

**PRESIDENTIAL ELECTION 2005
SECOND INTERIM REPORT
ON THE PRE-ELECTION PERIOD
07.10.2005-31.10.2005**

People's Action for Free and Fair Elections (PAFFREL) issued its first interim report on election monitoring activities relating to the Presidential Election 2005 on 11.10.2005. It covered the period from 19.9.2005, the date on which the Commissioner of Election announced the date of the Presidential Election up to 11.10.2005.

The Second Interim Report covers four aspects relating to the Presidential Election 2005. The first section relates to the decisions taken by the Election Commissioner in regard to the Presidential Election. The second section will discuss the election related activities of political parties. In the third section the focus is on important events and incidents relating to the election and the manner in which the election law and the common law operate in the country. The fourth section includes steps taken by PAFFREL to strengthen civil society organizations and to ensure a free and fair Presidential Election.

1. DECISIONS BY THE ELECTION COMMISSIONER AND ACTION TAKEN BY HIM TO IMPLEMENT THEM EFFECTIVELY.

The Election Commissioner notified the date of the Presidential election in terms of the powers entrusted to him under the constitution. Thereafter, he has had several rounds of talks with representatives of political parties that have sent nominations to announce the decisions taken by him to ensure a free and fair election. Some important decisions are stated below

1.1. Basic facts regarding the conduct of the Election

13,327,160 voters are registered to vote at the Presidential Election 2005 an increase of 428,128 from the number registered to vote at the 2004 Parliamentary Election. 10486 polling stations will be set up through out the island. There are 323,451 postal voters who will exercise their vote on the 7th and 8th of November, 2005. If election irregularities and violations occur at any polling station on 17.11.2005 the polling will be declared null and void and a fresh election will be held on 19.11.2005. This decision by the Election Commissioner has to be appreciated. If the election is to be held again PAFFREL has its organizational network ready to monitor the elections.

1.2. Matters relating to election monitoring

The official recognition of PAFFREL's role of election monitoring and the centre for prevention of election violence and violations set up at PAFFREL by the Election Commissioner and his decision to invite international monitors are important in the context of the potential for election violence and violations. PAFFREL has thus got an opportunity to monitor all polling stations, election activities in the pre-election period and postal voting.

1.3. Voting rights of displaced people

The displaced people include victims of the armed conflict and the Tsunami Disaster, through out the country. The number of victims exceeds 250,000. The Election Commissioner has stated that the dead people from the Tsunami disaster have been identified through the Gramasevakas and District Secretaries and their names excluded from the electoral registers. The displaced people need not go to the polling stations of the areas in which they are registered. Arrangements are being made to enable them to vote at the polling station closest to their present residence. This course of action may be successful to some extent if polling stations are arranged near welfare centres accommodating the displaced. This may be problematic for the large number of displaced people living with relatives dispersed through out the island.

1.4. Polling in areas not controlled by the government

In contrast to their role in the previous Parliamentary General Elections the LTTE has remained indifferent towards the Presidential election 2005. This LTTE stance has to be closely studied. However, the Head of the Political wing of the LTTE has stated that they would consider requests of candidates for election propaganda activities in areas under their control. This statement may suggest a drop in the percentage voting in the North and East at the forthcoming Presidential Election 2005, since there is no provision in the CFA to provide for armed police and army protection to polling stations. The Election Commissioner has taken a decision to set up cluster polling stations in LTTE controlled areas within a distance of 500 Meters from the government army check points to enable voters in the LTTE controlled areas to vote. The Election Commissioner will also make financial provision for using 80 buses to provide transport to the voters. This step taken by him to has to be appreciated but the number of buses to be deployed seems to be inadequate when we consider the several lakhs of voters and the poor road facilities in the North and East.

1.5. Prevention of election law violations.

The Election Commissioner transferred a sum of Rs. 3.9 millions to the Police Department as expenses for removing illegal posters, banners and cutouts and the like. The employees of government and private institutions are entitled to paid leave to cast their vote. Some employers, it is reported, had failed to comply with this requirement at previous elections. The Election Commissioner has issued a statement to the effect that legal action would be taken against heads of such errant institutions. With regard to the behaviour of state media, instructions have been issued to them twice stating that a competent, authority would be appointed if necessary to ensure impartiality. In regard to postal voting the Election Commissioner is taking steps to give special protection to 20 postal voting stations identified, where various irregularities, abuses and intimidations had occurred at the 2004 Parliamentary Election. Recently, the Election Commissioner has directed the Secretary of the postal and telecommunication Ministry, in terms of 104 and 104 (wd) (2) to take steps to settle the trade union action at the postal Department. Accordingly, the trade union strike has now been settled. This is an instance where the Election Commissioner has utilized his powers effectively.

