

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452



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President Ranil Wickremesinghe
Presidential Secretariat
Galle Face Center Road
Colombo 1
Sri Lanka
Via email: ps@presidentsoffice.lk

August 8, 2022

Dear President Wickremesinghe,

Congratulations on being elected to the presidency on July 20, 2022. Human Rights Watch had the occasion to meet with you when you were prime minister from 2015-2019 and we hope to continue a constructive engagement during your presidency.

We understand that you have assumed office at a time of unprecedented challenges. Your actions will have a profound impact on the human rights of Sri Lankans for years to come. We welcome that in your August 4 speech to parliament you committed to inclusive governance, and that in your plans to stabilize the economy you will “pay close attention towards the less privileged of the society.”¹

Building on those pledges, we are writing to draw your attention to some of the urgent rights concerns facing Sri Lanka, and urge you to use your time in office to create a legacy of positive change.

Human Rights Watch is an independent non-governmental organization that works in over 90 countries around the world, including the United States, India, and China. We have worked on human rights in Sri Lanka for several decades, including on abuses committed by all sides during the civil war.

The economic crisis has led to a growing recognition among Sri Lankans and Sri Lanka’s international partners of the urgent need to protect the economic rights of all citizens, and for measures to deliver accountability, strengthen human rights safeguards, and uphold the rule of law.

In widespread and largescale protests across the country since March, Sri Lankans have called for a strong response to acute hardships, as well as reforms to address failures of governance and corruption that contributed to the crisis. Although arson attacks leading to loss of property should be investigated and prosecuted, the protests generally have been

¹ “Ranil repeats calls to form all-party Government,” *Colombo Gazette*, August 3, 2022, <https://colombogazette.com/2022/08/03/ranil-repeats-calls-to-form-all-party-government/> (accessed August 4, 2022).

overwhelmingly peaceful, including acts of civil disobedience to occupy government buildings.

In a statement on July 28, the World Bank said that before it provides new financing, the government of Sri Lanka should undertake “deep structural reforms that focus on economic stabilization, and also addressing the root structural causes that created this crisis to ensure that Sri Lanka’s future recovery and development is resilient and inclusive.”² The International Monetary Fund (IMF) has also emphasized that any IMF program will include priorities of “protecting the poor and vulnerable” with social safety nets, as well as “structural reforms to address corruption vulnerabilities.”³ On July 22, the European Union drew attention to Sri Lanka’s rights commitments under GSP+.⁴

We urge you to respect the rights of protesters, civil society activists, and journalists while urgently addressing the economic crisis and its root causes.

Civil and political rights

Human Rights Watch is extremely concerned by the draconian and abusive state of emergency currently in effect, and the security forces’ use of unnecessary and excessive force against protesters and journalists, as well as arbitrary arrests, abductions, intimidation and reprisals that have contributed to a growing climate of fear and repression.

You have acknowledged that the protests were “conducted on a non-violent basis and creative manner.”⁵ But you have also said that some have “turned towards terrorism.” And you have denied that your government is “hunting down the protesters”⁶ – though the facts belie this claim.

The emergency regulations introduced on July 18 contain vague, overbroad, arbitrary and excessive curtailments of human rights, including of fundamental rights that cannot be suspended even during a state of emergency.⁷ The regulations include provisions to increase

² World Bank Statement on Sri Lanka, July 28, 2022, <https://www.worldbank.org/en/news/statement/2022/07/28/world-bank-statement-on-sri-lanka> (accessed August 4, 2022).

³ “IMF Staff Concludes Visit to Sri Lanka,” June 30, 2022, <https://www.imf.org/en/News/Articles/2022/06/30/pr22242-imf-staff-concludes-visit-to-sri-lanka> (accessed August 4, 2022).

⁴ “Sri Lanka: Declaration by the High Representative on behalf of the European Union on recent developments,” July 22, 2022, <https://www.consilium.europa.eu/en/press/press-releases/2022/07/22/sri-lanka-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-recent-developments/> (accessed August 4, 2022).

⁵ “Ranil repeats calls to form all-party Government,” *Colombo Gazette*, August 3, 2022, <https://colombogazette.com/2022/08/03/ranil-repeats-calls-to-form-all-party-government/> (accessed August 4, 2022).

⁶ Ibid.

⁷ “Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 2022,” *Gazette of the Democratic Republic of Sri Lanka*, July 18, 2022, http://www.documents.gov.lk/files/egz/2022/7/2289-07_E.pdf (accessed August 4, 2022).

the period for which a person may be detained before being produced before a magistrate from 24 to 72 hours, sweeping additional powers of search and arrest, and powers enabling members of the military to detain people for up to one day without disclosing the fact of their detention. This increases the risk of torture and enforced disappearance.

