

## REPORT - 01 (31 DECEMBER 2009)

### A. Introduction

The abuse of public resources at elections seems to be a continuing activity in every election in Sri Lanka. The Program for Protection of Public Resources (PPPR) in its reports in 2004 and 2005 pointed out the manner in which these activities have taken place and their outcome. The trend seems even more ominous at the current Presidential Election.

It is extremely important that the public resists the use of public resources for election purposes because it is the public who bears the cost of abuse of public resources. The elected representatives are only the caretakers of public property which is at all times to be used for the benefits of the public. Just as the public condemn rape or murder, they ought to condemn and call upon law enforcement authorities to deal with those powerful persons who abuse public finance for personal gain at elections.

The Programme for the Protection of Public Resources of Transparency International Sri Lanka (TISL), evaluates the integrity of the Presidential Election 2010 in the light of the misuse of public resources/property and non compliance with the directions/guidelines introduced by the Elections Commissioner in that regard.

### The Political Environment in which the Election is Held

The Presidential Election due in 2012 was advanced to 2010 by the President as per the powers vested with him. This election was called at a historically important period, in which the government defeated the LTTE ending a bloodiest civil war prevailed more than 25 years.

The election is contested in an environment where 110 MPs are holding ministerial portfolios. Even after the nominations for the election, the President appointed another crossed over MP as a cabinet Minister. In addition to the Ministries and Departments, there are 168 State Corporations and Statutory Boards along with 93 companies with total control by the government. Directors of these public corporations are appointed by the Ministers and there is hardly any doubt that chairmen and directors of these corporations are appointed on political affiliations rather than on merit. The state owned companies are not subject to the government audit by the Auditor General's Department and thus not reviewable by any of the finance committees in Parliament.

The 17<sup>th</sup> Amendment to the Constitution that guarantees an independent public service ceased to exist two years ago. Since then all major positions are being filled circumventing the required screening

process by the Constitutional Council. The Election Commission which is envisaged to be established under the 17<sup>th</sup> Amendment was never formed despite the fact that the present Elections Commissioner has passed his age of retirement. As a result, the Elections Commissioner is tasked to discharge all the duties and responsibilities to conduct free and fair elections. Thus the accountability and the responsibilities of a whole commission are now vested with a single person with limited resources.

Sri Lanka has no right to information law to demand information from the state about its conduct. This prevents a transparent election process where the conduct and expenditure of public officers, institutions and political parties during the time of an election are prevented from the scrutiny of the public eye. Thus the legitimate right of the tax payer to know how their money is spent is veiled with a culture of secrecy.

## **B. Election Commissioner's Guidelines & Instructions**

As per the powers vested with him, the Commissioner of Election issued guidelines/directions/notices with the objective of ensuring a free and fair Presidential election. For example

- Directions were issued on 08.12.2009 to all Secretaries of the Ministries, State Departments, Corporations and Statutory Bodies to prevent the abuse of public resources during election time. Among others these directions include nullification and prohibition of any appointments, transfers and promotions of employees done or intended to be done on or after the 23.11.2009. These directions were publicly announced by publishing in national newspapers on 14.12.2009.
- A set of guidelines was issued by the Commissioner on 17.12.2009 to the electronic and print media to be observed in broadcasting, telecasting and publishing of matters relating to the Presidential Election.
- A guideline dated 07.12.2009 was issued to the Police Department regarding their duties in relation to the election

Although the objectives of these guidelines/directions/notices aimed at a free and fair election it is unfortunate to note these were observed in breach than conformity. The specific abuses highlighted in this report identify such non-conformities.

## **C. The Cost of Propaganda**

It is evident that large sums of rupees are invested by the main candidates for their campaigns in the election resulting competing at election a high cost affair. For example a 4 colour poster (medium size) approximately costs between Rs.08 to Rs.12 for a quantity over 100,000 in the initial print. A cost of a 20X20 feet hoarding to be exhibited in Colombo city limits would cost around Rs.300,000/- and a larger

hoarding would cost approximately Rs.500,000/-. At present it is not scarce to see hoardings carrying political messages in almost all major junctions in many towns and villages in the country.

It is legitimate and legally accepted norm that such expenses to be borne by the candidates themselves or their political parties/independent group. Under no circumstances it is permitted to use public resources consisted of monies of the tax payers in the country for individual or political party propaganda.

