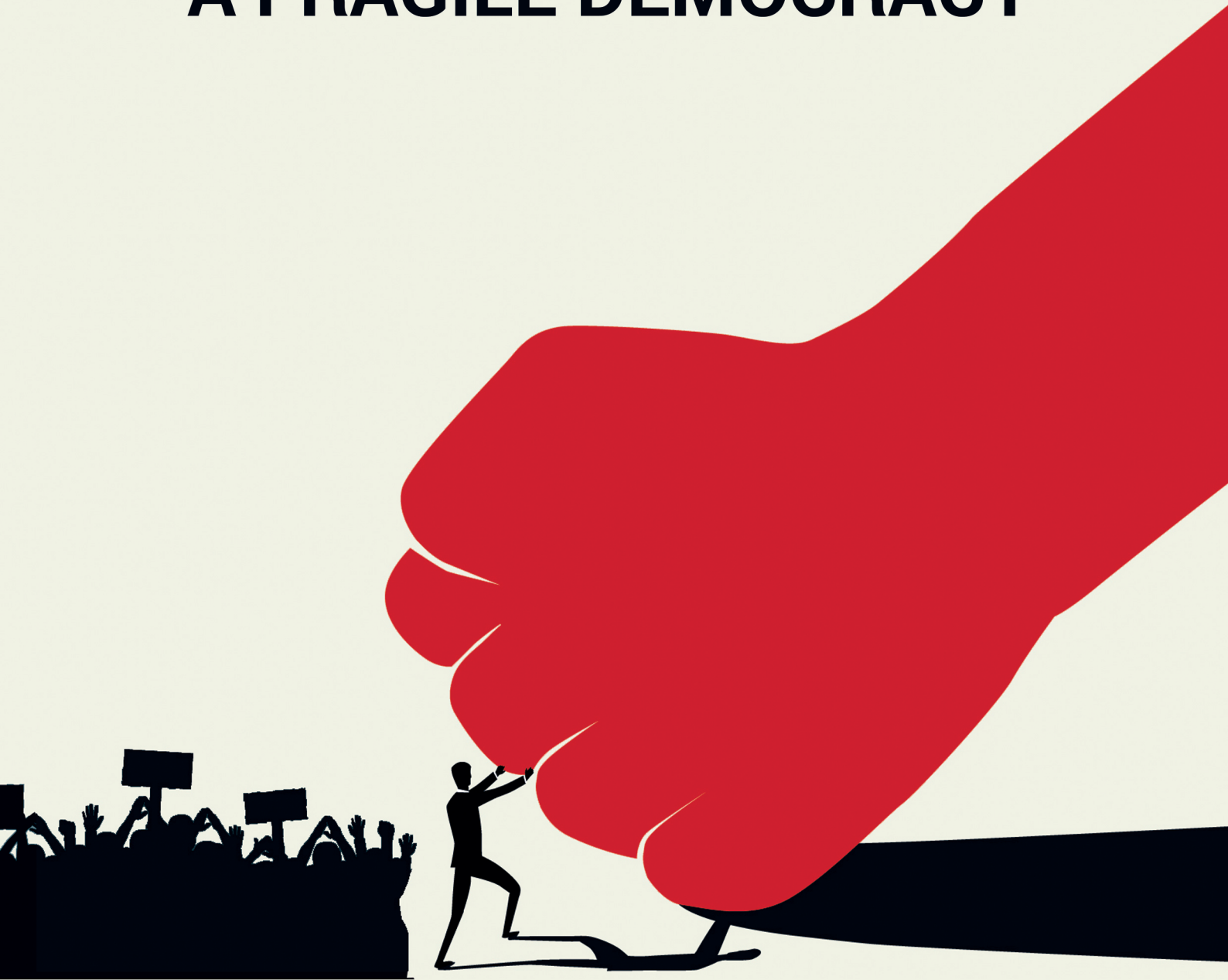


SRI LANKA

TEARS AND DREAMS OF A FRAGILE DEMOCRACY



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MBBS,.MD.,FRCP,FACC

Geneva Learning Foundation

Former Senior Adviser World Health Organization, Geneva, Switzerland

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Sri Lanka; Tears and Dreams of a Fragile Democracy

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Preface

Why did I write this book?

People have a right to know why Sri Lanka, a nation on its way to becoming an upper-middle-income country, became bankrupt in 2022. The events of 2022 have damaged the reputation of Sri Lanka. A tragedy which should not have happened.

The future of twenty-two million people is at stake. Successive governments are accountable for what happened through acts of commission and acts of omission. Like many of you, I was never interested in politics. However, I am a citizen of Sri Lanka, and I cannot stand by as the country's situation worsens. People need to know the truth so that they will not vote for dishonest politicians again. They must also understand that the populist policies of politicians and misplaced nationalism will be detrimental to the sustainable recovery of Sri Lanka. So, I decided to write the truth, even taking a risk.

In a medical career spanning 48 years, I worked in Sri Lanka for twenty years practising Medicine and training doctors as a Professor in the Faculty of Medicine, Peradeniya. Later I was recruited to the World Health Organization and led one of its global health programs for two decades as a Senior Adviser. I saw firsthand how people in many developing countries suffer more from political dysfunction, violation of human rights and corruption in governments than from shortage of resources. Sri Lanka is now in a similar plight.

The first chapter of the book is about the mass uprising. The following seven chapters provide insight into the underlying causes of the current economic and socio-political crisis. What needs to happen for long-term recovery is outlined in the final chapter.

News reported in the media and other reports already available in the public domain have been used as sources of information and are referenced. The target audience includes youth, students, undergraduates, policymakers, journalists, teachers and the public. The content has been simplified to the extent possible.

Knowledge gives power to the people. A more informed public will be able to elect political leaders with integrity, hold the government accountable and contribute to the sustainable recovery of Sri Lanka. Reading this book will be useful for all who are concerned about the future of Sri Lanka and wish to see her achieve a sustainable recovery.

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Dedicated to

Ranjit, Ruwani, Ruwan, Ruvinda
Hari, Nilhara and Ayodhya
Dev, Dylan, Zara, Revan and Ruhara

When the Nazis came for the communists ,
I remained silent;
I was not a communist.

When they locked up the social democrats,
I remained silent;
I was not a social democrat.

When they came for the trade unionists,
I did not speak out;
I was not a trade unionist.

When they came for the jews,
I remained silent;
I wasn't a Jew.

When they came for me,
there was no one left to speak out.

Martin Niemöller
6 January 1946

Click the hyperlinks of references listed at the bottom of each page. Hyperlinks will take you to other documents available in the public domain which provide further information.

If any hyperlink to references 1 to 613 does not open, copy the link to your web browser and click.

Synopsis

Sri Lanka is currently facing an unprecedented economic and socio-political crisis. The underlying causes of the crisis include mismanagement of the economy, abuse of the constitution, systemic corruption, violation of human rights and lack of accountability.

Mass protests erupted in 2022 (**Chapter 1**). Sinhalese, Tamil, Muslim and Burgher communities united in objecting to the rising cost of living and inflation due to corruption and government mismanagement. The '*Aragalaya*' was a nation-building episode. People's protests demanded economic stability and a system-wide change in administration and the political system. People's power made heads roll; the President, the Prime Minister and the Cabinet resigned. Political deals instituted a new government without a general election. The new government is suppressing dissent. Those who protest are arrested and detained under the Prevention of Terrorism Act (PTA). The Supreme Court had to step in to block a so-called Rehabilitation Bill that would have allowed the government to incarcerate those who protested. Despite the people's demands, the government has not changed how it works; corruption and mismanagement continue without meaningful reforms. As a result, the economic burden on the public has escalated. People can bring about a "system-wide change" by casting their votes for politicians without a track record of corruption and violation of human rights at the next general election.

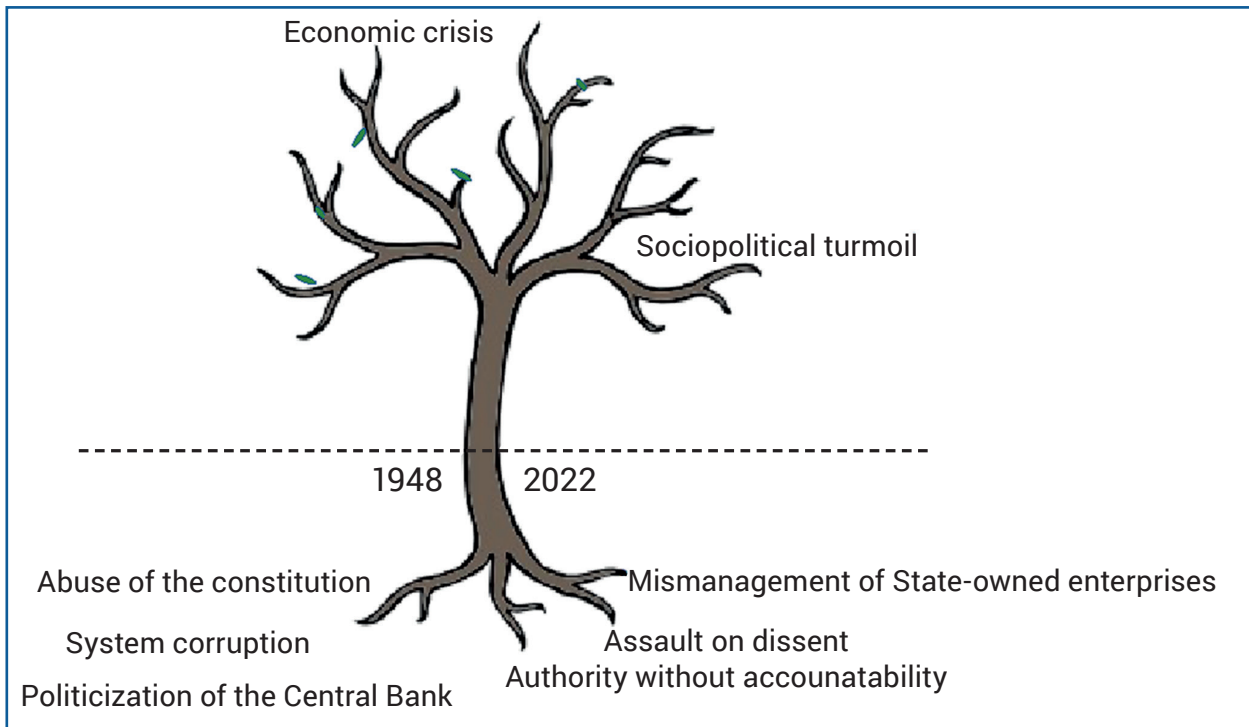


Figure 1: Underlying causes of the economic and socio-political crisis

What caused the economic crisis in Sri Lanka? (**Chapter 2**). Events experienced in Sri Lanka in 2021 and 2022 demonstrate how macroeconomic stability, social cohesion and political stability are interwoven and how they impact one another (see Figure 1). For decades, the poor economic discipline of successive governments had left the economy in a fragile state with no resilience to withstand financial shocks. The reckless borrowing of the Mahinda Rajapakse administration (2009-2015) for unproductive infrastructure projects swelled the foreign debt. Maithripala Sirisena administration (2015-2019) implemented policies to reduce the budget deficit and debt accumulation. However, the economy collapsed in 2022 due to short-sighted policies (cutting taxes, banning fertiliser and financing non-essential infrastructure projects with debt) of the Gotabhaya Rajapakse administration (2019-2022), compounded by an ineffective Central Bank. This pattern of unaccountable governance was made possible due to unrestricted and solo decision-making power embedded in the executive presidency. Further, The Presidential System of Government suppressed dissent, enabled corruption and mismanagement of public enterprises and provided a propitious backdrop for the economic crisis.

