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நீதியானதும் சுதந்திரமானதுமான தேர்தலுக்கான மக்கள் இயக்கம்  
Campaign for Free & Fair Elections

**CAFFE**

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## Eastern Provincial Council Elections of 10th May 2008: Monitoring Report:

As an election observing and monitoring organization accredited under the Election Commissioner, the Campaign For Free & Fair Elections (CaFFE) has been observing and monitoring the Eastern Province from the 5th of April until the 10th of May 2008. This Report has been prepared with the aim of presenting the monitoring observations that CaFFE had made during these days of operation.

### What is CaFFE?

Essentially CaFFE is a people's organization, which encompasses members of the civil society, lobbying groups, religious groups, trade unions, political parties and opinionated individuals coming together to Campaign for Free and Fair Elections. Our election monitors not only consist of individuals who are from Sinhalese, Tamil and Muslim communities but also those from religious groups. Created in place of the 'so called' independent organizations, CaFFE is an organization with multi-partiality as its core foundation and with a view to hold up Democratic values in society.

CaFFE opened district coordination centers at each district and trained election observers and monitors from within the district as well as from outside the province who volunteered to serve during the election period. CaFFE's election information gathering mechanism extended to include representatives of different political parties, representatives who have come to the Eastern Province from all parts of Sri Lanka, political party headquarters, district and electoral offices, thus making it an in-depth and embedded local level network of monitoring and observation.

## The Context of the Eastern Province Elections:

The Eastern Provincial Council Election process began on 27th March with the acceptance of nominations and ended with the election on the 10th May 2008. CaFFE monitoring and observations were conducted in following context:

Electoral districts	Polling Divisions	No. of Voters	No. of Polling Stations	Registered Parties
Batticaloa	Kalkudah	94,359	109	12
	Batticaloa	154,761	167	Same
	Padiruppu	81,830	86	Same
<b>Total</b>		<b>330,950</b>	<b>362</b>	<b>12</b>
Digamadulla	Ampara	142,170	153	12
	Sammanturai	69,057	77	Same
	Kalmunai	64,316	60	Same
	Potuvil	133,765	140	Same
<b>Total</b>		<b>409,308</b>	<b>430</b>	<b>12</b>
Trincomalee	Seruvila	66,690	87	12
	Trincomalee	91,598	97	Same
	Muttur	84,175	94	Same
<b>Total</b>		<b>242,463</b>	<b>278</b>	<b>12</b>
<b>Grand Total</b>		<b>982,721</b>	<b>1070</b>	

## CaFFE Monitoring Mission:

In order to monitor the Provincial Council elections of the Eastern province, CaFFE deployed 127 monitors for the Batticaloa district, 261 monitors for the Digamadulla district and 234 monitors for the Trincomalee district. On the election Day- 10th May 2008- CaFFE's monitoring and observation mission was deployed in the following manner. Apart from the trained monitors, each district organization had contributed an equal number of activists to accompany these monitors to the respective polling booths in the polling divisions. Also it is important to note that in some areas CaFFE had not been able to deploy its monitors due to some physical as well as security-related inabilities. Nevertheless, CaFFE had managed to cover over 80% of the polling booths of the Province.

Electoral districts	Number of CaFFE Observers	Ratio per electoral district, (Polling Booth : Observers )	Polling Divisions	Number of CaFFE observers	Ratio per Polling division, (Polling Booth : Observers )
Batticaloa	127	3: 1	Kalkudah	41	3 :1
			Batticaloa	51	3 :1
			Padiruppu	35	3 :1
Digamadulla	261	2 : 1	Ampara	109	2 :1
			Sammanturai	51	2 :1
			Kalmunai	51	2: 1
			Potuvil	50	2 : 1
Trincomalee	234	2 : 1	Seruvila	104	2:1
			Trincomalee	54	2:1
			Muttur	76	2:1

The primary aim of CaFFE's election monitoring agenda was to identify incidents involving the violation of electoral law and further, to determine whether there was a conducive atmosphere to cast the vote in a free and fair manner. It was the duty of CaFFE and our election observers to impartially report on these incidents without casting prejudicial opinion to any body that violated the election laws and law and order conditions. Also not reporting 'baseless rumors' is one of the main principles of CaFFE monitoring.

CaFFE believes that in order to understand the conditions under which the Eastern Province Provincial Council Elections was held on the 10th May 2008, it is equally important to get an idea on pre-election atmosphere that existed up to the election day. Therefore CaFFE reproduce here the summary of its Pre-elections Report that was released to the public on the 9th May 2008. CaFFE believes that there was a strong connection between incidents that took place and the atmosphere created during the pre- election period on the one hand and incidents that occurred and the behavior of the electorate on the Election Day.

### Pre Elections Observations:

The basic yard stick that was used to analyze the pre-election period was whether there was an atmosphere or environment that was conducive to conduct free and fair elections. To accomplish this objective CaFFE observations were concentrated on following:

- 1) Whether law and order prevailed during the pre-election period in the relevant areas.

- 2) The manner in which state resources were utilized during the pre-election phase.
- 3) The manner in which state media was utilized for election campaigning.
- 4) Whether election laws were properly adhered to during the election.

