

Final Report

European Union

Election Observation Mission

Democratic Socialist Republic of Sri Lanka



Presidential election, 16 November 2019



**Democratic Socialist Republic of Sri Lanka
European Union Election Observation Mission**

FINAL REPORT

Presidential election, 16 November 2019

January 2020

Table of Contents

I.	EXECUTIVE SUMMARY	3
II.	INTRODUCTION	7
III.	POLITICAL CONTEXT	7
IV.	IMPLEMENTATION OF PREVIOUS EU EOM RECOMMENDATIONS	11
V.	LEGAL FRAMEWORK AND ELECTORAL SYSTEM	11
VI.	ELECTION ADMINISTRATION	16
VII.	VOTER REGISTRATION	20
VIII.	REGISTRATION OF CANDIDATES	22
IX.	CAMPAIGN ENVIRONMENT	23
X.	CAMPAIGN FINANCE	27
XI.	MEDIA	29
XII.	DIGITAL COMMUNICATIONS AND SOCIAL MEDIA	34
XIII.	PARTICIPATION OF WOMEN	39
XIV.	PARTICIPATION OF ETHNIC AND RELIGIOUS MINORITIES	40
XV.	PARTICIPATION OF PERSONS WITH DISABILITIES AND OTHER VULNERABLE GROUPS	41
XVI.	CITIZEN OBSERVER GROUPS AND INTERNATIONAL OBSERVATION	42
XVII.	ELECTORAL DISPUTES	43
XVIII.	POLLING, COUNTING AND TABULATION OF RESULTS	45
XIX.	ANNOUNCEMENT OF RESULT AND POST-ELECTION ENVIRONMENT	46
XX.	RECOMMENDATIONS	49
XXI.	ANNEXES	
	a. Results	
	b. EU EOM media monitoring findings	
	c. EU EOM digital communications and social media findings	
	d. Abbreviations	

I. EXECUTIVE SUMMARY

Following an invitation by the Election Commission (EC) of Sri Lanka, the European Union deployed an election observation mission (EU EOM) to observe the 16 November presidential election. The EU EOM was present in Sri Lanka from 11 October to 12 December 2019. The mandate of the mission was to observe all aspects of the electoral process, the national electoral legal framework and its implementation, and to assess the extent to which the election complied with international and regional commitments for elections.

The preliminary statement issued by the EU EOM on 18 November concluded that *“The 16 November presidential election took place in a climate of deep societal division. A largely violence-free electoral process was well managed by the electoral administration. A peaceful and calm campaign on the ground contrasted with divisive rhetoric, hate speech and disinformation in traditional and social media. Only a few of 35 registered candidates were visible throughout the campaign period. The absence of a campaign finance law and the biased coverage of the election by both private and state media contributed to an uneven playing field.”*

Of a record 35 contenders, the most prominent were Sajith Premadasa of the New Democratic Front (NDF) and Gotabaya Rajapaksa of the Sri Lanka Podujana Peramuna (SLPP). A third high-profile candidate was Anura Kumara Dissanayaka of the National People’s Power and leader of its biggest constituent party, Janatha Vimukthi Peramuna (JVP). Only one woman, Ajantha Perera of the Socialist Party, contested. The pre-election period was characterised by party rifts and shifting allegiances.

Sri Lanka is a state party to the main international treaties relevant to democratic elections. Fundamental rights and freedoms in the Constitution include the rights of association, assembly, expression, movement and equality. Prohibited grounds of discrimination are overall aligned with those of the International Covenant on Civil and Political Rights (ICCPR). However, fundamental rights guarantees are weakened, as the grounds for some restrictions in national law go beyond the country’s related international obligations.

Overall, the legal framework is adequate for conducting democratic elections in line with Sri Lanka's international commitments, despite some gaps and weaknesses. The 2019 presidential election was held under an array of legal instruments. The President is directly elected under a preferential vote system for a five-year term.

The EC, established under the 19th Amendment to the Constitution, is a three-member body responsible for conducting all elections, including referenda. The EC enjoys broad powers prescribed in the Constitution. However, parliament’s failure to pass a law clarifying the EC’s constitutional powers has resulted in limits to its capacity to issue regulations and enforce its mandate, including to ensure a level playing field. On its establishment, the EC was not granted specific powers to issue internal regulations to support management capacity. Also, there is a lack of codified procedures to reinforce transparency in decision-making processes at various stages.

Overall, the EC carried out its work credibly and professionally. Regular consultation with political parties, candidates, the media, civil society organisations and the police have increased the level of confidence in the institution. The electoral administration at district level was well

organised and enjoyed general trust among stakeholders. An attempt to publicly discredit the EC on Facebook was not promptly addressed by the platform, potentially undermining public trust in the integrity of the election.

Technical aspects of the electoral process were well administered and key operational deadlines were met. Comprehensive and professional training of some 250,000 civil servants to serve as election staff was carried out to schedule. Although women were well represented very few were appointed as senior officers. The EC operated a useful website with relevant information on the different stages of the electoral process, including detailed election results, contributing to the transparency of the election process.

Continuous voter awareness activities in Sinhala, Tamil and English, including information for persons with disabilities, were conducted by the EC and civil society organisations. However, the EC missed the opportunity to use print and broadcast media as well as digital information dissemination tools, methods and social networks to promote voter awareness.

Sri Lanka has a voluntary active voter registration system. The EC compiles and maintains the voter register. There were 15,992,096 registered voters. As the law does not foresee a revision period for the voter register before an election, voters who turn 18 after the cut-off date for registration, and before an election, are disenfranchised. The EC estimated that some 180,000 to 200,000 first-time voters were disenfranchised for the 2019 presidential election. EU EOM interlocutors expressed confidence in the accuracy and inclusiveness of the voter register.

Overall, candidacy requirements are in line with international standards, and the nomination process was inclusive. Prospective candidates were proposed by registered parties or contested as independents. Thirty-five candidates contested the election. The record number raised much debate as to whether all were genuine contestants.

Campaigning on the ground was peaceful, consisting mainly of small-scale meetings and door-to-door canvassing. The atmosphere was calm despite a small number of violent incidents and reported threats. National security was a prominent theme. The campaign was marked by heightened Sinhala nationalist rhetoric and, on the SLPP side, instances of anti-Muslim and anti-Tamil invective, bringing religious and ethnic rifts to the fore. There were many allegations of misuse of state resources. Recruitment to public service jobs at all levels of public administration was the most commonly reported abuse. Legal restrictions applied to the use of a wide variety of political advertising, including flags and stickers, private premises and vehicles to promote candidates, and to the holding of processions. Such restrictions undercut constitutional guarantees of freedom of speech, movement and assembly and do not accord with Sri Lanka's international commitments.

The highest-profile candidates, Sajith Premadasa and Gotabaya Rajapaksa, attracted large crowds at rallies. The SLPP conducted a highly organised grassroots campaign and a sophisticated political messaging strategy online. The NDF used social media heavily, but with less investment in micro-targeting. Anura Kumara Dissanayaka's campaign was less prominent. Both frontrunners made extensive use of traditional media, with a heavy presence in paid advertising in television and print media. There was a significant gap in resources between the two leading candidates and the others, most of whom were scarcely visible.

Political party and campaign financing remain unregulated, depriving the election of an essential element of transparency and contributing to an uneven playing field. EU observers noted the high-visibility campaigns on the ground of the two most prominent candidates, underscoring a considerable gap in financial expenditure and resources between them and other contestants. With no limits on campaign advertising, campaign coverage in traditional and online media was highly monetised.

The media environment is characterised by a high concentration of ownership divided mostly along political lines, which notably influences content. The EC has the constitutional power to issue guidelines to all media, state and private, but only state media have a legal duty to comply. State media adhered to their legal requirement to allocate free airtime to candidates. The media covered the campaigns through various formats, but there was a lack of in-depth and critical editorial analysis, in particular in the broadcast media. All media monitored by the EU EOM centred their reporting on the campaigns of the two frontrunners. Access to the media was significantly limited for most of the other contestants. The joint coverage of both leading candidates accounted for 89 per cent in the monitored broadcast media. Although the coverage of Gotabaya Rajapaksa on state TV channels was higher, it was negative in tone. Private TV channels showed one-sided and biased coverage in favour of Gotabaya Rajapaksa, while Sajith Premadasa, the UNP and the outgoing government were harshly criticised.

Overall, a damaging online environment distorted public debate and curbed voters' access to factual information on political alternatives, an important element for voters to form opinions free from intimidation and manipulation. Coordinated dissemination of outright false and demeaning information presented in various formats and across digital platforms, including those of traditional media, dwarfed credible news threads. Among the social media platforms Facebook is the prime contributor to the crafting of political narratives in the public space and to setting the electoral agenda. Facebook had only an informal understanding with the EC on the removal of hate speech and disinformation and did not take appropriate measures to ensure adherence to campaign silence rules on political advertising.

The legal framework for women's political participation is largely inadequate, having weak rules for their inclusion in political parties and unregulated campaign finance that further hampers women's candidacies. Recent progress has been made on inclusivity for women in local government, reflecting a constitutional mandate for affirmative action. Persons with disabilities are similarly prejudiced by outdated laws for the protection of their rights.

The EC published consolidated daily reports on complaints received on its website, but no details of follow-up actions. Most of the complaints recorded concerned breaches of campaign rules. However, there was a lack of unified rules and clear timelines in complaints handling procedures to ensure stakeholder awareness and confidence. Between 8 October and 14 November, the EC received 3,905 complaints, only 27 of which related to violent incidents. The police played a prominent role in the coordination and investigation of complaints.

There is no regulatory framework for national and international observation. Two national organisations, accredited at the EC's discretion, had full access to polling and counting centres. The People's Action for Free & Fair Elections (PAFFREL) deployed some 4,000 observers and the Centre for Monitoring Election Violence (CMEV) over 700 observers. PAFFREL, CMEV, the Campaign for Free and Fair Elections (CaFFE) and Transparency International Sri Lanka (TISL) monitored, among other issues, campaign violations and misuse of state

resources. They also reported on incidents, including violence, on election day. A few civil society organisations scrutinised the online information environment and regularly published social media monitoring findings, adding to transparency.

All technical arrangements for early in-person postal voting for specific categories of voters were well-timed. The EU EOM observed on 4 and 7 November in 66 postal voting stations. Postal voting was assessed as overall well administered. However, the possibility of tracing a ballot paper back to a voter because of a lack of proper secrecy safeguards of the postal vote remains problematic.

Election day was peaceful and orderly with only a few violent incidents reported. EU EOM observers assessed positively the voting process in 297 polling stations observed. Polling was efficient and procedures were largely followed. However, in 37 per cent of polling stations observed the layout did not sufficiently protect the secrecy of the vote. Counting was observed in 25 out of 38 district counting centres and was assessed overall as well organised and transparent. The tabulation of results at district and national level observed by EU EOM observers was conducted in a transparent manner.

The EC announced the final results on 17 November, less than 24 hours after the closing of the polls. Disaggregated final results were immediately available on the EC's website. The final turnout was reported at 83.72 per cent and the percentage of invalid votes at 0.85 per cent. Gotabaya Rajapaksa of the SLPP received 52.25 per cent of the votes, while Sajith Premadasa of the NDF coalition received 41.99 per cent. Anura Kumara Dissanayaka, leader of the JVP, received 3.16 per cent. The other 33 candidates together received 2.60 per cent of the votes.

On 18 November Gotabaya Rajapaksa was sworn in. On 22 November President Rajapaksa appointed a 16-member cabinet, including his brother, Mahinda Rajapaksa, as Prime Minister. In the immediate post-election period several physical attacks and hateful commentary on social media against Tamils and Muslims were reported, while journalists at three online outlets were questioned for lengthy periods by police, raising concerns for media freedom.

The EU EOM 2015 offered 26 recommendations for improving the framework for elections. Ahead of the 2019 presidential election, four of these recommendations were fully or partially implemented.

The EU EOM 2019 offers 23 recommendations for future electoral reform based on observations, analysis and extensive discussion with a range of stakeholders. It has six priority recommendations:

1. Enact legislation to strengthen capacity and procedures in line with the EC's constitutional mandate. The law should empower the EC to issue, in a timely manner, binding regulatory instruments with clear provisions for enforcement and to develop and codify internal procedures.
2. Revise the Presidential Elections Act to remove ambiguity, harmonise terminology with most recent laws and avoid potential for conflicting interpretations.
3. Adopt a law on campaign finance and campaign expenditure. The law should include clear provisions on timely disclosure before and after elections, oversight, sanctions and enforcement. Income and expenditure reports should be audited by a competent independent body with investigative powers.

4. Revise the law to ensure equal campaign opportunities by removing all disproportionate restrictions, including on processions, dissemination of political campaign messages and establishment of campaign offices, to campaigning on the ground. Establish unified campaign silence rules for contestants, traditional and online and social media for paid-for campaigning, with clear, enforceable sanctions for non-compliance.
5. Foster the formal cooperation between the election administration and main social platforms. The EC and Facebook should aim at developing more efficient mechanisms to enhance the transparency of campaigning on the platform (for example, via establishing an Ad Library reports system) and the respect for existing campaign rules (including, but not limited to, the electoral silence period). Social platforms, and in this case Facebook in particular, should grant equal treatment in terms of the assistance offered to EMBs in all countries where they are avenues for political advertising and messaging.
6. Adopt special measures as anticipated by the Constitution to remove barriers and promote equal participation of women in public and political life.

II. INTRODUCTION

Following an invitation by the Election Commission (EC) of Sri Lanka, the European Union deployed an election observation mission (EU EOM) to observe the 16 November presidential election. The EU EOM was present in Sri Lanka from 11 October to 12 December 2019. The mandate of the mission was to observe all aspects of the electoral process, the national electoral legal framework and its implementation and to assess the extent to which the elections complied with international and regional commitments for democratic elections.

The EU EOM was led by Chief Observer Marisa Matias, a Member of the European Parliament from Portugal. The EU EOM comprised a core team of nine analysts based in Colombo, 30 long-term observers and 30 short-term observers deployed in all districts across Sri Lanka. Twenty-seven EU member states, as well as Norway and Switzerland, were represented in the mission. A delegation of five Members of the European Parliament, led by Isabel Santos from Portugal, also joined the mission. On election day, 80 EU observers followed election day proceedings (opening, voting, counting and tabulation of results) in 297 polling stations in all districts of Sri Lanka and in 25 out of 38 counting centres. The EU EOM presented its preliminary statement at a press conference on 18 November.

The EU EOM is independent and strictly neutral, with no vested interest in the outcome of the election. The EU EOM is also independent in its findings and conclusions from EU member states, EU institutions and the EU Delegation to Sri Lanka and the Maldives. The mission followed an established methodology and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.¹

III. POLITICAL CONTEXT

A climate of societal polarisation along ethno-religious lines with national security high on political agenda

¹ [EU EOM Handbook 2016](#) and [Declaration of Principles for International Election Observation](#).

a. Political context

The eighth presidential election since the executive presidency was introduced in 1978 took place in a climate of deep societal divisions and economic stress. It was widely seen as a litmus test for parliamentary polls due in 2020. The election result, following more than four years of tense cohabitation between President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe,² was expected to shape the country's future engagement in reform and post-war reconciliation, and to determine international alliances. Deteriorating relations between the two politicians had impeded the implementation of wide-ranging reforms promised by Sirisena during his 2015 election campaign.

National security was foremost on the campaign agenda after the killing of more than 250 people in the Easter 2019 terrorist bombings and the subsequent increase in violence directed against the Muslim minority.³ While a state of emergency was lifted on 22 August, President Sirisena invoked special powers to deploy army personnel across the country from 22 October, two weeks into the campaign.⁴ The economy was also a major campaign feature, with the country deeply indebted and revenues from the tourism sector drastically reduced by the sense of insecurity that followed the bombings.

The pre-election period was characterised by party rifts and shifting allegiances. By the end of the election process the country's two main political forces, the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP), were deeply fractured. Uncertainty surrounded the future of President Sirisena's SLFP, already divided since his decision to contest the 2015 presidential election as an opposition candidate for the UNP-led alliance.⁵ The SLFP, which did not field a candidate, entered a pre-election accord with the recently established Sri Lanka Podujana Peramuna (SLPP), whose candidate was Gotabaya Rajapaksa.⁶ An SLFP faction, including former president Chandrika Kumaratunga, backed Sajith Premadasa, who ran for the UNP-led New Democratic Front (NDF). More than 50 smaller parties joined forces to support either of the two main candidates.

The vote of minority communities – predominantly Muslims and Tamils, but also Christians – had been crucial to the UNP in previous elections and was expected to play a decisive role. The main Tamil and Muslim parties, the Tamil National Alliance (TNA), Sri Lanka Muslim

² In the 2015 presidential election Maithripala Sirisena, then general secretary of the Sri Lanka Freedom Party (SLFP), ran as opposition candidate for the coalition led by the United National Party (UNP). In the 2015 parliamentary elections the UNP coalition won the largest number of seats. Sirisena asked UNP leader Ranil Wickremesinghe to form a government. The minority government included the UNP coalition and members of the SLFP alliance loyal to Sirisena.

³ On 21 April 2019, Easter Sunday, local Islamist extremists targeted four hotels and three churches in Colombo and the east of the country. At least 45 children were among those killed.

⁴ Orders under Section 12 of the Public Security Ordinance (PSO), such as this, can be made where the President considers the police services inadequate or insufficient to ensure public order. The duration is limited to 30 days and is renewable. The PSO intends that deployed army personnel conduct themselves in line with policing powers. EU observers in Vavuniya reported an increase in troop presence but no additional restrictions to campaigning. President Rajapaksa extended the order by a further 30 days on 22 November 2019 in Gazette Notification 2150/77.

⁵ Despite running for the UNP-led New Democratic Front (NDF) in 2015, Sirisena remained in the SLFP, and upon his election as President became party chairman as well as leader of the SLFP-led United People's Freedom Alliance (UPFA).

⁶ Since its establishment in 2016 by Basil Rajapaksa, a brother of Gotabaya Rajapaksa, the SLPP has drawn wide support from within the SLFP.

Congress (SLMC) and All Ceylon Makkal Congress (ACMC), supported Sajith Premadasa. Minority parties backing Gotabaya Rajapaksa included the Ceylon Workers' Congress (CWC), Eelam People's Democratic Party (EPDP) and a faction of the Eelam People's Revolutionary Liberation Front (EPRLF). Gotabaya Rajapaksa also had strong support from current and former army personnel as well as Sinhala nationalist Buddhist monks. A TNA splinter group, the Tamil National People's Front (TNPF), called for a boycott.

This was Sri Lanka's first presidential election since the introduction in 2015 of the 19th Amendment to the Constitution, which narrowed the powers of the president. The election followed a victory by the SLPP in local elections in February 2018 and, eight months after that, a constitutional crisis that shook the country and tested Sri Lanka's institutions and judiciary.⁷

b. Key contenders

Of a record 35 contenders the most prominent were Sajith Premadasa of the NDF and Gotabaya Rajapaksa of the SLPP.⁸ Gotabaya Rajapaksa (70) was defence secretary during the presidency of his brother, Mahinda Rajapaksa, and in the final phase of the civil war. Sajith Premadasa (52) was minister for housing and deputy leader of the UNP. He is the son of former President Ranasinghe Premadasa, who was killed by Tamil Tiger militants in 1993. A third high-profile candidate was Anura Kumara Dissanayaka of National People's Power and leader of its biggest constituent party, Janatha Vimukthi Peramuna (JVP). Only one woman, Ajantha Perera of the Socialist Party, contested. Former army commander Gen. Mahesh Senanayake ran for the civil society-backed National People's Movement. Beyond the first three, most candidates led low-profile campaigns, and some did not campaign at all, prompting the EC to criticise what it called a high number of non-genuine candidates who had registered only to support one of the two main contestants.

c. Elected institutions

Sri Lanka is a democratic socialist republic and a unitary state comprising nine provinces and 25 administrative districts. There is a three-tier system of government (national, provincial and local) and the judiciary. The President is head of state, head of the executive and government, and commander-in-chief of the armed forces. The President heads the cabinet and, on the advice of the prime minister, appoints ministers from elected members of parliament. The President is elected for a five-year term, with a two-term limit. The 19th Amendment significantly reduced the powers of the president by introducing a level of accountability on his/her functions and actions. It also reduced the presidential term to five years, introduced a two-term limit, raised the candidacy age to 35 and made presidential actions that affect fundamental rights subject to oversight by the Supreme Court. Legislative powers are vested in the 225-member unicameral parliament. Members of parliament are elected for five years under a modified system of proportional representation.

⁷ Contrary to provisions in the 19th Amendment, which President Sirisena's government itself introduced, on 26 October Sirisena sacked Wickremesinghe and appointed former president Mahinda Rajapaksa in his place. After a seven-week stand-off, during which Wickremesinghe refused to accept the decision and Sirisena attempted to dissolve parliament, the Supreme Court ruled the president had acted unconstitutionally. Wickremesinghe was reinstated.

⁸ The SLPP is the lead party of the Sri Lanka People's Alliance, formed during the election campaign. On the ballot paper Gotabaya Rajapaksa was listed as SLPP.

The 13th Amendment to the Constitution (1987) established provincial councils. Each of the nine provinces has an elected provincial council vested with legislative powers over several matters at the provincial level, including general administration, education, social welfare, health and housing. Members of provincial councils are elected for five years. Each province has a governor, appointed by the President for a five-year term, who exercises provincial executive power and is responsible for executing the policies of the provincial council through a board of ministers. However, provincial elections have been postponed due to political discord and the rejection by parliament of an electoral boundaries report that followed the adoption of the new Provincial Councils Elections (Amendment) Act (No. 17 of 2017, 22 September 2017). Currently all provincial council terms have expired, and they are now led by governors directly appointed by the President.

There are 341 local councils. These are made up of 24 municipal councils covering the cities and larger towns and are headed by mayors for a four-year term, 41 urban councils which cover smaller towns and less urbanised areas, and 276 rural *pradeshiya sabhas* (village councils) headed by chairpersons for a four-year term. The last local elections were held in February 2018 under new legislation and a new electoral system. Local councils have powers over the delivery of services at local level.

Other institutions

The judiciary

The judicial system comprises various courts at district, provincial and national level.⁹ The Supreme Court sits at the apex of the hierarchy. The current Chief Justice was appointed in 2019.¹⁰ The Supreme Court enjoys a high degree of confidence among stakeholders, boosted by its ruling in December 2018 to overrule presidential efforts to dissolve the parliament during the October 2018 constitutional crisis.

Constitutional Council

The Constitutional Council (CC) was introduced to assure greater independent decision making in relation to presidential appointments to public office.¹¹ Previously, many public posts were filled largely at the discretion of the President. Now key appointments, including to the various constitutional commissions, can only be made on the recommendation of or on approval by the CC, including judges of the superior courts, the Inspector General of Police and the Attorney General, among others. The ten-member cross-institutional body comprises the prime minister, speaker of parliament, leader of the opposition, a presidential nominee who is a member of parliament (MP), an MP nominated by independents, political groups not aligned to the leadership or opposition, and five joint nominees of the prime minister and opposition, two of whom are required to be MPs and three of whom must be approved by parliament. The rebirth of the CC is a progressive step in public appointments accountability.

⁹ Other courts are the Court of Appeal, several branches of the High Court including the provincial High Court, the district courts, magistrate courts and the primary courts.

¹⁰ Hon. Chief Justice Jayantha Jayasuriya PC was appointed on 29 April 2019 having previously served as Attorney General from February 2016.

¹¹ The CC originated in the 17th Amendment to the Constitution in 2001. It was then replaced by a weaker parliamentary council in the 18th Amendment in 2010. The 19th Amendment reintroduced the CC in 2015, with additional mechanisms to strengthen its role.

IV. IMPLEMENTATION OF 2015 EU EOM RECOMMENDATIONS

Most EU EOM 2015 recommendations remained unaddressed

Following the 2015 parliamentary elections, the EU EOM offered 26 recommendations for consideration by the Sri Lankan authorities. Excessive campaign restrictions, the absence of rules for campaign finance and spending, inadequate opportunities for voter registration, the lack of a framework for election observation, and the conduct of the media were among the issues covered in the recommendations for reform.¹² All these remain unaddressed. Positively however, recommendations concerning the timely establishment of the EC in 2015, additional channels for making election-related complaints, a women's quota in local council elections, and an EC strategic plan for voter education were adopted ahead of the 2019 presidential election. However, these progressive steps could have been enhanced by further legislative, regulatory and transparency actions to ensure more positive impacts. Various stakeholders, including the EC, have been pushing for further legal reforms, including in the area of political and campaign spending and oversight. Parliament's failure to date to pass key laws means that an even playing field for future elections cannot yet be assured.

V. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A legal framework generally adequate for holding democratic elections, but still needing to address enduring legislative gaps, restrictions and legal uncertainties

a. International principles and commitments

Sri Lanka is a state party to the main international treaties relevant to democratic elections.¹³ It has also ratified Optional Protocols to both the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), recognising individual complaint mechanisms to the respective treaty bodies despite legal complexities.¹⁴ Sri Lanka has also demonstrated its commitment to democratic principles by ratifying the Social Charter of the South Asian Association for Regional Cooperation (SAARC).¹⁵ However, international treaties must be passed into national law by an act of parliament in order to have full legal effect before national courts.¹⁶ Only some aspects of the ICCPR have been so incorporated in the national system and, on occasions, applied in an arbitrary manner.¹⁷ Consequently, there are important gaps in the law and

¹² [EU EOM Sri Lanka 2015: Final Report on Parliamentary Elections.](#)

¹³ [International Covenant on Civil and Political Rights \(ICCPR\)](#), [International Convention on the Elimination of all Forms of Racial Discrimination \(ICERD\)](#), [Convention on the Elimination of all forms of Discrimination against Women \(CEDAW\)](#), [United Nations Convention against Corruption \(UNCAC\)](#) and the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#).

¹⁴ [First Optional Protocol to ICCPR](#), [Optional Protocol to CEDAW](#). Previous governments recognised the individual complaints mechanisms under the Optional Protocols, despite there being no national enacting laws. The CEDAW committee currently has one individual complaint against Sri Lanka's criminalisation of same sex conduct, to which the state has replied. The Supreme Court has found the First Optional Protocol to ICCPR unconstitutional in the absence of enacting laws. See [Singarasa V. Attorney General \(S.C. Spl. \(LA\) No. 182/99m; SCM 15 September 2006](#).

¹⁵ [SAARC Social Charter](#).

¹⁶ [Singarasa v. Attorney General \(S.C. Spl. \(LA\) No. 182/99; SCM 15 September 2006](#).

¹⁷ [ICCPR Act, No. 56 of 2007](#).

implementation mechanisms for the adequate protection of international treaty commitments domestically.¹⁸

Recommendation: Enhance and harmonise the protection of fundamental rights pertinent to elections by enacting comprehensive legislation to give domestic legal effect to the relevant international legal obligations, including ICCPR, UNCAC, CPRD and CEDAW.

b. Fundamental rights and freedoms

Fundamental rights and freedoms in the Constitution include the rights of association, assembly, expression, movement and equality.¹⁹ Prohibited grounds of discrimination are overall aligned with those of the ICCPR. Positively, the Constitution embeds the principle of affirmative action for women and persons with disabilities.²⁰ In 2015, the right to information was added to the fundamental rights chapter. Voting and candidacy rights are articulated elsewhere in the Constitution, as is the right to vote in secret.

The Supreme Court has jurisdiction to interpret the Constitution and review draft legislation for constitutionality before passage into law. The highest court also has exclusive jurisdiction to hear challenges to executive and administrative actions impacting or likely to impact fundamental rights.²¹ Importantly, the Supreme Court cannot review any existing laws to ensure harmony with fundamental rights.²² Legislation which, for example, excludes certain citizens from voting or which results in discrimination cannot be challenged, contrary to international standards.²³ Such a limitation on judicial oversight of laws embeds incoherence in the Constitution, undermines the principle of constitutional primacy and entails legal uncertainty.