Constitutional Amendments paved the way for the crisis (**Chapter 3**). The people's uprising was not only about the economic crisis. People also demanded an end to an incompetent, corrupt, and unaccountable government. On 2 September 2020, the Sri Lanka Podujana Peramuna used its new majority in parliament to enact the 20th Amendment to the Constitution. It increased the president's power over

parliament. It enabled the president to unilaterally make appointments to a host of essential offices: the highest judges, the Attorney General, the Governor of the central bank, the Treasury Secretary and members of independent commissions¹. While maintaining the appearance of a democracy, nepotism, corruption, violation of human rights, and impunity blossomed under the 20 th Amendment of the Constitution, ending in the present crisis. The public demand in 2022 is for fundamental democratic reforms (system change), the core requirement of which is the abolition of presidentialism².

Systemic corruption has contributed to the present crisis (**Chapter 4**). Corruption is a global phenomenon. Sri Lanka has a particularly malignant form of corruption because powerful politicians have led the way to institutionalise a culture of corruption. Corruption has distorted the administration of public institutions and implementation of development projects. Government contracts are awarded for political and private gain, violating tender procedures. Powerful politicians take commissions from contracts of large-scale Government Projects. There is misappropriation of public funds and theft of public property by those in powerful positions. Following the example of political leaders, many public officials are taking bribes to perform routine services. Using constitutional amendments, the Rajapakse administration removed checks and balances against corruption and the independence of the National Audit Office, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and the judiciary. Parliamentary committees such as the parliamentary Public Accounts Committee (PAC) and the Committee on Public Enterprises (COPE) have been weakened to block financial transparency and accountability. To address corruption, Sri Lanka must restore means to monitor, identify, expose, and prosecute corruption, starting with an amendment of the constitution to abolish the executive presidency. Anticorruption strategies must include steps to restore and strengthen the independence of CIABOC, the Criminal Investigations Department, law enforcement, the Attorney General's Department and the judiciary.

Assault on dissent and violation of human rights are other root causes of the crisis (**Chapter 5**). Dishonest and dictatorial regimes fear the free flow of information to the public and freedom of speech and expression that can expose corruption and irregularities. Sri Lanka has experienced a consistent assault on dissent and freedom of expression for decades which many independent organisations have

1 <https://constitutionnet.org/news/return-sri-lankas-imperial-presidency-twentieth-amendment-constitution-bill>

2 <https://blog-iacl-aidc.org/new-blog-3/2022/5/10/economic-crisis-and-constitutional-reform-in-sri-lanka>

spotlighted. These include Amnesty International, Networking for Rights in Sri Lanka, INFORM Human Rights Documentation Centre, the Free Media Movement, Sri Lanka (FMM),³ Committee to Protect Journalists, and the Human Rights Watch. The domestic laws of Sri Lanka are not fully aligned with international human rights standards. For sustainable recovery from the current crisis, authorities have to respect, protect and fulfil the rights to freedom of expression, freedom of peaceful assembly, and freedom of association in compliance with Sri Lanka's obligations under international law and standards. There should be a cessation of all forms of attacks, including threats, detention, harassment, intimidation and killing of journalists, lawyers, human rights defenders, civil society activists and others for exercising their right to freedom of expression. The government must ensure that all such attacks are impartially and effectively investigated and measures are taken to prosecute and punish those responsible, regardless of the rank or political affiliation of the suspected perpetrators. Steps need to be taken to ensure that everyone in Sri Lanka can use any available communication medium, including the Internet, to seek, receive and impart information and ideas in line with their human rights to freedom of opinion and expression. Generations of Sri Lankans will benefit if all forms of international assistance to Sri Lanka are made conditional on monitoring the human rights situation, including of the effectiveness of domestic accountability processes.

The politicisation of the Central bank (CB) contributed to the economic crisis (**Chapter 6**). The CB of Sri Lanka manages the nation's money. It regulates commercial banks, sets interest rates, controls inflation and raises money for the government to run and develop the country. The collapse of the economy in Sri Lanka reflects in part the detrimental consequences of the politicisation of the CB. Political authorities have abused the power of the CB through politically appointed officials. In 2015-2016 Sri Lanka Government lost billions in Treasury Bond auctions. According to the Attorney General's department, the total amount of funds that had allegedly been defrauded during three bond auctions amounts to LKR 68 billion: LKR 18 billion at the 27 February 2015 bond auction, LKR 36.98 billion at the 29 March 2016 bond auction and LKR 15 billion at 31 March 2016 bond auction. No one has yet been found accountable for this massive loss. In 2022, the CB failed to seek timely assistance from the International Monetary Fund (IMF) to prevent the economic crisis because politically appointed officials took decisions, not in the national interest but to please political authorities. Regrettably, civil society in Sri Lanka failed to oppose attempts at undermining

3 <https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>

the independence of the CB. Suppose the CB and Ministry of Finance are run by people of stature and impeccable integrity, suitably qualified to hold their posts. In that case, the question of the independence of the CB may be less critical. In recent years, Sri Lanka has only sometimes had CB Governors who fulfilled these requirements. For sustainable economic recovery, the CB needs to be granted a greater degree of autonomy while strengthening public scrutiny and oversight over its work.

Lack of accountability and impunity are deep-seated causes of the national crisis (**Chapter 7**). It has become difficult for people who have suffered severe human rights violations to receive justice and accountability. For example, victims and families of the Easter Sunday massacre, deaths, abductions of journalists and human rights activists and custodial deaths do not receive redress. Perpetrators are not brought to justice. Politicians, allies of politicians and State employees acquitted of bribery and corruption are cleared of wrongdoing, often citing technical weaknesses in court cases. Members of the armed forces, the police and employees of State corporations found guilty of fraud and corruption during the term of one administration (2015-2019) are cleared by the next administration (2019-2022) through government-appointed Presidential commissions of inquiry. The absence of justice removes an essential deterrent to future perpetrators. Sri Lanka cannot recover from the crisis unless all barriers to state accountability for violating human rights are terminated. Steps need to be taken to limit the president's powers through constitutional amendments, protect judicial independence and strengthen the independence of the Attorney General. As long as corrupt politicians are a majority in parliament, none of these reforms will be realised, . International assistance to Sri Lanka, need to be conditional on the results of monitoring the effectiveness of reforms to improve domestic accountability processes.

Mismanagement of State-Owned Enterprises (SOEs) contributed to the economic crisis (**Chapter 8**). There are five hundred and twenty-seven SOEs in Sri Lanka. Most of them are running at a loss with the support of the treasury and are a significant drain on public finances. In addition, when necessary, they borrow from other SOEs and state-owned banks. Most SOEs are inefficient due to overstaffing, high labour costs, low productivity and lack of incentives for good performance. They lack budgetary constraints, internal audits and financial disclosure. SOEs like the Ceylon electricity board subsidise their product with other institutions bearing the cost. The total loss from SOEs in 2020 is an estimated 9 per cent of the GDP. The government needs to consider privatising some of the SOEs running at a loss, based on an in-depth study to assess risks and benefits systematically. Those

that cannot be managed efficiently need to be privatised. In addition, to improve the performance of SOEs, the government needs to grant them greater autonomy, strengthen corporate governance, digitalise budgets and accounts, remove political interference and enhance the powers of the boards of SOEs to make strategic decisions.

The President and the Parliament of successive governments are accountable to the people for all acts of commission and omission which have precipitated a national crisis. The colossal harm to the nation caused by political leaders' irresponsible and dishonest behaviour should not be underestimated and swept under the carpet. The long-term detrimental consequences of the crisis extend beyond the apparent destruction of the national economy, and will negatively impact the wellbeing of future generations.

What is required for sustainable recovery? (Chapter 9). Recovery should begin with a national dialogue so that people gain insight into underlying factors that have contributed to the economic and socio-political upheaval. Recovery must address the inherent problems of governance and human rights, end impunity and restore the rule of law. Short-sighted manoeuvres to safeguard the power base of the incumbent president and the parliament will only undermine sustainable recovery. Fundamental constitutional reforms, a system to ensure accountability and transparency, economic reforms, restructuring of State-Owned Enterprises, processes to empower civil society and a robust anticorruption framework will be needed for long-term recovery. The International Monetary Fund (IMF) has bailed out Sri Lanka sixteen times in the past. Another bail-out is essential but will not save Sri Lanka unless concrete steps are taken to address the deep-seated causes of the economic and sociopolitical crisis.

The current crisis provides an opportunity to build a strong and resilient economy. However, Sri Lanka is not facing a temporary liquidity shock that another external loan can resolve. The problems with the economy go beyond the mere shortage of fuel, electricity, food and medicines. There is a risk that power-hungry politicians could mislead the people into thinking that the economy has recovered when fuel queues disappear. In reality, profound structural and constitutional reforms and anticorruption strategies are essential to turn the economy around. Decades of fiscal indiscipline and risky borrowing have resulted in an unsustainable public debt. The gross debt of Sri Lanka in 2020 (the total of all sums of money that have to be paid to other countries, communities or institutions) was USD 82 billion, USD 3740 per capita. Foreign currency reserves have dropped from USD7.6 billion in 2019, to only USD 50 million by July 2022. So, reforms should rein in State expenditure, increase the revenue from taxation and reduce the current account

deficit by shifting the country to an export-oriented economy. However, such reforms can be realized only by a humane government with a strong mandate of the people.

1.1 Background

Sri Lanka gained independence from British colonial rule in 1948. By the 1970s, Sri Lanka was acclaimed as a development success story among low-income nations. Despite a civil conflict that continued for 26 years until 2009, Sri Lanka completed development as a Lower-Middle-Income Country and was on its way to becoming an Upper-Middle-Income Country by 2018⁴. GDP growth was 3.3 per cent, and GDP per capita was USD 4157 that year.⁵ Wide coverage of the government-financed education and healthcare system had led to a significant drop in poverty. Even without health financing reforms, it had made good progress on Universal Health Coverage⁶. Sri Lanka also had performed well on the Millennium Development Goals and was categorized as a high human development country by the United Nations Development Programme, ranking 72 out of 189 countries in 2018⁷.

Currently, Sri Lanka is facing an unprecedented economic and sociopolitical crisis due to mismanagement of the economy, by successive governments⁸. Further, the unbearable cost of living (see Figure 1.1) and acute shortages of fuel, cooking gas, staple food items and medicines have led to a public uprising.

4 <https://think-asia.org/bitstream/handle/11540/8848/cps-sri-2018-2022.pdf?sequence=1>

5 <https://data.worldbank.org/indicator/NY.GDP.PCAP.KD?locations=LK>

6 <https://documents1.worldbank.org/curated/en/138941516179080537/pdf/Sri-Lanka-Achieving-pro-poor-universal-health-coverage-without-health-financing-reforms.pdf>

7 <https://countryeconomy.com/hdi/sri-lanka>

8 <https://www.orfonline.org/research/understanding-the-economic-issues-in-sri-lankas/>

