

# Sri Lanka Parliamentary Elections

17 August 2015



The Commonwealth



**Commonwealth Observer Group**  
**Sri Lanka Parliamentary Elections**  
**17 August 2015**

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## The Commonwealth

### Commonwealth Observer Group

### Sri Lanka Parliamentary Elections

17 August 2015

21 August 2015

Dear Secretary-General

As Chairperson of the Commonwealth Observer Group to the nationwide Parliamentary Elections in Sri Lanka on 17 August 2015, I am pleased to submit to you with this letter my Observer Group's Final Report, after observing the completion of the electoral process.

The Group's remit was to assess whether the elections were in compliance with the standards for democratic elections to which Sri Lanka has committed itself, primarily in its own Constitution and related legislation but also according to international standards to which it is signatory.

These elections follow a closely contested Presidential Election on 8 January 2015, which the Commonwealth observed and which, significantly for Sri Lanka, saw a change of President. We had expected that these Parliamentary Elections, coming so soon after another major election, would suffer from some fatigue on the part of the electors, but the turnout was considered relatively high.

It has to be premised that any electoral system must be assessed in the light of the political evolution of the country concerned. Features that may be found in the context of one system may accordingly not be justified in the context of another. The chosen system must, however, provide the basic conditions for the free expression of the will of the people in the choice of their legislature, the principle of equality of treatment of all citizens in the exercise of their right to vote and the right to stand for election.

The role of certain stakeholders particularly stood out to the Group. The Commissioner of Elections and his Office are one of these, having maintained high standards of fairness, for which they enjoy commensurate levels of trust. The Police, in enforcing the election laws and maintaining law and order played a pivotal role in ensuring a peaceful electoral process. Citizen observer groups must also be commended for their impressive island-wide monitoring and reporting, which undoubtedly contributed to the transparency of this election.

In the light of these considerations, our overall assessment is that these 2015 Parliamentary elections fulfilled the key benchmarks for a democratic election and that the electoral process was on the whole transparent, peaceful and credible.

However, there are improvements that can still be made. These include women's participation in politics, where measures to ensure representation should be considered. The Group also considered the restrictions on campaigning methods and the lack of legislation on campaign finance and spending respectively. Furthermore, though the levels of serious violence dropped significantly in comparison to that witnessed in previous elections, it is the view of the Group that a zero-tolerance policy towards electoral violence should be adopted and promoted by political parties.

This election highlighted the need for a revised and consolidated Constitution, and a review of the electoral system. Sri Lanka will need to decide on the future of its constitutional structure and consider what effects a hybrid governance system has.

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.

As we now depart to our respective countries, on behalf of my Group and myself, I would like to thank you for the opportunity to be of service to the Commonwealth. I would also like to give my special thanks to the Secretariat team who supported the Group and myself in an impeccable and professional manner.

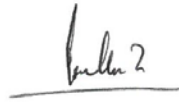
Yours sincerely




Dr George Abela  
Chairperson



Professor Aishah Bidin



Navin Chawla



Paul Dacey



Linda Duffield



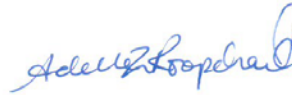
Bushra Gohar



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Zikirullahi Ibrahim



Adelle Roopchand

# Chapter 1

## Introduction

Following an invitation from the Commissioner of Elections of Sri Lanka, the Commonwealth Secretary-General, Mr Kamallesh Sharma, constituted an Observer Group for the 17 August 2015 Parliamentary Elections in Sri Lanka.

The Group was led by Dr George Abela, President Emeritus of Malta, and comprised eight eminent persons from around the Commonwealth. A full list of members is at Annex 1.

A five-member staff team from the Commonwealth Secretariat supported the Group during their time in Sri Lanka.

### Terms of Reference

The Terms of Reference for the Group were as follows:

*"The Group is established by the Commonwealth Secretary-General at the invitation of the Commissioner of Elections of Sri Lanka. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.*

*It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth 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 its report to the Commonwealth Secretary-General, who will forward it to the Government of Sri Lanka, the Commissioner of Elections, political parties taking part in the elections and thereafter to all Commonwealth Governments."*

### Activities

Two advance Commonwealth Observers arrived in Sri Lanka on 2 and 3 August 2015 respectively. These advance observers made visits to the Southern province, Eastern province and parts of the Western province respectively, where they met local officials, domestic and other international observers and witnessed campaign activities such as 'pocket' (small) meetings and campaign rallies.

The full Commonwealth Observer Group ('the Group') arrived in Sri Lanka on 10 August and issued an official Arrival Statement on 12 August (Annex 2).

Following their arrival, the Group met with key stakeholders in the election process. These included the President of The Democratic Socialist Republic of Sri Lanka, Commissioner of Elections, representatives of the major political alliances and parties, the police, citizen observer groups, civil society, legal experts, media practitioners and monitors, the United Nations Resident Coordinator, Commonwealth High Commissioners and other international observers. The Group maintained contact with these stakeholders throughout their stay in Sri Lanka. The Chairperson of the Group observed the final campaign rallies of the main contesting alliances in this election.

From 14 to 19 August four two-person teams were deployed to the Northern, North Western, North Central and Central provinces respectively. To enhance their understanding of provincial contexts, and in assessing the pre-electoral environment, Observers met with election officials, police representatives, political parties, citizen and international observers and voters in their deployment locations. A fifth team, which included the Chairperson of the Group, remained in Colombo.

In their respective deployment locations, the Group observed preparations for polling day and the set up of polling stations. On election day, they observed the opening of polls, voting, the closing of polls and the counting process at counting centres. Subsequent to election day, teams remained in the provinces to observe the post-election environment.

On the basis of the Group's initial findings and observations, the Chairperson issued an Interim statement on 19 August 2015 (Annex 3).

The Group's Final Report was completed prior to their departure on 23 August 2015 and thereafter was given to the Commonwealth Secretary-General for onward transmission.

## Chapter 2

### Political Background

On 17 August 2015 Sri Lanka held nationwide Parliamentary elections, just under eight months ahead of schedule. The previous parliament was elected in April 2010 for a six-year term, in line with the 18<sup>th</sup> Amendment to the Constitution. This provision has since been repealed by the 19<sup>th</sup> Amendment to the Constitution, which reduced parliament's tenure to five years.

These elections followed a closely contested Presidential election held on 8 January 2015, which saw a change of President, the formation of a minority-led national government and a change in the leadership of the political party and political alliance with the largest number of seats in Parliament.

#### The 2015 Presidential Election

In 2010, then President Rajapaksa's government enacted the 18<sup>th</sup> Amendment to the Constitution, which removed presidential term limits. Subsequently, in late 2014, then President Mahinda Rajapaksa, leader of the United Peoples Freedom Alliance (UPFA) and the Sri Lanka Freedom Party (SLFP), announced that he would seek a third term in office by means of an early election.

The main opposition party in the country, the United National Party (UNP), and other smaller opposition parties came together to field a 'Common Opposition Candidate' to stand against Mr Rajapaksa.

The Common Opposition Candidate who emerged was Mr Maithripala Sirisena, a member of Mr Rajapaksa's Cabinet and General Secretary of the SLFP. Mr Sirisena was subsequently removed from his position as General Secretary of the SLFP.

Mr Sirisena's candidacy received endorsement from a number of political parties who were not part of then President Rajapaksa's ruling coalition. In the election campaign period, some political parties who were part of the ruling coalition at the time broke away to pledge their support to Mr Sirisena's candidacy. Individual crossovers from within the SLFP to the UNP's camp also followed. Crossovers from the UNP to SLFP also took place.

The campaign period of the 8 January 2015 Presidential election was marked by high levels of violence, abuse of state resources and open violation of election laws. The result of this was a remarkably unequal playing field for the two main contesting candidates. The atmosphere in the run up to the polls on 8 January was highly charged, and there was a palpable sense of unease across the country.