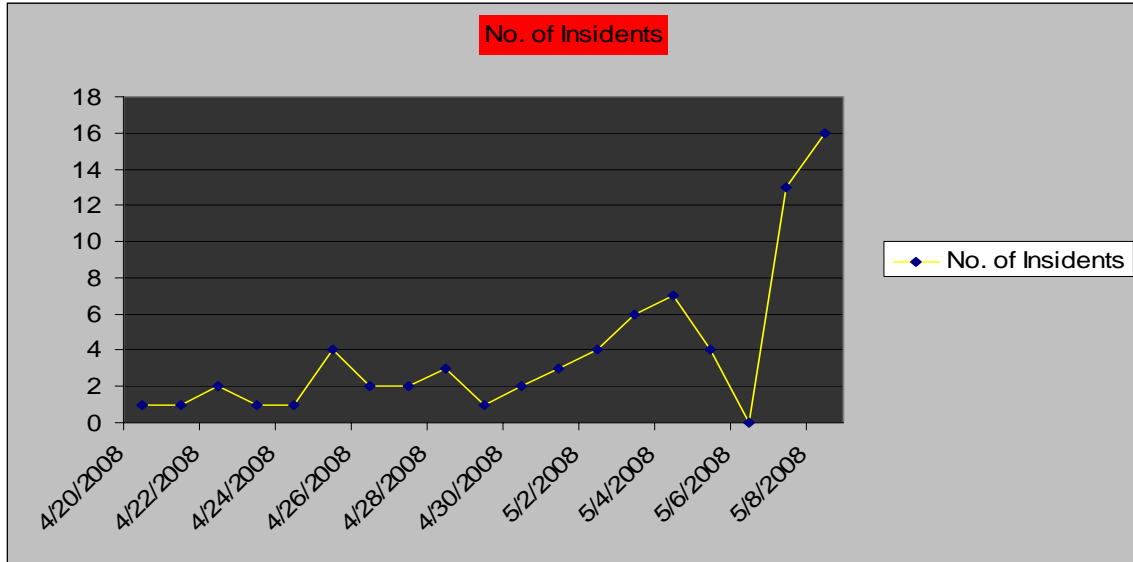
**1) Whether Law and Order Prevailed during the pre Elections period?**

CaFFE observed and monitored the following election violations upto 12 midnight on 9th May 2008, from among the incidents reported to CaFFE within the pre-election period:

District	Received Complaints	
	Confirmed	Not confirmed
Batticaloa	34	20
Trincomalee	17	7
Digamadulla	26	10
Total	89	47

There were 2 killings, 6 abductions, 13 assaults and 16 death threats among the statistics given above.

Following chart indicates that by 8th May 2008, the pattern of election violations increased during this period.



With regard to these issues, the first observation that CaFFE made was that the majority of election violations were reported to the respective police stations and police officials who were responsible for conducting elections. CaFFE observed further that in most instances, the incidents that were reported were not subjected to a proper investigation and perpetrators were never brought to justice. The other conspicuous factor in this context was that in some instances, the aggrieved parties were reluctant to report atrocities and present those violations on to the public domain. Also it was observed that in some instances, aggrieved political parties were subjected to intimidation and violence and attempts were made to conceal such incidents due to unknown factors.

In the above context, the CaFFE had observed a serious kind of law and order violations in the province, where the parties that were subjected to such violence had no recourse to justice as the law enforcement authorities did not take serious note of those incidents. CaFFE observes that none of these cases were subjected to any proper investigation. CaFFE believes that if the law enforcement authorities had acted in a diligent manner, the fear psychosis that prevailed in the election day as well as most of the atrocities that happened on that day which affected the expression of the free will of the voters could have been prevented.

Date of Complaint	Name of the Complainant	Incident	Authorities Complained to
21-April 2008	Mr.Farook Majid, SLMC	Mr.Mohan Velu, son in law of UNP Candidate for Padirippu Mr.Nagalingam abducted 20th night by TVMP, Chettipalayan supporters. Mr.Mohan Velu was released subsequently but was asked to report to TVMP local Office at 5.00 pm Apr 21	DIG Elections Police HQ, Kalawanchikudi Police, Commissioner of Elections
28-Apr	Mr.Arumugam	Fully armed TMVP cadres while	DIG Elections Police