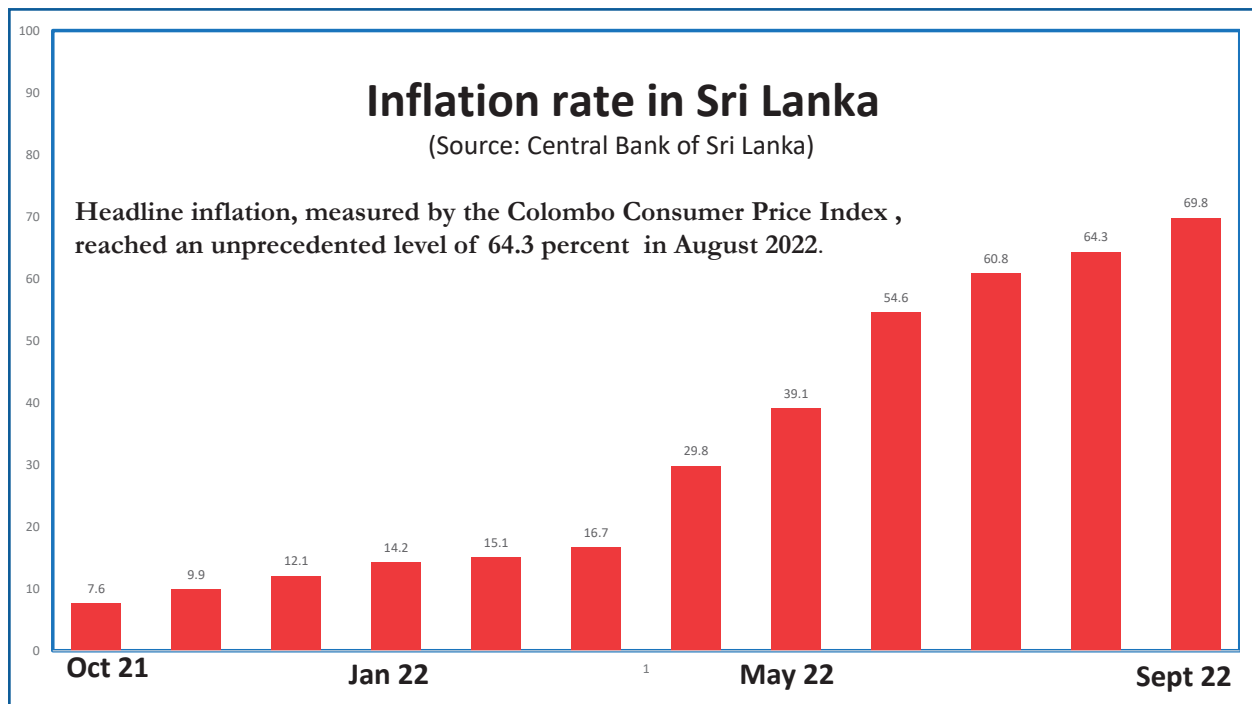


Figure 1.1. Surging inflation rate in Sri Lanka from October 2021 to September 2022 (Source: Central Bank of Sri Lanka)

Sri Lanka's economy lacks resilience to internal and external shocks as national expenditure exceeds national income and the production of tradable goods is inadequate. Consequently, it is beset with high debt levels and heavy reliance on foreign capital inflows⁹. Nevertheless, despite these economic structural weaknesses, successive governments maintained a semblance of macroeconomic stability until 2018 (see Chapter 2 What caused the economic crisis?).

Mahinda Rajapakse came to power as Prime Minister in 2004 and continued as President until 2015. Gotabhaya Rajapakse was his defence secretary until the civil conflict ended in 2009. From 2015 to August 2019, Maithripala Sirisena was the President. In 2019, Gotabaya Rajapaksa won the Presidential election. A year later, his party secured a two-thirds majority in Parliament. Rajapaksa appointed his brother Mahinda Rajapaksa as Prime Minister and amended the Constitution to strengthen the Presidential powers and weaken accountability. He proceeded to hand four other Rajapaksa family members key positions in his Cabinet. (Basil Rajapakse -Minister of Finance, Chamal Rajapakse -Minister of Irrigation, Namal Rajapakse- Minister of Youth and sports, Shasheendra Rajapakse-Minister of Paddy and Grains and advanced technology agriculture). Capture of major ministerial positions by members of one single family supported an authoritarian

9 https://unctad.org/system/files/official-document/BRI-Project_RP13_en.pdf

style of governance¹⁰. In this scenario, corruption, violation of human rights and impunity flourished¹¹. Emboldened, the President made a series of reckless policy decisions that pushed a country with 22 million people to bankruptcy.

1.2 People demand President Gotabhaya Rajapakse's resignation on 31 March 2022

On 31 March 2022, thousands of outraged Sri Lankans demonstrated near President Gotabaya Rajapaksa's private residence in Mirihana, demanding his resignation. The police and the army used tear gas and water cannons to disperse the crowds, arrested some protesters and imposed a curfew¹².

Amnesty International South Asia issued a statement¹³ *"Sri Lankan authorities must refrain from arresting people for exercising their right to peaceful protest and follow due process safeguards such as prompt access to legal counsel. We are very concerned by the human rights violations currently taking place in Sri Lanka as the authorities are using unlawful force and restrictions on movement in an attempt to quell dissent."*

1.3 Members of the second Gotabaya Rajapakse Cabinet resign on 3 April 2022

On 3 April 2022, all members of the second Gotabaya Rajapakse Cabinet (Table 1) resigned except the Prime Minister. The resignations came as thousands of Sri Lankans defied an island-wide curfew to protest against the government's mishandling of the economic crisis¹⁴. According to real-time network data, the government also imposed a nationwide social media blackout, restricting access to Twitter, Facebook, WhatsApp, YouTube, and Instagram platforms¹⁵. The next

10 <https://groundviews.org/2022/04/30/21st-amendment-a-way-out-of-sri-lankas-multiple-crises/>

11 <https://foreignpolicy.com/2022/04/28/sri-lanka-rajapaksa-protests-economy-corruption/>

12 <https://www.aljazeera.com/news/2022/3/31/tear-gas-as-sri-lanka-protesters-try-to-storm-Presidents-house>

13 <https://www.amnesty.org/en/latest/news/2022/04/sri-lanka-authorities-must-respect-peoples-right-to-protest/>

14 <https://www.dw.com/en/security-forces-deployed-in-sri-lankan-capital-as-protest-over-economic-crisis-turns-violent/a-61324661>

15 <https://netblocks.org/reports/social-media-restricted-in-sri-lanka-as-emergency-declared-amid-protests-JA6R0rAQ>

day, the President reinstated four Ministers who resigned: Parliamentarians Dinesh Gunawardene, G.L. Peiris, Johnston Fernando and Ali Sabry, as Ministers of Education, Foreign Affairs, Highways and Finance respectively.

1.4 A youth-led peaceful struggle (Aragalaya) “Gota- go- gama” begins on 9 April 2022

Since 9 April 2022, a youth-led peaceful protest in front of the Presidential secretariat in Colombo labelled “Gota-go-gama” continued to demand the resignation of President Gotabaya Rajapaksa (see Figure 1.2). Protesters were from all walks of life: college students, university students, lawyers, other professionals, executives, office workers, artists, religious leaders, academics and NGO activists belonging to all ethnic groups (Sinhala, Tamil, Muslim, Burgher).

Unnamed sponsors set up food stalls, portable toilets, a day-care center, a pharmacy and even a public library on the Gota-go-gama protest site, demonstrating their support for the youth uprising. In a letter to the Prime Minister, the protesters stated two main demands. The resignation of President Gotabaya Rajapakse and all Rajapakse family members. Sporadic protests continued in other areas of the country. Medical students, doctors, nurses and health workers also joined the protests as hospitals run out of medicines and medical supplies, putting patients’ lives at risk.



Figure 1.2. Mass uprising in Sri Lanka

On 18 April 2022, a group of lawyers alerted the Judicial Services Commission (the body entrusted with safeguarding the independence of judges), about an attempt to remove the protestors at “Gota-go-gama” through a court order provided by a recently appointed magistrate¹⁶.

On 19 April 2022, people had been waiting in queues for nearly 15 hours protesting and demanding fuel at a fuel station in Rambukkana when the crowd got unruly. The police opened fire at unarmed civilians, killing 41-year-old Chaminda Lakshan, the father of two children and critically injured several others¹⁷.

On 6 May 2022, nearly 2000 trade unions across health, postal, port and other services went on a one-day nationwide token strike demanding the resignation of President Gotabaya Rajapaksa and his Cabinet. As a result, businesses, most offices, shops and supermarkets remained shut due to a lack of staff and transport services. The President responded by declaring a State of Emergency, giving broader powers to the military.

1.5 Prime Minister Mahinda Rajapakse resigns on 9 May 2022

On 9 May 2022, Prime Minister Mahinda Rajapakse tendered his resignation. Some of his supporters retaliated by attacking the peaceful ant-government protesters¹⁸. Buddhist monks and Catholic priests were among those who had to seek hospital treatment after the attack. Violence erupted in many parts of the island. Certain unidentified groups set fire to the houses and, vehicles of parliamentarians¹⁹. Eight people died, and over 200 people were injured²⁰. Religious leaders appealed to the people to respond peacefully without violence²¹.

The United Nations, European Union, diplomats of other countries and civil society groups condemned the attacks on peaceful protesters and urged the government to conduct an immediate investigation. As a result, President Gotabaya Rajapakse declared a State of Emergency: the second time a State of Emergency was

16 <https://www.themorning.lk/attempt-to-remove-gotagogama-through-court-order/>

17 https://www.business-standard.com/article/international/sri-lanka-police-transfer-3-officers-over-protester-s-death-in-rambukkana-122042200415_1.html

18 <https://www.thehindu.com/news/international/pro-rajapaksa-mob-assaults-peaceful-protesters/article65397502.ece> (accessed 29.5.22)

19 <https://www.indianarrative.com/world-news/people-s-fury-burns-down-ministers-houses-vehicles-as-violence-engulfs-colombo-169803.html>

20 <https://www.tribuneindia.com/news/world/death-toll-in-sri-lanka-violence-rises-to-eight-over-200-injured-in-violence-393551> (accessed 29.5.22)

21 <https://www.ucanews.com/news/cardinal-appeals-for-peace-as-violence-escalates-in-sri-lanka/97202>

declared in five weeks²².

A Sri Lanka court in the capital banned the former Prime Minister and 15 Parliamentarians from leaving the country over acts of violence against anti-government protesters. The former Prime Minister Mahinda Rajapaksa had to take refuge at the Trincomalee naval base after angry mobs attacked his residence.

1.6 The political turmoil

After the second Cabinet (26 members, Table 1.1) resigned on 3 April 2022, the President called on opposition parties to join a “national unity” Government. Two days later, 43 Members of Parliament who were representing the government in Parliament decided to break away and function independently. This group included eleven members of the ruling Sri Lanka Podujana Peramuna (SLPP), fourteen members of the Sri Lanka Freedom Party (SLFP), 16 members from other political parties and two members from the Ceylon Workers’ Congress. In addition, the deputy speaker, a member of the SLFP, also resigned from his position.

The Prime Minister’s resignation automatically dissolved the Cabinet. On 11 May 2022, the President addressed the nation proposing three steps to stabilise the crisis: 1. appoint a new Prime Minister from the 225 members of Parliament, 2. amend the 20th Amendment of the Constitution and 3. accommodate the new regime by abolishing the executive presidency.

In a letter dated 12 May 2022 to the President, Sajith Premadasa, leader of the Samagi Jana Balawegaya-led Opposition, expressed willingness to form a new interim government subject to four conditions²³.

1. *Resignation of President Gotabaya Rajapakse within a stipulated time period*
2. *Implementation of the 19th Amendment to the Constitution with the support of all political parties within two weeks*
3. *Abolition of the executive presidency and*
4. *Holding general elections when the situation of the country is stable.*

22 <https://www.theguardian.com/world/2022/may/06/sri-lankan-president-calls-second-state-of-emergency-in-five-weeks>

23 <http://www.millenniumpost.in/world/ready-to-form-govt-if-President-resigns-within-stipulated-time-period-says-sri-lankan-opposition-leader-premadasa-477809>

1.7 Appointment of a new Prime Minister - 12 May 2022

On the same day, President Gotabaya Rajapakse appointed Ranil Wickremasinghe (a former Prime Minister) as the new Prime Minister. Less than two hours before he was sworn in by the President, prominent Buddhist monk Omalpe Sobitha Thero as well as Archbishop of Colombo, Cardinal Malcolm Ranjith, objected to the appointment at a press conference, stating that it was not what the people wanted and that it would worsen the social unrest and the political crisis²⁴. They reiterated that the Maha Nayaka Thera's suggestion was for a non-partisan person. It is necessary, they said *"to move forward from the present crisis with confidence and for that, we need a complete change of this system and not piecemeal measures out of political deals"*.

While some believed that Ranil Wickremesinghe was chosen because he was likely to guarantee the security of the Rajapakse family, others felt that his political experience could help stabilise the economic crisis. When he was the Prime Minister from 2015-2019, Wickremesinghe was accused of protecting the Rajapakse family from allegations of corruption²⁵. Wickremesinghe contested the 2020 Parliamentary election²⁶, but failed to secure a seat in Parliament. He re-entered Parliament as a National List Member of Parliament of the United National Party in June 2021. It was alleged that the UNP Working Committee was not consulted on the decision by leader Ranil Wickremesinghe to accept the post of Prime Minister²⁷.

