



The 2020 Sri Lankan Parliamentary Elections:

# Defending Democracy Amid the COVID-19 Pandemic

ANFREL International Election Assessment Report



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**Written By:**

Amaël Vier  
Shraddha Pokharel  
John Reiner Antiquerra  
Lee Chung Lun

**Edited By:**

Chandanie Watawala

**Printed By:**

KP Printing

**Produced and Published By:**

The Asian Network for Free Elections (ANFREL)  
105 Sutthisan Winitchai Road, Samsennok, Huai Khwang,  
Bangkok 10310 Thailand

Tel: (+66 2) 26931867  
Email: [anfrel@anfrel.org](mailto:anfrel@anfrel.org)  
Website: [www.anfrel.org](http://www.anfrel.org)

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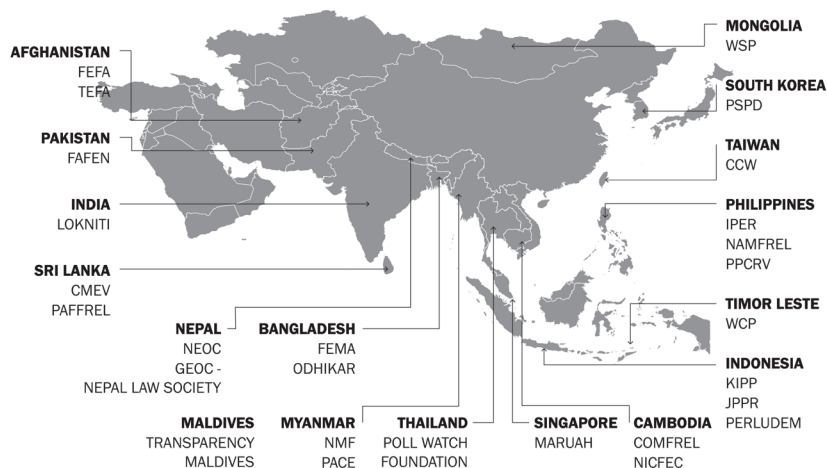


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# Organization Profile

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

Since its formation and prior to the 2020 Sri Lankan Parliamentary Elections, ANFREL has conducted 66 election observation missions across Asia, with over a thousand international election observers participating in these missions. ANFREL draws its observers from a network of member civil society organizations in Asia, all working on strengthening political processes through inclusion, accountability, transparency, and inter stakeholder collaboration. Our long-term aim

is to build expertise on elections and governance in the region, entrenching a culture of democracy that is locally developed rather than externally imposed. By engaging in elections in various countries, our observers develop a strong understanding of best electoral practices, knowledge that can then be utilized to strengthen electoral processes in their respective home countries.

In addition to direct election observation programs, ANFREL also carries out training and capacity building programs for civil society, the media, and other institutions working on elections and democracy-related issues. Providing capacity building training, either directly or indirectly, to local organizations has been an integral part of most of our election observation missions to date. ANFREL believes that capacity building for local stakeholders is one of the most important elements in democratization efforts, which is why it regularly holds regional or country-specific workshops to develop the abilities of democracy advocates.

Finally, ANFREL also carries out election-related advocacy and campaigning, including the dissemination of information and publication of materials related to elections and other democratic processes, as well as lobbying for electoral reforms both on the national and international stage. Since 2012, ANFREL has also organized the Asian Electoral Stakeholder Forum (AESF), which brings together election-related civil society groups and election management bodies from across Asia and beyond to foster greater understanding and cooperation for addressing the remaining challenges to free and fair elections in Asia. By engaging diverse electoral stakeholders through our advocacy and campaign work and bringing together observers from across the region to participate in our observation missions, ANFREL seeks to create an environment conducive to democratic development in the spirit of regional solidarity.

ANFREL's three areas of work - election observation, capacity building, and advocacy - support and complement one another to further our mission of improving the quality of elections across Asia.

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# Introduction

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The COVID-19 pandemic has drastically affected many aspects of people's lives around the world. Hundreds of thousands have died from the virus, while many of those who survived have lost their sources of livelihood. It has also severely affected the way we think of and hold elections. As events of mass popular mobilization, electoral processes have the potential to greatly increase transmission of a virus if no precautions are taken.

The year 2020 is crucial for Asia as key elections are set to take place in many countries. On 15 April, South Korea led the way by holding the region's first national elections since the start of the pandemic, implementing stringent health regulations to protect voters, polling staff, and other electoral stakeholders. Not a single case of COVID-19 transmission was found to be linked to the polls<sup>1</sup>, making South Korea a compelling precedent for other nations aiming to hold their own elections. Sri Lanka, the oldest democracy in Asia, was one of them, with parliamentary elections slated to take place in the wake of the November 2019 presidential election.

After deploying 40 international election observers to the 2019 Sri Lankan presidential election, the Asian Network for Free Elections (ANFREL) intended to do the same for the parliamentary polls. However, travel restrictions linked to the spread of COVID-19 in Sri Lanka and other Asian countries prevented this from happening. The lack of clarity regarding the schedule of the Sri Lankan elections, entangled in a legal debate and postponed twice in the end, was an additional challenge. In light of those logistical barriers, ANFREL first reduced the scope of its tentative election observation mission, before canceling altogether the deployment of international observers coming from abroad.

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<sup>1</sup> <https://www.reuters.com/article/us-health-coronavirus-southkorea/south-korea-no-new-domestic-coronavirus-cases-no-transmission-from-election-idUSKBN22C05U>



Therefore, ANFREL implemented a new hybrid methodology in order to produce the report you are currently reading. Three experts located overseas conducted dozens of interviews with various election stakeholders, along with extensive desk research and online monitoring of the campaign period. In addition, six foreign expatriates living in Sri Lanka were selected and trained to visit polling stations and counting centers and collect data on the conduct of the elections on the ground. This was made possible thanks to the support staff based in Colombo, who provided the necessary logistical arrangements and fulfilled the mission's translation and documentation needs. It was, for all those involved, truly a team effort and a humbling experience.

Because of the external limitations the mission had to face and the absence of experienced international observers on the ground, we have decided to label this endeavor an "election assessment team" instead of the usual "election observation mission". Nevertheless, the present report aims to provide the most thorough and comprehensive election assessment possible under the circumstances, while complying as always with the requirements of independence, impartiality, and professionalism laid down in the Declaration of Principles for International Election Observation and adjoining Code of Conduct.

Defending democracy while fighting COVID-19 largely depends on the specifics of each unique national situation. Therefore, this report focuses on the good practices and successes (or failures) of the Sri Lankan experience. We hope that other countries' election management authorities, observers, members of the media, civil society organizations, or any other interested parties may learn from Sri Lanka and implement a comprehensive and effective strategy tailored to fit their own needs. Our intent was to provide an accessible and illustrated resource shedding light on the practical, legal, and organizational challenges facing the organization of elections amidst a pandemic. As other countries such as Myanmar, Indonesia, Pakistan or Hong Kong are heading towards their own ballots, we hope this resource may prove useful to them.



The 2020 Sri Lankan parliamentary elections are the country's first national polls in two decades for which no international observers were present. At a time when democracy worldwide is eroding, the COVID-19 pandemic places additional strain on international election observers and other human rights defenders. Despite the severe conditions, we must maintain our vigilance and ensure that fundamental freedoms are upheld, democracy remains in place, and divisiveness does not triumph.

Citizen election observers however were still active: ANFREL's two Sri Lankan member organizations, PAFFREL and CMEV, fielded extensive observation missions, albeit reduced from their initial plans for safety reasons. The first, People's Action for Free and Fair Elections (PAFFREL), deployed 50 district and field coordinators, 319 long-term observers (LTOs), 1,000 observers for postal voting and 3,045 for Election Day, as well as 260 mobile monitoring units with 1,092 observers in total. On the other hand, the Centre for Monitoring Election Violence (CMEV) fielded 25 district coordinators, 1,125 field coordinators, 3,000 Election Day observers and 100 PWD mobile observers. Those efforts contributed to make the election environment more transparent, fair, and secure, and we commend all of their staff of volunteers for their long-standing commitment to safeguard Sri Lankan democracy.

Back in May, ANFREL initiated a discussion with all major citizen election observer groups in Sri Lanka to adopt a common and comprehensive approach to safe election observation during this health crisis. The result, released on 1 June 2020 in English, Sinhalese, and Tamil, was the "COVID-19 Code of Conduct for Election Observers<sup>2</sup>". This document endorsed by 7 organizations served as the framework for observers to conduct their activities while practicing social distancing, wearing face masks, and sanitizing their hands, among others. It came with an attached pledge template so that observers would acknowledge their responsibilities not only as organizations but also as individuals, thereby showing the example for the rest of the nation.

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2 <https://anfrel.org/covid-19-and-elections-anfrel-sri-lanka-election-orgs-coc/>



We would like to warmly thank the Election Commission of Sri Lanka for their unwavering support to ANFREL's election observation efforts, especially so during this challenging time, and commend them for their proven attachment to Sri Lanka's long democratic tradition. The Election Commission and their staff throughout the country have worked tirelessly around the clock for months in order to make these elections happen in spite of the many challenges. Health authorities and police were also an integral part of the process and fulfilled their mission remarkably. Media and civil society organizations, including PAFFREL and CMEV but also many others, went to great lengths to educate the public and make these elections successful. We also wish to acknowledge the great contribution made by the Election Day volunteers who joined ANFREL's assessment team, as well as the support staff in both Colombo and Bangkok and the writers in charge of this report. Finally, we reserve our utmost appreciation for the voters of Sri Lanka, who displayed tremendous resilience and a steadfast attachment to democratic traditions in spite of adverse circumstances.

## Chapter 1:

# The Road to the 2020 Sri Lankan Parliamentary Elections

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The first challenge that presented itself to Sri Lankan election authorities regarding the 2020 parliamentary elections was whether it would be possible to hold them according to the timeline defined by the Constitution, or whether they would need to be rescheduled on account of the COVID-19 pandemic that had already started to affect the country. In the end, two postponements were necessary to make these elections happen, more than 3 months after the initial target date.

- **A timeline threatened by the COVID-19 pandemic**

The Constitution of Sri Lanka provides the President with the ability to dissolve Parliament as early as six months prior to the completion of its full five-year term. Following the November 2019 presidential election and his subsequent accession to office, President Gotabaya Rajapaksa announced that he would make use of this power and call for a snap election “at the earliest opportunity<sup>3</sup>” in an attempt to capitalize on the momentum of his victory and secure a strong parliamentary majority for his party.

On 2 March 2020, the very first day that his constitutional mandate enabled him to do so, the President dissolved Parliament. The proclamation also stated that parliamentary elections would take place on 25 April, and the new Parliament would be convened on 14 May, in accordance with the timeline laid down in the Constitution<sup>4</sup>.

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3 <https://www.aljazeera.com/news/2019/11/sri-lanka-president-pledges-election-earliest-opportunity-191122084348262.html>

4 Article 70(5)(a) of the Constitution of the Democratic Socialist Republic of Sri Lanka states that a new Parliament must be convened within three months of the previous one being dissolved.

However, the COVID-19 pandemic soon jeopardized this election roadmap as the country reported its first locally-transmitted case of the disease on 10 March. By 17 March, the island entered a nationwide lockdown to curb the spread of the virus, with preparations for the elections still underway. On 19 March, Mahinda Deshapriya, the Chairman of the Election Commission of Sri Lanka publicly declared that the elections “[could] not be held on 25 April” as scheduled and that a new election date would be announced once the situation was under control<sup>5</sup>. “Only COVID-19 itself can decide when we can hold the elections”, he declared<sup>6</sup>. The postponement was made official in a gazette published on 21 March.

From that point forward, the Election Commission of Sri Lanka would be caught in a dilemma between its constitutional duty to hold snap elections within a short window of time, and the moral obligation to keep all voters, polling staff, and other stakeholders safe. Postponing the elections became the preferred option, but it was complicated from a legal standpoint.

- **A looming constitutional crisis**

The Constitution provides that the date of a parliamentary election may be changed, but the maximum time span of three months for the new Parliament to be convened would still apply<sup>7</sup>. As the President offered no indication that he would rescind his gazette proclaiming the dissolution of Parliament, two options were offered by legal experts in order to avoid another constitutional crisis<sup>8</sup>:

- The first was to reconvene the dissolved Parliament under emergency laws and amend the Constitution to provide for a longer delay of the elections if necessary;

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5 <http://www.newswire.lk/2020/03/19/breaking-election-cant-be-held-on-april-25th/>

6 <http://www.dailymirror.lk/opinion/Politics-of-Postponing-Parliamentary-Elections-Amid-a-Pandemic/172-187187>

7 Article 70(5)(c) of the Constitution of the Democratic Socialist Republic of Sri Lanka

8 <http://www.sundayobserver.lk/2020/03/29/news/ec-consult-govt-election-delay>

- The second was to seek the direct intervention of the Supreme Court on the matter, under what is known as “the doctrine of necessity”. This fueled a legal debate as this doctrine was most famously used to justify authoritarianism in Pakistan starting in 1954<sup>9</sup>.

