**Submission to SR on Minority Rights and SR on Freedom of Religion or Belief By Women’s Action Network Sri Lanka (WAN)**

Sri Lanka is again facing a human rights crisis. Attacks on human rights defenders and ethnic minorities are on the rise, and an authoritarian government is solidifying power, using the COVID-19 pandemic as cover. Movements towards reconciliation and transitional justice after Sri Lanka’s civil war have stagnated. At this period of multiple vulnerabilities, it is critical that Sri Lanka remain engaged with the international community.

**Background:**

Sri Lanka has ratified a number of human rights treaties, and its constitution protects freedom of religion and belief as fundamental rights. Yet in the course of its 26-year civil war with the Liberation Tigers of Tamil Eelam (LTTE), the government routinely infringed minority rights in the name of national security. The war came to a brutal end in 2009 at the hands of then-Defense Secretary Gotabhaya Rajapaksa and then-President Mahinda Rajapaksa. The 2015 OHCHR Investigation on Sri Lanka (OISL) documented serious violations of human rights and war crimes during the last stages of the war and stressed the need for accountability. No progress was made while the Rajapaksas were in power—the government spurned successive UNHRC resolutions and vilified former High Commissioner of Human Rights Navi Pillay. Civil society activists and journalists were abducted and tortured. Tamils were detained under the draconian Prevention of Terrorism Act (PTA). Militarization and ethnonationalism took root, and a different minority group became the new target as saffron-clad Buddhist monks incited mobs to burn Muslim-owned businesses and homes in 2014.

From 2015 to 2019, a unity government came to power bringing much-needed reforms. Commitments to transitional justice and PTA reform were made, if not kept. Media freedoms increased, civil society engagement grew, and independent commissions like the Human Rights Commission of Sri Lanka took a stronger role in defending minority rights. But this trajectory ended with the Easter Sunday attacks in April 2019, when Muslim terrorists killed 269 churchgoers and tourists. Communal anger and mob violence against Muslims swiftly followed. Sinhala-nationalism again bubbled up, setting the stage for the Rajapaksas to retake power.

**Current State of Affairs**

Since November 2019, Sri Lanka has been ruled by President Gotabaya Rajapaksa (former Minister of Defense, 2005-2015) and his brother, Prime Minister Mahinda Rajapaksa (former president, 2005-2015). As in the past, the Rajapaksa government has targeted human rights defenders, journalists, and those seeking to investigate and prosecute violations during the civil war. Ethnic and religious minorities in Sri Lanka are facing violence, threats and discrimination, and targeted for acts including speaking out against violence, writing short stories or wearing clothing “offensive to Buddhism.”[[1]](#footnote-1) Land seized by the military has yet to be returned, and the defense ministry has colluded with Buddhist monks to encroach land belonging to minority communities under the guise of preserving religious sites. On May 15, 2020, while the country was under COVID-19 lockdown, Defense Secretary Major General Kamal Gunaratne acted under President Rajapaksa’s instructions to order the Commander of the Navy, Vice Admiral Piyal de Silva, to immediately establish a naval contingent to protect the Buddhist Pottuvil Muhudu Maha Vihara temple and its land.[[2]](#footnote-2) This order was widely viewed as a move to evict Muslims and Tamils in the area.

State “counterterrorism” efforts increasingly target Muslims and Tamils. One recent example is the arrest and continued detention of human rights lawyer Hejaaz Hizbullah, a well-known advocate for the rule of law and minority rights.[[3]](#footnote-3) The government has undertaken a media campaign alleging that he was involved in the 2019 Easter attacks—a “trial by media” without due process of law.[[4]](#footnote-4) Hizbullah faces possible charges under the PTA.