Sri Lanka has established a constitutional Human Rights Commission, although the institution is constrained by a lack of enforcement competencies overall, including to compel other state authorities to comply with its requirements or directions.²⁴

¹⁸ As a dualist state, national legislation implementing treaties is required to give those treaties force of law before domestic courts. Sri Lanka has a [Commission to Investigate Allegations of Bribery or Corruption \(CIABOC\)](#). However, the UNCAC, has not yet been passed into law. as envisaged by the constitution, thus key provisions of financial accountability for campaigns in that treaty are absent form legal framework No independent treaty compliance bodies have been established in line with CEDAW or CRPD, which treaties are also yet to be implemented in national law

¹⁹ [1978 Constitution of Sri Lanka \(as Amended\)](#) (hereinafter Constitution).

²⁰ Constitution, art. 12(4) “Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.”

²¹ Constitution, art. 17 “Every person shall be entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.”

²² Constitution, art. 16(1) “All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of this Chapter.”

²³ ICCPR, GC 25, at para. 1 “The Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects.” CEDAW Committee, General Recommendation (GR) 23, at para. 41 “States parties should ensure that their constitutions and legislation comply with the principles of the Convention, and in particular with articles 7 and 8.”

²⁴ [Human Rights Commission of Sri Lanka Act, No. 21 of 1996](#). The Human Right Commission has investigative powers and can make recommendations for prosecution to other authorities but has no enforcement mandate of its own.

Fundamental rights guarantees are however weakened, as some restrictions introduced by national law go beyond the country's related international obligations.²⁵ The constitutional exclusion from the right to vote of persons of unsound mind does not accord with Sri Lanka's international commitments toward citizens with intellectual disability.²⁶ The Constitution does not expressly recognise a right of privacy, leaving space for arbitrary action contrary to international standards.²⁷

Recommendation: Ensure certainty of law and conformity of legislation with the Constitution by extending to the Supreme Court jurisdiction to receive and determine challenges to existing laws.

c. National legal framework

Overall, the national legal framework is adequate to conducting democratic elections in line with Sri Lanka's international commitments, despite some gaps and weaknesses. The 2019 presidential election was held under an array of legal instruments, several dating back more than 30 years. These include provisions of the Constitution and several election-specific laws.²⁸ A number of other legal instruments, including those concerning asset declarations, deployment of security forces, criminal liability for some electoral offences, and the role of public officials, are also relevant.²⁹ Non-statutory EC media guidelines and a code of conduct for parties and candidates were positive elements in the framework, though largely voluntary in nature.³⁰ EC directions and clarifications were also published prior to and during the election calendar, addressing various matters, including nominations, campaign rules and prohibited activities on polling day. However, some aspects of this multi-layered legal framework are susceptible to uncertainty and conflicting interpretations.

Almost all election-related laws pre-date the creation of the Election Commission in 2015. Fines and sanctions for certain electoral offences have not been revised for up to 40 years in some cases, thereby diluting their dissuasive purpose.³¹ Various legal provisions are overly restrictive, vague or incoherently drafted. Restrictions on campaign processions and on dissemination of political messages during campaign periods conflict with constitutional

²⁵ Neither of the restrictions on freedom of speech or on peaceful assembly permitted in Sri Lanka ([Constitution](#), art. 15, parliamentary privilege or racial and religious harmony) are included in the [ICCPR](#), art. 19(3) or art. 21.

²⁶ [Constitution](#), art. 89 “No person shall be qualified to be an elector at an election [...] (c) if he is under any law in force in Sri Lanka found or declared to be of unsound mind.” [CPRD](#), art. 12 “States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.” [CPRD](#), art. 29 “States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others....”

²⁷ [ICCPR](#), art. 17 “No one shall be subjected to arbitrary [...] interference with his privacy.” See also [ICCPR Human Rights committee \(HRC\) General Comment \(GC\) 16](#) at para. 10.

²⁸ The core laws are [Presidential Elections Act No. 15 of 1981](#) (PEA), [Presidential Elections Act No. 16 of 1988](#), [Parliamentary Elections Act No. 1 of 1981](#), [Parliamentary Elections \(Amendment\) Act No. 58 of 2009](#), [Elections \(Special Provisions\) No. 14 of 2004](#), [Elections \(Special Provisions\) No. 28 of 2011](#), [Elections \(Special Provisions\) No. 35 of 1988](#), and the Registration of Electors Act 1980 (as amended).

²⁹ Additional laws included the [Penal Code](#), [Declaration of Assets Act 1975](#), [Establishment Code](#), [ICCPR Act No. 56 of 2007](#), and the [Public Security Ordinance 1947 \(as Amended\)](#).

³⁰ See [Code of Conduct for Contesting Parties/Independent groups and Candidates](#) and [Media Guidelines](#).

³¹ E.g., [Presidential Elections Act No. 15, 1981](#), s. 80. Punishment for corrupt practice includes ‘rigorous’ imprisonment for a period of up to 12 months, disqualification from registering to vote, a fine of LKR 500 (EUR 2.5). Many offences attract fines of between LKR 100 and LKR 500.

guarantees.³² The timeline for publication in the Gazette of some EC-issued guidelines is unclear.³³ The provision on one aspect of ballot paper invalidity can be misinterpreted, as it appears to contradict other aspects of the same provision.³⁴ There are also notable regulatory gaps, including the absence of a legal framework for personal data protection, on private media oversight and on campaign finance.³⁵ Rules for candidates' asset declarations and the vetting of nominees could be further elaborated in the law. Importantly, despite the introduction of the independent Election Commission, parliament's failure to pass a law clarifying the EC's constitutional powers has resulted in limits to its capacity to issue regulations and enforce its mandate, including ensuring a level playing field.

Recommendation: Revise the Presidential Elections Act to remove ambiguity, harmonise terminology with most recent laws and avoid potential for conflicting interpretations.

The election legal framework for women's participation is largely inadequate, having, for example, weak rules for their inclusion in political parties, unregulated campaign finance that further hampers women's candidacies, and the lack of an independent monitoring and implementation commission on women's rights.³⁶ Recent progress has been made on inclusivity for women in local government, reflecting a constitutional mandate for affirmative action.³⁷ However, similar action has not been undertaken for parliamentary representation.³⁸ There are no robust legal provisions to ensure equal representation of women in decision-making positions of the EC at various levels. A lack of constitutional safeguards to tackle discrimination against women conflicts with Sri Lanka's international legal commitments.³⁹ Persons with disabilities are similarly prejudiced by outdated laws for the advancement and protection of their rights.⁴⁰

Recommendation: Adopt special measures as anticipated by the Constitution to remove barriers and promote equal participation of women in public and political life.

d. The Constitution

³² Presidential Elections Act, No. 15, 1981, s. 69.

³³ Constitution, art. 104B(5)(c) (ii).

³⁴ PEA, s. 51(1)(e)(ii) "*Every direction and guideline shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such direction and guideline.*"

³⁵ [Draft legislation](#) on personal data is under consideration, as is a Data Regulation Authority.

³⁶ Parliamentary Elections Act, No. 58 of 2009, s. 2(4)(c) stipulates a minimum of one woman among party office bearers.

³⁷ Local Authorities Elections (Amendment) Act, No. 16 of 2017, s. 27F introduced a minimum quota of 25 per cent for women's membership of local councils, but this falls short of the Beijing Target. See CEDAW, GC 23, at para. 17 "*In order to achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels [...].*"

³⁸ Women account for some [5.8 per cent](#) of the national parliament's 225 seats.

³⁹ There is no prohibition on direct and indirect discrimination against women, as required by CEDAW at articles 1 and 2.

⁴⁰ [Protection of the Rights of Persons with Disabilities Act, No. 28 of 1996](#) and [Protection of the Rights of Persons with Disabilities \(Amendment\) Act, No. 33 of 2003](#).

The adoption of the 1978 Constitution marked Sri Lanka's third Constitution and second Republican Constitution.⁴¹ A distinguishing feature of the basic law is that it embodies fundamental principles of the state as well as distinctly legislative characteristics. A distinguishing feature of the basic law is that it embodies not only fundamental principles for of law and of the organisation the state but it also has numerous detailed prescriptive legislative aspects. Several provisions of the Constitution have been interpreted by the Supreme Court with political impacts. The most impactful recent decision limited the power of the President to dissolve parliament on his own initiative can only be exercised after four and a half years of the parliamentary term have passed.⁴² The Constitution may be amended in a number of ways, depending on the nature of the amendment. Proposals for reform on issues of sovereignty or the transfer of power between elected offices must obtain a two-thirds majority of parliament and pass a referendum of the people. Amendments of lesser significance, such as procedural matters or enhancements, may be incorporated by way of a simple majority of parliament.

The 19th Amendment aimed, among other objectives, to reduce the long-standing powers of the state's executive presidency and move to a parliamentary system of government.⁴³ A Supreme Court ruling on the draft proposals led to several amendments, thereby avoiding the need for a popular referendum. However, the parliamentary approach entailed backtracking on several of the original key proposals. Nonetheless, significant progress and positive reform resulted from the amendment as finally adopted.⁴⁴ Previous presidential immunities were reduced, a presidential right to call a referendum was repealed, consultative requirements for presidential appointments were introduced, and an independent Election Commission was prescribed.

In 2018, yet a further amendment to the Constitution was proposed.⁴⁵ This aimed to advance on the 19th Amendment and complete the transition from an executive presidency to a government based on cabinet responsibility. However, that amendment was not passed, in part because the 2018 Supreme Court decision on the 19th Amendment pointed to the need to hold a referendum in addition to the requirement to have a two-thirds parliamentary majority. Previously, only a parliamentary vote was sufficient.

e. The electoral system

The President is directly elected under a preferential vote system. Assuming there are more than three candidates on the ballot paper, voters may choose in order of preference no more than three from those listed. If no candidate gets more than 50 per cent of valid first preference votes, then all except the two frontrunners are eliminated. The ballots of the excluded candidates are then counted for second preferences in favour of the remaining candidates or, where there are none, for third preferences. Votes from this second count are added to the top two contestants to determine the winner.

⁴¹ The Constitution has been amended 19 times, lastly in 2015. It recognises freedom of religion while according a pre-eminent place to Buddhism. The national and official languages are Sinhala and Tamil, with English being a 'link' language.

⁴² Supreme Court ruling in *Rajavarithiam Sampanthan & Ors., V. AG & Ors.*, 13 Dec 2018.

⁴³ [A Bill to amend the Constitution](#), 13 March 2015 (19th Amendment to the Constitution Bill).

⁴⁴ [The 19th Amendment Act](#).

⁴⁵ The 20th amendment to the Constitution, private members bill 9 July 2018, was sponsored by the JVP.

In past elections there has been no need to count preferential votes as previous presidents have been elected by outright majority in the first count. An expectation that preferential votes might need to be counted in the 2019 election did not materialise.

VI. ELECTION ADMINISTRATION

Technical preparations timely and well administered, but the EC needs well-defined laws to strengthen implementation

a. Structure and composition of the election administration

The EC, established under the 19th Amendment to the Constitution (2015), is a three-member constitutional body responsible for conducting all types of elections, including referenda. It is composed of a Chairman and two members appointed by the President on the recommendation of the Constitutional Council for a five-year term.⁴⁶

The EC enjoys wide powers prescribed in the Constitution, including enforcement of the election legal framework and the cooperation of all state authorities, including the police. The EC has the authority to issue directions, decisions and guidelines and is responsible for preparing and certifying the voter register on an annual basis.⁴⁷ Additional statutory functions are the filling of vacancies of members in parliament, provincial councils and local authorities through elections, and the registration of political parties.

The quorum for a meeting of the EC is three members, with decisions taken by majority. The 17th Amendment to the Constitution (2001) established a five-member EC with a quorum of three. However, the 18th Amendment to the Constitution (2010) reduced the members to three but retained the original quorum. While this may have presented complexities to ensuring effective decision making, the law also provides that a casting vote to the EC Chairman in the event of an equality of votes and a vacancy in the membership will not impede the power of the EC to act.

An elections secretariat, headed by a Commissioner-General (CG) and 27 deputy and assistant commissioners at district election offices covering 25 administrative districts, assist the EC. The CG, appointed by the EC in concurrence with the Constitutional Council, follows EC directives and implements EC's decisions under its control. The CG is entitled to be present at EC meetings but has no right to a vote. The secretariat has an experienced and professional body of staff. District offices are reinforced by returning officers and assistant returning

⁴⁶ Members are appointed from among persons who have distinguished themselves in any profession or in the field of administration or education. One of the members has to be a retired officer of the Department of Elections who has held the position of deputy commissioner of elections or above. The current chairman has held several positions within the EC. He was Commissioner of Elections in the previous Department of elections.

⁴⁷ Directions have the quality of enforceable directives. Directions issued by the EC include prohibitions on the use of any state resources for election campaign purposes by candidates, political parties or independent groups contesting the election. For example, guidelines were issued to broadcasting or telecasting operators.

officers.⁴⁸ Senior presiding officers are in charge of polling stations and chief counting officers manage counting stations.

The EC came into existence without a simultaneous review of relevant laws. Elections before 2015 were conducted by the Commissioner of Elections assisted by the Department of Elections, with internal rules and procedures aligned with established public service norms. On its establishment, the EC was not granted specific powers to issue internal regulations to support management capacity at all stages of the electoral process.⁴⁹ In addition, there is a lack of codified procedures to reinforce transparency in decision-making processes at various stages.⁵⁰ As a result, the EC remains in a transitional phase and in need of clearer legal framework to strengthen implementation.

Recommendation: Enact legislation to strengthen capacity and procedures in line with the EC's constitutional mandate. The law should empower the EC to issue, in a timely manner, binding regulatory instruments with clear provisions for enforcement, and to develop and codify internal procedures.

Overall, the EC carried out its work in a credible and professional manner. Regular consultation with political parties, candidates, the media, civil society organisations and the police has increased the level of confidence in the institution. The electoral administration at district level was well organised and enjoyed general trust among stakeholders. An attempt to publicly discredit the EC on Facebook was not promptly addressed by the platform, potentially undermining public trust in the integrity of the election.⁵¹

Disagreements among EC members surfaced publicly when a decision by the EC Chairman to prohibit the state-owned *Independent Television Network (ITN)* from broadcasting political content was taken and swiftly reversed. Seemingly, the decision was not taken with the consensus of the three EC members, as required by law.⁵² Public statements by one EC member on a number of issues further underlined some disagreements and a lack of coordination within the EC. The intention of the Chairman on 29 November to resign, as reported in the media, was not accepted.

b. Administration of election

⁴⁸ The EC appoints the respective district secretary as the returning officer to each of the 25 administrative districts and may appoint one or more divisional secretaries as assisting returning officers. Under the PEA, s. 26, returning officers are responsible for the overall coordination and management of election day.

⁴⁹ The constitutional clauses on the EC's powers are sometimes prescriptive (i.e. fines for the failure by public officials to comply with EC guidelines), while also leaving gaps. The EC is stated as inheriting the powers of the predecessor institution, but there is no further prescription of legislation to take into account the new governance structures.

⁵⁰ The law does not prescribe a specific timeline or forum for publication of EC decisions in general.

⁵¹ On 31 October, a Facebook fan page "*Bring Back Gota*" placed an advertisement on Facebook and Instagram stating "*EC is a biased commission [...] Professor Hoole [...] represents the Tamil diaspora and Western interests. He will do his best to manipulate the election results*". Facebook removed the advert on 5 November.

⁵² The Chairman, on behalf of the Election Commission, prohibited the state-owned TV station *ITN* from broadcasting any live political programme until the end of the campaign period without prior approval by the EC. The Chairman alleged that the TV channel had harmed the campaign of presidential candidate Gotabaya Rajapaksa by airing the programme '*Seethale Ethala*' on 20 October 2019.

Technical aspects of the electoral process were well-administered and key operational deadlines were met. Because of the high number of candidates, the EC had to review its operational plan.⁵³

After gazetting the list of the 35 contesting candidates, the EC ordered the printing of some 17 million ballot papers managed by the Department of government printing under strict security controls. The ballot paper and counterfoil stubs included a serial number and were printed on regular paper. No additional security features were included.

Training of some 250,000 civil servants to serve as polling staff was carried out to schedule. Training sessions were conducted in Sinhala and Tamil. Separate training sessions were conducted for assistant returning officers and senior presiding officers on voting procedures, and for chief counting officers on important steps of the counting process. EU observers noted that the training sessions, although comprehensive and professional, could benefit from adopting interactive learning techniques. Women were well represented as junior presiding officers and as polling and counting staff. However only a few were appointed as senior presiding officers.

For election day a total of 12,845 polling stations and 987 postal ballot voting stations were set up. In addition, the EC established 38 counting centres, 1,179 counting stations and 371 postal voting counting stations. Around 30 per cent of polling stations countrywide were located at religious sites. Besides concerns about the neutrality of religious sites, in part arising from the involvement of some members of the clergy in campaign activities, these locations often lacked adequate facilities for the deployment of female EC staff, particularly in the case of senior presiding officers who needed to overnight at the polling station before election day. In addition, in some cases voters had to walk long distances under difficult conditions to reach their assigned polling station. Some polling stations were not accessible to voters with reduced mobility. Civil society organisations have requested the EC to review the location of polling stations ahead of the 2020 parliamentary elections.

Recommendation: Review of polling station locations to ensure that polling stations are not located in religious sites, offer adequate facilities for women, are accessible for people with disabilities and are closer to a voter's residence.

The EC issued a poll card to each registered voter, facilitating the identification of assigned polling locations. Special contingency measures to respond to potentially adverse weather conditions, which could have hampered the distribution of election materials, were put in place.

To avoid disenfranchising citizens who did not hold identification documents, returning officers, assisted by local authorities, provided temporary identity cards to voters.⁵⁴

⁵³ Additional ballot boxes had to be procured because of the unusually long ballot paper. The size of polling and counting stations was revised to accommodate the increased number of party agents for polling and counting, up to 70 agents for polling and 175 for counting. Also, additional polling staff were deployed. According to the EC, the initial budget for the presidential election was LKR 4 billion (EUR 20 million). Estimates are that the final total expenses will be around LKR 6 billion (EUR 30 million), or some LKR 360 per person (EUR 1,80).

⁵⁴ Besides the national identity card, passport, driving licence, pensioners, elders and clergy identity cards, the EC included a temporary identity card and a special permit, with the photograph issued by the Department of registration of persons, as valid identification documents for voting purposes. EC Media Release No. 60, of 27 October.

Additionally, the Department for registration of persons in cooperation with the EC issued around 180,000 letters for citizens' identification that were accepted as a voter identification document on election day. The letter included a printed photograph identifying the voter. The EC contributed financially to the department to facilitate the printing of the letters.

Postal voting

Preparations for (early in-person) postal voting for 659,030 citizens were timely. Early voting took place on 31 October and 1, 4, 5 and 7 November. The EU EOM observed on 4 and 7 November in 66 postal voting stations. Postal voting was conducted in an organised manner and assessed as overall well administered. However, the possibility of tracing a ballot paper back to a voter because of a lack of proper safeguards to ensure the secrecy of the postal vote remains problematic. The serial number of the ballot paper is recorded in the declaration of identity and on the envelope in which the ballot paper is inserted. Additionally, the ballot paper's serial number is marked on the ballot counterfoil along with the voter registration number.⁵⁵ Candidate agents and citizen observer groups appointed representatives to observe postal voting. The EC received 717,871 postal voting applications. A total of 58,841 were rejected due to incomplete data or absence of the signature of the certifying officer. Only certain categories of voter can cast an early ballot, which disenfranchises other voters who were working on election day.⁵⁶

Recommendation: Revise (early in-person) postal voting procedures by affording the right and opportunity to vote to all voters on duty on election day. Guarantee the secrecy of the vote by eliminating the traceability of the ballot paper.

The EC operates a useful website with important information pertaining to the different stages of the electoral process. Circulars and media releases regarding the conduct of elections, the majority of them published in Sinhala and Tamil, could be accessed. Voters could get information on their individual registration details and island-wide polling station locations with the availability of Google maps location markers. However, some areas of the country were not mapped and not all polling stations were included. Voter registration figures at polling station level were available. Information relating to postal voting, political party registration as well as the code of conduct for parties and candidates were published. Importantly, election results per polling division and electoral district and scanned copies of the original district result sheets were posted, contributing to the transparency of the election process.

Recommendation: Establish transparency and accountability rules to strengthen electoral integrity and enhance voter confidence. The EC should publish through all available dissemination channels, in a timely manner, information of public interest. This should include decisions and regulatory instruments, as well as election procedures.

c. Voter education

⁵⁵ The ICCPR, GC, at para. 20 “States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting [...]. Waiver of these rights is incompatible with article 25 of the Covenant.”

⁵⁶ These include candidates, members of the armed forces, police, department of prisons, employees of the Sri Lanka government railway, Department of post and telecommunications and the central or regional transport board. Employees of the Central Bank of Ceylon or local government service may use postal voting if called for duty on election day. The EC decided to hold an extra day for postal voting on 5 November.

Continuous voter awareness activities in Sinhala, Tamil and English, including information for persons with disabilities, were conducted by the EC and civil society organisations. Civil society organisations raised concerns about the absence of a robust national voter education campaign on how to mark a valid ballot paper. The EC did not adopt a proactive and broad-reaching approach in explaining to voters the marking of voting preferences and other aspects of the process in traditional media, in particular in television and print media.⁵⁷ Only island-wide state radio regularly aired voter information messages, including on how to vote and mark preferences on the ballot paper.⁵⁸

Additionally, the EC missed the opportunity to use digital information dissemination tools, methods and social networks to promote voter awareness.⁵⁹ On its official Facebook page, the EC placed only two stand-alone posters explaining preferential voting, two on the right to paid leave and five on the voting rights of persons with disabilities.⁶⁰ None of the posts placed by the EC was promoted across Facebook's platforms, Twitter was not used and YouTube videos targeted only voters with disabilities. None of the online materials was tailored to appeal to first-time voters.

Recommendation: Develop effective and broad-reaching voter education. This should include clear messages on key stages of the election process, specially tailored for youth, women, persons with disabilities and other vulnerable groups. Voter education messages should be relevant and consistent across traditional and online media. The EC should proactively use all available digital information dissemination tools.

VII. VOTER REGISTRATION

There is a need for legal action to enhance inclusiveness of the voter register

a. The right to vote

Every citizen who has reached 18 years of age by an annual voter registration cut-off date of 1 June is entitled to vote.⁶¹ Although the Constitution guarantees equality, it also enshrines some disqualifications from the right to vote, and in practice not every citizen is entitled to vote. Those convicted of certain offences, including corruption and bribery, are disqualified by law for periods ranging from three to seven years, but the opportunity to vote could be deprived for

⁵⁷ ICCPR, article 19 (2) "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

⁵⁸ National Service and City FM, two frequencies of state Sri Lanka Broadcasting Corporation (SLBC). As it did in 2015 and 2018, the SLBC also launched its special election frequency, *Election FM*, but the station did not enjoy high popularity.

⁵⁹ ICCPR, HRC GC 25, para. 11 "Voter education [...] campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community".

⁶⁰ All posts were posted only once. The posters were not visually attractive to younger audiences and did not contain any interactive elements. Posts were not even temporarily pinned at the top of the Facebook page. The EC Facebook pages has 38,000 followers, posts were shared from 17 to 269 times each. There was no poster on preferential voting in Sinhala.

⁶¹ The Registration of Electors Act, 1981 No. 3 assigns 1 June of every year as the date by which a voter should have reached the age of 18.

longer.⁶² Citizens declared of unsound mind are also disqualified. Normally, the procedure for making a declaration of unsound mind falls to the courts. However, outdated laws give the Ministry of health the discretion to review such status and this in turn could entail arbitrary deprivation of voting rights, contrary to international standards.⁶³

There are also no provisions to enable persons qualified to vote to do so if, on election day, they are out of country, in prison or detention, homebound or hospitalised.

As the law does not foresee a revision period for the voter register before an election, voters who turn 18 after 1 June, and before an election in any subsequent 12-month period, are disenfranchised.⁶⁴ The EC estimated that some 180,000 to 200,000 first-time voters were disenfranchised for the 2019 presidential election. This highlights a need for reform to ensure the right to vote, in particular of young people, is protected in line with international standards.

Recommendation: Adopt amendments to the law for the registration of electors to limit disenfranchisement of voters who turn 18 after the cut-off date for registering and before an election.

b. Voter registration procedures

Sri Lanka has a voluntary active voter registration system. The voter register is compiled and maintained by the EC. The 2018 voter register contained a total of 15,992,096 voters, an increase of almost a million since the 2015 presidential election. The EC holds a fully centralised voter register and was able to remove duplicated registration entries found in the 2018 register. While no additions or modifications could be inserted into the voter register, updated information on voters in a case of death, living abroad, postal voting and suspension of voting rights due to court decisions were indicated with marks against the voter's name in the register. EU EOM interlocutors expressed confidence in the accuracy and inclusiveness of the voter register.

On an annual basis on 1 June the EC appoints district secretaries as registration officers who are assisted by a senior officer to oversee the revision. For registration purposes, and acting under the local government's authority, (Grama Niladhari)⁶⁵ enumerators conduct house to house visits. They collect information on each member of the household who wishes to be registered. The names in these forms serve as the base of the new voter register. Following the enumeration process, the voter register is displayed for 28 days at district, divisional and Grama

⁶² In theory, persons disqualified for seven years could be deprived of the opportunity to vote for 11 years, due to the length of presidential term (five years) and depending on when such elections arise relative to the start of disqualification. ICCPR, HRC, GC 25, at para. 14 *"If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence."*

⁶³ An outdated mental health law means such persons are held subject to an administrative decision by the Ministry of health, without legal clarity on review mechanisms. Art 29(b) *"b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs,..."*

⁶⁴ ICCPR, GC 25, at para. 11 *"States must take effective measures to ensure that all persons entitled to vote are able to exercise that right."* An amendment bill to the Registration of Electors Act, No. 44 of 1980, issued on 18 September 2019, contains provisions for different qualifying dates for the inclusion in the voter list of a person who attains the age of 18 on the date of the proclamation of any election.

⁶⁵ A Grama Niladhari, appointed by the central government under the Ministry of home affairs, is a public official that carries out administrative duties at village level.

Niladhari offices for claims and objections. After claims and objections have been adjudicated, the draft register is publicly exhibited for seven days, allowing for further scrutiny. The 2019 voter register is expected to be certified by the third week of January 2020.

VIII. REGISTRATION OF CANDIDATES

Inclusive nomination process and candidacy requirements in line with international standards

a. Registration of political parties

Political parties and groups may be registered and become entitled to a symbol for election purposes and to public funding linked to electoral performance.⁶⁶ Annually, before 31 January, the EC makes a call for applications by groups seeking registration as political parties. An applicant party should identify the symbol they wish to use for elections and provide the EC with the party constitution and list of office bearers, to include at least one woman.⁶⁷ The decision to recognise a party is at the sole discretion of the EC and is based on EC inquiries and whether the party is sufficiently organised for elections. There are no clearly prescribed, transparent procedures relating to this decision-making process. The decision of the EC to recognise or refuse recognition cannot be appealed. A party may however seek to re-apply after six months. The EC currently lists 70 registered political parties.

Recommendation: Develop a comprehensive legal framework for the registration of political parties. The law should clearly stipulate registration requirements, enforceable mechanisms for effective financial accountability and guarantee internal party democracy and inclusivity. Aspiring parties should have access to judicial review of EC decisions.

b. Right to stand and candidate registration

Overall, candidacy requirements are in line with international standards and the nomination process was inclusive. Prospective candidates were proposed by registered parties or contested as independents. A person qualified to be on the electoral register is eligible for presidential office provided they are at least 35-years-old. Conflicts of interest are avoided, as serving high-ranking public servants, judges and others such as undischarged bankrupts may not contest. The 19th Amendment to the Constitution introduced two new limitations that disqualify anyone who has already served two terms as president or who holds dual nationality. The procedure for nomination commences upon the proclamation of elections and ends with registration of candidates on a nomination date determined by the EC. Aspiring candidates have at least 16 days but no more than one month to prepare their nominations. One court case, heard prior to the nominations date, unsuccessfully challenged the eligibility of Gotabaya Rajapaksa to stand.⁶⁸

⁶⁶ The term used for a registered party is ‘recognised’. The Parliamentary Elections Act, s. 127 provides for funding by way of a grant to parties scoring at least one per cent of the total valid poll in an electoral district at the last preceding general election.

⁶⁷ The requirement for at least one woman office bearer came with the Parliamentary Elections (Amendment) Act, No. 58, of 2009. There is a prescribed sanction for non-compliance with this provision.