The third Cabinet of President Gotabaya Rajapaksa had eight more ministers. The Gota-go-gama group put forward a concrete set of demands to the newly appointed Prime Minister Ranil Wickremesinghe:

President Rajapaksa must step down immediately; set up an interim /Cabinet with 15 Cabinet Ministers; cut privileges enjoyed by MPs; no place in Cabinet for those accused of corruption and action to recover stolen wealth of the Cabinet and the public; Constitutional reforms including reintroduction of the 19th Amendment and introduction of 21st Amendment; abolish Executive Presidency; create an environment for peaceful co-existence, inclusivity and unity, and resolve economic crisis and

24 <https://www.thehindu.com/news/international/ranil-sri-lanka-prime-minister/article65407628.ece>

25 <https://apnews.com/article/sri-lanka-ranil-wickremesinghe-3161035ae503431fa0188f1c329f30c0>

26 <https://colombogazette.com/2022/07/24/wikileaks-recalls-ranil-asking-japan-in-2007-to-suspend-funding/>

27 <https://www.ft.lk/news/Navin-says-UNP-WC-not-consulted-for-Ranil-s-move/56-734763>

stimulate economic development, social security; legal reforms; ensure human rights and do away with draconian laws and regulations; appoint a crimes commission and right to life introduced in the Constitution, and ensure free and fair elections and laws to tackle election campaign financing.

Ministers were appointed to the new Cabinet in charge of Public Administration, Foreign affairs, Urban development and housing , Power and Energy, Fisheries, Health, Water Supply, Industries, Agriculture, Wildlife and Wildlife Conservation, Buddhasasana, Religion and Culture, Environment, Transport, Highways and Mass Media, Irrigation and Sports and Youth. Only two Ministers were from the main opposition Samagi Jana Balawegaya (SJB), while the rest were from the Sri Lanka Podujana Peramuna (SLPP) and the group who had resigned from it.

Later, Prime Minister Ranil Wickremesinghe was appointed as the Minister of Finance. Within six weeks, he had to present an interim budget relying heavily on the support of all political parties as he has only his seat in the 225-member Parliament. As a result, the interim government was a Sri Lanka Podujana Peramuna (SLPP) dominated coalition of the same parties with only two Members of Parliament from the opposition.

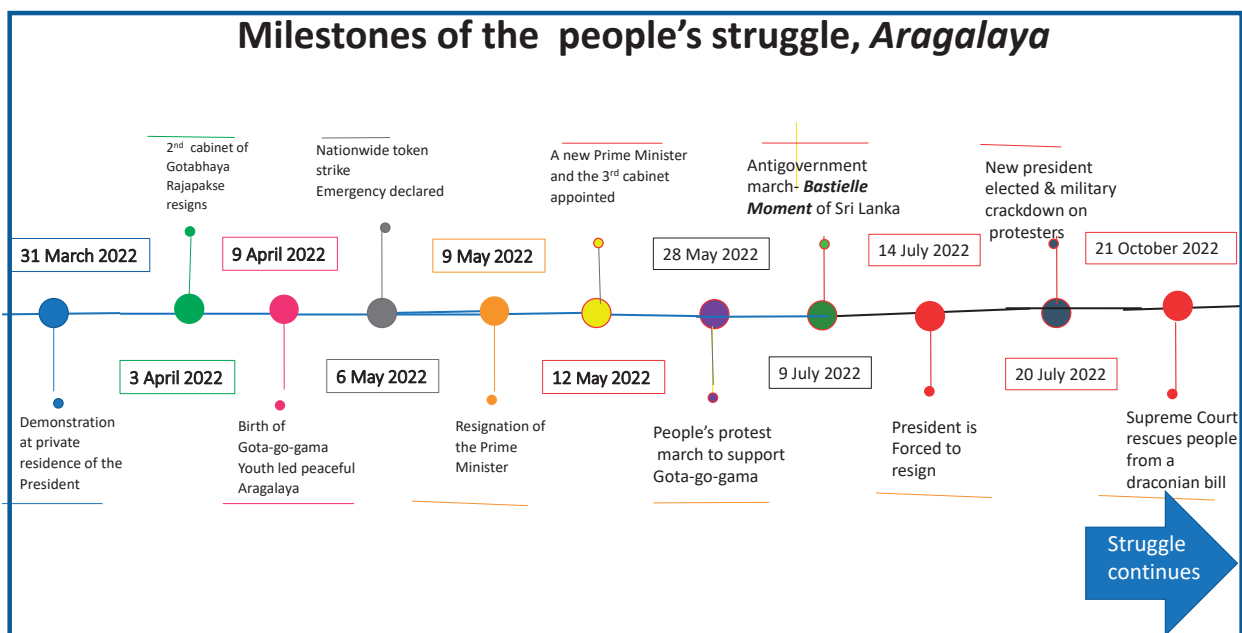


Figure 1.3 Milestones of the “struggle” of 22 million people

1.8 Protest march to mark 50 days of Gota-go-gama on 28 May 2022

On 28 May 2022, the Inter-University Students Federation, Trade Unions, Youth Movements and other organizations launched a protest march from Colpetty to the GotaGoGama protest site to mark 50 days of Gota-go-gama, and demonstrate support to the *Aragalaya* (see Figure 1.3).

The People's Movement reiterated their demands as follows:

- ***Stop the arrests and intimidation of those exercising their democratic right to protest.***
- ***Stop the intimidation of witnesses to State-sponsored violence.***
- ***Arrest and prosecute all those who planned, instigated, and carried out the attacks on peaceful protestors on 9 May 2022.***
- ***Resignation of President Gotabaya Rajapaksa.***
- ***Abolish the Executive Presidency.***
- ***Appoint a new Prime Minister who has the confidence of the people to further the demands of the People's Movement.***
- ***Form an Interim Governing Council that holds the confidence of the people.***
- ***Formulate a sustainable economic recovery programme that does not place the burden of austerity on the shoulders of the poor and working people.***
- ***Initiate a process through which stolen and embezzled State funds are used to repay international debts and replenish our national coffers.***
- ***Roll back the ill-advised tax cuts that deprived the country of billions of rupees in revenue.***

1.9 President Gotabaya Rajapakse is forced to resign on 14 July 2022

Anti-Rajapaksa demonstrations continued at Gota -go- gama sites in Colombo and other major cities in June and July 2022, with people from all walks of life and faiths joining in. Together Sinhalese, Tamils and Muslims celebrated the Sinhalese and Tamil New year and Ramadan with Buddhist monks, Catholic priests and nuns. Gota- go- gama became a symbol of unity in the multiethnic and multireligious society of Sri Lanka. Since independence, political parties came to power creating disharmony between Sinhalese, Tamil and Muslim communities.

Despite the governments' attempts to disrupt the protests, thousands joined the demonstrations across Sri Lanka. While the President continued to refuse to resign, the struggle which the youth originated developed into three streams by 15 July 2022²⁸

- i. The original, non-party *Aragalaya* and Civic Movement.
- ii. The Left parties, the JVP-NPP (National Peoples Power) and the Frontline Socialist Party (FSP), with their affiliates and auxiliaries.
- iii. The Parliamentary Opposition, the Samagi Jana Balawegaya (SJB), Sri Lanka Freedom Party (SLFP), the Tamil National Alliance and ten party Independents.

This consolidation also introduced particular challenges to the protest movement due to intergroup tensions, different viewpoints and political motives. Activists called for an anti- government march to Colombo on 9 July 2022. However, it was unclear whether protesters would make it because the previous day, police had declared a curfew, and the government cancelled trains and other public transport. The government deployed large numbers of security forces to guard Colombo.

Nothing could dissuade the masses. Thousand flocked to Colombo on 9 July 2022. It has been dubbed the 'Bastille moment' of Sri Lanka²⁹. Amidst relentless tear gas attacks and brutal baton charges, the barricaded Official Residence of the President was stormed by the masses demanding his resignation. Gotabaya Rajapakse fled to Singapore via Maldives on a so-called 'private visit'³⁰ while Sri Lanka remained in a State of Emergency.

President Gotabaya Rajapaksa sent his resignation to the Speaker of the Parliament on 14 July 2022 from exile in Singapore. On 15 July 2022, the Speaker officially announced that President Gotabaya Rajapakse had resigned. People celebrated their victory by setting off firecrackers, dancing and singing the national anthem and defying the curfew. In less than 100 days, they had succeeded in getting the President, Prime Minister and Cabinet to resign by exercising their right to peaceful political activism. On 18 July 2022, Acting President Ranil Wickremesinghe declared a State of Emergency amid ongoing protests.

28 Dayan Jayatilake - <https://www.colombotelegraph.com/index.php/july-9th-2022-ever-onward-to-victory/>

29 <https://www.thequint.com/news/world/9-july-2022-day-changed-sri-lankan-history-gotabaya-rajapaksa-wanil-wickremesinghe>

30 <https://www.theguardian.com/world/2022/jul/14/sri-lanka-President-gotabaya-rajapaksa-quits-protests>

1.10 Who instigated the violence linked to protests?

Violence cannot be condoned under any circumstances. So, who instigated the violence linked to protests? On 31 March, a man drove an army bus into the private residence of President Gotabaya Rajapakse in Mirihana and set the bus ablaze³¹. A vicious crackdown on the protest that had been largely peaceful followed and President Rajapaksa declared a State of Emergency, curfew and digital clampdown for several days. The man (Arabi Wasantha) responsible for driving the bus was arrested after an unusual delay of two months. Arabi Wasantha was an employee of a security firm (Avant-Garde) owned by a former army major and an associate of Gotabaya Rajapaksa³². When arrested, he claimed that he had driven the bus into the area to “save the life and property of the President”. Later the Criminal Investigation Department (CID) pressed the judge of the Magistrate Court to grant him bail, and the Attorney General filed a motion seeking to drop the charges against Arabi Wasantha. According to media reports, the CID and the Attorney General were acting on the instructions of the new Minister of Law and Order,³³ also a close associate of the Avant-Garde Chairman.

In early May 2022, properties and vehicles belonging to at least 38 Members of Parliament of the Sri Lanka Podujana Peramuna (SLPP) party were damaged by anti-government demonstrators who continued to defy a nationwide curfew to protest against a corrupt³⁴.

On 9 July 2022, the protest spread towards the private residence of Prime Minister Ranil Wickremesinghe. The police Special Task Force (STF) had attacked a team of News 1 st journalists who were doing live coverage³⁵. The injured journalists were taken to hospital. The perimeter of the residence was breached despite the heavy STF presence, and Prime Minister Ranil Wickremesinghe’s home was set on fire. Although three people were arrested, the CID, has been slow to continue the investigation any further³⁶.

31 <https://www.colombotelegraph.com/index.php/torching-ranils-residence-questions-surface-about-another-arabi-wasantha-incident/>

32 <https://www.colombotelegraph.com/?s=Nissanka+Senadhipathi>

33 <https://www.colombotelegraph.com/?s=Tiran+Alles>

34 <https://www.themorning.lk/slpp-releases-list-of-mps-properties-destroyed-in-mondays-violence/>

35 <https://www.newsfirst.lk/2022/07/10/video-journalists-attacked-during-live-prime-time-news/>

36 <https://www.newscutter.lk/sri-lanka-news/crime/prime-suspect-involved-behind-arson-attack-on-Presidents-house-arrested-02082022-44762/>

1.11 New President elected on 20 July 2022 and crackdown on protesters

The Parliament elected Ranil Wickremesinghe as the new President on 20 July 2022 with the support of the Rajapakse political party, the Sri Lanka Podujana Peramuna. On 21 July 2022, he was sworn in as the new President of Sri Lanka. In less than 24 hours, he ordered a military crackdown on Gota-go-gama³⁷. Hours earlier, protest organizers announced they would leave the protest-site the following day. According to a police spokesperson, "A joint operation involving the military, police and police special forces was launched in the early hours to recover the Presidential Secretariat from the protesters as they have no legal right to hold it," At least 50 protesters were injured in the raid, including some journalists and two lawyers who were beaten by security forces. Some were hospitalised³⁸. Eleven protesters were arrested.