After the Easter attacks in April 2019, hundreds of Muslims were arrested under the PTA and ICCPR Act on suspicion of little more than possessing writing with Arabic script.[[5]](#footnote-5) The Rajapaksa government has continued such arrests. On April 9, 2020, the CID arrested Ramzy Razeek at his home in Kandy. The next day, he was produced before the Colombo Magistrate where the CID claimed that he had violated the ICCPR and Cyber Crimes Legislation. After a month, he remains remanded. His arrest was precipitated by a Facebook post which advocated for an ‘ideological Jihad’ to arrest the sliding of justice and democracy around him. This post is ordinary unless one construes the word ‘Jihad’ to mean something other than a ‘struggle’, which is the sense in which he has posted. The CID took him to Colombo informing his family that he would be released the next day. Instead the family has had no contact with him since except for a one-minute phone call.[[6]](#footnote-6)

Sri Lanka’s PTA has long been criticized as failing to meet international standards. The previous administration attempted to repeal and replace it with the proposed Counter Terrorism Act (CTA). When CSOs challenged aspects of the CTA, the prior government failed to respond.[[7]](#footnote-7) On January 2, 2020, with Rajapaksa once more in power, his Cabinet withdrew the CTA bill, leaving the PTA in place.[[8]](#footnote-8) By withdrawing the CTA bill, Sri Lanka is reneging on the pledges it made, including to the United Nations Human Rights Council and the European Union.[[9]](#footnote-9)

At least 18[[10]](#footnote-10) persons have been detained under the PTA during the COVID lockdown, with charges yet to be filed. While the PTA and ICCPR Act are weaponized against minorities and dissenters, hate-mongering Buddhists monks and media channels openly spread rumors and fake news about the Muslim community and other minorities.[[11]](#footnote-11)

The Presidential Secretariat is consolidating power over civil society by placing transitional justice activists under surveillance, including war-affected women searching for relatives disappeared during the war. Women’s groups and minority-rights CSOs have been placed under surveillance: organization bank accounts have been tapped, and activists have been required to report to the CID and FCID to explain their funding sources and programming. A recent order in the official Gazette gives the defense ministry control over the police and civil intelligence services, immigration and emigration services, and civic institutions including nongovernmental organizations, telecommunications and media. These recent efforts are exactly how the Rajapaksa family controlled freedom of expression, movement, and activism, CSO work, and travel from 2005 to 2015. Through military control, minorities and CSOs are intimidated to prevent engagement with the international community.

In 2016, the previous government enacted the 19th Amendment to the Constitution to limit excessive executive power and facilitate independent institutions including the judiciary. This amendment was a direct response to overreach by the prior Rajapaksa regime. Months into his tenure, President Gotabaya Rajapaksa is challenging key aspects of the 19th Amendment and threatens to repeal it. His government has rolled back checks and balances and impaired independent commissions. Instead of vetting new appointees, President Rajapaksa has appointed the very persons accused of war crimes in the OISL report to high positions, pledging their immunity from prosecution. According to media reports, 77 military officers have been deployed by the President to run civilian affairs. Eighteen generals either head or hold senior positions in civilian departments.[[12]](#footnote-12) The entire COVID response is controlled by the military and is headed by Army Commander Shavindra Silva (also accused by the OISL report of war crimes). A decade has passed since the end of Sri Lanka’s civil war, yet there is no functioning system for accountability. The government recently withdrew from its U.N. commitments while the President told the U.N. Coordinator that alleged “missing persons are actually dead”[[13]](#footnote-13) With increased threats to the rule of law and diminished regard for ethnic healing, Sri Lanka’s minorities are under grave threat.

