



ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) FOUNDATION

REGISTERED UNDER CIVIL AND COMMERCIAL CODE ACT OF THAILAND, REGISTRATION No. 1690 (KOR TOR)

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“An Asian face, an Asian Voice, an Asian Call for free and fair elections.”

International Observers Call for Electoral Reform

Summary

Asian Network for Free Elections (ANFREL) with the cooperation of its member PAFFREL have sent 16 international observers from 10 different countries to observe the April 8th Parliamentary Election since 1st till 10th April, 2010. More than 170 polling stations throughout Sri Lanka have been observed on Election Day. The election environment in general was calm and voter turn out relatively low especially in the voting in Jaffna constituencies where not many voters exercised their rights.

Since officers and voters still remember the whereabouts of polling stations and the process, the voters know how to cast their votes, except some elderly and illiterate people who do not know how to cast/cross ballot papers.

Observers put more concern on lack of law enforcement by the Election Commission and the police force. Many election law violations would not have taken place if there was a competent and courageous Election Commission. All would like to see the President maintain neutrality as the ultimate representative of the people. The President should not support either ruling or opposition parties.

Observers were intrigued by the preferential voting system even though it appeared to create conflict between candidates in the same party. However, there was significantly less violence than in any recent poll in Sri Lanka. The country needs to eliminate electoral impunity and ensure the rule of law to ensure a just process to bring about a more credible electoral process. This will bring about a new era for voter empowerment and Sri Lankan democracy. ANFREL proposes a number of recommendations for meaningful and effective electoral reform.

Before Polling Starts

Since presiding officers and returning officers stayed over night at the PSs, this solved the problem of late PS opening because all materials had been checked since the night before Election Day. We found that the sample of a ballot paper and the process that they put in front of the PS should be displayed a few days before Election Day or put in public for people to view. Voter education must be improved next time.

Opening of Polling Station and Environment

The opening of polling stations was on schedule. Party representatives were present when the ballot box was opened and then sealed. The secrecy of the polling booths was very limited. Booths were situated in way that enable the SPO and other election officials full view of voters marking ballots. There was also ample space and opportunity for voters and other people in the polling stations to



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view a person voting. There seems to be a significant misunderstanding of this crucial part of the election process.

The Polling Process

In general, the polling process was conducted relatively well, but observers have doubts about the process at the IDP camps. During the talks with the IDPs, it was noted that some of the IDPs were allegedly threatened to vote for a particular party. On the polling day, in Vavuniya District, it was noted that the polling staff were recording ID card number on the counterfoil and ballot papers of IDPs and the general public – this is unacceptable and adequate measures must be taken to stop such practices as they are illegal. Proper law enforcement should be undertaken to check this practice. It was brought to ANFREL’s notice that this process was also followed in other areas, specifically Nuwaraeliya District. The Election Commission must specify why this was done and what is the purpose of recording such detailed, pinpointing information about the voter ID cards and their ballot numbers. The EC needs to ensure that this crucial information must not be politically misused or used to threaten the voter as the numbers can clearly identify the voter and to whom she/he has voted. Such practice undermines the principle of free and fair, the voters’ right to make a free choice and secrecy of the ballot paper.

The Closing and Counting Process

Closing of polls was done accordingly. However, in some cases it was noted that some polling staff were not aware about the procedure to seal the ballot boxes. Adequate awareness needs to be undertaken for next time.

Concerns of the Physically Challenged people

It was observed that a very small number of physically-challenged people turned up to vote. They must be encouraged to vote and appropriate measures must be taken to allow reasonable access to polling stations for this group. In places where it is not possible, separate lines must be established for them to ensure a speedy process.

Voter Identity

We are pleased to note that the Election Commissioner allowed seven types of voter identification in order to accommodate the various types of voters and the lack of their having proper documents to vote. However, regarding the IDPs the observers noted that in some cases in the IDP camp PSs and the designated IDP PSs, the polling staff were turning the voters away mentioning that their names were not in the voters list despite them having their ID cards and Poll cards. In some instances some IDP family members (from one family) were unable to cast their vote, while some were able to do so.