Subsequently, Mr Sirisena narrowly defeated Mr Rajapaksa on 8 January 2015, in an election regarded by citizen and international observers, including the Commonwealth Observer Group, as one that did not meet all the benchmarks of

a democratic election, but that in the end, reflected the will of the people of Sri Lanka.

The Commonwealth Observer Group commended the Commissioner of Elections for the impressive performance of his staff on polling day and during the vote count, thereby ensuring that the will of the people of Sri Lanka was transparently expressed. The Commonwealth Observer Group also acknowledged the role of Sri Lanka's robust citizen observer groups during this election, whose commitment to a fair poll was a credit to the country.

A quick and peaceful transfer of power followed the announcement of the election results.

### Post-2015 Presidential Election

Mr Sirisena took oath of office on 9 January 2015 and appointed the leader of the UNP, Mr Ranil Wickremesinghe, as Prime Minister on the same day. In a cabinet reshuffle that followed shortly after, parliamentarians from the UNP took up key ministerial positions.

Soon after President Sirisena took his oath of office, he became the leader of his party, the SLFP, as well as the alliance it leads, the UPFA.

A 'national government' was then formed, which brought together traditionally opposing parties. This government pursued a '100 day agenda', which included a number of measures, of which passing the 19<sup>th</sup> Amendment to the Constitution was significant.

### 19<sup>th</sup> Amendment to the Constitution

The 19<sup>th</sup> Amendment was aimed at reducing the executive powers of the President of Sri Lanka. Mr Rajapaksa's administration had strengthened the Executive Presidency significantly through the 18<sup>th</sup> Amendment to the Constitution. This Amendment, passed in 2010, removed Presidential term limits and gave the President discretion in appointing the heads of key institutions such as the Human Rights Commission, the Election Commission, the Police Services Commission, the Judicial Services Commission and the Civil Service Commission. All of these institutions have a bearing on the context within which elections in the country take place.

Following lengthy negotiations at the committee stage in Parliament the 19<sup>th</sup> Amendment to the Constitution, which was passed in April 2015, has reversed some of the provisions of the 18<sup>th</sup> Amendment.

The 19<sup>th</sup> Amendment has resulted in a hybrid governance system in the country, in which the President remains the Head of State, Head of Government, Head of the Armed Forces and Head of the Cabinet.

### Dissolution of Parliament

In line with the provisions of the Constitution, President Sirisena dissolved parliament on 26 June 2015, making way for fresh parliamentary elections.

On 3 July 2015, the General Secretary of the UPFA, announced that former President Rajapaksa would contest in the elections on a SLFP/UPFA ticket.

President Sirisena subsequently issued a statement, which stated among other things, that he did not support Mr Rajapaksa receiving a nomination from the SLFP/UPFA.

The split within the SLFP/UPFA continued to be a dominant feature of the political environment in the lead up to the Parliamentary elections. Mr Rajapaksa appeared to command the support of a sizeable faction of the party and alliance. There was speculation that he could emerge as the Prime Ministerial choice of the SLFP/UPFA, if it won a majority of seats in the Parliament. Mr Rajapaksa also emerged as the de-facto leader of the SLFP/UPFA election campaign.

## **Chapter 3**

### **Electoral Framework and Election Administration**

#### **Legal Framework**

Chapter III of the Constitution sets out freedoms of expression, assembly, association and participation in elections respectively, subject to certain restrictions.

Other key legal instruments governing the conduct of Parliamentary Elections in Sri Lanka include the:

- Parliamentary Elections Act No.1 of 1981
- Registration of Electors Act No. 44 of 1980
- Registration of Electors (Special Provisions) Act No. 27 of 2013
- Elections (Special Provisions) Act No 35. of 1988
- Elections (Special Provisions) Act No. 14 of 2004
- Elections (Special Provisions) Act No. 28 of 2011

In addition, Sri Lanka has also signed various important regional and international instruments pertaining to the conduct of elections. These include the:

- International Convention on Civil and Political Rights (1980)
- Convention on the Elimination of All Forms of Discrimination Against Women (1981)
- International Convention on the Elimination of All Forms of Racial Discrimination (1982)
- Convention on Rights of People with Disabilities (2007)
- South Asian Association for Regional Cooperation Charter of Democracy (2010) and
- Commonwealth Charter (2012)

#### **Parliamentary Electoral System**

Article 93 of the Constitution provides that voting in the election of the Members of Parliament must be free, equal and by secret ballot.

The Parliamentary Elections Act 1981 sets out, amongst other things, the procedure for the election of Members of Parliament, and the manner in which any disputed parliamentary elections will be adjudicated.

Nominations for the 2015 parliamentary elections took place between 6 July and 13 July 2015 following the dissolution of Parliament by President Sirisena on 26 June 2015.

On 17 August 2015, voters went to the polls to elect 196 members of Parliament. The remaining 29 Members come from national lists allocated to the political parties in proportion to their share of the national vote.

## **Constitutional Features**

Sri Lanka has a unicameral Parliament made up of 225 Members. According to Article 75 of the Constitution, its mandate is to enact laws.

The powers of government, fundamental rights and the franchise in Sri Lanka are vested in the People by Article 3 of the Constitution. The executive power of the People is exercised by the President by virtue of Article 4. The President is "Head of the State, the Head of the Executive and of the Government, and the Commander - in - Chief of the Armed Forces", and, in accordance with the 19<sup>th</sup> Amendment to the Constitution, holds office for not more than two terms of five years each.

Prior to the 19<sup>th</sup> Amendment, parliamentary elections in Sri Lanka were held every six years to elect Members of Parliament. The elections will now be held every five years in accordance with the 19<sup>th</sup> Amendment to the Constitution.

Unlike many other Commonwealth countries, Sri Lanka has not established an Election Commission, even though the Constitution provides for it. As the Election Commission has not been established, the management and conduct of the 2015 election was the responsibility of the Commissioner of Elections in office before the 19<sup>th</sup> Amendment. This was made possible by the transitional provisions of the 19<sup>th</sup> Amendment to the Constitution. The current Commissioner of Elections is Mr Mahinda Deshapriya, whose Office is within the Department of Elections.

The 19<sup>th</sup> Amendment to the Constitution revived the Constitutional Council. This Council is tasked with recommending, to the President, persons who should be appointed as chairpersons or members of the independent Commissions provided for by the Constitution. It also expanded the membership of the Constitutional Council to include three eminent persons from civic life to ensure greater transparency.

The revived Constitutional Council held one meeting since the 19<sup>th</sup> Amendment was passed in April and no members to the independent Commissions were appointed.

## **Electoral Administration**

Sri Lanka is divided into 22 electoral districts, with each district assigned a specified number of seats based on the population of that district.

The Commissioner of Elections appoints a Returning Officer for each electoral district. For these elections, 22 Returning Officers, supported by an Assistant Returning Officer, were appointed. Returning Officers appoint Presiding Officers,

who are in charge of polling stations. For the 2015 elections, there were 12, 314 polling stations.

Both citizen and international groups observed the elections.

### **Voter eligibility and Voter registration**

According to the Constitution, a person is eligible to vote in the election of the Members of Parliament in Sri Lanka if he or she, amongst other things:

- is a citizen of Sri Lanka;
- is 18 years of age at the time of registration as an elector (voter);
- is of sound mind.

Those disqualified to be electors include those serving a sentence of imprisonment, and those who have been convicted of corrupt practices.

The register of electors is reviewed and revised annually based on a house-to-house enumeration exercise. This exercise is conducted at the district level by Registering Officers, who are appointed by the Commissioner of Elections. Following the enumeration exercise, the new register is displayed for four weeks to allow electors to submit claims and objections.

The register used for these elections was the 2014 register of electors. It contained a total of 15,044,450 eligible voters and there was no official gender and age disaggregated data available.

There are no provisions for overseas registration or voting for Sri Lankan citizens living abroad. It is estimated, that over one million Sri Lankans, such as migrant citizens and students, live abroad.

