MNZM (New Zealand)**

Maryan Street is a former Member of the New Zealand Parliament (MP) for the New Zealand Labour Party. She was a Cabinet Minister in the 2005–08 Coalition Government led by former Prime Minister Helen Clark. She has been, both in Parliament and outside it, active in the field of human rights and good governance, participating in numerous Commonwealth Observer Groups in Africa and South Asia since 2007. She was an MP for nine years between 2005 and 2014.

In 1990, she was awarded the New Zealand 1990 Commemoration Medal for service to New Zealand and in 1993, the New Zealand Suffrage Centennial Medal for service to women.

During her nine years as an MP and Cabinet Minister, her responsibilities included housing, accident compensation, foreign affairs, human rights, overseas aid, higher education and economic development. She has been an academic and an industrial relations practitioner.

### **Ambassador Aderemi Ajibewa, PhD (Nigeria)**

Ambassador Aderemi Ajibewa, PhD, is a seasoned diplomat and academic with more than three decades of experience in international relations and conflict resolution. Currently an Ambassadorial Fellow at National Institute for Policy and Strategic Studies – Kuru, Nigeria, he previously served as Director of Political Affairs at the Economic Community of West African States (ECOWAS) Commission, where he was instrumental in regional peace initiatives. Ajibewa holds a PhD from the University of Lancaster and has taught and conducted research globally, including at institutions in Nigeria, the UK, Austria, Malaysia and the USA. His extensive work includes roles as Senior Research Fellow, Visiting Professor and consultant for organisations like the UN and African Union (AU). Recognised for his contributions, he has authored numerous publications and frequently contributes to international discourse on peace and security.

### **Mr Amir Wasim (Pakistan)**

Amir Wasim is the Bureau Chief of *Daily Dawn*, Islamabad, the country's largest and most credible English newspaper. Having more than 32-year experience of working in leading media organisations, he covers political activities and parliamentary proceedings. He has covered all the seven national elections held in the country since 1993. He headed the Election Cell of The News International in 1997, as well as being in charge of poll coverage in 2013, 2018 and 2024 for *Dawn*. In 2007, he visited the UK to observe the

elections of the National Assembly of Wales under a British Council project. He is also associated in various capacities with the Free and Fair Election Network (FAFEN), a civil society network working to strengthen democracy through observation and oversight of electoral and parliamentary processes.

#### **Professor Cynthia Barrow-Giles (Saint Lucia)**

Saint Lucian-born Cynthia Barrow-Giles is a professor of constitutional governance and politics at the UWI, Cave Hill Campus. She is a former Deputy Dean of the FSS and Head of Department, GSSWP. She has authored, co-authored and co-edited numerous publications on governance in the Caribbean. She has participated in several election monitoring and expert groups in Asia, Africa and the Caribbean; and was a member of the CARICOM High-Level Team to Guyana for the recount of the 2020 vote and served as Team Leader of the CARICOM Observer Mission for the recount of the Guyana 2020 vote. She served on the Saint Lucia CRC from 2005 to 2011 and was Adviser to Barbados's Republican Status Transition Advisory Committee (RSTAC) in 2021.

#### **Professor Mandla Mchunu (South Africa)**

Mandla Mchunu is a former law teacher and Chief Electoral Officer of the South African Independent Electoral Commission. After holding several other senior government positions, he established a consulting outfit, AfriCore Advisory, which specialises in national IDs, voters rolls and related electoral democracy systems. He has undertaken consulting assignments to strengthen electoral democracy in several African countries, including Nigeria, Sierra Leone, Malawi.

As a person who contributed significantly to setting up the infrastructure and machinery for electoral democracy in South Africa, he is widely respected. He remains active and keen on matters related to constitutional democracy. He is a member of the Board of Trustees of Africa Check, and a member of the PricewaterhouseCoopers (PwC) Africa Public Interest Board.