On 2 April, the Election Commission wrote to the President’s Secretary to seek the advice of the Supreme Court, citing health experts’ opinions that it was unlikely the pandemic would be contained in time to hold the elections<sup>10</sup>. In turn, the Secretary responded there was no need to consult the Court, citing Article 24(3) of the Parliamentary Elections Act, another legal provision that would grant to the Election Commission the power to delay elections for “any emergency or unforeseen circumstances”, thereby escalating the legal debate and placing the full responsibility on an election management body that was still in an impasse<sup>11</sup>.

Over the month of April, the Election Commission and the executive would exchange blows over the issue, accusing each other of placing the country in a deadlock<sup>12, 13</sup>, to the point that all of the country’s domestic election observer groups felt compelled to release a joint statement expressing their “deep concern” and calling for both parties to “be responsible<sup>14</sup>”.

On 20 April, the Election Commission tentatively set the date of the elections for 20 June, making use of the aforementioned Article 24(3) of the Parliamentary Elections Act to go over the deadline of 2 June

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9 <https://www.colombotelegraph.com/index.php/doctrine-of-necessity-buried-in-pakistan-not-to-be-resurrected-in-sri-lanka/>

10 <https://www.newsfirst.lk/2020/04/02/ec-wants-president-to-seek-supreme-court-determination-on-general-election/>

11 <https://www.newsfirst.lk/2020/04/09/no-need-to-seek-court-opinion-on-the-election-presidents-secretary/>

12 <https://www.newsfirst.lk/2020/04/11/nec-member-hoole-says-only-president-can-resolve-current-impasse/>

13 <https://www.tamilguardian.com/content/sri-lankas-pm-calls-election-commission-fix-new-election-date>

14 <https://cmev.files.wordpress.com/2020/04/joint-statement-english-3.pdf>

for the convening of a new legislature<sup>15</sup>. This decision was immediately contested by many political parties which asked the Election Commission to provide them with a campaign period of at least 5 to 7 weeks<sup>16</sup>.

In the following weeks, seven fundamental rights petitions were filed with the Supreme Court seeking to prevent the elections from taking place on 20 June<sup>17</sup>. Petitioners included attorney Charitha Gunarathne, the opposition *Samagi Jana Balawegaya* (SJB) party, the Centre for Policy Alternatives (CPA), senior journalist Victor Ivan, politicians Patali Champika Ranawaka and Kumara Welgama, and the Sri Lanka Muslim Congress. Besides raising the problem of the date itself, CPA remarked in its petition that elections conducted during the COVID-19 pandemic could not possibly be free and fair because of impediments to campaigning and free participation of all<sup>18</sup>.

Despite not being consulted by the President, the Supreme Court would now have to weigh in on the elections after all. Pending its ruling, the Election Commission decided to hold off on issuing the gazette on the preferential numbers to be used by candidates for the campaign<sup>19</sup>. This also meant that the elections would in any case not take place on 20 June, as the Parliamentary Elections Act requires a minimum of five weeks for campaigning and the Supreme Court started to examine the petitions on 18 May.

- **The Supreme Court finally clears the way for the elections**

On 2 June, the Supreme Court of Sri Lanka handed its verdict regarding the date of the 2020 parliamentary elections. All fundamental rights

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15 <https://abcnews.go.com/Health/wireStory/sri-lanka-quandary-holding-elections-amid-virus-70237873>

16 [http://www.dailymirror.lk/print/front\\_page/EC-to-review-decision-after-protests-by-political-parties/238-186985](http://www.dailymirror.lk/print/front_page/EC-to-review-decision-after-protests-by-political-parties/238-186985)

17 <https://www.newsfirst.lk/2020/05/20/cannot-hold-general-election-on-20th-june-nec-informs-supreme-court/>

18 [http://www.colombopage.com/archive\\_20A/May05\\_1588691607CH.php](http://www.colombopage.com/archive_20A/May05_1588691607CH.php)

19 <http://www.ft.lk/news/EC-decides-to-await-SC-ruling-on-polls-petitionsbefore-issuing-Gazette-on-preferential-numbers/56-700134>



petitions were dismissed<sup>20</sup>, thereby upholding both the decision to dissolve Parliament and the date of 20 June for the elections, although it was already known by then that this would be an unsustainable schedule.

With the Supreme Court confirming its authority to reschedule elections in case of an emergency, the Election Commission was now able to determine an actual date as to when the polls could credibly be held. After finalizing jointly with the Ministry of Health the set of guidelines to be implemented, the Election Commission announced on 10 June that the elections would take at last take place on 5 August 2020<sup>21</sup>.

In retrospect, it seems it was not so much the legal framework as the political decisions coming from above that forced Sri Lankan election management authorities to reschedule these parliamentary elections twice. We should highlight that these snap elections were not scheduled by law but instead called by the President in a time of pandemic. The Election Commission then had to prepare to hold polls within a few weeks even as the prospect of a postponement became inevitable, placing the election body in an insurmountable conundrum.

While the emerging constitutional crisis was ultimately defused by the Supreme Court's intervention, this was done at the cost of a prolonged suspension of Parliament and a lack of oversight on the executive power. Most notably, it is striking that the chain of events described above could have been avoided entirely if the President would have decided to rescind his dissolution of Parliament and reconvene the legislature. However, the lack of consensus-building that has plagued Sri Lankan politics for years was demonstrated once again, which in turn made organizing elections more tedious, difficult, and costly, as we will see.

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20 [http://www.colombopage.com/archive\\_20A/Jun02\\_1591111706CH.php](http://www.colombopage.com/archive_20A/Jun02_1591111706CH.php)

21 <https://www.newsfirst.lk/2020/06/10/general-election-on-august-5/>



## Chapter 2:

# COVID-19 Risk Mitigation Plan

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In unlikely circumstances, and after being postponed twice, the 2020 Sri Lankan Parliamentary Elections would finally be able to proceed with extra precautions in place. Election Commission Chairman Mahinda Deshapriya assured voters with confidence that the polling station would be “the safest place in Sri Lanka” and enjoined voters to participate in the elections<sup>22</sup>.

- **A risk mitigation plan drafted by health officials**

In order to proceed without compromising public health and ensure safety from the looming threat of the COVID-19 pandemic, the Ministry of Health and Indigenous Medical Services, in collaboration with the Election Commission, issued the “Health guidelines for conducting the Elections amidst the COVID-19 outbreak” on 3 June 2020<sup>23</sup>. The issuance of the health guidelines for the conduct of the election set a roadmap for the election management of the necessary authorities amid the COVID-19 pandemic.

The 17-page document contains comprehensive “special health measures to be adopted during any election, to protect the general public, election staff and other persons involved in election from possible COVID-19<sup>24</sup>.”

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22 <https://anfrel.org/covid-19-and-elections-preparations-underway-for-sri-lanka-polls-despite-challenges/>

23 [http://www.colombopage.com/archive\\_20A/Jun03\\_1591195673CH.php](http://www.colombopage.com/archive_20A/Jun03_1591195673CH.php)

24 [http://www.health.gov.lk/moh\\_final/english/public/elfinder/files/feturesArtical/2020/Election%20Guidelines%20Ministry%20of%20Health-English.pdf](http://www.health.gov.lk/moh_final/english/public/elfinder/files/feturesArtical/2020/Election%20Guidelines%20Ministry%20of%20Health-English.pdf)

These guidelines provided for the following measures to be observed, and further detailed specific settings for all stages of the elections, including the campaign period, voting, counting and post-election activities:

- wear a face mask;
- keep a distance of one meter between everyone (social distancing);
- wash hands with soap and water or alcohol-based sanitizer as frequently as possible;
- cover coughs and sneezes with elbows or tissues;
- refrain from touching faces, noses, and eyes.

Several groups, including Election Commission chairman Mahinda Deshapriya himself, expressed concern<sup>25</sup> over the non-issuance of a gazette containing the health guidelines which prevented health officials from carrying out their duties<sup>26</sup>. Mr. Deshapriya said “it will be extremely difficult to conduct the election unless the legal effect is given to the health guidelines<sup>27</sup>”. Upul Rohana, president of the Public Health Inspector’s Union of Sri Lanka, said people could challenge their arrests and mandatory quarantine process in court as the health guidelines on COVID-19 were not legally binding<sup>28</sup>.

The health guidelines were gazetted on 17 July 2020, after calls for it to be gazetted and only a few weeks prior to the rescheduled election date of 5 August 2020 when the campaign period and preparations for Election Day had already commenced<sup>29</sup>.

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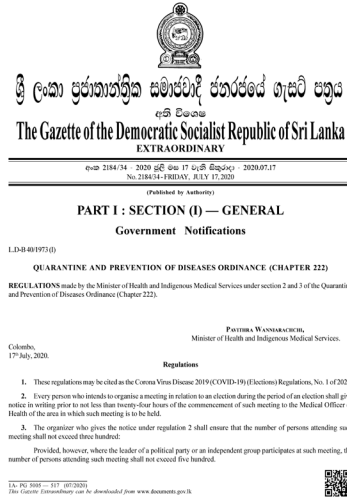
25 <http://www.ft.lk/news/CMEV-concerned-by-Health-Ministry-s-refusal-to-gazette-election-guidelines/56-703146>

26 <https://www.newsradio.lk/local/paffrel-requests-health-guidelines-gazetted/>

27 <https://www.hindustantimes.com/world-news/covid-19-sri-lanka-issues-strict-health-guidelines-for-election-campaigning/story-tqsizUqbcik8u4LZebApGO.html>

28 <http://www.newswire.lk/2020/07/16/gazette-on-health-guidelines-to-be-issued-this-week/>

29 [www.documents.gov.lk/files/egz/2020/7/2184-34\\_E.pdf](http://www.documents.gov.lk/files/egz/2020/7/2184-34_E.pdf)



Left: cover page of the health guidelines drafted by the Ministry of Health and Indigenous Medical Services. Right: first page of the extraordinary gazette containing health guidelines for the election.

The Centre for Monitoring Election Violence (CMEV) raised concerns<sup>30</sup> about the gazetted health guidelines called the “Corona Virus Disease 2019 (COVID-19) (Elections) Regulations No. 1 of 2020”, a two-page document containing more lenient limits on campaigning, polling station and other settings.

The gazetted health guidelines focused on four areas: campaign meetings, canvassing, candidates’ election offices, and polling stations, counting centers and Election Commission offices. For comparison, below is a table listing side-by-side the provisions in the MOH-issued and gazetted health guidelines:

30 <https://cmev.org/2020/07/19/cmev-statement-on-gazetted-covid-19-elections-regulations/>

	<b>MOH-issued Health Guidelines</b>	<b>Gazetted Health Guidelines</b>
<b>Campaign Meetings</b>	Organizers shall inform the area MOH at least 3 days before the meeting.	Notice in writing not less than 24 hours prior to the Medical Officer of Health of the area where the meeting will happen.
	If propaganda meetings are held, the number of participants shall be limited to a maximum of 100 persons.	Organizer shall ensure that attendees will not exceed 300 persons, or 500 persons if the leader of a political party or independent group is present.
	The person/organization who organizes the meeting shall keep the names, addresses and telephone numbers of all persons attended.	Maintain a record of the name, identity card number and contact detail of every person attending the meeting.
		Provide adequate hand washing facilities with soap or sanitizer.
		Ensure that attendees wash their hands before entering the premises.
	Chairs shall be arranged in such a manner to maintain one meter of distance with each other while seated.  Speakers shall also maintain one meter distance with each other.	Ensure social distancing: not less than one meter between two persons attending such meeting, including the speakers.
	All participants shall wear face masks at all times.	Ensure attendees wear face masks at all times.



	<b>MOH-issued Health Guidelines</b>	<b>Gazetted Health Guidelines</b>
	Microphones shall be disinfected between speakers.	Disinfect the equipment including the microphone immediately after being used by a person.
	Others: <ul style="list-style-type: none"> <li>• Minimize physical meetings</li> <li>• Processions are not recommended</li> <li>• Spacious venues with adequate ventilation</li> <li>• Distribution of hand bills is discouraged during meetings</li> <li>• Meeting duration shall be restricted to 3 hours</li> </ul>	
<b>Canvassing</b>	It is recommended to limit the number of visitors to 3 persons at a time.	People canvassing for votes or distributing hand bills or other printed materials shall not exceed five.
	Everyone participating shall wear masks.	Canvassers shall wear face masks at all times.
	Everyone participating shall maintain one meter distance with each other at all times.	They shall observe social distancing not less than one meter between themselves and occupants of the house.
	The person distributing the bills shall sanitize hands before and after each session.	They shall sanitize their hands before distributing hand bills or other printed materials to the occupants of the house.