"The use of the armed forces to suppress civilian protests on the very first day in office of the new President is despicable and will have serious consequences on our country's social, economic and political stability," warned the Bar Association of Sri Lanka³⁹. *"We urge restraint by authorities and immediate access to medical attention for those injured,"* the US ambassador to Sri Lanka, Julie Chung, said on Twitter.

United Nations human rights experts, have condemned the repeated use of State of Emergency measures since 2 April 2022 to suppress peaceful protesters⁴⁰. *"We urge to halt the repeated use of emergency measures and instead seek an open and genuine dialogue with Sri Lankans on political and economic reforms to reduce the impact of the economic crisis,"* they said. According to Human Rights Watch, *"The Sri Lankan is using emergency regulations to harass and arbitrarily detain activists seeking political reform and accountability for the country's economic crisis"*.

The police and the military continue to curb protests through intimidation, surveillance, and arbitrary arrests of civil society activists, lawyers, and journalists. There are also alarming reports of dead bodies washing up on beaches and found in other public places, with at least 11 incidents reported this year⁴¹. Similar incidents occurred during the 1988-1990 insurrection. Wickremesinghe is alleged to have played a role in the repression of the 1988 90 Janatha Vimukthi Peramuna

37 <https://island.lk/the-real-ranil-report-and-aragalaya-3-0/>

38 <https://www.abc.net.au/news/2022-07-22/sri-lanka-protest-crack-down/101262394>

39 <https://twitter.com/saliyapieris/status/1550298208454070272?s=20&t=WgJyk1DRaUC-0QF7ojwrQ>

40 <https://www.ohchr.org/en/press-releases/2022/08/sri-lanka-un-human-rights-experts-condemn-repeated-use-emergency-measures>

41 <https://srilankabrief.org/sri-lanka-bodies-on-beaches-deaths-in-queues/>

(Peoples Liberation Front, JVP) insurrection, including through the operation of a detention centre in his electorate of Batalanda⁴². As a result, the Batalanda Commission was set up to investigate alleged abuses at the site. The 1998 report of the Commission recommended removing Wickremasinghe's civic rights⁴³ based on the findings of the investigation.

1.12 Violation of human rights continue

Several journalists, media rights campaigners and human rights defenders (Dharshana Hadungoda⁴⁴, Tharindu Jayawardane, Tharindu Udewaragedera, Chamuditha Samarawickrama, Keerthi Ratnayake, Pathum Kerner and others) were notified to appear at the CID in Colombo for questioning. Since mid- July 2022, around 150 people who participated in protests have been arrested and cases filed against them⁴⁵. It is particularly deplorable that in a democracy, the Prevention of Terrorism Act is being used to detain University students who gave leadership to the people's uprising. In August 2022, Wasantha Mudalige, the convener of the Inter-University Students' Federation, Galwewa Siridhamma Thero, the convener of the Inter-University Bhikku Federation, and Hashantha Jawantha Gunathilake, member of the Kelaniya University Students' Union, were arrested and detained under the Prevention of Terrorism Act .

"Charges of terrorism do not commensurate with any offences the protesters are alleged to have committed. Such an action by the authorities is excessive, disproportionate and in violation of international law. The PTA allows for the detention of suspects for up to a year without charge, which is in violation of international law. The defence minister must not sign an order to detain them further under the PTA" said Amnesty International⁴⁶.

The ongoing use of the PTA may result in the withdrawal of the most significant trade concession that has helped Sri Lanka's apparel industry, the Generalized Scheme of Preference Plus (GSP+) trade concession. The GSP+ is worth well

42 <https://www.greenleft.org.au/content/sri-lanka-repression-and-arrests-struggle-continues>

43 https://books.google.com.au/books/about/Report_of_the_Commission_of_Inquiry_Into.html?id=ySQhuAAACAAJ&redir_esc=y

44 <https://www.youtube.com/watch?v=4z2gO5OE9tY>

45 Concerns as Sri Lanka Arrests top protest leader Joseph Stalin <https://www.aljazeera.com/news/2022/8/4/concerns-as-sri-lanka-arrests-top-protest-leader-joseph-stalin>

46 <https://www.amnesty.org/en/latest/news/2022/08/sri-lanka-protesters-must-not-be-detained-under-the-draconian-anti-terror-law/>

above 500 million US dollars. In June 2021, the European Parliament adopted a resolution to consider withdrawing the concession amid renewed concerns over human rights abuses in Sri Lanka. The European Union is one of the most important export destinations for Sri Lankan products, and GSP+ has helped the country's exporters to establish their position. However, the recent amendments proposed by the government to the PTA have come under widespread criticism as they failed to address the key shortcomings in the existing PTA that left room for abuse by State actors to violate the fundamental rights of citizens⁴⁷.

Human Rights Watch has made the following recommendations to President Ranil Wickremesinghe⁴⁸:

- *Ensure that people are able to freely and peacefully express their views without fear of reprisal or arrest;*
- *Withdraw emergency regulation provisions that are vague, overly broad, and disproportionate or that violate fundamental rights;*
- *Announce a formal moratorium on the use of the Prevention of Terrorism Act (PTA) until rights-respecting counterterrorism legislation is enacted, and release prisoners arbitrarily detained under the PTA;*
- *Establish a new social protection system that is both adequate to protect everyone's rights from the effects of the economic crisis and designed to prevent mismanagement and corruption;*
- *Resume Sri Lanka's participation in the Stolen Asset Recovery (StAR) initiative, a World Bank and United Nations partnership to support international efforts to end safe havens for corrupt funds, and commit to doing so as part of an agreement with the IMF; and*
- *Conduct independent and impartial investigations into allegations of serious human rights abuses and high-level corruption, and appropriately prosecute those responsible.*

These are also the demands of the people of Sri Lanka⁴⁹. People want to see a system-wide change and correction of the underlying causes of the economic and sociopolitical upheaval (see Figure 1.4). They realize that corruption and mismanagement will continue to deprive them and their families of even basic needs.

47 GSP plus the PTA and Sri Lanka's painful contortions <https://www.sundaytimes.lk/220313/columns/gsp-plus-the-pta-and-sri-lankas-painful-contortions-476415.html>

48 <https://srilankabrief.org/end-crackdown-address-economic-crisis-resume-sri-lankas-participation-in-the-stolen-asset-recovery-star-initiative-hrw/>

49 <https://www.Parliament.lk/en/business-of-Parliament/webcast/Parliament-live-on-demand?view=vod>

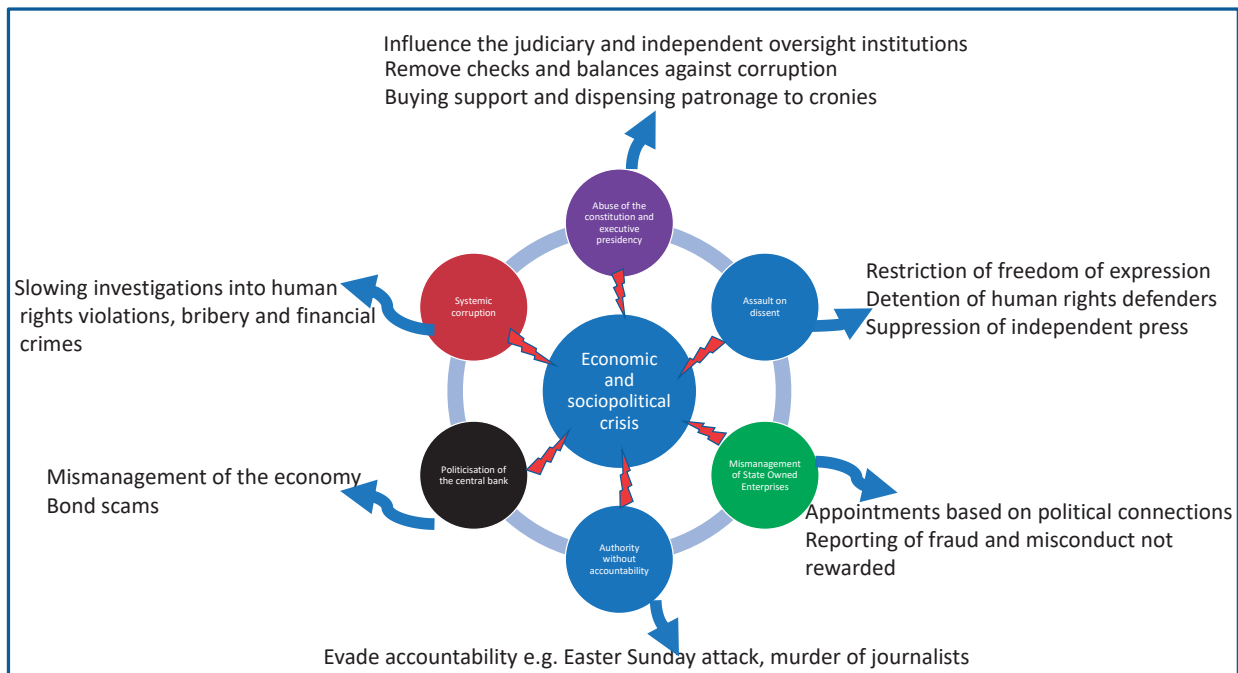


Figure 1. 4 Deep roots of the economic and the socio-political crisis.

Critics accuse President Ranil Wickremesinghe of protecting members of the Rajapaksa family and their allies who led the nation to ruin through corruption and mismanagement^{50 51}. Notably, in President Ranil Wickremesinghe's policy statement in Parliament, there was no substantive mention of corruption among politicians or any plans for the recovery of stolen assets⁵². Neither was there a roadmap to stabilize the economy. Sri Lanka is facing immense hardships and challenges. Will Ranil Wickremasinghe, with considerable political experience⁵³, use this unique opportunity to spearhead radical reforms to save the nation? However, judging by the way he is trying to crush the leadership of the younger generation taking cover under anti-terrorism legislation^{54, 55, 56} and draconian

50 <https://www.colombotelegraph.com/index.php/the-gota-ranil-pact-revealed/>

51 <https://www.pbs.org/newshour/world/unpopular-sri-lankan-President-consolidates-power-after-victory>

52 <https://www.youtube.com/watch?v=Q8yy5pQTsvA>

53 <https://thewire.in/south-asia/ranil-wickremesinghes-rajapaksa-emergency>

54 <https://www.hrw.org/news/2022/08/31/sri-lanka-end-use-terrorism-law-against-protesters>

55 <https://srilankabrief.org/shocked-and-dismayed-medical-professionals-mpsisc-condemns-inhuman-behaviour-of-certain-police-officers-on-09th-october/>

56 <https://srilankabrief.org/sri-lanka-govt-continues-to-arrest-protesters-despite-worst-defeat-at-unhrc-jehan-perera/>

bills⁵⁷, turning a blind eye to corruption^{58 59} and appointing certain politicians with questionable track records to Ministerial posts^{60 61}, this may turn out to be a mere pipe dream.

Inflation continues to rise, driven by mounting energy, food, and commodity prices, labour shortages, and supply disruptions. Sri Lanka will need the assistance of the International Monetary Fund (IMF) and other multilateral and bilateral funding sources to recover from the economic crisis (see Chapters 2 and 6). IMF is a global organization set up to promote the health of the world economy. Its assistance is independent of the stature of local political leaders. Sri Lanka will benefit in the long-term only if all external assistance is made conditional on political leaders addressing the root causes of the present economic and sociopolitical crisis (see Chapter 9). They include abuse of the Constitution (see Chapter 3), systemic corruption (see Chapter 4), repression of dissent (see Chapter 5), impunity and lack of accountability (see Chapter 7) and mismanagement of public enterprises (see Chapter 8). They are further discussed in Chapters 2-9.