2. ACTIVITIES OF POLITICAL PARTIES

2.1. Election Manifestos of Presidential Candidates

On the last day of (16.10.2005) accepting deposit for the Presidential Election, 14 Candidates were in the fray, but on the nomination day Seinu Labdeen Nazir Ahmed representing the National Muslim Alliance withdrew his candidature. The two main candidates representing the United Peoples Freedom Alliance and the UNP between whom a keen contest is expected have issued, their Election Manifestos. The UNP candidate Mr. Ranil Wickremasinghe issued his statement “Janatha Niyaya Pathraya” on 27.09.2005. The UPFA candidate Mr. Mahinda Rajapakse issued his police statement “Mahinda Chinthanaya” on 18.10.2005. Both these Manifestos include promises relating to social welfare, employment creation, solution to the ethnic problem in the North and East and Economic and Social Development. These manifestos would have been more realistic and meaningful if they had information on the time frame work for implementation of promises and the strategies and policies for generating the financial and other resources necessary to implement them. Such information is necessary to prove the practicality of the promises and to enable the voters to make a reasonable choice.

2.2. Nature of Election Propaganda

The UPFA and the UNP had their inaugural rallies at Anuradhapura and Kandy respectively and propaganda activities continue through out the country. The rest of the 13 candidates have not resorted to mass scale propaganda activity and they have depended on the electronic and printed media for such activity. The display of posters, cut outs and banners are illegal from the date of nomination to the close of polling on the polls day. But the prevalence of large scale commercial advertisements with photographs promoting the candidacy of the two main candidates suggest the need for making laws appropriate and practical.

3. ENFORCEMENT OF ELECTION LAW AND THE COUNTRY’S COMMON LAW

3.1. Election Law Violations and Violence

A notable feature of the 24 day period beginning from 07.10.2005 the date of nominations to 31.10.2005, the last date covered by this Interim report is the very low level of election violations and violations compared with the Presidential Elections of 1999 and 2000. (Comparative data is shown in Annex I). In elections conducted during several decades, election violations and violence commenced with Nominations. But on the day of nominations for the Presidential Election 2005 only two incidents were reported throughout the Island. Both these incidents relate to assaults in Yatadola and Welipenna in the Matugama Electorate in the Kalutara District. The credit for minimizing political violence should be given primarily to the President as the Minister of defense, the Police Commissioner and the Police Department.

3.2. Police Commission and the Role of the Police Department

The Police Commission and the Police Department have taken several steps to ensure a free and fair election. These include cancelling all leave of police officers during the period 06.10.2005 – 30.10.2005 aimed at securing the services of the entire Police Department cadres for the Presidential Election, taking steps to remove all posters and propaganda banners from the midnight of 07.10.2005, the date of nominations, preparing lists of persons who were involved in election violence at previous election and giving instructions to all police stations to monitor them and taking about 150 persons held in custody for violating election laws to courts on the instructions of Deputy Inspector General Gamini Navaratne who is the head of the Police Election Secretariat. In order to improve efficiency and effectiveness of the police, election complaints units have been set up in all police stations and they have been brought under the control of Senior Police Superintendents in-charge of Police Divisions. There are 36 such Divisions throughout the country.

3.3. The responsibility of the Police until the Presidential Election

In the pre-election period monitored PAFFREL has so far not received complaints of police impartiality. If the Police Commissioner and the Police Department succeed in maintaining police impartiality, it would be a commendable effort. It is reported that the IGP intends to remove Police Officers In-charge of Police Stations and Heads of Police Divisions who fail to carry out their duties during the Presidential Election period in consultation with the National Police Commission.

The Police Election Secretariat has announced that it has taken steps to register all printing presses in the island, to meet all press owners and give them necessary instructions, monitor the activities of all Printing Presses from time to time and to raid presses printing hand bills and defamatory publications through out the country.