	<b>MOH-issued Health Guidelines</b>	<b>Gazetted Health Guidelines</b>
	<p>Others:</p> <ul style="list-style-type: none"> <li>Any person with fever with or without respiratory symptoms shall not participate in this activity.</li> <li>Entering into houses by the propaganda team members is not recommended.</li> </ul>	
<b>Candidates' Election Offices</b>	* Covered by general provisions for wearing of face mask, social distancing and hand sanitizing.	Provide hand washing facilities and ensure that people visiting offices wash their hands before entering the premises.
		Ensure social distancing of not less than one meter between two persons at such office and its premises.
		Visitors shall wear face masks at all times.
		No alcohol is brought into or consumed within such offices and premises.
		Ensure that no games of chance or skills are played within such offices and its premises.
	<p>Others:</p> <ul style="list-style-type: none"> <li>Limit number of election officers</li> <li>Limit opening hours</li> <li>Limit persons inside the office to a minimum at any time</li> </ul>	

	<b>MOH-issued Health Guidelines</b>	<b>Gazetted Health Guidelines</b>
<b>Polling Stations, Counting Centers and Election Commission Offices</b>	<p>Voters shall be provided with hand washing facilities at the entrance and all voters shall wash or sanitize their hands before entering the polling booth.</p> <p>All officers shall wear masks and wash their hands before entering the polling booth.</p>	<p>Sanitize hands with soap or sanitizer before entering these premises.</p>
	<p>Mark one meter distance points in the queue on the floor both in and outside. Keep the maximum possible distance between officers and the voters.</p> <p>Arrange polling agent area with one meter distance among themselves and one meter behind the voters queue.</p>	<p>Maintain social distancing of not less than one meter between two persons.</p>
	<p>Voters shall wear face masks.</p> <p>All officers shall wear masks.</p>	<p>Wear a face mask at all times.</p>

	<b>MOH-issued Health Guidelines</b>	<b>Gazetted Health Guidelines</b>
	<p>Others:</p> <ul style="list-style-type: none"> <li>• Dedicated entrance and exit, if possible</li> <li>• Limit the number of polling agents to a minimum</li> <li>• Transparent protective screen between voters and polling officials</li> <li>• Officers shall not touch the identity card or the polling card of the voter, instead shall ask the voter to show it. If touched sanitize hands immediately thereafter</li> </ul>	

As the table evidences, there were several changes between the initial guidelines drafted by the Ministry of Health and those that were gazetted. Notable changes included a notice to the Ministry of Health prior to a campaign event not less than 24 hours instead of 3 days; a maximum of 300 or 500 attendees at campaign meetings, depending on whether or not political party leaders are present, instead of 100 previously; and people canvassing for votes limited to five persons instead of three. For polling stations, counting centers and Election Commission offices, only three general points were included: hand sanitation, social distancing of not less than one meter, and wearing of face masks. Despite the noticeable changes, the Election Commission still followed most of the provisions in the MOH-issued guidelines, which they used as their working document to prepare for the elections.

The MOH-issued health guidelines also outlined specific measures on training sessions, checking and bundling of ballot papers at District Returning offices, postal voting, casting postal votes, handling of polling cards, receiving ballot boxes at counting centers, results tabulation centers, transport of staff and materials, canteen or meal areas and

specific instructions for police officers, on disinfection, waste disposal, and guide for election officers, agents and other staff after their election duty.

The MOH-issued health guidelines additionally set provisions for conducting election in quarantine centers. These provisions supplemented the measures adopted for polling stations with additional requirements such as full personal protective equipment (surgical mask, gloves, face shields, full body cover and boots) for all polling officers, face shields aside from face masks for polling agents, at least two meter personal distance from each other and the voters, sanitization of all sides of the ballot box after the session and after the box has been sealed and put in the polythene bag. The Election Commission, however, dropped the idea to allow voters in quarantine centers to cast their ballot<sup>31</sup>. Mobile voting for those under home quarantine was also dropped but voting hours were extended up to 5 PM with those under home quarantine being able to vote only during the last hour<sup>32</sup>.

- **A series of mock polling stations to finalize risk prevention measures**

The Election Commission of Sri Lanka conducted a series of mock polls to test the health guidelines for the election. Several election observation groups, including ANFREL<sup>33</sup>, participated and provided inputs on the conduct of the mock polls. The mock polls allowed the Election Commission to identify the best approaches to the implementation of the health guidelines and see the preparedness of voters during the pandemic<sup>34</sup>.

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31 See Chapter 5

32 <https://colombogazette.com/2020/07/27/mobile-booths-dropped-quarantined-voters-to-vote-at-normal-booths/>

33 <https://anfrel.org/covid-19-and-elections-mock-polls-in-sri-lanka-24-june-2020/>

34 <https://www.wionews.com/sri-lanka/sri-lanka-conducts-second-mock-poll-election-commission-satisfied-with-preparations-305799>



The Election Commission of Sri Lanka organized a series of mock polls where social distancing, wearing of face masks, and other precautionary measures were tested.





The Election Commission tested a clear plastic protective screen in one of the mock polls (left) before adopting barriers made from cardboard and a fixed transparent polythene window (right, photo credit: Daily Mirror)

- **Active involvement from health professionals**

According to Health Services Director General Dr. Anil Jasinghe, around 8,000 health services officers were deployed on Election Day, a first for the health services sector to deploy officers for duty to provide assistance to the Election Commission<sup>35</sup>.

Election Secretariat Director General Saman Sri Rathnayake meanwhile said “we are involving not only PHIs but also nurses, midwives, and other health service professionals for the task of reading the temperature at tabulation centers. We will not be taking a temperature reading at the polling station, but we will ask these health professionals to assist us in ensuring that the voters are following the health guidelines accordingly<sup>36</sup>”.

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35 <https://www.news.lk/news/political-current-affairs/item/30484-over-8000-health-sector-deployed-for-election-health-safety-duties>

36 <https://www.themorning.lk/2020-general-election-polling-over-2500-phs-to-monitor-health-guidelines/>

A slight hiccup ensued when public health inspectors withdrew from COVID-19 related duties on 17 July 2020 after the remarks made by Health Minister Pavita Wanniarachchi saying PHI officers engaged in COVID-19 duties were causing inconvenience by revealing details of the latest detections of coronavirus patients to the media<sup>37</sup>. The PHIs also said they were withdrawing from COVID-19 related activities due to the government's reluctance to provide them with legal cover for their work<sup>38</sup>. The PHIs went into a strike to demand for a broader mandate in combating the COVID-19 pandemic<sup>39</sup>.

The PHI Union of Sri Lanka later called off their action after “satisfactory solutions were granted at a meeting chaired by Prime Minister Mahinda Rajapaksa<sup>40</sup>”. A total of 2,870 public health inspectors were also deployed on Election Day to “carry out monitoring work at quarantine centers, areas where self-quarantine is observed, hospitals, ports, and airports, and for duties at the local government authorities, will not be used for election-related monitoring work,” said PHI Union Secretary M. Balasooriya. “Our task is to monitor as to whether the voters adhere to the health guidelines that are communicated when they come to vote<sup>41</sup>”, he added.

Mr. Balasooriya, in a separate interview with ANFREL, said there have been no confirmed transmissions of the new coronavirus from the conduct of the election. No official confirmation from the health authorities have been made on this at the time of writing.

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37 <https://www.newindianexpress.com/world/2020/jul/17/lanka-health-inspectors-withdraw-from-covid-19-duties-over-ministers-remarks-against-them-2171097.html>

38 <https://www.thehindu.com/news/international/sri-lanka-issues-strict-health-guidelines-for-election-campaigning/article32123198.ece>

39 <https://ceylontoday.lk/news/a-question-of-public-health>

40 [http://www.dailymirror.lk/breaking\\_news/PHIs-to-call-off-strike/108-192803](http://www.dailymirror.lk/breaking_news/PHIs-to-call-off-strike/108-192803)

41 <https://www.themorning.lk/2020-general-election-polling-over-2500-phIs-to-monitor-health-guidelines/>



Polling officers and other personnel including the police force deployed on Election Day were also required to observe and follow the health protocol.

He said that while precautions were sufficient, the issue was proper implementation as there were observed violations of the orders on social distancing, wearing of face masks, and hand sanitation. Some of the polling stations had small spaces to keep social distancing and some of the election staff needed proper training to adjust to their “new normal” work under the current situation.

He also said there is a need for an updated ordinance or act that would help in enforcing actions to prevent the spread of communicable diseases as well as smooth communication and coordination among the different authorities concerned in ensuring public health and safety.

- **The cost of planning an election during COVID-19**

With all of the preparations for the election, protecting public health and safety to ensure a free and fair election required not only human, but also financial resources. The Election Commission said that the cost for organizing the 2020 Sri Lankan Parliamentary Election was expected to increase significantly because of the extra precautionary measures in place to ensure a safe and secure voting process.

Because of all the additional measures designed to prevent the spread of COVID-19, the 2020 parliamentary elections cost twice the amount that was initially expected. An initial estimate in February placed the projected cost at around 5 billion Sri Lankan rupees<sup>42</sup> (around 27 million USD), but in early August the chairman of the Election Commission Mahinda Deshapriya declared that they were trying to keep the cost under 10 billion rupees<sup>43</sup> (54 million USD). “This is the most expensive election in history as we have to deploy additional staff along with face masks, sanitizers and all other health guidelines”, he said. According to CMEV, the state treasury allocated 8.5 billion rupees to the Election Commission for covering the cost of the elections<sup>44</sup>. Election Commission officials have unofficially confirmed this figure to ANFREL.

But this increase in spending was justified by the importance of the task: “democracy is high cost. It is not cheap,” Mr. Deshapriya said during a webinar ANFREL hosted in June on the Sri Lankan polls. “To save our democracy, we have to spend money. Money is not the problem, the problem is to save our democracy<sup>45</sup>.”

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42 <https://www.dailynews.lk/2020/02/20/political/212015/general-election-cost-over-rs-5-bn>

43 <https://southasiamonitor.org/index.php/sri-lanka/upcoming-sri-lankan-general-elections-be-most-expensive>

44 <https://economynext.com/candidates-spend-rs-2-2-bn-over-sri-lankas-polls-campaign-period-72677/>

45 <https://anfrel.org/covid-19-and-elections-preparations-underway-for-sri-lanka-polls-despite-challenges/>

## Chapter 3:

# Voter Education and Awareness

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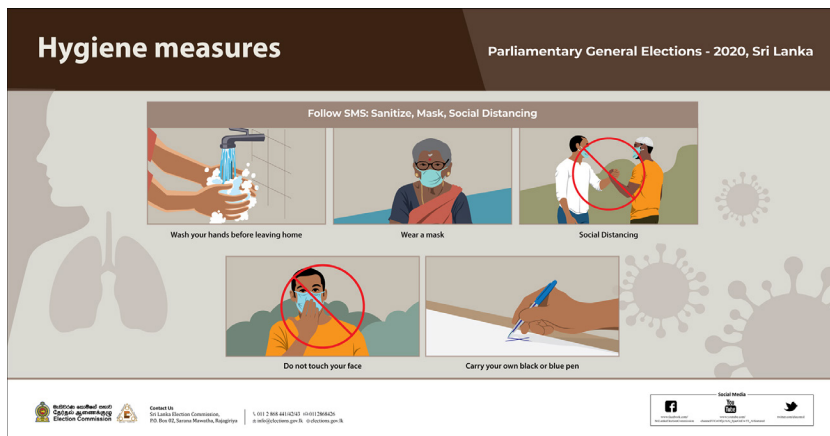
Continuous voter education efforts have been made by the Election Commission of Sri Lanka. The Election Commission does not specifically conduct voter education activities targeting a particular presidential or parliamentary election. Instead, it established a four-year Participatory Strategic Plan (PSP)<sup>46</sup> in 2016 as the preparation towards the 2019 presidential election and 2020 parliamentary elections. In the PSP for 2017-2020, “awareness-raising and conscientization” was identified as one of the four key strategic areas. Nationwide voter education activities are laid out in the PSP with the goal of getting all citizens involved in the election process actively.

Interviews with Election Commission officials reveal that before the parliamentary elections, the Election Commission mainly focussed its voter education efforts on the new polling hours, the health guidelines for polling day, and voter education for voters with disabilities. Due to the COVID-19 pandemic, the Election Commission did not manage to conduct numerous workshops at the grassroots level and had to rely on mass media, social media and media releases to disseminate the information.

For social media, the Election Commission used Facebook, Twitter and YouTube to disseminate voter education information. Infographics and videos in Sinhala, Tamil and English were published, which included information for voters with disabilities, about the election complaint process, the COVID-19 hygiene measures for the polling day, frequently asked questions for voters, etc.

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46 [http://elections.gov.lk/web/wp-content/uploads/PSP/Strategic\\_Plan\\_2016\\_English.pdf](http://elections.gov.lk/web/wp-content/uploads/PSP/Strategic_Plan_2016_English.pdf)



An infographic shared by the Election Commission on social media. The same poster is also available in Sinhala and Tamil languages.

However, the Election Commission missed the opportunity to fully utilize social media to effectively promote voter education prior to the parliamentary elections. The Election Commission started to publish voter education information on its official Facebook page and Twitter on 24 July and 27 July respectively, less than two weeks ahead of the polling day. The posts did not gain significant traction since then.

The Election Commission has also posted 26 videos on its YouTube channel with regards to voter education for the parliamentary election. The first video, however, was uploaded just nine days prior to Election Day. Most of the videos were made in black and white, and were not tailored to appeal to young voters. None of the videos has garnered more than 600 views.

On the other hand, civil society organizations in Sri Lanka played a crucial role in enhancing electoral knowledge and increasing awareness among members of the public. CSOs such as PAFFREL, CMEV, and the March 12 Movement conducted voter education workshops, online seminars and social media campaigns in order to achieve these objectives.