2008	Jegan UNP Candidate,	shooting in the air damaged and tarred all UNP posters and decorations at Mr.Arumugam Jegan's Office/ Residence.	HQ, DIG (Batticaloa), Commissioner of Elections
28-Apr 2008	UNP MP Mr Johnston Fernando	White vans of TMVP (Pillayan Group) without Registration Plates traveling around in all electorates (not stopped by Police & Army) causing fear and intimidating voters and doing election campaigning work in the entire Batticaloa District	DIG Elections Police HQ, DIG (Batticaloa), Commissioner of Elections
30-Apr. 2008	Mr.Ranjan, supporter of UNP Batticaloa candidate Mr.Arumugam Jegan	Kalkudah Electorate: TMVP (Pillayan) group worker AJITH and another supporter each armed with a 9mm Auto Pistol had threatened Mr.RANJAN and UNP supporters in Valaichenai, Karuwalkeni village, tore and defaced UNP posters and threatened that they would be killed if they worked for UNP	DIG Elections Police HQ, DIG (Batticaloa), Commissioner of Elections
30-Apr. 2008	Mr.K.Velautham, UNP Provincial Councilor.	Batticaloa, Kalkudah: Mr.K.Velautham and Mr. Kithsiri Fernando were campaigning and when traveling by Van were obstructed, stopped and threatened with death by TMVP armed cadres led by TMVP AJITH, traveling in Van HN 2480. After this incident, Mr.Velautham and UMP Party workers were stopped again by armed TMVP cadres on Motor cycles and Bicycles and were threatened not to proceed with the campaign.	DIG Elections Police HQ, DIG (Batticaloa), Commissioner of Elections

Also CaFFE observed that there were 9 paramilitary camps established and in operation in the Batticaloa district. Furthermore, CaFFE observed that in the Kalmunai area, which belongs to the Digamdulla district, these paramilitary members were operating inside established police sentry points. Taking into account these instances CaFFE observed that the Tamil and Muslim communities residing in these areas were subjected to a fear psychosis.

### **Intervention through the Supreme Court of Sri Lanka:**

Based on the aforesaid observations, in order to arrest the situation, CaFFE has attempted to bring this condition to the attention of the state authorities by way of filing

a Fundamental Rights Application before the Supreme Court of Sri Lanka. CaFFE executive committee member Mr. Shiral Lakthilaka filed a petition bearing number 160/2008, naming Elections Commissioner, Secretary to the Ministry of Defense, Inspector General of Police, Deputy Inspector General of Police-Eastern Province, Army Commander and TMVP leader Mr. Sivanesathurai Chandrakanthan as the respondents in the case. The petitioner prayed in his petition to issue an order to the aforesaid respondents to remove persons who were operating on the election day other than state security forces and police on the basis that allowing unauthorized persons to hold weapons on the election day would amount to an infringement of the right of equality before the law and equal protection of the law of the political parties who were in the democratic stream without any connection to armed power, which is enshrined in the Article 12 of the Constitution and thereby if such behavior continued to happen unimpeded, it would violate free enjoyment of the peoples' franchise enshrined in the Article 3 of the cNstitution.

Unfortunately, the Respondents did not appear in the courts although the notices were duly dispatched to them on two occasions. On the 8th of May 2008 when the case was re-fixed, the Supreme Court declined to issue relief as prayed for, due to the absence of the Respondents but directed the Commissioner of Elections through the representative of the Attorney General's Department who was present at the courts, to take all available measures to conduct provincial council elections in a free and fair manner.

**2) The manner in which State Resources were utilized during the Pre-Election Phase**

Districts	Complaints
Batticaloa	32
Trincomalee	19
Digamadulla	42
Total	93

\*CaFFE observes that much more incidents concerning the misuse of state property were reported in media than the complaints presented above.

CaFFE observed that a number of ministries, government departments and corporations had initiated several development projects under the 'reawakening of the Eastern province', and apart from that there were several artificially-constructed and politically-manipulated development projects that had been initiated under the pretext of development but which were geared towards mainly influencing the minds of the voters.

The utilization of state resources and thereby public funds, by political parties for election campaigns during the pre-election and election period lead to an unjust political enrichment. Due to these perpetrations people were denied their basic sovereign rights; and franchise through these acts.

### 3) In what manner was the Media utilized for Election Campaigning

#### Electronic Media:

CaFFE observed that state media had been utilized in favor of one political party contesting in the Eastern Provincial election. Approximately 70% of news reports and bulletins were formulated in favor of one party. Major opposition parties did not receive any positive reporting and was, to a substantial degree subjected to negative representation in the media. One of the most striking features of state media broadcasting during the election was that the JVP and other Tamil political parties and independent groups excluding the TMVP did not receive any news space. Furthermore, State media which has been established and operated using public funds did not give any space or time for voter education. This was evident in the broadcasting content of all three (03) state owned media institutions.

Also CaFFE observed that two FM radio channels namely Kalkuda FM and Muththur FM and one TV channel called Udayan TV operated within the Eastern provinces at the expense of state resources allegedly without obtaining proper permission from the Telecommunication Regulatory Body.

It is also reported that one private radio station in Kaththankudi was used by one political party for their propaganda purposes without a proper consent from its management.

#### Print Media:

In government -owned media which is considered as public service media, its was observed that 100% of the content included in all three (03) media institutions (Daily News, Thinakaran and Dinamina) were news in favor of the United Peoples Freedom Alliance (UPFA) and TMVP, while they reported against all other political parties.

### 4) How election laws were observed during the election

CaFFE observed the following violations of election law during the pre-election period:

- a) Incidents of forgery and impersonation during filing of nomination papers in the Ampara district.
- b) The widespread use of propaganda posters without the name and address of printing parties throughout the Eastern province.
- c) Although under Elections Ordinance, each Party was allowed to maintain only one Party Office in each Polling Division and one District Office in the District, some parties operated a large number of offices in open contravention of this Regulation.