The Police is in readiness to use necessary force against persons attempting to hinder or disrupt election activities on the polls day or committing violations obstructing a free and fair election, it s reported.

PAFFREL is constantly monitoring other factors conducive to a free and fair election in addition to matters stated above.

4. MEASURES TAKEN BY PAFFREL TO ENSURE A FREE AND FAIR ELECTION

The measures taken during the pre-election period include, forming Citizens' Committees comprised of senior citizens and their activation, activating the network of institutions formed for Election monitoring and taking action to refer incidents and situations which would hinder a free and fair election, to the authorized institutions and ensure corrective action by them.

4.1. Formation of citizens' committees and making them active.

75 such citizens' committees composed of religious leaders, civil society leaders and government officers and other senior citizens have been setup in respective electoral districts under PAFFREL's directions. Such Committees aim at creating a cooperative leadership at the Divisional level capable of settling disputes between opposing political parties during an election.

4.2. Activating the Organizational Network for Election Monitoring

For this purpose District Coordinators have been appointed to 22 Districts. 22 Field Coordinators have been appointed to assist them. 160 Divisional Coordinators have been appointed to undertake election monitoring at the Electoral Division Level.

PAFFREL has taken steps to employ 20,000 stationary monitors on the basis of 2 monitors for each polling station and 2000 mobile monitors on the polls day at the forthcoming Presidential Election. Training Sessions for 22,000 Monitors are being held through out the country. It is planned to conduct 250 such training workshops and over 125 such workshops have already been held.

- 100 International Observers have accepted the invitation of PAFFREL for monitoring the Presidential Election. The first batch has already arrived in Sri Lanka and they have commenced pre-election monitoring at Galle, Matara, Hambantota, Ampara, Batticaloa, Kurunegala, Puttalam, Anuradhapura, Polonnaruwa, Trincomalee, Vanni and Jaffna with effect from 11.10.2005. The balance team of monitors is expected to arrive in Sri Lanka on the 10th of November, 2005.
- PAFFREL has made arrangements to use 300 vehicles for mobile monitors who will cover all the electoral Divisions. 2,000 mobile monitors are being trained now by PAFFREL and it is intended to use International monitors for mobile monitoring. Mobile Monitoring will cover all polling stations other than those in the North and East.

4.3. Identify events and situations that may hinder free and fair elections and assist authorities to take corrective action

- No sooner we heard about arrangements to allow establishment of election propaganda offices on the basis of one each for a polling station for each political party or group contesting, PAFFREL look steps to inform relevant government officers of the danger of increased potential for election violations and violence.
- PAFFREL made representation in Courts about the need to allow voters in the LTTE controlled areas of the North and East to exercise their vote freely.

- PAFFREL has made representations against the use of officers working in the same places for conducting postal voting because that may create opportunities for election irregularities and suggested the employment of officers from other institutions.
- Reports of few cases of transfers of government officers particularly Police Officers due to political pressure have been received by PAFFREL. PAFFREL took steps to represent matters to the Police Commission and have these transfers suspended.
- In the PAFFREL Election Operation Centre, Emergency Service Units have been set up to receive complaints of election violations and violence through out the day. During 07.10.2005 to 31.10.2005 the centre has received 70 complaints of Election violations and the highest number of them is from the Kalutara District numbering 19. Assaults and intimidations numbered 20, damage to property 02, and display of posters and cut outs 24. Some instances of using government property and officers for election propaganda have been reported. The Polonnaruwa District recorded 3 such cases, the highest number recorded from a district. During the period under consideration 29 cases of homicides have been reported but there is insufficient evidence to link them to violence related to the Presidential Election. One such homicide in the Ampara District is suspected to be election related. (*Please see annexes II, III and IV*)

4.3. Political Parties, Government Servants and Civil Society

PAFFREL had discussions with the two main Presidential Candidates to strengthen the basis for a free and fair election. In addition several rounds of discussions have been held with the Election Commissioner, I.G.P., Chairman of the Police Commission, D.I.G. In-charge of the Police Election Secretariat, relevant officers of the Security forces and District Secretaries who function as Returning Officers. Stakeholders crucial for making the Presidential Election free and fair are the Media and Civil Society. Their behaviour at the Presidential Election will determine whether the election will be conducted in accordance with democratic principles and standards.