#### **Dr Victor Shale (South Africa)**

Dr Victor Shale has more than 20 years of academic and practical experience in democracy and electoral assistance work in Africa. He holds a PhD in Politics from the University of South Africa and an Master of Philosophy (MPhil) in Conflict Transformation from the University of Port Elizabeth. He is the Principal Consultant at Shalestone Elections and Governance Consultants Pty Ltd. He is widely published in democracy, political parties, traditional institutions, conflict management, peacebuilding and local governance. He led the technical working group that developed the *Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa*. He was the lead author of the Southern African Development Community (SADC) Model Law on Elections and developed a *Youth Participation Guide* in political and electoral processes for the African Governance Architecture (AGA) and Common Market for East and Southern Africa (COMESA).

### **Staff Team**

#### **Lindiwe Maleleka (Staff Team Leader)**

Political Adviser, Electoral Support Section

#### **Sarthak Roy**

Assistant Research Officer, Asia Section

#### **Temitope Kalejaiye**

Public Relations and Engagement Officer, Senior Director GPD

#### **Kugananthan Puvanendran**

ICT Specialist, ICT Division

#### **Emma Beckles**

Programme Officer – Cyber Capability, Rule of Law

#### **Tiffany Chan**

Programme Assistant, Africa Section

#### **Lindsey Adjei**

Programme Assistant, Electoral Support Section

# Annex II. Arrival Statement

**Arrival Statement by  
His Excellency Danny Faure  
Former President of the Republic of Seychelles  
Chairperson of the Commonwealth Observer Group  
Sri Lanka  
16 September 2024**

I am honoured to be here, along with this group of eminent observers, and to have been invited by the Commonwealth Secretary-General, The Rt Hon. Patricia Scotland KC, to lead the Commonwealth Observer Group for Sri Lanka's Presidential Election scheduled for 21 September 2024.

I am honoured for so many reasons, because of the significance of this election to the people of Sri Lanka and its importance to the Commonwealth.

This is the Commonwealth's 200<sup>th</sup> election observation mission since it began election observation in 1980, reaching every corner of member countries in order to fulfil its mandate. What an honour to mark that milestone right here in Colombo.

We are here as part of the Commonwealth's full electoral cycle approach in its engagement with member countries, to help strengthen democratic institutions and processes, and enable citizen participation and representation during elections.

On Saturday, the 21<sup>st</sup>, Sri Lankans will head to the polls, coinciding with the International Day of Peace. This globally shared day is a commitment by all humanity to prioritise peace above all other considerations and work towards building a culture of peace. This is in line with the Commonwealth values as reflected in the Commonwealth Charter, which calls for free and democratic societies and the promotion of peace and prosperity, thereby improving the lives of all people.

As you all know, this year is especially busy for democracy, with a record number of countries holding elections, and more than a billion people eligible to vote, including our dear Sri Lanka. So, as with all elections, this is an important one.

Important to Sri Lanka, and the region, and important to the Commonwealth and the whole world. This election will have a significant impact on citizens' lives – today and in the years to come. That is why we are here – in solidarity with the people of Sri Lanka and its democratic processes.

This eminent Group was deployed by the Commonwealth Secretary-General, following an invitation from Sri Lanka's Election Commission.

Our Group is made up of 14 experts selected from across the Commonwealth. Together as a group, we bring together a diversity of experience, in the fields of elections, law, civil society, politics, human rights and the media – among others.

Our mandate, as set out in the Commonwealth's 'Revised Guidelines' for election observation, is to observe and evaluate the pre-election environment, polling day activities and the post-election period. We will assess whether conditions exist for a credible, transparent and inclusive election, including whether there is a level playing field for candidates; whether public media has been impartial; whether the administration of the electoral process has been transparent; and whether the rule of law has been adhered to.

Following the election, our Group will issue a report. The report will assess whether the election was conducted in accordance with the standards to which Sri Lanka has committed itself, including whether the election was conducted in accordance with Sri Lanka's own laws and regulations, and the degree to which this legal framework aligns with the country's regional and international commitments.

In accordance with the provisions of the Declaration of Principles for International Election Observation, to which the Commonwealth Secretariat is a signatory organisation, the Group has no executive role; its function is not to supervise but to observe the process as a whole and to give recommendations accordingly.