- d) Although it is prohibited to conduct processions, pickets and public gatherings after the nomination day, CaFFE observed that during the pre-election period several parties conducted processions and public gatherings in support of campaign purposes under the pretext of social and religious purposes.
- e) It is prohibited by election law to provide any State preferences or favors in order to get votes. However, it was observed by CaFFE that various parties using various methods were distributing especially state resources to get votes.
- f) The most frequent violations were observed in the election time intimidation (direct / indirect) used by various parties to influence the average voter of the Eastern Province. Such intimidation was further extended by direct and indirect violence and threats. Furthermore, religious affiliations were used to seduce the voter mindsets.

## The Elections day Monitoring and Observations:

CaFFE elections monitoring and observations report on the elections day is based on (1) incidents that were reported by our monitors and (2) special conditions that prevailed in and around the polling booths of the day. Incidents mentioned in this report are either violent/criminal/physical acts or violations of election laws. Special conditions explained here are direct or indirect intimidating acts that had led to generate fear psychosis among the voters or polling agents or in the polling atmosphere. These acts always happened due to lack of due diligence of the part of state officials or connivance of the government officials or law enforcement officials with the perpetrators of the law and order violations as well as election laws. In total CaFFE believes these reported incidents as well as the special conditions that prevailed at the time of the Election Day had a severe impact over the free and fairness of the elections.

### Incidents that took place on the Elections Day:

On the elections day following observations were made by our monitors. Since there were a large number of incidents reported, these incidents have been divided into the following five categories in order to give a proper picture and to highlight the gravity of the incidents.

Incidents	Batticaloa District	Digamadulla District	Trincomalee District	The Entire Eastern Province
Assaults	12	12	10	34
Intimidation	14	16	18	48
Voter /Polling booth agents Obstruction	38	30	08	76
Impersonation / Ballot Stuffing	09	06	07	22
Other Incidents	23	06	26	55
Total	96	70	69	235

When counting these each violation, it was the incident that was counted as a whole. For example; if ten people were obstructed from voting it was recorded as one incident in the above table. When a whole group of people were involved in the stuffing of ballots or impersonation it was recorded as an individual incident.

The 'Other Incidents' section consists of incidents such as; the unlawful use of banners on vehicles, the distribution of polling cards in the close vicinity of polling stations and the unlawful collection of voting papers belonging to deceased individuals. (More comprehensive information on these incidents can be found in the Annex attached to this report).

These incidents were reported to the relevant officials and police stations. But in most instances they were totally disregarded and no action was taken against the perpetrators.

We observe that the impersonation and ballot stuffing-related incidents represent very low numbers according to what was reported. Nevertheless, in this elections, impersonation and ballot stuffing took place on the election day in a different manner by employing different strategies, which is explained in the latter part of this report under the special conditions prevailed in and around the polling booths of all three districts.

But what ever these conditions were, the CaFFE had observed 235 incidents within 1070 polling booths in all over the province, which amounts roughly to one incident per five pooling booths. If we take this ratio district wise, in Batticaloa one incident per four polling booths, in Digamadulla one incident per six polling booths and in Trincomalle one incident per three polling booths. Comparatively, compared to past elections this figure also represents serious indicator to evaluate the free and fairness of the instant elections.

In order to understand the nature of the Eastern Provincial Election and the incidents that occurred during the elections, CaFFE wishes to state the following explanatory facts that were reported in figures above:

- The assault and subsequent hospitalization of EPDP polling station nominees by a TMVP group at Vigneshwaran College located in Batticaloa.
- The obstruction of Muslim voters by the EPDP in the Eravur Paththu Abdul Cader College and Irankarny polling centers.
- Minister Ameer threatening and intimidating No 11 independent candidate Faizar from Valachennai by keeping a pistol to his head.
- Ballot stuffing done by the TMVP faction in Thavakkudda Dharamaratnam College polling center located in Batticaloa after chasing away the Polling Agents that were present there.
- The transportation of voters to the Lahugala Hulannanu Sinhala Central College polling center using the state owned vehicle, numbered 65-7293 and owned by the Highways Department.
- The attempt by a group comprising Malaka Silva, son of Labor Minister Mevyn Silva and an individual by the name of Lal who came in eight (08) vehicles to stuff ballots in the Dehiattakandiya Bambarawana Central College. They were stopped by the quick action of the Special Task Force (STF) officers present in the area.
- The obstruction and chasing away of UNP candidate Mr. Azwer's voters from the No. 39 Election station which was the Al Arazan Central College in Samanthurai, Ampara by a group who came to the location in vehicle number HW 9736.
- Western Provincial Councilor Duminda Silva and a group entering into Election Halls No. 1 and 2 of the Sadhunioura Central College, in which they threatened and chased away voters from polling station.
- Two government ministers addressing voters on the day of the election in Trincomalee. The transportation of voters in vehicle numbers 31-1189 and 32 Shri 1939 to vote.