The regulations introduce extreme new sentencing rules for a large number of offenses, including minor offenses such as trespass, some of which would now carry a minimum term of 20 years' imprisonment. The decree provides that bail will not be available for those accused of offenses under the regulations.

The regulations provide broad powers to ban public gatherings, the power for the police or military to order anyone to leave any public place, and make it an offense to cause "disaffection" or to spread "rumours," in violation of the rights to freedom of expression, assembly, association and movement.

We are also deeply concerned by your order of July 21, 2022, to "call out with effect from July 22, 2022 all the members of the Armed Forces . . . for the maintenance of public order."⁸ In the early morning of July 22, members of military assaulted protesters and other members of the public in central Colombo, injuring more than 50 people.⁹

Since the raid on protesters at Galle Face Green on July 22, the police and other authorities have waged a campaign of harassment and intimidation against protesters and civil society activists, journalists and lawyers, in an attempt to suppress dissent.¹⁰ There have been numerous arrests of perceived leaders of the protests. In many cases the authorities failed to produce arrest warrants or to promptly inform detainees of the reasons for their arrest. Detainees have alleged that they were not told where they were being taken, and many of them have also been denied access to legal counsel. These violations of due process mean that some arrests conducted by officers in plain clothes resemble abductions. These abuses place detainees outside the protection of the law and increase the risk of torture and enforced disappearance.

You have said that you "will not allow any kind of prejudice to the peaceful activists."¹¹ To protect the human rights of Sri Lankans, your administration should:

- Ensure that people are able to freely and peacefully express their views safely and without fear of reprisal or arrest;

⁸ *Gazette of the Democratic Socialist Republic of Sri Lanka*, July 21, 2022, http://documents.gov.lk/files/egz/2022/7/2289-40_E.pdf (accessed August 54, 2022).

⁹ "Sri Lanka: Security Forces Assault Peaceful Protesters," Human Rights Watch, July 22, 2022, <https://www.hrw.org/news/2022/07/22/sri-lanka-security-forces-assault-peaceful-protesters> (accessed August 4, 2022).

¹⁰ "Sri Lanka: Heightened Crackdown on Dissent," Human Rights Watch, August 2, 2022, <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent> (accessed August 4, 2022).

¹¹ "Ranil repeats calls to form all-party Government," *Colombo Gazette*, August 3, 2022, <https://colombogazette.com/2022/08/03/ranil-repeats-calls-to-form-all-party-government/> (accessed August 4, 2022).

- Investigate and appropriately prosecute officials and security force personnel responsible for serious violations of human rights regardless of position or rank;
- Withdraw emergency regulation provisions that are vague, overly broad and disproportionate or that violate fundamental rights;
- Refrain from using the military, which are not trained in law enforcement, in policing protests;
- Order security forces to end the harassment, intimidation and arbitrary arrest of people believed to have participated in or supported recent protests, as well as civil society activists, lawyers and journalists;
- Stop accusing protesters of “terrorism,” which in the context of Sri Lanka’s history can lead to serious human rights violations;
- Amend the constitution to ensure that the judiciary, attorney general, Election Commission, Public Service Commission, Police Commission, Judicial Service Commission and Human Rights Commission, which are mandated to protect fundamental rights, are independent of the executive.

Discrimination against Tamil and Muslim communities

For many years the repression of civil society organizations has been most severe in the north and east, and laws including the Prevention of Terrorism Act (PTA) and the International Covenant on Civil and Political Rights (ICCPR) Act have been used to target members of minority communities. The security forces have carried out intense surveillance and harassment of families of victims of enforced disappearance, as well as nongovernmental organization staff and human rights defenders. Some activists reported that their banks have prevented their organizations from making or receiving transfers, apparently under instructions from the central bank.

Religious discrimination of minority community members intensified under the Gotabaya Rajapaksa administration. Christian congregations have been subject to violence and intimidation in which police and government officials are allegedly complicit. Police and soldiers allegedly assisted Buddhist groups that built religious structures on Hindu sites. The government has repeatedly attempted to prevent Tamils from commemorating or memorializing members of their community killed during the civil war.

