

# ELECTORAL INTEGRITY

A REVIEW OF THE ABUSE OF STATE RESOURCES AND SELECTED  
INTEGRITY ISSUES DURING 2013 PROVINCIAL COUNCIL ELECTION IN SRI LANKA





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## **Acknowledgment**

Transparency International Sri Lanka wishes to congratulate the Commissioner of Elections and his team of officials for successful conclusion of the provincial council elections of the North, Central and North-Western provinces. We acknowledge with gratitude their cooperation and guidance the TISL team has received in handling the complaints of abuses against public property during the election period.

Further, our thanks go to all the public officials, the state institutions and the public for their cooperation and assistance extended to us in monitoring the abuse of public property for election work.

We also place on record our sincere appreciation of the financial support TISL received from the Embassy of Switzerland, TIS ALAC project and the Government of Norway to make this project a success.

Media assisted us with encouragement in a big way giving wide publicity to our news releases on abuses of public property during the election period. We thank all the media persons and institutions for their support and brave work.

# Abbreviations

<b>CHOGM</b>	:	Commonwealth Heads of Government Meeting
<b>CP</b>	:	Central Province
<b>CWC</b>	:	Ceylon Worker's Congress
<b>JVP</b>	:	Janatha Vimukthi Peramuna
<b>LLRC</b>	:	Lessons Learnt and Reconciliation Commission
<b>NP</b>	:	Northern Province
<b>NWP</b>	:	North Western Province
<b>OIC</b>	:	Officer In Charge
<b>PPPR</b>	:	Program for the Protection of Public Resources
<b>SLAF</b>	:	Sri Lanka Air Force
<b>SLTB</b>	:	Sri Lanka Transportation Board
<b>TISL</b>	:	Transparency International Sri Lanka
<b>TNA</b>	:	Tamil National Alliance
<b>UNP</b>	:	United National Party
<b>UPFA</b>	:	United People's Freedom Alliance

## **Preface**

The Programme for Protection of Public Resources (PPPR) of Transparency International Sri Lanka (TISL), the Sri Lankan chapter of the global movement against corruption, monitored the abuse of public resources during the 2013 Provincial Council Elections held in the Central, North Western and Northern Provinces. Though a local level election the context in which this election was held gave it national level significance due to the presence of the Northern Province.

TISL as an independent non government organization working towards curbing corruption in Sri Lanka, is mandated to monitor the abuse of public resources which are maintained by tax revenue collected from the people of Sri Lanka. The practice of using public resources during elections in Sri Lanka has resulted in the massive loss of revenue, wastage of public funds and property. TISL conducted similar programmes during the General Elections in 2001, 2004 & 2010 and the Presidential Elections in 2005 & 2010. This is the first occasion that a local level election was monitored by TISL.

The main objective of the 2013 PPPR was to monitor and document the misuse of public resources and election malpractices in the three Provinces and report vital information to the Commissioner of Elections to assist him in conducting a free and fair election. The PPPR identified the instances of abuse and systemic issues which aided such abuses and disseminated the information in a timely manner to create public awareness which served as a strategy to reduce the abuse of public resources during election.

The electoral process is a fundamental element of any democracy and it is the duty of all the officials involved in the election to ensure its credibility and integrity. TISL strongly believe that all officials engaged in election duty are committed towards maintaining the integrity of the elections despite political pressure and intimidation against those who attempt to prevent election malpractices and misuse of public resources.

TISL monitored the misuse of public resources pertaining to the 2013 Provincial Council Elections from 1st August to 20th September 2013. During this period the program issued two interim reports, 14 media releases and held two press conferences to create awareness. The program also submitted an incident report to the Commissioner of Elections every 48 hours. The timely reports enabled the Commissioner to take a number of positive steps to curb the misuse of State resources.



Parallel to this programme, TISL's 'Shelter for Integrity', a center which provides free legal support to victims and witnesses of corruption (known globally as the an Advocacy and Legal Advice Center), came forward to offer free legal assistance to public officials and citizens willing to stand against election malpractices and ensure electoral integrity during the Provincial Council Elections. The Shelter for Integrity was also ready to assist voters to seek either legal or administrative redress against any election related grievances.

The Programme for Protection of Public Resources was conducted in partnership with local networks and national level election monitoring bodies such as PAFFREL, CMEV and CAFE. More than 360 monitors trained to submit regular reports on the misuse of public resources with evidence. Apart from these networks the Coalition against Corruption comprising of leading trade unions in the country, and the network of Investigative Journalists, both of which were initiated and developed by TISL, were an integral part of the monitoring process. There was an understanding with Lawyers for Democracy to obtain the services of their lawyers' network for citizens who needed legal assistance.

## Introduction

Transparency International Sri Lanka (TISL), the leading organization exclusively focusing on corruption and governance related issues in Sri Lanka, engaged in monitoring the misuse of public resources for election campaigning purposes during the recently concluded Provincial Council Elections held in the North Western, Central and Northern Provinces. This was the first occasion that TISL monitored a local level election even though it has been actively involved in election monitoring (General & Presidential) since 2001.

The abuse of public resources during elections is monitored by TISL's Program for the Protection of Public Resources (PPPR). TISL has a vast amount of experience and expertise in this field and is the only civil society organization and non-State election monitoring body that monitors this aspect of electoral malpractices. The primary objective of the PPPR is to monitor, document and report the misuse of public resources and election malpractices to the relevant authorities and institutions. By exposing such malpractices TISL aims reduce public wastage, create a fair playing field for all electoral candidates and enable the public to make more informed decisions based on the integrity of candidates.