Section 26 of the Parliamentary Elections Act, however, provides for postal (advance) voting to facilitate voting for various categories of specified electors, including some public officials and candidates who will not be able to vote in person at their allotted polling station. This could be by reason of their employment or candidature in a different district, as the case may be. Persons who will be serving in some capacity in the electoral process during elections may also cast their votes by postal (advance) voting. There were 566, 839 postal votes cast in these elections.

Those entitled to vote under this section do so on separate days from the rest of the electorate and their ballots are counted first when counting of the ballots takes place.

### **Candidate Eligibility and Nomination**

To be eligible to be a Parliamentary candidate, a person must, in accordance with Article 88 of the Constitution, be qualified to be an elector.

Nominations must be submitted to the Returning Officer by recognised political parties or independent groups within a specified period.

At these elections, 6,151 candidates were fielded by 22 recognised political parties and 201 independent groups. Of these, 556 were women.

The law does not provide any quota for women's participation and representation in politics at the national level.

### **Election Offences**

Various acts including bribery, treating, undue influence, impersonation, illegal voting, making false statements, and intimidation constitute elections offences under Part VI of the Parliamentary Elections Act.

From the first day of the nomination period until the day after an election, no flags or banners may be displayed in any premises for the purposes of promoting the election. The flags or banners may, however, be displayed in or on any vehicle that is used to convey a candidate during the election period.

It is also an offence, during that period, to display any handbills, placards, posters, drawings, notices, photographs, symbols or signs of a candidate at any place to which the public has a right of access or may be granted access. However, they may be displayed in those premises on the day that an election meeting is to be held in those premises. Candidates are however allowed to display these materials at their designated campaign offices.

From the last day of the nomination period to the day after voting, the family members of a candidate are prohibited from engaging in house to house canvassing of votes for the candidate, and from distributing any handbills, placards, posters, drawing, notice, photograph, symbol or sign of the candidate.

Each offence or attempt to commit these offences is punishable by a fine and/or imprisonment.

## Chapter 4

### Campaign and Media Environment

#### The Election Campaign

The campaign period extended from 17 July 2015 till midnight on 15 August 2015, which is when an official 48-hour silence period began before polling day.

#### Campaign Environment

The campaign atmosphere ahead of the 17 August 2015 Parliamentary Elections was low-key. There were limited numbers of visual campaign materials on display around the country. This was mainly due to the strict enforcement of election laws on campaigning methods.

The campaign period observed by the Group during their stay in Sri Lanka was calm, peaceful and free. The campaign environment was also consistently described to the Group as remarkably more free and peaceful than those witnessed in the recent past. This is despite a number of reported incidents of violence and violations of election laws. The Group is of the view that the violence and violations of election laws that took place during the campaign period were not systemic or widespread.

The Commissioner of Elections played a prominent role in the campaign period, and his office is clearly held in high esteem by all stakeholders in the electoral process. The positive actions taken by the Commissioner of Elections included the issuing of election related guidelines and directives, regular contact with political parties and citizen observer groups, and close cooperation with the Police.

The Group took note of the actions taken and statements made by the President of Sri Lanka during the campaign period.<sup>1</sup>

#### Campaigning Methods

The 1981 Parliamentary Elections Act, as mentioned in Chapter 3, prohibits candidates from displaying or distributing handbills, placards, posters, photographs or flags at any public place except the office of the candidate and in the immediate vicinity of a campaign meeting or rally only on the day of the said event. The law also bans public processions promoting candidates, and prohibits

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<sup>1</sup> On 14 July 2015, President Sirisena made a public statement in which he spoke about granting Mr Rajapaksa a party nomination to contest in the elections. On 13 August, in his capacity as President of the SLFP, Mr Sirisena wrote a letter to Mr Rajapaksa, and this received wide media coverage. On 14 August, in his capacity as President of the SLFP and UPFA, President Sirisena removed the General Secretaries of both his party and alliance respectively. On 17 August, there were media reports that in his capacity as President of the SLFP, President Sirisena had cancelled the membership of a number of party members.

candidates and their families from undertaking door-to-door canvassing as part of their campaigns.

The voting system in Sri Lanka allows electors to mark up to three preferences for candidates when they vote. However, the ballot papers display only the names and symbols of political parties and the candidate numbers of contesting candidates. They do not display the names or photographs of contesting candidates. This means that candidates need to be able to 'market' their particular number in a variety of ways, the most common and cost-effective being by means of visual materials in spaces accessible to the general public.

The Group acknowledges that the laws governing campaigning methods were designed to safeguard electors and perhaps contain intra-party disputes, but also notes that the campaign period witnessed in the run up to the polls lacked the vibrancy typical of an election.

Current restrictions on campaigning make it inevitable that violations will take place, given the nature of elections as a contest. Furthermore, as seen during this election, it can result in print and electronic media being heavily relied on for campaigning. This disadvantages candidates who are unable to afford costly advertising in the media, and could discourage new entrants from the electoral race. This could in particular affect women, youth and differently abled candidates.

### **Campaign Finance**

There is no law in Sri Lanka on campaign spending, donations or campaign financing. The lack of spending limits or requirements for transparency of funding sources encourages the spending of huge sums of money on election campaigns. This also disadvantages candidates who do not have access to large amounts of funds, and as a result skews the playing field on which campaign candidates compete.

### **Role of the Police**

The police played a proactive role in the campaign period, working closely with the Commissioner of Elections to ensure the enforcement of election laws and to take action against perpetrators, which included candidates and deputy ministers.

### **Campaign Violence**

A reputable citizen observer group reported that 189 incidents of election-related violence took place in the campaign period. These included three deaths, grievous assaults, attacks on political party and candidate offices, and abductions.

The Group acknowledges that the incidents of serious violence in this election campaign period were significantly lower than experienced in previous elections.

Despite this, however, the Group strongly urges political parties to adopt a zero-tolerance policy to violence during elections. For this an enabling political environment must continue to be provided to the police, for them to fulfil their duties.

### **Misuse of State Resources**

The Group noted the 135 reported incidents of misuse of state resources in election campaigning, which included the misuse of state vehicles for election purposes and the appointments, transfers and promotions of state officials. The Group welcomes the significant drop in the misuse of state resources in this election, in comparison to the incidents reported at previous elections, on which other Commonwealth Observer Groups commented.

### **Voter Education**

The Group noted a number of voter education initiatives were on-going during the campaign period, carried out mainly by the Office of the Commissioner of Elections and civil society. The Group noted that the main message of these initiatives was to motivate electors to exercise their franchise, and to encourage electors to return 'clean' candidates to Parliament. Given the high number of spoiled ballots at this election, consideration should be given to more intensive efforts to assist electors in understanding how to cast a valid vote.

### **Role of Citizen Observer Groups**

The Group found that the active role of citizen observer groups in monitoring and reporting at all stages of the electoral process was impressive, increased the transparency of the campaign period and lifted the confidence of stakeholders.

Their labour intensive and high quality work adds significantly to the knowledge available on electoral trends in the country. They are undoubtedly huge contributors to Sri Lanka's democratic culture.

### **Media Environment**

Sri Lanka has a vibrant media environment with private and state-owned print, radio and television outlets providing a variety of services in Sinhala, Tamil and English. State controlled TV stations and radio networks are operated by the Sri Lanka Broadcasting Corporation (SLBC), while Government print titles include the Daily News. Private media represent a broad range of political viewpoints.

### *Regulatory Environment*

Under Article 14 (1) of Sri Lanka's 1978 Constitution, the "freedom of speech and expression including publication" is guaranteed in the law.

The Press Council of Sri Lanka, established under the 1973 Press Council Act, is charged “to ensure that newspapers and journalists maintain high ethics of journalism”. The Council, however, played no role in this election.

A Code of Professional Practice issued by The Editors’ Guild of Sri Lanka places a duty on the media to take reasonable care not to publish inaccurate, misleading or distorting news. The Press Complaints Commission of Sri Lanka, a voluntary independent commission established in 2003, has adopted the code.

Despite repeated attempts to introduce a Right to Information Bill, this has yet to be enacted.