To protect the human rights of Sri Lankans, your administration should:

- Announce a formal moratorium on the use of the PTA until rights-respecting counterterrorism legislation is enacted, and release remaining prisoners arbitrarily detained under the PTA;
- Amend the ICCPR Act to prevent its abuse in prosecuting members of ethnic and religious minorities for speech that is protected under international human rights law;
- Undertake to curtail speech that incites violence, discrimination or hostility against specific groups;
- End acts of discrimination, intimidation and violence at places of worship;

- Allow members of the Tamil community to freely commemorate and memorialize victims of the civil war;
- Disband and revoke orders of the Presidential Task Force for Archaeological Heritage Management in the Eastern Province, which discriminates against religious minorities.

Social and economic rights

According to a June 9 appeal by the United Nations, nearly 22 percent of the Sri Lankan population now needs food assistance.¹² Access to health care and education is also in jeopardy for millions. You have stated that your government has “initiated negotiations with the International Monetary Fund (IMF) on a four year programme,” and is finalizing a “debt restructuring plan.”¹³

Several of the economic adjustments currently under discussion will have direct and indirect impacts on low-income people. The IMF’s Article IV report envisions significant fiscal consolidation, achieved in part by increasing income and value-added tax rates, removing energy subsidies, and “rationalizing” the public wage bill. Recognizing the impacts of these adjustments, the report rightly calls on the government “to mitigate the adverse impacts of macroeconomic adjustment on vulnerable groups.” Specifically, “[s]ocial safety nets should be strengthened, by increasing spending [and] widening coverage.”¹⁴

However, Sri Lanka’s principal current social protection scheme, Samurdhi, is widely recognized to be ineffective. The World Bank assessed that in 2019, even before the current crisis, that “[l]ess than half of the poor were beneficiaries of Samurdhi... and benefit amounts remain largely inadequate.”¹⁵ It is crucial that your government develops a more robust, inclusive and transparent social justice program.

As the Article IV report shows, Sri Lanka’s tax-to-GDP ratio is among the lowest in the world.¹⁶ Among the huge tax cuts introduced by the Gotabaya Rajapaksa administration shortly after entering office, cuts to income taxes benefitted the wealthiest households. While the Article IV report proposes raising income tax rates, it also proposes increases to VAT, which disproportionately burdens low-income families because it consumes a larger

¹² “Sri Lanka: UN appeals for \$47 million for life-saving aid to 1.7 million people,” United Nations, June 9, 2022, <https://news.un.org/en/story/2022/06/1120032> (accessed June 28, 2022).

¹³ “Ranil repeats calls to form all-party Government,” *Colombo Gazette*, August 3, 2022, <https://colombogazette.com/2022/08/03/ranil-repeats-calls-to-form-all-party-government/> (accessed August 4, 2022).

¹⁴ IMF staff report for the Article IV consultation, February 10, 2022, <https://www.imf.org/en/Publications/CR/Issues/2022/03/25/Sri-Lanka-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-515737> (accessed March 28, 2022).

¹⁵ World Bank, *Sri Lanka Poverty Assessment, Accelerating Economic Transformation Synthesis Report*, 2021, <https://documents1.worldbank.org/curated/en/153941634242634615/pdf/Sri-Lanka-Poverty-Assessment-Accelerating-Economic-Transformation-Synthesis-Report.pdf> (accessed March 28, 2022).

¹⁶ IMF staff report for the Article IV consultation, February 10, 2022, <https://www.imf.org/en/Publications/CR/Issues/2022/03/25/Sri-Lanka-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-515737> (accessed March 28, 2022).

share of their income. Moreover, if steps are taken to reduce or remove fuel subsidies, it is critical that this is done in a progressive manner or with an adequate compensatory system to ensure affordability for low-income people in advance of the reforms.

In the government's Appropriation Bill for 2022, the Defence Ministry received the highest allocation at 373 billion rupees (then US\$1.86 billion), an increase from the previous year, reaching 15 percent of total expenditure.¹⁷ The military is also engaged in commercial activities.¹⁸ By contrast, the Health Ministry was allocated 158 billion rupees (then US\$0.79 billion), a decrease of 0.87 billion rupees from the previous year despite the Covid-19 pandemic.¹⁹

Sri Lanka is ranked 102nd on Transparency International's most recent Corruption Perceptions Index, having fallen from 93rd in 2019.²⁰ The Gotabaya Rajapaksa administration repeatedly acted to block financial transparency and accountability by weakening independent institutions and by intervening to prevent investigations and prosecutions. The 20th amendment to the Sri Lankan Constitution, adopted in 2020, undermined the independence of the judiciary, as well as key institutions including the National Audit Office and the Commission to Investigate Allegations of Bribery or Corruption (CIABOC).²¹ In December 2019, the Financial Crimes Investigation Division (FCID) of the police, which had been established in 2015, was abolished as a separate unit and brought under the Criminal Investigation Department.²² In January 2020, President Rajapaksa established the Commission of Inquiry to Investigate Allegations of Political Victimization to derail investigations of human rights abuses or corruption against his relatives and political allies that had been begun under the previous administration, when you were prime minister.²³

To protect the human rights of Sri Lankans, your administration should:

¹⁷ Ministry of Finance, "Budget Estimates – 2022 (approved by parliament)," <https://www.treasury.gov.lk/api/file/cfc0d87b-28ad-4041-8db6-3d84bb02aa4e> (accessed March 29, 2022).