All Public Resources belong to the people who are direct stakeholders of every public resource purchased and/or maintained by public finance collected through taxes, foreign sources of financial aid and expatriate remittances. Public money is strictly expected to be used for the good and interest of the public without exceptions and is strictly prohibited for the use of any political party and/or the authority whom the public has vested the trust of using such money on their behalf. The government in power is accountable towards the general public in the use of such collected money and received remittances and the use of public property.

In Sri Lanka, the abuse of public resources has become the norm during the time of elections rather than an offence. That is why TISL decided to strengthen the Program for the Protection of Public Resources during the 2013 Provincial Council Elections by supplementing it with the services provided by the Shelter for Integrity - a center which is mandated to protect the rights of citizens from blatant abuse of power, malpractice and corruption. It came forward to provide free legal assistance to public officials engaged in election monitoring duties in order to encourage them to take action, unafraid, against the misuse of public resources. The Center which publicized its services through print media, created public awareness of the negative impact of the misuse of public resources and

encouraged citizens to contact the Center and report cases of misuse and other forms of election malpractices.

The context in which the 2013 Provincial Council Elections were held also increased its significance greatly. The Lessons Learnt and Reconciliation Commission (LLRC) established by the Government of Sri Lanka with the mandate “to look back at the conflict Sri Lanka suffered as well as to look ahead for an era of healing and peace building in the country” had already highlighted the importance of holding elections in the Northern Province. The elections held on 21st September 2013 were the first ever Provincial Council election held in the North since the establishment of the Provincial Council system introduced by the 13th Amendment to the Constitution and was viewed as a vital step towards peace and reconciliation in the island nation. The shadow of the then impending Commonwealth Heads of Government Meeting (CHOGM) and the international scrutiny the country was receiving as result, demanded for the highest standards of electoral integrity and transparency.

# Protecting Public Resources during Elections

## - The Legal Basis

Provincial Council elections are conducted according to the provisions provided mainly in the 1978 Constitution of Sri Lanka<sup>1</sup>, the Provincial Council Elections Act No. 2 of 1988, the Provincial Council Election (Amendment) Act No. 55 of 1988, the Provincial Council Election (Amendment) Act No. 29 of 1990, the Provincial Council Election (Amendment) Act No. 7 of 1993, the Provincial Council Election (Amendment) Act No. 5 of 2004, the Registration of Electors Act No 2 of 1981 and some provisions of Parliamentary Elections Act No 1 of 1981. Locus standi for the protection of public property in elections is vested with Article 104B (4) (a) of the 17th Amendment to the Constitution, according to which the Commissioner of Elections is vested with powers to prohibit the use of any movable or immovable property belonging to the State or any public corporation for election campaigning of candidates:

“The Commission shall have the power during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation-

- I. for the purpose of promoting or preventing the election of any candidate or any political party of independent group contesting at such election;
- II. by any candidate or any political party or any independent group contesting at such election,

by a direction in writing the Chairman of the Commission or of the Commissioner-General of Elections on the instruction of the Commission.”

Unlimited power vested with the Commissioner of Elections to prevent use of public property for election campaigning for or by any candidate, political party or independent group was limited by the 18th Amendment to the Constitution<sup>2</sup>. The amendment limited the Commissioner’s instruction not to be connected with any matter relating to the public service or any matter within the ambit of administration of the Public Service Commission or the Judicial Service Commission<sup>3</sup>.

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<sup>1</sup> It includes all the amendments have been made to the Constitution

<sup>2</sup> Overnight amendment introduced on 9th September 2010, as an urgent bill and without following due process of bringing amendments to the Constitution.

<sup>3</sup> Article 104B (4)(b) of the Constitution, Section 17 (1) b of the 18th Amendment

In addition to the power vested with the Commissioner of Elections, misappropriation or private use of public property has been established as a criminal offence under the Offences Against Public Property Act, No 12 of 1982. Section 12(b) of the Act says; “Any person who dishonestly misappropriates or converts to his own use any movable public property.... shall upon conviction be punished with imprisonment of either description for a term not less than one year but not exceeding twenty years...”However, no one has been tried under this provision by any party with regard to the use of public property for private election campaigning although main responsibility held with the Attorney General according to the Act.

The primary responsibility of protecting public property is vested with Secretaries to the Ministries. According to the Government’s Financial Regulation 156 (7) they should exercise due economy in all financial transactions and they should also entrust that expenditure should not be incurred unless absolutely necessary even though financial provisions exist or money is available. Similarly, FR 127 (7) states that all chief accounting officers are responsible for taking measures to ensure that the procedure laid down in FR 102 to 108 is followed in case of losses caused to government by delays, negligence, fault or fraud on the part of officers.

Public officers who are maintained by the state are also considered public resources and should be free from abuse. Further, Chapter XXXII of the Establishment Code prevents the public officials from participating in political meetings or activity connected with the campaign of any candidate or party except the right to exercise their franchise.

However, the misuse of public resources by a public servant would constitute the offence of ‘corruption’ under the Bribery (Amendment) Act. A public servant who abuses resources for the benefit of himself or another person and causes wrongful or unlawful loss commits the offence of Corruption under the Bribery (Amendment) Act No 20 of 1994. Section 70 of the Bribery (Amendment) Act No 20 of 1994 the term ‘corruption’ includes the abuse of public property.