- A UNP candidate conducting propaganda work during the day of the election in vehicle number 250-4941.
- A UPFA election candidate named Nimal Gamini and a group of thugs going to the Kinniya voting station and threatening people to vote for the UPFA.
- A group of TMVP faction individuals chasing away voters from the Killiveddi Polling station.
- Vehicles bearing no number plates transporting voters in the Toppur and Muttur areas.
- The injuries sustained by Gayantha Karunathilaka, Paul Perera and Palitha Thevarapperuma when their vehicles were attacked by the Yusuf Group.
- The assault and chasing away of voters from polling station No's 84, 86, 87 and 93 in the Thiriyaya Central college by thugs accompanying Minister Badurdeen.
- There were a number of incidents involving planned violence and unlawful acts in the Dehiattakandiya area on the 7th of May 2008 before the day of the election. An individual name Wanninayaka from the UPFA and a monk from the Namalgama Temple were known to have been involved in these acts. One of the incidents involved a scenario in which armed groups traveling in motor-vehicles threatened a businessman named Navaratna, stating that they will kill him and burn his shops down if he votes for the UNP.
- A businessman by the name of Piyadasa, UNP organizer Mr. Wijeratna and Mr. Udayakumara were assaulted. Mr. Udayakumar was threatened by having a gun pointed towards his house.
- Mr. Priyantha was threatened in a similar manner.
- An armed group entered the UNP office at number 33 Ridi Ala. They caused extensive damage to the office and stole some of the equipment and documents that were in the office.
- A group also forcibly entered the JVP office in Dehiattakandiya causing damage to it and threatening its inhabitants.
- On the 8th of May two days prior to the election propaganda work had been carried out in Dehiattakandiya. According to election regulations election propaganda work cannot be carried out during this period of time. However, a group of about 15 people were seen carrying out election propaganda work in the Dehiattakandiya area in State-owned vehicle bearing the number WP-GA-3341.

- Three vehicles bearing the same license plate number were observed moving around in the city of Ampara on the 09th of May 2008. When the police station was informed about this they stated that the vehicles were present to provide security and protection to VIP's (Very Important People).
- On the 8th of May 2008 a video movie titled 'The Mission to Liberate the East' were shown to people by security forces at the Ampara Parangakalei School.
- On Election Day the 10th of May 2008 a group of people assaulted an individual by the name of E. G. Priya ntha who was working at Mr. Daya Gamage's party office and set fire to the party office.
- On the 10th of May 2008 three vehicles bearing the same license plate number was seen moving around in the Dehiattakandiya area. The license plate numbers on all these vehicles were 252-9743.
- On the 10th of May 2008 in Ampara, Sidhanpura a gang identifying themselves with Duminda Silva used abusive language and threatened a monk by the name Poddhiwela Chandrananda and the people that were present at the time.

Parallel to these observations CaFFE also observes that the people of the Digamadulla district had been seriously intimidated by the alleged acts of the LTTE, namely the bomb explosion and Mortar attack that took place in Ampara polling division and the attack on the ship in Trincomallee district.

### **Special Conditions that prevailed around the polling booths:**

Special conditions explained here are direct or indirect intimidating acts as well as atmosphere that had led to generate fear psychosis among the voters or polling agents. CaFFE observes that close scrutiny of these special conditions that prevailed in and around the polling stations of the three districts help to understand the free and fairness of the elections conducted on the day. In all three districts, especially in the areas where the Tamils were a majority these special conditions were observed by the CaFFE monitors.

### **Batticaloa District:**

- There are some special observations to be made in the following polling booths located in the Batticaloa District; Puthukkudiirrupu College, Thalankudi Roman Catholic College, Batticaloa Vilankathurai Vigneshvara College, Alhamar College, Kovilkulam Vinayagar College, Selvanagar Shiva College, Arayampathi Rama Krishna Mission Main College, Ariampathi Subramanium College, Ariampathi Notharis College, Vinayagar College in Batticaloa Kaththankudi area. It was observed in these areas that:

- I. There were only UPFA Polling Stations Nominees in the polling stations. The other nominees from other parties were either chased away or did not arrive there out of fear.
- II. There was no examination of identification documents.
- III. Official Ballot Papers were not examined when the voters were asked to vote.
- IV. There was a tense agitated situation between two groups in the vicinity of the Batticaloa Navkanthankudi College. A group of people riding motorbikes and armed with pistols were observed riding around in the areas where this incident took place. Even though the Police was present in this area they did not intervene in any of these incidents. A number of one of these motorbikes was MD 4388.

In order to provide comprehensive picture of the way polling took place in these polling booths, observations made on 19 polling booths by the CaFFE monitoring and observation team in this area are summarized below.