The high cost of involved in election campaigns is a contributory factor for using public property by candidates who have controlled over them. Despite being immoral and illegal, abuse of public property in any circumstances is unaffordable to a developing country like Sri Lanka where burdens may have to be carried by sectors such as education, health or public transport.

Given the huge sums involved in election propaganda, TISL urge the need of political parties disclosing the sources of their funding. Unfortunately, unlike many democratic countries, Sri Lanka does not have law compelling political parties to disclose their funding together with the source.

## **D. Specific Instances of Abuses**

By 30<sup>th</sup> December 2009, the Programme for the Protection of Public Resources of TISL has received more than eighty (80) complaints from the public and its investigators about various abuses of public property and election laws/guidelines by the candidates.

Thus far relevant verified instances are mentioned below:

### **01. Temple Trees**

Facilities at Temple Trees, the official residence of the President, are used to entertain people from various sectors for political purposes. At these events, most of the participants were transported to the venue at State expense and were provided with food and in some instances, even with liquor. The President justified such entertainment events where the cost was borne with the public money as a “normal cultural practice.”

Spending public resources for entertainment purposes and to promote candidacy of a party candidate, especially during the time of elections is clearly an unacceptable practice. During the Presidential Election in 2005, facilities at Temple Trees were abused for political propaganda activities by the then Prime Minister (the present President) and the expenditure incurred in those gatherings were never recovered by the State.

Given below are some of the groups entertained at political treats at Temple Trees in December 2009:

7th - Recipients of Swarnabhoomi deeds

8 th - Mediation Board officers

10th – Children of Samurdhi beneficiary families

10th - Officers of the Education Sector  
11th – Members of Women Lawyers’ Association  
13th - Lawyers  
13th - Police officers  
14th – Artists  
15th - Dairy farmers

(The President also conducted a series of similar gatherings at the President’s House in Kandy, details of which will be given in future reports)

These gatherings are a violation of the essence of the public notice issued by the Election Commissioner on 08.12.2009 preventing the use of public property for the purpose of promoting a candidate during the election.

## **02. Public Buildings and Machinery**

- A property belonging to the Ports Authority situated at 56/1 Mc-Callum Road, Colombo 10 is being used to print propaganda material in favor of the President. The said posters are seen in Colombo city and other parts of the country.
- A large stage to be the property of Sri Lanka Ports Authority was transported to Minuwangoda and used for the public rally on 27.12.2009, patronized by the President. Several employees from the Ports Authority and two vehicles registered as Ports Authority vehicles (registered numbers: 41 – 3995 and GJ – 2312) were discharged for this purpose.

## **03. Misuse of Vehicles**

Vehicles belonging to various public institutions are reported to have been transporting supporters and used for propaganda across the country for the candidate of the UPFA. The vehicles of Sri Lanka Transport Board, different government ministries, departments and local government authorities were abused in this regard. Given below are few such instances:

- (a) Nine lorries bearing the numbers WP-LG 4738, WP-LG 4740, WP-LG 4741, WP-LG 4742, WP-LG 4744, WP-LG 4745, WP-LG 4546, WP-LG 4547, WP-LG 4749 of Sri Lanka Ports Authority (purchased in 2009) are being released for election work of the UPFA in the Southern Province
- (b) A fatal accident that took place at Koppara junction in Negombo on the night of 12.12.2009 involving a lorry bearing number LG-4608 belonging to the Ministry of Road Development and a double cab bearing no. NB 7414 belonging to the Chief Secretary of the Eastern Province. It was revealed that the lorry was transporting several cut-outs of the President at the time of the accident.

## **04. Use of Central Transport Board (CTB) Busses**

There is almost a pattern of using CTB buses to transport crowds for meetings attended by President Rajapaksa. Three such instances are given below:

- (a) The meeting of the UPFA on 27-12-2009, at Minuwangoda (Japalawatta) - Around 26 CTB busses were used to transport crowds free of charge from Nittambuwa, Attanagalla, Mattakuuliya, Udahamulla, Angoda, Wattegama and Teldeniya.
- (b) The meeting held on 26-12-2009 in Alankuda Grounds in Kalpitiya - The Internally Displaced Persons (IDPs), previously displaced from Jaffna and now living in Mannar, were transported by CTB busses free of charge.
- (c) Crowds for several meetings in Temple Trees were brought in CTB buses. On 13.12.2009 a large number of CTB buses were used to transport police officers from outstations (in addition to police vehicles) to the temple trees.

