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HRW.org

March 5, 2024

Cc: Sarwat Jahan
IMF Resident Representative in Colombo

Re: IMF's program in Sri Lanka and attacks on civic space

Dear Peter Breuer,

We are writing to you on behalf of Human Rights Watch regarding the International Monetary Fund's (IMF) program in Sri Lanka and increasing government restrictions on the rights to freedom of expression, association and peaceful assembly. The IMF's US\$3 billion bailout helped stem the immediate economic crisis in Sri Lanka after it defaulted on its foreign debt in 2022. However, we are concerned that the objectives of the IMF's program are jeopardized by the government's increasing restrictions on public scrutiny, which is essential for addressing corruption and ensuring accountable governance.

Human Rights Watch is an international nongovernmental organization that works in nearly 100 countries to monitor human rights, including economic and social rights. We have reported on Sri Lanka for over three decades, including the attempts by successive Sri Lankan governments to undermine independent institutions, including the judiciary and constitutional bodies, and civil society organizations (CSOs) that seek to hold politicians and officials to account.

After mass protests around the economic crisis forced the president and the prime minister, brothers Gotabaya and Mahinda Rajapaksa, to step down in 2022, the new administration, led by President Ranil Wickremesinghe, has moved to stifle criticism with a raft of new, repressive laws. The [Online Safety Act](#), adopted by

parliament in January, creates vague and broad speech-related offenses punishable with lengthy prison terms. The [Anti-Terrorism Bill](#) currently before parliament contains sweeping new speech-related offenses and arbitrary powers of arrest. The proposed Broadcasting Bill will severely constrain the media. And the draft nongovernmental organization (NGO) law circulated by the government on January 30 could make independent civil society activity all but impossible.

The IMF's recent [Governance Diagnostic Assessment](#) emphasized the indispensable role of civil society in addressing the causes of Sri Lanka's crisis, and also acknowledged that the government seeks to intimidate and silence independent voices. Among its findings were:

- “Widespread and persistent popular protests in 2022 over the behaviour of top officials reflected a consensus that corruption had paved the way for the economic crisis. ... The role of civil society in demanding accountability carried an equally important message about the drivers of change.”
- “As recent experience has shown, civil society has a vital role to play in demanding accountability from public officials and directly contributing to better governance and integrity. ... Anticorruption efforts are unlikely to achieve their objectives unless they also encompass initiatives designed and led by groups outside of government who are committed to rule-based inclusive economic and social progress.”
- “Governance and corruption issues have imperilled national and social well-being. The recent past has demonstrated the extent of impunity afforded top officials, even for ruinous behaviour. At the same time, civil society has proven its ability to organise and demand accountability as a last resort.”
- “Regular civil society participation in oversight and monitoring of government actions is restricted by limited transparency, the lack of platforms for inclusive and participatory governance, and by broad application of counter-terrorism rules.”
- “[O]pportunities for public participation and oversight of official behaviour, including by civil society, are increasingly restricted.”

While the Governance Diagnostic emphasized the importance of civil society for achieving the program objectives of addressing corruption, it fell short of fully capturing the challenges civil society groups face even before the draft NGO law goes into effect. Particularly in the north and east, government security agencies routinely place activists and journalists under intrusive and intimidating surveillance, as repeatedly documented by Human Rights Watch, most recently in a September 2023 report. Among the threats they

face, as noted in the Governance Diagnostic, is prosecution under Sri Lanka's draconian [Prevention of Terrorism Act](#).

The Governance Diagnostic emphasizes the importance of the Right to Information (RTI) Commission, which handles applications for the release of official information. It notes that “[t]he extent to which the RTI is relied upon as an effective means of seeking redress demonstrates the effectiveness of its outreach and the value associated with the information obtained based on its interventions.” In conversations with Human Rights Watch, members of civil society, including policy researchers working on issues central to Sri Lanka's recovery from the economic crisis, report that RTI requests are routinely frustrated by bureaucratic obstruction and arbitrary non-compliance.

The Governance Diagnostic notes that “current approaches to Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) largely fail to support effective state action.” But the problem is more serious than that. It is being used as a tool for undermining civil society organizations, which have repeatedly told Human Rights Watch that financial transfers to their accounts are blocked by the central bank on the pretext of combatting terrorist financing.

It is in this context that the government on January 30 circulated the NGO Supervision and Registration Bill to a select group of civil society figures, giving them three weeks to respond. The proposed law does not address any evident need, but instead seeks to subject civil society organizations to invasive government scrutiny, requires organizations to obtain government registration that can be summarily withdrawn, enables the government to dictate NGOs' areas of work, and threatens civil society members with imprisonment for non-compliance with cumbersome administrative procedures.