While above all powers and accountabilities vested with Commissioner of Elections and respective government officers, people of Sri Lanka are also obliged protect public property as a fundamental duty of a citizen. Article 28(d) of the Constitution provides that “to preserve and protect public property and to combat misuse and waste of public property” is a duty of every person in Sri Lanka. Further, according to the Constitution, sovereignty which includes the power of government, fundamental rights and the franchise, is vested with the

people of Sri Lanka<sup>4</sup> and the organs of the government have only exercising power conferred by the people<sup>5</sup>. Jurisprudence emerging from the Supreme Court has interpreted these articles to mean that power is held in trust for the people<sup>6</sup>. This power envisages the power to control and use Public Resources on behalf of the people<sup>7</sup>. In Sri Lanka, the unfortunate pattern had been the use of public property during the time of an election by the party / parties or individuals in power for their campaigns. The adverse implications of such practices are best elucidated by Justice Mark Fernando in a judgement, in which he states as follows:

*“The use of State and Corporation resources (whether land, buildings, vehicles, equipment, funds or other facilities or human resources) directly or indirectly for the benefit of one political party or group, would constitute unequal treatment and political discrimination because thereby an advantage is conferred on one political party or group which is denied to its rivals.”*

The term “public property” is not defined in the Constitution. However, Offences against Public Property Act defines it as “the property of the Government, any department, statutory board, public corporation, bank, co-operative society or co-operative-union”. The Supreme Court of Sri Lanka which has constitutional power to interpret the Constitution has identified land, buildings, vehicle equipment, funds or other facilities or human resources owned by State or Corporations as public property in the *Hettiarachchi v. Mahaweli Authority* case<sup>8</sup>. TISL defines the term public resource as “any movable or immovable property in every description that are vested in and maintained by the State and used for the purposes of the State.” It was engaged in monitoring misuses of public property in this election as an initiative for ensuring transparency in democratic electoral process as well as increasing officials’ accountability of protection of public property.

Before the campaign period was started for the Provincial Council elections of Northern, North Western and Central Provinces, the Commissioner of Elections issued directives by Circular PCE/3013/-06 to prevent the misuse of public resources under powers vested with above mentioned Article 104B (4) (a) of the Constitution. According to these circulars the following moveable and immovable property have been identified as state resources that should be free from abuse:

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<sup>4</sup> Article 3, The Constitution of the Democratic Socialist Republic of Sri Lanka

<sup>5</sup> Article 4, *ibid*

<sup>6</sup> See *Bulankulama and Others v. Secretary, Ministry of Industrial Development and Others*, (2000) 3 SLR 243 and *Sugathapala Mendis v. Chandrika Bandaranaike and Others*, S.C (F/R) No. 352/2007

<sup>7</sup> *Ibid*.

<sup>8</sup> *Hettiarachchi v. Mahaweli Authority* (2000) 3 SLR 334, 342.

- i) All categories of vehicles including aircrafts and even assigned vehicles belonging to the state.
- ii) State buildings including state maintained buildings and state guest houses which cannot be used free of charge.
- iii) Facilities available for all public institutions and all Ministries.
- iv) Public Finance or public funds intended to be utilized for public purpose.
- v) Employees of all public institutions including statutory boards.
- vi) Personnel of the Armed Forces and Police.
- vii) State Media institutions.
- viii) Any other category of public resources.

Further, the Commissioner of Elections issued directives against the appointment, promotion and transfer of government employees during the election period. The Commissioner issued such directions under Article 104B (4) (a) of the Constitution, to prevent any appointment, promotion and transfer of government employees.

As an extension to that, the Commissioner, by his letter dated 16.07.2013 requested from all the Secretaries of ministries, commissions, provincial councils, local government institutions, departments and corporations to nominate an officer who responsible for vehicles belonging to the respective institutions. Further, the Commissioner by his letter dated 31.07.2013, circulated guidelines for media institutions according to the power vested him by Article 104B (5) (a) of the Constitution. But the powers of appointing a Competent Authority to take action against media institutions who violated the guidelines was removed by the 18th Amendment to the Constitution. For ensuring free and fairness of the elections and engagements of its stakeholders, the Commissioner issued a Code of Conduct for candidates as well as election observers.

The focus of the PPPR project was to monitor all these efforts by the Commissioner of Elections according to the power vested him to ensure free and fair elections on behalf of the citizens of Sri Lanka.

## TISL's Monitoring Framework

The main objective of PPPR was to monitor and document the misuse of public resources and election malpractices taking place in the three Provinces (NP, NWP & CNP) and report vital information to the Commissioner of Elections to help the conduct of a free and fair poll. TISL identified the instances of abuse and systemic issues which aided such abuses and disseminated the information in a move to create public awareness which could serve as a strategy to reduce the abuse of public resources during the election.

TISL adopted a citizen-centered monitoring methodology in the election. The 'Centre for Integrity' TISL's legal advice unit encouraged Public Officials to take action against the misuse of public resources and election malpractices and report them to the Commissioner. In the process if they were victimised, the Centre was ready to support them with legal assistance.

In order to achieve its objectives, the PPPR was engaged in a series of activities summarized below:

- a. A series of public advertisements were published in the print and electronic media in all three languages requesting public to extend their support to the objectives of the PPPR. (Annexure 1)
- b. A letter was sent to the Elections Commissioner informing him about TISL monitoring activities and required support at the electoral level in all three Provinces. (Annexure 2)
- c. Initial press conference was held on 21<sup>st</sup> August 2013 to publicise TISL election monitoring activities and strategies.
- d. Letters were sent to the Secretaries of Ministries requesting them to take all possible measures to prevent state resources belonging to each Ministry being misused during Election. (Annexure 3)
- e. Identified competent CBO leaders were appointed as field coordinators for each electorate. They were given the dual responsibility of collecting information and verifying information in the field. They were TISL's direct contact points.
- f. TISL established partnerships with local level networks and used them as sub-coordinators to assist the main field coordinators. More than 360 monitors were involved in the process to submit regular reports, with evidence, to TISL on the misuse of public resources. In addition, TISL-developed organisations like the Coalition against Corruption and the Network of Investigative Journalists were an integral part of the monitoring.