### *Media Guidelines by Commissioner of Elections*

Under the 19<sup>th</sup> Amendment to the Constitution, the Commissioner of Elections, has “the power to issue from time to time, in respect of the holding of any election or the conduct of a Referendum, such guidelines as the Commission may consider appropriate, to any broadcasting or telecasting operator or any proprietor or publisher of a newspaper, as the case may be, as the Commission may consider necessary to ensure a free and fair election.”

For this election, the Commissioner of Elections issued Media Guidelines to establish the ground rules for fair media reporting. These guidelines state, among other things, that state media should not be misused to promote a specific political party, group or candidate; print media should give equal space and prominence to all political parties and candidates in reporting campaign activities; and coverage given to the President, Prime Minister or Ministers should be treated as coverage given to their political party. In addition, the guidelines stated that parties and candidates with an interest in a reported incident or event should have the opportunity to put across their views – either in the same item or on another occasion.

The Media Guidelines apply to traditional media outlets and ‘social media administrators’ alike; however it is unclear how, in practice, they could be enforced on social media.

### *Media Conduct*

The election campaign received significant coverage in almost all media outlets in the country, including TV, radio and print media. Owing to the above-mentioned legal restriction on campaigning methods, candidates relied heavily on the media, through paid advertisements and allocated free time on state media, to put across their campaign messages.

The Group was informed that the media environment during this election was significantly freer than that experienced during previous elections. This was specifically with regard to state media, in which it was reported to the Group that producers, editors and journalists were able to operate without interference from the Government. However, despite this, media monitoring groups reported

that state media displayed some, though not significant, pro-government bias in their reporting and the amount of airtime allocated to various parties.

Private media outlets tended to reflect the political affiliations of their proprietors. This is likely to have resulted in some self-censorship by journalists.

The use of social media appears to be steadily increasing. A number of contesting candidates and parties used social media to relay campaign messages, especially to the youth and urban voters. Social media users generally do not adhere to the rules of campaign silence periods.

The Group is of the impression that the media guidelines issued by the Commissioner were by and large adhered to in this election campaign, and that the existence of such guidelines helped to reinforce the ground rules for a fair media environment.

## Chapter 5

### The Vote, Count and Results Process

Sri Lanka's Parliamentary elections were held on 17 August 2015. Voting hours were from 07:00 to 16:00 hours in a total of 12,314 polling stations in 22 Districts across the country.

Polling stations were located in a range of public facilities, mainly schools and community centres. A Senior Presiding Officer and Junior Presiding Officer, supported by a number of polling assistants, managed each polling station. Police officers were present at all polling stations. In addition, candidates, agents of political parties or independent groups, and accredited citizen and international observers were authorised entry into polling and counting centres.

A summary of the voting and counting procedures is at Annex 4.

#### Assessment of Opening and Voting and Close of Poll

- The Group was impressed with the training of polling officials and the early deployment of polling staff, materials and police to polling stations ahead of polling day. This preparation ensured that all essential materials were available for the opening of the poll.
- In all polling stations observed, opening and voting commenced on time.
- Polling stations were laid out according to instructions from the Commissioner of Elections. There was adequate information and signage outside polling stations in all official languages. The Group noted, however, that in some cases, the layout adopted and space constraints did not always guarantee that the secrecy of the ballot was adequately provided for.
- Voters were able to exercise their franchise freely in a peaceful environment. The turnout was relatively high, with the majority of voters turning out in the first half of polling day. Voters on the register of electors with the required identity documents were able to vote.
- The voters register appeared to be accurate, and there were few complaints or challenges to an elector's right to vote.
- Election officials generally managed the entire polling process professionally, efficiently, impartially and transparently.
- Very few of the Senior Presiding Officers were women but they comprised the majority of the more junior polling assistants.

- A number of Senior Presiding Officers took an extensive amount of time to complete the reconciliation process at the close of poll. Others appeared to complete the same process in a more timely and efficient manner.
- Representatives of the main political parties and independent groups, as well as citizen observers, many of whom were women, were present throughout at the polling stations.
- The police were positive and visible in maintaining security at polling and counting stations and in ensuring that violations of election law were kept in check.
- In all polling stations observed, the poll closed on time at 16:00 hrs. No voters were observed queuing at the close of poll.
- Ballot boxes were sealed in accordance with the prescribed procedure. However, the volume of paperwork to be completed and sealed took considerable time. In some cases, this delayed the departure of ballot boxes and other election materials to the Counting Centres.
- Upon the completion of the reconciliation process, ballot boxes were transported securely to Counting Centres in vehicles provided by the Department of Elections and accompanied by Senior Presiding Officers and the police.

#### **Assessment of the Counting, Results, Tabulation Process and Announcement**

- The organisation of the count at District Level was a huge and complex operation involving the receipt of ballot boxes from multiple polling stations. Conditions were crowded and hot.
- Notwithstanding these conditions, vote and preference counting was conducted methodically, transparently and meticulously, during which counting officials worked diligently. The presence of polling agents and citizen observers at this crucial stage of the electoral process further enhanced the transparency of the count.
- The complexity of the count meant that the counting, results tabulation and transmission process continued into the morning of the following day.
- Officially declared results were relayed to the media and to the public, beginning in the early hours of 18 August.
- There appear to have been a high number of rejected ballots.
- The Police were positive and visible in maintaining security at counting centres.

## Overview of observations by deployed teams

### Central Province

- All offices visited were satisfied with arrangements in place for polling and confident that the peaceful environment would continue during and after polling.
- On the eve of polling day, all Presiding Officers visited were well prepared, material was in place, and staff had been trained and police officers were present.
- On polling day two police officers were present in all Polling Stations visited. PAFFREL and party agents were present in all polling stations.
- Whilst seeming chaotic at times, logistics worked well under the circumstances and polling ran smoothly in all polling stations. There were no significant issues noted, and no objections were raised by party agents.
- Appropriate signage was in place at all Polling Stations.
- Considering the space constraints in some polling stations, the layout of polling stations generally followed guidelines of Commissioner of Elections.
- In places with long queues, no attempt was made to give priority to elderly or disabled voters.
- The close of poll went smoothly with no voters present at 4pm.
- Post close of polls reconciliation and paperwork was very slow and cumbersome. There were too many forms and envelopes used.
- Secure transport of ballot boxes and other materials to the counting centre was as efficient as could be given the huge logistical operation involved.
- Counting proceeded in accordance with the guidelines, although the counting centre was extremely crowded. Kandy was the last to declare its result due to a reconciliation issue in one of the counting rooms.

### Northern Province

- The pre-poll environment was low key and peaceful, with very few reports of electoral violations.
- Election day was relatively calm and peaceful. Generally voters turned out early.

- Polling officials were professional, well trained and gender diversity was observed. Party agents and citizen observer groups were well represented at polling stations.
- In general, there was confidence in the impartiality of election officials and the police.
- The counting centre, which catered for the whole of Jaffna District, was busy and appeared chaotic. However, the counting was completed in a timely and transparent manner.
- The post-election environment was calm as people went about their business as usual.

#### **North Central Province**

- Election officials, political party agents and electors complied with stated election procedures.
- The majority of election officials were women.
- Party representatives and citizen observer group, PAFFREL observers were present in most of the polling stations.
- Opening, verification of voter eligibility, voting and counting was transparent and fair.
- There was no restriction to party agents, local and international observers at the polling stations and counting centres.
- No incidence of violence was witnessed or reported, and there was no observation of underworld activity.
- The police was professional in handling security at the polls; and there was good coordination between the police and election officials.
- Reconciliation of voting material at the close of polls was transparent but slow.
- Counting of ballots was witnessed by party agents and observers.
- Results were declared and announced in the presence of party agents, citizen and international observers, the media and candidates.
- Observed turnout was between 75 to 80 percent.