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Campaigning

Campaigning was a very problematic issue in the election process. Nearly all candidates violated election law with posters, cut-outs, PA systems, door to door canvassing and other campaign tactics barred under election law. Campaigning continued until last minute of the polling day. Small cards were used by many candidates with candidates' logos and numbers. These were given out in the cooling period and on polling day, just outside polling station as well. These small cards were seen outside polling premises, sometimes in large numbers and at the entrances of several polling stations.

RECOMMENDATION FOR ELECTORAL REFORM

1. Election Commission

- 1.1 To maintain neutrality of the Sri Lankan Election Commission and keep the body completely independent, all Commissioners should not come from the selecting/nominating of the Constitutional Council and President. The selecting of the commissioners must be open to all professions to apply and set up a selecting committee team from representatives of key stakeholders to select them i.e. representatives from Judges, Law Associations, Media, Academia, NGOs, Political Parties, etc. The selected Commissioners can then be endorsed by the Parliament.
- 1.2 Commissioners should be on duty for a limited term and should not hold the position indefinitely. The maximum age may not be over 65 years.
- 1.3 Commissioners should have more power to disqualify the candidates before election time and be able to issue directions to the police force.
- 1.4 The Election Commission must undertake the work on voter and civic education nationwide and should not rely on information from political parties.
- 1.5 To uphold electoral justice, a permanent, independent Electoral Court needs to be considered to be established to handle all electoral cases with unlimited time.

3. State of Emergency

- 3.1 A State of Emergency should not be imposed on the country if there is no serious security insurrection or violence.
- 3.2 The country could use ordinary security acts/laws to control political turmoil, if necessary.

4. Government and Civil Servants

- 4.1 Ruling party/parties are not allowed to use government resources for political campaigns or favor any specific candidate/party. Those who violate the law must be punished or dismissed from their official duty.



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5. **Candidates and Political Parties**

5.1 Candidates who do not declare their asset should be disqualified not only before election time but also after the election with unlimited time. Candidate’s family must be treated in the same manner in order to prevent corruption, hidden business etc.

6. **Electoral Process, Voting System and Complaints**

6.1 A computerized voter list and nationwide census for effective registration.

6.2 Ballot boxes should be translucent boxes for external viewing.

6.3 The counting process must be viewed by the public and media.

6.4 Results can be done with parallel count and exit poll (if there is).

6.5 Complaints must be treated rapidly, equally, professionally and fairly.

6.6 Allow prisoners to vote by setting up polling stations inside prisons.

6.7 All unused ballot papers must be crossed, punched or otherwise invalidated before reconciling the numbers.

6.8 To prevent a big number of invalid/spoiled ballot papers, the public should be made aware of what is a valid and invalid ballot paper, and polling dos and don’ts well in advance and continuously until the polling day.

6.9 The Election Commission must be serious about secrecy in voting and needs to ensure that any voting process does not violate the secrecy of the ballot.

6.10 There must be a mechanism to protect IDPs right to vote and the counting process. Those candidates and EC officials who take advantage of IDPs must be investigated and punished if found guilty.

7. **Media**

7.1 The media should ensure professional ethics to maintain their neutrality, objectivity and fairness.

7.2 All candidates and parties should be treated equally and according to the facts.



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Long Term Recommendations

- For a free and fair election and to assist the election commission, a Care Taker Government may need to take over for a total of 90 days before and after the election-day.
- **President**
 - The President is the supreme post of the country and should maintain his/her neutrality during Parliamentary Elections.
 - The President must not be involved in any Parliamentary Election activities or support any candidates or parties. The President must maintain a low profile during all national and local elections (except Presidential Elections).
 - The President will not use his/her power to influence the Election Commission or any independent institution, authorities, or government departments on election.

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