- g. Organised field visits by the TISL staff proved to be another effective mode of collecting information from the field. Using their experience, these teams collected even more valid information with evidence. Direct meetings they had with public officials and party representatives were very helpful in verifying the information.
- h. Information was collected through public complaints and the other election monitoring bodies (PAFFREL & CMEV) too. These complaints were verified through TISL's regional networks.
- i. Incidents of misuse of public resources were reported fortnightly to the Elections Commissioner for his prompt action.
- j. Incidents of misuse of public resources were released to the media, in order for to keep the public informed.
- k. Two situation Reports were issued covering all three Provinces during the election period.

# Misuse of Public Resources during 2013 Provincial Council Elections

## Nature of Issue by District

District	Use of Buildings	Use of Vehicles	Use of Personnel	Use of Welfare Programs	Use of Public Funds	Use of Media	Staff Appointments	Abuse of Authority	Other	Total
Jaffna	4	2	10	0	2	0	0	1	1	20
Kandy	9	9	0	1	1	0	0	1	0	21
Kilinochchi	5	4	5	0	0	0	0	2	0	16
Kurunegala	6	22	13	2	4	0	0	2	0	49
Mannar	3	0	0	0	0	0	0	0	0	3
Matale	3	7	3	1	3	0	0	1	1	19
Mulaitivu	0	1	1	0	0	0	0	0	0	2
NuwaraEliya	5	4	4	1	0	0	0	1	1	16
Puttalam	10	5	3	0	0	0	0	5	1	24
Vauniya	1	2	3		0	0	0	0	0	6
<b>Total</b>	<b>46</b>	<b>56</b>	<b>42</b>	<b>5</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>176</b>

**\*Above is the number of incidents reported.**

PPPR received 176 complaints regarding the abuse of state property during the period of 02nd August to 21st September 2013. Over 75% of these were from the North Western and Central Provinces and more than 95% of the complaints were verified either through field visits to the specific locations or through the assistance of TISL's team of election observers based in the electorates. All verified cases were directed to the Commissioner of Elections on a fortnightly basis for necessary action.

The reported cases of abuse could be broadly categorized into five:

- i) the misuse of State owned vehicles,
- ii) the use of public officials for electioneering,
- iii) the misuse of State owned property and public spaces,
- iv) the irregular use of public funds, and
- v) the use of development programs.

During the election period TISL issued two interim reports highlighting key incidents under each of these categories. Below is a more in-depth analysis of the abuse which took place with an analysis of its implication on the overall governance landscape.

## • The Misuse of State Owned Vehicles

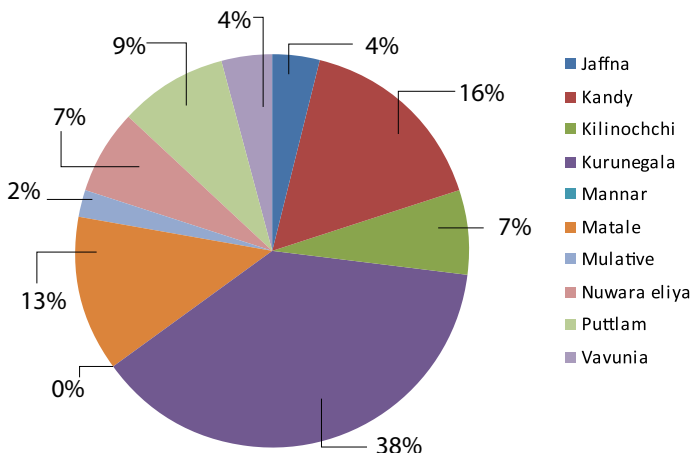
Vehicles belonging to State institutions were reported to have been used for election campaigning. PPPR received 56 complaints relating to the misuse of state vehicles from the three provinces. It was reported that more than 384 SLTB buses were used to transport supporters for a UPFA rally which was presided over by the President in Talawakelle in the NuwaraEliya district on 15th September 2013. A Central Province SLTB official confirmed that the buses were used in large numbers for the rally claiming that an office-bearer of the Ceylon Workers Union (CWC) paid 2.8 million Rupees for the service. However, he failed to produce proof of such a payment upon a request made by TISL. Meanwhile, state buses were used in numbers during the rallies held in Jaffna, Killinochchi, Puttalam, Kurunagala, Chilaw, Kandy, Vavuniya and Mannar. The President presided in all these rallies.

State transportation was at a stand still in these areas when rallies were held causing severe hardship to the public.



**Hundreds of buses were used by ruling party candidates.**

## Use of Public Vehicles



Past Records show that SLTB buses are frequently used to transport supporters to ruling party rallies which are presided over by the President. It was recorded that over one thousand buses were used to transport supporters during the two Presidential and Parliamentary elections in 2010 causing much inconvenience to commuters. According to the available statistics, around 20% of the roadworthy buses were used for the 2010 election propaganda and political party activities. Although this was highlighted in the previous PPPR reports, the practice continued during this election too. In comparison to the 2010 elections, the use of public buses was less frequent this year.

The use of SLTB buses are often justified by politicians by stating that the buses were rented after making the due payments to the relevant bus depot. However PPPR opposes this practice as hiring a large number of buses at any given time paralyses the transport service of the given locality. PPPR observed many occasions, especially in the upcountry estate sector and rural areas, public being stranded due to the absence of buses. They were forced to walk for long distances to reach their destinations.

The lack of public transport on the day of the election in the Vauniya and Jaffna districts was also observed by PPPR field coordinators. The voters had to cover long distance by foot to cast their vote.