#### **05. Use of Sri Lanka Air Force (SLAF) Helicopters**

On 24-12-2009, a SLAF helicopter carried Ministers Dallas Alahapperuma & Anura Priyadharshana Yapa, Member of Parliament Wimal Weerawansa and Western Provincial Council Minister Udaya Gammanpila to Kandy where they participated in a public meeting attended by Technical College Staff, Women's Organisations and University Employees.

These acts violate the regulation of the Commissioner of Election issued on 08.12.2009 which prohibits the use of government motor vehicles and helicopters/aircrafts for the benefit of a candidate of the election.

#### **06. Misuse of public officials and other public servants for political work**

There are reports that many public officials from ministries and public corporations engaged in political party activities. Under the Establishments Code, Chapter XXXII, members of Armed Forces, Police, State Officers and Supervisory Officers etc. are prohibited from engaging in political activities, except to vote at an election. The Elections Commissioner, acting under the 17<sup>th</sup> Amendment to the Constitution has also prohibited usage of public officials/employees in political party activities pending an election. We give below some clear abuses in this regard:

- (a) 71 security officers attached to the Ports Authority in Colombo were released for election work in the Southern Province in November 2009.
- (b) Chairman of Airport and Aviation Service Ltd. had verbally ordered middle and minor grade employees of the Airport to go on duty leave to Colombo on 23-12-2009 to participate in a protest rally against a statement made by the common candidate of the opposition
- (c) Several serving diplomats and officers of Foreign Service (appointed by the government outside the professional Sri Lanka Foreign Service. However the provisions of the establishment code is applicable to these officers during the tenure of their office) have returned to the country for campaign activities, while still being serving in their posts. One such instance is: Mr. Chandrapala Liyanage who is the second secretary to the consulate in Italy is presently in Sri Lanka and actively engaged in the campaign of the UPFA candidate.

- (e) The Secretary to the Ministry of Defence, a key public servant of the present government, is actively engaged in political campaign for the UPFA candidate. For example he has addressed a political meeting on 19<sup>th</sup> December 2009 at a rally in Urapola, Kadugannawa. Among the other speakers were politicians.

## **07. Information Ministry facilities for the political programme titled 'Esi Disi'**

Facilities of the Information Department head office at the Narahenpita is being used for pro-UPFA public discussions/panel discussions attended by professionals, senior public officials and selected individuals with UPFA affiliations. The programme named "Esi Desi" has been introduced to discuss issues having a direct impact on elections. This programme is operating under the patronage of the Director Information where the entire cost of the programme is borne by the Information Department.

## **08. State Media**

Some of the key officials of few public media institutions are concurrently holding political party positions of the Sri Lanka Freedom Party, the leading constituent party of the UPFA. This results in considerable amount of public resources in those institutions being used for promotion of one candidate and the policies of UPFA. These officials include:

- (a) Hudsun Samarasinghe – Chairman of the Sri Lanka Broadcasting Corporation who is the organizer for Colombo West of Sri Lanka Freedom Party (SLFP). He anchors a number of TV/radio programmes which clearly support the candidate of the UPFA.
- (b) Sudharman Radaliyagoda – Deputy General Manager of the Independent Television Network (ITN) is the SLFP organizer for Kurunegala District. He anchors few TV programmes based on contemporary political issues which are clearly tilted towards the candidate of the UPFA.
- (c) Karunaratne Paranawithana – Chief Executive Officer of the Sri Lanka Rupawahini Corporation (SLRC) is a SLFP organizer for Ratnapura district.
- (d) Lalith de Silva – Reviewer of newspapers for ITN is a SLFP organizer for Colombo district.

Continuation of office of these individuals is a blatant violation of regulations issued by the Commissioner of Election on 17<sup>th</sup> December 2009 for the Electronic and Print Media. Particularly the regulation 15 states:

"If an individual (employee or any member of the board of the broadcasting or telecasting and newspaper institution) publicly identified holding an office in a political party, such person should withdraw from journalistic functions until the election is concluded and shall not be permitted to engage in any journalistic function at any broadcasting or telecasting institutions. The management must consider the implications for individuals involved in presentations and who are or might become known to the public."

Further, the regulation 20 states:

“The attention of the Chairpersons of the Sri Lanka Broadcasting Corporation and Sri Lanka Rupavahini Corporation is drawn to Article 154B(b) of the Constitution, which requires them to take all steps necessary to ensure compliance with these regulations.”