The Election Commission's official Youtube channel

Despite initiatives of voter education by various stakeholders, as AN-FREL's international election observation report on the 2019 presidential election assessed, voter awareness on the preferential voting system in Sri Lanka remains low. The same issue was raised when the 2020 parliamentary elections recorded the country's highest number of the rejected votes in history at 6%. According to CMEV, low electoral literacy of the public and wrongful marking of ballots were two of the main factors for a large number of votes to be rejected<sup>47</sup>. As such, stakeholders conducting voter education are suggested to include education on preferential voting to empower the voters to make an informed voting decision and ensure that their ballots are properly marked.

47 <http://www.newswire.lk/2020/08/08/general-elections-2020-records-highest-number-of-rejected-votes-cmev-explains-why/>





## Chapter 4: Election Campaign

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- **Election offenses and violence**

The overall election campaign environment was generally peaceful and calm. There were fewer political meetings, door-to-door canvassing, and election posters than in previous elections due to the COVID-19 pandemic. This negatively affected voters' access to candidate information as most of the voters from rural areas mainly get to know about candidates through meetings and door-to-door canvassing.

Although domestic election observers assessed the campaign as mostly peaceful, there were recorded instances of assault. The incidents, however, appeared to be isolated and did not lead to an escalation of violence. According to CMEV, instances of election-related violence have declined compared to the previous elections.

Interviews with local election observers also revealed that there were cases of vote-buying throughout the election campaign period. The exchange of votes with cash or goods such as clothes and school bags was found to have occurred during door-to-door canvassing. However, local election observers often face challenges in reporting and filing complaints against the cases of vote-buying due to lack of evidence.

Abuse of state resources for campaign purposes remained significant in the elections. Transparency International Sri Lanka reported that the majority of complaints they received were related to the misuse of state-sponsored development projects, state-owned vehicles, and public officials' misconduct<sup>48</sup>. PAFFREL also presented similar findings<sup>49</sup>.

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48 <https://www.tisirilanka.org/projects-officials-a-primary-target-for-abuse-of-public-resources/>

49 <http://www.paffrel.com/posters/200803130823PAFFREL%204th%20Press%20Release%20August%2003.pdf>

Domestic election observer groups also highlighted instances of hate speech and incitement to hatred in both online and offline election campaigns. Based on CMEV's observation, most instances of hate speech were found during door-to-door canvassing and small pocket meetings due to less scrutiny at that level<sup>50</sup>. This is also because the campaign restrictions due to COVID-19 significantly reduced massive public rallies and increased ground-level campaigning aimed at small numbers of voters.

Election campaigns were prohibited in the 48-hour cooling period prior to Election Day, starting at 12:00 AM on 3 August 2020. However, poor adherence to campaign silence rules was observed during the cooling period, especially on social media where advertisements and political posts were rampant (see chapter 9).

## • **Election Commission guidelines**

The Election Commission released several guidelines to regulate all election stakeholders with regard to the election campaign. The Code of Conduct for contesting political parties/independent groups and candidates of the elections was released and gazetted by the Election Commission on 3 June<sup>51</sup>. In order to create a free and fair election campaign environment, the Code of Conduct spelled out the rules for election propaganda activities and hate speech or speech prejudicial to national harmony.

The Election Commission also released a directive to prevent the misuse of state resources to promote any political parties and candidates in all public institutions<sup>52</sup>. All public officers, including Secretaries to Ministries and Chief Secretaries of Provinces, are required to comply with these directions. However, the enforcement of the directive needs to be improved to hold those in violation accountable. The Election Commission further

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50 <https://cmev.files.wordpress.com/2020/07/hate-speech-and-divisive-language-during-the-parliamentary-general-election-2020.pdf>

51 [http://documents.gov.lk/files/egz/2020/6/2178-25\\_E.pdf](http://documents.gov.lk/files/egz/2020/6/2178-25_E.pdf)

52 [http://documents.gov.lk/files/egz/2020/6/2178-29\\_E.pdf](http://documents.gov.lk/files/egz/2020/6/2178-29_E.pdf)

released a set of guidelines to prevent misuse of public property in the parliamentary elections<sup>53</sup> after the use of public vehicles for campaigning was reported. It includes the prohibition of the use of official vehicles and equipment belonging to local government institutions and carrying out election campaigns by the head of local authorities.

- **Poor compliance with health guidelines**

The Ministry of Health issued the health guidelines for conducting the election, containing specific settings for election meetings and the distribution of campaign material on 1 June. As discussed in chapter 2, the guidelines were not made legally binding until they were gazetted on 17 July.

According to the gazetted regulations<sup>54</sup>, organizers of political rallies must inform the health authorities 24 hours in advance; maintain a record of the name, identity card number and contact details of every person attending such meetings; ensure every attendee washes or sanitizes their hands before entering the venue. All are required to maintain a one-meter distance between each other and wear face masks at all times.

As for door-to-door canvassing, the regulations require the campaigners to maintain a one-meter distance among themselves, wear a face mask, and sanitize their hands before distributing any printed materials.

Several restrictions on campaigning in the initial health guidelines were relaxed in the regulations. For example, the attendance limit of political rallies was increased from 100 to 300 people, and 500 people for rallies attended by party leaders. The number of people allowed for the door-to-door canvassing was increased from three to five.

Despite the guidelines being gazetted and the relaxation of certain restrictions, the compliance of the health guidelines by all political parties across the country was observed to be poor. The organizers of rallies were not seen to have maintained the record of the attendees' details and limited

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53 [https://elections.gov.lk/web/wp-content/uploads/media-release/PE\\_2020\\_MR\\_41\\_E.pdf](https://elections.gov.lk/web/wp-content/uploads/media-release/PE_2020_MR_41_E.pdf)

54 [http://www.documents.gov.lk/files/egz/2020/7/2184-34\\_E.pdf](http://www.documents.gov.lk/files/egz/2020/7/2184-34_E.pdf)



Attendees at this SJB campaign rally in Colombo on 2 August did not respect rules on social distancing and face masks (Photo credit: Sajith Premadasa's Facebook page)



Sri Lankan president Gotabaya Rajapaksa interacted with supporters in a public rally in Kalutara on 30 July. Social distancing among the attendees was not observed. (Photo credit: Gotabaya Rajapaksa's Facebook page)

the number of attendees. In some rallies with the attendance of political leaders, there were blatant violations of the 500-people attendance limit and one-meter social distancing rule.












There was no social distancing and some people without face masks at this UNP campaign rally in Colombo on 2 August.

- **Unlevel playing field**

The lack of campaign finance laws has been a long-standing issue in Sri Lanka. Campaign finance remains unregulated and there are no limits on donations or spending. This results in a lack of transparency and accountability and the reinforcement of an unlevel playing field among candidates.

Since the 2019 presidential election, CMEV has been running the Estimated Election Campaign Cost Monitoring initiative to track election expenses incurred by political parties and candidates throughout the election period. It aims to create public discourse on the impact of unregulated election campaign financing and highlight the need for campaign financing rules in the country. The election monitoring group monitors and calculates the costs spent on printed media, electronic media, social media and others such as public rallies and promotional materials for election campaign purposes.

The results of this monitoring for the 2020 parliamentary elections show a vast disparity in election expenses among political parties. The ruling *Sri*

Estimated Election Campaign Costs						
Total Estimated Costs Update ② 02 July – 01 August 2020						
Parties		Cost Categories				Estimated Total Cost (million LKR)
		Printed Media	Electronic Media	Social Media (Facebook)	Other Costs	
	Sri Lanka Podujana Peramuna (SLPP)	54	490	26	506	1,076
	Samagi Jana Balawegaya (SJB)	21	380	18	191	611
	United National Party (UNP)	25	181	6	85	297
	National People's Power (NPP)	3	68	2	49	123
	Ape Jana Bala Pakshaya (OPPP)	1	31	3	8	43
	Ilankei Tamil Arasu Kadchi (ITAK)	1	1	1	65	68
	All Other Parties	2	18	4	7	30
Estimated Total Campaign Cost (million LKR)						2,248
<div><div></div><div>CENTRE FOR MONITORING ELECTION VIOLENCE මැතිවරණ ප්‍රචණ්ඩත්වය නිරීක්ෂණ මධ්‍යස්ථානය தேர்தல் வன்முறைகளைக் கண்காணிப்பதற்கான நிலையம்</div></div>						

Credit: Centre for Monitoring Election Violence (CMEV)

*Lanka Podujana Peramuna (SLPP)* party spent an estimated 1.076 billion Sri Lankan rupees (nearly 6 million USD) on campaign-related expenses or nearly half of the total expenses by all political parties in the period of 2 July to 1 August. The exact amount of expenses is estimated to be higher, as CMEV believes that it only captured roughly 30% of the actual campaign expenses due to several limitations<sup>55</sup>.

When in-person campaigns are limited due to the pandemic, election campaigns rely heavily on media advertising. Wealthier political parties and candidates are able to utilize their resources to earn airtime on radio and TV or publicize advertisements on printed media. In contrast, smaller parties and independent candidates face challenges in getting a space in mainstream media as they may not have sufficient funds to do so. It is high time for the political authorities of Sri Lanka to establish a rigorous legal framework to regulate campaign finance in order to ensure a level playing field among all election candidates.

<sup>55</sup> [https://cmev.files.wordpress.com/2020/08/cmev\\_campaign-finance-monitoring-\\_overview.pdf](https://cmev.files.wordpress.com/2020/08/cmev_campaign-finance-monitoring-_overview.pdf)



## Chapter 5: Voter Registration and Alternative Voting Procedures

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- **A voter registration system which continues to disenfranchise youth**

Sri Lanka updates its voter list once a year, and the 2020 parliamentary elections used the 2019 electoral register<sup>56</sup>, which includes 16,263,885 eligible voters. Therefore, 271,789 more voters than in the 2019 presidential election were able to participate, and 1,219,395 more than in the 2015 parliamentary elections. 31.95% of registered voters were youth between the ages of 18 and 25, with 1.67% of them being first-time voters<sup>57</sup>.

However, as ANFREL previously noted in its report on the 2019 Sri Lankan presidential election, because of legal requirements, voter registration is conducted each year on the basis of a person having reached 18 years of age by the qualifying date of 1 June<sup>58</sup>. No supplementary voter rolls exist for those who would turn 18 between the deadline for registration and the day an election would be held.

This effectively means that the youngest eligible voter for the 2020 parliamentary elections would have been over 19 years and 2 months old by Election Day, despite the voting age formally being 18 years old. In any given year, around 300,000 Sri Lankans between the ages of 18 and 19 are disenfranchised by the current voter registration system. This could be redesigned in order to ensure that youth are entitled to vote, either by providing supplementary voter lists or by automatically registering every eligible voter upon his or her attaining the minimum age<sup>59</sup>.

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56 [https://elections.gov.lk/web/wp-content/uploads/pdf/statistics/electoral\\_reg\\_2019\\_E.pdf](https://elections.gov.lk/web/wp-content/uploads/pdf/statistics/electoral_reg_2019_E.pdf)

57 <https://economynext.com/over-1-2-million-new-votes-registered-for-sri-lankas-upcoming-polls-72471/>

58 Article 3 of the Registration of Electors Act, No. 44 of 1980

59 <http://www.sundayobserver.lk/2019/08/18/news-features/international-youth-day-18-year-olds-demand-right-vote>



Voters queue to cast advance ballots in Matara District on 15 July.  
(Photo courtesy: CMEV)

- **Postal voting was expanded to accommodate health workers**

Sri Lanka implements a mechanism called postal voting to allow civil servants who are mobilized for election duty to cast their ballots early. The name “postal voting” itself can be confusing as it usually refers to ballot papers being distributed to voters and collected by post, but this is not the case in Sri Lanka. Instead, postal voting there is similar to advance voting in countries such as Myanmar or Thailand, where eligible voters cast ballots in special polling stations a few weeks ahead of Election Day. Ballot papers are then transported to counting centers in their respective areas through the postal service, thus giving the process its name.

For the 2020 parliamentary elections, postal voting took place from 13 to 21 July. More specifically, there were several phases to the process:

- On 13 July, postal voting took place only for the staff of the Offices of the Medical Officer of Health, since they were tasked to supervise the implementation of health guidelines during the subsequent stages of postal voting<sup>60</sup>;
- On 14 and 15 July, postal voting took place for most civil servants who registered to vote early, in special polling stations set up at their public institutions for this purpose;
- On 16 and 17 July, it was the turn of District Secretariats staff, Election Offices staff, armed forces personnel, police officers, personnel from the Civil Security Department and the health sector to vote;
- Finally, on 20 and 21 July, all of the above who were unable to vote on the previous dates could cast a ballot by visiting the Election Office or District Secretariat of their respective district<sup>61</sup>.

The Election Commission received a total of 753,037 applications for postal voting, out of which 705,085 were deemed valid. It was reported that a majority of the rejections were due to the applicants not being placed on poll duties, while other rejected applications include persons who submitted two applications from two workplaces, and paperwork with wrong or missing information<sup>62</sup>. The application period started in March 2020<sup>63</sup> before the elections were postponed for the first time, and 10 June was the deadline for government workers who were assigned on poll duty to register for postal voting. The final list of postal voters was certified on 18 June.

