



Submission to the Universal Periodic Review of Sri Lanka

Human Rights Watch

July 2022

Introduction

1. After Gotabaya Rajapaksa was elected president in 2019, Sri Lanka's human rights situation has worsened considerably. The government has blocked investigations and prosecutions in human rights cases and failed to reform abusive laws. It has taken no substantive action to eradicate torture or seek accountability for perpetrators of abuse.

2. The 2020 20th amendment to the Constitution undermined the independence of the judiciary, the Human Rights Commission of Sri Lanka, the Office of Missing Persons, and other institutions essential to protecting rights.

3. The government used the Covid-19 pandemic to justify abusive policies, such as prohibiting the burial of Muslims (and others who practice burial) said to have died from the virus.

4. The Rajapaksa government has used rhetoric and pursued policies that are hostile and discriminatory towards ethnic and religious minorities. Security and intelligence agencies have intimidated and suppressed civil society groups and human rights defenders throughout the country, but most severely in the predominantly ethnic Tamil north and east.

Economic and social rights

5. The current economic crisis became acute in early 2022, prompting widespread protests and triggering a political crisis. According to a June 9 appeal by the United Nations, nearly 22 percent of the population now needs "food assistance."¹ Access to health care and education is also in jeopardy for millions.²

6. 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.³ The military is also engaged in commercial activities.⁴ By contrast, the Health Ministry was allocated 158 billion rupees (then \$790 million), a decrease of 871 million rupees from the previous year despite the Covid-19 pandemic.⁵ In the previous UPR cycle, Sri Lanka accepted a recommendation to "to end military involvement in commercial and other civilian activities."⁶ However, the government has not implemented this recommendation.

7. Government security forces have used excessive force to suppress protests arising from the economic crisis.⁷ As UN High Commissioner for Human Rights Michelle Bachelet

¹ "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).

² "UN calls for over US\$47 million for life-saving assistance to 1.7 million people," United Nations press release, June 9, 2022, <https://srilanka.un.org/en/185454-un-calls-over-us47-million-life-saving-assistance-17-million-people> (accessed June 14, 2022)

³ 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).

⁴ 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).

⁵ Ibid.

⁶ Recommendation 116.113 (by Austria).

⁷ Human Rights Watch, "Sri Lanka: Police Fire on Protesters," April 20, 2022, <https://www.hrw.org/news/2022/04/20/sri-lanka-police-fire-protesters> (accessed June 22, 2022).

said in May, to resolve the crisis the government should “address the broader political and systemic root causes that have long perpetuated discrimination and undermined human rights.”⁸

8. Sri Lanka should:

- Expand social protection programs to protect everyone’s rights from the effects of the economic crisis;
- 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 judiciary, auditor general, attorney general, and the Commission to Investigate Allegations of Bribery or Corruption;
- Conduct independent and impartial investigations into allegations of corruption and appropriately prosecute those responsible;
- Require auditing of the Ministry of Defence to meet the same criteria as other government departments. End audit exemptions for “secret services” that can be used to obscure the use of public funds. Implement the recommendation to end the military’s commercial activities.

Accountability for past abuses

9. At its third cycle review, Sri Lanka accepted numerous recommendations on accountability for violations committed during the civil war and its aftermath, and to implement commitments made under the 2015 Human Rights Council resolution 30/1.⁹ These recommendations have not been implemented. In 2020 the Rajapaksa government repudiated its commitments under 30/1. In a speech to the Human Rights Council on June 13, 2022, the foreign minister reiterated his government’s opposition to resolution 46/1, which seeks to advance accountability.¹⁰

10. On January 9, 2020, President Rajapaksa appointed a three-member “Commission of Inquiry to Investigate Allegations of Political Victimization.”¹¹ The commission blocked investigations and prosecutions in emblematic human rights cases pursued under the previous government, overturned one murder conviction, reinstated security force members disciplined for serious misconduct, and sought to protect Rajapaksa family members and others from investigations into fraud and money laundering.¹² During hearings throughout 2020 the commission impeded or prejudiced legal proceedings, leading the attorney general to repeatedly accuse it of exceeding its authority.¹³

⁸ “Bachelet urges restraint, and pathway to dialogue as violence escalates in Sri Lanka,” OHCHR press release, May 10, 2022, <https://www.ohchr.org/en/press-releases/2022/05/bachelet-urges-restraint-and-pathway-dialogue-violence-escalates-sri-lanka> (accessed June 14, 2022)

⁹ Including recommendations 116.65, 116.69, 116.70, 116.71, 116.72, 116.73, 116.74, 116.76, 116.77, 116.78, 116.80, 116.81, 116.85, 116.86, 116.87, 116.88, 116.89, 116.90 and 116.91.