The Group is now assembled in Colombo and over the coming days, we will be meeting several stakeholders, including the Sri Lanka Election Commission, political parties, the police, civil society groups, citizen observer and monitor groups, and the media.

From 19 September, we will deploy our observers in small teams to different provinces, to observe electoral preparations and meet with local stakeholders in their respective locations.

On election day, our Group will observe the opening, voting, closing, counting and the results management processes. We will issue an interim statement on our preliminary findings on 23 September 2024.

On behalf of the Commonwealth Observer Group, I urge all stakeholders to ensure the election is held in a peaceful manner, on Peace Day, and I thank you for allowing us to be a part of this process, as Sri Lankans choose their president next Saturday.

# Annex III. Deployment Plan

TEAM	PROVINCES	CITY
Team 1: H.E. Danny Faure, Mrs Lindiwe Maleleka, Ms Temi Kalejaiye and Mr Larrey Chetty	Western	Colombo
Team 2: Ms Lindsey Adjei and Ms Tiffany Chan	Western	<i>District: Gampaha</i>
Team 3: Dr Remi Ajibewa and Emma Beckles	North Western	
Team 4: Dr Victor Shale and Ms Jayna Kothari	Northern	Jaffna <i>District:</i> Killinochchi Mullaittivu Jaffna
Team 5: Ms Sharon Bhagwan-Rolls and Mr Sarthak Roy	North Central	Anuradhapura
Team 6: Ms Josephine Tamai and Mr Kugan Puvanendran	Eastern	Batticaloa <i>District:</i> Ampara Kalmunai Batticaloa
Team 7: Hon. Maryan Street and Mr Ian Hughes	Southern	Matara <i>District:</i> Galle Hambantota Matara
Team 8: Dr Tres-Ann Kremer and Mr Amir Wasim	Central	Kandy <i>District: Kandy</i>
Team 9: Prof. Cynthia Barrow-Giles and Ms Sara Naseem	Uva	Badulla
Team 10: Hon. Allyson Gibson Maynard and Prof. Mandla Mchunu	Sabaragamuwa	Rathnapura

# Annex IV. Interim Statement

Interim Statement by  
His Excellency Danny Faure  
Former President of the Republic of Seychelles  
Chairperson of the Commonwealth Observer Group  
Sri Lanka  
21 September 2024

The people of Sri Lanka, members of the media, fellow observers, members of the diplomatic corps, Ladies and Gentlemen. Thank you for coming to this Commonwealth Observer Group Press Conference.

The Commonwealth is honoured to be in Sri Lanka to observe the 2024 Presidential Election, which had a record 38 candidates standing for election. Following the Pre-Election Assessment Mission and the subsequent invitation from the Election Commission of Sri Lanka, the Commonwealth Secretary-General, The Rt Hon. Patricia Scotland KC, constituted our Group. This also marks the Commonwealth's 200th election observation since it began observing in 1980.

We arrived on 14 September and will depart on 27 September. As Chair, I am leading a Commonwealth Group of 14 independent and eminent persons drawn from across the Commonwealth. They are experts in law, politics, elections, gender, youth and the media. The Group is independent of the Commonwealth Secretariat.

Our role is to offer an independent, informed and impartial analysis of the electoral process, taking account of all factors which may impinge on the overall credibility and transparency of an election.

Prior to our arrival, members of the staff support team observed postal voting in Colombo on 11 and 12 September. They observed pre-poll arrangements, voting and closing for postal voting.

I now have the privilege to present our preliminary findings, which are based on our engagement with a cross-section of stakeholders, assessment of the pre-election environment, polling day and the count. Our final report with key recommendations will be submitted to the Secretary-General and shared with the Government of the Democratic Socialist Republic of Sri Lanka, Commonwealth governments, as well as other key stakeholders, and to the wider public.

Let me begin with the pre-election environment.