⁶⁸ [Court of Appeal CA Writ Application, No. 425/19](#). Actions against a number of named respondents, including Gotabaya Rajapaksa of the SLPP, were dismissed on technical grounds.

Prior to the nomination date, candidates must pay the relevant deposit.⁶⁹ On the nomination date, candidates are nominated on prescribed forms signed by either their political party secretary or by a nominating elector. The period for submission of forms on the nomination date is three hours. An additional half hour is allowed for objections to the registration of rival candidates. The tight timeline for submission of objections is unduly restrictive. The EC makes decisions on objections to nomination papers and these may not be appealed. However, objections based on corrupt or illegal practice, or alleging parliamentary disqualification, must be referred to the Supreme Court. Otherwise, the EC is not specifically empowered to inquire into an aspiring candidate's qualifications.

Of 41 prospective candidates who paid the required deposit to the EC, 35 completed the nominations process by submitting the registration form on time on 7 October. All registration applications were accepted. The list comprised 18 candidates from registered parties, 15 independents and two from unregistered parties. The record number of candidates raised much debate as to whether all were genuine contestants. The EC publicly stated it had identified 13 candidates who were competing merely to support one of the two most prominent candidates.⁷⁰

IX. CAMPAIGN ENVIRONMENT

Campaign restrictions are not in line with international commitments; a peaceful campaign on the ground was marred by divisive rhetoric and hate speech in social media

Campaigning on the ground was peaceful, consisting mainly of small-scale meetings and door-to-door canvassing. The atmosphere was calm, with only a small number of violent incidents and reported threats.⁷¹

Throughout the campaign legal restrictions applied to the use of a wide variety of outdoor political advertising, including flags and stickers. Certain restrictions undercut constitutional guarantees of freedom of speech, movement and assembly and do not accord with Sri Lanka's international commitments.⁷² Anyone using private premises or vehicles to promote candidates could be arrested without warrant and charged.⁷³ Public meetings are banned for nine days around the declaration of results. Processions – any movement of people along a street other

⁶⁹ Candidates nominated by a registered (recognised) political party pay LKR 50,000 (EUR 250), and independents LKR 75,000 (EUR 375). Fees are refundable to those who attain at least one eighth of the vote.

⁷⁰ The EC said it was considering taking measures against “dummy” candidates. However, the legal framework does not provide for such action.

⁷¹ On 6 November in Nuwara Eliya bodyguards accompanying a member of parliament who supported the SLPP fired shots at a group who appeared to be blocking the MP's car, injuring two people. In separate incidents on 10 and 11 November two female UNP politicians were attacked, allegedly by SLPP supporters. UNP and SLPP offices were vandalized respectively in Neluwa and Baddegama divisions of Galle district on 3 and 4 November. A UNP office was also attacked in Divulapitiya. On 5 November former MP Sajin Vaas Gunawardena said he lodged a complaint to the police of death threats he received over his support for the NDF candidate. On 6 November the Minister of Finance, Eran Wickramaratne (UNP), lodged a complaint with the EC regarding a message he had received on Twitter warning of a bomb attack.

⁷² [ICCPR, Human Rights Committee, GC 34](#), at para. 37 “Among restrictions on political discourse that have given the Committee cause for concern are the prohibition of door-to-door canvassing, restrictions on the number and type of written materials that may be distributed during election campaigns [...]”

⁷³ For example, [Presidential Elections Act, No. 15 of 1981](#) s.74.

than for social or religious purposes – are not permitted during the campaign period and for a week after results are declared. Additional restrictions apply to the establishment of candidate and party campaign offices, other than notified offices limited to one per electoral district and one branch office per polling district.

Some provisions of the EC guidelines for the media, the code of conduct for parties and candidates⁷⁴ and various directions on campaigning raise questions concerning enforceability.⁷⁵ For instance, one provision of the code of conduct requires stakeholders to refrain from displaying campaign material in private buildings and residences.⁷⁶ The code of conduct also calls for stakeholders to refrain from the use of state and military aircraft without payment. EU EOM observers noted the use of such aircraft during the latter stages of the campaign period. However, information regarding the payment for such services was not publicly disclosed. Prohibitions on hate speech and discrimination featured prominently in the code of conduct. However, there was little evidence of robust action challenging such activities either at campaign rallies or online. There are a number of provisions and timeframes covering or prohibiting various different campaign activities just in advance of and on election day, but there is no simple and clear unified rule for campaign silence, in particular for on-line political campaigning.

Despite occasional legal uncertainty as to the basis of some of the EC's directions, the Supreme Court dismissed one petition against a ban on the use of LED screens in cinemas for political advertising, thereby confirming the EC's stance.⁷⁷ Although candidates managed to conduct campaigns on the ground within these strict parameters, limited media access, combined with a lack of campaign finance regulation and high spending by the two most prominent contestants, resulted in a markedly uneven playing field.

The highest-profile candidates were Sajith Premadasa and Gotabaya Rajapaksa, who attracted large crowds at rallies. The SLPP conducted a highly organised grassroots campaign and a sophisticated political messaging strategy online using demographic targeting all and included the use of mobile phone applications. While these applications were used primarily to promote the SLPP candidate, they also obtained some voters' personal information, essential for automated micro-targeted canvassing. The Premadasa campaign also used social media heavily, but with markedly less investment in micro-targeting. Anura Kumara Dissanayaka's campaign on the ground and online was less prominent. There was a significant gap in resources between the two main candidates and the others, who were scarcely visible, including on social media.

Recommendation: Revise the law to ensure equal campaign opportunities by removing all disproportionate restrictions, including on processions, dissemination of political

⁷⁴ Provisions of the guidelines and code of conduct, with few exceptions, are not formally binding. Sanctions for non-compliance with the guidelines apply only in respect of state media and consequently compliance by private media is voluntary.

⁷⁵ E.g., on withdrawal of candidates, on campaigning in religious places and on display of postal ballots.

⁷⁶ Code of conduct, section C, para. 3. Although it was voluntary to enter into the code of conduct some provisions based on provisions in the law entailed compliance with the law or not (by enforceability) and for that reason to some actors it was unclear whether the document was aspirational or a tool that could be used against them.

⁷⁷ Supreme Court, *Emerging Media vs Election Commission and Ors.*, 1 November 2019. Candidate Ajantha Perera told the EU EOM that contestants with fewer resources would have benefitted from the use of LED screens because it was a cheaper campaign method and more environmentally friendly than other forms.

campaign messages and establishment of campaign offices, to campaigning on the ground. Establish unified campaign silence rules for contestants, traditional and online and social media for paid-for campaigning, with clear, enforceable sanctions for non-compliance.

National security was a prominent theme in the election campaign, with strong nationalist rhetoric frequently used. This also brought religious and ethnic rifts to the fore. The campaign on the ground, and especially online, was marked by heightened Sinhala nationalist rhetoric and, on the SLPP side, instances of anti-Muslim invective. Groups of Buddhist monks appeared on the campaign stages of both main candidates, and the radical nationalist Buddhist group Bodu Bala Sena actively campaigned for Rajapaksa.⁷⁸ EU observers reported that while both main campaigns employed inciteful speech, stronger language was used by the SLPP side.⁷⁹ Such discourse was not observed at Dissanayaka campaign events.

Gotabaya Rajapaksa appeared at the most events, often with his brother, former President Mahinda Rajapaksa, promising “an era without fear” under “inclusive governance”, and pledging to release jailed soldiers and Tamil Tiger militants accused of civil war abuses. He said he would revisit Sri Lanka’s bilateral accords, cut taxes and increase investment in infrastructure and public services. Sajith Premadasa promised to fight corruption and continue democratic reform while working towards a strong state and fair society. He warned against returning to a “dark period” of political domination by one family, and focused on housing, health and development.

There were many allegations of misuse of state resources. The granting of permanent jobs to temporary and contract workers at all levels of public administration was the most commonly reported abuse.⁸⁰ On 11 November Transparency International Sri Lanka asked the EC to take action against candidates using Air Force helicopters for campaign purposes. Campaigning by public officials, contrary to EC rules, was also frequently observed, including on their official social media accounts.⁸¹

The EC Chairman sought an explanation from the Rajapaksa campaign team after newspaper adverts were published featuring endorsements of Gotabaya Rajapaksa by high-level past and current military figures, including the incumbent army commander, contrary to the code of

⁷⁸ The EC Chairman reminded candidates that the use of religious symbols was banned during campaigning, as per EC media guidelines. The law does not address the engagement of religious figures in campaigning.

⁷⁹ For example, EU observers in Central province witnessed SLPP campaigners using dangerous speech against Muslims and making homophobic comments about the opposing candidate and his team. On 29 October in Divulapitiya town, Gampaha, EU observers heard NDF campaigners make provocative references to responding to aggression “with guns”.

⁸⁰ For example, on 18 September, the day the election was called, the ministry of public administration issued a circular (29/2019) to secretaries of ministries, chief secretaries of provinces, heads of department and heads of state corporations and statutory boards, granting permanent appointments to employees recruited on a temporary, casual (daily), substitute, contract or relief basis.

⁸¹ EU observers reported the participation in SLPP campaigning of the governors of Southern, Eastern and Western provinces. The EU EOM observed a clear overlap in messaging on the Facebook pages supporting SLPP and those of governors of Eastern, North Central, Southern, Western and to some extent North Central provinces. On 10 November the EC wrote to then President Sirisena instructing that governors of Western, North Western, North Central and Eastern provinces who had been supporting candidates should go on leave until 18 November. The EC also began an investigation into the presence onstage of the head of the Government Medical Officers’ Association at the launch of candidate Rajapaksa’s campaign. Of 24 mayors, 15 promoted the SLPP and 4 the NDF, making little distinction between governing and campaigning online.

conduct.⁸² Nonetheless, his campaign continued to use military and police personnel in online adverts, including in two adverts active during the campaign silence period.⁸³

On 8 November, President Sirisena, the state minister of defence and the army, navy and air force commanders attended the opening of the new army headquarters and still incomplete defence complex, contrary to EC rules prohibiting such events during elections.⁸⁴ On 16 October, President Sirisena and Prime Minister Wickremesinghe also attended the opening ceremony for an airport in Jaffna. Government announcements in the run-up to the election included a new monthly allowance for the police as well as a water project for Jaffna, amounting to inappropriate use of the advantage of incumbency.

Sajith Premadasa and Gotabaya Rajapaksa made extensive use of traditional media, with a heavy presence in paid advertising in television and print media.⁸⁵ Anura Dissanayaka's team and other lower-profile candidates complained that access to traditional media was crucial given the restrictions on means of contact with voters, but that traditional outlets gave them minimal or no coverage and prohibitive prices made it hard to buy space.⁸⁶ Almost all candidates used the free airtime allocated by state television and radio.⁸⁷

Social media was a vital campaign tool for contestants to effectively reach younger voters outside their traditional vote bank. On the whole, the campaign environment across digital platforms was divisive and highly monetised. Candidates' online presence correlated with their political weight offline.⁸⁸ With few regulations in place this provided for confrontational campaign strategies. The SLPP and NDF used cross-platform electioneering tactics, with official promotion pages adjoining third-party sites that frequently served to discredit the rival.⁸⁹ Both frontrunners were also supported by high-profile influencers, who used harsh

⁸² In its reaction, on 27 October the EC issued a notification prohibiting the publication in the media of images of public officials and army personnel for party/candidate promotion.

⁸³ From 27 October to 16 November the EU EOM identified 12 ads on Facebook and Twitter featuring Rajapaksa and military or police personnel.

⁸⁴ Gazette 2141/52, government notification 19 September 2019, 03 (i) "*Functions such as laying foundations, opening ceremonies . . . should not be organised or conducted during the period of election since the politicians who attend these functions may express opinions and views on the election and conduct of these functions ceremonially may lead to the promotion or cause prejudice to any party, group or candidate.*"

⁸⁵ Overall, paid advertisements of the two major candidates accounted for between 90 and 100 per cent in traditional media. While the proportion between them is comparable in television channels, Gotabaya Rajapaksa dominated in adverts placed on radio and Sajith Premadasa in print media.

⁸⁶ Contestants included candidates Ajantha Perera (Socialist Party of Sri Lanka), Mahesh Senanayake (National People's Party) and Rohan Pallewatta (Jathika Sanwardana Peramuna). The EU EOM made several requests for price lists to all monitored media, however, the specific price lists of paid advertisements were provided only by state television *ITN*.

⁸⁷ While all but four candidates used their free airtime on television (A.H. Mohamed Alavi, Ajantha de Soysa, Aruna de Soysa, Illias Idroos Mohamed), seven contestants did not do so in radio (A.H. Mohamed Alavi, Siripala Amarasinghe, Ajantha de Soysa, Aruna de Soysa, Milroy Fernando, Samansiri Herath and Illias Idroos Mohamed).

⁸⁸ Seventeen candidates have a Facebook page, five are on Twitter and five on Instagram. Facebook followers range from one to 740,000. Only Sajith Premadasa (740,000 followers), Gotabaya Rajapaksa (577,000) and Anura Dissanayaka (317,000) posted daily, and among them only Sajith Premadasa had a YouTube channel (24,600 subscribers). The only female candidate had 4,984 friends on Facebook. Her profile was closed and featured a few public campaign posts.

⁸⁹ The EU EOM identified 105 Premadasa- and 110 Rajapaksa-leaning pages on Facebook, with 11 and 15 of them respectively posting and sharing primarily negative content. A further 15 and 24 pages respectively

rhetoric⁹⁰ and political meme pages that ridiculed opponents or featured discord.⁹¹ Teams of social media campaigners and mobilisers were recruited at national and district levels.⁹² The SLPP used such teams in a more robust and organized manner than the NDF/UNP. Instances of religious leaders expressing support for candidates on YouTube were noted.⁹³ The volume of hostile commentary was higher on SLPP-leaning sites.⁹⁴

X. CAMPAIGN FINANCE

Lack of campaign finance regulation created an uneven playing field

Political party and campaign financing remain unregulated. There are no limits on contributions or spending. There are no meaningful disclosure requirements, including on the origin of funding, reinforcing an uneven playing field. Several pieces of legislation provide scope for limited oversight mechanisms.⁹⁵ Candidates are required only to declare their assets, but financial sanctions for non-compliance are insignificant.⁹⁶ Further, the secrecy provisions in the Declaration of Assets law impede the sharing of asset declarations by and to third parties. The 1975 Declaration of Assets Law offered limited opportunities for public access to information on candidate finances. Positively, the recent Right to Information Act improved the scope for to obtain information of public interest held by state authorities. However, candidates also have three months from nominations to make disclosures, which means that obtaining factual information before elections is difficult unless candidates disclose it voluntarily.

mixed promotion of the candidate, mobilisation and negative campaigning. The EU EOM identified 167 support pages with district-level relevance; 16 per cent of Premadasa-leaning and 20 per cent of Rajapaksa-leaning pages contained negative messages.

⁹⁰ Of ten most followed YouTube personalities (with more than 50,000 subscribers) five regularly promoted the SLPP and Gotabaya Rajapaksa and two Sajith Premadasa. Postings during the campaign from all seven included demeaning commentary. The viewership of each broadcast ranged from 25,000 to 1,8 million unique users.

⁹¹ The EU EOM assessed 25 most followed political meme pages; 11 showed political bias (nine for candidate Rajapaksa, one for candidate Premadasa, one for candidate Dissanayaka).

⁹² Observed by EU EOM observers in Anuradhapura, Badulla, Batticaloa, Colombo, Gampaha, Galle, Kurunegala and Rathnapura.

⁹³ For example, on 23 October a YouTube channel, Hari Creation, featured a Buddhist monk, Kotuwe Hamuduruwo, calling on people to vote for Gotabaya Rajapaksa, while noting that “*Muslim terrorists are on a stage with Sajith*”. Within two days the video had more than 90,000 unique views, generating 450 comments, 95 per cent of which supported the monk’s statement. The monk’s sermons are available via a Google app and in at least two he calls for “*the eradication of non-Sinhala Buddhist people*”. In one, available on YouTube, he threatens “*to cut off the arms*” of everyone who will vote for a candidate who is not a Sinhala Buddhist (416,000 views).

⁹⁴ It was primarily against Sajith Premadasa. But there was also a general hostility against Muslims, and voters were threatened that if they didn’t vote for Gotabaya Rajapaksa, Sinhala Buddhists would soon become a minority. Homophobic messages were also noted.

⁹⁵ [Declaration of Assets and Liabilities Law, No. 1 of 1975](#), [The Right to Information Act No. 12 of 2016](#), and the [Commission To Investigate Allegations Of Bribery Or Corruption Act, No. 19 of 1994](#). Draft legislation on campaign and political party financing is currently at the Legal Draftsman’s Department. See recent proposals of [Commission for Investigation of Allegations of Bribery and Corruption](#).

⁹⁶ The EC confirmed that six contesting candidates had not yet submitted declarations of assets ahead of election day. [Declaration of Assets and Liabilities Law, No. 1 of 1975](#) “*Failure to file a declaration of assets within three months of nomination may entail a fine of LKR 1,000 (EUR 5), or up to a year in prison, or both.*”

Proposals for the regulation of campaign finance have been in discussion for some time, however progress appears stalled. Draft proposals seen by the EU EOM do not appear to include oversight of income received by service providers, such as media houses, social networks and advertising agencies, from political parties and candidates during campaigns. The 19th Amendment to the Constitution provides for the establishment of a Commission to Investigate Allegations of Bribery or Corruption and requires the passing of a law for measures to implement the United Nations Convention against Corruption (UNCAC) and any other international convention relating to the prevention of corruption to which Sri Lanka is a party. To date this law has not been passed. This lack of oversight of political and campaign finance assures an uneven playing field and is at odds with Sri Lanka's international commitments.

Recommendation: Adopt a law on campaign finance and campaign expenditure. The law should include clear provisions on timely disclosure before and after elections, oversight, sanctions and enforcement. Income and expenditure reports should be audited by a competent independent body with investigative powers.

Across all districts, EU observers noted the high-visibility campaigns on the ground of the two most prominent candidates, underscoring a considerable gap in financial expenditure and resources between them and other contestants. With no limits on campaign advertising, campaign coverage in traditional and online media was highly monetised.⁹⁷ Only a few other candidates, namely Anura Dissanayaka, Ajantha Perera, Mahesh Senanayake and B. Thera ventured into paid television and newspapers adverts.

The SLPP's spending online was in excess of any other campaign.⁹⁸ The party campaigned via five custom-made mobile applications. It dominated across all categories of Google adverts and placed no fewer than 500 adverts on Facebook, including by third-party pages without a blue verification badge of page authenticity. Total spending cannot be known, as Google shares no data, but Facebook's ad library offers some disaggregated estimates that do not factor in expenses by third-party sites. Further, the sponsoring organisation was not always properly displayed and identified on third-party pages, or had a rather anonymous identifier.

Despite repeated requests from civil society organisations, Facebook did not introduce all the campaign finance transparency measures at its disposal. Namely, it includes the creation of an Ad Library Report for Sri Lanka, a prohibition on placing political advertisements by a page that is not identified by Facebook as a public figure, and robust and swift verification of the sponsoring organisation.⁹⁹ Facebook cited the absence of legally binding disclosure requirements for service providers and claimed to run thorough verification of all advertisers

⁹⁷ According to CMEV data for the period between 14 October and 10 November, estimated campaign costs (including traditional media and outdoor campaigning) were as follows: for SLPP LKR 1,518 million (EUR 7.59 million), for NDF LKR 1,422 million (EUR 7.11 million), and for NPP LKR 160 million (EUR 800,000). While traditional media accounted for some 62 per cent of the total amount in the case of SLPP, in the case of the NDF it was some 51 per cent.

⁹⁸ For example, Gotabaya Rajapaksa's official page sponsored at least twice as many advertisements on Facebook as Sajith Premadasa's and ten times more than the JVP. The SLPP-leaning pages identified by the EU EOM placed far more sponsored content than the NDF-leaning ones.

⁹⁹ On its [policy page](#) Facebook states "Advertisers can run ads about social issues, elections or politics, provided the advertiser complies with all applicable laws and the authorization process required by Facebook. Where appropriate, Facebook may restrict issue, electoral or political ads." Facebook's authorisation policy requires uploading personal ID, but in practice sponsored political content was also pushed by anonymous support pages.

targeting Sri Lanka. Such a lack of transparency and accountability in campaign finance contravenes international standards and interferes with voters' right to make an informed choice.¹⁰⁰

Recommendation: In order to ensure transparency and accountability in campaign spending, extend rules for campaign publicity to require a label clearly stating that the content is paid-for, to be displayed at all times in offline and online advertisements. Further, secure by law uniform pre- and post-election publication by media outlets and social networks of prices charged and disaggregated income received from political advertising.

XI. MEDIA

Media bias in favour of the two main candidates, compounded by the lack of an effective enforcement mechanism, significantly limited the opportunity for most candidates to convey their messages

a. Media environment

The media environment in Sri Lanka is diverse, with numerous outlets.¹⁰¹ In rural areas television remains the most important source of information on politics. Newspapers, while gradually declining in circulation, preserve their significance, mainly for the older urban generation. The market is characterised by a high concentration of ownership affiliated largely with major political parties and significantly influencing content accordingly.¹⁰²

The state remains a major force in the broadcast and print media sectors. There are two state-run television networks, the *Sri Lanka Rupavahini Corporation (SLRC)* and the *Independent Television Network (ITN)*, and one radio network, the *Sri Lanka Broadcasting Corporation (SLBC)*.¹⁰³ On 9 September 2019, President Sirisena placed the SLRC under the purview of the Ministry of Defence, thus under his direct authority since as President he also held the position of defence minister.

Earlier in the year, on 8 March, the President placed under the purview of the Ministry of Defence the Telecommunications Regulatory Commission (TRC), which serves as the state

¹⁰⁰ [UN Convention against Corruption](#), art. 7(3) "...state parties shall consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office...".

¹⁰¹ There are more than 250 outlets media outlets in Sri Lanka, including 22 TV channels (five state-owned), 57 radio stations (21 state-owned), some 100 newspapers (20 dailies) and numerous online portals.

¹⁰² According to a study by Reporters Without Borders and Verité Research, the major private media groups (*Maharaja Broadcasting Corporation, Power House and Asia Broadcasting Corporation*) have, along with state organisations, a combined audience share of 77 per cent in the TV segment and 65 per cent in radio. At the same time, the private group, *Wijeya Newspapers*, claims 47 per cent of newspaper readership.

¹⁰³ *ITN* was established as a private enterprise in 1979. However, after a few months it was acquired by the state. Both *SLBC* and *SLRC* were founded under specific laws, the 1966 *SLBC Act* and the 1982 *SLRC Act*. While both broadcasters operate networks of TV channels and radio stations, each of them in all three languages, their audience ratings are modest.

media regulator.¹⁰⁴ The TRC is responsible for protecting the public interest in the sphere of broadcast media and for allocating the frequency spectrum. While the SLBC and SLRC Acts allow for the licences for private broadcasters, it is the Telecommunications Act that provides for more detailed procedures on how the licences are granted. The broadcasting licences are issued by the Minister of Defence based on the recommendation of the TRC.¹⁰⁵ As a result, the process of granting licences perceived as highly politicized and not transparent before, and coupled with the latest direct subordination of the TRC to the executive, represented by its military component, is at odds with international standards.¹⁰⁶

Recommendation: Establish through a broad-based consultation an independent regulator for all broadcast media, with a clearly defined mandate and powers. The members should be selected through a competitive public process ensuring diversity. Regulator powers should include licensing, oversight, sanctioning and ensuring transparency of ownership. Decision-making procedures should be governed by transparency, accountability and efficiency.

Almost all EU EOM interlocutors spoke of notable improvements since 2015 in the sphere of freedom of expression, with a reduction in hostile rhetoric towards the media from official sources and a decrease in intimidation of journalists and interference in their work.¹⁰⁷ At the same time however, impunity for past crimes against journalists remains an issue, as none of the re-opened investigations into the murder of journalists have resulted in convictions.¹⁰⁸

b. Legal framework for media

The Constitution guarantees freedom of expression and the right of access to information.¹⁰⁹ However, it limits freedom of expression through various restrictions, contrary to international standards.¹¹⁰ Outdated legislation also poses challenges to the exercise of that right.¹¹¹ Positively, a law on the Right to Information was introduced in 2016. Besides the Telecommunications Act, the media-related legal framework during elections comprises the Constitution, the PEA and EC media guidelines.

¹⁰⁴ The TRC was established by the 1996 Amendment to the 1991 Telecommunications Act. It comprises five members, with the Secretary of the Ministry of defence acting as chairman. The President directly appoints the director general who acts as deputy chairman, while the Minister further appoints remaining three members.

¹⁰⁵ On 8 March, by the Extraordinary Gazette No. 2113/67.

¹⁰⁶ ICCPR, HRC [GC 34 para. 39](#) “[...] it is recommended that States parties [...] establish an independent and public broadcasting licensing authority, with the power to examine broadcasting applications and to grant licences.” The [Joint statement on Media and Elections](#) by authoritative international bodies reads “Oversight of any rules relating to the media and elections should be vested in an independent administrative body which should address any complaints promptly.”

¹⁰⁷ According to the annual World Press Freedom Index compiled by Reporters Without Borders, the country’s ranking has improved from 165 in 2015 to 126 in [2019](#).

¹⁰⁸ According to the Jaffna Press Club, none of the 28 most recognized cases of attacks on Tamil journalists has been re-opened.

¹⁰⁹ Articles 14(1)(a) and 14A.

¹¹⁰ The Constitution states that any restrictions are required to be prescribed by law. ICCPR, HRC [GC 34, para. 22](#) “Restrictions may be imposed [...] and must conform to the strict tests of necessity and proportionality”.

¹¹¹ The 1955 Official Secrets Act, 1959 Public Security Ordinance, 1979 Prevention of Terrorism Act.

On 21 September the EC used its constitutional power to issue media guidelines, and adopted a detailed set of election campaign coverage rules for state and private media, broadcast, print, online and social media.¹¹² However, only state-owned media have a legal duty to comply with the guidelines.¹¹³ The EC is constitutionally responsible for ensuring free and fair elections. In this respect in its media guidelines the EC committed to regularly monitoring the neutrality and impartiality of the media. This oversight responsibility was supported by the Mass Media Ministry.¹¹⁴ The EC organised several meetings with all media seeking their understanding and cooperation. On various occasions the EC chairman publicly warned the media to comply with impartiality requirements. It also took swift action against state TV broadcasters.¹¹⁵

At the same time, the EC came under strong criticism from various candidates and civil society organisations over its perceived inaction on unbalanced political broadcasting by private media outlets. Some interlocutors suggested the EC could have presented its views about private media conduct to the public more forcefully, on a regular basis and in a comprehensive manner. By doing so, it would become evident which media outlets complied with the media guidelines and which violated them. Such an additional layer of information for voters could have helped equip them to make a well-informed choice.¹¹⁶ Various EU EOM interlocutors also said that, given the lack of an established mechanism for private media oversight, the EC could have sought cooperation with other state bodies, in particular the TRC, to ensure private media compliance with EC guidelines.¹¹⁷ The EC informed the EU EOM it did approach the TRC

112 The [Media guidelines](#) contain 33 specific items and, inter alia, oblige “every media institution to provide accurate, balanced and impartial information in [...] news bulletins and any other programmes relating to political matters”. It further stipulates that “the proprietors of all electronic and print media shall adhere to these guidelines and ensure that the respective institutions owned by them observe such guidelines”. In addition, it introduces “the responsibility of the administrators of social media sites [...] to follow these guidelines as applicable to them, during the period of an election.”

113 The draft 19th Amendment Bill envisaged preserving a duty of compliance with EC guidelines for both private and state media (as introduced in the Constitution, art. 104B(5)(b) by the 18th Amendment from 2010). The proposed bill also envisaged EC powers to appoint a competent authority to take over the management of private and state media in the event of a contravention of EC guidelines. In April 2019 the Supreme Court issued an opinion that “the EC should not be vested with such a far-reaching power” and required approval by referendum. Ultimately, the proposed text was revised and replaced by the current article 104B(5)(a)–(c) of the Constitution. As a result, the previous obligation of private broadcasters to adhere to EC guidelines and planned EC powers over them were excluded.