¹⁰ Sri Lanka Foreign Minister Prof GL Peiris addresses Geneva #UNHRC50 13/06/22, <https://www.youtube.com/watch?v=5rN-IWolDR8>

¹¹ *The Gazette of the Democratic Socialist Republic of Sri Lanka*, January 9, 2020, http://documents.gov.lk/files/egz/2020/1/2157-44_E.pdf (accessed May 19, 2022).

¹² “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 May 19, 2022)

¹³ *Ibid.*

11. Sri Lanka accepted a number of recommendations related to enforced disappearances and the Office of Missing Persons (OMP).¹⁴ The OMP has failed to investigate cases or gain the confidence of victims' families. Gotabaya Rajapaksa's appointments to the OMP, including the former chair of the "political victimization" commission, Upali Abeyratne,¹⁵ and Jayantha Wickramaratne, a former policeman accused of destroying evidence in the murder of journalist Lasantha Wickrematunge,¹⁶ further undermined its credibility and independence.¹⁷ According to High Commissioner Bachelet, the policy of the OMP "seems to be aimed at reducing the case load and closing files rather than a comprehensive approach to establish the truth and ensure justice and redress to families."¹⁸

12. On March 26, 2020, Gotabaya Rajapaksa pardoned former Sgt. Sunil Ratnayake, who had been convicted of massacring eight civilians, including children.¹⁹ The conviction had been one of very few cases of security force personnel being held criminally responsible for civil war-era atrocities. On January 13, 2021, the Batticaloa High Court freed a pro-government member of parliament, Sivanesathurai Chandrakanthan (alias Pillayan), and four other suspects in the 2005 murder of an opposition parliamentarian, after the attorney general dropped charges in the case.²⁰ On June 24, 2021, Gotabaya Rajapaksa pardoned former Member of Parliament Duminda Silva, who was convicted in 2016, along with four others, for killing a rival politician and three of his supporters in 2011.²¹ On June 1, 2022, he was rearrested following an order by the Supreme Court.²²

13. Sri Lanka should:

- Support UN Human Rights Council resolution 46/1;
- Cease all attempts to obstruct or delay domestic investigations and prosecutions of human rights cases;

¹⁴ Recommendations 116.61, 116.62, 116.63, 116.64, 116.66, 116.67 and 116.79.

¹⁵ Human Rights Watch, *Open Wounds and Mounting Dangers, Blocking Accountability for Grave Abuses in Sri Lanka*, February 1, 2021, <https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka> (accessed May 19, 2022).

¹⁶ "Assassination of Sri Lankan Journalist, Wickrematunge v. Rajapaksa," Center for Justice and Accountability, 2019, <https://cja.org/what-we-do/litigation/wickrematunge-v-rajapaksa/> (accessed May 20, 2022).

¹⁷ "Appointment Of Ex-IGP Who Concealed Evidence In Journalist's Murder Probe To Missing Persons Office A Blow To Victims Says Ahimsa," *Colombo Telegraph*, June 1, 2021, <https://www.colombotelegraph.com/index.php/appointment-of-ex-igp-who-concealed-evidence-in-journalists-murder-probe-to-missing-persons-office-a-blow-to-victims-says-ahimsa/> (accessed May 20, 2022).

¹⁸ "Promoting reconciliation, accountability and human rights in Sri Lanka," A/HRC/49/9, Report of the United Nations High Commissioner for Human Rights, February 25, 2022, https://www.tamilguardian.com/sites/default/files/image/pictures/2022/Other/A_HRC_49_9_Advance_UneditedVersion.pdf (accessed May 20, 2022).

¹⁹ "Sri Lanka: Justice Undone for Massacre Victims," Human Rights Watch, March 27, 2020, <https://www.hrw.org/news/2020/03/27/sri-lanka-justice-undone-massacre-victims> (accessed May 20, 2022).

²⁰ Human Rights Watch, *Open Wounds and Mounting Dangers, Blocking Accountability for Grave Abuses in Sri Lanka*, February 1, 2021, <https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka> (accessed May 19, 2022).

²¹ Anbarasan Ethirajan, "Duminda Silva: Anger as Sri Lanka frees politician sentenced for murder," BBC News, June 26, 2021, <https://www.bbc.co.uk/news/world-asia-57608573> (accessed May 20, 2022).