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60 <https://colombogazette.com/2020/07/05/guidelines-issued-for-postal-voting/>

61 [http://www.colombopage.com/archive\\_20B/Jul21\\_1595306104CH.php](http://www.colombopage.com/archive_20B/Jul21_1595306104CH.php)

62 <https://economynext.com/sri-lanka-elections-commission-rejects-47000-postal-vote-requests-71377/>

63 <https://www.newsfirst.lk/2020/03/06/postal-voting-applications-now-open/>



Staff of the office of the Medical Officer of Health in Colombo line up to vote on 13 July. (Photo courtesy: Lalith Perera/The Sunday Morning)

The major takeaway regarding postal voting in these parliamentary elections is that for the first time ever, workers in the health sector were able to use this mechanism, as they were mobilized to ensure safe polls in accordance with the health guidelines described earlier. On 4 June, the Ministry of Health published a circular listing 11 categories of health officers who would be on duty on Election Day and calling for all supervisors to ensure their staff apply for postal voting<sup>64</sup>. The only exception was those health workers who would be posted in their area of residence and therefore would be able to vote while conducting their election duties.

We commend the Election Commission and health authorities of Sri Lanka for taking steps to guarantee the enfranchisement of the health workers who took part in the electoral process. It is crucial that those who are at the frontlines of the fight against COVID-19 and are not disenfranchised or otherwise neglected.

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64 <http://www.health.gov.lk/CMS/cmsmoh1/viewcircular.php?cno=02-28/2020&med=english>

However, ANFREL wishes to renew some of the comments made in its report on the 2019 presidential election regarding postal voting. The first remains that a large number of postal voting applications end up being rejected, over 47,000 for these elections. There remains a need for increased voter education that could help reduce the number of those possibly disenfranchised.

The second consideration is that postal voting remains accessible only to limited categories of civil servants (and, somewhat surprisingly, candidates) who are unable to be at their polling stations on Election Day. Indeed, the legal framework establishes a restrictive list of categories eligible for postal voting<sup>65</sup>, making it impossible to further expand advance voting privileges to other voters who might need it, such as citizen election observers, migrant workers, students, internally displaced persons, or even the general public.

More flexibility with regard to advance voting could also have been beneficial to address the problems posed by holding elections during a pandemic, most notably the overcrowding of polling stations. For instance, a crucial component of South Korea's strategy in preventing the transmission of COVID-19 during its own general election held in April 2020 was to encourage people to vote early. A record 26% of registered voters took advantage of the two days of advance voting offered, which contributed to lessening considerably the number of people in polling stations on Election Day<sup>66</sup>. However, as its current legal framework stands, Sri Lanka lacks the flexibility to do the same thing.

- **Special measures for voters in quarantine were considered but could not be implemented**

The COVID-19 pandemic has forced many countries around the world to resort to quarantine measures for people coming back from abroad, and Sri Lanka is no exception. Throughout much of 2020, every person trav-

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65 Article 26(2)(b) of the Parliamentary Elections Act, No. 1 of 1981

66 <http://www.koreaherald.com/view.php?ud=20200415000335>

eling into Sri Lanka has been subjected to a 14-day mandatory quarantine, followed by 14 days of self-isolation at home (this second phase is also commonly referred to as “self-quarantine”).

Ahead of the polls, election officials pondered how they could ensure that voters in quarantine would not be disenfranchised. There was an attempt to provide them with a system similar to the postal voting described above through a “Mobile Polling Station” program that would have taken place on 31 July<sup>67</sup>. There were however legal concerns, as Sri Lankan election laws do not provide for the possibility of an advance voting mechanism beyond the already established and restricted postal voting. Some stakeholders also pointed out that if it were possible to create an advance voting system for voters in quarantine, it should also include other voters with restricted mobility, such as remand prisoners, elderly voters, or voters with disabilities.

Ultimately, this initiative was scratched after the Election Commission received complaints from various political parties<sup>68</sup> and the Attorney General’s Department advised against the mobile polling station project as it could be legally contested after the election. CMEV’s National Coordinator Manjula Gajanayake declared that Sri Lanka “missed a golden opportunity to show the world how much [they] value the right to vote<sup>69</sup>”.

Commenting on this failed endeavor, the Chairperson of the Election Commission Mahinda Deshapriya has called for comprehensive electoral reform in order to accommodate more inclusive advance voting in the future: “for such a procedure to take place, the law must be completely changed with advance voting<sup>70</sup>”.

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67 <https://www.hindustantimes.com/world-news/covid-19-sri-lanka-to-conduct-advance-polling-for-people-under-quarantine/story-jjwHG2PcepJZ28hG4BuLZM.html>

68 <https://www.newsfirst.lk/2020/07/27/advanced-voting-program-for-quarantined-voters-will-not-go-ahead-nec/>

69 <https://economynext.com/sri-lankan-citizens-under-covid-19-quarantine-denied-the-vote-at-this-election-72605/>

70 <https://www.newsfirst.lk/2020/08/05/nec-chairman-calls-for-complete-reform-of-election-law/>

According to statistics released by the National Operations Centre for Prevention of COVID-19, on 5 August, there were 2,294 persons being quarantined at 33 facilities run by security forces across the country<sup>71</sup>, in addition to around 1,000 in hotels which were turned into quarantine centers. All of these voters were disenfranchised. In the end, only those who had completed the first 14 days of the quarantine process (about 1,800) were able to go cast their ballots in a polling station, and only during the last hour of voting (between 4 and 5 PM) under the supervision of their areas' Medical Officers of Health<sup>72</sup>.

As the Sri Lankan experience shows, the possibility for voters to cast ballots ahead of Election Day and/or outside of a regular polling station could have helped to accommodate the needs of voters in quarantine or with limited mobility, which would have been extremely valuable in the context of a pandemic. However, once again a flexible legal framework is a prerequisite in order to implement alternative voting procedures.

In contrast, earlier this year, South Korea allowed voters in quarantine to vote in person at polling stations, although only during a dedicated voting hour and with additional precautions<sup>73</sup>, a similar process to the one adopted in Sri Lanka. However, South Korean COVID-19 patients were able to vote either by mail or at special advance polling stations set up in hospitals for that purpose. Both options would have been impossible to implement under Sri Lankan election law. Another example would be Singapore, where COVID-19 patients and voters in quarantine were not able to vote, but mobile polling stations were arranged in some hotels to accommodate people under stay-home orders<sup>74</sup>.

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71 <http://www.themorning.lk/persons-undergoing-quarantine-over-2000-unable-to-vote/>

72 <http://www.themorning.lk/persons-in-self-quarantine-phis-to-ensure-voting-during-designated-time/>

73 <https://www.vox.com/world/2020/4/17/21221786/coronavirus-south-korea-election-voting-covid-19-pandemic-democracy>

74 <https://www.todayonline.com/singapore/no-voting-covid-19-patients-and-those-quarantine-special-voting-hour-those-shn>





தமிழ்நாடு சுகாதாரத் துறை  
"கொவிட்" தொற்று நோய் கட்டுப்பாட்டுத் துறை  
"கொவிட்" தொற்று நோய் கட்டுப்பாட்டுத் துறை

அதிகாரப்பூர்வ  
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IN

## Chapter 6: Election Day

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On 5 August, after months of preparations and successive delays, 16,263,885 eligible voters were finally invited to cast their votes in the 2020 Sri Lankan parliamentary elections. There were a total of 7,452 candidates on the ballot, representing 70 recognized political parties and 313 independent groups.

12,985 polling stations were arranged all over the island, all of which were supposed to implement strict health precautions as devised by the country's health authorities and Election Commission. As the first election to be held in South Asia since the beginning of the COVID-19 pandemic, these polls involved mandatory face mask wearing, frequent hand washing and social distancing for all.

On Election Day, members of the ANFREL assessment team were able to visit 45 polling stations across 6 electoral districts (Jaffna, Trincomalee, Polonnaruwa, Kurunegala, Nuwara Eliya, and Hambantota). While we acknowledge that this sample is too small in size to be representative, our findings will nonetheless shed some light on the steps taken to protect voters amidst a pandemic, and on the difficulties of implementing health guidelines across the board.

In light of the special circumstances and regulations for these elections, ANFREL asked its team members to pay particular attention to the enforcement of COVID-19-related health precautions when visiting polling stations on Election Day.

- **Special arrangements were made in polling stations**

Upon arriving at their polling station, the first item that voters would usually encounter was a hand-washing station equipped with either water and soap or alcohol-based hand sanitizer. Nearly all polling stations visited by ANFREL displayed wash basins at the entrance of the facility, in accordance with the health guidelines enforced by the Election Commission. In some places, sinks were arranged in rows in order to accommodate large numbers of voters. Signs reminding the voters of the health guidelines applicable for these elections were also posted at the entrance of polling stations.



A wash basin set up at the entrance of a polling station in Jaffna district

Hand washing facilities were found to be mostly adequate in the locations monitored by ANFREL. However, some wash basins were not located on the most direct path voters would take to enter the polling station, instead requiring a detour or sometimes causing them to be ignored altogether. In a few instances, hand washing stations were missing soap, despite regulations stating that it should be provided. This shows that attention to detail





This polling station in Trincomalee district provided water but no soap for voters to wash their hands

by election officials is important when implementing guidelines destined to protect voters from a pandemic.

In addition to wash basins, polling stations also provided hand sanitizer at the entrance door, thus providing a double layer of protection for voters and mitigating any issue that could be found with hand washing facilities in the outer perimeter.

This entrance sanitizing station was implemented differently depending on the polling station: while in most locations a polling staff would be present to ensure that everyone entering did wash their hands, in others voters were left to their own devices, which resulted in noticeably lower levels of compliance. In some instances, it was the police officer posted outside the polling station who would distribute hand sanitizer to voters as they queued. In this respect, it seems that allocating a poll worker to monitor hand washing in each polling station is the most reliable method to guarantee that health guidelines are enforced, which is something election management bodies could consider in the future.



A polling staff in Trincomalee district sprays voters' hands with sanitizer as they enter a polling station

The health guidelines elaborated by the relevant authorities also stated that whenever possible, polling stations should be arranged in such a way that voters would enter from one side and exit from another, which would limit interactions and increase social distancing. This was true in a large majority of locations visited by ANFREL team members, which shows that election officials were mostly able to accommodate the special needs of these elections.

Polling stations were also arranged in a way to leave as much space as possible between each person. Polling staff were sitting behind transparent protective screens, while party agents and observers were located at the back of the room, maintaining a minimum distance of 1 meter between themselves as well as with the voters going through the polling station. In many occasions, furniture such as school desks or chairs were used to create physical lines of demarcation. Sri Lankan election law prohibits taking pictures inside polling stations, meaning that we are unable to include any here. Nevertheless, election officials should be commended for their efforts to arrange polling stations in the safest possible way for all present.

- **Rules on social distancing and face masks were inconsistently enforced**

In line with the risk mitigation measures presented in Chapter 2, everyone inside polling stations, whether polling officials, health workers, voters or election observers, was mandated to wear a face mask at all times and respect a social distance of at least one meter. In ANFREL's experience, it was those rules that were the most inconsistently enforced on Election Day.

With regard to face masks first, ANFREL team members monitoring Election Day reported that in a majority of the polling stations visited, there would be at least one person who either did not wear a face mask or wore a face mask incorrectly (usually covering the mouth but not the nose). While this may seem alarming, and shows indeed that the health guidelines could have been implemented more thoroughly and consistently, it should also not obscure the larger picture, which is that most individuals still wore a face mask most of the time, therefore providing additional protection compared to normal voting procedures.

Party agents were the ones most often identified as those improperly wearing masks. However, on the whole, all categories of persons inside polling stations, including voters, election observers, and even poll workers, were involved in some violations. The latter category is the most concerning, since polling officials presumably received the most training and it is their responsibility to show the example to voters coming to cast their ballots. In some instances, the senior presiding officer (SPO) himself was not wearing a face mask, and in our sample, it was in those polling stations in particular that the largest numbers of people not complying with the rules were found.

Again, ANFREL needs to emphasize that our findings may not accurately reflect the situation across the country's 12,985 polling stations. Nevertheless, it shows how rules could be implemented inconsistently, with discrepancies between the polling stations where everyone was wearing a face mask properly and those where only some people did.



This poll worker (second from left) in Trincomalee district was not wearing a face mask

In the context of a pandemic, the optimal scenario is obviously that everyone wears a face mask at all times throughout the day, but in practice this largely relies on the education of the public and the willingness of the person or persons in charge to enforce the rules. With temperatures reaching up to 35°C in parts of the country, it is also reasonable to assume that some people will remove their masks at some point during the ten hours of voting. ANFREL team members also observed that face mask-related violations seemed to increase at the end of the day, when fewer voters would come to the polling stations (partly because closing time was pushed from the traditional 4 PM to 5 PM).

To their credit, the Election Commission also foresaw that, to some extent, polling staff may not comply with the instructions to wear a face mask at all times, which is why they were also provided with face visors as well as plastic shields on the desks used for election duties. While neither of these devices were intended as a substitute for face masks, they still contributed to limiting the risk of transmission when masks were not being used.