114 The Mass Media Ministry conducted a media monitoring exercise, focusing on the allocation of time within the news programmes of eight TV channels (state *ITN* and *Rupavahini*, private *Derana*, *Hiru*, *Sirasa*, *Siyatha*, *Swarnavahini* and *TNL*). It provided results on a daily and weekly basis to the EC. Tone of the coverage allotted to contestants was not assessed.

115 On 3 October the EC stopped the live broadcast of the UNP annual convention on state *Rupavahini*, as the broadcast was not paid in advance and thus violated principles of impartiality and neutrality. In a similarly motivated letter on 1 November, the EC decided that political programmes on state *ITN* could not be aired without prior EC approval. However, the next day the decision was retracted because of complaints that only one specific channel was being sanctioned. On 8 November EC personnel visited *Rupavahini* studios to examine the editing of an interview with the UNP Minister of Finance, based on allegations that the Premadasa campaign had been promoted. None of the above-mentioned decisions or letters has been made available publicly.

116 The EC on various occasions declared that certain private media clearly violated the guidelines, however it never specified them. Only on 13 November, the last day of the campaigning, did the EC Chairman show media monitoring charts, and while not naming any broadcasters explicitly, he pointed to the charts of *Derana* and *Hiru* as examples of channels that violated the impartiality required by the media guidelines.

117 The Telecommunications Act provides for possible sanctions against broadcasters to be applied by the TRC. The Constitution in its Art. 104B(2) stipulates that “It shall be the duty of the Commission to secure the enforcement of all laws relating to the holding of any such election [...] and it shall be the duty of all

about issues pertaining to the regulation of private media. In the absence of a clear regulatory regime, an even playing field was not assured in private media broadcasting.

c. EU EOM media monitoring findings

State media adhered to their legal requirement to allocate free airtime to candidates. However, the *SLRC* decided to air candidates' addresses on *Channel Eye*, a less popular, primarily entertainment English-speaking channel, thereby limiting the public reach of candidates.¹¹⁸

While the country held its first presidential debate in its history, one of the major frontrunners decided not to participate.¹¹⁹ However, there was no televised debate aired on prime channels with the participation of the most prominent candidates.¹²⁰ The national media covered the campaign through various formats, mostly newscasts, paid advertisements and some political discussions. However, the reporting lacked in-depth and critical editorial analysis, in particular in the broadcast media. The principle of the media disseminating a wide range of information, giving voters the opportunity to make well-informed choices, was compromised, as access to the media was significantly limited for most of the contestants.

On 20 October, the EU EOM began its monitoring of 22 media outlets, ¹²¹ using quantitative and qualitative analysis of the most relevant political and electoral content.¹²² All media monitored by the EU EOM reflected political traditions to centre their reporting on the leading campaigns, the two main ones, and to a lesser extent on the others, such as next most prominent candidate, Anura Kumara Dissanayaka of the NPP. The joint news coverage of Sajith Premadasa and Gotabaya Rajapaksa accounted for 89 per cent across the two state broadcasters and three most popular private TV channels. A handful of other candidates were occasionally presented but most were largely ignored.¹²³

authorities of the State charged with the enforcement of such laws, to co-operate with the Commission to secure such enforcement”.

¹¹⁸ For the third time after the 2015 and 2018 elections, state radio *SLBC* launched *Election FM*, an election-related frequency, which among other output aired discussions featuring 30 candidates.

¹¹⁹ On 5 October, the 12 March Movement, which includes PAFREL, CMEV, TISL, Enable Sri Lanka youth movement, academics, other CSOs and AFRIEL youth network, organised a public indoor debate for an audience of some 4,000 people and featuring nine candidates. Only Gotabaya Rajapaksa did not accept the invitation. The debate was aired live by *Shakthi* and *TVI* channels (sister channels of *Sirasa TV* broadcasting in Tamil and English).

¹²⁰ During the campaign Sajith Premadasa made several public offers for Gotabaya Rajapaksa to take part in a joint televised debate, however he did not publicly respond to any of them.

¹²¹ State-owned television channels *ITN* and *Rupavahini* in Sinhalese, private channels *Derana*, *Hiru*, *Sirasa* and *Swarnavahini* in Sinhalese, *Shakthi* in Tamil; radio stations *Derana FM*, *Sirasa FM* and *Neth FM* in Sinhalese; newspapers *Lankadeepa*, *Divaina* and *Mawbima* in Sinhalese, *Uthayan* and *Virakesari* in Tamil, *Daily News*, *Daily Mirror*, *Sunday Observer* and *Sunday Times* in English; online media *hirunews.lk* and *newsfirst.lk* in Sinhalese, *tamilmirror.lk* in Tamil.

¹²² The monitoring of selected TV channels focused on all political and election-related programmes in the prime time (18:00-24:00), on morning blocs in the radio stations (06:00-10:00), on entire daily publications in print media, and on selected political and election-related reports in online media. State-owned

television channels *ITN* and *Rupavahini* in Sinhalese, private channels *Derana*, *Hiru*, *Sirasa* and *Swarnavahini* in Sinhalese, *Shakthi* in Tamil; radio stations *Derana FM*, *Sirasa FM* and *Neth FM* in Sinhalese; newspapers *Lankadeepa*, *Divaina* and *Mawbima* in Sinhalese, *Uthayan* and *Virakesari* in Tamil, *Daily News*, *Daily Mirror*, *Sunday Observer* and *Sunday Times* in English; online media *hirunews.lk* and *newsfirst.lk* in Sinhalese, *tamilmirror.lk* in Tamil.

¹²³ Private *Sirasa* covered 19 candidates in total, the most of all the monitored channels. At the same time, it devoted 79 per cent of coverage to both leading candidates, the lowest proportion. By contrast, *Derana TV*

State TV channels adopted an editorial approach somewhat similar to each other, presenting Sajith Premadasa in a positive manner through his direct speeches. At the same time, they regularly covered supporters of his candidacy criticising Gotabaya Rajapaksa.¹²⁴ As a result, candidate Rajapaksa received more news coverage than any other candidate, yet most of it was negative in tone (55 per cent against 31 on *Rupavahini*, and 49 per cent against 43 on *ITN*). All state-owned media outlets noticeably changed their editorial stance post-election, having openly declared they might do so during meetings with the EU EOM before and after election day.

Recommendation: Transform state media into genuine public service outlets by establishing legal safeguards for their editorial independence, financial sustainability and autonomy.

Derana TV, and *Hiru TV* in particular, showed one-sided and biased coverage in favour of Gotabaya Rajapaksa, respectively dedicating to him 55 and 61 per cent of overwhelmingly positive news coverage.¹²⁵ Sajith Premadasa, his party and the outgoing government in particular were harshly criticised.¹²⁶ In general, *Hiru TV* regularly distorted reports, focusing on mistakes and blunders at UNF rallies and often editing speeches to make them appear empty of important information, and presenting the speakers negatively or making them look comical.¹²⁷

By contrast, *Sirasa TV* offered its viewers more balanced news coverage with neutral information prevailing in the coverage of all candidates, both in terms of time (41 per cent to candidate Premadasa and 38 to candidate Rajapaksa) and tone.

The campaign coverage in the print media varied. In most cases, newspapers focused overwhelmingly on the two dominant campaigns. Positively, some newspapers (*Lankadeepa*, *Mawbima*, *Ceylon Today* and *The Daily Mirror*) also published analytical features on a regular basis, as well as interviews with the three most prominent candidates or their representatives in the final week of campaigning. The most circulated daily *Lankadeepa* dedicated some 46 per cent of coverage to Gotabaya Rajapaksa and 40 per cent to Sajith Premadasa, with the latter presented in a somewhat more positive manner. *The Daily Mirror* in English displayed balanced coverage of both campaigns (41 per cent of coverage to candidate Rajapaksa and 36 to candidate Premadasa). *Uthayan*, a Jaffna-based Tamil-language newspaper, showed a clear preference for Sajith Premadasa in terms of tone, dedicating 38 per cent of mostly positive coverage to him.

and *Hiru TV* covered only five candidates, devoting 95 and 94 per cent of coverage to Sajith Premadasa and Gotabaya Rajapaksa respectively.

¹²⁴ Altogether, some direct news coverage at least was devoted to 11 candidates by *Rupavahini* and eight by *ITN*.

¹²⁵ On 3 November, Gotabaya Rajapaksa was pictured campaigning from the car of the *Derana TV* chairman. The chairman was also pictured on election night emotionally celebrating Gotabaya Rajapaksa's victory.

¹²⁶ On 6 November the UNP declared it was boycotting the political programmes of *Hiru TV* and *Hiru FM*, in protest at their preferential treatment of Gotabaya Rajapaksa and what the party said was "the disinformation campaign, specifically targeting the UNP and ethnic minority communities".

¹²⁷ On 24 October, private *Hiru TV* showed an SLFP deputy at the NDF opening ceremony saying that Gotabaya Rajapaksa "should be killed". While the police opened an investigation concerning the language allegedly used, the deputy rejected that such wording had been used, accusing the television station of deliberate manipulation.

The online news portal *hirunews.lk* carried campaign coverage similar to its affiliated *Hiru TV*, presenting candidate Rajapaksa favourably and supporting coalition of candidate Premadasa mostly negatively. On the contrary, both other monitored online news portals (*newsfirst.lk* and in particular *tamilmirror.lk*) the major contestants were presented more favourable coverage to candidate Premadasa, while candidate Rajapaksa was mostly criticized.

Various interlocutors whom the EU EOM met after the election referred to a series of negatively perceived actions by legal enforcement bodies (e.g. search of online media office, interrogations of various online journalists) and to other subtle signals, giving rise to a changing atmosphere in the media environment. As a result, many interlocutors admitted to applying increased self-censorship as a means of preventing possible intimidation and undue influence in their daily activities.

XII. DIGITAL COMMUNICATIONS AND SOCIAL MEDIA

A coordinated distortion of the online information environment undermined voters' right to form opinions free from intimidation and manipulation; voters' data privacy is not protected in the law

a. Digital communications and social media environment

Thirty-four per cent of Sri Lankans have access to the internet and use smartphones to send and receive information. The digital literacy rate is low, leaving the online discourse prone to manipulation.¹²⁸ Government initiatives to increase digital and media literacy and reduce the digital divide between urban and rural areas have yet to have the anticipated impact.¹²⁹ Such programmes warrant expansion in line with international standards.¹³⁰

Among the social media platforms, Facebook is the prime contributor to the crafting of political narratives in the public space and to setting the electoral agenda.¹³¹ WhatsApp and Viber were also widely used for mobilisation and campaign purposes, while Twitter served primarily as a platform for the exchange of news among urban elites. Extensive use of digital advertising and sponsored content across the digital media landscape, that was frequently made to appear as organic, was a distinct feature of the 2019 election. It enabled political campaigns to reach voters beyond their already established online fan base.

¹²⁸ Computer and digital literacy are 27.5 and 40.3 per cent respectively, [Department of Census and Statistics Sri Lanka](#).

¹²⁹ Most of the 11,176 free WiFi points set up by the Information Communications and Technology Agency are located close to or inside the courtyards of government buildings, which in the view of EU EOM observers reduces their use. All recently opened, community-based digital e-libraries are located in district capitals not in rural areas.

¹³⁰ [Joint declaration on freedom of expression and “fake news”, disinformation and propaganda by recognised international bodies, s. 3](#) says “States should take measures to promote media and digital literacy, including by [...] engaging with civil society and other stakeholders to raise awareness about these issues”.

¹³¹ As at October 2019 there are 6.5 million Facebook users, 1.1 million Instagram users, 261,700 YouTube users and 182,500 Twitter users in Sri Lanka. Several million people use WhatsApp. Eight million communicate on Viber.

Sinhala is the most commonly used language of communication on social networks, followed by English and Tamil. By and large, Sinhala and Tamil language sites and pages operated in their own silo trending separate narratives set by the same political actors.

Another notable feature of the online information environment in Sri Lanka is the popularity of political gossip and meme pages and their consequent impact on the electoral discourse. Often, manipulative and misleading news originated from such pages. A few professional fact-checking organisations exposed deceptive and false stories as well as doctored images. However, their staff levels and reach were far smaller than those of political actors and they were not supported by broadcast or print outlets. International best practices call for the cooperation of all stakeholders in developing an appropriate response to disinformation, fake news and propaganda.¹³²

b. Legal framework for digital communications and social media

Constitutionally guaranteed freedom of expression is not explicitly extended to online content.¹³³ A further barrier to the full enjoyment of fundamental rights online is a vague definition of “harmful information”, which enables arbitrary enforcement and which could be used to limit pluralism and diversity of information online, including on political matters.¹³⁴ The existing legal framework does not conform to international standards for freedom of expression. After the election it was used to make the commentaries of certain vloggers and bloggers who upheld the UNP’s political stance before the polls more subdued.

The Ministry of digital infrastructure and information technologies and several government institutions have regulatory and oversight powers over the ICT industry and cybersecurity. The Telecommunications Regulatory Commission (TRC) is the key regulatory body, tasked with protecting “public interests”, which can place restrictions on online content. These powers were not used during the election. It is worth noting that the legal framework does not have a transparent procedure for blocking or unblocking access to the internet or messaging platforms. International standards accept temporary restrictive measures, but they also stipulate that all restrictions must be provided for by the law, must pursue a legitimate aim, and that there should be clear-cut provisions for lifting such measures.¹³⁵

The voluntary EC media guidelines were the only regulatory instrument intended to apply to administrators of social media sites. However, despite its far-reaching effect on the electoral process, Facebook did not consider the guidelines binding and had only an informal understanding with the EC on the removal of hate speech and disinformation.¹³⁶ Citizen observer groups detected and reported more than 1,900 cases of harmful content online. Often

¹³² [Joint declaration by UNHRC, OSCE, OAS and ACHPR](#), s. 6 ‘Stakeholders cooperation’.

¹³³ [UNHRC, Promotion, Protection and Enjoyment of Human Rights on the Internet, 4 July 2018](#) “[...] *the same rights that people have offline must also be protected online, in particular freedom of expression [...]*”.

¹³⁴ This primarily concerns the Official Secrets Act, s. 27, Penal Code, Parliament (Powers and Privileges) Act, and ICCPR Act.

¹³⁵ [ICCPR, art. 19](#) and [ICCPR HRC GC 34](#), para. 22 and para. 34 “*The principle of proportionality has to be respected not only in the law that frames the restrictions but also by the [...] authorities in applying the law*”.

¹³⁶ Facebook has not published data about requests by, or its response to, government authorities in 2019. Without a written agreement with the EC the timeline for decisions remains at Facebook’s discretion. The number of removed posts is not publicly available.

such content was posted or re-posted by administrators of pages with 200,000 to 2 million followers, but only a few such posts were removed. Facebook's reluctance to act promptly, coupled with high levels of anonymous, sponsored content, enabled a mushrooming of hateful commentary and trumped-up stories that capitalised on long-standing ethnic, religious and sectarian tensions.¹³⁷ This continued during the 48-hour campaign silence period, when the social network removed only a small proportion of such sponsored political content.¹³⁸ This was detrimental to the election and at odds with international standards and good practices.¹³⁹

Recommendation: Foster the formal cooperation between the election administration and main social platforms. The EC and Facebook should aim at developing more efficient mechanisms to enhance the transparency of campaigning on the platform (for example, via establishing an Ad Library reports system) and the respect for existing campaign rules (including, but not limited to, the electoral silence period). Social platforms, and in this case Facebook in particular, should grant equal treatment in terms of the assistance offered to EMBs in all countries where they are avenues for political advertising and messaging.

All-encompassing privacy and data protection legislation has not yet been enacted. As a result, political parties did not declare their use of voters' data, which were collected by mobile applications such as the SLPP's VCAN app, or directly by campaign staff.¹⁴⁰ Extensive use of the VCAN app and enclosed private information by SLPP campaigners was confirmed to EU observers in nine densely populated and fiercely contested districts.¹⁴¹ The UNP app was not widely used. Neither the EC nor any other institution scrutinised developers of these applications (or the source code) for compliance even with their vague self-declared privacy policy. Such practices are at odds with international standards and leave voters exposed to unsolicited political propaganda.¹⁴²

Recommendation: Adopt a privacy and personal data protection law. Secure in law an implementation and oversight mechanism that robustly protects citizens' privacy and personal data, both online and offline, and that shields against unsolicited information, including political.

c. EU EOM digital communications and social media findings

¹³⁷ The EU EOM analysed 540 Facebook pages supporting one of the two leading candidates, including 217 prominent in one district. Twenty-six per cent of national-level and 10 per cent of local-level pages featured sharply negative content. On 25 of the most popular meme pages, the EU EOM identified more than 50 political memes with a menace, including sectarian undertones. The EU EOM assessed public videos by ten of the most subscribed to YouTube influencers (more than 20,000 followers each) and identified at least 10 cases of sharply divisive rhetoric, including two with a racist message.

¹³⁸ On 14 and 15 November, the EU EOM identified at least 300 sponsored posts or adverts with campaign content. Civil society organisations identified more than 700 such sponsored posts. Facebook removed less than half of them.

¹³⁹ [ICCPR, HRC GC 25](#), para. 19 "Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind." See also [the joint declaration on freedom of expression and "fake news", disinformation and propaganda](#), s. 4 'Intermediaries'.

¹⁴⁰ The VCAN app promoted by the SLPP (Google Play) demands registration with a National Identity Card (NIC). If permitted, it gets access to a phone's geolocation, can read the content of USB storage and view network connections. The privacy and developers' pages on Google Play Store are empty.

¹⁴¹ In Anuradhapura, Batticaloa, Colombo, Gampaha, Kandy, Kalutara, Kurunegala, Matara and Trincomalee.
¹⁴² [ICCPR](#), art. 17 "No one shall be subjected to arbitrary [...] interference with his privacy". [ICCPR, HRC GC 16](#), para. 10 "The gathering and holding of personal information [...] on computers, data banks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law."

Social networks were used by a few social media influencers, online media sites and vlogs to debate and scrutinise candidates, to analyse their manifestos and to call for greater accountability of the EC, government and the two lead campaigns. Such activities contributed to transparency and strengthened the integrity of the election. However, the coordinated dissemination of outright false and/or demeaning information presented in various formats and across digital platforms dwarfed credible news threads.

The suppression of credible news entailed the use of sponsored content on Facebook and the coordinated sharing of political memes that sowed discord and political gossip. Both served as a source for multiple posts on political support group pages. In the majority of cases, the SLPP campaign benefitted from this. One such campaign undermined the integrity of postal voting;¹⁴³ four narratives capitalised on underlying fears and/or recycled previously debunked information.¹⁴⁴ The proliferation of manipulative and often paid-for opinion polls created an impression of mass support, known as “*astroturfing*”.¹⁴⁵

The use of algorithms and human curation to mislead the debate on Twitter was observed.¹⁴⁶ It included a high number of recently registered accounts amplifying certain political messages that also appeared on political support group pages. Ten days before the election, the SLPP further skewed the online discourse by announcing a “sharing” contest for 50,000 subscribers of the SLPP app VCAN.¹⁴⁷ By following the application, the EU EOM observed automated and concerted activities, including multiple sharing of the same post at odd hours (e.g. 03:30 and 04:22), but from different profiles, which also indicates the activity of bogus accounts.

Credible fact-checking organisations debunked 74 broadly circulated false stories, statements and images by and about political figures.¹⁴⁸ They also exposed instances where the line

¹⁴³ On 31 October an anonymous fan page, Iraj Production, posted postal voting “results” featuring the SLPP’s victory with 95 per cent of votes cast. The post cited the EC. It was shared and re-shared 30,000 times. The post was also shared by a Facebook page promoting the SLPP and serving as “a mother page” for sharply negative and manipulative content against the UNP. Facebook closed down the fan page on 6 November. The “*landslide victory of the SLPP in postal voting*” was alluded to in rallies.

¹⁴⁴ These include the UNP candidate pictured with a Muslim doctor falsely accused of sterilising 4,000 Buddhist women (debunked in July 2019), and a claim that the SLPP candidate is supported by a Muslim politician, who, in turn, is falsely associated with “masterminds of the Easter bombings” (debunked in July 2019). The posts and sponsored content also capitalised on anti-foreign sentiments by falsely stating that the government was giving away 18 per cent of Sri Lanka’s land by signing an agreement with the USA.

¹⁴⁵ The EU EOM identified 34 such “opinion polls”. All but two featured a landslide victory for Gotabaya Rajapaksa. Five such polls stated that from 50 to 100,000 people had “voted”. Five Facebook pages carrying those polls had more than 1 million followers.

¹⁴⁶ From 4 October to 4 November the EU EOM downloaded all tweets trending the neutral electoral hashtags #PresPollSL and #prespolls2019. Out of 2,000 accounts 500 were randomly selected for assessment. Nine per cent were established less than four months before the election, 4.62 per cent were deleted by Twitter for bogus activities, 28 per cent shared only negative content, and 35 per cent were only re-tweeted.

¹⁴⁷ On Twitter, from the launch of the “sharing contest” on 9 November until the election day a week later, SLPP hashtags were used 2.5 times more than on any other day before, including when the SLPP manifesto was launched. A snapshot of the timing of posts from 9 to 15 November shows that from 03:00 to 09:00 such hashtags were shared from 1,700 to 1,750 times hourly, while at 12:00 and 13:00 they were shared only 1,500 times per hour.

¹⁴⁸ Three fact-checking projects employed a robust news and photo verification methodology. Debunked stories included a claim of a politically motivated fight that followed a Sajith Premadasa rally, the arson of houses belonging to Gotabaya Rajapaksa supporters, and a letter from a cardinal opposing a big government agreement with the USA, among others.

between media content, seemingly based on facts, and disinformation was blurred.¹⁴⁹ However, as only a few of Sri Lanka's most followed accounts or pages from across the social media landscape were promoting and sharing credible and verified information, the positive effect that fact-checking might have had on the public discourse was limited.¹⁵⁰ Consequently, and overall, a damaging online environment distorted public debate and curbed voters' access to factual information on political alternatives, an important element for voters in making fully informed choices.¹⁵¹

XIII. PARTICIPATION OF WOMEN

Absence of effective measures to address low level of women's participation

The Constitution embodies the principles of equality before the law and non-discrimination on grounds of gender. However, it refers only once directly to women's rights.¹⁵² Recommendations for appointments to the recently reconstituted Constitutional Council (CC) are required to reflect the pluralistic character of Sri Lankan society, including gender, but its actual appointments record presents a different picture with only one woman on the ten-member CC. Overall, effective measures for enhancing women's participation, such as an independent national commission on women, are absent.

Of the 35 candidates in the 2019 presidential election, only one woman, Ajantha Perera of the Socialist Party, contested. While historically the country has achieved notable successes in women's democratic participation, women are significantly under-represented in political life and public institutions.¹⁵³ Only 13 of the 225 seats in parliament are held by women, a mere 5.8 per cent, despite the fact that women comprise over 52 per cent of the electorate. While women are well represented in lower level positions in the election administration, there is no female member of the EC, and of 27 additional commissioners only three are women.

Recent progress was made on inclusivity in local government, with a 25 per cent quota introduced for women's membership of local councils.¹⁵⁴ However, implementation of this

¹⁴⁹ For example, on 21 October an anonymous page shared on Facebook showed a video featuring Member of Parliament Mujibur Rahuman (UNP) speaking at a rally in Wattegama and stating "*Make Sajith win if you want the national anthem to be sung in Arabic*". The video gave an impression of being media reportage containing the direct speech of the MP. It was shared more than 1,400 times on Facebook and viewed at least 17,000 times on YouTube. Fact-checkers established that the quote was manipulated and branded the statement and the accompanying "news item" as false.

¹⁵⁰ The debunking of false postal voting results was shared just 17 times as opposed to the 30,000 shares of the false news post itself. The EU EOM also identified an organisation that was impersonating a fact-checking organisation. It was featured in the mainstream media as a guardian of fairness in online campaigning, while in practice it was striving to discredit non-partisan fact-checkers.

¹⁵¹ [UNHRC, Promotion, Protection and Enjoyment of Human Rights on the Internet, 4 July 2018](#) p. 15 "*stresses the importance of combating advocacy of hatred on the Internet, which constitutes incitement to discrimination or violence*". [Joint declaration by UNHRC, OSCE, OAS and ACHPR](#) expressed "*concern that disinformation and propaganda are often designed and implemented so as to mislead a population, as well as to interfere with the public's right to know and the right of individuals to seek and receive, as well as to impart, information,*" as protected by international law.

¹⁵² Constitution, art. 12(4) in connection with special provisions by law for the advancement of women.

¹⁵³ In 1931, Sri Lanka became the first country in Asia to grant women the right to vote, and in 1960 the first country to elect a woman prime minister, Sirimavo Bandaranaike. It had a woman president, Chandrika Kumaratunga, for over a decade, from 1994 to 2005.

¹⁵⁴ Local Authorities Elections (Amendment) Act, No. 16 of 2017, s. 27F. However, this falls short of the Beijing Target. See CEDAW, General Comment 23, para. 17 "*In order to achieve broad representation*

proved problematic in the 2018 local elections, with 15 councils in the north and north-east unable to fulfil the requirement.

EU observers reported a low level of female participation at campaign events (30 per cent). Fewer than ten per cent of speakers at observed campaign events were women, the majority of them supporting Anura Dissanayaka, the candidate of the JVP, which issued a separate women's manifesto. A campaign pledge by Sajith Premadasa to provide women with free sanitary hygiene products was widely viewed as a significant and necessary step towards opening a national conversation on a taboo subject, but it was also met with ridicule and disinformation by detractors. Gotabaya Rajapaksa promised to address the issue of gender-based violence, provide financial and business development services to rural women, and to train women "*for high demand and globally competitive professions such as nursing*" and on 27 November he appointed a man as state minister for women's affairs.

In addition to cultural and gender stereotypes, a lack of campaign funding is a consistent hindrance to women's participation in politics. Violence directed at female candidates in previous elections is also a major deterrent to their political engagement now. Women candidates in the 2018 local elections reported widespread harassment and threats. In a study of those elections, the International Foundation for Electoral Systems (IFES) and Verité Research found that violence against women in online spaces was prevalent and growing. Sexual and socio-psychological violence were common forms, with most instances taking place through private messaging.

XIV. PARTICIPATION OF ETHNIC AND RELIGIOUS MINORITIES

The Constitution stipulates that no citizen shall be discriminated against on grounds of race, religion, language, caste, sex, political opinion or place of birth. The Constitution defines Sinhala and Tamil as official national languages and stipulates that official administration be conducted in both. Accordingly, electoral material is produced in Sinhala and Tamil.¹⁵⁵

The largest ethnic minority groups are Tamils (15 per cent) and Sri Lankan Moors (nine per cent). Some 70 per cent of the population are Buddhist, 13 per cent Hindu, ten per cent Muslim and around seven per cent Christian, most of them Roman Catholic. There is a substantial overlap between religion and ethnicity, with most of the Buddhist majority belonging to the Sinhalese population. Most of the Hindu and Christian minorities are Tamil. The Muslim community is made up primarily of Sri Lankan Moors, Malays and smaller religious groups, with a significant proportion living in the north and east. Most are Sunni Muslims.

Since the civil war international human rights groups and domestic activists have highlighted what they say is the marginalisation and victimisation of the Tamil minority, and more recently the targeting of the Muslim community. In March 2018 anti-Muslim rioting in the Kandy district of Central province, in which Buddhist politicians and the police were also implicated,

in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, [...]."

¹⁵⁵ In the parliamentary elections in August 2015, some EU interlocutors in Northern province claimed the declarations of the Commissioner of Elections were made available only in Sinhala, which could constitute a barrier to the process given the majority of the Tamil population speak only Tamil.

led to assaults on Muslims and at least two deaths as well as the destruction of mosques, homes and business premises. The Easter suicide bomb attacks on churches and hotels in April 2019 exacerbated tensions, with the country's peaceful Muslim population facing a violent backlash by Sinhalese Buddhist nationalists.