*The Chairperson H.E. Danny Faure delivers the COG's Interim Statement*

## Pre-Election Environment

To understand the pre-election environment, our observers met with a wide range of stakeholders, including the Election Commission of Sri Lanka, the Attorney General, candidates and representatives of political parties and civil society. We also met the Senior Deputy Inspector General of Police, international and citizen observers, the media, fact-checking organisations, and representatives from Commonwealth High Commissions in Colombo.

We commend the Election Commission of Sri Lanka for introducing some key reforms ahead of this election. These include the introduction of tactile frame (stencil) for the visually impaired voters, use of sign language at polling stations and the provision of identification cards for persons with disabilities (PWDs).

Sri Lanka has also strengthened its legislative framework with the introduction of the Regulation of Elections Expenditure Act No. 3 (2023). This is a welcome development; however, stakeholders informed the Group that the Election Commission lacked capacity to enforce this law, and we hope that the Commission will take necessary measures to address this. We note the efforts by some civil society organisations who were actively engaged in monitoring campaign expenditure.

We note that the Election Commission and other stakeholders, including the media and CSOs, have made significant strides in educating and informing citizens during this election cycle, surpassing previous elections. However, we have noted that there is a need for greater voter education, including dedicated educational programmes demonstrating the preferential voting system, which led to confusion about how the system works, and how voters cast their ballots in order of preference.

Media freedom, as enshrined in the Constitution, has largely been respected, allowing the press to cover campaigns and elections without intimidation. Nevertheless, media ownership continues to shape the narrative around elections and key issues. To address this, we recommend the strengthening and enforcement of the Media Code of Conduct, especially in regard to the provision of equitable airtime for all candidates.

As with recent elections, political parties and candidates continued to use social media for their campaigns. However, there were concerns about electoral violations on social media, including misinformation and disinformation. We welcome the Election Commission's partnership with CSOs in addressing some of these concerns. We call on social media companies to work with the Election Commission and the relevant stakeholders to address these issues.

We observed several campaign rallies in Colombo and noted they were conducted in a peaceful atmosphere. The fundamental rights of candidates, political parties and supporters to assemble and campaign were broadly observed.

There were widespread allegations of the misuse of state resources in the lead up to this election. We were also informed of isolated incidents of physical and online intimidation.

On 19 September, our teams were deployed to all nine provinces of Sri Lanka: Central, Eastern, Northern, North Central, North Western, Sabaragamuwa, Southern, Uva and Western.

In these locations, we observed the pre-election preparations. In addition, we also engaged with several stakeholders, including district election officials, political parties, the police, civil society and others, to gain a deeper appreciation of the electoral process.

We observed the deployment of sensitive materials, and the setup of polling stations, counting and results centres.

## Election Day

### Pre-poll and opening of poll procedures

The pre-poll and opening procedures were meticulously followed at the stations observed. Polling stations opened on time and there were few voters on the queues at the start of the poll.

#### Conduct of the polls

Voting proceeded in a peaceful and orderly atmosphere. We observed that some polling stations had separate queues for men and women. Most polling stations were divided into two or more streams, which aided queue management.

In all polling stations visited, a sample of the ballot paper and relevant instructions were clearly displayed. Signage was also visibly displayed outside some polling stations.

The polling officials conducted their duties with professionalism, transparency, diligence and dedication. They were also helpful to voters, especially the elderly and PWDs.

#### Participation and inclusion

We note that there were no female presidential candidates in this election. We also observed that while women served as polling officials at most polling stations, senior presiding officers were mostly male.

We were encouraged by the number of young women and men who turned out to exercise their franchise.

We commend the polling officials for giving priority to the elderly and PWDs. We also note that the tactile frame (stencils) for visually impaired were provided at some polling stations.

In addition, we welcome the efforts of the Election Commission, in partnership with civil society and community leaders, to identify polling stations in accessible locations that would enable PWDs to exercise their franchise with dignity and in accordance with legal provisions. Similar observations also apply to elderly voters. While we commend these efforts, more needs to be done to enhance accessibility for these categories of voters.