At this polling station in Nuwara Eliya district, a poll worker (right) and voters (background) were not wearing face masks

Overall, while the health and election authorities of Sri Lanka implemented a strict mandatory face-mask policy on paper, implementation on Election Day was perfunctory because of discrepancies shown between polling stations. While this seems in retrospect to have had little impact, if any, on the spread of COVID-19 in Sri Lanka, it serves as a reminder to other election management bodies across the world to place a special emphasis on educating voters, poll workers and other stakeholders about the need and the proper way to wear face masks during the current pandemic.

ANFREL's findings highlight a similar pattern about social distancing measures. The vast majority of polling stations took steps to ensure that voters would respect a distance of at least one meter between each other when queuing, such as paint marks on the ground or furniture being used to mark the proper places for people to stand in line. Voters would mostly comply with these instructions and sometimes poll workers or police officers posted outside would remind them to keep their distances.



Voters queuing at this polling station in Polonnaruwa district mostly obeyed social distancing guidelines

However, in some of the polling stations visited by ANFREL, social distancing guidelines were either poorly enforced or ignored altogether. In these instances, which fortunately regarded a minority of locations, people would not observe the required social distance, or even crowd at the entrance of the polling station, without polling staff reminding them to spread out.

Once again, we can see the challenge in implementing such extraordinary measures across the board, despite the best efforts of health and election officials. Therefore, we encourage all election management bodies and governments considering to hold elections during the COVID-19 pandemic to explore ways to ensure that implementation would be as consistent as possible, for instance by educating poll workers and voters ahead of time.



Voters queue at a polling station where social distancing was properly enforced in Jaffna district

- **A smooth and transparent voting process**

Aside from the health guidelines related to preventing the spread of COVID-19, ANFREL team members witnessed a polling process that was orderly and peaceful, in line with what was observed during the 2019 presidential election<sup>75</sup>. This is logical since polling procedures were mostly unchanged except for the need to adapt to the ongoing health crisis.

The environment was mostly free from election violations, except for a few instances where campaign materials such as posters or pieces of paper with candidates' logos and numbers could be found in the vicinity of polling stations. No cases of violence or intimidation were reported by the ANFREL assessment team.

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<sup>75</sup> <https://anfrel.org/final-mission-report-2019-sri-lankan-presidential-election/>





Examples of flyers found by ANFREL in the vicinity of polling stations on Election Day

Voting was also transparent, with political party agents or citizen observers present in almost every polling station visited. ANFREL representatives were granted unhindered access to polling stations, for which we thank polling officials and the Election Commission.

However, two practices contrary to international election standards that were observed during the last presidential election were unfortunately reported once again in these parliamentary elections. The first is that in a number of polling stations, armed police officers would be present within the premises instead of remaining outside. We wish to reiterate that this should be avoided in the future, in light of best electoral practices, in order to ensure a voting environment free from interference.

The other issue that remained unresolved from the previous election was the positioning of the voting booths, which in some cases would not ensure that voters would cast their ballots in full secrecy. In those polling stations, booths would be angled towards polling officers. While we understand that this stems from a desire of election officials to ensure that voters do not violate regulations when they cast their ballots, best practices dictates that voters need to be able to mark their ballots in complete secrecy. We hope that the Election Commission may take steps to uphold ballot secrecy and prevent such occurrences from happening again in the next elections.

Nevertheless, the voting process displayed on Election Day was deemed to be overall transparent, smooth, and uneventful, displaying Sri Lanka's long experience of universal suffrage.

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## Chapter 7: Counting Day

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In Sri Lanka, vote counting takes place in designated counting centers instead of the polling stations themselves, and is marked by the presence of a significant number of people, including counting officers, representatives of political parties and candidates, election observers, Election Commission officials and security personnel. However, regular voters do not have access to the counting centers and therefore cannot witness the counting and tabulation of ballots.

Vote counting traditionally happens on the evening of Election Day itself, and continues throughout the night to deliver the results by the early morning. But in light of the COVID-19 pandemic, the Election Commission decided to move ballot counting to the day following the election in order to better protect polling staff. As the Commissioner-General of Elections Saman Sri Rathnayake declared: “The staff get very tired when they conduct the poll and go straight into counting. Therefore their resistance level becomes low, and we did not want to take risks<sup>76</sup>”.

Vote counting started at 8 AM on 6 August in all 22 electoral districts, a day after the polls themselves were held. ANFREL team members visited counting centers in Jaffna, Trincomalee, Polonnaruwa, Kurunegala, Nuwara Eliya, and Hambantota to monitor the counting process and gauge compliance with COVID-19 guidelines.

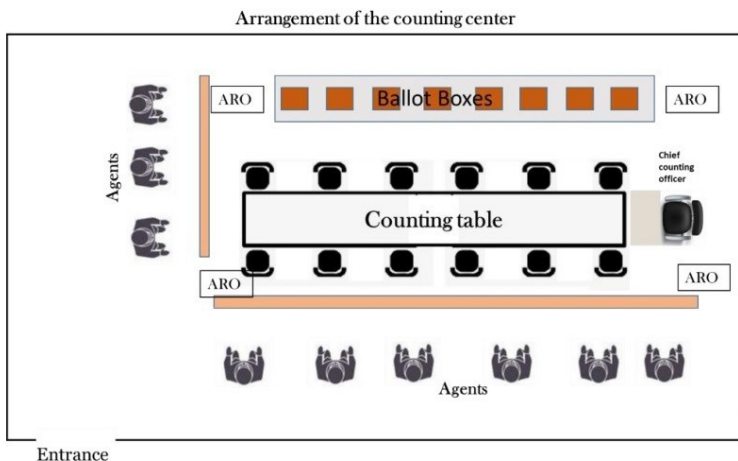
- **A smooth and mostly peaceful counting process**

The process of counting the ballots took place in three phases: first a preliminary counting of all votes in a ballot box, then counting of votes by political parties, and finally counting of preferential votes. The counting was efficient due to the large number of counting officials deployed to expe-

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<sup>76</sup> <https://economynext.com/we-will-know-which-party-has-won-the-election-by-mid-night-on-aug-6-deshapriya-72631/>





Template arrangement for counting facilities. (Photo credit: Sri Lankan Ministry of Health and Indigenous Medical Services)

dite the process in multiple counting locations at each center. Overall, the counting process appeared smooth and officers seemed to be well aware of the counting procedures.

Recounting of ballot papers occurred in some places when the total number of ballot papers in the ballot box did not match the official number of votes cast in the respective polling center, which resulted in some delay. ANFREL team members also observed some inconsistencies in the procedures followed at different centers when dealing with improperly marked ballots. While election officers were seen using their discretion in determining the validity of such ballots in one case, in another case, party agents were consulted. This could possibly be a consequence of unclear guidelines regarding the handling of invalid ballots.

Party agents were present in large numbers throughout counting centers and in some cases were more numerous than the counting officers. How-

ever, no incident of disagreement between party agents and counting officials was reported. The counting process went uninterrupted in most places, with one exception being a disruption outside the main counting center in Jaffna, the capital of the Northern Province<sup>77</sup>.

Early in the morning of 7 August, the situation became tense outside the Jaffna Central College, where a counting center was located. An incident erupted after a candidate from the ITAK (*Illankai Tamil Arasu Kachchi*) party accused another candidate from her own list of tampering with the preferential vote count<sup>78</sup>. The accusation and argument over who would end up second on the ITAK ticket and therefore secure a seat in Parliament resulted in a brawl between the supporters of the two candidates. The police had to intervene and counting operations at the center were temporarily halted.

In general, however, the role of the police was limited to providing security in and around counting premises. Overall, the counting process was observed to be fair, reliable, and transparent. However, health protocols were once again not thoroughly followed, especially with regard to social distancing.

- **Poor social distancing undermined compliance with health guidelines**

According to the guidelines adopted by the Election Commission and presented earlier, everyone entering a counting center was required to submit to a temperature check, with anyone presenting a fever being turned away. Members of the ANFREL assessment team noted that temperature checks were indeed enforced at most, although not all, of the counting centers visited.

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77 <http://www.newswire.lk/2020/08/07/tense-situation-reported-infront-of-jaffna-counting-center/>

78 <https://www.colombotelegraph.com/index.php/jaffna-counting-centre-drama-sumanthiran-clarifies-position/>



The entrance to a counting center in Trincomalee

With regard to hand hygiene, there were numerous wash basins or hand sanitizer stations found throughout the premises of counting centers. However, in the absence of active monitoring, these facilities were not always used by those entering and exiting the counting halls.

The same was true of the requirement to wear face masks, which was not always consistently enforced across counting centers. Inside the counting halls themselves, staff as well as party agents and observers were mostly seen to wear face masks. Although some instances of improper wearing of masks were reported by ANFREL team members, the number of such incidents was low compared with Election Day.

At the same time, physical distancing was barely exercised inside the counting halls. The main concern at all counting centers visited by ANFREL was that maintaining a social distance of 1 meter at all times was either difficult or impossible. Indeed, the halls used were of inadequate dimensions to accommodate the large number of counting officers and party agents present, despite election officials making efforts to move some of the counting centers to new locations.



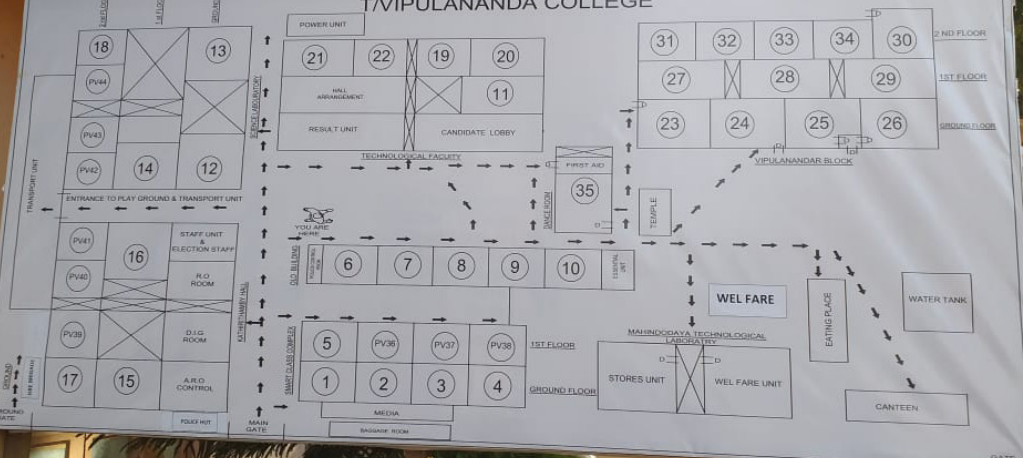
This counting center in Polonnaruwa used rooms with grilled windows to alleviate overcrowding.

The Election Commission of Sri Lanka took numerous steps in order to limit overcrowding, for instance limiting the number of ballots for each counting center to 6,000 instead of 10,000 previously, and planning to accommodate only 20 to 25 persons in each center instead of the previous average of 40. This meant that there were 2,820 counting centers in total nationwide, compared to 1,420 for the previous parliamentary elections<sup>79</sup> and around 1,600 for the presidential election last November. Nevertheless, because of the way ballot counting is organized in Sri Lanka, it remained a challenge to enforce social distancing at all counting locations.

Some locations were also more innovative than others: for instance, one counting center visited by ANFREL made use of rooms equipped with grilled windows in order to limit the number of people inside each counting hall at any given time. This allowed party agents and election observers to monitor the process from further away and contributed to lessen somewhat the overcrowding inside the rooms.

<sup>79</sup> <https://srilankamirror.com/news/19004-counting-centers-doubled>





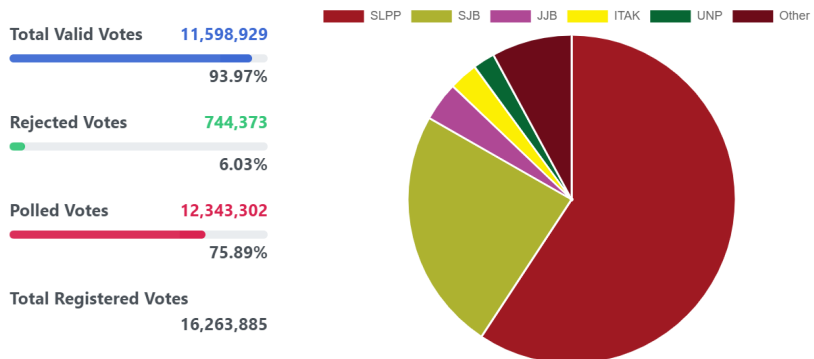
## Chapter 8:

# Voter Turnout, Invalid Ballots, and Announcement of Results

- **Voter Turnout and Invalid Ballots**

There were 16,263,885 registered voters for the 2020 Sri Lankan parliamentary elections. Of these, 12,343,302 (75.89%) went out to vote on Election Day<sup>80</sup>. Given the challenges imposed by the ongoing COVID-19 pandemic, the number of people who exercised their franchise on August 5 was remarkably high and broadly in line with the turnout of the 2015 parliamentary elections (77.66%). The voter turnout in the 2019 presidential election was higher at 83.72%, but presidential elections traditionally mobilize greater numbers of voters in Sri Lanka.