In contrast with previous elections, the minority vote did not play a decisive role in this election. The heightened Sinhala nationalist rhetoric utilised in the campaign and, on the SLPP side, instances of anti-Muslim and anti-Tamil invective, brought religious and ethnic divisions to the fore. The main minority parties – the Tamil National Alliance, the most important bloc representing Tamil voters; the Sri Lanka Muslim Congress and the All Ceylon Makkal Congress, representing Muslim voters – supported Premadasa. Some smaller minority parties backed Rajapaksa, including the Ceylon Workers' Congress, the Eelam People's Democratic Party and a faction of the Eelam People's Revolutionary Liberation Front. The post-election period saw widespread vilification of minorities on social media as well as a number of attacks on mosques and against Tamils and Muslims in areas that had voted largely for Premadasa. These incidents raised fears among minority communities and heightened concerns about the prospects for future reconciliation.

EU observers in the predominantly Tamil Northern Province reported extensive voter disillusion and apathy over unfulfilled promises of the incumbent government to the Tamil community, including increased devolution, post-war reconciliation and accountability for alleged human rights abuses and war crimes. Sirisena had also promised the return of civilian land occupied by the military since the civil war. Voter turnout was nonetheless slightly higher in 2019 than for the 2015 presidential election in the two electoral districts comprising the Northern Province, Jaffna and Vanni, at 68 and 76 per cent respectively.

XV. PARTICIPATION OF PERSONS WITH DISABILITIES AND OTHER VULNERABLE GROUPS

Various legal guarantees and mechanisms to support the rights of vulnerable groups in society, including religious freedoms and prohibitions on discrimination, are provided for either in the Constitution or in legislation.

Some aspects of law underscore several challenges. Existing laws and regulations contain limited provisions for the participation in elections of persons with disabilities on an equal basis with other citizens.¹⁵⁶ Assisted voting is available. However, a certificate of eligibility¹⁵⁷ from the local government official (Grama Niladhari) and a medical certificate are required.¹⁵⁸ Special EC transport facilities for persons with physical disabilities to access the polling station can be requested up to seven days prior to election day. In such cases a medical certificate is

¹⁵⁶ Persons with disabilities account for some five per cent of the population (Ministry of Social Welfare statistics, 2012). The CRPD was signed by Sri Lanka in 2007 and ratified on 8 February 2016, but it has yet to be incorporated into national law. Section 54 (2) of the Principal Act in the Election (Special Provisions) Act, No. 28 of 2011, provides for a person who is totally or partially visually handicapped or physically disabled to be accompanied by another person to assist in marking the ballot paper.

¹⁵⁷ The certificate of eligibility, after being signed by the Grama Niladhari, is presented to a doctor who examines the applicant and certifies the person to be entitled to assisted voting. The Grama Niladhari should send the form to the district election commissioner for further endorsement.

¹⁵⁸ ICCPR, HRC, GC 25, at para. 20 "*Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees.*"

to be submitted to the district returning officer. These requirements seem cumbersome and may discourage potential voters from applying for them.

Improved access to polling stations by ramp was planned for a number of stations. EU observers on election day reported that around 60 per cent of visited polling stations were accessible for voters with reduced mobility. The lack of an independent monitoring and implementation body, and the absence of braille ballots, undermine the political rights of citizens with disabilities and impact their voting and participation rights.¹⁵⁹

Recommendation: Guarantee the voting rights of persons with disabilities by ensuring independent access to polling stations, transportation for voters with reduced mobility, and by introducing tactile ballot papers. Established assisted voting procedures should be simplified.

The PEA¹⁶⁰ provides that any elector fearful of voting in his or her polling station of registration may apply to vote at another polling station. A 2017 Act gave the right to internally displaced persons (IDPs) to exercise their vote in the district of their residence before they became displaced.¹⁶¹ Provided such persons obtained a certificate from the local Grama Niladhari confirming they qualified as an IDP, they could then apply to the EC to vote by absentee ballot. According to the EC, some 10,000 citizens living in Puttalam were registered in Mannar district. They could request special arrangements for casting an absentee ballot until 25 September, however no such requests were submitted to the EC.¹⁶² The EC gave only one week from 18 September to 25 September for applications to be made.¹⁶³ It stated that no requests for special polling stations were received as people preferred to travel to vote in their districts.¹⁶⁴

The LGBT community is still stigmatised by criminalisation.¹⁶⁵ The Ministry of health issued a circular in 2016 aimed at enabling transgender persons to change their birth certificate, a document key to obtaining identity and other legal documents.¹⁶⁶ However, the certificate is only available to persons who are commencing medical transition procedures. The formalisation of transgender status through law and procedures for changed ID cards remain unclear, thereby creating obstacles to voting rights and protection from discrimination.

XVI. CIVIL SOCIETY AND INTERNATIONAL OBSERVATION

Active role of citizen observers, but a legal framework for observation is lacking

¹⁵⁹ CRPD (Committee on the Rights of Persons with Disabilities) GC 6, at para. 73(c).

¹⁶⁰ The PEA, s. 119 B.

¹⁶¹ Registration of Electors (Special Provisions) Act, No. 10 of 2017. According to the [Internal Displacement Monitoring Centre \(IDMC\)](#).

¹⁶² As of 31 December 2018, the Internal Displacement Monitoring Centre (IDMC) identified 37,000 IDPs who have been displaced by conflict and violence and 100,000 by natural disasters.

¹⁶³ [EC Media Release 18 September, 2019](#).

¹⁶⁴ During the 2015 parliamentary elections the EC established 17 special (absentee) polling stations for IDPs in Puttalam district casting ballots for the district of Vanni.

¹⁶⁵ Although the criminal provisions in the Penal Code s. 365 and s.365(a) are believed not to be widely enforced, they remain on the statute books.

¹⁶⁶ Ministry of Health, [General Circular, 01-34](#).

There is no legal provision for national and international election observation.¹⁶⁷ Two national organisations, accredited at the EC's discretion, were granted full access to polling and counting centres.

Recommendation: Establish in the law the right for national and international observation, ensuring full access for observers, including the media, to all stages of the electoral process. Accreditation should be simple and transparent with clear criteria set out in advance.

The People's Action for Free & Fair Elections (PAFFREL), active in monitoring elections for over 30 years, deployed some 4,000 observers. Their overall assessment of the election day was positive, referring to "[...] *the most peaceful and lawful election in recent times.*" Issues identified by PAFFREL during the campaign period concerned instances of the misuse of state resources by government ministers, provincial councils and local government authorities. The remoteness of some polling stations in rural areas, lack of access to voting stations for persons with disabilities and the use of religious locations as polling stations were identified as problematic. On election day PAFFREL reported five cases of assault, seven complaints of voter impersonation, four arrests of voters taking pictures of the marked ballot paper and two arrests for distribution of campaign material.

The Centre for Monitoring Election Violence (CMEV) monitored comprehensively campaign finance and election day. It deployed over 650 observers at polling stations, 70 observers at counting centres, some 100 mobile observers and 82 field monitors. CMEV highlighted that "[...] *the campaign was marred by an unprecedented level of fake news and racism evident on both mainstream and social media, and this spilled over onto election day.*" CMEV published three communiqués and a final statement on election day and recorded 196 incidents.

The Campaign for Free and Fair Elections (CaFFE) deployed around 2,200 volunteers at grass-roots level. Transparency International Sri Lanka (TISL) monitors the protection of public resources during elections. For election day it deployed nine provincial and 25 district observers. An additional 184 district-based observers monitored the misuse of public resources.

Civil society organisations scrutinised the online information environment and regularly publicised social media monitoring findings, adding to transparency and offering voters a non-partisan assessment of the election.¹⁶⁸ By raising voter awareness across various social media networks on preferential voting, fact-checking and presidential powers, citizen observers widened the span of debate of otherwise overlooked aspects of the election.¹⁶⁹

The EU EOM was the largest international election observation mission. The Commonwealth deployed 20 observers and the Asian Network for Free and Fair Elections (ANFREL) 41. The EC invited several other regional delegations, such as the Forum of Election Management Bodies of South Asia (FEMBoSA).

¹⁶⁷ The EU EOM 2015 recommended the inclusion in the legal framework for elections of the right of national and international observers to observe all stages of the electoral process.

¹⁶⁸ The CSO Hashtag Generation monitored social media for four full weeks, identifying a total of 1,972 cases of dangerous speech, false information and violations of electoral legislation. The CMEV monitored Facebook for dangerous speech.

¹⁶⁹ The CSO Hashtag Generation on its own accord conducted a voter information campaign on Facebook, Instagram and Twitter. Posts and videos were in Sinhala, Tamil and English, were regularly repeated and were designed to appeal to young voters.

XVII. ELECTORAL DISPUTES

Lack of clear procedures to assure follow-up actions for key offences

Sri Lanka's courts have a key role in the resolution of various electoral complaints and disputes. Electoral offences fall within the jurisdiction of the magistrate courts. Voter registration disputes can ultimately be determined by district judges. The Court of Appeal can hear petitions on election-related matters, including challenges against proposed candidates. During the campaign period, various matters of an electoral nature come under Supreme Court jurisdiction, including challenges to results. There were two prominent but unsuccessful court cases ahead of the 2019 presidential election.¹⁷⁰ Both applications were received and disposed of expeditiously without appeals.

For the 2019 election, the EC established 25 district electoral complaint centres (DECC), as well as a national complaint centre at its headquarters. New channels for making complaints were put in place, including online and through various apps.¹⁷¹ Throughout the campaign period the EC published consolidated daily reports on complaints received on its website, but no details of follow-up actions. Overall, EU observers noted a professional administration of DECCs. They also reported most of the complaints recorded in the districts concerned breaches of campaign rules. Complaints to the EC and DECCs were responded to in various ways, including through letters of investigation to other state authorities, the removal of non-permitted campaign material and mediation in minor disputes. Between 8 October and 14 November, the EC received 3,905 complaints altogether.¹⁷² Only 27 of those complaints related to violent incidents.¹⁷³ Police deployed for elections under the direction and control of the EC played a prominent role in the coordination and investigation of complaints and allegations.¹⁷⁴

However, EU EOM observers noted different processes for recording complaints in different districts. Complaints made to the police directly were not always clearly distinguishable in EC or DECC complaints data. There was a lack of unified rules and transparent timelines in complaints handling procedures to ensure stakeholder awareness and confidence.¹⁷⁵

While the EC has several mechanisms for receiving complaints, transparent, timely and robust intervention on various allegations is hampered by a lack of adjudication capacity to ensure

¹⁷⁰ A petition to the Court of Appeal against the nomination of Gotabaya Rajapaksa was dismissed on technical grounds. The Supreme Court also dismissed a challenge by Emerging Media against an EC ban on the use of LED screens for political advertising.

¹⁷¹ Complainants were not obliged to identify themselves for an issue to be investigated. EC data showed that among 1,256 complaints to EC headquarters, illegal posters accounted for 287 of the allegations, 174 related to illegal campaigns and meetings, 163 to allegations of the misuse of government assets, and 158 to allegations of appointments, promotions or transfers in public posts. 113 complaints pertained to the media.

¹⁷² This figure rose to some 4,382 by election day, of which some 250 were recorded on election day itself.

¹⁷³ This figure does not include violent incidents that were also recorded or reported separately to police. The violent incidents included verbal intimidation, damage to billboards and election offices and assault.

¹⁷⁴ The EC is empowered by the Constitution to notify the Inspector General of Police (IGP) of the facilities and police officers required for the conduct of elections. The IGP is required to comply with such notification.

¹⁷⁵ Whereas other areas of the law, such as on objections to voter and candidate registration and results challenges, have clear timelines.

stakeholder awareness on follow-up of offences. The office of the Attorney General is required for the prosecution of key electoral offences.¹⁷⁶ Consequently, the EC's capacity to prosecute in a timely and independent manner, in particular less serious breaches of electoral laws, is curtailed.¹⁷⁷

Recommendation: Formalise the handling of electoral complaints by issuing clear codified procedures on complaints processing and the compiling of complaints received by other agencies, including the police. The EC should unify instructions for timely investigation and recording of outcomes, including prompt publication and follow-up of prosecutions.

XVIII. POLLING, COUNTING AND TABULATION OF RESULTS

Peaceful and well-managed polling, counting and tabulation of results

a. Voting

Election day was peaceful and orderly. Some isolated incidents were reported but they did not have a significant impact on the process.¹⁷⁸ EU EOM observed opening and polling proceedings in 297 polling stations in all districts. The overall assessment of the conduct of opening and polling was very good and good in 93 per cent of observed polling stations. EU observers also positively assessed opening procedures. Polling stations opened on time.

Polling took place in a well-organised manner. All electoral materials were available and polling staff were present. Although there was a large number of women polling officers, the vast majority of the presiding officers were men.

In most polling stations the layout was adequate for the conduct of the election. However, in 37 per cent of polling stations observed the position of voting screens did not sufficiently protect the secrecy of the vote. In many cases voting screens were open from behind to the presiding officer's table, and polling officers would have been able to observe the marking of the ballot while standing next or behind a voter.

Recommendation: Revise polling station layout to guarantee secrecy of vote. Polling officials should receive clear instructions and training on polling station layout.

¹⁷⁶ Key election offences on campaigning, processions, meetings, polling day, and a range of offences related to ballots, fraud and illegally printing materials (PEA s. 66-70).

¹⁷⁷ The Attorney General's office also represents both the government and the EC in criminal and civil matters. This can entail a conflict of interest if the two institutions find themselves opposed to each other on any matter.

¹⁷⁸ The EC recorded approximately 250 electoral law violations on election day, most relating to illegal campaign activity. One serious incident occurred in the north and concerned voters living in Puttalam district but voting in Mannar district. On election day three buses transporting some of the voters were attacked on the road from Puttalam to Mannar. Shots were fired at the tyres of the buses and a window was smashed with stones. Nobody was seriously injured in the attack. The police launched an investigation. They arrested some 26 people for electoral violations, including eight for taking pictures with mobile phones inside polling stations.

EU observers noted that in nine per cent of polling stations observed unauthorised police officers were allowed to remain inside the polling station during voting, contrary to EC instructions. Most officers were carrying weapons. Officers were not found to have unduly interfered with the work of the polling staff. However, in all cases observed the presiding officer did not request the police to step outside. Candidates' agents were present in the vast majority of polling stations observed. Citizen observer groups PAFFREL and CMEV were able to observe the voting process without undue restrictions. Polling stations closed on time. Closing was assessed as very well conducted in the polling stations observed.

Recommendation: Clarify and implement the instructions on the role and duties of police at polling stations on election day and properly instruct presiding officers to guarantee voting free of the potential for undue influence.

b. Counting

In total, 38 counting centres nationwide held 1,179 counting stations and 371 postal ballot counting stations. Counting centres were used as issuing centres for sensitive election materials and as receiving centres for ballot boxes at the end of election day. Postal ballots were counted from 17:00 onwards at dedicated counting stations within the counting centre. Counting was observed in 25 out of 38 district counting centres and was assessed overall as well-organised, transparent and professional. Candidate agents were present in the majority of counting stations. EU observers reported that counting procedures were followed and the procedures regarding the determination of invalid and valid ballot papers were properly implemented. No unauthorised persons were observed in the counting centres and counting was conducted only by counting staff. EU observers assessed counting staff's performance as very good and good.

c. Tabulation of results

The tabulation of results at district and national level observed by EOM observers was conducted in an efficient, transparent and proficient manner.

The EC set up a results' centre and a transmission of results centre at each counting centre. Upon completion of the count at counting stations the Chief Counting Officer (CCO) tabulated district aggregated results for each candidate in that electoral district, including the results from postal voting counting stations. Copies of the results forms were posted at counting centres and originals delivered to the results transmission centre. One copy was scanned and faxed to the EC, a second copy was kept at the district election office and a third copy was shared with the computer operator for digital tabulation. Two transmission tests were carried out prior to election day to ensure the smooth operation of the electronic system of results transmission.

At national level the EC set up a results' centre with technical support from the Lanka Software Foundation.¹⁷⁹ The national results tabulation process incorporates a number of verification steps, including a manual process of results verification. The verification of results was swift, with final results announced within 24 hours of the close of voting.

¹⁷⁹ Lanka Software Foundation is a non-profit open source research and development hub.

Candidate agents and national and international observers were present at the national results centre, and to some extent could follow procedures. Election results were posted throughout the night on the EC's website, enhancing transparency.

XIX. ANNOUNCEMENT OF RESULTS AND POST-ELECTION ENVIRONMENT

a. Announcement of results

The EC announced the final results on 17 November at 14:30, less than 24 hours after the closing of the polls. Final results per polling division and district were immediately available on the EC's website. The final turnout was reported at 83.72 per cent, with the highest in Monaragala at 88 per cent and the lowest in Jaffna at 68 per cent. Compared to the 2015 presidential election, turnout was higher by two per cent.¹⁸⁰ The percentage of invalid votes was reported at 0.85 per cent.¹⁸¹ The highest percentage of invalid votes was registered in Jaffna, with 1.99 per cent¹⁸² and the lowest in Kurunegala with 0.64 per cent.

Gotabaya Rajapaksa of the SLPP received 52.25 per cent of the votes while Sajith Premadasa of the NDF coalition received 41.99 per cent. Anura Kumara Disanayaka, leader of the JVP, received 3.16 per cent. The other 33 candidates together received 2.60 per cent of the votes.¹⁸³

b. Post-election environment

On 18 November Gotabaya Rajapaksa was sworn in as the eighth president of Sri Lanka since the executive presidency was introduced in 1978. On 20 November Prime Minister Ranil Wickremesinghe resigned. In accordance with the Constitution,¹⁸⁴ the cabinet was dissolved, allowing the President to appoint a new cabinet. On 22 November President Rajapaksa appointed a 16-member cabinet, including his brother, Mahinda Rajapaksa, as prime minister. The cabinet includes two Tamil ministers, one woman and no Muslim representation. On 27 November the President appointed 35 state ministers, including his brother Chamal Rajapaksa, as state minister of defence. There were various interpretations of the Constitution as to whether the President, as commander-in-chief of the armed forces, can hold the defence ministry portfolio.¹⁸⁵ No immediate appointment was made. On 2 December President Rajapaksa prorogued parliament and fixed 3 January 2020 for the start of the new session.

The new government pledged to revisit, as a priority, international agreements, including a UNHRC resolution promoting reconciliation, accountability and human rights. Newly appointed Prime Minister Mahinda Rajapaksa announced plans to introduce legislation that would clear public officers who faced legal action for committing unintentional mistakes. President Gotabaya Rajapaksa, who benefits from presidential immunity, had corruption

¹⁸⁰ The turnout in the 2015 presidential election was 81.52 per cent.

¹⁸¹ The EC calculated the total of invalid votes against the total of registered voters. However, if invalid votes are compared with the number of votes cast, the percentage would be higher, at 1.01 per cent.

¹⁸² If calculated against the number of votes cast, the invalid votes would be 2.93 per cent.

¹⁸³ The only woman candidate Ajantha Perera received 0.21 per cent of the votes.

¹⁸⁴ Constitution, chapter VIII, article 48(1).

¹⁸⁵ There is no provision in the Constitution for the president to have a ministerial portfolio. Former President Maithripala Sirisena retained the defence portfolio despite a provision in the 19th Amendment that the president would not remain Minister of defence after the 2015 general election.

charges against him dropped. He had been accused of misappropriating state funds to build a memorial to his parents.

The immediate post-election period saw attacks, verified by EU observers, on Tamils and Muslims, and intimidation of NDF supporters.¹⁸⁶ The activity on partisan social media pages noticeably decreased after the announcement of the results. A large number of UNP-leaning pages went silent, while the SLPP-leaning ones primarily featured only a few congratulation messages, proving that many of previously hyperactive Facebook accounts were created only for campaign purposes.¹⁸⁷ EU observers noted hateful commentary targeting Tamil, Muslim and also Christian communities, primarily in Negombo, departing from the message of reconciliation voiced by political leaders.¹⁸⁸ Police investigations and questioning of selected online journalists fuelled concerns about respect for pluralism and freedom of expression.¹⁸⁹ Journalists from several outlets told the EU EOM of a move towards self-censorship in light of the election result.

¹⁸⁶ EU observers reported that on 17 November a gang attacked a predominantly Tamil village in Kegalle, Sabaragamuwa Province, causing damage to homes and injuring two people. Seven people were arrested. Stones were thrown at mosques in Galle (17 November) and in Ratnapura (18 November), causing minor damage. EU observers reported that on 18 November a group celebrating the election result in Rangala, Kandy, entered the homes of Tamil estate workers and threatened them, injuring one person. Three people were arrested. EU observers also reported that on 18 November a UNP district coordinator was hospitalised following an attack by a group celebrating the election result in Vanni, Northern province.

¹⁸⁷ If during the last week of campaign such partisan accounts featured up to 50 posts a day, after the election the activity was reduced to five posts per day on average.

¹⁸⁸ The EU observers detected hateful commentary on partisan pages in eight districts as well as at the national level.

¹⁸⁹ On 26 November the police questioned the host of a popular YouTube channel *The Leader* for several hours; on 28 November police also questioned the editor of the YouTube channel *VoiceTube.lk*. Both were questioned in conjunction with complaints alleging publication of hateful video materials prior to the election and in violation of the ICCPR Act. No charges were pressed. On 26 November the police searched the premises and computers of an online news platform *NewsHub* in response to an anonymous complaint about alleged dissemination of defamatory materials about one presidential candidate. All three online outlets sported Sajith Premadasa's political stance prior to election. The owner of the most followed UNP-leaning YouTube channel erased his vlog after the election.

XX. RECOMMENDATIONS

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
LEGAL FRAMEWORK					
1	International treaties must be passed into law to have full legal effect before national courts. Only some aspects of the ICCPR have been incorporated and, at times, applied arbitrarily. UNCAC for example is also yet to be fully implemented, as foreseen in the Constitution, leaving gaps in the law and implementation mechanisms for adequate protection of international treaty commitments domestically. (page12)	Enhance and harmonise the protection of fundamental rights pertinent to elections by enacting comprehensive legislation to give domestic legal effect to the relevant international legal obligations, including ICCPR, UNCAC, CPRD and CEDAW.	Legislative Enactment	Parliament HRC Ministry of Foreign Affairs National Committee on Women (Ministry of Women and Child Affairs)	<p>International Commitments</p> <p>ICCPR, article 2: “[...] each State Party [...] undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant”</p> <p>UNCAC, article 7(2): “Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention [...]”</p>
2	The Supreme Court cannot review any existing laws. Legislation which, for example, excludes certain citizens from voting or which results in discrimination cannot be challenged. This limitation embeds incoherence in the Constitution, undermines the principle of constitutional primacy and entails legal	Ensure certainty of law and conformity of legislation with the Constitution by extending to the Supreme Court jurisdiction to receive and determine challenges to existing laws.	Amendment to the Constitution	Parliament	<p>Certainty of Law, Fundamental Rights</p> <p>Certainty of Law, Constitutional Supremacy</p> <p>ICCPR, article 3: “[...] each State Party to the present Covenant undertakes [...] (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	uncertainty. (page 13)				<i>system of the State, and to develop the possibilities of judicial remedy”</i>
3	Almost all election-related laws predate the EC. Many fines and sanctions have not been revised for up to 40 years. Various legal provisions are overly restrictive, vague or incoherently drafted. S. 51(1) (e)(ii) of the Presidential Elections Act seems to conflict with the provision for preferential voting. S. 69 restrictions on processions appear to exceed constitutional guarantees on freedom of movement. Part V offences of the act include fines that no longer seem to be harmonious with the alternative deterrents of prison sentences. (page 14)	Revise the Presidential Elections Act to remove ambiguity, harmonise terminology with most recent laws and avoid potential for conflicting interpretations.	Presidential Elections Act	Parliament	<p>Certainty of Law</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 20: “...This implies that voters should be protected [...] from any unlawful or arbitrary interference with the voting process.”</p> <p>UNCAC, article 7(4): “Each State Party shall, [...] adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.”</p>
ELECTORAL ADMINISTRATION					
4	The EC was created without a review of relevant laws and was not granted specific powers to issue internal regulations to support management capacity. There is a lack of codified	Enact legislation to strengthen capacity and procedures in line with the EC’s constitutional mandate. The law should empower the EC to issue, in	Legislative Enactment	Parliament	<p>Certainty of Law</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 20: “An independent electoral authority should be established...”</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	procedures to reinforce transparency in decision-making processes. (page 17)	a timely manner, binding regulatory instruments with clear provisions for enforcement and to develop and codify internal procedures.			
5	Election results per polling division and electoral district and scanned copies of the original district result sheets were posted. However, more information should be put in the public domain, such as minutes and outcomes of consultations with political parties, candidates and civil society organisations. (page 20)	Establish transparency and accountability rules to strengthen electoral integrity and enhance voter confidence. The EC should publish through all available dissemination channels, in a timely manner, information of public interest. This should include decisions and regulatory instruments, as well as election procedures.	EC Guidelines, procedures, Internal regulations	EC	<p>Transparency</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 12: “...Information and materials about voting [...] should be adopted to ensure that illiterate voters have adequate information on which to base their choice...” and para. 20: “[...] Electors should be fully informed [...].”</p> <p>CPRD, article 21(a) “(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost...”</p> <p>ICCPR, GC 34, para 19: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information.”</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
6	<p>Around 30 per cent of polling stations countrywide were located at religious sites. Locations often lacked adequate facilities for the deployment of female EC staff. In some cases, voters had to walk long distances under difficult conditions to reach their assigned polling station. Some polling stations were not accessible to voters with reduced mobility. (page 18)</p>	<p>Review of polling station locations to ensure that polling stations are not located in religious sites, offer adequate facilities for women, are accessible for people with disabilities and are closer to a voter’s residence.</p>	<p>EC Guidelines, procedures Internal regulations</p>	<p>EC</p>	<p>Right to vote ICCPR, article 25. ICCPR, HRC GC 25, para. 20: “[...] voters should be protected from [...] any unlawful or arbitrary interference with the voting process.” CRPD, article 29 “States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others</p>
7	<p>Only certain categories of voter, such as police and military personnel as well as employees of specific public organisations/institutions, can cast an early ballot, which disenfranchises large categories of other voters working on election day, including national observers. The possibility of tracing a ballot paper back to a voter because of a lack of proper safeguards to ensure the secrecy of the postal vote remains problematic. (page 19)</p>	<p>Revise (early in-person) postal voting procedures by affording the right and opportunity to vote to all voters on duty on election day. Guarantee the secrecy of the vote by eliminating the traceability of the ballot paper.</p>	<p>EC Guidelines, procedures, directives</p>	<p>EC</p>	<p>Transparency, Secrecy of the Vote ICCPR, article 25. ICCPR, HRC GC 25, para. 11: “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right...”</p>
VOTER REGISTRATION					