¹⁸ Human Rights Watch, "Letter to IMF Managing Director Re: Economic Crisis in Sri Lanka," April 4, 2022, <https://www.hrw.org/news/2022/04/04/letter-imf-managing-director-re-economic-crisis-sri-lanka> (accessed June 22, 2022).

¹⁹ Ibid.

²⁰ Transparency International Corruption Perceptions Index, <https://www.transparency.org/en/cpi/2021/index/lka> (accessed March 29, 2022).

²¹ Twentieth Amendment to the Constitution, October 29, 2020, <https://www.parliament.lk/uploads/acts/gbills/english/6176.pdf> (accessed March 29, 2022); Centre for Policy Alternatives, "Summary of Changes Under the Proposed 20th Amendment," September 2022, <https://www.cpalanka.org/wp-content/uploads/2020/09/Final-doc-Summary-of-Changes-Under-the-Proposed-20th-Amendment.pdf> (accessed March 29, 2022).

²² "FCID brought under CID now," *Daily News*, September 4, 2020, <https://www.dailynews.lk/2019/12/04/local/204727/fcid-brought-under-cid-now> (accessed March 29, 2022).

²³ "Sri Lanka: Reject 'Political Victimization' Findings," Human Rights Watch, April 30, 2021, <https://www.hrw.org/news/2021/04/30/sri-lanka-reject-political-victimization-findings> (accessed March 29, 2022).

- Establish a new social protection mechanism that is both adequate to protect everyone's rights from the effects of the economic crisis and designed to prevent mismanagement and corruption. In particular, consider universal programs as recommended by the United Nations Development Programme and UNICEF;
- Implement progressive tax measures that do not further burden people living in poverty; implement any reduction or removal of subsidies in a progressive manner or with an adequate compensatory system to ensure affordability for low-income people in advance of reforms;
- Adopt policies to increase women's access to employment by reducing barriers, including by providing state-funded maternity leave and access to affordable menstrual hygiene;
- Restore the independence of institutions including the Commission to Investigate Allegations of Bribery or Corruption;
- Resume Sri Lanka's participation in the World Bank and United Nations Office on Drugs and Crime's Stolen Asset Recovery (StAR) initiative, and include a commitment to do so as part of an agreement with the IMF;
- Conduct independent and impartial investigations into allegations of high-level corruption and appropriately prosecute those responsible;
- End attempts to implement the recommendations of the Commission of Inquiry to Investigate Allegations of Political Victimization, and revive police investigations into conflict-related crimes;
- Adopt the anti-corruption legislation that was developed during your previous term as prime minister and is currently before parliament;
- Ensure that auditing of the Ministry of Defence meets the same criteria as other government departments; end audit exemptions for "secret services" that can be used to obscure the use of public funds.

In recent months countless citizens have taken to the streets peacefully, lawfully, and bravely, to call for reform, accountability for corruption, and for urgent government action to protect their economic, social and political rights. Your government should address their demands, not attempt to suppress them.

Foreign governments and multilateral agencies that will be essential partners in the coming years have also emphasized that respect for human rights is critical for Sri Lanka's economic recovery.

We urge you to restore cooperation with international efforts at accountability for grave international crimes linked to the civil war that ended in 2009, as well as for corruption and other financial crimes that have led the present crisis, at the Human Rights Council. We also request that you reverse the actions of the Gotabaya Rajapaksa administration and restore the investigations of human rights violations that were started during your previous term as prime minister, and strengthen the Office of Missing Persons and the Office of Reparations.

The current crisis has in some ways brought together Sri Lankans often divided by ethnicity or religion. It is important that the Tamil community obtains justice for the many victims of abuses and their families. Your government should also end policies and the use of rhetoric that discriminates against Muslims.

Thank you for your consideration of these critical matters. We would appreciate discussing these recommendations in further detail with your office.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Meenakshi Ganguly', with a stylized flourish at the end.

Meenakshi Ganguly
South Asia director
Human Rights Watch