57 <https://www.thehindu.com/news/international/sri-lanka-supreme-court-shoots-down-de-radicalisation-bill/article66037222.ece>

58 <https://www.ft.lk/top-story/No-change-to-corruption-and-Govt-actions-SJB/26-740383>

59 https://www.dailymirror.lk/breaking_news/Kanchana-Ministry-involved-in-massive-corruption-Dayasiri-reveals/108-246289

60 <https://www.hrw.org/news/2022/09/08/sri-lankan--appoints-alleged-rights-abusers>

61 <https://www.youtube.com/watch?v=zN6hwEhHbeM>

Table 1.1 Second Cabinet of President Gotabaya Rakapakse

Name	Office
Gotabaya Rajapaksa	President, Minister of Defence, Minister of Technology
Mahinda Rajapaksa	Prime Minister, Minister of Buddha Sasana, Religious and Cultural Affairs Minister of Economic Policy and Plan Implementation, Minister of Finance Minister of Urban Development and Housing
Rohitha Abeygunawardena	Minister of Ports and Shipping
Dullas Alahapperuma	Minister of Power
Mahindananda Aluthgamage	Minister of Agriculture
Mahinda Amaraweera	Minister of Environment
S. M. Chandrasena	Minister of Lands
Nimal Siripala de Silva	Minister of Labour
Douglas Devananda	Minister of Fisheries
Johnston Fernando	Minister of Highways
Udaya Gammanpila	Minister of Energy
Bandula Gunawardena	Minister of Trade
Dinesh Gunawardena	Minister of Foreign Relations
Gamini Lokuge	Minister of Transport
Vasudeva Nanayakkara	Minister of Water Supply
Ramesh Pathirana	Minister of Plantation
G. L. Peiris	Minister of Education
Basil Rajapaksa	Minister of Finance

Chamal Rajapaksa	Minister of Irrigation
Namal Rajapaksa	Minister of Youth and Sports
Keheliya Rambukwella	Minister of Mass Media
Prasanna Ranatunga	Minister of Tourism
C. B. Ratnayake	Minister of Wildlife and Forest Conservation
Ali Sabry	Minister of Justice
Janaka Bandara Tennakoon	Minister of Public Services, Provincial Councils and Local
Pavithra Devi Wanniarachchi	Minister of Health
Sarath Weerasekara	Minister of Public Security
Wimal Weerawansa	Minister of Industries

2

What caused the economic crisis?

2.1 Seeking political gain at the expense of the national economy

The lack of economic discipline and short-sighted economic strategies⁶² of successive governments progressively weakened Sri Lanka's public finances⁶³, widening the gap between national expenditure and income⁶⁴. Meanwhile, the production of tradable goods and services has remained inadequate, resulting in an import-dependent economy with a trade deficit and a budget deficit. The trade deficit is due to Sri Lanka spending more on imports than it receives from exports. The budget deficit results from expenditure exceeding the revenue taken in from taxes, duties, and other income. Economic mismanagement by a succession of governments has caused the twin challenges of a debt and a foreign exchange crisis.

2.2 Debt crisis

Reckless borrowing and spending to implement the agendas of the ruling party against the backdrop of year-on-year widening budget deficit led to the debt crisis. For example, from 2009 to 2014, during the Mahinda Rajapakse administration, the total debt tripled, and the external debt doubled due to irresponsible borrowing. As a result, public debt as a percentage of Gross Domestic Product (GDP) surged from 84.2 percent in 2018 to 104.6 per cent in 2021 (see Figure 2.1).

Further, over the last two decades, debt has gone from low-interest rate loans from multilateral organizations such as the World Bank or the Asian Development Bank to commercial loans, in the form of International Sovereign Bonds at higher interest rates⁶⁵. For example, in 2019, 56 per cent of Sri Lanka's debt was held by

62 <https://island.lk/change-catastrophic-strategies-or-face-consequences-cb-warns-parliament/>

63 https://www.youtube.com/watch?v=R8Q2_e1uRmc

64 <http://dx.doi.org/10.22617/WPS190024-2>

65 <https://www.orfonline.org/expert-speak/fallacies-in-sri-lankas-external-debt-patterns/>

commercial lenders, compared to only 2.5 per cent in 2004⁶⁶ ⁶⁷.

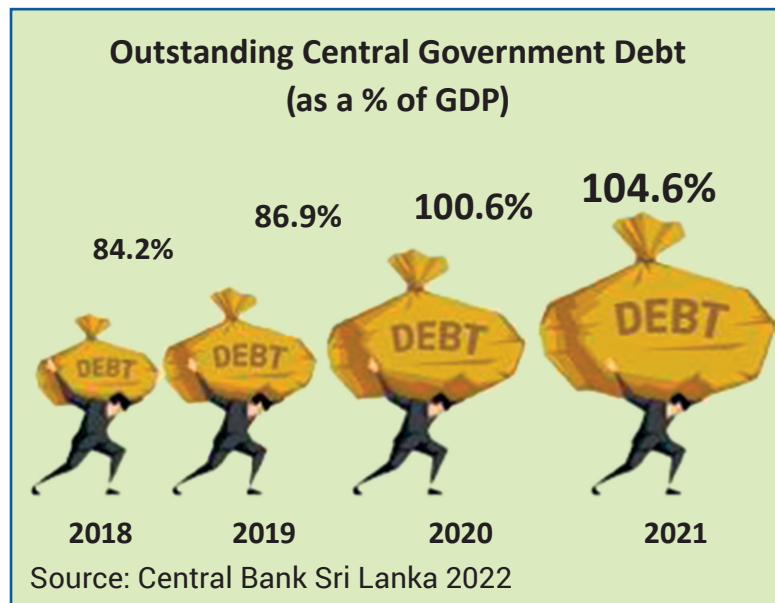


Figure 2.1 Debt crisis in Sri Lanka. Public debt is more than the gross domestic product since 2020

2.3 Foreign exchange crisis

Since 2014, Sri Lanka has imported imports 40 per cent more than its exports. Main imports include machinery, electrical equipment, mechanical appliances, pharmaceuticals, vehicles, food, fuel, fabrics, cotton, plastics, paper, iron and steel. For example, according to the central bank, some of the top imports in 2021 were refined petroleum USD 2.8 billion, textiles USD 3.1 billion, chemical products USD 1.1 billion and food and beverage USD 1.7 billion.

Tourism, remittances from foreign workers and exports including apparel, tea and other agricultural commodities generate foreign exchange earnings. The tourism industry was weakened by the Easter Sunday attack of 2019. The COVID -19 pandemic and the Russian invasion of Ukraine also negatively impacted tourism, the apparel industry and remittances from foreign workers. During the COVID -19 pandemic, Sri Lanka's foreign reserves showed a catastrophic drop while other South Asian countries maintained their foreign reserves (see Figure 2.2).

66 <https://www.usip.org/publications/2022/07/five-things-know-about-sri-lankas-crisis>

67 <https://thediplomat.com/2021/02/sri-lankas-foreign-debt-crisis-could-get-critical-in-2021/>

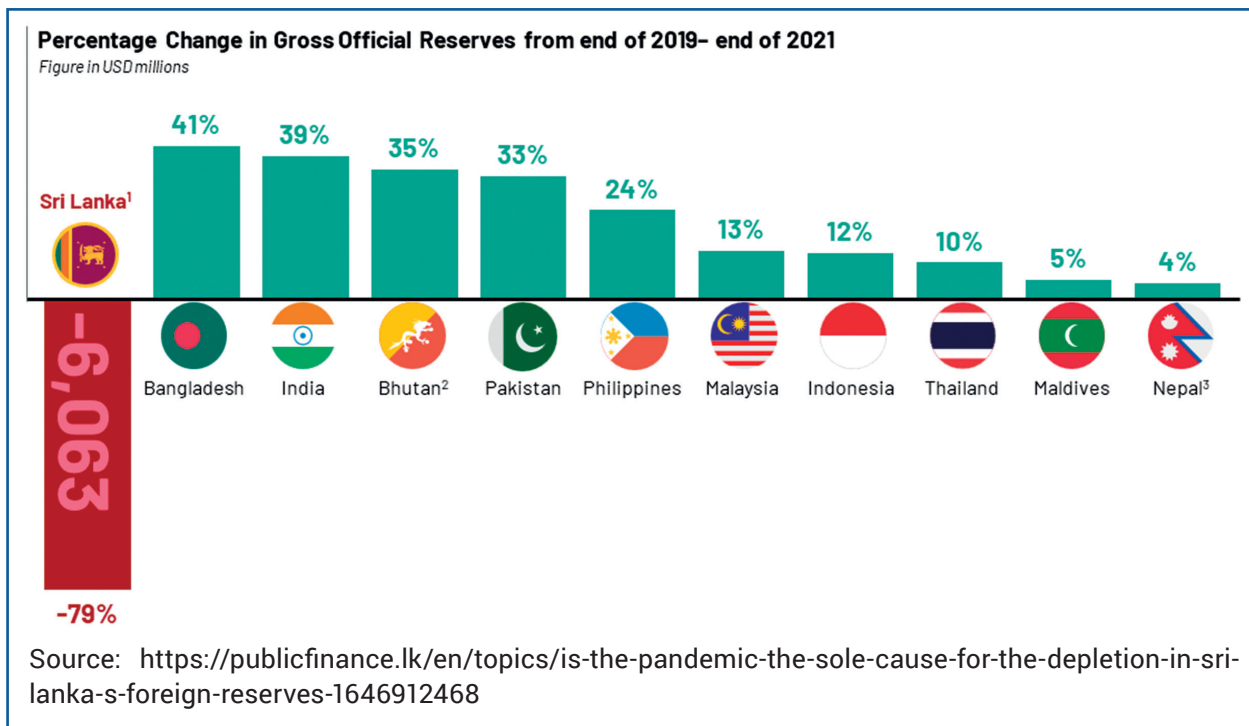


Figure 2.2 The catastrophic reduction of foreign reserves in Sri Lanka. Sri Lanka's foreign reserves decreased while other South Asian countries maintained their foreign reserves during the COVID 19 pandemic (Source: publicfinance.lk of Verite research)

2.4 Sri Lanka defaults on its foreign debt

A cascade of reckless policies of the Gotabaya Rajapakse government between 2019 and 2021, coupled with the mishandling of the economy by the Central Bank⁶⁸ crippled the economy. The GDP growth, which was 3.5 per cent when the civil war ended in 2009, dropped to -3.6 per cent in 2020 (see Figure 2.3). As payments outpaced foreign currency inflows, foreign reserves, which stood at USD 7.6 billion in 2019, fell to USD 5.7 billion by the end of 2020 and 1.6 billion by August 2022⁶⁹. By the end of April 2021, total outstanding external debt of the Government was USD 35.1 billion. Total debt service-payments from 1 January to 30 April 2021 amounted to USD 98.1 billion, of which USD 52.1 billion was in lieu of principal repayments and the balance USD 46 billion for the payment of interest⁷⁰.

68 COPE Discussion on the Economic Crisis - PART I | 25.05.2022
<https://www.youtube.com/watch?v=CFMUKCEjQuk>

69 [https://www.bloomberg.com/news/articles/2022-06-07/sri-lanka-forex-reserves-rise-first-time-in-five-months?leadSource=verifyper cent20wall](https://www.bloomberg.com/news/articles/2022-06-07/sri-lanka-forex-reserves-rise-first-time-in-five-months?leadSource=verifyper%20wall)

70 http://www.erd.gov.lk/index.php?option=com_content&view=article&id=102&Itemid=308&lang=en

Sri Lanka was compelled to default on its foreign debt for the first time in 2022⁷¹. On 12 April 2022, the Ministry of Finance announced that it had suspended regular debt servicing of several categories of its external debts⁷². Repayment of nearly USD 7 billion foreign debt due for 2022 out of about USD 25 billion due through 2026 was suspended⁷³.