## North Western Province

- Voting day in the Kurunegala District was very calm, peaceful and transparent.
- There were a few posters and handbills displayed in the area for the main political parties.
- The District Elections Secretariat for Kurunegala must be commended for their state of readiness prior to the elections in the training of staff and other preparations for the elections. Also there was excellent coordination between election officials and the police.
- Polling stations and counting centre staff carried out their duties professionally.
- Women turned out to vote in higher numbers in the morning than in the afternoon. Youth came out in large numbers to vote. The turnout of elderly was high, they were assisted by a member of polling staff and their voting was witnessed to ensure accuracy of the vote requested.
- A voter whose Identification number was not on the registered list (name was present) was allowed to vote. Voter who was listed as being abroad, was allowed to vote following procedural paper work.
- The positioning of the voting cubicle at some polling stations appeared not to be completely secretive, it was in the view of the Presiding Officer and a police officer. The Presiding Officer indicated that the layout was in keeping with the rules as set out by the Commissioner of Elections.
- The ink marker was not working at two stations.
- Party and independent group agents and citizen observers were present at all polling and counting centres visited.
- The close of polls was witnessed and found to be efficiently managed along with the sealing process and departure of the ballot boxes to the counting centre.
- A majority of polling and counting staff were women.
- There were no ramps at polling stations for elderly or differently abled voters.
- While polling stations and counting centres had adequate space, counting centres were insufficiently ventilated. These conditions were not conducive for work for long periods.

## Western Province

- The polling process was well administered, orderly and began on time. The majority of voters voted in the morning.
- The location and layout of polling stations did not allow for easy access by differently abled voters.
- Party and independent group agents, as well as citizen observers were present at all polling stations visited.
- There appeared to be uneven familiarity with the reconciliation process at the close of poll among Senior Presiding Officers observed, and therefore a wide variation in the time taken to complete this task.
- The count was conducted transparently and meticulously.

## Turnout and Results

The official turnout at these elections was 77.66% and the results for parties to be represented in Parliament are as follows<sup>2</sup>:

Political Parties/Alliances	Seats obtained		
United National Party	93	13	106
United People's Freedom Alliance	83	12	95
Ilankai Tamil Arasu Kadchi	14	2	16
People's Liberation Front	4	2	6
Eelam People's Democratic Party	1	0	1
Sri Lanka Muslim Congress	1	0	1

The number of women elected to Parliament was nine; the number nominated on the national list was one, and together they represent just under five percent of the total seats in Parliament.

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<sup>2</sup> Source: <http://www.slelections.gov.lk/2015GE/AICOMP.html> (Website of the Department of Elections, Government of Sri Lanka)

## Chapter 6

### Conclusion and Recommendations

These were pivotal elections in Sri Lanka, following closely after a Presidential election in January 2015, which saw a change of President and the formation of a minority-led national government. These elections also took place under a new legal dispensation in the form of the 19<sup>th</sup> Amendment to the Constitution, which among other things, reduced some of the executive powers of the President, reduced the term of Parliament from six to five years, and strengthened the method by which the chairpersons and members of key institutions, such as the Election Commission, National Police Commission and Judicial Services Commission, will be appointed. The Group welcomes these changes.

It is however, of vital importance that an Election Commission, as outlined in the Constitution, is established as a matter of urgency. It is a Commonwealth and global best practice that a country is able to entrust an independent institution with the responsibility to conduct and manage elections. Nevertheless, the Group acknowledges the leadership and commitment displayed by the Commissioner of Elections and his staff in conducting a credible and peaceful election. The Group also acknowledges the prominent role of the police and citizen observer groups in ensuring a transparent, fair and peaceful electoral process. The Group welcomes the enabling political environment provided to the Commissioner of Elections, police and citizen observer groups, to carry out their work.

There is a clear need to prioritise the issue of women's participation in politics at the national level. Incorporating mandatory quotas for women candidates on party nomination lists or in national lists is one way to ensure that women's representation in Parliament is increased.

There is also a need to revise election laws with regard to campaigning methods available to election candidates. Currently the restrictions in place do not allow for a vibrant campaign, disadvantage candidates who do not have access to substantial funds and make some violations of election law inevitable. Consideration should also be given to the regulation of campaign spending and transparency in campaign financing, including donations. This will also help to level the playing field for all candidates. Furthermore, the categories of persons eligible for postal or advance voting can usefully be reviewed.

The Group was impressed with the manner in which the Commissioner of Elections and his team in the Department of Elections managed the elections. This includes the early training of polling staff, the early and secure deployment of polling materials to respective locations, the setting up of polling stations, the efficiency with which the opening of polls, voting process and closing of polls took place, and the diligence with which the counting process was undertaken. Election Day was peaceful and calm, and the visible and positive role of the police in this is to be acknowledged. Electors turned out in high numbers to vote, and exercised their franchise freely. The swift transmission of results and

acceptance of the results are a testimony to the transparency of the administration of elections in Sri Lanka.

Overall the Group witnessed a credible and peaceful election, which met the key criteria for democratic elections, and reflected the will of the people of Sri Lanka.

In light of the conclusion above, the Commonwealth Observer Group to Sri Lanka's 17 August 2015 Parliamentary Elections makes the following recommendations:

### *Institutional and Legal Framework*

- It is of vital importance that an Election Commission, as provided for by the Constitution, is established as a matter of urgency. The Group notes that a number of previous Commonwealth Observer Groups have made this same recommendation.
- There is a need to promulgate a revised, consolidated Constitution that clearly demarcates constitutional powers and duties during election period.
- Overly restrictive provisions related to campaigning methods need to be revised to enable election candidates to more freely and equitably convey their campaign messages to electors.
- Legislation on campaign spending and the transparency of campaign financing, including donations, should be considered in light of best practice in election management.
- Serious consideration should be given to affirmative legal measures to ensure increased participation and representation of women in politics at the national level.
- The rights and responsibilities of Citizen Observer Groups should be enshrined in election related laws. The Group notes that a previous Commonwealth Observer Group to Sri Lanka made the same recommendation.
- A Right to Information Act can enhance the transparency of the electoral process and should be given priority.
- The categories of those eligible to use postal (advance) voting should be expanded to include the sick, the infirm, the differently abled, and those working or residing in districts outside those in which they are registered to vote.

### *Campaign Period*

- The leadership of all political parties should adopt a zero-tolerance policy towards election violence, and should promote this vigorously among the rank and file of their parties.
- Voter education that aims specifically at explaining how to cast a valid vote should be initiated in order to reduce the number of rejected ballots.
- State media should enjoy editorial independence and operational and financial autonomy in order that such media may better fulfil their public service obligations.

### *Administration of Elections*

- The current voter registration system provides for an annual update. To facilitate the inclusion of newly eligible electors, consideration could be given to implementing a system of continuous updating.
- There is a need to make available gender and age disaggregated data both in the electors' register and the official results of elections.
- In order to ensure the secrecy of the ballot, a review of the layout of voting cubicles, as instructed by the Department of Elections should be considered.
- Improved access for the differently abled, elderly and other vulnerable groups to polling stations should be considered as a priority for future elections.
- Consideration should be given to simplifying the reconciliation process at the close of the poll while at the same time maintaining the transparency of the process.
- Consideration should be given to mixing postal (advance) ballots with ordinary ballots at the start of the count, in order to protect the secrecy of all votes cast.

## **Annex 1**

### **Biographies of The Commonwealth Observer Group**

#### **H E Dr George Abela (Chairperson)**

H E Dr George Abela is the former President of Malta from 2009-2014. His nomination as the eighth President of Malta marked a historical development in the constitutional history of the Island, since for the first time, after 34 years, the President was elected by the unanimous approval of both political parties represented in Parliament. It was also the first time that the Government of the day nominated a President with different political leanings. Dr Abela served as a member of the Electoral Commission for the running of the general elections in 1987 and actively participated in the pre-accession negotiations for membership in the European Union of his country where he formed part of the core group focusing on the legal and social aspects of membership. He was Deputy Leader of the Labour Party for six years when the party won the general elections. Dr Abela worked as a lawyer in private practice for 33 years and he has been deeply involved in the voluntary sector and in the administration of sports, particularly in football. He has been President of the Malta Football Association for 10 years and represented his Association in various committees of U.E.F.A and F.I.F.A.