Numerous UN bodies have recommended concrete actions for the protection of human rights in Sri Lanka. While efforts by successive governments have fallen short, the current administration has deliberately undermined progress.[[14]](#footnote-14) Landmark cases against the military of abduction, murder and disappearance of ethnic minorities are either not prosecuted or delayed; witness and families of victims are threatened; and a person whose sentence for mass murdering ethnic minorities had been affirmed by the Supreme Court has been given a presidential pardon.[[15]](#footnote-15)

**Escalating anti Muslim sentiment and attacks during Pandemic**

The COVID-19 pandemic has heightened anti-Muslim sentiment in Sri Lanka. Muslims have been accused of bringing and spreading COVID-19. The propaganda machine is well-oiled: two private media channels (Hiru And Derena) devote around-the-clock programming raising baseless accusations against Muslims and widely disseminating fake stories. Systematic social media campaigns point fingers at the Muslim community as careless, not patriotic, and not law-abiding during the lockdown. In TV shows and some government circulars, state officers depict the Muslim community as introducers, carriers, and transmitters of COVID-19 to others. TV programming focuses predominantly on Muslim areas under lockdown and Muslims being tested and quarantined.

Government leaders have taken no steps to combat false reports or urge ethnic unity. Indeed, anti-Muslim campaigning was central to President Rajapaksa’s electoral campaign last November, and his administration is ramping up similar rhetoric in preparation for upcoming Parliamentary elections to secure a two-thirds majority.

Beyond rhetoric, health policies during COVID-19 have also been discriminatory. In conflict with WHO guidance, the Ministry of Health ordered that the bodies of those who have died, or are suspected to have died, from COVID-19 must be cremated only, and not buried. The exclusion of burial, without any basis in WHO guidance, was widely seen as discriminating against Sri Lanka’s Muslim and Christian communities. On 8 April, four UN Special Rapporteurs wrote to the President of Sri Lanka, outlining their concerns that the cremation policy was a violation of the right to freedom of thought, conscience and religion, and discriminatory against minority communities. The administration has not responded.

To date, 4 of the 9 persons who have died of COVID-19 in Sri Lanka are Muslim. After speaking in depth with three of the Muslim families, I have come to the conclusion that at least two these four Muslims did not die of COVID-19.

* Mr. Jamal passed away around 7 p.m. on 30th March in Negombo. His body was cremated within 5 hours (around midnight) without even one family member viewing it. At the time of his cremation, the old Ministry of Health circular permitted burial. That option was swiftly deleted and replaced with a cremation-only policy the very next day.[[16]](#footnote-16) On April 11, the administration amended an old quarantine law that permitted both burial and cremation for communicable disease. This gazette contained a clause making cremation compulsory for both actual and *suspected* COVID deaths.
* A woman named Fathima Rinosa (age 42) was identified as a suspected COVID death, and her body was cremated during Ramadan (holy fast). Authorities later confirmed that her COVID-19 results were negative. Later, family members were given her ashes to burry.
* On May 5, Mr. Rafaideen’s body was cremated as a COVID-19 casualty, but his name is not added on the COVID-19 casualty list. His body was placed in the morgue for over 24 hours and not handled as authorities usually handled COVID-19 deceased bodies of COVID. No family members were tested or quarantined. The body was put in the body bag only when they were transporting the body to the crematorium.

The families affected by this forced cremation policy have filed a Fundamental Rights application in the Supreme Court. A hearing is possible in June. Opposition politicians have highlighted the differential treatment of COVID bodies of Muslims versus Sinhalese. JVP MP Bimal Ratnayake and UNP leader Sajith Pramadasa have called on the Ministry of Health to treat COVID deceased bodies, including of Muslim patients, in a dignified manner.

Aside from the cremation policy, Muslims perceive that the lockdown is being used to exact political revenge for not voting for President Rajapaksa last November. The COVID task force headed by the President’s brother Basil Rajapaksa and Army Commander Shavindra Silva lacks a single Muslim leader or representative.

WAN has consulted with those living in four predominantly Muslim areas under lockdown. Based on anecdotal reports, it appears that the government prolonged lockdowns in those areas (some going six to seven weeks) and denied access to essential items like medicine, leading to increased suffering and deaths. Many Muslims have been taken to quarantine centres at camps that are run by the military. WAN received over 18 calls from different such camps complaining of overcrowding and poor hygienic conditions leading to the spread of COVID-19. Health officials who raise concerns about the poor management of these quarantine facilities are being warned or threatened because the President, his brother Basil, and Shavindra Silva are running the entire COVID operation under military rule.