²² "Duminda Silva arrested by the CID," *Colombopage*, June 1, 2022, http://www.colombopage.com/archive_22A/Jun01_1654094418CH.php (accessed June 14, 2022).

- Empower the police and courts to pursue credible and independent inquiries into past human rights abuses, and conduct trials according to international standards;
- Suspend from military service and remove from public office any serving or retired military officer credibly implicated in serious human rights violations;
- Establish a credible mechanism to investigate cases of enforced disappearance and provide case information and appropriate compensation to the families of victims.

Women and girl’s rights

14. In the third cycle, Sri Lanka accepted recommendations to protect and promote women’s rights, including by adopting a comprehensive policy to address discrimination, ending discriminatory legal provisions, and implementing measures to address gender based and sexual violence.²³ However, these undertakings have not been implemented.

15. The Ministry of Health claimed that violence against women and children increased during the Covid-19 pandemic, but acknowledged that available data were likely an undercount because “most cases are not reported.”²⁴ Section 363 of the Penal Code excludes marital rape from the crime of rape unless the couple are “judicially separated.”²⁵ Police generally fail to respond adequately to cases of domestic violence. The Sri Lankan police spokesman reportedly told a television talk show in August 2021 that the police would not pursue cases of threats or assault against a woman by her husband.²⁶

16. The 1951 Muslim Marriage and Divorce Act (MMDA) contains numerous abusive provisions.²⁷ It allows child marriage at any age. Furthermore, section 363 of the Penal Code specifically permits what would otherwise constitute statutory rape, in cases of child marriage permitted under the MMDA.²⁸ Under the MMDA only men can be judges of the Qazi court. The MMDA does not require a woman’s consent to be recorded before the registration of any marriage under the act, requiring only that the groom and the bride’s *wali* (guardian) make written declarations. The MMDA permits a man to have up to four wives, and also provides discriminatory procedures for divorce that place greater burdens on women.

17. In 2021 the cabinet approved reforms to the MMDA, reportedly to make 18 the minimum age for marriage, ensure women sign their marriage certificates, ban polygamy,

²³ Including recommendations 116.35, 116.136, 116.38, 116.39, 116.81, 116.134, 116.140, 116.143, 116.144; 116.145, 116.146, 116.147, 116.148, 116.149, 116.150, 116.153, 116.156 and 116.164.

²⁴ Weekly Epidemiological Report, Ministry of Health, Vol. 47 No. 42 10th– 16th October 2020, http://www.epid.gov.lk/web/images/pdf/wer/2020/vol_47_no_42-english.pdf (accessed May 4, 2022).

²⁵ Penal Code of Sri Lanka, <https://www.lawnet.gov.lk/penal-code-consolidated-2/> (accessed March 4, 2022).

²⁶ “We do not proceed with these cases to court. We try to reconcile the matter. If we remand the person, the husband and wife will be separated, then what will happen to the children?” he was quoted as saying. Aazam Ameen, “Sri Lanka Police does not intend to take cases of intimate partner violence to court: SDIG Rohana,” *The Morning*, August 5, 2021, <https://www.themorning.lk/sri-lanka-police-does-not-intend-to-take-cases-of-intimate-partner-violence-to-court-sdig-rohana> (accessed March 4, 2022).

²⁷ Muslim Marriage and Divorce Act, No. 13 of 1951 (MMDA), http://www.commonlii.org/lk/legis/consol_act/mad134294.pdf (accessed March 4, 2022);

“Reforming the Muslim Marriage and Divorce Act,” Vertié Research, March 2018, <https://www.veriteresearch.org/wp-content/uploads/2018/05/Verit%C3%A9-Brief-Muslim-Marriage-and-Divorce-Act.pdf> (accessed March 4, 2022).

²⁸ Penal Code of Sri Lanka, <https://www.lawnet.gov.lk/penal-code-consolidated-2/> (accessed March 4, 2022).

and end the system of appointing only male Qazi judges.²⁹ The proposals were welcomed by Muslim women activists.³⁰ However they were not presented to parliament.

18. Under section 303 of the Penal Code, anyone deliberately causing a miscarriage, except for the purpose of saving a woman's life, can be imprisoned for up to three years.³¹ The sentence can increase to seven years if the woman is "quick with child," meaning that fetal movement can be felt. The same penalties apply to a person who performs or intentionally undergoes an abortion. On March 8, 2022, the then-justice minister called for parliament to consider legalizing abortion in cases of rape.³² The Law Commission of Sri Lanka made a similar proposal in 2013.³³ However, successive governments have failed to bring new legislation.