There is evidence to prove that during the period commencing from 02nd August till 21st September 2013 more than 300 vehicles belonging to Ministries, departments and other institutions have been used for election propaganda work. This is mainly because of the active involvement of almost all the Ministers in the election campaigns.

The PPPR team brought several issues relating to the misuse of public vehicles before the Commissioner of Elections. The team also informed the Commissioner of many instances of vehicles belonging to Ministries both under the central provincial governments and other state institutions being used for election propaganda work and provided photographic evidences to back up the claims.

In one instance PPPR revealed that in the NWP alone around 70 government vehicles were being used for political propaganda work. Among them were vans, jeeps, cabs, lorries and motor cars belonging to state institutions including corporations. What is noteworthy is that all these vehicles were utilized during a 72 hour period. (from 18th to 20th August).

Although official vehicles have to be returned by former Provincial Council Ministers, some of them continued to use them. These were being used by supporters to transport campaign personnel, paste disseminate posters, install cutouts, distribute leaflets and other publicity material. It was also observed that some of these vehicles were noticed that some vehicles were not carrying number plates.

Most of the government vehicles used for electioneering belonged to State institutions functioning under the Prime Minister's Office, and the Ministries of Private Transport, Cooperative and Internal Trade, Animal Husbandry & Rural Industries, Buddha Sasana and Education.

It was also observed that vehicles of the National Livestock Development Board were being used to distribute food parcels at the propaganda meetings in the Nuwara Eliya District.

Acting on the complaints made by PPPR, the Commissioner ordered the higher officials and the police to take immediate action to prevent the use of state vehicles. However, the Ministers and their staff turned a deaf ear to the order and continued to use the vehicles given to them at the expense of the State.

One notable observation was the use of vehicles belonging to Northern Province Local Government authorities by the Tamil National Alliance (TNA) candidates. PPPR obtained photographic evidence thus confirming that the abuse of state vehicles was not only done by the ruling party but by other parties as well.



**There is evidence to prove that during election period more than 300 vehicles belong to various government institutions have been used for election propaganda work.**

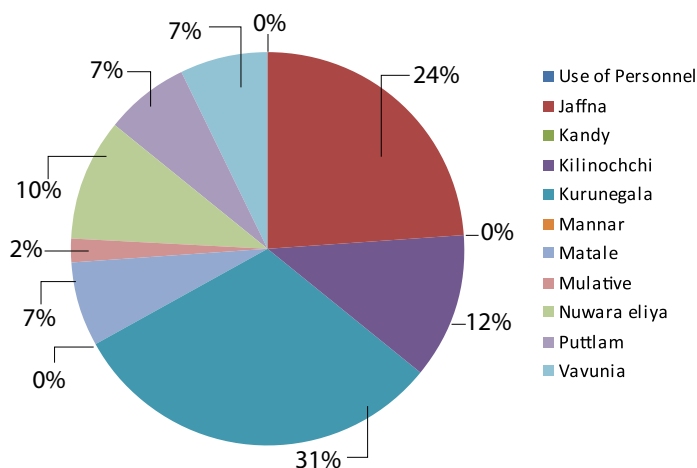
### ■ Use of Air Force Helicopters

The PPPR received three complaints regarding the misuse of air crafts belonging to the Sri Lanka Air Force (SLAF) via Heli Tours ( a newly formed company) to transport prominent members of the Government to election campaign areas. The helicopters were used to travel to Jaffna, Anuradhapura and Hatton. These complaints were verified, but SLAF authorities did not confirm whether the air passage was paid for by the passengers. During the Presidential and Parliamentary elections 2010, the PPPR recorded and confirmed similar complaints which were reported duly to the Commissioner of Elections.

### • The use of public officials for electioneering

Over 1,500 public officials and other staff were used by candidates contesting the Provincial Council Elections, either directly or indirectly, for election propaganda work from the time of the nominations were accepted till the conclusion of the election. TISL received 43 complaints of such misuse.

## Use of Government Officials



In the guise of being called up for a meeting or a seminar, public officials were used for propaganda campaign work directly. Most of these officials were attached to the Samurdhi Authority, Road Passenger Transport Authority, National Live stock Development Board, Co-operative Wholesale Establishment and the Department of Education.

Around 250 officers and other employees from the Cultural Triangle offices in Kandy, Dambulla, Sigiriya and Polonnaruwa were brought to Kurunegala and Yapahuwa for four days from 4th September 2013. The party comprising officers, employees and security personnel were transported to the North Western Province in cabs and buses. They were busy pasting posters, distributing leaflets and doing house to house canvassing in Yapahuwa, Polpitigama, Nikaweratiya, Maho and Maeliya in support of the UPFA candidates. They were brought on the pretext of participating in a *shramadana* campaign at a Cultural Triangle site. The 'Shelter for Integrity', the legal advice arm of TISL also filed a complaint with the Human Rights Commission (HRC), which is currently pursuing the complaint.

Eighty five Samurdhi Officers and graduates were invited to an election meeting of NWP candidate Yohan Fernando held at Panduvasnuwara on 28th August 2013. They had been given official leave on the basis that they were attending a Deyata Kirula programme. Election Department officials had later cancelled the meeting.

Instances of gross violation of laws by public officials relating to the use of the public property in the Northern Province were reported to the Elections Commissioner with documentary proof including photographs.

Among them was an incident of the Governor of the Northern Province, Major General G. A. Chandrasiri taking part in election propaganda work. He addressed an election meeting in support of the UPFA candidate held at a community hall in Puttur in the Kopay electoral district on 7th September 2013.