### Party agents

Political party and candidates' agents were observed in all polling stations. They conducted themselves professionally and were peaceful throughout the voting process.

### Security

We observed the presence of police in all polling stations, and they were professional. In some cases, they worked in collaboration with electoral officials to ensure an orderly and peaceful atmosphere.

### Secrecy of the ballot

Most polling stations were located at schools and buildings within religious sites. There was a lack of uniformity in the polling station layout, resulting in some polling stations compromising secrecy of the ballot.

### Citizen and international observers

International and citizen observers were present at some polling stations. Our observers interacted with People's Action for Free and Fair Elections (PAFFREL), the Center for Monitoring Electoral Violence (CMEV) and the European Union.

## Close and count

At the close of polls at 4:00 pm, most polling stations we observed had no queues. We observed that polls closed on time and once again the election officials managed the process meticulously and with dedication. Our observers followed the results process from polling stations to counting centres. I visited the Royal College counting centre, where postal votes for Colombo district were also being counted. I also visited the national results centre at the Election Commission Secretariat.

Our observations of the counting process suggest that voters did not fully understand the preferential system of voting. Most ballots indicated a single preference or the use of mixed symbols. In addition, the counting staff did not appear to be fully conversant with the process. More needs to be done in building the knowledge and understanding of the preferential voting system in the electorate throughout the electoral cycle.

We will provide recommendations on how the processes might be further improved in our final report.

## Conclusion and Post-Election Period

It is our view that this election was credible and transparent.

I commend the people of Sri Lanka for turning out in their numbers in a peaceful and orderly manner on what was also International Peace Day. We hope that this peaceful environment will continue in the post-election phase.

Lastly, I extend my warm congratulations to the President and the people of Sri Lanka.

Thank you.

*Issued on 23 September 2024*

*Colombo*

# Annex V: Sri Lanka Recommendation Tracker

## Sri Lanka COG 2024

Status of 2019 COG Recommendations as at September 2024.

The 2019 COG Report is available [here](#)

### Summary:

- **Total Recommendations** 21
- Fully Implemented 4
- Mostly Implemented 7
- Partially Implemented 4
- Not Implemented 5
- Not Yet Determined or N/A 1

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
<b>Electoral Framework and Electoral Administration</b>				
1	Review the statutory and regulatory framework establishing the Election Commission, with a view to strengthening its independence and enhancing its capacity to fully exercise its mandate.	The 20th Amendment to the Constitution passed in 2020.	Not implemented	The President appoints the members of the Commission including the Chairperson after obtaining the observations of the Parliamentary Council. The structural independence of the Commission has been impacted by successive constitutional amendments including the 20th Amendment to the Constitution.
2	Strengthen its strategic communication policy with key stakeholders, and streamline the management of information before, during and after the elections.	The Election Commission strategically communicated with electoral stakeholders, including recognised political parties and candidates, members of the public in their different spaces, the electronic and print media.	Mostly implemented	The communication strategy of the Election Commission proved effective in most areas.
3	Sri Lanka's presidential electoral system uses a single-round preferential voting system, in which voters can express a single or a maximum of three preferences on a ballot. In a significant number of cases observed, voters did not indicate second and third preferences, pointing to the need for greater voter education.	The Group observed confusion between the Election Commission and political parties' messaging on the correct marking of ballots under the preferential vote electoral system.	Not implemented	While the communication strategy of the Election Commission proved effective in most areas, for a variety of reasons the Election Commission seemed less effective in relation to voter education on the correct marking of the ballot paper.

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
4	Continue the good practice of conducting post-election reviews, including with national and international stakeholders	The Electoral Commission is expected to continue conducting post-election reviews.	N/A	Not yet assessed. In some instances Election Management Bodies conduct post-election reviews long after the observer reports have been published.
5	Parliament- Review and amend the legal framework to allow for a continuous review and update of the voters' register, in order to prevent the possible disenfranchisement of all eligible citizens of Sri Lanka and to maintain the accuracy and integrity of the register.	The Registration of Electors (Amendment) Act No.22 of 2021	Fully implemented	Following the 2019 Presidential and 2020 Parliamentary elections, the Government of Sri Lanka took steps to improve the registration of voters. Accordingly, the Registration of Electors (Amendment) Act No.22 of 2021 makes provision for the Election Commission to register eligible voters attaining the age of 18 years thrice annually. This enabled the Election Commission to act more effectively and proactively in ensuring the enfranchisement of Sri Lankan youth.