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
8	The law does not foresee a revision period for the voter register before an election. This means voters who turn 18 after 1 June, and before an election in a following 12-month period, are disenfranchised. Some 180,000 to 200,000 first-time voters were disenfranchised for the 2019 presidential election. (page 21)	Adopt amendments to the law for the registration of electors to limit disenfranchisement of voters who turn 18 after the cut-off date for registering, and before an election.	Legislative Enactment	Parliament	<p>Right to Vote</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 11: “...Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed [...]”.</p>
REGISTRATION OF CANDIDATES AND POLITICAL PARTIES					
9	There are no clearly prescribed, transparent procedures relating to the decision-making process for the recognition of a political party. The decision of the EC to recognise or refuse recognition cannot be appealed. (page 22)	Develop a comprehensive legal framework for the registration of political parties. The law should clearly stipulate registration requirements, enforceable mechanisms for effective financial accountability and guarantee internal party democracy and inclusivity. Aspiring parties should have access to judicial review of EC decisions.	Legislative Enactment	Parliament	<p>Registration of Political Parties</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 26: “States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder.”</p> <p>CEDAW Committee, GR 23, para. 28: “[...] political parties also have a responsibility to ensure that women are included in party lists and nominated for election...”</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
					CRPD, article 29: "States Parties shall [...] undertake to: [...]b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs,[...] and. [...] in the activities and administration of political parties; [...]"
CAMPAIGN ENVIRONMENT					
10	Restrictions on campaign processions and on dissemination of political messages during campaign periods conflict with constitutional guarantees. Restrictions also apply to the use of a wide variety of political advertising, including flags and stickers, and the establishment of candidate and party campaign offices. There are various limits to campaign activities just in advance of election day, which could be better consolidated for clarity. (page 25)	Revise the law to ensure equal campaign opportunities by removing all disproportionate restrictions, including on processions, dissemination of political campaign messages and the establishment of campaign offices, to campaigning on the ground. Establish unified campaign silence rules for contestants, traditional and online and social media for paid-for campaigning, with clear, enforceable sanctions for non-compliance.	Legislative Enactment	Parliament EC	Right to a level playing field ICCPR, HRC GC 34, para 37: "Among restrictions on political discourse that have given the Committee cause for concern are the prohibition of door-to-door canvassing, restrictions on the number and type of written materials that may be distributed during election campaigns, blocking access during election periods to sources, including local and international media, of political commentary, and limiting access of opposition parties and politicians to media outlets. Every restriction should be compatible with paragraph 3. However, it may be legitimate for a State party to restrict political polling imminently preceding an election in order to maintain the integrity of the electoral process." ICCPR, HRC GC 25, para. 19: "...Persons entitled to vote must be free to vote for any candidate for election... without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
					<i>opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”</i>
11	Civil society organisations raised concerns about the absence of a robust national voter education campaign on how to mark a valid ballot paper. The EC did not adopt a proactive and broad-reaching approach and it also missed the opportunity to use digital information dissemination tools, methods and social networks to promote voter awareness. (page 20)	Develop effective and broad-reaching voter education. This should include clear messages on key stages of the election process, specially tailored for youth, women, persons with disabilities and other vulnerable groups. Voter education messages should be relevant and consistent across traditional and online media. The EC should proactively use all available digital information dissemination tools.	No legal changes required	EC Media	<p>Voter Education</p> <p>ICCPR, articles 19 and 25.</p> <p>ICCPR, article 19 (2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.”</p> <p>ICCPR, HRC GC 25, para. 11: “[...] Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.” AND para. 12: “[...]Positive measures should be taken to overcome specific difficulties [...] which prevent persons entitled to vote from exercising their rights effectively. [...] Specific methods [...] should be adopted to ensure that illiterate voters have adequate information on which to base their choice.”</p>
CAMPAIGN FINANCE					
12	Political party and campaign financing is unregulated. There are no limits on contributions or spending. Candidates are required only to declare their	Adopt a law on campaign finance and campaign expenditure. The law should include clear provisions on timely	Legislative Enactment	Parliament EC CIABOC	<p>Transparency of political finance, access to information</p> <p>ICCPR, article 25.</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	assets, with weak sanctions for non-compliance. Candidates have three months from nomination to make disclosures. Obtaining factual information before elections is difficult without voluntarily disclosure. (page 28)	disclosure before and after elections, oversight, sanctions and enforcement. Income and expenditure reports should be audited by a competent independent body with investigative powers.			<p>ICCPR, HRC GC 25, para. 19: “...Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”</p> <p>UNCAC, article 7(3): “Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”</p>
13	Key beneficiaries of campaign spending, such as media houses and online platforms, have no reporting requirements. Advertising prices are not public and global social networks have no obligation to ensure transparency in campaign finance. Google did not disclose any data and Facebook offered only disaggregated estimates and did not introduce a comprehensive Ad Library Reports system. Facebook accepted political ads from third-	In order to ensure transparency and accountability in campaign spending, extend rules for campaign publicity to require a label clearly stating that the content is paid-for, to be displayed at all times in offline and online advertisements. Further, secure by law uniform pre- and post-election publication by media outlets and social networks of prices charged	Legislative Enactment	<p>EC</p> <p>Parliament</p> <p>Ministry of Digital Infrastructure and Information Technology</p> <p>Ministry of Mass Media</p>	<p>Transparency of political finance, access to information</p> <p>UNCAC, article 7.4: “Each State Party shall [...] endeavour to adopt, maintain and strengthen systems that promote transparency.”</p> <p>UNCAC, article 7.3: “[...] appropriate legislative and administrative measures, [...] to enhance transparency in the funding of candidatures for elected public office.”</p> <p>GC 25, article 19: “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	party pages. Consequently, there was no transparency or accountability in campaign spending. (page 29)	and disaggregated income received from political advertising.			<i>not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.</i>
MEDIA					
4	The media environment is seen as highly politicised, partly due to the non-existence of an independent regulatory body to enforce the law. Such a body should be vested with broad competences, including the granting of licenses and overseeing of broadcasters' compliance with the license conditions and legal requirements, both outside and inside the election period. (page 30)	Establish through a broad-based consultation an independent regulator for all broadcast media, with a clearly defined mandate and powers. The members should be selected through a competitive public process ensuring diversity. Regulator powers should include licensing, oversight, sanctioning and ensuring transparency of ownership. Decision-making procedures should be governed by transparency, accountability and efficiency.	Constitution, 1966 SLBC Act, 1982 SLRC Act, New law	Parliament	<p>Independent Media</p> <p>ICCPR, article 19.</p> <p>ICCPR, HRC GC 34, para 39: “[...] <i>It is recommended that States [...] should establish an independent and public broadcasting licensing authority, with the power to examine broadcasting applications and to grant licenses.</i></p> <p>ICCPR, HRC GC 34, para 14: “[...] <i>States [...] should take particular care to encourage an independent and diverse media.</i>”</p> <p>ICCPR, HRC GC 34, para 39: “[...] <i>States [...] must avoid imposing onerous licensing conditions and fees on the broadcast media, including on community and commercial stations. The criteria for the application of such conditions and licence fees should be reasonable and objective, clear, transparent, non-discriminatory [...].</i>”</p>
15	A significant component of the country's media landscape	Transform state media into genuine public service	1966 SLBC and 1982 SLRC Acts to	Parliament	Independent Media

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	<p>belongs to the state, both in broadcast and print media. Such media outlets often serve as mouthpieces of the ruling authorities, which is at odds with professional standards of journalism. Based on EU EOM findings, the joint coverage of both leading candidates accounted for 89 per cent across the two state broadcasters and three most popular private TV channels. Other candidates were largely ignored. All state-run media outlets noticeably changed their editorial stance post-election. (page 33)</p>	<p>outlets by establishing legal safeguards for their editorial independence, financial sustainability and autonomy.</p>	<p>be amended</p>		<p>ICCPR, article 19</p> <p>ICCPR, HRC GC 34, para 16: “States [...] should ensure that public broadcasting services operate in an independent manner. In this regard, States [...] should guarantee their independence and editorial freedom. They should provide funding in a manner that does not undermine their independence.”</p>
DIGITAL COMMUNICATIONS AND SOCIAL MEDIA					
16	<p>The SLPP developed five mobile apps; one of them was harvesting sensitive private data and was widely used by campaigners. With no all-encompassing privacy and data protection legislation, parties did not declare their use of voters’ personal data collected by such apps. Neither the EC nor any</p>	<p>Adopt a privacy and personal data protection law. Secure in law an implementation and oversight mechanism that robustly protects citizens’ privacy and personal data, both online and offline, and that shields against</p>	<p>Enact the draft data protection legislation.</p>	<p>Parliament Ministry of Digital Infrastructure and Information Technology</p>	<p>Right to privacy</p> <p>ICCPR, article 17 “No one shall be subjected to arbitrary or unlawful interference with his privacy [...] Everyone has the right to the protection of the law against such interference or attacks.”</p> <p>ICCPR, HRC, article 8, GC 16 “The gathering and holding of personal information on computers, data banks and other devices, whether by public</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	other state institution scrutinised the developers (or the source code) against the misuse of personal data. (page 37)	unsolicited information, including political.			<i>authorities or private individuals or bodies, must be regulated by law.”</i>
17	The EC did not have a written agreement with Facebook (FB); the timeline for decisions on the EC’s requests was at FB’s discretion. Via the EC, civil society organisations informed FB about more than one hundred cases of demeaning, hateful and sectarian content, including within paid-for ads, about political ads during the silence period, and about ads that contained false claims already debunked by credible fact-checkers. Only a few such posts were removed. (page 36)	Foster the formal cooperation between the election administration and main social platforms. The EC and Facebook should aim at developing more efficient mechanisms to enhance the transparency of campaigning on the platform (for example, via establishing an Ad Library Reports system) and the respect for existing campaign rules (including, but not limited to, the electoral silence period). Social platforms, and in this case Facebook in particular, should grant equal treatment in terms of the assistance offered to EMBs in all countries where they are avenues for political advertising and messaging.	No legal changes required	EC Government Ministry of Digital Infrastructure and Information Technology	<p>Right to information</p> <p>ICCPR, HRC GC 25, para. 19 “Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.”</p> <p>Manipulative interference</p> <p>Joint declaration on freedom of expression and “fake news”, disinformation and propaganda by UNHRC, OSCE, OAS and ACHPR, s. 4 “Intermediaries should [...] review their advertising models to ensure that they do not adversely impact diversity of opinions and ideas.” S. 6 “All stakeholders including intermediaries [...] should be supported in developing participatory and transparent initiatives for creating a better understanding of the impact of disinformation and propaganda on democracy, [...] as well as appropriate responses to these phenomena.”</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
PARTICIPATION OF WOMEN					
18	Weak rules on the inclusion of women in political parties, in decision-making positions of the EC at various levels, unregulated campaign finance that further hampers women’s candidacies, and the lack of an independent monitoring and implementation commission on women’s rights, all highlight a need for reforms based on a constitutional mandate for affirmative action. (page 15)	Adopt special measures as anticipated by the Constitution to remove barriers and promote equal participation of women in public and political life.	Legislative Enactment Regulation	Executive Action Parliament EC	<p>Right of participation</p> <p>ICCPR, article 3: “[...] Equal right of men and women to the enjoyment of all civil and political rights [...]”</p> <p>CEDAW, article 4(1): “Adoption by State Parties of temporary special measures [...]”</p> <p>CEDAW, article 7: “State parties...ensure to women...the right... (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government [...].”</p> <p>CEDAW Committee, GR 23 para. 22: “[...] Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.”</p>
PARTICIPATION OF PERSONS WITH DISABILITIES AND OTHER VULNERABLE GROUPS					
19	There are limited legal provisions protecting the participation in elections of persons with disabilities. EU observers reported that only	Guarantee voting rights of persons with disabilities by ensuring independent access to polling stations, transportation for voters	No legal changes required	EC	<p>Right of access to voting</p> <p>CRPD, article 29(b): “To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	<p>around 60 per cent of visited polling stations were accessible for voters with reduced mobility. The lack of an independent monitoring and implementation body, and the absence of braille ballots, undermine the political rights of citizens with disabilities and impact their voting and participation rights. (page 41)</p>	<p>with reduced mobility, and by introducing tactile ballot papers. Established assisted voting procedures should be simplified.</p>			<p><i>public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:</i></p> <p>CRPD, article 29(a)(i) – (iii): “[...] Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use [...]”, “...Protecting the right of persons with disabilities to vote by secret ballot in elections [...] without intimidation, [...] facilitating the use of assistive and new technologies where appropriate”, “[...] allowing assistance in voting by a person of their own choice.”</p> <p>ICCPR, HRC GC 25, para. 20: “[...] Assistance provided to the disabled, blind or illiterate should be independent.”</p> <p>SAARC SOCIAL CHARTER, 2(xi): “[...] States Parties agree to: [...] Ensure that disadvantaged, marginalized and vulnerable persons and groups are included in social development, and that society acknowledges and responds to the consequences of disability by securing the legal rights of the individual and by making the physical and social environment accessible; [...]”</p>
CIVIL SOCIETY AND INTERNATIONAL OBSERVATION					
20	<p>There is no legal provision for national and international election observation. The EC</p>	<p>Establish in law the right for national and international observation, ensuring full</p>	<p>Legislative Enactment</p>	<p>Parliament EC</p>	<p>Independent scrutiny ICCPR, article 25: “[...] the right and the</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	<p>accredits observer groups at its discretion. Two national civil society organisations were accredited and granted full access to polling and counting centres. (page 42)</p>	<p>access for observers, including the media, to all stages of the electoral process. Accreditation should be simple and transparent with clear criteria set out in advance.</p>			<p><i>opportunity [...] and without unreasonable restrictions (a) to take part in the conduct of public affairs”</i></p> <p>ICCPR, HRC GC 25, para. 20: “[...] There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes...”</p> <p>ICCPR, HRC GC 25, para. 25: “...This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.”</p>
ELECTORAL DISPUTE RESOLUTION					
21	<p>EU EOM observers noted different processes for recording complaints in different districts. There was a lack of unified rules, transparent procedures and timelines in complaints handling to ensure stakeholder awareness and confidence. Transparent, timely, robust intervention on various allegations was not publicly apparent. (page 44)</p>	<p>Formalise the handling of electoral complaints by issuing clear codified procedures on complaints processing and the compiling of complaints received by other agencies, including the police. The EC should unify instructions for timely investigation and recording of outcomes, including prompt publication and follow-up of prosecutions.</p>	<p>No legal changes required</p>	<p>EC</p>	<p>Transparency, Effective Remedy</p> <p>UDHR, article 8: “Everyone has the right to an effective remedy...”</p> <p>ICCPR, article 2(2): “... to adopt such laws or other measures as may be necessary to give effect to the rights...”</p> <p>ICCPR, article 19(2): “[...] freedom to see, receive and impart information [...]”</p> <p>ICCPR, HRC GC 31, para. 15: “[...] Administrative mechanisms are particularly required to give effect to</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
					<i>the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.</i>
POLLING, COUNTING AND TABULATION					
22	In most polling stations the layout was adequate. However, in 37 per cent of polling stations observed the position of voting screens did not sufficiently protect the secrecy of the vote. In many cases voting screens were open from behind to the presiding officer's table, and polling officers would have been able to observe the marking of the ballot while standing next to or behind a voter. (page 45)	Revise polling station layout to guarantee secrecy of the vote. Polling officials should receive clear instructions and training on polling station layout.	No legal changes required	EC	<p>Secrecy of the Vote</p> <p>ICCPR, article 25; UNCAC, article 29(a)(ii).</p> <p>ICCPR, HRC GC 25, para. 20: “...States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process [...].”</p> <p>ICCPR, HRC GC 25, para. 22: “...should also describe the laws and procedures which ensure that the right to vote can in fact be freely exercised by all citizens and indicate how the secrecy, security and validity of the voting process are guaranteed by law...”</p>
23	EU observers noted in nine per cent of polling stations observed unauthorised police officers were allowed inside the polling station during voting, contrary to EC instructions.	Clarify and implement the instructions on the role and duties of police at polling stations on election day and properly instruct presiding officers to guarantee voting	No legal changes required	EC Police	<p>Impartiality</p> <p>ICCPR, article 25.</p> <p>ICCPR, HRC GC 25, para. 20: “An independent electoral authority should be established to supervise</p>

NO.	CONTEXT (including reference to the relevant page of the FR)	RECOMMENDATION	SUGGESTED CHANGE IN LEGAL FRAMEWORK	RESPONSIBLE INSTITUTION	RELEVANT INTERNATIONAL – REGIONAL PRINCIPLE – COMMITMENT – NATIONAL LEGISLATION
	<p>Most officers were carrying weapons. Officers were not found to have unduly interfered with the work of the polling staff. However, in all cases observed, the presiding officer did not request the police to step outside. (page 45)</p>	<p>free of the potential for undue influence.</p>			<p><i>the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”</i></p>

ANNEX 1: FINAL RESULTS- Presidential Election 2019

#	NAME OF CANDIDATE	PARTY	VOTES RECEIVED	PERCENTAGE %	
1	Aparakke Pungnananda Thero	IND01	7,611	0.06	
2	S. Amarasinghe	IND02	15,285	0.12	
3	Idroos Mohamadhu Illiyas	IND03	3,987	0.03	
4	A.H.M. Alavi	IND04	2,903	0.02	
5	Ariyawansa Dissanayake	DUNF	34,537	0.26	
6	P.M. Edirisinghe	OWORS	2,139	0.02	
7	Sarath Keerthirathne	IND05	3,599	0.03	
8	C. Herath Hitihami Korallalage Samansiri	IND06	976	0.01	
9	Sirithunga Jayasuriya	USP	3,944	0.03	
10	Ajantha de Zoysa	RJA	11,705	0.09	
11	Aruna de Zoysa	DNM	4,218	0.03	
12	Anura Kumara Dissanayaka	NMPP	418,553	3.16	
13	Duminda Nagamuwa	FSP	8,219	0.06	
14	Rohan Pallewatte	JSWP	25,173	0.19	
15	Ketagoda Jayantha	IND07	9,467	0.07	
16	Saman Perera	OPPP	2,368	0.02	
17	Anuruddha Polgampala	IND08	10,219	0.08	
18	W. M. Surgeus Fernando	IND09	13,641	0.10	
19	Sajith Premadasa	NDF	5,564,239	41.99	
20	Battaramulle Seelarathana Thero	JSP	11,879	0.09	
21	Badde Gamage Nandimithra	NSSP	1,841	0.01	
22	Sarath Manamendra	NSU	3,380	0.03	
23	M.K. Shivajilingam	IND10	12,256	0.09	
24	M.L.A.M. Hizbullah	IND11	38,814	0.29	
25	Gotabaya Rajapaksa	SLPP	6,924,255	52.25	
26	Namal Rajapaksha	NUA	9,497	0.07	
27	A.S.P. Liyanage	SLLP	6,447	0.05	
28	Ashoka Wadigamangawa	IND12	2,924	0.02	
29	Piyasiri Wijenayake	IND13	4,636	0.04	
30	Ajantha Perera	SPSL	27,572	0.21	
31	Rajiva Wijesinha	IND14	4,416	0.03	
32	Pani Wijesiriwardane	SEP	3,014	0.02	
33	Samaraweera Weerawanni	IND15	2,067	0.02	
34	Subbramanyam Gunarathnam	ONF	7,333	0.06	
35	Mahesh Senanayake	NPP	49,655	0.37	
			Valid Votes	13,252,499	82.87
			Invalid Votes	135,452	0.85
			Total Polled	13,387,951	83.72
			Registered voters	15,992,096	

(Source: https://elections.gov.lk/web/wp-content/uploads/election-results/presidential-elections/PRE_2019_All_Island_Result.pdf).

This report contains the findings of the EU Election Observation Mission (EU EOM) on the presidential election. The EU EOM is independent from the European Union institutions, and therefore this report is not an official position of the European Union. This report is available only in English.

ANNEX 2: Media monitoring results

In the period from 20 October to 14 November 2019, the EU EOM monitored seven national TV channels, three radio stations, twelve newspapers and three online media. The mission followed other media outlets as well as media-related developments. Monitored media outlets were:

Television:	State channels <i>ITN, Rupavahini</i> (Sinhalese), private channels <i>Derana, Hiru, Sirasa, Swarnawahini</i> (Sinhalese), <i>Shakthi</i> (Tamil);
Radio:	Private stations <i>Derana FM, Neth FM, Sirasa FM</i> (Sinhalese);
Newspapers:	State newspapers <i>Daily News, Sunday Observer</i> (English), private newspapers <i>Divaina/Irida Divaina, Lankadeepa/Irida Lankadeepa, Mawbima/Irida Mawbima</i> (Sinhalese), <i>Uthayan, Virakesari</i> (Tamil), <i>Daily Mirror, Sunday Times</i> (English);
Online media:	www.hirunews.lk , www.newsfirst.lk (Sinhalese), www.tamilmirror.lk (Tamil).

The monitoring included quantitative and qualitative analysis. The quantitative analysis measured the total amount of time or space allocated to each contestant and other political actors (president, government, political parties) and also evaluated the tone in which they were portrayed (positive, neutral or negative). The qualitative analysis assessed the performance of selected media outlets against ethical and professional standards, such as balance, accuracy, timeliness, choice of issue, omission of information, advantage of incumbency, positioning of items, inflammatory language, etc.

The monitoring of selected TV channels focused on all political and election-related programmes during prime time (18:00 - 24:00), on morning programme blocs on radio stations (06:00 - 10:00), on entire daily publications in print media, and on selected political and election-related reports in online media. The charts below show the coverage of contestants and other political subjects during the primetime news programmes on television, in the morning news programmes on radio, and in politics-related reports in the print and online media (except for advertisements, which are identified as such). Only candidates who received at least 0.5 per cent of coverage by a given media outlet are shown.

Explanation of the charts

- The pie charts show the percentage of airtime/space allocated to contestants and other relevant political actors in the defined period.
- The bar charts show the total number of hours and minutes (square centimetres) of positive (green), neutral (white) and negative (red) coverage devoted to contestants and other political actors in the defined period.

LIST of ACRONYMS

President
Prime Minister and Government
Election Commission
Siripala Amarasinghe
Ajantha De Soysa
Aruna De Soysa
Anura Kumara Dissanayake
Ariyawansa Dissanayake
Priyantha Edirisinghe
Milroy Fernando
Nandimithra Gamage
Subramaniam Gunaratnam
Alawi Hassan

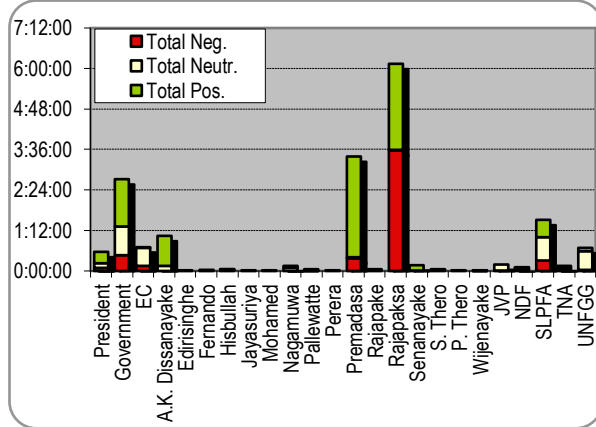
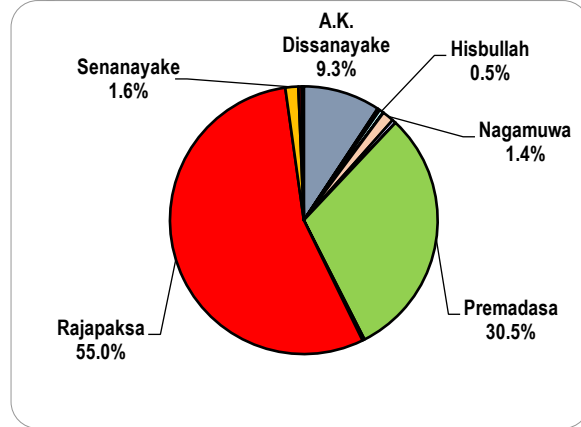
President
Government
EC
Amarasinghe
Aj. De Soysa
Ar. De Soysa
A.K. Dissanayake
A. Dissanayake
Edirisinghe
Fernando
Gamage
Gunaratnam
Hassan

Samansiri Herath	Herath
Alim Hisbullah	Hisbullah
Sirithunga Jayasuriya	Jayasuriya
Sarath Vijithakumara Keerthiratne	Keerthiratne
Jayantha Ketagoda	Ketagoda
A.S.P. Liyanage	Liyanage
Sarath Manamendra	Manamendra
Illias Idroos Mohamed	Mohamed
Duminda Nagamuwa	Nagamuwa
Rohan Pallewatte	Palewatte
Ajantha Perera	Perera
Anuruddha Polgampala	Polgampala
Sajith Premadasa	Premadasa
Namal Rajapaksa	N Rajapaksa
Gotabaya Rajapaksa	Rajapaksa
Mahesh Senanayake	Senanayake
M.K. Sivajilingam	Sivajilingam
Battaramulle Seelarathana Thero	B.S. Thero
Punnananda Thero	P. Thero
Ashoka Wadigamangawa	Wadigamangawa
Samaraweera Weeravanni	Weeravanni
Saman Welisarage	Welisarage
Piyasiri Wijenayake	Wijenayake
Rajiwa Wijesinha	Wijesinha
Vajirapani Wijesiriwardena	Wijesiriwardena
Democratic Labour Party	DLP
Democratic United National Front	DUNF
Frontline Socialist Party	FSP
Jana Setha Peramuna	JSP
Jathika Sangwardhena Peramuna	JSAP
Janatha Vimukthi Premuna	JVP
National People's Party	NPP
Nationalities Unity Organization	NUO
Nawa Sama Samaja Party	NSSP
Nawa Sinhala Urumaya	NSU
New Democratic Front	NDF
Our National Front	ONF
Our Power of People Party	OPPP
Okkoma Wasiyo Okkoma Rajawaru Savidanaya	OWOR
Progressive Socialist Party	PSP
Patriotic United National Party	PUNP
Ruhunu Janatha Peramuna	RJP
Socialist Equality Party	SEP
Sri Lanka Labour Party	SLLP
Sri Lanka Progressive Front	SLPF
Sri Lanka People's Freedom Alliance (including its member parties)	SLPFA
Sri Lanka Nidahas Podujana Sandhanaya	SLNPS
Socialist Party of Sri Lanka	SPSL
Tamil National Alliance	TNA
Tamil National Freedom Party	TNFA
Tamil United Liberation Front	TULF
United National Front for Good Governance (including its member parties)	UNFGG
United Socialist Party	USP

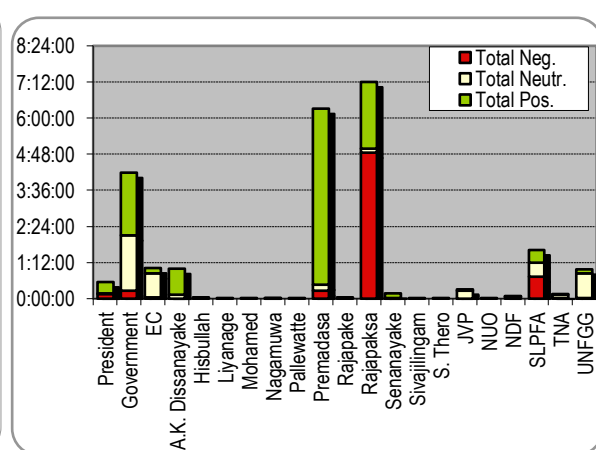
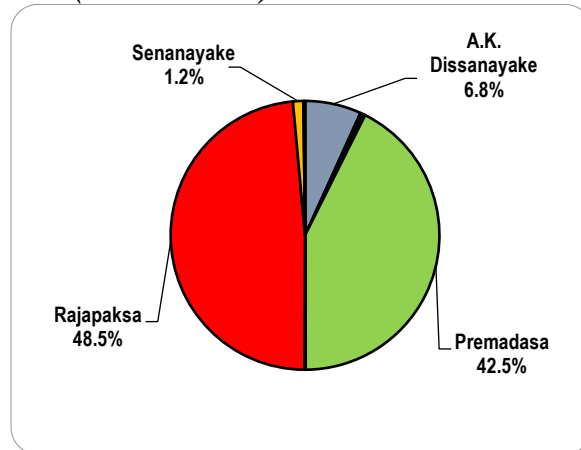
EU EOM media monitoring findings

TELEVISION

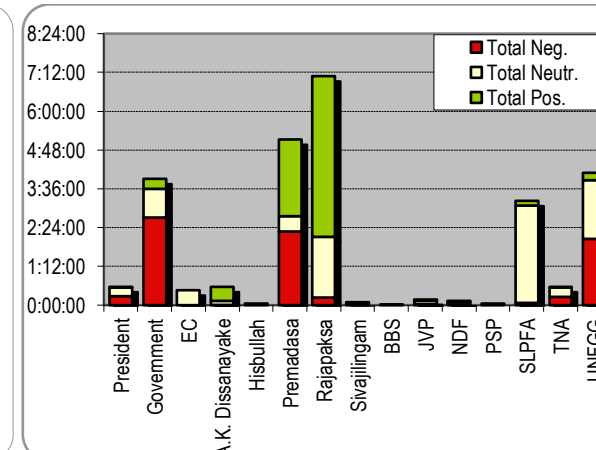
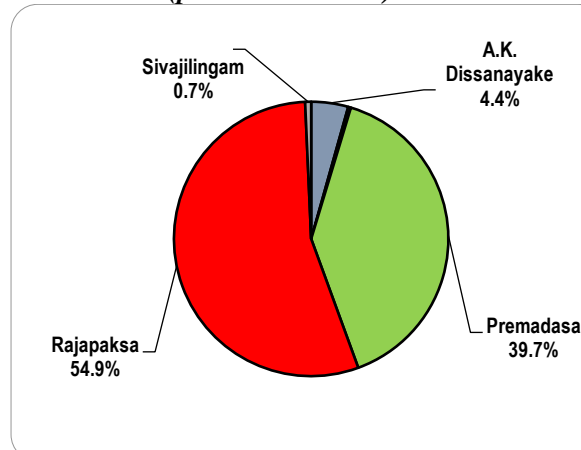
Rupavahini (state channel)