The PPPR team was the first to expose the involvement of the Governor of the Northern Province in electioneering for the UPFA candidates in Jaffna. This was proved supported with photographic evidence. After the incidence was exposed, the Elections Commissioner issued a statement denouncing the Governor's action and urging him not to get involved thereafter.

The Assistant Director of Education attached to Hatton Education Office addressed an election rally on 8th August 2013 and he continued to do so for the rest of the campaigning period.



**Senior public officials were seen directly involved in election propaganda work.**

On 6th September 2013, a meeting of government trade union representatives had been held at the cultural centre belonging to the Vavuniya Urban Council where five UPFA candidates had addressed Samurdhi officers, and staff members of Highways Development Authority, Irrigation Department, SLTB, Sri Lanka Petroleum Corporation and the Ministerial Security Division. They had been



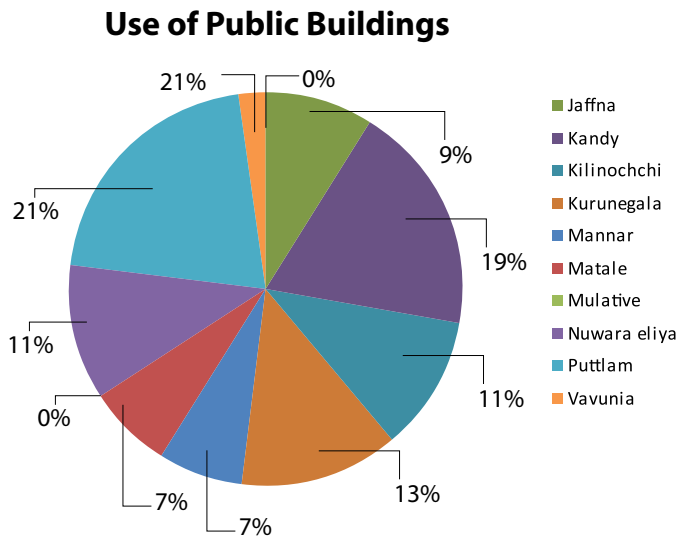
granted official leave for the meeting where nearly 500 officials had participated. Meanwhile, the leader of a prominent constituent party of the UPFA had ordered that all OICs of police stations should attend the election propaganda meetings held in the NuwaraEliya District. While their presence was compulsory, it also included the large number of police jeeps accompanied them.

The law prohibits state employees from being used in electioneering to ensure that the public service is not affected during elections and to ensure that officials perform their functions independent of political influence. The use of state employees for electioneering is a serious violation of election law and other laws governing the public service.

The large scale use of public officials for electioneering was reported during the Presidential and Parliamentary Elections in 2010 as well. The PPPR observed an upward trend during the Provincial Elections despite strict instructions issued by the Commissioner of Elections through the Circular dated 13th July 2013.

**• Misuse of State owned property and public spaces**

Since 2001, the PPPR has been reporting the misuse of public spaces such as bus depots, state owned buildings, and state owned bungalows for election purposes. During the Provincial Council elections, the PPPR received 46 complaints in regard to the abuse and misuse of state owned spaces and buildings throughout the Northern, North-Western and Central Provinces. Although the election was held in three provinces, the number of complaints received on the misuse of



state property was almost similar to the average of complaints received during the Parliamentary and Presidential elections held in 2010 signifying the high level of abuse.

To quote a few examples:- in the Puttalam District - Madampe cooperative society premises was used to display cut-outs of UPFA candidates. Inside the Puttalam bus stand was an office of the Sri Lanka Freedom Party even though it is illegal to run a party office in State owned the premises. Although instructions were given to close the office it continued to function till the election day.



**The PPPR has recieved 46 complaints in regard to the abuse and misuse of state owned premises**

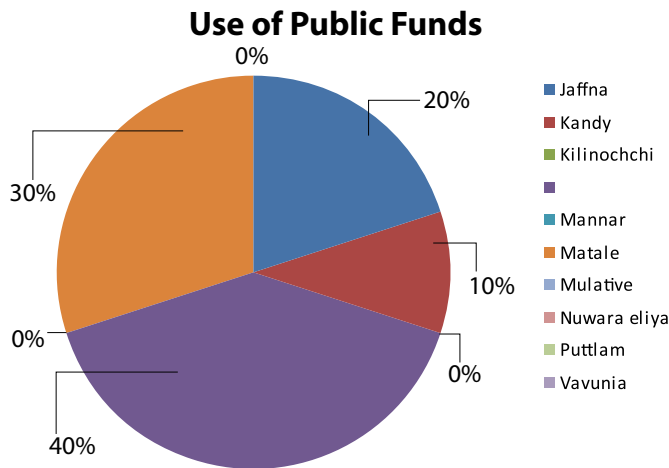
The Chilaw and Gampola bus stands were also used for propaganda work. In the NuwaraEliya District, a section of the Ragala cooperative society building was used by a UPFA candidate as a party office. An office of the UPFA candidate was set up in a building close to the Ginigathena town, belonging to the Ginigathena cooperative society. The Divisional Secretariat office at Udaaludeniya in Gampolawas used by three UPFA candidates for election propaganda work. A building belonging to the Puttalam Divisional Engineer's Office was used by a UPFA candidate as his office.

The PPPR informed the Commissioner of Elections of these violations and on his directive several government premises were sealed and were acquired temporarily by the Returning Officers of the districts.

**•Irregular use of Public Funds**

As per the Circular of the Commissioner of Elections, The direct use of public funds to give loans and financial assistance under welfare schemes was prohibited. However, The PPPR received 10 complaints relating to the misuse of public funds. The PPPR team was able to verify two instances where the Governor of the Northern Province had taken steps to engage in such activities.