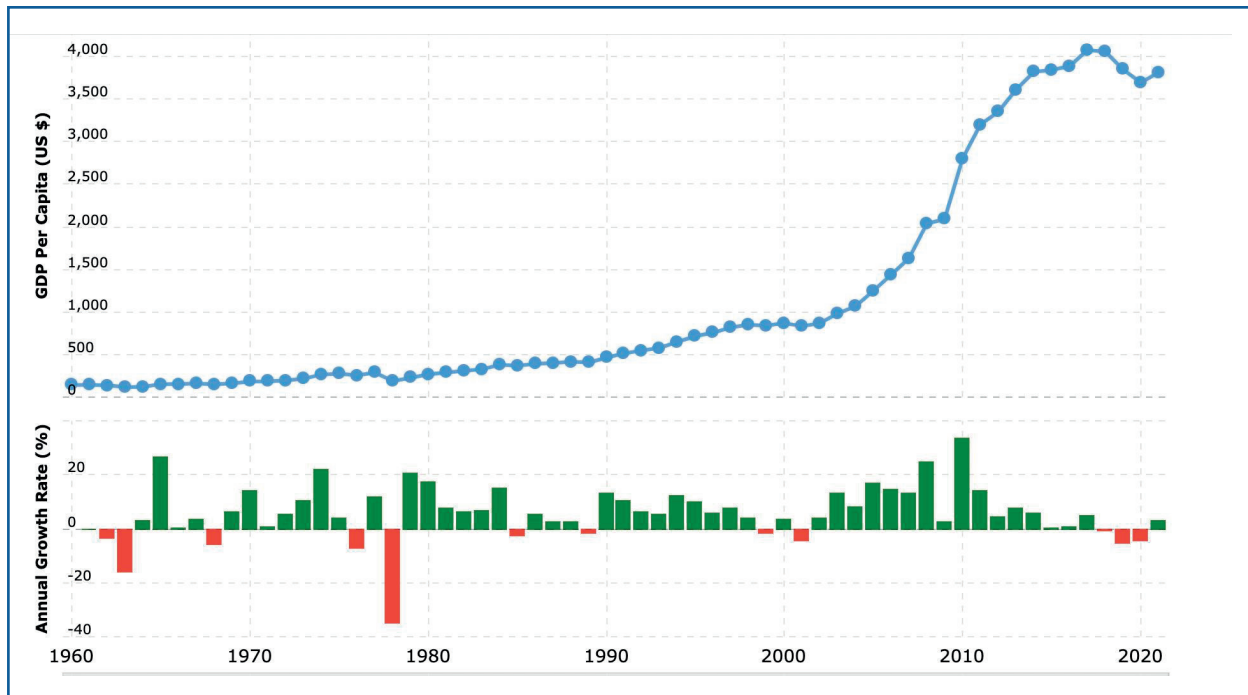


Figure 2.3 Sri Lanka - GDP per capita and annual growth rate (%) 1960 to 2021 (data source: World Bank)

2.5 Reckless borrowing to finance unprofitable infrastructure projects from 2005 to 2015

For decades, Sri Lanka has taken loans from international markets. Some of them contributed to the development and provided long-term benefits. An example is the Mahaweli Project which has saved valuable foreign exchange by enhancing hydropower generation capacity. Other loans taken more recently, procured at high-interest rates, have been used to fund ventures of limited national utility such as construction projects and public sector expansion for political reasons. Loans were taken from Chinese (about 10 per cent of the country's debt) European

71 <https://www.bbc.com/news/business-61505842>

72 <https://www.fitchratings.com/research/sovereigns/fitch-downgrades-sri-lanka-to-c-13-04-2022>

73 <http://www.millenniumpost.in/world/sri-lankas-economy-has-completely-collapsed-wickremesinghe-483063?infinitescroll=1>

and American financial institutions (over 80 per cent).

At a time when the country was in dire need of fiscal consolidation, Mahinda Rajapakse government ventured into construction projects, such as the Hambantota port, Mattala airport, the Lotus tower, Hambantota convention centre and Hambantota cricket stadium taking massive foreign loans to the tune of USD 6 billion (see Figure 2.4) .

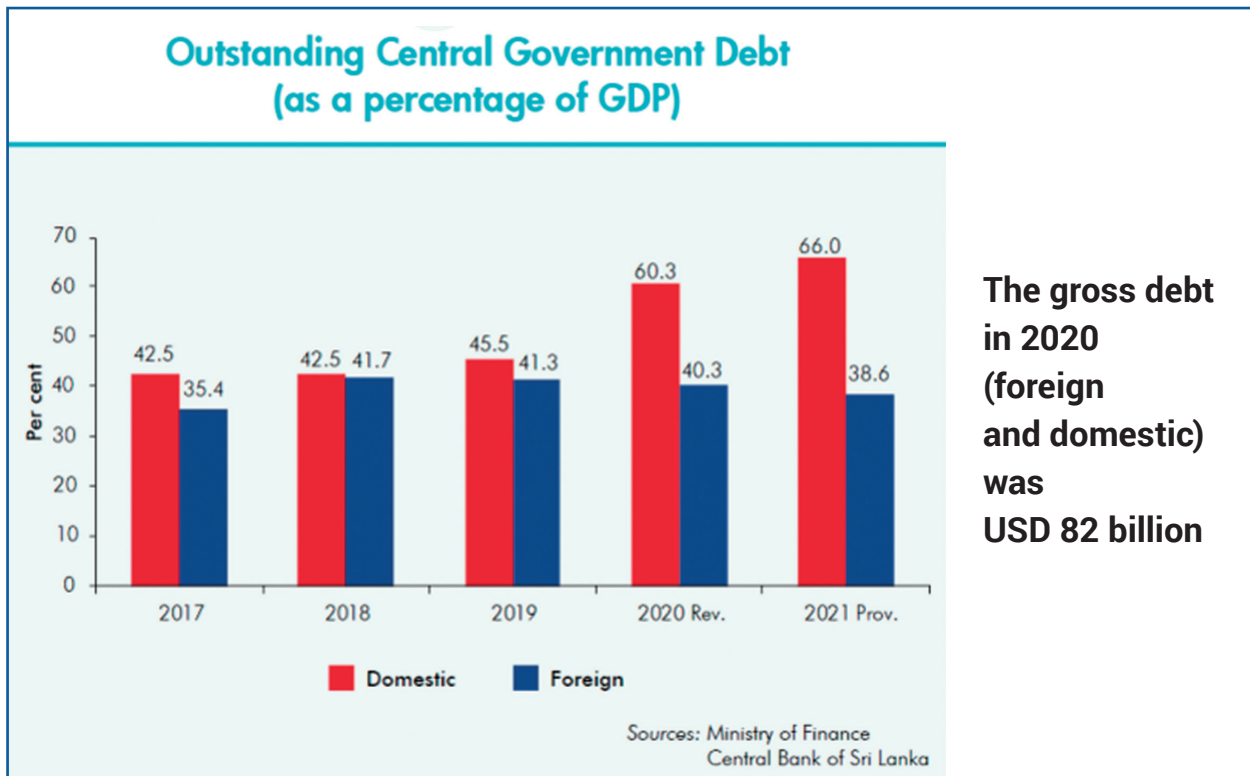


Figure 2.4. Outstanding Central Government debt due to foreign and domestic loans

From 2007-2014 the Mahinda Rajapakse led government borrowed USD 1.263 to construct the Hambantota port⁷⁴. According to the submissions made to a Parliament committee, the accumulated losses of Hambantota port were approximately USD 300 million (LKR 46.7 billion), as of the end of 2016, just before the port was leased out. The loan repayments pertaining to the Hambantota port alone are around USD 100 million a year. Loans were also taken from China for the construction of highways. Most of the construction projects have not been transparent and allegedly corrupt⁷⁵. For example, according to estimates, the Colombo-Katunayake Expressway cost between USD 14 million per kilometre, one

74 <https://thediplomat.com/2020/01/the-hambantota-port-deal-myths-and-realities/>

75 <https://www.kunming.cn/en/c/2021-02-09/13156679.shtml>

of the most expensive highways ever built⁷⁶. In contrast, the Kottawa to Pinnaduwa highway, part of the Southern Expressway –70 kilometres longer – cost USD 7.8 million a kilometre. A loan from China mostly funded the Colombo-Katunayake Expressway. The Southern Expressway was funded by the Asian Development Bank and the of Japan.

Building the Colombo Port City⁷⁷ is also a Chinese undertaking via foreign direct investment from China Harbor Engineering Corporation, a Chinese State-owned enterprise⁷⁸. The project has raised many geopolitical, sovereignty and environmental concerns⁷⁹. Most of the projects funded by China do not address priority needs of the people and have increased Sri Lanka's financial dependence on China⁸⁰ and worsened the debt trap⁸¹. By 2018 Sri Lanka had accumulated 15.3 billion in debt. In 2018, national revenue was about LKR 2 trillion, but in 2019, Sri Lanka had a LKR 2 trillion worth of debt service ⁸²

Further, the export sector was neglected in the economic development policy adopted by the Mahinda Rajapaksa administration. While domestic investments for producing goods and services for domestic consumption was promoted the growth in exports declined. The share of exports in GDP, amounted to 26 per cent in 2005 and fell to 12 per cent by 2021⁸³.

76 <https://www.sundaytimes.lk/131027/news/cost-of-airport-expressway-rs-1-8-b-per-km-67258.html>

77 <https://thediplomat.com/2016/05/chinas-jewel-in-the-heart-of-the-indian-ocean/>

78 <https://thediplomat.com/2016/05/chinas-jewel-in-the-heart-of-the-indian-ocean/>

79 https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/colombo_port_city.pdf

80 https://www.usip.org/sites/default/files/2019-04/sr_446-chinas_engagement_with_smaller_south_asian_countries.pdf

81 https://www.iri.org/wp-content/uploads/legacy/iri.org/chinese_malign_influence_report.pdf

82 <https://thewire.in/south-asia/sri-lankan-pm-wickremesinghe-blames-hidden-debt-for-financial-crisis>

83 <https://en.prothomalo.com/opinion/interview/sri-lankans-widely-believe-that-political-leaders-of-all-hues-are-corrupt>

2.6 Efforts made to reduce the budget deficit and debt from 2015 to 2019

The Maithripala Sirisena government (2015-2019) implemented a budget disciplining exercise and a tax regime for fiscal consolidation. The aim was to reduce the budget deficit to an affordable level and thereby check on debt accumulation - by increasing the tax revenue⁸⁴. In 2016 an economic model was introduced to achieve a six per cent growth rate that is private sector driven, with exports and Foreign Direct Investment as key pillars. In addition, steps were taken to improve the investment climate and facilitate trade⁸⁵. A revenue enhancement-based Fiscal Consolidation Program was introduced to bring the budget deficit down to 3.5 per cent of GDP by 2020⁸⁶. Under the Central Bank Governor Indrajit Coomaraswamy, the Central Bank implemented a flexible inflation targeting framework and an exchange rate policy to ensure a competitive and stable exchange rate. With these efforts, Sri Lanka was on track to resume its status as an upper-middle-income country per World Bank standards. However, these plans were derailed when the government changed in 2019.

2.7 Irresponsible tax and agriculture policies and military spending from 2019 to 2021

Since independence, all political parties have enticed voters with populist macroeconomic policies to win elections. Unrealistic promises have been made repeatedly to give subsidized rice, free fertilizer, tax cuts and public sector salary increases with no consideration for their long-term impact on the national economy. A so-called “economic stimulus package” with tax cuts was announced in the election manifesto of Gotabaya Rajapakse⁸⁷. Several independent local⁸⁸ and foreign economists⁸⁹ and a former Finance Minister (late Mangala Samaraweera)⁹⁰ predicted that implementation of the package would cause grave harm to the

84 <https://effectivecooperation.org/system/files/2022-02/Final-v2.4-Typeset-MM-v12Frev-Cov3.pdf>

85 Indrajit Coomaraswamy <https://www.bis.org/review/r180118d.pdf>

86 <https://www.reuters.com/article/sri-lanka-economy-idINL3N1303AN20151105>

87 <https://www.aljazeera.com/economy/2022/4/28/how-a-powerful-dynasty-bankrupted-sri-lanka-in-30-months>

88 <https://www.colombotelegraph.com/index.php/rws-tax-hike-welcome-but-much-more-to-be-done-to-come-out-of-the-crisis/>

89 <https://www.colombotelegraph.com/index.php/tax-cuts-control-the-damage-before-the-unconventional-stimulus-backfires/>

90 <http://bizenglish.adaderana.lk/former-finance-minister-mangala-samaraweera-says-that-economy-will-collapse/>

economy. A top economist at the World Bank⁹¹ warned that incorporating the new economic stimulus package into the system might “*undermine fiscal and debt sustainability in a global environment, where investors and lenders have become extremely sensitive towards uncertainty*”. A former deputy governor of Sri Lanka opined that the expectation of increasing revenue by cutting tax rates was an economic strategy not relevant to Sri Lanka⁹².