19. Sri Lanka should:

- Set the minimum age of marriage at 18 with no exceptions;
- Remove all marital rape exceptions from laws criminalizing rape;
- Require police to investigate and appropriately prosecute acts of gender-based violence, including against a woman by her husband;
- Amend the MMDA to remove abusive and discriminatory provisions;
- Provide comprehensive services to protect women experiencing or at risk of gender-based violence;
- Legalize abortion in all circumstances;
- Ratify the International Labour Organization Convention on Violence and Harassment at Work (ILO Convention No. 190).

Right to life, arbitrary detention and torture

20. In the third cycle, Sri Lanka accepted at least 15 recommendations relating to arbitrary detention and torture.³⁴ However, no substantive action has been taken to eradicate or seek accountability for perpetrators of these abuses, which continue.

²⁹ Mahadiya Hamza, "Cabinet nod for permitting Sri Lanka's Muslim marriages, divorces under common law," *Economynext*, July 20, 2021, <https://economynext.com/cabinet-nod-for-permitting-sri-lankas-muslim-marriages-divorces-under-common-law-84174/> (accessed May 4, 2022).

³⁰ Muslim Women's Research and Action Forum, "Progressive Decisions by Cabinet of Ministers on Substantive MMDA Reform are Welcome," July 8, 2021, <https://www.mmdasrilanka.org/statement-progressive-decisions-by-cabinet-of-ministers-on-substantive-mmda-reform-are-welcome/> (accessed March 4, 2022).

³¹ Penal Code of Sri Lanka, <https://www.lawnet.gov.lk/penal-code-consolidated-2/> (accessed March 4, 2022).

³² Dulya de Silva, "Sri Lanka should consider legalising abortion for rape victims: Justice Minister," *Economynext*, March 8, 2022, <https://economynext.com/sri-lanka-should-consider-legalising-abortion-for-rape-victims-justice-minister-91425/> (accessed March 4, 2022).

³³ "Proposals of the Law Commission to Provide for the Medical Termination of Pregnancy in cases of Rape and Serious Foetal Impairment," February 2013, http://lawcom.gov.lk/web/images/stories/reports/medical_termination_of_pregnancy_proposals_of_the_law_commission_of_sri_lanka.pdf (accessed March 4, 2022).

³⁴ Including recommendations 116.2, 116.3, 116.4, 116.5, 116.6, 116.7, 116.8, 116.9, 116.10, 116.55, 116.56, 116.57, 116.58, 116.67, 116.68.

21. In 2021 the police were implicated in several unlawful deaths,³⁵ including of three men whose deaths in May and June were linked to disproportionate and abusive enforcement of measures to control the spread of Covid-19, as well as in cases linked to an abusive anti-drugs policy.³⁶ Among these killings, police fatally shot Melon Mabula on May 11, and Tharaka Perera Wijesekera on May 12.³⁷ Both were in police custody for alleged involvement in organized crime. In a statement, the Bar Association of Sri Lanka said that both cases “have all the hallmarks of extra-judicial killings.”³⁸ None of these cases is known to have led to the prosecution of anyone allegedly responsible.

22. In 2020, Gotabaya Rajapaksa established a task force of senior military and police officers to create a “disciplined, virtuous, and lawful society,” and placed the police and National Dangerous Drugs Control Board (NDDCB) under the Defenc Ministry.³⁹ The police crackdown on alleged drug dealers and users has resulted in torture and other ill-treatment in police custody or at “rehabilitation” centers, and invasive body searches of female suspects. People accused of using drugs can be arbitrarily detained without charge or trial for “rehabilitation” in facilities run by the army. A study by Harm Reduction International found that the treatment of inmates in Sri Lanka’s “rehabilitation” centers includes near-daily beatings and other physical abuse amounting to torture.⁴⁰

23. Trafficking or possession of drugs in Sri Lanka carries severe penalties, including death or life in prison.⁴¹ No executions have been carried out in Sri Lanka since 1976, although death sentences continue to be handed down and about 1,500 prisoners are on death row.⁴² Sri Lanka accepted three recommendations to “consider” the abolition of the death penalty.⁴³

24. Sri Lanka should:

³⁵ “Sri Lanka: Police Abuses Surge Amid Covid-19 Pandemic,” Human Rights Watch, August 6, 2021, <https://www.hrw.org/news/2021/08/06/sri-lanka-police-abuses-surge-amid-covid-19-pandemic> (accessed May 19, 2022); “Sri Lanka: CPRP writes to UN Special Rapporteurs on recent deaths and torture in police custody,” *Sri Lanka Brief*, June 9, 2021, <https://srilankabrief.org/sri-lanka-cprp-writes-to-un-special-rapporteur-on-recent-deaths-and-torture-in-police-custody/> (accessed May 20, 2022).