#### **Professor Aishah Bidin (Malaysia)**

Prof Dato' Dr Aishah Bidin is a Commissioner at the Malaysian Human Rights Commission of Malaysia (SUHAKAM). She is also a Professor of Law and former Dean of the Faculty of Law, National University of Malaysia (UKM) (2009- 2014), Deputy Dean (2001- 2006) and the former legal advisor of UKM Holdings, the corporate arm of UKM. Professor Dato' Aishah is a Visiting Professor at the World University of Economy and Diplomacy, Tashkent, Uzbekistan. Previously, she served as a visiting professor at the Department of Business Law and Taxation Faculty of Business and Economics, Monash University, Melbourne, Australia and as an Honorary Research Fellow at the Centre for Malaysian Studies in Monash Asia Institute, Australia (2007). She was also a visiting research fellow at University of New South Wales (2009-2011), a member of the Australian Corporate Law Teachers Association (ACLTA) and a member of INSOL Academics and INSOL Europe.

#### **Mr Navin Chawla (India)**

Navin B. Chawla served in the Indian Administrative Service for 37 years from 1969 to 2005. He worked in several capacities and was elevated to rank of Secretary to the Government of India in 2004. Whilst serving as Secretary in the Ministry of Information and Broadcasting, he was appointed Election Commissioner in 2005. He took over as Chief Election Commissioner in April 2009, and conducted the General Elections to Parliament that year. During his years in the Election Commission he supervised several State Assembly elections and by- elections. He has observed elections in Thailand, Bhutan, Mexico and Venezuela and Maldives. He lectures frequently on electoral- related matters at Universities in India and overseas.

**Mr Paul Dacey (Australia)**

Mr Paul Dacey was a career Public Servant in Australia for over 40 years. He spent the last 28 years of his public sector career in senior positions in the Australian Electoral Commission (AEC) and held the post of Deputy Electoral Commissioner from 2000 until his retirement in December 2011. In this position, his functions included management and oversight of the AEC's wide reaching international assistance program. Mr Dacey has served on many overseas electoral missions, including South Africa, Indonesia, East Timor, Papua New Guinea, Solomon Islands, Fiji and Thailand. He has presented papers and facilitated discussions for the Commonwealth and the United Nations on numerous occasions, including at workshops and conferences focusing on electoral management. In 2006/7, Mr Dacey held the office of Vice Chair for the International Mission for Iraqi Elections. In 2012 he was a member of the Commonwealth Observer Group for the Sierra Leone general and local elections.

**Ms Linda Joy Duffield CMG (United Kingdom)**

Ms Linda Duffield is a former British diplomat with extensive experience in the field of good governance, democracy and human rights. She served as British Ambassador to the Czech Republic (2004-2009) and as British High Commissioner to Sri Lanka and The Maldives (1999-2002), as well as postings in Canada and Russia. From 2009 - 2014 she was Chief Executive of the Westminster Foundation for Democracy which works to strengthen multiparty democracy, parliamentary practice and electoral systems in Africa, the Middle East, Asia and Eastern Europe.

**Ms Bushra Gohar (Pakistan)**

Ms Bushra Gohar is the Central Vice President of the Awami National Party in Pakistan. She is a former member of Parliament (2008-2013). She chaired the Parliamentary Committee responsible for appointing the Chairperson of the National Commission on the Status of Women in Pakistan. She was elected Chair of the National Assembly's Standing Committee on Women's Development and was member of National Assembly's Standing Committees on Interior, Finance and Kashmir Affairs. She was a member of the National Assembly's special committee on Millennium Development Goals and the Energy Sector. Ms Gohar was also a member of the Women's Parliamentary Caucus' working council. Ms Bushra Gohar is an Adviser to the Women Regional Network and a member of the Advisory Council of the Women, Peace and Security Research Institute. She is a member of the Parliamentarians Network for Conflict Prevention that works on women, peace and security.

**Professor Lawrence Gumbe (Kenya)**

Professor Gumbe is an engineer by training. He is the former Chairperson of the Centre for Multiparty Democracy-Kenya, an umbrella institution of political parties in Kenya. The centre generates policy research and analysis on pertinent political issues as well as acting as a forum for mediation amongst political parties. Professor Gumbe is also the former Chairperson of the Liberal Democratic Party of Kenya.

**Mr Zikirullahi Ibrahim (Nigeria)**

Mualeem Zikirullahi Ibrahim is the Chairman of the Transition Monitoring Group (the foremost independent election observers group in Nigeria with over 400 member organizations committed to the entrenchment of democracy in Nigeria) since 2012. He has also been the General Secretary of the United Action for Democracy (UAD) - a coalition of 146 Nigerian civil society pro-democracy groups. Zikirullahi was a Nigerian Liaison Officer of Konrad Adenauer Stiftung (2000-2002); and the founding Secretary-General of the Nigerian Security Printing & Minting Company (NSPMC) Workers Forum (MWF). Zikirullahi has worked very closely with American Federation of Labor and Congress of Industrial Organization (AFL-CIO), the International Labour Organisation (ILO), National Endowment for Democracy (NED), Rights & Democracy (R&D) Canada, and the Norwegian Human Rights Fund in the coordination of projects on reforms of Nigerian constitution, electoral system, local government system; and labour rights advocacy programmes. He is also the Executive Director of Resource Centre for Human Rights & Civic Education (CHRICED).

**Ms Adelle Roopchand (Trinidad and Tobago)**

Ms Adelle Zaira Roopchand is a Communications, Media and Public Relations specialist. Based in Trinidad and Tobago, she is a media consultant with the Technical Centre for Agricultural Development and Rural Cooperation. She has also served the Caribbean Agricultural Research and Development Institute; the CARICOM Implementation Agency for Crime and Security; and the Caribbean Regional Fisheries Mechanism as a communications specialist. Ms Roopchand coordinated the international media centre the Commonwealth Heads of Government Meeting 2009 and was engaged by Globecast Africa for media services at the Commonwealth Heads of Government Meeting 2013. Ms Roopchand served on the Commonwealth Observer Group for Presidential elections in Rwanda in 2010 and Guyana in 2011, respectively.



## Annex 2

### Arrival Statement



Sri Lanka Parliamentary Elections  
17 August 2015

12 August 2015

### Commonwealth election observers issue statement on arrival in Sri Lanka

*“Sri Lanka is well placed to hold a democratic election that enjoys the confidence of the people.” - Former President of Malta H.E. Dr George Abela*

At the invitation of the Office of the Commissioner of Elections of Sri Lanka, a team of Commonwealth election observers arrived in Colombo ahead of the Parliamentary Elections scheduled for 17 August 2015.

The independent Commonwealth Observer Group, which was constituted by Commonwealth Secretary-General Kamalesh Sharma, is chaired by former President of Malta H.E. Dr George Abela.