- (i) The Governor had issued Circular PCE/2013-06 under which 206 families in the Northern Province were given Rs. 10,000/- each as loans.
- (ii) The Governor had issued distress loans to 409 state employees amounting to Rs. 47 million.

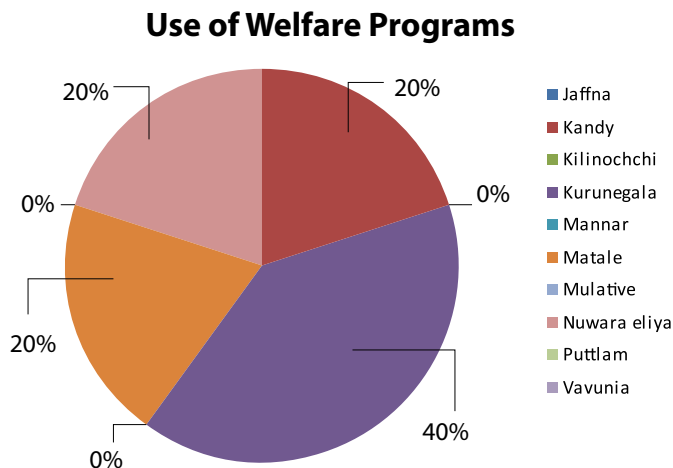


Several instances were observed where public funds were used to provide incentives to their supported by UPFA candidate. State funds were used by Food and Cooperative Minister, Johnston Fernando to open Lak Sathosa outlets in the Kurunegala district. Although this was done under the guise of helping consumers to buy products at reasonable prices, it was evident that the opening ceremonies and outlets were used for electioneering.

## •The Use of Development Programmes

It has now become a common phenomenon to use government development programs as a tool for election campaigning. The PPPR reported similar instances during the monitoring of the 2010 elections. The PPPR received 5 such complaints in this year's elections. According to the Circular PCE/2013/4B issued on 13 July 2013, the use of government development programmes and events relating to them as election propaganda is a prohibited practice. It also leads to multiple violations of election laws such as the use of public officials in electioneering and misuse of public resources.

The President also participated in many development programmes including the opening of the new railway station in Omanthai, and a water project in Killinochchi. These events were strategically organized in these localities to impress and influence voters towards the ruling party. Such activities are a gross violation of election regulations.



## • Election Financing

The PPPR has raised the issue of Election financing continuously because it is important to maintain the integrity of the electoral process in Sri Lanka. It is unofficially confirmed that large unaccounted sums of money change hands during elections in the guise of election financing for campaigns of political parties. Several pertinent questions can be put forward to the relevant authorities to ensure electoral integrity such as, Where do the candidates get their funds from? How much money do candidates get for campaigning purposes? How much is used in the election campaign?

In the United States, United Kingdom and some European Countries, election financing is rigorously monitored by the respective Election Commissions. There is a limit on the sum that each individual or company can contribute to an election campaign and records of such contributions are freely available for the public to access.

However, in Sri Lanka the practice is contrary to internationally accepted best practices. During the Presidential Election 2010, an attempt to gain the support of a particular Member of Parliament for financial gratification was exposed.

The PPPR observed activities involving high expenditure by the key candidates of the main political parties. The use of convoys of vehicles and welfare activities are key factors which indicate large scale funding for elections.

Out of 2479 candidates contesting the elections in the North Western and Central provinces, only 60% submitted their assets and liability declarations before the election day, according to the information received from the Election offices in five District Secretariats. Interestingly, all the candidates from the ruling United People's Freedom Alliance (UPFA), United National Party (UNP) and Janatha Vimukthi Peramuna (JVP) had submitted their assets and liability declarations before the election day.

## Conclusions and Recommendations

The upholding of integrity of elections in the Northern, North-Western and Central Provinces was paramount in view of the LLRC recommendations. These elections were declared at a time when the Police Department was under the Ministry of the Defence and the Elections Commissioner was being appointed directly by His Excellency the President. However, the manner in which the Elections Commissioner attempted to uphold integrity must be recognised despite systemic deficiencies. The PPPR would like to make the following recommendations while reiterating the recommendations made in its report in 2010.

- (a). All Provincial elections should be held on the same date in order to reduce excessive expenses incurred due to sporadic election schedules.
- (b). Public resources should not be used for election campaigning purposes with or without payments as it disrupts public life and creates an unfair advantage towards those with power and influence.
- (c). Introduce mechanisms to make all Heads of government institutions accountable for all movable and immovable public assets under the supervision of the Election Commissioner.
- (d). All public assets should be easily identifiable by the public. The official government logo should be visible on the body of all government vehicles with the exception of assigned vehicles. Rented vehicles should also carry the government logo for identification purposes.
- (e). All public assets allocated to Chief Ministers, Provincial Ministers and members of Provincial Councils to be handed over immediately after the dissolution of the Provincial Council.
- (f). Elected persons should not engage in political campaigns using public resources.
- (g). Public ceremonies highlighting the success of development programs should not be encouraged and attended by the Head of State during the campaigning period.
- (h). Public sector appointments, transfers and promotions should not be done without the permission of the Elections Commissioner.
- (i). Electioneering by public officials on duty should be made a punishable offence under the criminal law.
- (j). Strengthen the election law by incorporating regulations that make it mandatory for the Party Secretary or the leader(s) of the independent group(s) to declare campaign expenditure and sources of funding to

ensure the transparency of election financing. Introduce campaign expenditure ceiling based on the electorate and number of voters.