Name of the Polling Booth and description	Observations
Palamunai Aligar Boys and Girls schools:  Election officer- L M Nagaraja, Registered Voters-723	UPFA, UNP and other polling agents were present. By 8.25 Am number of polled-248 (29.1%)
Kirankulam Saraswathi College,  Election Officer- Mr. Padmanadan, Registered voters- 916	Only UPFA polling agents were present, Polling Cards were issued without checking the identity of the persons.
Kirankulam Vinayagar College,  Election Officer- Lower Cameron, Registered Voters-1476	Only UPFA polling agents were present. By 9.05 am, number of polled-156 (10.5%), Polling Cards were issued without checking the identity of the persons.
Pudukuiriappu Kannakee Vidyalayam, Hall No. 1 and 2  Election Officer- Mr. Punyaruvi, Registered voters- 1343	Only UPFA polling agents were present. By 9.28 am, number of polled-172 (12.8%), Polling Cards were issued without checking the identity of the persons.
Punakkudiyaruppu Kannaki Vidyalam Election Officer-	Only UPFA polling agents were present. By 9.40 am, number of polled-177 (17.8%),

Mr. Umayakanthan, Registered voters- 992	Polling Cards were issued without checking the identity of the persons
Thalankuda Roman Catholic School, Election Officer- Mr. K. Balachandran, Registered voters- 1372	Only UPFA polling agents were present. By 10.00 am, number of polled-374 (27.2 %), Polling Cards were issued without checking the identity of the persons
Mavilannkathurai Vikneshwaran Vidyalayam Election Officer- Mr. Mruganadan, Registered voters- 1073	Only UPFA polling agents were present. By 10.30 am, number of polled-349 (32.5 %), Polling Cards were issued without checking the identity of the persons
Alhamra Vidyalayam,  Election Officer- Mr. Abdul Rahuman Registered voters- 294	UPFA, Group -07 and Group-13 polling agents were present. By 10.45am, number of polled-182 (61.9 %), Polling Cards were issued without checking the identity of the persons
Kopalkulam Vinayagar Vidyalayam Election Officer- Mr. S.H.M. Mohideen Registered voters- 502	Only UPFA polling agents were present. By 11.00 am, number of polled-250 (49.8 %), Polling Cards were issued without checking the identity of the persons
Selvanagar Siva Vidyalam, Election Officer- Mr. T. Loganadan Registered voters- 1096	UPFA, Independent Group -01 and Independent Group-13 polling agents were present. By 11.30 am, number of polled-625 (57.02 %), Polling Cards were issued without checking the identity of the persons as well as the polling cards.
Hiduriya Vidayalyam,Kaththankudi Election Officer- Mr. T. Ambiharvahar Registered voters- 794	UPFA and Independent Group-13 polling agents were present. By 12.30 pm, number of polled-556 (70.00 %), Polling Cards were issued without checking the identity of the persons as well as the polling cards.
Milan Malir Vidyalayam,Kaththankudi Election Officer- Mr. T. Ambiharvahar Registered voters- 784	UPFA, UNP, Independent Group-01 and Independent Group-07 polling agents were present. By 12.45 pm, number of polled-110 (14.00 %), Polling took place without any incident .Identity of the persons as well as polling cards were checked Free atmosphere prevailed.
Kaththankudi MV.(Boys) Election Officer- Mr. Arunagiri Registered voters- 981	UPFA, UNP, Independent Group-05 and Independent Group-13 polling agents were present. By 01.10 pm, number of polled-452 (46.02 %), Polling took place without any incident .Identity of the persons as well as polling cards were checked. It is reported by the UNP polling agents that they were threatened to go out from the booth.



Kaththankudi MV.(Girls) Election Officer- Mr. S.A.M. Haleem Registered voters- 900	UPFA, UNP, Independent Group-01 and Independent Group-03 polling agents were present. By 12.45 pm, number of polled-258(28.60 %), Polling took place without any incident .Identity of the persons as well as polling cards were checked. Free atmosphere prevailed.
Ariyampathi Ramkirishna Mission MV. Election Officer- Mr. M.Shanmugaraja Registered voters- 1398	Only UPFA polling agents were present. By 02.00 pm, number of polled-1102 (78.8 %), Polling Cards were issued without checking the identity of the persons
Ariyampathi Subramaniam Vidyalayam. Election Officer- Mr. V. Karalasingham Registered voters- 1210	Only UPFA polling agents were present. By 02.00 pm, number of polled-1118 (92.3 %), Polling Cards were issued without checking the identity of the persons
Ariyampathi Notharis Vidyalayam. Election Officer- Mr. V. Karalasingham Registered voters- 824	Only UPFA polling agents were present. By 02.50 pm, number of polled-737 (89.4 %), Polling Cards were issued without checking the identity of the persons
New Kaththankudi MV	Out side the polling there was a tension between two parties. There were sticks as well as swords in the hands of some people. Time was at that time around 3.10 Pm. We observed a person who was riding motor bike bearing the number of MD 4388 carrying a pistol. Police Officers were in the vicinity but they were not bothered to quell the situation.
Kaththankudi Malir Vidyalayam	Observers were chased out from the polling booth. When this was complained to the police officers, they also asked the observers to leave the place since polling is about to be stopped. This happened at about 3.45Pm

Similar conditions were observed in and around the polling booths of the Trincomalee and Digamadulla Districts.