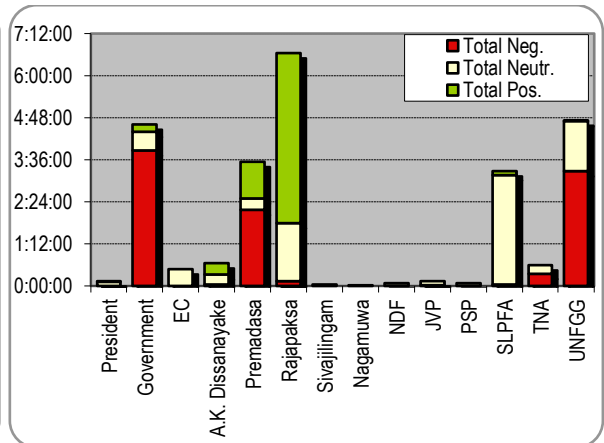
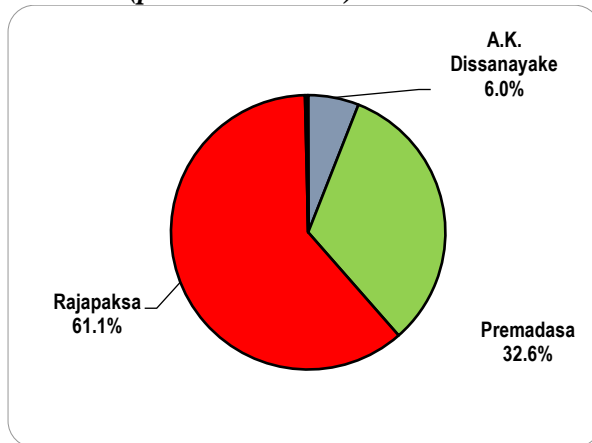
ITN (state channel)



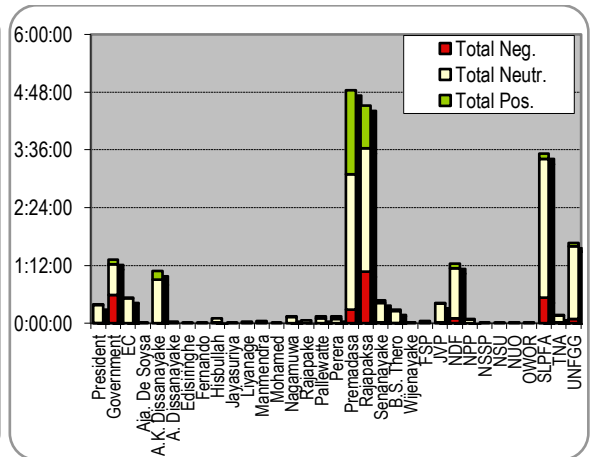
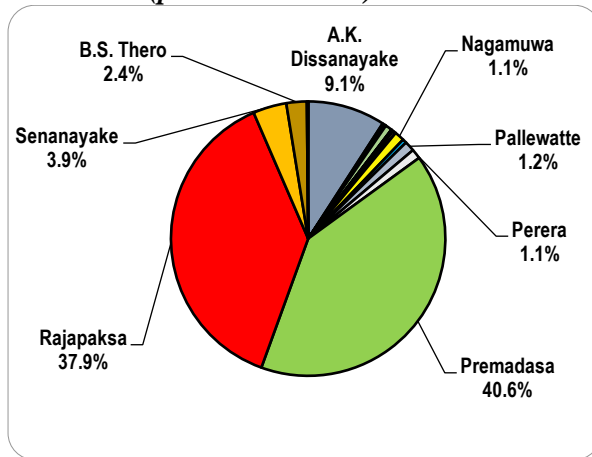
Derana TV (private channel)



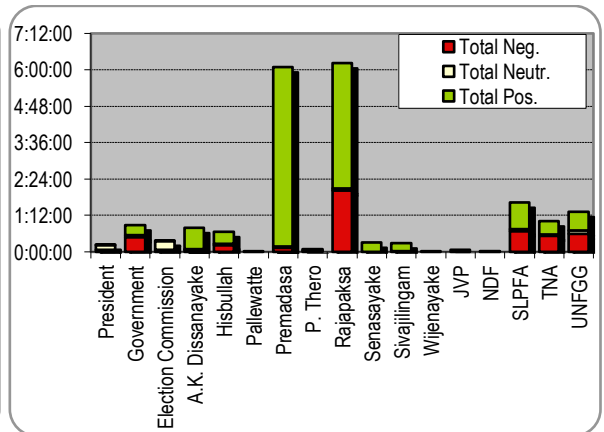
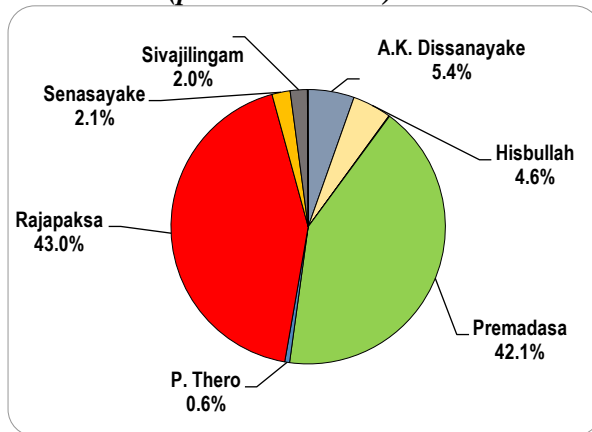
Hiru TV (private channel)



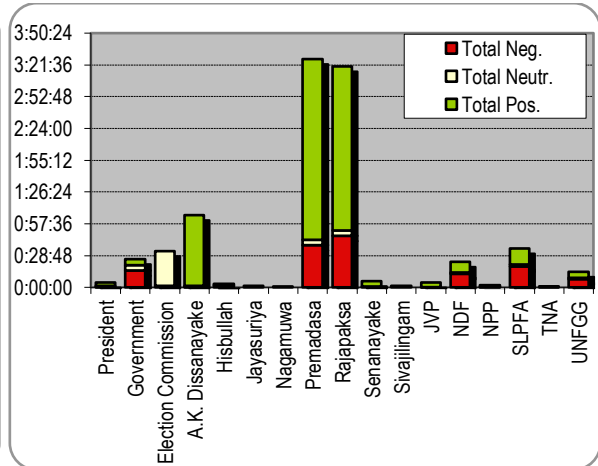
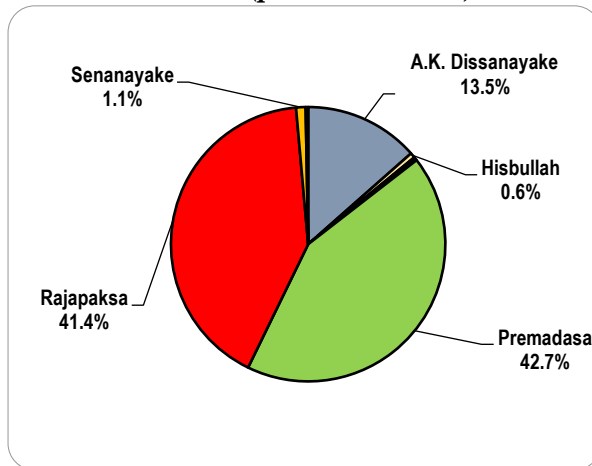
Sirasa TV (private channel)



Shakthi TV (private channel)

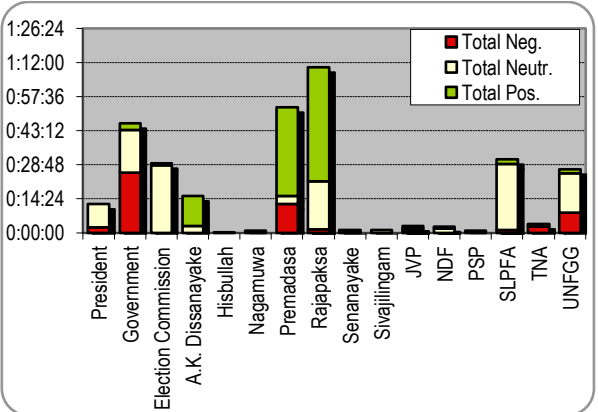
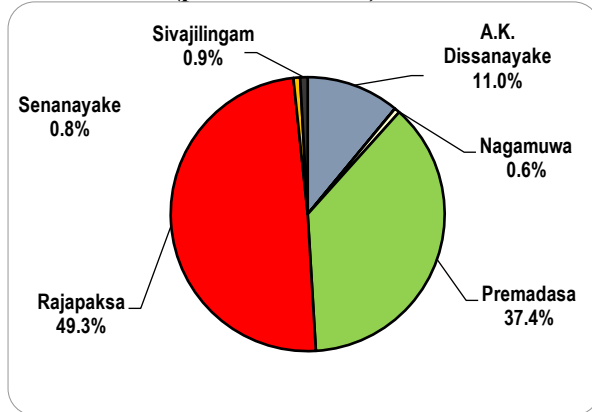


Swarnavahini TV (private channel)

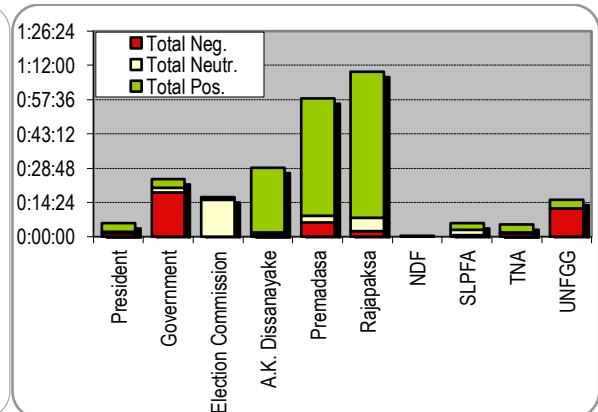
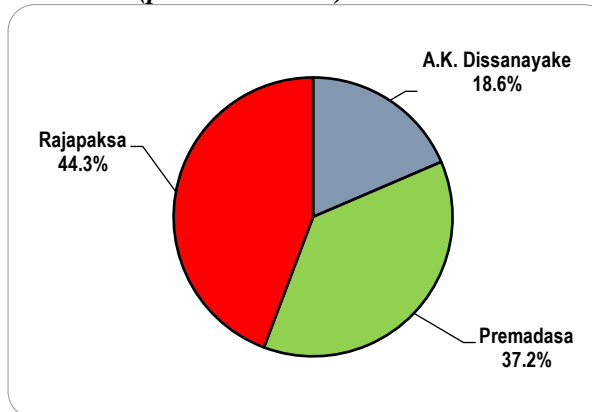


RADIO

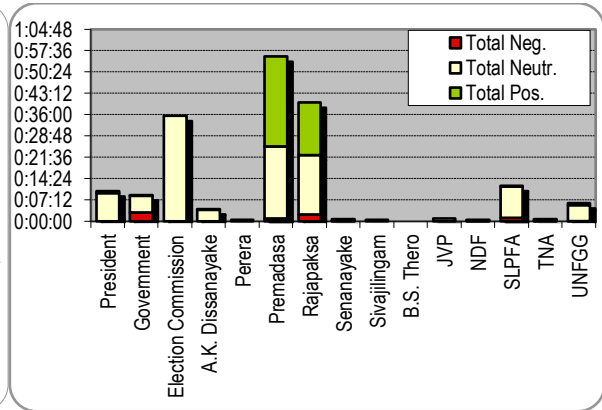
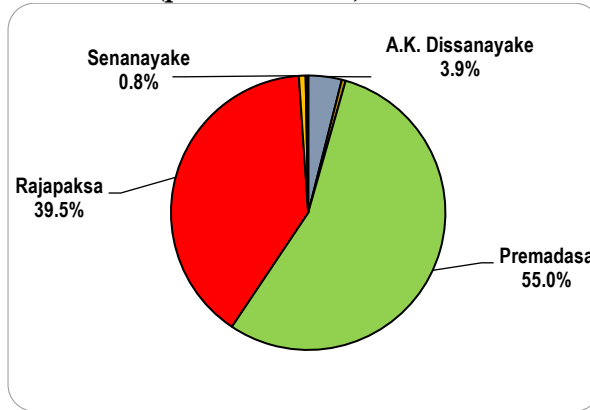
Derana FM (private station)



Neth FM (private station)

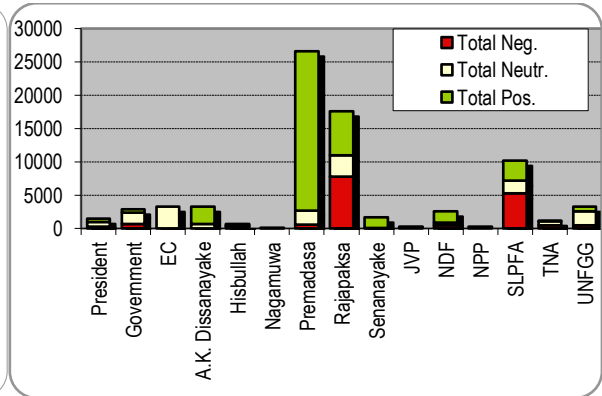
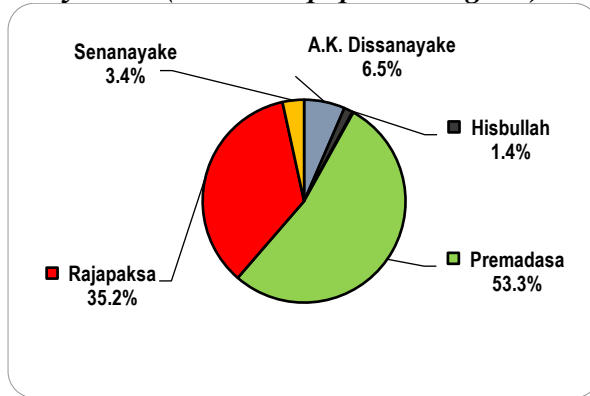


Sirasa FM (private station)

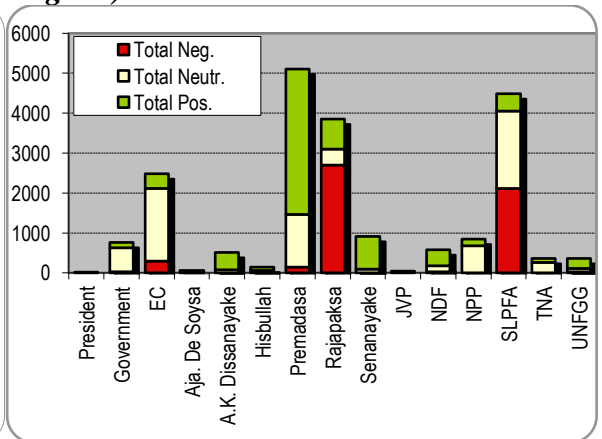
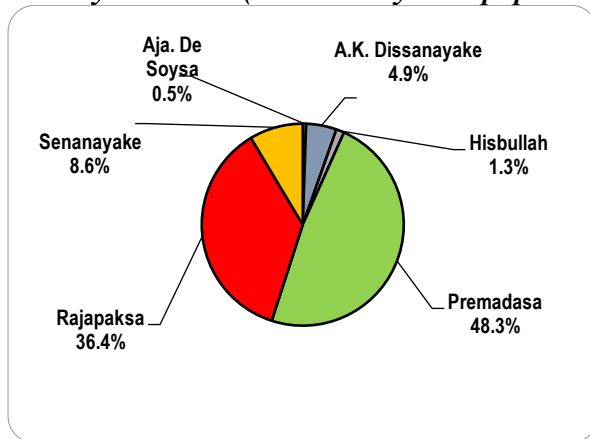


PRINT MEDIA

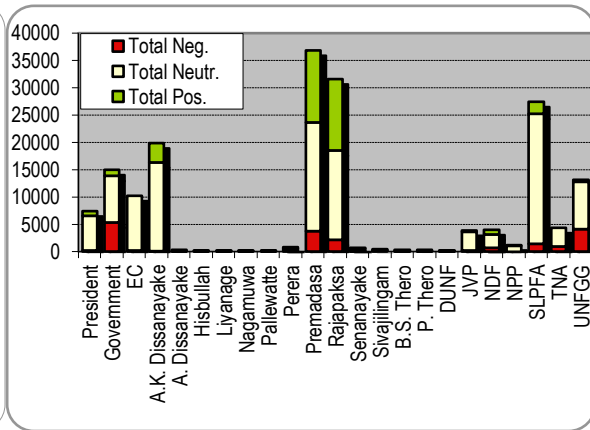
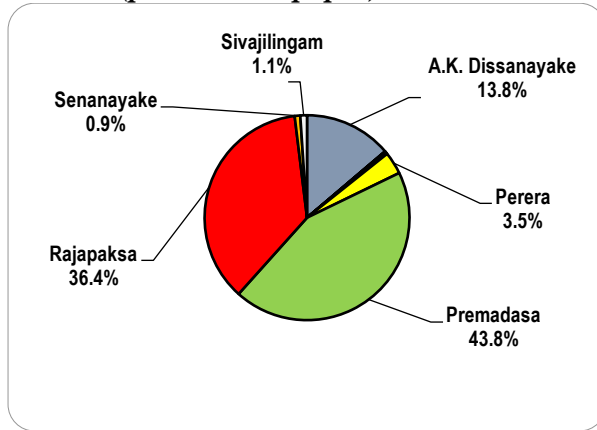
Daily News (state newspaper in English)



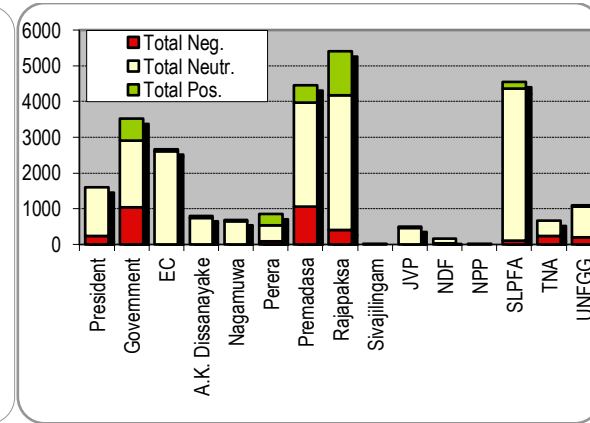
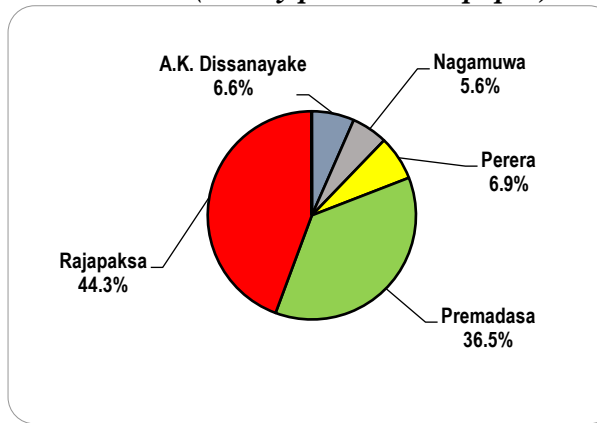
Sunday Observer (state weekly newspaper in English)



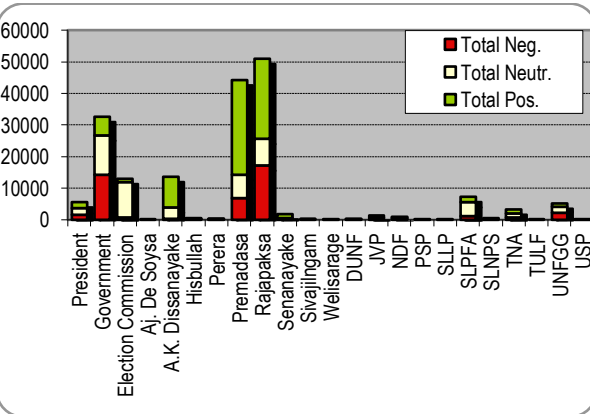
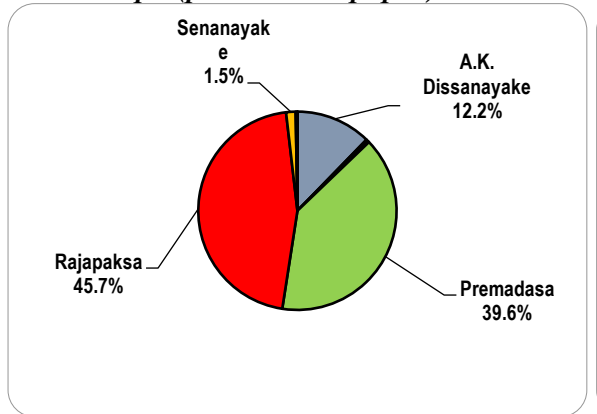
Divaina (private newspaper)



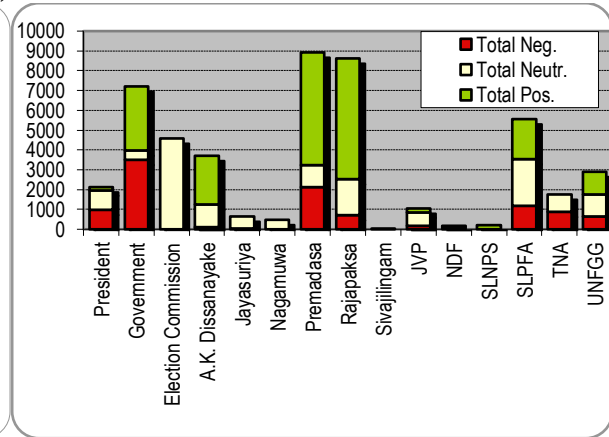
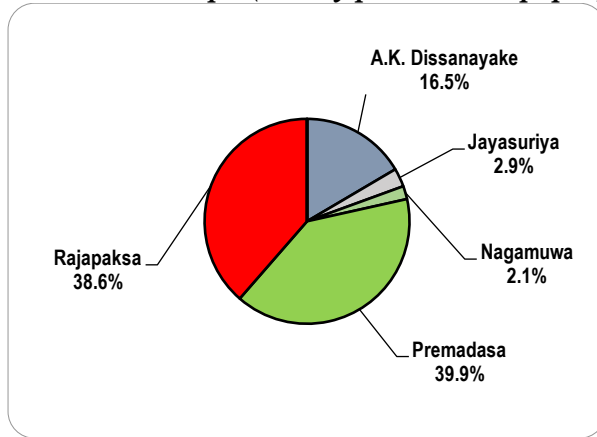
Irida Divaina (weekly private newspaper)



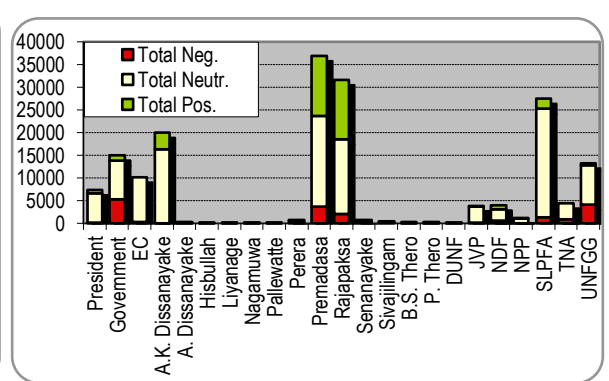
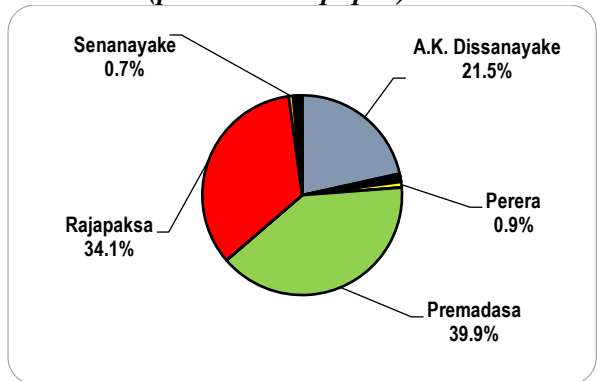
Lankadeepa (private newspaper)



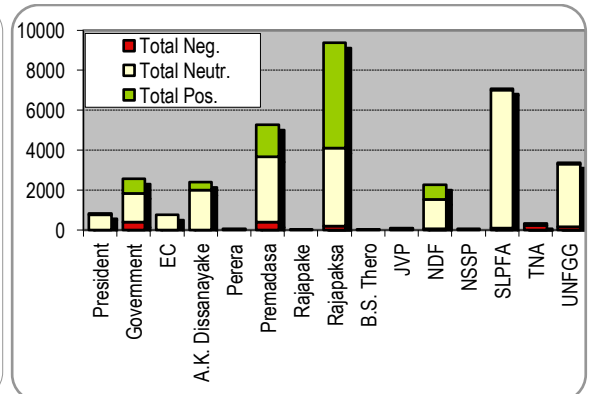
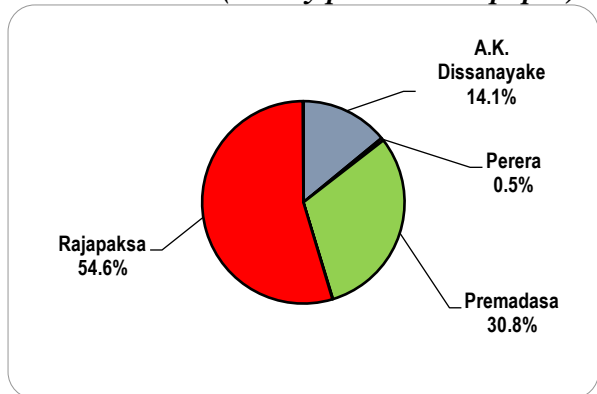
Irida Lankadeepa (weekly private newspaper)



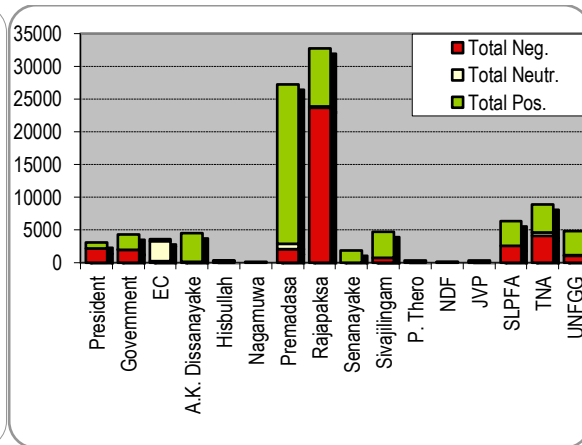
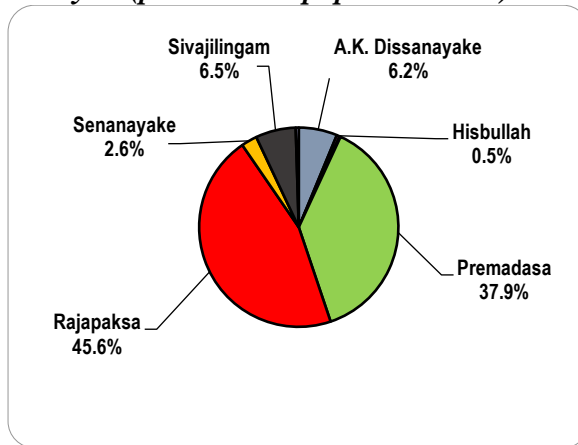
Mawbima (private newspaper)