- (k). Amend the election law to make it mandatory to hand over assets and liability declarations of candidates on or before the handing over of nominations. Failure to comply should result in the rejection of the nomination. Any misrepresentation of the declaration should result in the disqualification of the candidate and/or seat if elected.
- (l). An Election Judge should be appointed to investigate into election violations and malpractices with special focus on the misuse of public resources. As for offences against public property, presently only the Attorney General can go to courts on the misuse of public resources. This should be revised to entertain private plaints.
  - i. Elections Commissioner should be vested with the power to recover the cost of abuse from errant candidates and other relevant parties immediately.
- (j). Election law to be amended to accommodate election monitors in the ballot counting process.
- (k). Promote the usage of transparent ballot boxes.



# Be alert

Have you realised that every rupee that is being misused is your tax money

Any political party, a candidate or any other person misusing public resources including –

- Government vehicles, aircraft & any other form of transport
- Employees of government institutions
- Government buildings and state funds
- Special loans and state bank facilities
- Allocation of time/ printing facilities in state sponsored media institutions -

Or any other Public Property

## Stand up


Is liable to be punished

### Against the misuse of Public Resources during elections

Inform us of any misuse of public resources that you notice, with proof

Programme for protection of Public Resources  
Transparency International Sri Lanka  
No.183/5, High Level Road Colombo 06

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Fax: 0112514588  
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**TRANSPARENCY INTERNATIONAL SRI LANKA**  
a nation that upholds integrity



## Annex ii



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Mr. Mahinda Deshapriya  
Commissioner of Elections  
Department of Elections,  
Rajagiriya

2013.08.01

Dear Sir,

### "Ensuring integrity of election process"

Transparency International Sri Lanka (TISL), the Sri Lankan chapter of the global movement against corruption, has initiated a programme to monitor and investigate abuse of public property by political parties, candidates, officials or public institutions during the forthcoming Provincial Council elections.

TISL conducted similar programmes during the General Elections in 2001, 2004 & 2010 and the Presidential Elections in 2005 & 2010. These studies exposed the colossal losses to public resources as a result of such misuse. We notice the recurrence of the practice of misusing state resources in the forthcoming Provincial Council elections too. Our present initiative is a continuation of the Programme to Protect Public Resources (PPPR) done earlier. Our objective is to prevent the misuse of public resources by government officials, political parties, candidates and public institutions.

TISL considers that elections are one of main pillars of the National Integrity System and credibility of elections mainly depends on the commitment of officials, especially who are on duty on the polling day. We strongly believe that all officials are highly committed to maintain the integrity of the elections despite political pressure attempting to prevent those taking measures against malpractices.

Parallel to this programme, the Shelter for Integrity, an Advocacy and Legal Advice Centre (ALAC) of TISL will conduct a programme to assist the officials who are willing to stand against malpractices and ensure integrity during the provincial elections. We wish to earnestly request your permission to disseminate this message using leaflets during your training programs

The Shelter for Integrity provides legal advice and guidance for people who are willing to fight against corruption and administrative malpractices. The Centre has already gained recognition among the citizens and recorded around 1500 complaints during the first year of its existence.

We wish to inform you that Shelter for Integrity will be assisting voters to seek either legal or administrative redresses against their grievances, if any, during the forthcoming provincial elections. It would be greatly appreciated if you could inform your officials to extend their support for our effort to enhance the integrity of the elections.

We assure you of our fullest cooperation in all the progressive steps you are taking in conducting a free and fair election.

Thank you.  
Yours Faithfully,

  
S. Ranugge  
Executive Director

Chairman: J.C. Weeraratne  
Company Secretary: Chandra Gunaratne

Director: Anushka Anuranga  
W.A. Jayasinghe

Lakshmi Das  
S.K. Ujanage

Ranjit Fernando  
Tony Senewiratne

Sriyanka Gnanasekera  
J. Thangarajah

K.W. Jayasinghe

Reg No. 03277

## Annex iii



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The secretary,

2013.08.07

Dear sir/Madam,

### **'Protection of Public Resources during Election'**

TISL at present conducting a program to monitor and investigate abuses of public property by political parties, candidates and other officials or public institution during the forthcoming Provincial Council Election.

A similar programme was conducted during the December 2001, 2004 and 2010 General Elections and the Presidential Election in 2005 and 2010. That exercise exposed the extent of the colossal losses to public resources as a result of such misuse. The diabolical practice of misusing state resources in the forthcoming provincial council election is showing its ugly face again. Our present program is a continuation of programme for protects public Resources. Our aim is to prevent misuse of public resources by all branches of the government, political parties, candidates and other officials or public institution.

May we draw your attention to the following sections in the Financial Regulations according to the FR 156(7). All chief accounting officers should exercise due economy in the financial transactions and they should they ensure that expenditure should not be incurred unless absolutely nassary even though financial provisions exists or money is available.

According to FR 127 (7) all chief accounting officers are responsible for taking measures to ensure that the procedure laid down in FR 102 to 108 is followed in case of losses caused to government by delays, negligence, fault or fraud on the part of officers.

You will no doubt agree that, you are not only the chief accounting officers but also the accounting officer for your ministry, and thereby it is your duty to take adequate and proper arrangement are made for the safe custody and preservation of resources belonging to the government, as laid down in FR 128(1)(e).

We appreciate very much if you were to let us know of the action you take.

Thanking you,

Yours faithfully,

S. Ranuge  
Executive Director,  
Transparency international Sri lanka



# ELECTORAL INTEGRITY

A REVIEW OF THE ABUSE OF STATE RESOURCES AND SELECTED  
INTEGRITY ISSUES DURING 2013 PROVINCIAL COUNCIL ELECTION IN SRI LANKA



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