³⁶ Harm Reduction International, *A Broken System: Drug Control, Detention and Treatment of People Who Use Drugs in Sri Lanka*, 2021, <https://www.hri.global/drug-control-sri-lanka> (accessed May 20, 2022).

³⁷ “Sri Lanka: Police Abuses Surge Amid Covid-19 Pandemic,” Human Rights Watch, August 6, 2021, <https://www.hrw.org/news/2021/08/06/sri-lanka-police-abuses-surge-amid-covid-19-pandemic> (accessed May 19, 2022).

³⁸ “Statement by the Executive Committee of the Bar Association of Sri Lanka on Killing of Suspects in Custody of the Police,” May 13, 2021, <https://basl.lk/statement-by-the-executive-committee-of-the-bar-association-of-sri-lanka-on-killing-of-suspects-in-custody-of-the-police/> (accessed May 20, 2022).

³⁹ “Presidential Task Force appointed to build a ‘secure country and a disciplined, virtuous, and lawful society’,” *Newswire*, June 3, 2020, <https://www.newswire.lk/2020/06/03/presidential-task-force-appointed-to-build-a-secure-country-and-a-disciplined-virtuous-and-lawful-society/> (accessed May 20, 2022); *The Gazette of the Democratic Socialist Republic of Sri Lanka*, October 6, 2020, http://www.cabinetoffice.gov.lk/cab/images/Downloads/functions_2020-10-06_E.pdf (accessed May 20, 2022).

⁴⁰ Harm Reduction International, *A Broken System: Drug Control, Detention and Treatment of People Who Use Drugs in Sri Lanka*, 2021, <https://www.hri.global/drug-control-sri-lanka> (accessed May 20, 2022).

⁴¹ Harm Reduction International, *A Broken System: Drug Control, Detention and Treatment of People Who Use Drugs in Sri Lanka*, 2021, <https://www.hri.global/drug-control-sri-lanka> (accessed May 20, 2022).

⁴² *Prison Study by the Human Rights Commission of Sri Lanka*, January 2020, <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> (accessed May 11, 2022).

⁴³ Recommendations 116.1, 116.53 and 116.54.

- Investigate and appropriately prosecute allegations of torture and other ill-treatment and extra-judicial killing by the police;
- End the involvement of the military in drug prevention and drug treatment activities;
- Take immediate steps to close compulsory drug rehabilitation centers and implement voluntary and evidence- and health-based treatment;
- Decriminalize drug use and possession for personal use;
- Abolish the death penalty.

Sexual Orientation and Gender Identity

25. Same-sex conduct, including between women, is criminalized in Sri Lanka, and the police use the 1841 “Vagrants Ordinance” to harass and detain transgender people.⁴⁴ Sri Lanka previously rejected recommendations on these issues.

26. Sri Lanka should:

- Repeal sections 365 and 365A of the Penal Code to end criminalization of same-sex conduct, and repeal the “Vagrancy Ordinance.”

Counterterrorism legislation

27. The use of the Prevention of Terrorism Act (PTA) has enabled arbitrary detention and torture since 1979.⁴⁵ In the previous cycle Sri Lanka accepted recommendations to review counterterrorism legislation or enact new legislation, but “noted” recommendations to repeal the PTA.⁴⁶ In 2015, Sri Lanka had committed to repealing the PTA in Human Rights Council resolution 30/1. The Rajapaksa administration repudiated 30/1 in 2020, and initially stated its support for the PTA.⁴⁷ However, in 2022 the government gave renewed assurances it would bring entirely new counterterrorism legislation.⁴⁸

28. In the aftermath of the 2019 Easter Sunday bombings, the authorities arbitrarily arrested and detained hundreds of Muslims under counterterrorism and emergency laws.⁴⁹ The Rajapaksa administration has used the PTA to target perceived political opponents and members of the minority Tamil and Muslim communities.⁵⁰ On March 9, 2021, Gotabaya Rajapaksa introduced the “Prevention of Terrorism (de-radicalization from holding violent

⁴⁴ Kyle Knight, “UN Body Condemns Sri Lanka’s Criminalization of Same-Sex Acts,” Human Rights Watch, March 23, 2022, <https://www.hrw.org/news/2022/03/23/un-body-condemns-sri-lankas-criminalization-same-sex-acts> (accessed June 28, 2022).

