



**Submission by Asian Network for Free Elections (ANFREL) to
137th Session of the United Nations Human Rights Committee**

SRI LANKA

Introduction

1. The Asian Network for Free Elections (ANFREL) is an international NGO that promotes free and fair elections across Asia. Since its formation in 1997, ANFREL has observed or assessed over 70 elections across Asia, including those in Sri Lanka in 2010 (presidential), 2013 (provincial council), 2015 (presidential and parliamentary), 2019 (presidential) and 2020 (parliamentary). ANFREL is a signatory to the Declaration of Principles for International Election Observation.
2. In this submission to the United Nations Human Rights Committee, ANFREL focuses on civil and political rights issues related to the elections in Sri Lanka and makes recommendations to improve them.

The 2019 Presidential Election and 2020 Parliamentary Elections in Sri Lanka

3. The restrictions imposed by Section 69 of the Presidential Elections Act on the exercise of the right to peaceful assembly, as recognized in Article 21 of the International Covenant on Civil and Political Rights (ICCPR), are excessive and unjustified. The provision, which prohibits any person from conducting, holding or participating in any processions during the period commencing on the day of the nomination and ending one week after the date on which the result of the poll taken is declared by the Commissioner except on May 1 (Labour Day) or for religious or social purpose, unduly limits the ability of individuals to exercise their right to freedom of peaceful assembly.
4. Section 74 of the Presidential Elections Act, which prohibits the posting of flags, banners, handbills, posters, symbols, signs or drawings of any candidate in any public or private premise, on any place to which the public have a right of or are granted access, on or across any public road, and in any vehicle, is a violation of the right to freedom of expression as protected by Article 19 of the ICCPR. This provision unjustifiably restricts the ability of individuals to freely express their political views and affiliations.

5. The lack of legal provision for supplementary voter registration in Sri Lanka, as outlined in the Constitution and the Registration of Electors Act, has resulted in the disenfranchisement of at least 200,000 young voters, and potentially as many as 700,000 citizens, in the 2019 presidential and 2020 parliamentary elections. This failure to ensure that all citizens who have reached the age of 18 on the qualifying date have the opportunity to vote constitutes a violation of the right to vote as recognized in Article 25 of the ICCPR.
6. The censorship of state-owned television station Independent Television Network (ITN) during the 2019 presidential election, as ordered by the Election Commission chief Mahinda Deshapriya¹, is a violation of the right to freedom of expression as recognized in Article 19 of the ICCPR. As stated in General Comment No. 34, a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression.
7. Currently, postal voting remains accessible only to limited categories of civil servants and candidates who are unable to be at their polling stations on Election Day. There is no alternative voting mechanism for approximately 2 to 2.5 million Sri Lankans living abroad, including an estimated 1.5 million migrant workers.² It has resulted in disenfranchisement and a violation of their right to vote as recognized in Article 25 of the ICCPR.

Postponement of the provincial council elections

8. The postponement of the provincial council elections scheduled for 2022 due to the COVID-19 pandemic raises concerns about its legitimacy. This is particularly so in light of Sri Lanka's successful conduct of parliamentary elections in 2020 amid the same pandemic. The postponement and efforts to further postpone the elections may contravene Article 25 of the ICCPR, which affirms every citizen's right to participate in the conduct of public affairs, including their right to vote and stand for election in genuine periodic elections. At the time of the submission, the elections are scheduled to be held on 9 March 2023.

Recommendations

9. The Sri Lankan government must take immediate steps to ensure that the Presidential Elections Act is in compliance with international human rights standards, specifically Articles 19 and 21 of the ICCPR, by removing legal provisions such as Sections 69 and 74 that unduly restrict the rights to freedom of expression and peaceful assembly.

¹

<https://www.aljazeera.com/news/2019/11/3/sri-lanka-election-commission-censors-state-tv-in-lead-up-to-vote>

² https://www.un.int/srilanka/sites/www.un.int/files/Sri%20Lanka/2020/July/01/speech-_sfr.pdf

10. The Sri Lankan government must take proactive measures to protect freedom of the press by enacting legislation that establishes strong self-regulation mechanisms for the media, as well as an independent self-regulation institution, to address breaches of media ethics and safeguard against censorship, in compliance with Article 19 of the ICCPR.
11. The Sri Lankan government must take action to implement an alternative voting mechanism to ensure that citizens living abroad have the right to vote, in accordance with Article 25 of the ICCPR. This measure is necessary to ensure that all Sri Lankan citizens, regardless of location, are able to exercise their right to participate in the political process.