While COVID-19 was expected to drive voters away from the polls, the relatively healthy electoral attendance can be attributed to the Election Commission's active information campaign regarding health guidelines, and displays the voters' strong confidence in the process.



Voter turnout and summary of results for the 2020 Sri Lankan parliamentary elections.  
(Credit: Department of Government Information)

80 <http://elections.news.lk/election/>



However, about 6% of all votes cast (744,373) were invalid, which is a high proportion by international standards. There were almost 300,000 more rejected votes than votes for the political party that came in third place. The number of invalid votes in the 2020 parliamentary election was much higher in comparison to the 2019 presidential election, which had only 1.01% of invalid votes.

A lack of adequate voter education is likely an important reason for this outcome<sup>81</sup>. Some experts have also linked the spoilt votes to the high number of contesting parties and independent candidates as they are likely to create procedural confusion among voters<sup>82</sup>.

Although there is no official data available on the breakdown of the nature of invalid votes, the Election Commission has acknowledged the high rates and indicated that they will look into the matter in order to ascertain the reasons behind it and conduct further voter education efforts<sup>83</sup>.

The electoral system for Sri Lankan parliamentary elections is also notoriously complicated, which probably contributed to the high number of invalid ballots. A voter can vote for a party or an independent group, and select up to three preferences among their list of candidates<sup>84</sup>. According to the Election Commission<sup>85</sup>, a ballot would be rejected if:

1. No vote is marked against any Political Party or Independent Group
2. Vote is marked for more than one Political Party
3. Vote is marked for more than one Independent Group

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81 <http://www.newswire.lk/2020/08/08/general-elections-2020-records-highest-number-of-rejected-votes-cmev-explains-why/>

82 <http://www.dailymirror.lk/opinion/Right-to-Reject-as-a-fundamental-right/172-193787>

83 <http://www.themorning.lk/rejected-votes-at-polls-ec-to-study-reasons-for-increase/>

84 [https://elections.gov.lk/web/wp-content/uploads/media-release/PE\\_2020\\_MR\\_69\\_E.pdf](https://elections.gov.lk/web/wp-content/uploads/media-release/PE_2020_MR_69_E.pdf)

85 [https://elections.gov.lk/web/wp-content/uploads/media-release/PE\\_2020\\_MR\\_58\\_E.PDF](https://elections.gov.lk/web/wp-content/uploads/media-release/PE_2020_MR_58_E.PDF)

# PARLIAMENTARY ELECTION 2020

## HOW TO VOTE

### SAMPLE BALLOT PAPER

**Top:**  
the names of the  
political parties/  
independent  
groups and their  
symbols are listed

Party A	○	
Party B	△	
Party C	□	
Party D	◇	
Party E	◇	
Independent Party 1	▭	
Independent Party 2	◇	
Independent Party 3	□	

**Bottom:**  
Numbers allocated  
to each candidate  
contesting in a  
particular electoral  
district

1	2	3	4	5	6	7	8	9	10
11	12								

### CORRECT

Mark 'X' in front of ONE Party or Independent Group of your choice at the top

Mark 'X' on the numbers of up to THREE candidates of your choice at the bottom

### INCORRECT

Do not mark 'X' in front of more than one Party or Independent Group

Do not mark any numbers or symbols in front of Parties or Independent Groups

Do not mark 'X' on the numbers of more than three candidates

#LKA Elections2020



CENTRE FOR MONITORING ELECTION VIOLENCE  
මැතිවරණ ප්‍රවණවිකිලා නිරීක්ෂණ මධ්‍යස්ථානය  
தேர்தல் வன்முறைகளைக் கண்காணிப்பதற்கான நிலையம்

Sample ballot paper and correct way to mark a ballot.  
(Credit: Centre for Monitoring Election Violence)

4. Vote is marked for more than one Political Party or for more than one Independent Group or for a combination of one or more Political Party and Independent Group
5. Ballot papers where anything is written or marked by which the voter can be identified
6. If it is uncertain to find out to which Political Party or Independent Group, the voter had cast his/her vote.

Additionally, the following ballots would be valid for party votes, but not registered when counting preferential votes for candidates:

1. Preference not marked for any candidate
2. Preference marked for more than three candidates
3. Uncertain to find out which candidate the preference has been marked for.

- **Announcement of results and convening of the new Parliament**

The final results of the 2020 parliamentary elections were officially announced in the early hours of Friday 7 August, two days after the polls. The announcement of results was mostly peaceful, except for the incident in Jaffna described in chapter 7.

The ruling *Sri Lanka Podujana Peramuna's* (SLPP) substantial lead was clear early on, when the results of postal voting were released in the afternoon of 6 August. That very night, incumbent Prime Minister Mahinda Rajapaksa claimed victory for his party in a series of tweets.

The SLPP won a landslide victory with 6,853,693 votes, or 59.09% of the total, and secured 145 seats in the parliament, which is only 5 fewer than the two-thirds necessary to make constitutional amendments. The party has now met that threshold with the support of 5 parliamentarians from parties allied with them.

While the incumbent party's win was anticipated, what was unexpected was the near wipeout of Sri Lanka's oldest political party, the United National Party (UNP), which led the previous government. The UNP, which had 106 seats in the previous parliament, is now reduced to a single seat in a parliament of 225 seats. News reports indicate that the party leader of the UNP, former Prime Minister Ranil Wickremesinghe, who has been leading the party for 26 years, hinted to step down after the heavy loss<sup>86</sup>. This shift in fortunes is partly explained by the factional rivalry within the UNP, which led to the creation of the *Samagi Jana Balavegaya* (SJB), an offshoot alliance led by Sajith Premadasa that broke off from the UNP. The SJB has now become the largest opposition front after securing 54 seats.

Similarly, the traditional political representatives of the country's Tamil-majority North and East, the ITAK (*Illankai Tamil Arasu Kachchi*) party, also suffered a decline in its parliamentary position, after it won 10 seats, compared to the 16 it held in the last parliament. Analysts suggest that these developments indicate a strengthening of majoritarian politics built around the rhetoric of law-and-order and Sinhala Buddhist identity, and conversely a decline of politics of minority inclusion.

Following the results, Mahinda Rajapaksa was sworn in as the Prime Minister on 9 August. A week after the election, on 12 August, President Gotabaya Rajapaksa administered the oath of office to the new cabinet. The newly formed cabinet has 26 ministers including 4 members of the Rajapaksa family. While President Gotabaya Rajapaksa has retained his position as the defense minister, and Prime Minister Mahinda Rajapaksa has three key ministries under him, his son Namal Rajapaksa and his elder brother Chamal Rajapaksa have also been assigned a ministry each.

The cabinet held its first meeting on 19 August, wherein it granted approval to the government to abolish the 19th amendment of the Constitution, which was passed in 2015 to limit the power of the President. The Rajapaksas have accused the amendment of weakening the rule of law and encouraging political instability. Strong of a two-thirds majority, the government

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86 <https://economynext.com/ruwan-wijewardene-says-unp-will-join-hands-with-the-sjb-73164/>

is now set to make a 20th amendment to the Constitution<sup>87</sup>. The cabinet also approved a five-member subcommittee to draft the proposed 20th amendment. A draft of the new amendment was gazetted on 3 September<sup>88</sup>.

On 20 August, the 16th parliament of Sri Lanka was convened and 223 MPs were sworn in. Two seats remained vacant as the UNP and the Buddhist monks-led OPDP (Our People's Power Party) are yet to nominate their MPs<sup>89</sup>. The parliament went on to unanimously elect Mahinda Yapa Abeywardena from the SLPP as the Speaker and Ranjith Siyambalapitiya from the SLPP as the Deputy Speaker. Similarly, Sajith Premadasa from the SJB was recognized as the leader of the opposition. In his inaugural speech of the new parliament, the President affirmed the government's plans to remove the 19th amendment and formulate a new constitution<sup>90</sup>.

These developments show a continuity of the SLPP-led government's vision and policies which effectively began with the ascendancy of the President Gotabaya Rajapaksa.

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87 <https://economynext.com/cabinet-approves-the-decision-to-change-the-countrys-constitution-73167/>

88 [http://www.colombopage.com/archive\\_20B/Sep04\\_1599159886CH.php](http://www.colombopage.com/archive_20B/Sep04_1599159886CH.php)

89 <https://economynext.com/president-expected-to-lay-out-the-governments-plan-to-recover-from-the-current-crisis-today-in-parliament-73178/>

90 <http://www.newswire.lk/2020/08/20/full-text-of-presidents-inaugural-address-of-the-9th-parliament/>

## Chapter 9: Media

The COVID-19 pandemic has redefined how elections are being conducted around the world. The restrictions in place to prevent widespread community transmission of the novel coronavirus have led to limits on the conduct of election campaigns, voting and counting procedures, among others.

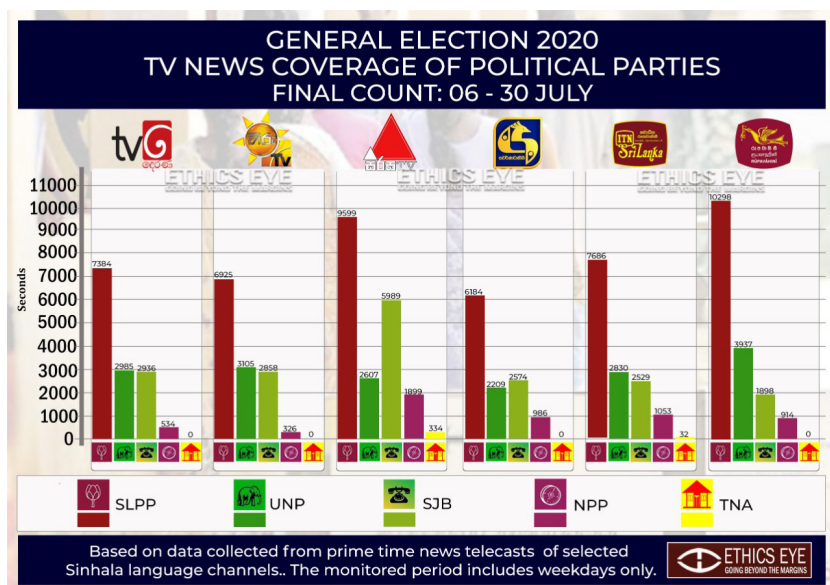
Limits on physical campaigns meant a pivot towards a more media-driven campaigning for political parties and candidates. In Sri Lanka, this saw heightened effort to get more media mileage in which certain issues surfaced.

- **Online campaigning during cooling period and media bias**



Screenshots taken on 3 August 2020 of a Facebook post from a political party (left) and a political ad on Facebook (right). Elections laws in Sri Lanka ban any political propaganda activities 48 hours before Election Day.



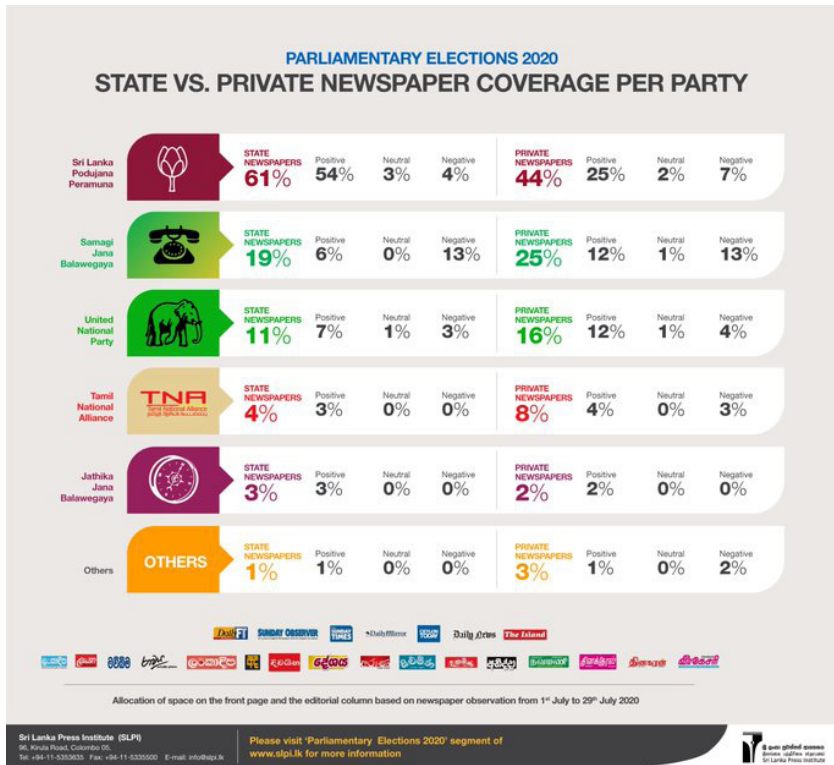


Credit: Verité Research

During the cooling period when any form of campaigning is not allowed, political ads were still running on social media platforms like Facebook. Also, while not new in the Sri Lankan context, media outlets with known political connections ran campaign efforts, directly and/or indirectly, for certain candidates, as explained in chapter 4.