In short, this is an extremely difficult time for minority rights in Sri Lanka. Ethno-nationalism and militarism is on the rise, marginalizing Muslims and war-affected Tamils. The Rajapaksa government has used the current pandemic to further fracture ethnic harmony for political gain, and the international community must stand guard to safeguard minority rights.

1. Currently the Government is attempting to charge two activists who have been speaking out against state sponsored attacks on Evangelical churches and pastors. Likewise, the ICCPR Act has been used to targetdissidents. Writer Shakthika Sathkumara was arrested under section 3 of the ICCPR Act for allegedly inciting hatred by writing a short story that was considered to be offensive to members of the Buddhist clergy. Although he was released on bail, it is unclear whether the current government intends to pursue his prosecution. See Urgent Action, Amnesty Int’l, Sri Lanka: Further Information: Writer Released on Bail, Still at Risk of Jail: Shakthika Sathkumara, ASA 37/0998/2019 (Sept. 5, 2019). In a similar incident, M.R. Mazahima was arrested and subsequently released on bail under the ICCPR Act for reportedly wearing clothing that was offensive to Buddhism—a ship’s wheel claimed to be similar to a *dharmachakraya*, a Buddhist symbol. See VERITÉ RESEARCH, SRI LANKA: RESOLUTION 30/1 IMPLEMENTATION MONITOR: STATISTICAL AND ANALYTICAL REVIEW NO. 5, 6 (Feb. 2020) See also, Human Rights Watch, [https://www.hrw.org/news/2020/05/20/sri-lankan-officials-stoke-covid-19-communal-hate#](https://www.hrw.org/news/2020/05/20/sri-lankan-officials-stoke-covid-19-communal-hate). [↑](#footnote-ref-1)
2. <http://www.colombopage.com/archive_20A/May15_1589567289CH.php> [↑](#footnote-ref-2)
3. @EU\_in\_Sri\_Lanka, TWITTER (May 26, 2020, 8:49 AM), <https://twitter.com/EU_in_Sri_Lanka/status/1265278814554165251>. Urgent Action, Amnesty Int’l, Sri Lanka: Concerns Mount for Detained Lawyer: Hejaaz Hizbullah, ASA 37/2221/2020 (Apr. 27, 2020). Sri Lanka: ICJ Raises Concerns About the Arbitrary Arrest and Detention of Lawyer Hejaaz Hizbullah; Calls for Repeal and Replacement of the Prevention of Terrorism Act, INT’L COMM’N OF JURISTS (Apr. 21, 2020), https://www.icj.org/sri-lanka-icj-raises-concerns-about-the-arbitrary-arrest-and-detention-of-lawyer-hejaaz-hizbullah-calls-for-repeal-and-replacement-of-the-prevention-of-terrorism-act/. [↑](#footnote-ref-3)
4. *Children Threatened by CID Following CR* Applications, Colombo Telegraph (May 12, 2020), <https://www.colombotelegraph.com/index.php/children-threatened-by-cid-following-fr-applications/>; Hizbullah’s *Family Decries “Vicious” Media Campaign After Confidential Statements Provided to Judge Leaked!*, Colombo Telegraph (May 14, 2020), <https://www.colombotelegraph.com/index.php/hizbullahs-family-decries-vicious-media-campaign-after-confidential-statements-provided-to-judge-leaked/>. [↑](#footnote-ref-4)
5. Many human rights organizations have criticized both the PTA and ICCPR Act as abusive and infringing on legitimate freedom of expression and belief*.* See *Sri Lanka: Muslims Face Threats, Attacks*, Human Rights Watch (July 3, 2019), <https://www.hrw.org/news/2019/07/04/sri-lanka-muslims-face-threats-attacks>; *Sri Lanka: Respect Human Rights in the Aftermath of the Easter Attacks*, Amnesty International (May 3, 2019), <https://www.amnesty.org/download/Documents/ASA3702972019ENGLISH.pdf>. [↑](#footnote-ref-5)