### **Trincomalee District:**

- At 0600 hrs. Members of the TMVP engaged in forceful collection of poll cards from residents of Selvanayagapuram and Anbuvalipuram,
- At 0730 hrs TMVP armed carders were patrolling along the Killivetty-Palathoppur main road in Motor Cycles carrying Automatic Rifles with them.
- At 0930 hrs two (02 vans) belonging to TMVP blocked the main Nilaveli-Trincomalee road disturbing the police who were on duty at Ananthapuri ambal Vidayalyam,



- At 09.45 hrs armed cadres carrying Automatic rifles stood in front of Sambalthivu Tamil Maha Vidayalam polling booth and canvassed the public with cards carrying the preference number of Candidate Ragu of TMVP. Later the Candidate Ragu was speaking to the voters entering the polling station premises. The sub inspector of police in charge at duty was seen leisurely speaking to the armed members of TMVP in front of the polling station.
- At 1100 hrs an armed group entered into the Selvanayagapuram Tamil Vidayalam polling booth threatening the police personnel at the gate and went out after 25 minutes staying at the polling station.
- At 1300 hrs An armed group believed to be of TMVP entered the Kilivetty polling station and asked the voters on the queue to leave the place and demanded them they would do the needful to cast the votes.
- At 1530 hrs two gangs in Dolphin vans entered the Hindu Ladies College polling stations with hundred of polling cards and requested the police to allow them to enter the polling station. When the request was refused by the police, one of the leaders took a telephone call and asked police officer concerned to speak with the Minister on line. As the police office refused to speak on the phone, gang members entered into the polling station and returned after 30 minutes.

**Digamadulla District:**

- In Samanthurei polling division the following polling booths only had UPFA polling agents and polling agents of other parties were either not fielded or withdrew after threat or intimidations. Polling Cards were issued without checking the identity of the persons as well as the polling cards.  
Navidanveli Annamalai MV, Kalmunai All Thajun Vidayalam, Kalmunai Holy Cross College, Veeracholai Government Tamil Mixed School(15), Veeramunai Ramakrishna Missionary School(16), Veeramunai Ramakrishna Missionary School(17), Veppadithottam Vani Vidyalam, Government Tamil mixed school(49), Community Center-Pradiyagamam, Malligaithivu Government Tamil Mixed school,
- In Akkaraipaththu DS division following polling booths only had UPFA polling agents and polling agents of other parties were either not fielded or withdrew after threat or intimidation. Polling Cards were issued without checking the identity of the persons as well as the polling cards.  
All Rahimiya Vidyalayam, All Kamar Vidyalayam, Akkrapaththu Muslim MV(66), Akkrapaththu Muslim MV(69), Akkrapaththu Muslim MV(70), Munivvra Junior College, Akkaripaththu Hijra College(72), Akkaripaththu Hijra College(73), Akkaripaththu Vivekananda Vidyalayam, Aliyadavembu Thirनावakarasu Vidyalayam, Akkaraipaththu Ramakrishna MV(71), Akkaraipaththu Ramakrishna MV (72), Akkaraipaththu Missionary College,

- In Pothuvil polling division following polling booths only had UPFA polling agents and polling agents of other parties were either not fielded or withdrew after threat or intimidation. Polling Cards were issued without checking the identity of the persons as well as the polling cards.  
Vinayagpuram MV(40), Vinayagpuram MV(41),Koraikalapu Shakthi Vidyalayam, Parameshwara Vidyalayam(43), Parameshwara Vidyalayam(45), Kanchran Tamil Mixed school(small), Thambiluvil kalaimagal Vidayalam(51), Thambiluvil MMV, Thambiluvil kalaimagal Vidayalam(53),Thambiluvil Sarasvathi Vidyalayam,Munayatikadu Government Mixed school, Thambiluvil Kanagarathnam College(56), Kanagarathnam College(57),Thamkattai government Mixed school,Panankadu pasupadesvara Vidyalaya,Kannagi Vidyalayam,Kolawil Vinayagar Vidyalayam(63), Kolawil Vinayagar Vidyalayam(64), Kolavil Perunavalar Vidyalayam, St, Johne's College,
- In Thirukkivil DS division following polling booths only had UPFA polling agents and polling agents of other parties were either not fielded or withdrew after threat. Polling Cards were issued without checking the identity of the persons as well as the polling cards.  
Thirukkivil Methodist Missionary Tamil Mixed School,Thirukkivil Prince College,Kalliathive Vadivel Vidyalam, World vision pre school,
- It is observed by the CaFFE observation units in Pothuvil that by 9.45 TMVP members had assaulted and chased away polling agents attached to seventeen polling booths.
- It is observed by the CaFFE observation units that in Samanthurai, people in a vehicle bearing the number, 57-3711 were going to several polling booths and assaulting polling agents and chasing them away from the polling booths,
- It is observed that a group of armed persons were transported to the All Arasath MV polling booth by the vehicle No. HW 9736 who in turn chased away the polling agents,
- It is observed that TMVP members assaulted UNP polling booth agent Vijayanandan .Subsequently Vijayanandan had been admitted to the hospital,
- It is observed that all Polling agents other than UPFA agents in Thrukkivil DS division were chased away by the TMVP members,