**Participation and Inclusion**

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
6	Sri Lanka has already made significant progress by introducing a 25 per cent quota at the local government level. We echo the recommendation of the 2015 Commonwealth Observer Group by encouraging Parliament, in consultation with political parties, women's groups and all relevant stakeholders, to consider the use of affirmative legal measures to ensure increased participation and representation of women in politics at the national level.		Not implemented	There were no women candidates among the 38 Presidential hopefuls in the 2024 elections.
7	We urge political parties to consider appropriate mechanisms to strengthen women's participation within the decision-making levels of party structures, and as candidates.		Not implemented	The Group reiterates the urgent need for political parties to adopt mechanisms to strengthen women's participation within the decision-making levels of party structures and as candidates.

No.	2019 Recommendation	Type of Recommendation	Status of Implementation	Comments
8	We urge women's groups, community leaders, civil society, political parties, the judiciary and the entire criminal justice system, to work together to promote and protect the rights of women.	National Action Plan on Women, Peace and Security (WPS), for the period 2023 – 2027	Mostly implemented	In 2023, the country adopted its first National Action Plan on Women, Peace and Security (WPS), for the period 2023 – 2027. This adds to the country's legal and policy frameworks to protect and empower women.
9	The Election Commission, and political, community and religious leaders must continue to champion and safeguard the right of CSOs to operate freely during the election period, including granting them access as citizen observers.	On 30 January 2024, the Director General of the National Secretariat for Non-Government Organizations shared with a collective of civil society organizations a draft law to repeal and replace the Voluntary Social Services Act of 1980 (VSSO) titled Non-Governmental Organizations (Registration and Supervision) Act.	Partially implemented	
10	The Group encourages greater collaboration between CSOs and the Election Commission on voter education, to ensure an even wider reach across the country.		Partially implemented	During the consultations with electoral stakeholders, the Group noted that voter education was low overall.

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
11	The Group encourages CSOs to continue to occupy the space for advocacy on issues that enhance inclusive, peaceful and credible elections in Sri Lanka.	On 26 August 2024, the National Peace Council put forward a 'Position Paper by Members of Religious and Civil Society and the Academic Community from all parts of the country to Presidential Candidates seeking their Commitment to Resolving Sri Lanka's Ethnic Problem'.	Mostly implemented	The paper was presented to the presidential candidates to include in their manifestos along with the pledge that they will support its implementation regardless of the outcome of the election.
12	The Group urges greater co-ordination among CSOs at the district level.		Mostly implemented	The Election Commission is encouraged to facilitate a standing consultative forum with a broad cross-section of CSOs working across democracy, human rights, good governance, and civic engagement – issues that are all critical for an inclusive electoral environment.
13	We urge all citizens and political and community leaders to prioritise social cohesion and unity, and to demonstrate the values of respect and tolerance in political life.	Sri Lanka implemented the 2017-2021 National Human Rights Action Plan (NHRAP) which outlined the country's commitment to human rights and specified actions to be taken to promote inclusivity, including political rights.	Mostly implemented	The COG has recommended the strengthening of peacebuilding and reconciliation architectures to enhance and encourage dialogue with a view to enabling a more inclusive electoral environment.