6. <https://www.srilankacampaign.org/wp-content/uploads/2020/05/Ramzy-Razeek-Infographic-min.png> [↑](#footnote-ref-6)
7. DFAT Country Information Report Sri Lanka, Australian Government: Department of Foreign Affairs and Trade 26, 60 (Nov. 4, 2019), <https://dfat.gov.au/about-us/publications/Documents/country-information-report-sri-lanka.pdf>. [↑](#footnote-ref-7)
8. Human Rights Watch Kelum Bandara, *Govt. Withdraws Counter Terrorism Bill*, Daily Mirror Online (Jan. 3, 2020), http://www.dailymirror.lk/breaking\_news/Govt-repeals-Counter-Terrorism-Bill/108-180615. [↑](#footnote-ref-8)
9. *Sri Lanka: Repeal Abusive Counterterrorism Law: Uphold Pledges to United Nations, European Union*, Human Rights Watch (Jan. 10, 2020), https://www.hrw.org/news/2020/01/10/sri-lanka-repeal-abusive-counterterrorism-law. [↑](#footnote-ref-9)
10. This number is based on conversations among CSOs and may be incomplete. [↑](#footnote-ref-10)
11. Misleading claim circulates that Muslims ignored COVID-19 curfew at Sri Lankan mosque (April 8, 2020), <https://factcheck.afp.com/misleading-claim-circulates-muslims-ignored-covid-19-curfew-sri-lankan-mosque>; China Spearheads Anti-Muslim Propaganda Campaign In Sri Lanka Amid Coronavirus Fears (April 30, 2020), <https://www.colombotelegraph.com/index.php/china-spearheads-anti-muslim-propaganda-campaign-in-sri-lanka-amid-coronavirus-fears/>; Covid Racism – Another Sri Lanka’s 1st (April 30, 2020), <https://www.colombotelegraph.com/index.php/covid-racism-another-sri-lankas-1st/> [↑](#footnote-ref-11)
12. Sri Lanka’s Other COVID-19 Crisis: Is Parliamentary Democracy at Risk?, International Crisis Group (May 29, 2020), <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lankas-other-covid-19-crisis-parliamentary-democracy-risk>. [↑](#footnote-ref-12)
13. Govt. announces withdrawal from UNHRC resolutions (Feb. 27, 2020), <http://www.ft.lk/top-story/Govt-announces-withdrawal-from-UNHRC-resolutions/26-696460>; Sri Lanka civil war: Rajapaksa says thousands missing are dead (Jan. 20, 2020), <https://www.bbc.com/news/world-asia-51184085>. [↑](#footnote-ref-13)
14. A compilation of recommendations as of 2017 by treaty bodies and special procedures is available at A/HRC/WG.6/28/LKA/2 (28 Aug. 2017). [↑](#footnote-ref-14)
15. Mirusuvil Massacre: Accused pardoned; no reparations for victims’ families, say rights groups (Mar. 30, 2020), <http://www.dailymirror.lk/opinion/Mirusuvil-%C2%A0Massacre%3A-Accused-pardoned%3B-no-reparations-for-victims%E2%80%99-families--say-rights-groups/172-185860>. [↑](#footnote-ref-15)
16. From Aluthgama and Post-Easter Sunday to COVID-19: Muslims Again at the Margins (Apr. 27, 2020), <http://www.commonviews.org/from-aluthgama-and-post-easter-sunday-to-covid-19-muslims-again-at-the-margins/>; Sri Lanka Muslims question why cremation of COVID 19 victims is mandatory (Apr. 13, 2020), <https://economynext.com/sri-lanka-muslims-question-why-cremation-of-covid-19-victims-is-mandatory-65605/>. [↑](#footnote-ref-16)