⁴⁵ Human Rights Watch, “In a Legal Black Hole:” Sri Lanka’s Failure to Reform the Prevention of Terrorism Act, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed June 22, 2022).

⁴⁶ Sri Lanka accepted recommendations 116.51, 116.52 and 116.79 but noted recommendations 117.27 and 117.45.

⁴⁷ Sandun A Jayasekera, “Cabinet approval to withdraw Counter Terrorism Bill,” January 4, 2020, https://www.dailymirror.lk/print/front_page/Cabinet-approval-to-withdraw-Counter-Terrorism-Bill/238-180710 (accessed June 21, 2022).

⁴⁸ Pamodi Waravita, “PTA Amendment Bill passed amid Opposition scorn,” *The Morning*, March 23, 2022, <https://www.themorning.lk/pta-amendment-bill-passed-amid-opposition-scorn/> (accessed June 21, 2022).

⁴⁹ “Sri Lanka: Muslims Face Threats, Attacks,” Human Rights Watch, July 3, 2019, <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> (accessed May 11, 2022).

⁵⁰ Human Rights Watch, “In a Legal Black Hole:” Sri Lanka’s Failure to Reform the Prevention of Terrorism Act, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed June 22, 2022).

extremist religious ideology) Regulations,” which if implemented would allow for detention for two years without trial for “rehabilitation.”⁵¹ The Human Rights Commission of Sri Lanka recorded 109 arrests under the PTA in 2021.⁵²

29. In March 2022, the government amended the PTA stating that this would address abuses under the law until new legislation could be brought.⁵³ As amended, the PTA does not meet any of the five “necessary prerequisites” described by seven UN special rapporteurs in December 2021 to comply with international human rights standards.⁵⁴ In June 2022, the foreign minister told the Human Rights Council there is “a *de facto* moratorium” on arrests under the PTA.⁵⁵

30. Sri Lanka should:

- Formally announce a moratorium on the use of the PTA until rights-respecting counterterrorism legislation is enacted.

Discrimination against minorities

31. Sri Lanka previously accepted 18 recommendations related to non-discrimination against minorities.⁵⁶ However, since Rajapaksa’s election the government has repeatedly attacked the rights of minorities.

32. In March 2020, the government published guidelines requiring that the remains of all people who had died from Covid-19 be cremated, which is against Islamic tradition.⁵⁷ The policy was withdrawn almost a year later, after which such burials were restricted to a single remote site.⁵⁸ Senior government figures made public remarks associating the Muslim community with Covid-19 infection.⁵⁹

⁵¹ Gazette of the Democratic Socialist Republic of Sri Lanka No. 2218/68, March 12, 2021, http://www.documents.gov.lk/files/egz/2021/3/2218-68_E.pdf (accessed May 16, 2022)

⁵² *In a Legal Black Hole, Sri Lanka’s Failure to Reform the Prevention of Terrorism Act*, Human Rights Watch, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed May 12, 2022).

⁵³ Pamodi Waravita, “PTA Amendment Bill passed amid Opposition scorn,” *The Morning*, March 23, 2022, <https://www.themorning.lk/pta-amendment-bill-passed-amid-opposition-scorn/> (accessed June 21, 2022).

⁵⁴ “Communication by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and six others,” LKA7/2021, December 9, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26863> (accessed December 14, 2021).

⁵⁵ “Sri Lanka Foreign Minister highlights significant progresses made in human rights at UNHRC session,” *Colombopage*, June 13, 2022, http://www.colombopage.com/archive_22A/Jun13_1655136797CH.php (accessed June 21, 2022).

⁵⁶ Recommendations 116.13, 116.31, 116.32, 116.34, 116.36, 116.37, 116.49, 116.94, 116.97, 116.98, 166.99, 116.100, 116.101, 116.102, 116.103, 116.164 and 116.172.

⁵⁷ “Sri Lanka: Covid-19 Forced Cremation of Muslims Discriminatory,” Human Rights Watch, January 18, 2021, <https://www.hrw.org/news/2021/01/18/sri-lanka-covid-19-forced-cremation-muslims-discriminatory> (accessed May 22, 2022).

⁵⁸ Meenakshi Ganguly, “Rights of Sri Lankan Muslims Need International Protection,” Human Rights Watch, March 2, 2021, <https://www.hrw.org/news/2021/03/02/rights-sri-lankan-muslims-need-international-protection> (accessed May 22, 2022).

⁵⁹ Tinaranee Gunasekara, “The President in the Pandemic,” *Groundviews*, May 4, 2020, <https://groundviews.org/2020/04/05/the-president-in-the-pandemic/> (accessed May 22, 2022).