### CaFFE's Statement on Observations

A vast majority of the incidents mentioned above and the incidents reported by our election observers indicate the gross violation of election laws or in the very least that the procedural rules and regulations enshrined in election laws were violated. Even though our election laws were sufficient to deal with these reported infringements, the

fact that the aforesaid conditions prevailed in and around the polling booths amply demonstrate the manner in which the enforcement and functioning of these rules and regulations were carried out. However, it must be noted that all election laws must be enforced by the Election Commissioner with the assistance of the state officials responsible for the conducting of elections as well as law and order, which is an essential prerequisite for conducting free and fair elections. Nevertheless, the CaFFE observed in this Provincial Council election that there had been no encouragement by the state for the state officials to act in a due diligent manner to enforce the elections laws in a proper manner. Unlawful acts such as intimidation and ballot stuffing which are clear violations of the Penal Code should be reported by the Police to the Attorney-General and under the discretion of the Attorney-General and with his / her approval must be put before a judicial process. But in our entire electoral history this has only been done on a few occasions. There are reasons for this. The manner in which some incidents occur and proving how these incidents occurred must go through a very difficult procedural process. The other reason for this is the reluctance of 'politically-biased' officials to come forward to provide information on these alleged violations or reluctance of "powerless government servants" to act against the incumbent political regime of the government.

This shows the importance of independent government services to function under the times of elections to reduce the malpractices and conduct elections in a free and fair manner under the auspices of an independent Election Commission. As long as such an independent Election Commission does not exist the government in power and the Executive President will have unprecedented power to do as they wish in any elections. Based on this they will be able to use state property as they wish and they will be able to get the mandate of the law to act in such a manner. The sad paradoxical situation is that the officials and individuals who are supposed to give evidence and prove that such incidents had in fact occurred have a tendency to act differently under executive authority.

This is the reason and importance of implementing the 17th Amendment to the Constitution which allows the State to set up independent Commissions. It is essential to set up such Commissions for the protection of democracy in the governance of the State. A number of Members of Parliament and Minister have stated that democracy has been re-established after the holding of the Eastern Provincial Election. but it is a well-accepted cornerstone of representative democracy that the representatives of the people must represent the true will of the people. The true will of the people is derived when the franchise of the people, which is one aspect of sovereignty, is allowed to be enjoyed in a free and fair manner. Then only one can say that the principle of one person-one vote-one value, which is the fundamental prerequisite of peoples' franchise, has been employed properly, in electing the peoples' representatives. In the context of what is observed by the CaFFE above, it is questionable as to whether these fundamental norms in democracy had been fulfilled in this election.

According to election laws one cannot conduct propaganda work once election campaign period for election is over. But it is obvious that the State-Development work and appointments to government job opportunities that were conducted right before the

election was done to gain electoral publicity. Based on this it could be stated that there are serious shortcomings in Sri Lanka's election laws. The reason that an independent Election Commission has not been established is because it would act against such violations and act to change the situation. If the un-democratic conditions that shattered the chances of holding a 'free and fair' elections in the Eastern Province continue, we are sad to say that future elections will also not be 'free and fair' if the election commission is not established.

CaFFE did not observe this election to determine who would win or lose the election but to determine 'how' they would win or lose the election. During this election monitoring mission CaFFE realized that merely observing whether people came and voted during these elections is not enough. In truth by merely observing the above mentioned process and the area or scope that you are limited to during election observing may have led the Election Commissioner and the International Observers to declare that this was a free and fair election. However, in the manner that we observed and monitored this election and from the information we gathered there are a lot of incidents and characteristics that were not picked, in actuality that cannot be picked up by older methods of election monitoring. Not coming to the polling station because of fear and intimidation, coming to vote due to fear and intimidation, individuals voting without their identity documents and ballot stuffing where the multiparty polling agents were not present occurred at a lot of places. Incidents where action was not taken against due to the imprecise nature of our laws with regard to presenting evidence that have happened in prior elections happened during this election in a large scale. When there are many such evidence-problems based violations it is disgraceful that the violators of our elections laws can state arrogantly and with impunity that in a sarcastic manner that "people should take legal action against them".

Furthermore, when election monitors, observers and officials fail to see the vast damage that is being done when they report that elections were 'free and fair' based on their limited 'stuck in the box' analysis, it is disappointing to note that the violators of such laws will only be encouraged by achieving a victory by a perversion of our country's democracy. But the theft of our people's right to vote has been practiced for many years in our country. The sad truth is that the blatant use of power by the government coupled with the carrying of arms by the non-state armed groups took away the little power that people were left with.

Finally the CaFFE observes that the eastern Provincial Elections, which was held on the 10th May 2008, was not at all 'free and fair'. This is due to the reason that it was very clearly shown that dominance of rule of law had been over taken by a dominance of violence.

Last but not least CaFFE takes this opportunity to thank the Commissioner of elections for allowing the CaFFE to deploy its monitoring mission in the Eastern province. Also we profusely thank and extend our sincere gratitude for all law abiding government officials and state security forces and police, who took great pain to maintain rule of law of the country in their own way although there was heavy current against their will and actions to protect the law of the country.