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<b>Electoral Campaign and Media</b>				
14	Legislation should be introduced to regulate campaign finance, including the adoption of regulatory mechanisms to ensure transparency and accountability.	The Regulation of Election Expenditure Act No. 3 of 2023	Fully implemented	The Act requires that political parties and candidates make complete disclosures of campaign expenditures and private funding and donations. The Act also provides that the Election Commission fixes an amount that political parties and or candidates can spend per voter within five days after the nomination process.
15	That relevant prohibitions on the 'use of state resources' in the Code of Conduct for Contesting Political Parties/Independent Groups and Candidates of the Elections should be enforced. A more robust legal framework regulating use of state resources should be established.		Not implemented	The Group was informed of allegations of the misuse of state resources in the lead up to this election by several stakeholders.
16	Candidates and parties should be encouraged to disseminate campaign messages in a manner that not only reaches, but also respects, all communities.		Mostly implemented	The Group was informed by stakeholders that in the past race, religion and ethnicity had been central to the campaign, but they were minimal in this election campaign.

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
17	<p>The Group urges the establishment of a professional oversight body for electronic media regulation, as well as an independent broadcasting regulator, which would remove the onerous task of media regulation during elections from the Election Commission.</p>	<p>The Sri Lanka Telecommunications (Amendment) Bill, the short title of the Bill, was Gazetted on 26th April 2024 and placed on the Order Paper in Parliament on 10th May 2024.</p> <p>The Online Safety Act, a legislation aimed at regulating social media platforms, was passed by the Sri Lankan parliament on January 24, 2024.</p>	<p>Partially implemented</p>	<p>The Government in 2023 announced its intent to provide a legal framework that is acceptable to all sectors of the media industry including broadcast media and other media institutions. The country's Cabinet Spokesperson said this legislation aims to ensure comprehensive regulation of electronic media. Several petitions were filed challenging the constitutionality of the Bill. The Supreme Court ruled that it has the jurisdiction to determine the constitutionality of the Bill and various sections of the Bill, prior to the presentation of amendments to the Bill.</p> <p>The passing of the Online Safety Act 2024 received opposition from both domestic and international stakeholders.</p>

No.	2019 Recommendation	Type of Recommendation	Status of Implementation	Comments
18	We encourage development partners engaged in Sri Lanka to support CSOs to undertake fact-checking initiatives, in order to counter the impact of misinformation and disinformation online.	Legal/Regulatory Policy Administrative/Technical Political	<p data-bbox="284 981 443 1070"> <span style="color: green;">■</span> Fully  <span style="color: yellow;">■</span> Mostly  <span style="color: orange;">■</span> Partially  <span style="color: red;">■</span> Not Implemented  <span style="color: gray;">■</span> Not Yet Determined or N/A         </p> <p data-bbox="467 846 499 1070">Fully implemented</p>	The Election Commission sought the support of civil society organisations and formed positive relationships in terms of building coalitions to more effectively fact check, report and take down mis- and disinformation. The Commission's monitoring initiatives in collaboration with PAFREL and Hashtag Generation was crucial in reporting and taking down 872 posts that violated election laws in the lead up to the election for violating electoral laws.
<b>Voting, Counting and Results</b>				
19	Review the layout of the placement of the voting screens to ensure that the secrecy of the vote is not compromised, as recommended by the 2015 Commonwealth Observer Group		Mostly implemented	Though the layout of the polling stations was generally good and conformed to what the Election Commission had prescribed, there was a lack of uniformity in the polling station layout. In some cases, the location of the polling booths was in close proximity to the poll staff and or so situated that it could potentially compromise the secrecy of the ballot.

No.	2019 Recommendation	Type of Recommendation Legal/Regulatory Policy Administrative/Technical Political	Status of Implementation Fully Mostly Partially Not Implemented Not Yet Determined or N/A	Comments
20	Review the location and selection of polling stations to better facilitate the physical access of persons with disabilities, the elderly and the infirm.		Partially implemented	Generally polling stations were adequately sized given the locations in schools and religious sites. However, many of the schools which were located in the more urban communities as well as in rural areas were not ideal as the access was often difficult with unpaved, rocky terrain and steep steps which would have made it problematic for the elderly voters and persons with disabilities.
21	Review the appropriateness of the location of polling stations in buildings designated for religious purposes.		Fully implemented	The Election Commission consulted with community leaders to identify suitable polling station locations.



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