33. While the government took no action against those inciting violence and discrimination against minorities,⁶⁰ it repeatedly used Sri Lanka's 2007 International Covenant on Civil and Political Rights (ICCPR) Act to target members of minority communities, accusing them of "advocat[ing] national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence."⁶¹

34. Christian congregations are subject to violence and intimidation, in which police and government officials are allegedly complicit.⁶² Police and military personnel were allegedly complicit in allowing Buddhists to build religious structures on Hindu sites.⁶³ The government has repeatedly attempted to prevent Tamils from commemorating or memorializing members of their community killed during the civil war.⁶⁴

35. Sri Lanka should:

- 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 combat speech that incites violence, discrimination or hostility against minorities;
- End baseless restrictions on burial practices;
- Allow members of the Tamil community to freely commemorate and memorialize victims of the civil war.

Freedom of Expression and Freedom of Peaceful Assembly

36. Restrictions on freedom of expression and peaceful assembly have sharply increased under the Rajapaksa administration.⁶⁵ The media increasingly self-censor,⁶⁶ and some journalists have left the country fearing reprisals.⁶⁷ Investigations into the killings of at least

⁶⁰ *Hate Speech in Sri Lanka During the Pandemic*, Minor Matters, 2020, <https://www.minormatters.org/storage/app/uploads/public/5fc76b014/5fc76b014d43f554793096.pdf> (accessed May 2022).

⁶¹ Gehan Gunatilleke, "Broken shield and weapon of choice," Verité Research, June 24, 2019, <https://www.veriteresearch.org/2019/06/24/iccpr-act-sri-lanka/#:~:text=What%20is%20prohibited%3F,found%20in%20Sri%20Lanka's%20law> (accessed May 22, 2022); "Misuse of ICCPR Act and Judicial System to Stifle Freedom of Expression in Sri Lanka," Civicus, July 5, 2020, <https://monitor.civicus.org/updates/2019/07/05/iccpr-act-and-judicial-system-being-misused-stifle-freedom-expression-sri-lanka/> (accessed May 22, 2022).

⁶² US Department of State, *2020 Report on International Religious Freedom: Sri Lanka*, May 12, 2021, <https://www.state.gov/reports/2020-report-on-international-religious-freedom/sri-lanka/> (accessed May 22, 2022).

⁶³ Ibid.

⁶⁴ "Sri Lanka: Experts dismayed by regressive steps, call for renewed UN scrutiny and efforts to ensure accountability," OHCHR, February 5, 2021, <https://www.ohchr.org/en/press-releases/2021/02/sri-lanka-experts-dismayed-regressive-steps-call-renewed-un-scrutiny-and> (accessed May 23, 2022).

⁶⁵ At the third cycle Sri Lanka accepted three recommendations on the rights of human rights defenders and journalists: 116.104, 116.105 and 116.107. However it noted recommendation 117.46 "Adopt a national policy on the protection of journalists and human rights defenders to combat intimidation and violence, and to ensure effective investigation of such acts and prosecution of perpetrators."

⁶⁶ "Sri Lanka: Increasing Suppression of Dissent," Human Rights Watch, August 8, 2020, <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent> (accessed May 22, 2022).

⁶⁷ "Sri Lanka: End Persecution of Journalist," statement by Human Rights Watch and others, June 24, 2020, <https://www.hrw.org/news/2020/06/24/sri-lanka-end-persecution-journalist> (accessed May 22, 2022).

19 journalists have not led to prosecutions.⁶⁸

37. 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, especially in the north and east.⁶⁹ Some activists reported that their banks have prevented their organizations from making or receiving transfers, apparently under instructions from the central bank.⁷⁰

38. The government has repeatedly sought to suppress peaceful protests. In February 2021, the authorities obtained court orders banning events and deployed police to disrupt a five-day protest march by Tamil political parties and civil society.⁷¹ In one instance, the Kalavanjikudi Magistrates Court issued an order to “prohibit protests planned in support of the accusation of human rights violations at the Geneva sessions.”⁷²

39. In July 2021, trade unionists, activists, and teachers were arrested during a peaceful protest in Colombo and detained at quarantine facilities after being granted bail by a

⁶⁸ “19 Journalists Killed in Sri Lanka between 1992 and 2022,” Committee to Protect Journalists, https://cpj.org/data/killed/asia/sri-lanka/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&cc_fips%5B%5D=CE&st_art_year=1992&end_year=2022&group_by=location (accessed May 26, 2022).