The National Collective of CSOs and NGOs, a coalition of civil society organizations, wrote to the government on February 28 that the proposed NGO Supervision and Registration law would “violate the fundamental rights to freedom of association and expression,” while damaging the delivery of services by civil society organizations, including to “the many families who are struggling to make ends meet in the midst of severe economic hardship.”¹

¹ National Collective of CSOs and NGOs, letter to Mr. Sanjeewa Wimalagunaratna, Director General of the National Secretariat for Non-Governmental Organizations, February 28, 2024.

Among the concerns highlighted in their letter, and accompanying preliminary analysis² of the draft law, are:

- The government has provided no explanation of why the legislation is necessary.
- The lack of proper consultation. On January 30, the government gave a group of civil society members three weeks to respond to a draft law that was provided only in English. The government had failed to respond to or reflect detailed submissions made by civil society groups a year earlier.
- Mandatory registration (clauses 8-15) for these organizations would violate the right to freedom of association and “could lead to government intrusiveness in civic space and has the potential to feed into rent seeking behavior at various levels.” The “burdensome [administrative] requirements could pose an insurmountable hurdle for certain groups and efforts.” Registration can be suspended or cancelled for minor administrative issues (clauses 17 and 18).
- The law appears designed to control and curtail (rather than empower) civil society groups, imposing the same conditions on diverse NGOs, including development organizations, educational institutions, charities, corporate social responsibility foundations, human rights organizations, research institutes, think tanks, voluntary social work organizations, and charitable and philanthropic organizations (clause 2[1]), and would have “a stifling effect on the plurality and vibrancy of the civil society sector engaged in humanitarian, development and governance areas.”
- There are unjustified restrictions on fundraising and the transfer of funds (clause 16).

According to the National Collective of CSOs and NGOs, “The inclusion of broad provisions pertaining to Anti-money laundering and Terrorist Financing seems redundant since we have specialized laws for the purpose (Prevention of Money Laundering Act No.5 of 2006 as amended, Convention on the Suppression of Terrorist Financing act No.25 of 2005). And more worryingly, such broad assumption where not supported by an objective risk assessment violates the standards set by the Financial Action Task Force (FATF) and could make Sri Lanka vulnerable to a negative evaluation by FATF.”

² Ermiza Tegal, and Ruki Fernando, Preliminary Commentary on the Non-Governmental Organizations (Registration And Supervision) Act, of 2024 proposed to repeal and replace the Voluntary Social Services Act of 1980, February 8, 2024.

- The role of the minister of public security in regulating the sector, including making appointments to the regulatory authority, risks politicized decision-making. Powers and terminology in the draft law are overbroad and loosely defined, risking interference in NGOs' internal affairs. For instance, alternative or dissenting views could be proscribed (clause 16) as “political activities” or being against “core cultural values.” The minister’s power to make regulations whose scope and nature are not specified (clause 22) could further constrain NGOs’ operational space.
- The police would be empowered to enter and search NGO premises without a warrant. NGO workers could be subject to prison terms for failing to meet onerous administrative requirements (clauses 18 and 19).

The United Nations High Commissioner for Human Rights Volker Türk, in his [March 1 update to the UN Human Rights Council](#) on the crisis in Sri Lanka, said he was “concerned by the introduction of new or proposed laws with potentially far-reaching impact on fundamental rights and freedoms, the rule of law and democratic governance. These include the Online Safety Act; the Anti-Terrorism Bill; the Electronic Media Broadcasting Authority Bill; and the NGO Supervision and Registration Bill – which variously strengthen the executive, grant broad powers to the security forces, and severely restrict rights to freedom of assembly, association and expression, impacting not only on civic space but the business environment.”

The IMF should protect the credibility and efficacy of its program in Sri Lanka by publicly calling upon the government to:

- Abandon the proposed NGO law, which is incompatible with the aims of the IMF program;
- Impose a moratorium on use of the Online Safety Act until it is repealed and replaced with appropriate legislation;
- Amend the Anti-Terrorism Bill to ensure that it respects human rights standards before passing it into law, and impose a moratorium on use of the Prevention of Terrorism Act until then;
- Desist from passing any broadcasting law that is incompatible with international standards on freedom of expression; and
- End the use of measures to restrict civil society’s access to funds, including the central bank’s blocking of transfers, on the pretext of combatting terrorist financing.

Thank you for your attention to these crucial issues. We would be happy to meet with your colleagues to discuss this matter at any time.

Yours sincerely,

Meenakshi Ganguly
Deputy Asia director
Human Rights Watch

Arvind Ganesan
Economic Justice and Rights director
Human Rights Watch