Addressing a press conference on 12 August in Colombo, Dr Abela issued the following statement:

#### Chairperson's Arrival Statement

*As Chairperson of the Commonwealth Observer Group to Sri Lanka's 2015 Parliamentary Elections, it is my privilege to lead a group of eminent persons drawn from across the Commonwealth, a community of 53 countries including Sri Lanka.*

*Our nine-member group includes former election commissioners, members of parliament as well as representatives of civil society, academia and the media. The Commonwealth Observer Group is supported by a team from the Commonwealth Secretariat, led by Mr Martin Kasirye, Head of Electoral Support.*

*Two advance observers arrived earlier this month to observe the pre-election campaign environment. The remainder of the group, including myself, arrived in Colombo on Monday.*

*We are grateful to the Commissioner of Elections for inviting us to Sri Lanka and to Commonwealth Secretary-General Kamalesh Sharma for constituting this election observation mission.*

*Sri Lanka is a founding member of the modern Commonwealth and has a longstanding history of conducting elections, the most recent of which - January's Presidential Election - was also observed by a Commonwealth Observer Group.*

*As independent observers, our mandate is to assess the pre-election period, activities on polling day and the post-election period. Throughout, we will consider whether there has been a level playing field for the contesting parties, whether voters were free to express their will, and whether the election can be said to have been credible, transparent and peaceful.*

*We will assess whether the elections were conducted in accordance with the standards to which Sri Lanka has committed itself, including the Constitution and relevant national laws, as well as international commitments including Commonwealth principles.*

*Our role is not to supervise the election but to observe the process as a whole and to form our own judgment. We act in our individual capacities; we do not represent the views of any member government or organisation.*

*Since arriving, we have met with the Commissioner of Elections and representatives of political parties and civil society. We will continue to meet with representatives of the media, local observer groups, the police and international partners including Commonwealth High Commissions in Colombo.*

*It is heartening to note that there appears to be confidence in the Commissioner's Office to manage the electoral process and that, on the whole, the campaign environment is generally conducive for a democratic election.*

*Our two advance observers have already had the opportunity to witness campaign activities outside of Colombo. Later this week, the team will be deployed to five of the country's nine provinces: Central Province, Northern Province, North Central Province, North Western Province and Western Province.*

*We will observe the final hours of the campaign, the 48 hours before polling day and then voting, counting and results processes. Shortly after election day, we will issue an Interim Statement in which we will outline our preliminary observations.*

*A Final Report will be completed before we depart which will be sent to the Commonwealth Secretary-General and then to the Government of Sri Lanka, the Office of the Commissioner of Elections, political parties, and all Commonwealth governments, before being released publicly.*

*In making our observations known, our intent is to offer constructive support to further strengthen the electoral process. Where necessary, we will make recommendations to relevant authorities concerning institutional, procedural and other matters as would assist the holding of such elections in the future.*

*Sri Lanka is well placed to hold a democratic election that enjoys the confidence of the people. As polling day approaches, we wish the electorate well and would like to encourage all eligible voters to exercise their franchise.*

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**Notes to Editors:**

Photos of the Chairperson and observers are available on request.

**Composition of the Group:**

HE Dr George Abela, Former President  
Malta

Mr Paul Dacey, Former Deputy Electoral Commissioner  
Australia

Mr Navin Chawla, Former Chief Election Commissioner of India  
India

Professor Lawrence Gumbé, Former Chairman of the Liberal Democratic Party and  
the Centre for Multiparty Democracy  
Kenya

Professor Aishah Bidin, Commissioner, Human Rights Commission of Malaysia and  
Law Professor  
Malaysia

Mr Zikirullahi Ibrahim, Chairman, Transition Monitoring Group  
Nigeria

Ms Bushra Gohar, Former Member of Parliament of Pakistan  
Pakistan

Ms Adelle Roopchand, Communications, Media and Public Relations Specialist  
Trinidad and Tobago

Ms Linda Duffield, Former Diplomat  
United Kingdom



## Annex 3



**The Commonwealth**  
Observer Group

Sri Lanka Parliamentary Elections  
17 August 2015

### Interim Statement

**By the Chairperson of the Commonwealth  
Observer Group, H.E. Dr George Abela**

*Colombo, 19 August 2015*

Members of the Commonwealth Observer Group have been in Sri Lanka since 2 August 2015. Our mandate has been to observe all aspects of the electoral process pertaining to the 17 August 2015 Parliamentary Elections, in order to assess compliance with the standards for democratic elections to which Sri Lanka has committed itself.

The Statement that I make today sets out our preliminary observations in this regard. Our Final Report will be issued at a later stage, which will contain our detailed findings and recommendations for future elections.

Since the full Commonwealth Observer Group arrived in Sri Lanka on 10 August, we have met with the President of the Republic, the Commissioner of Elections, the main political parties and alliances, the police, citizen observer groups, civil society, legal experts, media practitioners and monitors, other international observers, the United Nations Resident Coordinator and Commonwealth High Commissioners.

Prior to election day, observers witnessed campaign activities in the Western, Eastern and Southern provinces. On election day, we had observers present in the Western, North Western, Northern, North Central and Central provinces. In these areas we witnessed the opening of polls, voting, the closing of polls and the counting process.

These have been pivotal elections in Sri Lanka, coming less than eight months after a Presidential election in January, which saw a change of President and the formation of a minority-led national government.

These elections also followed shortly after the passage of the 19<sup>th</sup> Amendment to the Constitution, which, among other things, reduced some of the powers of the Executive President; strengthened those of the Prime Minister; reduced the term of Parliament from six to five years; and set up the Constitutional Council which will strengthen the independence of the Elections Commission, the National Police Commission, the Human Rights Commission and other institutions.

This revived Constitutional Council has had one meeting since the 19<sup>th</sup> Amendment to the Constitution was passed in April 2015. At this meeting the Council did not appoint members to independent institutions, including members

of the envisaged Election Commission. Accordingly the Commissioner of Elections, in office before the 19th Amendment, continued to perform the functions of Commissioner of Elections for the purposes of these Parliamentary Elections.

## **Key Findings**

### *Legal and Institutional Framework*

- There is a need to promulgate a revised, consolidated Constitution that clearly demarcates constitutional powers and duties, particularly during election time, and to review the electoral system.
- An independent Election Commission, as outlined in the current Constitution, must be established as a matter of urgency. The Group notes that a number of previous Commonwealth Observer Groups have made this same observation.
- The Group notes that less than 10% of nominated candidates in this election were women. Serious consideration must be given to affirmative legal measures to ensure adequate participation and representation of women in politics at the national level.
- In our view, overly restrictive provisions related to campaigning methods need revision in order to facilitate the campaigns of candidates. When existing provisions are implemented to the extent witnessed during this election, print and electronic media are heavily relied on for campaign messaging. This puts candidates with more limited financial resources at a disadvantage.
- The law is silent on the issue of advance voting for those who are unable to come to the polling station owing to illness, infirmity or physical disability on election day, except listed public officials. This should be reviewed.
- There are currently no regulations on campaign spending or campaign financing. This merits consideration in light of best practice in election management.

### *Campaign Period*

- It was encouraging for the Group that all stakeholders viewed this election environment as remarkably calmer and more peaceful than those witnessed in the recent past.



- The campaign environment was low-key, with a limited number of campaign-related visual materials on display. This was mainly due to the strict enforcement of election laws and guidelines. The Group observed small meetings and rallies during the campaign period.
- We note a number of reports of instances of misuse of state resources in election campaigning and are concerned by incidents of violence, including attacks on campaign offices, grievous assault and three election-related deaths.
- It is heartening to note that the Commissioner of Elections enjoys the confidence of all stakeholders. His role throughout the electoral process was prominent, and his directives received widespread media coverage. The Commissioner confirmed to us actions taken against those not in compliance with election laws and his directives. It was clear that the Commissioner was committed to a fair campaign environment.
- The proactive and even-handed approach of the police during the election campaign period is to be commended. An effective and trusted civilian law enforcement agency is a vital pre-requisite for a credible election.
- The media environment surrounding the election appeared to be, on the whole, fair to all those contesting. State media was reported to the Group as having some, but not considerable bias toward the incumbent political alliance. The media guidelines issued by the Commissioner of Elections, which established the ground rules for fair media reporting, were largely adhered to.
- As noted by previous Commonwealth Observer Groups, the active role of citizen observer groups in monitoring and reporting at all stages of the electoral process was impressive. Their work undoubtedly contributes to the country's democratic culture.

#### *Voting, Counting and Results Process*

- The Group was impressed with the training of polling officials, the early deployment of polling staff, materials and police to polling stations ahead of polling day.
- Polling stations were laid out according to instructions from the Commissioner of Elections. There was adequate signage at polling stations in all official languages to guide voters. We note, however, that in some cases, the layout adopted and space constraints did not always guarantee that the secrecy of the ballot was adequately provided for.