⁶⁹ “Sri Lanka: Families of ‘Disappeared’ Threatened,” Human Rights Watch, February 16, 2020, <https://www.hrw.org/news/2020/02/16/sri-lanka-families-disappeared-threatened> (accessed May 22, 2022); “Situation Briefing No.6: Deteriorating Security Situation for Families of the Disappeared in the North-East of Sri Lanka,” Adayaalam Centre for Policy Research, May 16, 2022, <http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/> (accessed May 22, 2022); “Sri Lanka: Increasing Suppression of Dissent,” Human Rights Watch, August 8, 2020, <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent> (accessed May 22, 2022); Human Rights Watch, “Sri Lanka: Security Agencies Shutting Down Civic Space,” March 3, 2020, <https://www.hrw.org/news/2020/03/03/sri-lanka-security-agencies-shutting-down-civic-space> (accessed May 22, 2022); Human Rights Watch, “Sri Lanka: Due Process Concerns in Arrests of Muslims,” April 23, 2020, <https://www.hrw.org/news/2020/04/23/sri-lanka-due-process-concerns-arrests-muslims> (accessed May 22, 2022); Human Rights Watch, “Sri Lanka: Human Rights Under Attack,” July 29, 2020, <https://www.hrw.org/news/2020/07/29/sri-lanka-human-rights-under-attack> (accessed May 22, 2022); “Report of the Fact Finding Mission to Batticaloa to Study the Impact of the Easter Sunday Bombings,” January 4, 2022, <https://www.minormatters.org/storage/app/uploads/public/61d/281/690/61d28169031b5163048128.pdf> (accessed May 22, 2022). Human Rights Watch, *Open Wounds and Mounting Dangers, Blocking Accountability for Grave Abuses in Sri Lanka*, February 1, 2021, <https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka> (accessed May 19, 2022); *In a Legal Black Hole, Sri Lanka’s Failure to Reform the Prevention of Terrorism Act*, Human Rights Watch, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed May 12, 2022).

⁷⁰ *In a Legal Black Hole, Sri Lanka’s Failure to Reform the Prevention of Terrorism Act*, Human Rights Watch, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed May 12, 2022).

⁷¹ “Protest march by Tamil political parties and civil society against suppression of minorities in Sri Lanka concludes,” *Colombopage*, February 7, 2022, http://www.colombopage.com/archive_21A/Feb07_1612718633CH.php (accessed May 22, 2022).

⁷² Meenakshi Ganguly, “Thousands March for Justice in Sri Lanka, Despite Ban,” Human Rights Watch, February 9, 2021, <https://www.hrw.org/news/2021/02/09/thousands-march-justice-sri-lanka-despite-ban> (accessed May 22, 2022).

magistrate.⁷³ In August, police again arrested protesting trade unionists and students.⁷⁴

40. On April 19, 2022, police fired on protesters demonstrating against rising fuel prices in Rambukkana, killing one and wounding at least 14.⁷⁵ On May 9, 2022, several hundred supporters of the prime minister attacked anti-government protesters in Colombo.⁷⁶ A senior police officer said he had been ordered not to prevent the attack.⁷⁷

41. Sri Lanka should:

- Stop using security and intelligence agencies to intimidate and suppress civil society activists and organizations;
- End policies preventing civil society organizations from accessing legitimate sources of funding;
- Allow peaceful protests, and investigate and prosecute as appropriate officers responsible for excessive use of force or other abuses against protesters.

⁷³ "Sri Lanka: Stop Arrests, Reprisals for Education Policy Protests," Statement by Human Rights Watch and others, September 28, 2021, <https://www.hrw.org/news/2021/09/28/sri-lanka-stop-arrests-reprisals-education-policy-protests> (accessed May 22, 2022).

⁷⁴ Ibid.

⁷⁵ "Sri Lanka: Police Fire on Protesters," Human Rights Watch, April 20, 2022, <https://www.hrw.org/news/2022/04/20/sri-lanka-police-fire-protesters> (accessed May 22, 2022).

⁷⁶ "Sri Lanka: Government Backers Attack Peaceful Protesters," Human Rights Watch, May 10, 2022, <https://www.hrw.org/news/2022/05/10/sri-lanka-government-backers-attack-peaceful-protesters> (accessed May 22, 2022).

⁷⁷ "Sri Lanka's CID interrogates top police officer in connection with violence on May 9," Press Trust of India, May 21, 2022, <https://theprint.in/world/sri-lankas-cid-interrogates-top-police-officer-in-connection-with-violence-on-may-9/965575/> (accessed May 22, 2022).