#### **09. *Tharunyata Hetak* Advertisements**

This youth organisation is reportedly receiving high contributions (by way of sponsorships) from several public institutions such as Bank of Ceylon and National Lotteries Board, both of which fall under the purview of the President. The key officials of this youth organization are the President’s sons Namal Rajapakse (chairman) and Yoshitha Rajapakse (vice chairman). A series of advertisements are carried out by this organization through radio and TV highlighting the need of a strong leader for the country. Although the advertisements do not mention a name of a candidate, it is not a secret or difficult to understand, for whom they stand for, given the direct political affiliation of this organization with the President and his regime and the content of the advertisements. The following data presents the number of spots retained by *Tharunyata Hetak* in the main stream TV channels and the cost involved:

**Number of Spots for advertisements by TV Channels  
between 1<sup>st</sup> to 21<sup>st</sup> December 2009**

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	<b>No. of Spots</b>
Channel EYE	501
Derana TV	305
ITN	908
Rupavahini	1285
SIRASA TV	301
Swarnavahini	254
<b>Total spots -</b>	<b>3554</b>

Total cost of the advertisements during this period, based on regular disclosed rate cards of the channels, amount to Rs.**84, 027,600/-**. We have observed that another amount of Rs.**5, 842,000/-** has been spent on radio advertisements. We note that the cost of political commercial is more than the normal rates disclosed in the rate cards. Further there is an additional cost of production, which is not ascertainable at present.

This raises the need to have a transparent political party funding in the country in addition to preventing electioneering at public expenditure.

## **10. Hoardings and Advertisements sponsored by Public Institutions**

A large number of hoardings and advertisement sponsored by public institutions are displayed at various places in the country and published in newspapers supporting the President and his election messages. Below mentioned a few examples in this regard:

Display of Hoardings -

- (i) Hoarding displayed at Nugegoda sponsored by the State Trading Corporation
- (ii) Hoarding displayed in town hall sponsored by the Presidential Secretariat
- (iii) Hoarding displayed in Thimbirigasyaya sponsored by Presidential Operational Office
- (iv) Hoarding displayed in Matara sponsored by Sothern Development Authority
- (v) Hoarding displayed in Matara sponsored by Ruhunu Radio

Advertisements Published:

- (i) Advertisement published in Ravaya on 20.12.2009 sponsored by Board of Investment (BOI), Sri Lanka.
- (ii) Advertisement published in Lankadeepa (Sunday Edition) 28.12.2009 sponsored by the Ministry of Tourism
- (iii) Advertisement published in Divaina on 29.12.2009 sponsored by Urban Development Authority and the Ministry of Urban Development and Scared Area Development
- (iv) Advertisement published in Dinamina 29.12.2009 sponsored by Lanka Sathosa.

These are only few examples where tax payer's money is used for the campaign of a single candidate of the election.

## **E. Specific Examples for the violation of the guidelines/regulations of the commissioner of Elections**

- (a) On 23-12-2009, Senior Supt. of Police in charge of Hambantota Division (Chandra Kumara) had, at a conference attended by officers in charge of Police stations in the District, said that no one should be permitted to remove, destroy or deface any cutouts of HE the President and that OICs will be held answerable for any incidents in this connection.

This is a blatant disregard of the guidelines issued by the Commissioner of Election to the Inspector General of Police to dismantle and remove illegal cutouts, banners posters etc.

- (b) 650 people have been recruited from Matara District for the Railway Department as temporary labourers. The letters of appointment were issued after the Presidential Election was announced on 23<sup>rd</sup> of November 2009 but they were intentionally backdated to 17<sup>th</sup> November 2009 to circumvent the direction of the Commissioner of Election which prohibits any appointment to the government service after the 23<sup>rd</sup> November 2009.
- (c) The hoardings, cutouts and other election related materials continue to be displayed in public places irrespective of the guidelines to the IGP by the Commissioner of Election to remove such materials.

## **F. Conclusion**

The width and depth of abuses of state resources can be easily ascertainable from the above instances. What is of more concern is its impact on the integrity of the electoral process and the candidates who supposedly stand in election stages to safeguards the property and the rights of the people. Therefore, TISL urges the public to raise their voices against the continuation of these abuses.

Transparency International Sri Lanka:

For any further clarification please contact Mr. J C Weliamuna (0777 351208), the Executive Director of TISL.

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