- Voters were able to exercise their franchise freely in a peaceful environment. The turnout was relatively high, with the majority of voters turning out in the first half of polling day. Voters on the register of electors with the required identity documents were able to vote.
- Election officials managed the entire polling process efficiently and transparently, and we commend them for this.
- The police were positive and visible in maintaining security at polling and counting stations and in ensuring that violations of election law were kept in check.
- Vote and preference counting was conducted transparently, during which counting officials worked diligently. The presence of polling agents and citizen observers at this crucial stage of the electoral process further enhanced the transparency of the count.
- Officially declared results were swiftly relayed to the media and to the public.

In view of the overall fairness of the campaign environment, the robust and even-handed approach of key institutions and the transparency with which voting, the count and results process took place, the Group concludes that this election was credible, met the key criteria for democratic elections, and that the outcome reflected the will of the people of Sri Lanka.

Over the next three days, we will complete our Final Report for onward transmittal to the Commonwealth Secretary-General. The Secretary-General will in turn submit it to the Government of Sri Lanka, the Office of the Commissioner of Elections, and political parties. Eventually it will be sent to all Commonwealth governments, and then made public via the Commonwealth website.

It has been a special honour and privilege to have been invited to Sri Lanka to observe this election and, on behalf of the Group, I wish all Sri Lankans well.

## Annex 4

### Deployment Plan

PROVINCES	TEAM MEMBERS
Western Province	Dr George Abela (Chairperson) Mr Will Henley Mr Martin Kasirye
Western Province	Ms Amna Jatoi Ms Segametsi Mothibatsela
Central Province	Mr Paul Dacey Ms Bushra Gohar
North Western Province	Mr Navin Chawla Ms Adelle Roopchand
North Central Province	Prof Aishah Bidin Mr Zikrullahi Ibrahim
Northern Province	Ms Linda Duffield Prof Lawrence Gumbe
<b>Advance Observation of Election Campaign Activities 5 - 9 August 2015</b>	
Southern Province Eastern Province Western Province (Gampaha)	Ms Linda Duffield Ms Adelle Roopchand

## Annex 5

### Summary of Polling and Counting Procedures

#### Opening, voting and closing of polls

The key stated procedures for the opening of polls and voting are as follows:

##### *Opening*

- Shortly before 07:00 am, the Senior Presiding Officer invites polling agents of political parties and independent groups and observers present to inspect the empty ballot box.
- The ballot box is locked and sealed, and the key to the ballot box is sealed in an envelope that polling agents can also sign or place their seal on.

##### *Voting*

- The polling official seated nearest to the entrance checks whether the voter has a poll card and a valid identity document and identifies the name on the voters list. The identity document is compulsory but not the poll card.
- The next polling official calls out the name and the serial number of the voter included on the register loud enough to be heard by the party and independent group agents and the polling official in charge of the ballot papers.
- The voter then moves to the next polling official who examines the little finger on the left hand to check whether it has been marked. If satisfied, that finger is marked with indelible ink.
- The next polling official writes the voter's serial number on the counterfoil of the ballot paper and adds the official stamp to the reverse of the ballot paper. The voter is then handed a ballot paper, face upwards.
- The voter then proceeds to one of the cubicles and places an "X" on the right hand side of the ballot paper opposite the name and symbol of the political party, or the number and symbol of the independent group, for which the voter wishes to cast a vote. The voter may then indicate preferences for not more than three candidates from among the candidates nominated by the chosen political party or independent group, again by placing an "X" in the box containing the number corresponding to the number assigned to each candidate.
- If the voter inadvertently spoils a ballot paper, he/she can return it to the Presiding Officer, who will, if satisfied of such inadvertence, give the voter another ballot paper.
- The voter then folds the ballot paper so as to show the official mark on the reverse side, and without showing the face of the ballot paper to

anyone, shows the official mark on the reverse side to a polling official and places the ballot paper into the ballot box.

- There is provision for assisted voting when required.
- The voter then exits the polling station.

## Counting and Results Tabulation

The key procedures for ballot counting and results tabulation are as follows:

- Counting of postal votes commences as soon as practicable after the close of poll.
- The counting of votes commences immediately after the receipt of the last ballot box of a Counting Centre on the date of poll. Counting begins in the presence of the Counting Agents and not more than five agents of a political party or an independent group. Candidates may also attend the count.
- Results are announced in two stages. Firstly, the result of the vote count and secondly the results of the count of preferences. In all these instances vote results are announced under each polling division and finally the electoral district result.
- Returning Officers (District Secretaries) for the respective electoral areas are statutorily responsible for the conduct of the poll and the count, with the support of Assistant Returning Officers and staff. Local announcement of results are done by the Returning Officers only after the approval of the Commissioner of Elections. Announcements of the final results are made by the Commissioner of Elections through the media.

### *Counting Procedure*

Counting of votes and preferences including postal (advance) votes is vested with the Returning Officer. Each Counting Centre of an Electoral District consists of an average limit of 25,000 to 30,000 registered electors, while each counting centre for postal votes is allocated about 4000 votes.

### *Arrangement of the Count*

*Stage I* - Counting of the number of ballot papers in each box.

- Ballot papers in each box are counted and verified with the figures given in the ballot papers account, according to the serial number of the Polling District. If there is a discrepancy, this process is repeated until either the figure in the ballot paper account or the counted figure is identical. Finally if there is a discrepancy, whether plus or minus, it is recorded. This process continues until all the ballot boxes are accounted for.

*Stage II* - Sorting and counting the ballot papers according to the valid votes received and the preparation of the statement of votes received by each party and independent group in the Electoral District.

- Ballot papers are sorted according to the votes cast in favour of each party or independent groups.
- Any doubtful ballot papers are passed on to the counting officer for determination on their validity. The counting officers are always advised to give their decisions on doubtful ballot papers as and when they are presented to them without waiting for the end of the count.
- The valid ballot papers are sorted into bundles of fifty and subsequently bundled into 500, until they are all sorted, bundled and placed in the appropriate boxes or trays kept on the table.
- At the end of this stage, the Counting Officer hands over the statement of the number of votes to the Returning Officer.
- With the receipt of such Statements the Returning Officer finalizes the Statement of Votes for the entire district.
- Based on this Statement the number of Parliamentary seats for that district is allotted to the contesting political parties and independent groups.

*Stage III* - Recording the preferences received by each candidate in the Tally Sheet and transferring them through a series of Summary Sheets into a District List for a party or a independent group gives the total of preferences received by each candidate in the Electoral District.

*Procedure for counting preferences*

- Preferences marked for candidates are counted at this stage.
- The preference count commences with the ballot papers of the party with the highest number of votes in that counting centre. Prior to the commencement of recording of preferences, these ballot papers are sorted to reject those ballot papers that are not considered valid for the preferences count. Included in this category are ballot papers:
  - (i) with no preferences marked.
  - (ii) with preferences marked for more than three candidates, and
  - (iii) void for uncertainty

The valid ballot papers are then sorted into three categories:

- (i) Ballot papers with only one valid preference.
  - (ii) Ballot papers with only two valid preferences.
  - (iii) Ballot papers with three valid preferences.
- The valid ballot papers are counted and re-bundled into 50s. A Preference Tally Officer examines each ballot paper in a bundle of 50 and records the preferences received by each candidate in the Tally Sheet.
  - Once the entries in respect of a bundle are completed and totalled, then it is passed to the officer on the opposite side of the table to check and mark every entry as proof of the check done.

- At the conclusion of this check, the bundles along with the Tally Sheets are passed on to the next stage where the totals of each Tally Sheet are entered in the First Summary Sheet and they are totalled again.
- These First Summary Sheets are then passed on to the next stage to enter the totals in the Second Summary Sheet. The total preferences for each candidate are the final total preferences for that counting centre. When these Second Summary Sheets are completed for each party or independent group, the Counting Officer reports the results to the Returning Officer.
- This exercise continues until the preferences received by all parties and independent groups are separately tallied and handed over to the Returning Officer. At this stage the counting of votes and preferences in a counting centre comes to an end.
- On receipt of the Statement of Preferences from each of the counting centres, the Returning Officer prepares the Final Statement of Preferences of each candidate and independent for the District.

### **Declaration of Principles for International Election Observation**

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.

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