Media bias remains a prominent problem in Sri Lanka. State-owned outlets tended to push for the agenda of the ruling party while the private media's coverage of the election at times leaned towards the political parties they have certain ties with.

In the monitoring of Verité Research's Ethics Eye of weekday primetime newscasts in six broadcast stations from 6 to 30 July 2020, the media consistently allocated more airtime for the ruling *Sri Lanka Podujana Peramuna* (SLPP) party while only two other political parties, the United National Party (UNP) and the *Samagi Jana Balawegaya* (SJB), gained



Credit: Sri Lanka Press Institute

significant airtime, with the rest getting minimal to no exposure<sup>91</sup>. While not specified whether the reports for the airtime allocated to these parties were positive, negative, or neutral, the airtime allocation clearly painted a picture of an unbalanced exposure of these parties in the broadcast media which could give undue advantage to the party with the most exposure.

In a separate study by the Sri Lanka Press Institute of state and private newspapers and their coverage of the election, similar trends were observed: SLPP received the most coverage, SJB and UNP got lower yet significant coverage, and the rest of the parties received minimal to none<sup>92</sup>.

91 <https://twitter.com/EthicsEye/status/1289405451860234243>

92 <https://www.slpi.lk/parliamentary-elections-stats/>

- **New media guidelines were adopted but there remain unresolved issues**

The media guidelines that the Election Commission of Sri Lanka issued sought to promote fairness and balance in the media coverage of the election, especially of the political parties and candidates stating that “every media institution shall provide accurate, balanced and impartial information in broadcasting or televising or publishing its news bulletins and any other programme related to political affairs<sup>93</sup>.”

The guidelines also clearly stated that “no candidate shall be specially or favorably treated in the allocation of airtime on radio or television or space in the print media, to promote the election of such candidate or to cause prejudice to another candidate.”

EC’s media guidelines, which also set an appointment of a Permanent Representative Committee to monitor and ensure that the guidelines are followed, are welcomed but there is still room for improvement. The scope of the guidelines has also been criticized for its limited application to state-owned media. In a briefing note by Verité Research, concerns were raised about the inadequate use of constitutional powers to regulate privately-owned media and weak proactive action<sup>94</sup>.

The mechanism for compliance monitoring, filing of complaints, and complaints resolution regarding the media guidelines should be made transparent and clearly defined so that a wide spectrum of stakeholders can participate. There is also a need for a community-wide consultation on the guidelines to discuss practical approaches and set standards that the media community can agree to and comply with.

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93 [http://elections.gov.lk/web/wp-content/uploads/publication/ext-gz/2178\\_24\\_E.pdf](http://elections.gov.lk/web/wp-content/uploads/publication/ext-gz/2178_24_E.pdf)

94 <https://www.veriteresearch.org/publication/election-commission-powers-over-private-media/>

Adherence to ethical standards remains a fundamental component of journalism practice. The media community, therefore, can also uniformly practice self-regulation and provide avenues to file and hear complaints against the media if and when such mechanisms are not in place to resolve legitimate concerns against malpractice and abuse. The function of Sri Lanka Press Council and the Press Complaints Commission of Sri Lanka to receive and hear complaints about the media can also be reviewed and empowered to serve as avenues to promote ethical media practice.

The media as sources of credible news and analyses are important to help the public make informed decisions, shape public discourse, and monitor power against misuse and abuse to ensure free and fair elections. The challenges and lingering issues in the media need to be addressed to fully realize the potential of the press.

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## Chapter 10:

# Women and People With Disabilities

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- **Women continue to be underrepresented**

As discussed in ANFREL's report on the 2019 presidential election, women's presence in formal politics in Sri Lanka has historically been very low. According to the Inter Parliamentary Union, in 2019 Sri Lanka ranked 182nd out of 190 countries in women's participation in politics, with only Maldives faring worse in South Asia<sup>95</sup>.

Sri Lanka has two significant affirmative action measures in place to ensure women's political participation. The Local Authorities Elections (Amendment) Act, No. 16 of 2017 mandates that 25% of seats are reserved for women in all three tiers of local government: *Pradeshiya Sabha*, Urban Councils, and Municipal Councils. Similarly, the Parliamentary Elections Act, No. 58 of 2009 also requires all political parties to ensure the inclusion of at least one woman in the list of the party's office bearers. However, there are no measures in place to ensure women's participation in the Parliament.

Women make up 52% of the population in Sri Lanka and 56% of the total voter base<sup>96</sup>. Although there is no gender-disaggregated data available for voter turnout, it has been reported that in previous elections, female voters constituted the larger half of the voter turnout. However, women's participation in politics has often been limited to voters, party workers and election officers. As ANFREL volunteers noticed during the recent elections as well, there was a substantial presence of female election officers as well as party agents. At the same time, the number of elected female representatives remains small.

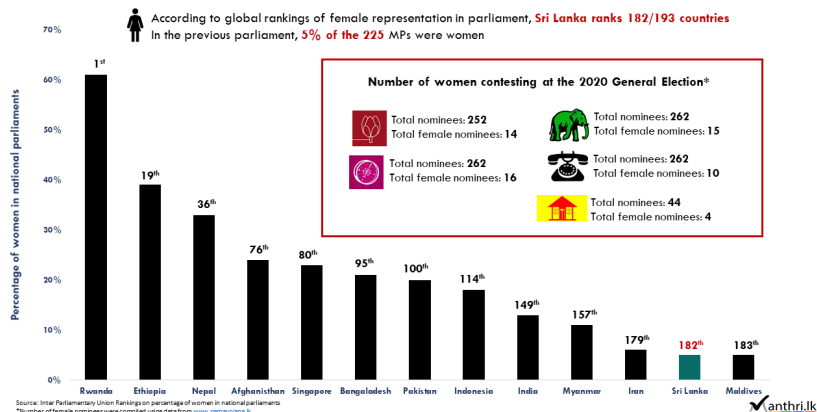
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95 <https://archive.ceylontoday.lk/print-more/44246>

96 <http://www.ft.lk/business/Webinar-on-Voices-of-Women-Councillors-Leading-by-Example-concludes-on-a-strong-note/34-704100>



## WOMEN IN PARLIAMENT: WHERE DOES SRI LANKA STAND?



Credit: Manthri.lk

The low rate of political representation of women in Sri Lanka is clear from their numbers in Parliament. Women constituted only 5.7% of the 15th Parliament of Sri Lanka (2015-2020), with 13 MPs<sup>97</sup>. There appears to be little political will within parties regarding nomination of women<sup>98</sup>. Female MPs, activists and organizations have repeatedly pushed for greater reservation for women at the nomination phase as well as seat quotas in Parliament. However, their demands have not been met.

In the 2020 parliamentary elections, the country's five largest political parties nominated a total of only 59 women, less than 6 % of their candidates<sup>99</sup>. Structural barriers, like gendered social norms, lack of financial freedom as well as violence against women have been cited as a barrier against women's participation in politics. This was apparent during the campaigning for recent elections as well, where some women candidates were reported

97 <https://economynext.com/what-is-holding-back-sri-lankan-women-from-entering-politics-lihini-fernando-de-codes-72416/>

98 <https://economynext.com/women-nominees-poor-showing-from-major-parties-in-run-up-to-sri-lankas-polls-72327/>

99 <http://www.newswire.lk/2020/08/01/only-59-female-candidates-from-05-mainstream-alliances-which-party-has-the-most-female-candidates/>

to have faced abuse<sup>100</sup>. Only 12 of the newly elected 225 parliamentarians are women, a decrease of one seat from the previous mandate. Eight of them were elected from the preferential candidate list, of whom 6 were from SLPP and the remaining from SJB. The remaining 4 were selected from the national list, with 2 coming from SLPP, 1 from SJB and 1 from JJB<sup>101</sup>.

In addition to low parliamentary representation, the narrow political space afforded to women was also evident from the fact that there is no dedicated ministry for women's affairs in the current cabinet. In fact, a previous such cabinet ministry has been downgraded to a state ministry, whose formation appears misaligned<sup>102</sup>. Along with women's affairs, this new state ministry is also dedicated to child development, pre-school and primary education, and school infrastructure and education services. This decision by the incumbent government has since faced much criticism from activists and academics who have demanded a separate ministry for women's affairs<sup>103</sup>.

Despite its success in various social and economic indicators as compared to other countries in the South Asian region, Sri Lanka continues to have a gaping gender divide when it comes to political representation. As the recent election results also show, until there are more systemic measures to ensure greater representation of women in politics, including in Parliament, numbers of women in political decision-making positions will not see substantial improvement.

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100 <https://groundviews.org/2020/08/04/violence-and-abuse-deter-women-from-entering-politics/>

101 <https://womenandmedia.org/profiles-of-elected-women-to-the-9th-parliament-of-sri-lanka/>

102 <https://twitter.com/VeriteResearch/status/1296752731487637505/photo/1>

103 <https://economynext.com/activists-and-academics-ask-for-separate-cabinet-ministry-for-womens-affairs-73020/>

- **Timid progress for PWD voters**

ANFREL has previously expressed concerns about the accessibility of certain polling stations for voters with disabilities or elderly voters, and proposed that election officials conduct audits in order to choose locations more suitable for those with limited mobility<sup>104</sup>. During the 2020 parliamentary elections, most of the 45 polling stations visited by ANFREL had steps at the entrance, which meant for example that wheelchair-bound voters would require assistance.

The COVID-19 pandemic exacerbated this problem as physically assisting voters into and out of the polling station is obviously incompatible with social distancing regulations. We again urge the Election Commission and government of Sri Lanka to improve the accessibility of polling stations nationwide for enhanced inclusiveness of the polling process. Expanding postal voting to voters who are disabled or vulnerable would also contribute to their enfranchisement.

There are legal provisions for assisted voting of persons with disabilities, contained in the Elections (Special Provisions) Act, No. 28 of 2011. Anyone with a partial or full visual or physical disability is able to cast their ballot with the assistance of a person of their choice, or the Senior Presiding Officer (SPO) if they are unable to be accompanied by an assistant. This is an efficient system and the Election Commission disseminated the relevant information on social media<sup>105</sup>. However, PWD voters interviewed by ANFREL reported that the process to apply for a certificate of eligibility is cumbersome in practice and can incur transportation costs in order to fulfill the different requirements. As a result, some voters decide to forego the option to choose their assistant and instead rely on election officials at their polling station. Therefore, streamlining the process and making assisted voting more accessible to PWD voters would be a welcome move.

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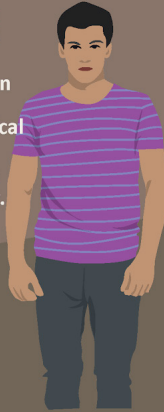
104 <https://anfrel.org/wp-content/uploads/2020/04/ANFREL-urges-polling-station-accessibility-audits.pdf>

105 <https://www.facebook.com/SriLankaElectionCommission/photos/a.609576009179113/190445226358145/>

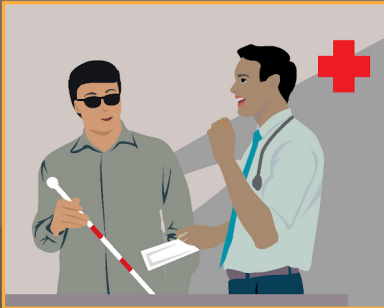
The person who accompanies a person with a disability should be more than 18 years of age,

- He/she should not be a contesting candidate at the election.
- He/she should not be an authorized agent or a polling agent of a political party at the election.
- He/she should not be a person with a disability.

18↑✓



The application form for the Certificate of Eligibility can be collected from the Grama Niladhari of the relevant administrative division or it can be downloaded via [www.elections.gov.lk](http://www.elections.gov.lk).



The completed form should be endorsed by the Grama Niladhari. Thereafter, the form should be taken to a Government Medical Officer who will examine the applicant and certify the person to be entitled for assisted voting.



The form then should be sent through the Grama Niladhari to the relevant District Election Commissioner for his/her endorsement.

The process for PWD voters to apply for assisted voting. (Credit: Election Commission of Sri Lanka)

For the 2020 parliamentary elections, the Election Commission also experimented with a new ballot casting system for visually impaired voters. The system was introduced after multiple requests from the Sri Lanka Federation of the Visually Handicapped<sup>106</sup>. A pilot project was conducted on Election Day in a dozen polling stations of Nuwara Eliya Maskeliya polling division in Nuwara Eliya district. Blind voters were provided with a stencil in which to place their ballot so that they can mark themselves by feeling the boxes cut out in the plastic.



Left: the stencil used by visually impaired voters in a pilot project in Nuwara Eliya. Right: A blind voter tries out the stencil during a mock polling exercise on 2 August (Credit: adaderana.lk)

However, the stencil does not come with any Braille markings, which means that voters need to know the exact layout of the ballot paper in order not to make a mistake. While it is commendable that the Election Commission is taking steps to allow voters with visual impairments to vote alone at the polling booth, we hope that in the future it could replicate the efforts made by other countries and provide Braille ballot sleeves for those who need it at all of Sri Lanka's polling stations.

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106 <https://www.newsfirst.lk/2020/08/03/new-voting-system-for-the-visually-impaired-pilot-project-on-election-day/>







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