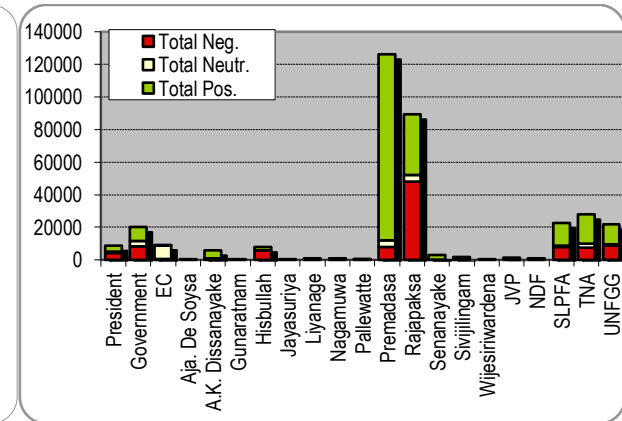
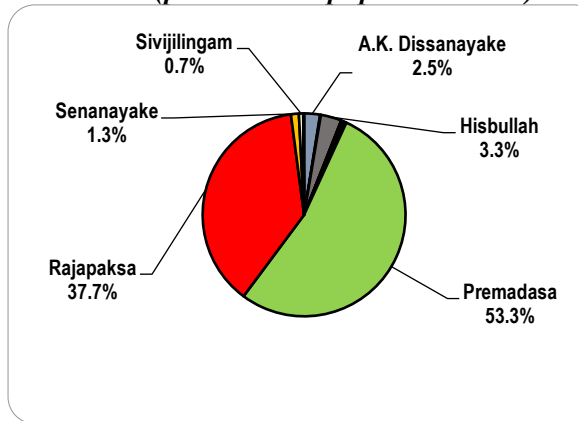
Irida Mawbima (weekly private newspaper)



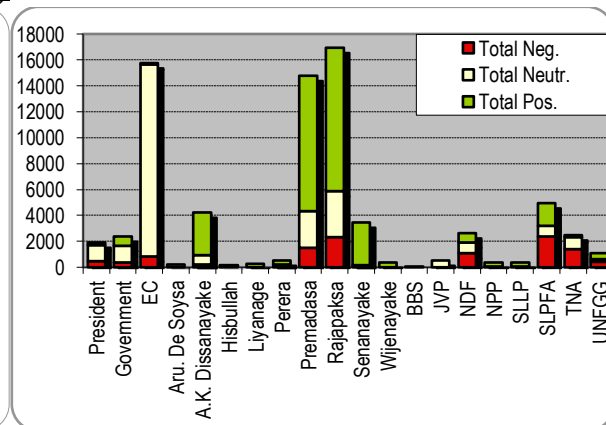
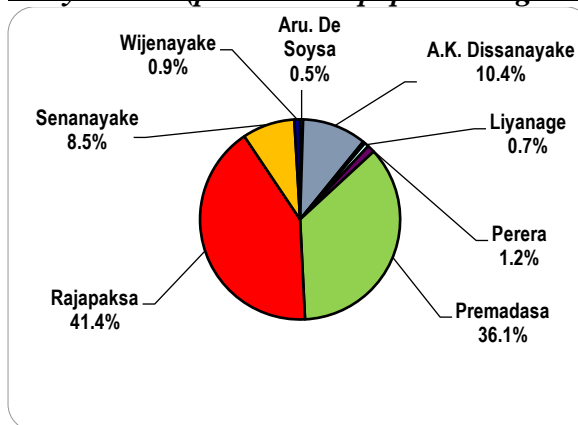
Uthayan (private newspaper in Tamil)



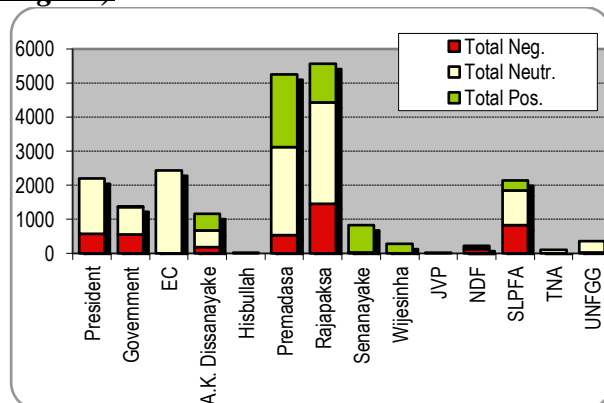
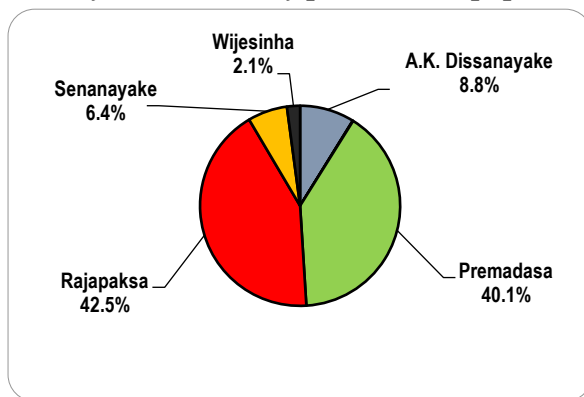
Virakesari (private newspaper in Tamil)



Daily Mirror (private newspaper in English)

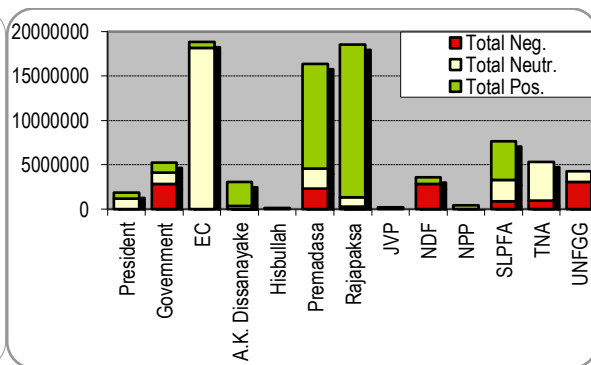
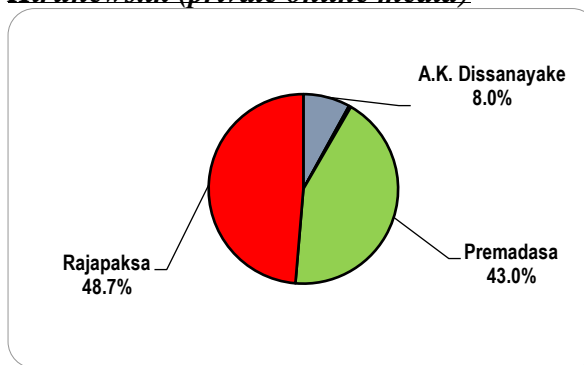


Sunday Times (weekly private newspaper in English)

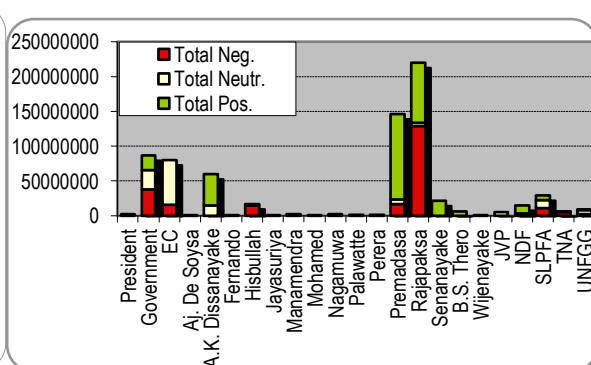
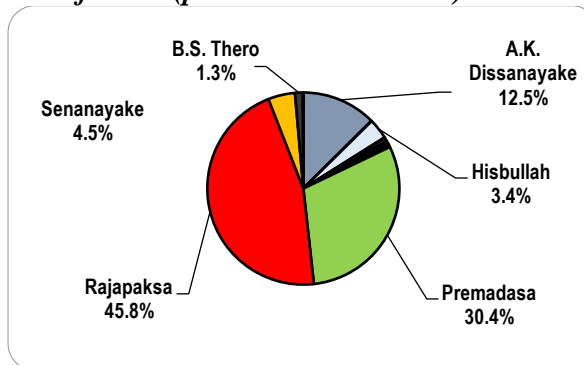


ONLINE MEDIA

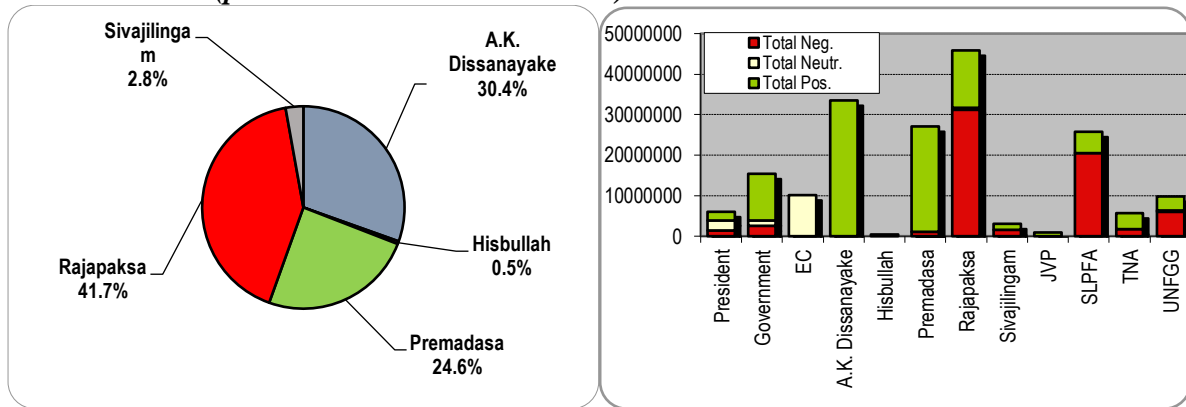
Hirunews.lk (private online media)



Newsfirst.lk (private online media)



Tamilmirror.lk (private online media in Tamil)

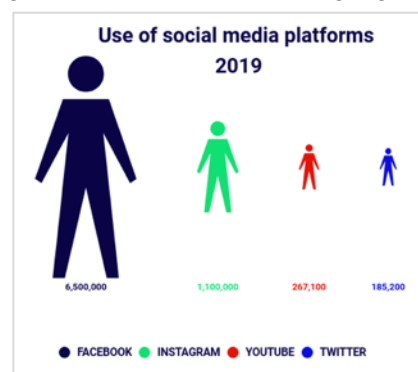


ANNEX 3: Social media monitoring results

The EU EOM monitored a sample of social media accounts, profiles and pages with a nationwide and regional relevance reflecting the hallmarks and diversity of Sri Lanka's digital communication landscape. The dominant language used on the page or by the social media influencer was also considered so as to obtain a balanced sample of digital content in English, Sinhala and Tamil languages.

The selection of the samples was made considering:

- The reach and impact on the political agenda (number of followers, interaction on the respective page, quotation level in conventional media);
- Engagement in communication on election-related matters;
- Political affiliation of the account/page/vlog.



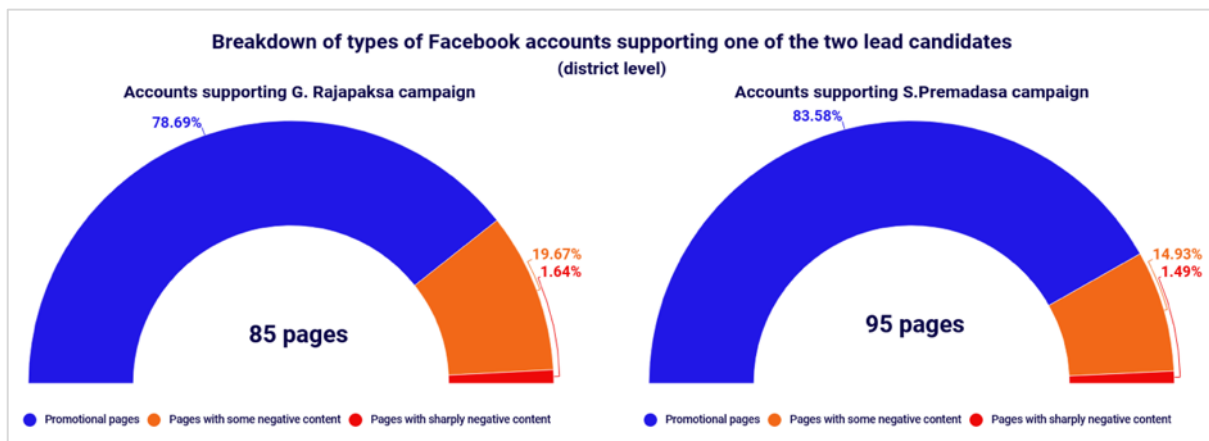
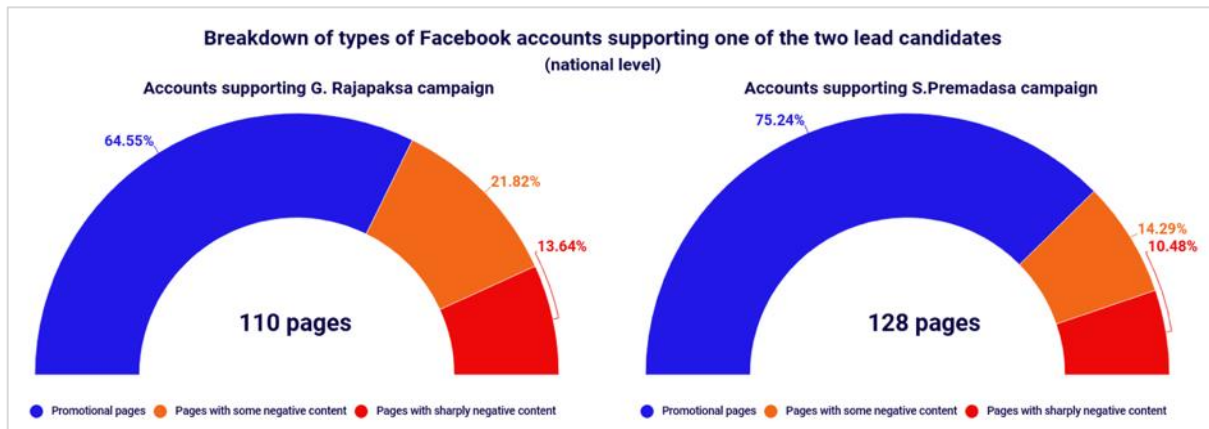
The monitoring period was from 18 October to 17 November 2019.

The selected sample¹⁹⁰

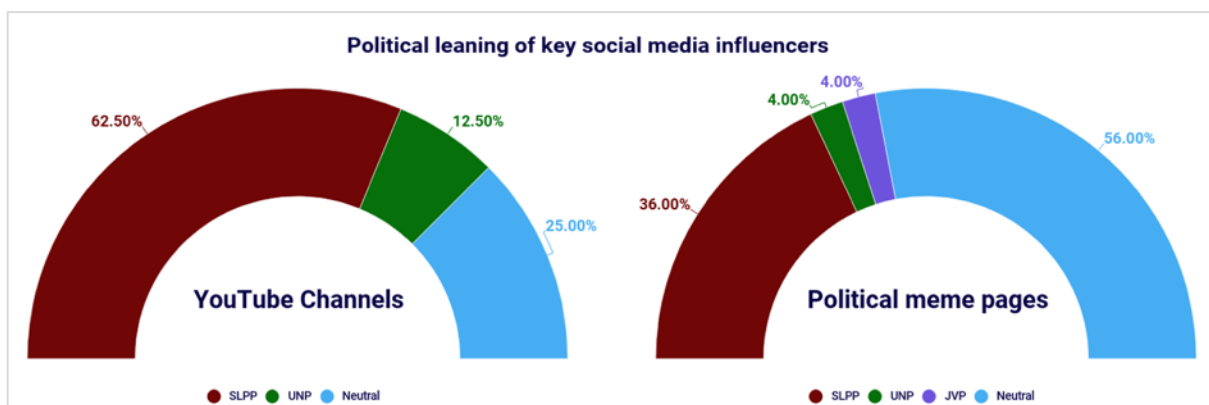
N R	CATEGORY	NR. OF PAGES	MAX FOLLOWERS	MIN FOLLOWERS
1	Sajith Premadasa-supporting pages	128	660,000	3
2	Gotabaya Rajapaksa-supporting pages	110	1,218,246	2
3	Official pages of other presidential candidates	15	771,390	29
4	Gossip pages - Sinhala	35	2,115,199	2,567
5	Meme pages - Sinhala	27	678,080	2,252
6	Gossip pages - Tamil	10	4,063,916	12,467
7	Meme pages - Tamil	1	21,681	N/A
8	LTO assessment	217	709,830	N/A
9	YouTube channels/influencers	14	537,000	14,200
TOTAL		557		

¹⁹⁰ The sample does not include social media accounts administrated by conventional media outlets.

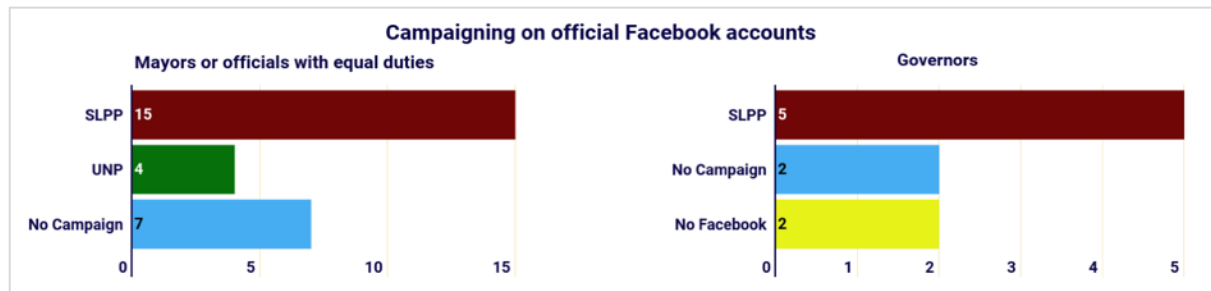
Breakdown of types of Facebook accounts and groups supporting one of the two lead candidates' campaigns



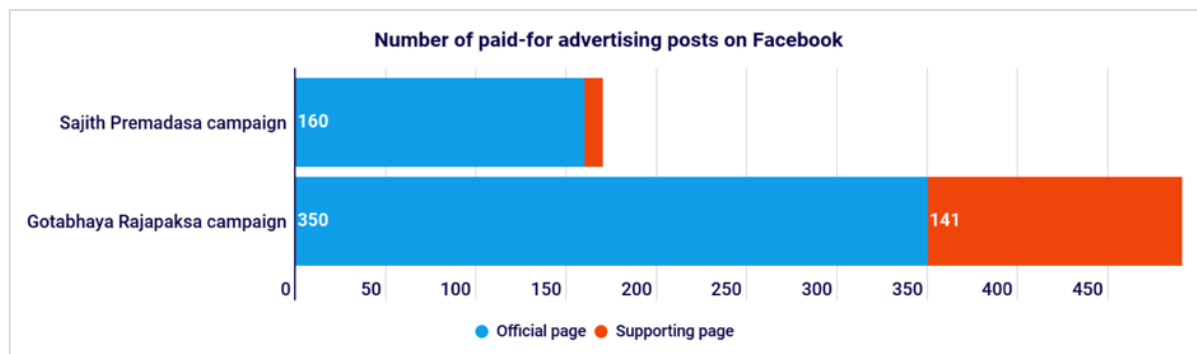
Political leaning of key social media influencers



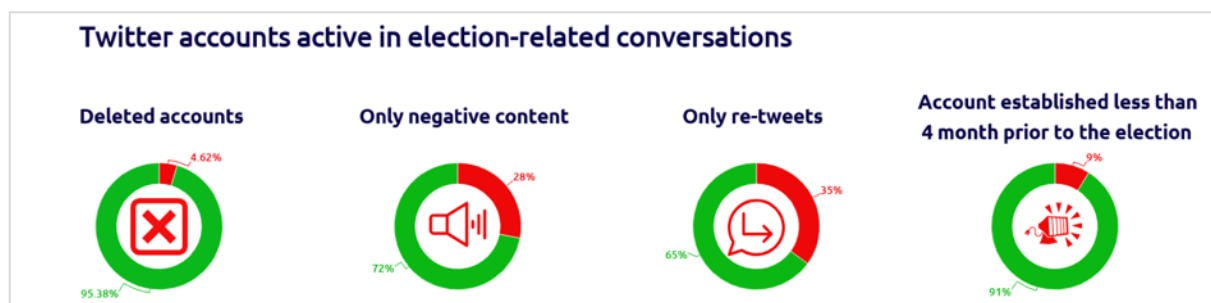
Use of official social media accounts for campaign purposes



Political advertising on Facebook by two lead campaigns and respective support pages¹⁹¹

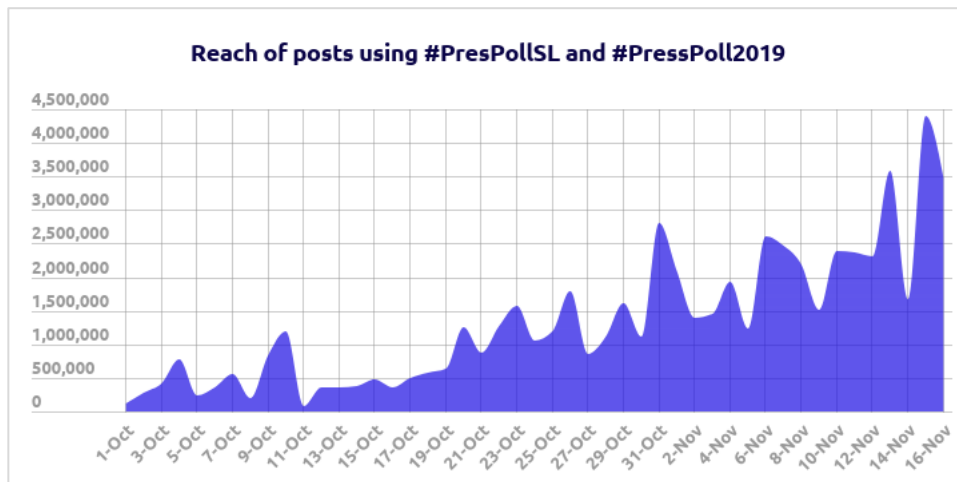


Breakdown of types of Twitter accounts active in online communication on electoral matters and estimated reach of non-partisan hashtags

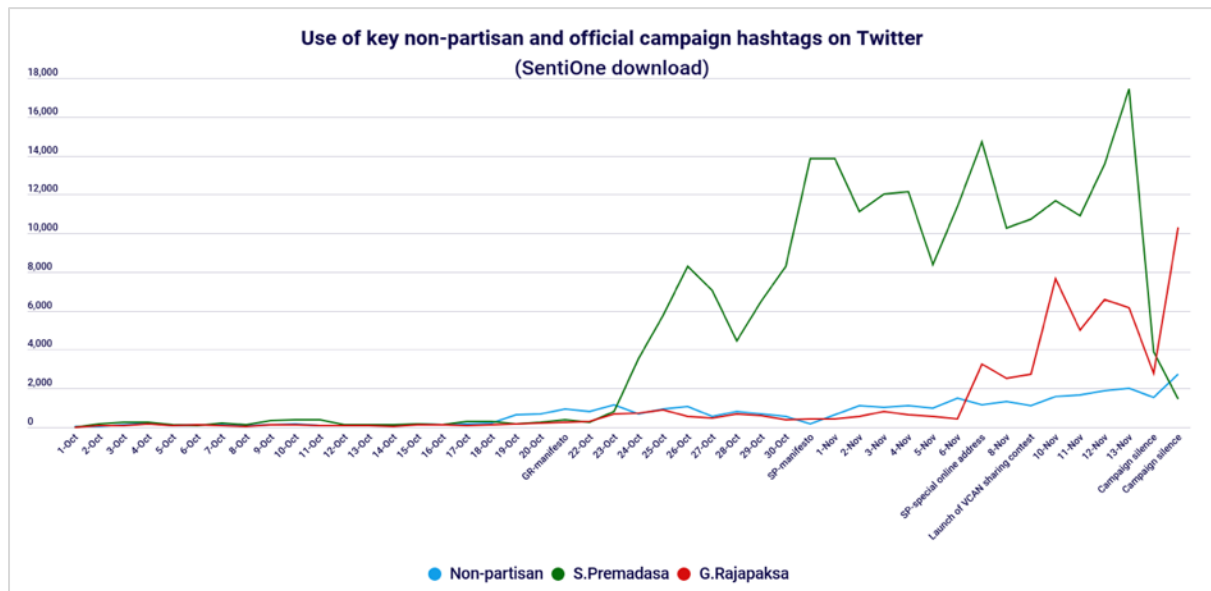


Base: 2,000 accounts that used #PresPollSL and #PressPoll2019 from 4 October to 1 November.
 Assessment method: information concerning accounts was downloaded via SentiOne; assessment was made based on a random sample of 500 accounts.
 Note: both hashtags were non-partisan and were used by both lead campaigns, civil society activists and the media.

¹⁹¹ As identified by the EU EOM from the selected sample of pages using the limited data available on the Facebook Ad Library, from 18 October to 14 November (official start of campaign silence).



Use of non-partisan and official hashtags by both lead campaign teams on Twitter



ANNEX 4: List of Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
ACMC	All Ceylon Makkal Congress
AFRIEL	Association for Friendship and Love
AG	Attorney General
ANFREL	Asian Network for Free Elections
CaFFE	Campaign for Free & Fair Elections
CC	Constitutional Council
CCO	Chief Counting Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CGE	Commissioner-General of Elections
CIABOC	Commission to Investigate Allegations of Bribery or Corruption
CID	Criminal Investigation Department
CLG	Commissioner of Local Government
CMEV	Centre for Monitoring Election Violence
CO	Chief Observer
CPA	Centre for Policy Alternatives
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
CT	Core team
CWC	Ceylon Workers' Congress
DCO	Deputy Chief Observer
DECC	District Electoral Complaint Centre
DMC	Disaster Management Centre
DRI	Democracy Reporting International
DS	Divisional Secretary
EC	Election Commission
EDR	Electoral Disputes Resolution
EEAS	European External Action Service
EMB	Election Management Body
EPDP	Eelam People's Democratic Party
EPRLF	Eelam People's Revolutionary Liberation Front
EU EOM	European Union Election Observation Mission
EU ExM	European Union Exploratory Mission
FB	Facebook
FEMBoSA	Forum of Election Management Bodies of South Asia
FMM	Free Media Movement
FPI	(Service for) Foreign Policy Instruments
GN	Gamma Niladhari
GoSL	Government of Sri Lanka
HRCSL	Human Rights Commission of Sri Lanka
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
IFES	International Foundation for Electoral Systems
IPU	Inter-Parliamentary Union
IRI	International Republican Institute
ITAK	Illankai Tamil Arasu Kachchi
ITN	Independent Television Network
ITSSL	Information Technology Society of Sri Lanka

JSC	Judicial Service Commission
JVP	Janatha Vimukthi Peramuna (People's Liberation Front)
LGBTI	Lesbian Gay Bisexual Transgender Intersex
LSTO	Locally recruited short-term observer
LTO	Long-term observer
LTTE	Liberation Tigers of Tamil Eelam
MDM&HR	Ministry of Disaster Management and Human Rights
MHAPCLG	Ministry of Home Affairs, Provincial Councils and Local Government
MoDIIT	Ministry of Digital Infrastructure and Information Technology
NCDM	National Council for Disaster Management
NDF	New Democratic Front
NDI	National Democratic Institute
NDMP	National Disaster Management Plan
NIC	National Identity Card
NPP	National Peoples' Power
OAS	Organisation of American States
OP	Optional Protocol
OSCE	Organisation for Security and Cooperation in Europe
PAFFREL	People's Action for Free & Fair Elections
PC	Provincial Council
PEA	Presidential Elections Act
PS	Pradeshiya Sabha
PSO	Public Security Ordinance
PTA	Prevention of Terrorism Act
PWD	Persons with Disabilities
RTI	Right to Information (Act)
SAARC	South Asian Association for Regional Cooperation
SC	Supreme Court
SLBC	Sri Lanka Broadcasting Corporation
SLCFD	Sri Lanka Central Federation for the Deaf
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLPP	Sri Lanka Podujana Peramuna
SLRC	Sri Lanka Rupavahini Corporation
SP	Service Provider
STO	Short-term observer
TI	Transparency International
TISL	Transparency International Sri Lanka
TNA	Tamil National Alliance
TNPF	Tamil National People's Front
TRC	Telecommunications Regulatory Commission
UNCAC	United Nations Convention against Corruption
UNFGG	United National Front for Good Governance
UNHRC	United Nations Human Rights Council
UNP	United National Party
UPFA	United People's Freedom Alliance