All warnings appear to have been ignored by President Gotabaya Rajapakse and his policy advisers. The Value Added Tax (VAT) rate was reduced from 15 per cent to 8 per cent. Several other taxes were removed, including a 2 per cent “nation-building tax”. The sweeping tax cuts were estimated to cost about USD 2 billion, or approximately 2 per cent of GDP. Sri Lanka lost about 1000 000 taxpayers from 2019 to 2022, reducing the tax-to-GDP from 12 per cent to just above 8 per cent⁹³. Sri Lanka has been a country with one of the lowest revenue-to-GDP ratios in the world, and the 2019 tax cuts drove Sri Lanka closer to the bottom; revenue -to-GDP ratio dropped from 12.7 per cent in 2019 to 8.6 per cent in 2021⁹⁴, and tax revenue-to-GDP declined from 11.6 per cent in 2019 to 7.7 per cent in 2021⁹⁵. The public debt to GDP ratio rose from 2018 to 2021⁹⁶ (Figure 2.4).

The 2021 ban on pesticides and chemical fertilizers led to a 50 per cent drop in agricultural output⁹⁷. A country that has been self-sufficient in rice was compelled to import rice at the cost of USD 450 million. The production of tea which is a major foreign exchange source fell by 18 per cent and took a second beating. The first was when President Mahinda Rajapakse banned glyphosate in 2015⁹⁸. About one-tenth of the total tea extent was reduced as large areas of tea land were covered with weeds and were abandoned for the lack of glyphosate. The

91 <https://www.ft.lk/TOP-STORY/Reform-best-path-to-growth-WB-Chief-Economist/26-691009>

92 <https://www.colombotelegraph.com/index.php/rws-tax-hike-welcome-but-much-more-to-be-done-to-come-out-of-the-crisis/>

93 <https://www.outlookindia.com/business/sri-lanka-lost-around-10-lakh-taxpayers-since-2019-tax-cuts-finance-minister-sabry-news-195205>

94 <https://www.statista.com/statistics/797372/ratio-of-revenue-to-gross-domestic-product-in-sri-lanka/>

95 <https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=LK>

96 <https://odi.org/en/insights/five-lessons-from-sri-lankas-debt-and-economic-crisis/#:~:text=Sri%20per%20cent%20public%20debt%20per%20cent%20to,reserve%20of%20US%20per%20cent%2041.9%20billion.>

97 <https://www.vox.com/future-perfect/2022/7/15/23218969/sri-lanka-organic-fertilizer-pesticide-agriculture-farming>

98 <https://www.gmwatch.org/en/news/archive/2014/15350-glyphosate-to-be-banned-in-sri-lanka>

direct loss from crop loss has been estimated at LKR 15 billion per year until the ban was lifted in 2018. The reason given for the glyphosate ban was an unproven hypothesis suggesting a link between the use of glyphosate and kidney disease of unknown origin (CKDu) that occurs in some parts of the North Central Province of Sri Lanka⁹⁹. Although Sri Lanka has a large number of experienced scientists in the field of agriculture the presidential taskforce on green agriculture (Gotabaya Rajapakse's election pledge of 2019) had no one with the required expertise¹⁰⁰.

The expenditure by the Sri Lankan military to fight the LTTE has been estimated at USD 5.5 billion between 2006 and 2009, which is 4 per cent of the GDP¹⁰¹. The military spending/defence budget which was USD 1.52 billion in 2009 was increased to USD 1.7 billion in 2019 (see Figure 2.5). In 2022, despite the unsustainable debt and deficit crisis, the government allocated 15 per cent of state expenditure (USD 1.8 billion) to defence¹⁰². Although the civil war ended in 2009, the defence budget has been on the rise¹⁰³. Further, the military is involved in several activities outside its security mandate, such as business ventures, construction contracts and developmental projects,¹⁰⁴ showing an unhealthy *drift towards militarization* of Sri Lanka.¹⁰⁵

99 <https://news.mongabay.com/2019/02/sri-lanka-scientist-blames-industry-as-award-for-herbicide-research-is-axed/>

100 <https://www.thehindu.com/news/international/sri-lanka-eyeing-green-agriculture/article37030627.ece>

101 https://economictimes.indiatimes.com/sri-lanka-defeats-ltte-insurgency-returns-on-path-of-8-growth-rate/articleshow/9559670.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

102 <https://www.janes.com/defence-news/news-detail/sri-lanka-proposes-strong-defence-budget-increase-for-2022#:~:text=The%20government%20of%20Sri%20Lanka,over%20the%20allocation%20in%202021.>

103 <https://www.colombotelegraph.com/index.php/defense-expenses-in-sri-lanka/>

104 <https://www.isas.nus.edu.sg/wp-content/uploads/2021/11/Final-South-Asia-Scan-1.pdf>

105 <https://www.aljazeera.com/news/2022/9/6/reverse-the-drift-towards-militarisation-un-urges-sri-lanka>

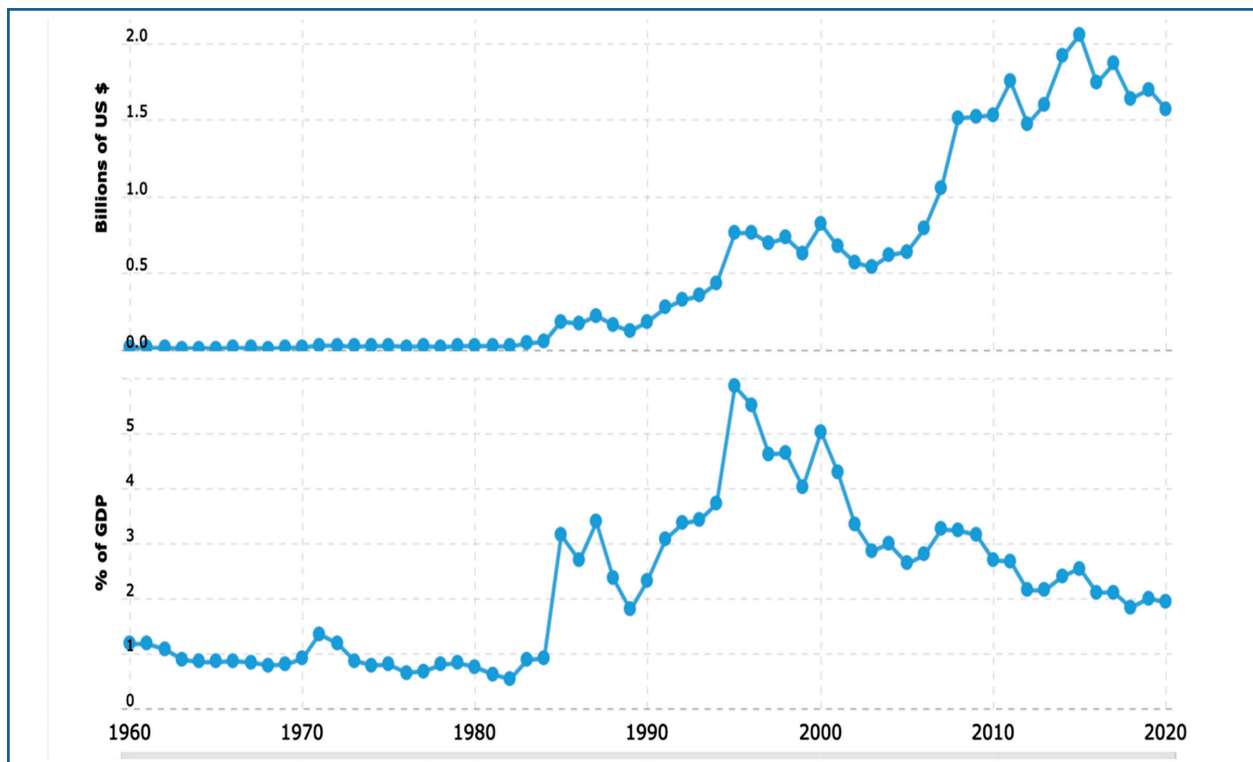


Figure 2.5 Sri Lanka Military spending/defense budget 1960-2022 (data source: World Bank)

2.8 Decline in international investor confidence

Foreign Direct Investment and international traders are key drivers of the economy. According to data from the United Nations Conference on Trade and Development, Sri Lanka recorded an increase in Foreign Direct Investment flows since 2008, reaching a peak in 2018¹⁰⁶. The strategic location of Sri Lanka in the middle of important shipping lanes and a young educated workforce gives Sri Lanka a competitive advantage in terms of attracting Foreign Direct Investment. Between 2010 and 2019, the top ten investing countries in Sri Lanka were China, Hong Kong, India, the UK, Malaysia, the Netherlands, Singapore, the United Arab Emirates, Mauritius and the US¹⁰⁷. However, a precipitous drop was seen in 2019 and 2020 during the Gotabaya Rajapakse administration due to economic, regulatory and political uncertainties. The 2019 tax cuts cost the government \$1.4 billion annually resulting in global agencies downgrading Sri Lanka's credit rating, limiting the government's ability to raise funds in international financial markets.

106 <https://unctad.org/data-visualization/global-foreign-direct-investment-flows-over-last-30-years>

107 <https://investsrilanka.com/>

The tax cuts increased fiscal deficits resulting in international rating agencies such as Fitch and Moody downgrading Sri Lanka's credit rating, and access to global capital markets. Fitch is quoted as stating: *"Prolonged political upheaval accompanied by deterioration of policy continuity could undermine investor confidence and make it more challenging for Sri Lanka to meet its large external financing needs in 2019-2022."* Moody's, Stated: *"At a time when global financial markets are turbulent, uncertainty about the direction of future policy could have a large and lasting negative impact on international investor confidence."*

Further, the net foreign outflows from the Colombo Stock Exchange greatly pressured the rupee. One billion international sovereign bond yield maturing in January 2019 almost doubled from 5.6 percent to 9.9 percent because global investors demanded a higher return for the increased risk associated with Sri Lankan debt.

2.9 Delay in seeking the assistance of the International Monetary Fund (IMF)

Lacking access to credit lines, the government used its meagre foreign exchange reserves to pay for food and other essentials. At that time, Sri Lanka was importing \$3 billion more annually than it exported depleting the country's foreign currency reserves. According to official estimates, foreign reserves dropped from around USD 8.8 billion in June 2019 to USD 2.3 billion in January 2022. By March 2022, Sri Lanka's reserves stood at only USD 1.93 billion, insufficient to cover even a month of imports (see Figure 2.6). Year-on-year inflation reached an unprecedented 64.3 per cent in August 2022, due largely to high food inflation of 93.7 per cent¹⁰⁸. As a result, people started experiencing shortages of fuel, cooking gas, food items and medicines and increased price of other essential commodities. The assistance of the IMF should have been sought much earlier¹⁰⁹. The delay resulted in a total collapse of the economy¹¹⁰. In January 2022, credit agencies flagged the need to seek immediate support to dampen the blow from inflation and foreign exchange upheavals. However, the then governor of the Central Bank, Ajith Nivard Cabraal opted to use *an alternative strategy*. The Government secured a USD 1.9 billion credit line from India and restructured repayments on about USD 3.5 billion debt owed to China.

108 <https://www.worldbank.org/en/country/srilanka/overview>

109 https://economictimes.indiatimes.com/news/international/world-news/sri-lanka-is-running-out-of-time-to-secure-an-imf-bailout/articleshow/91960823.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

110 <https://devpolicy.org/paradise-squandered-sri-lankas-economy-20220331/>

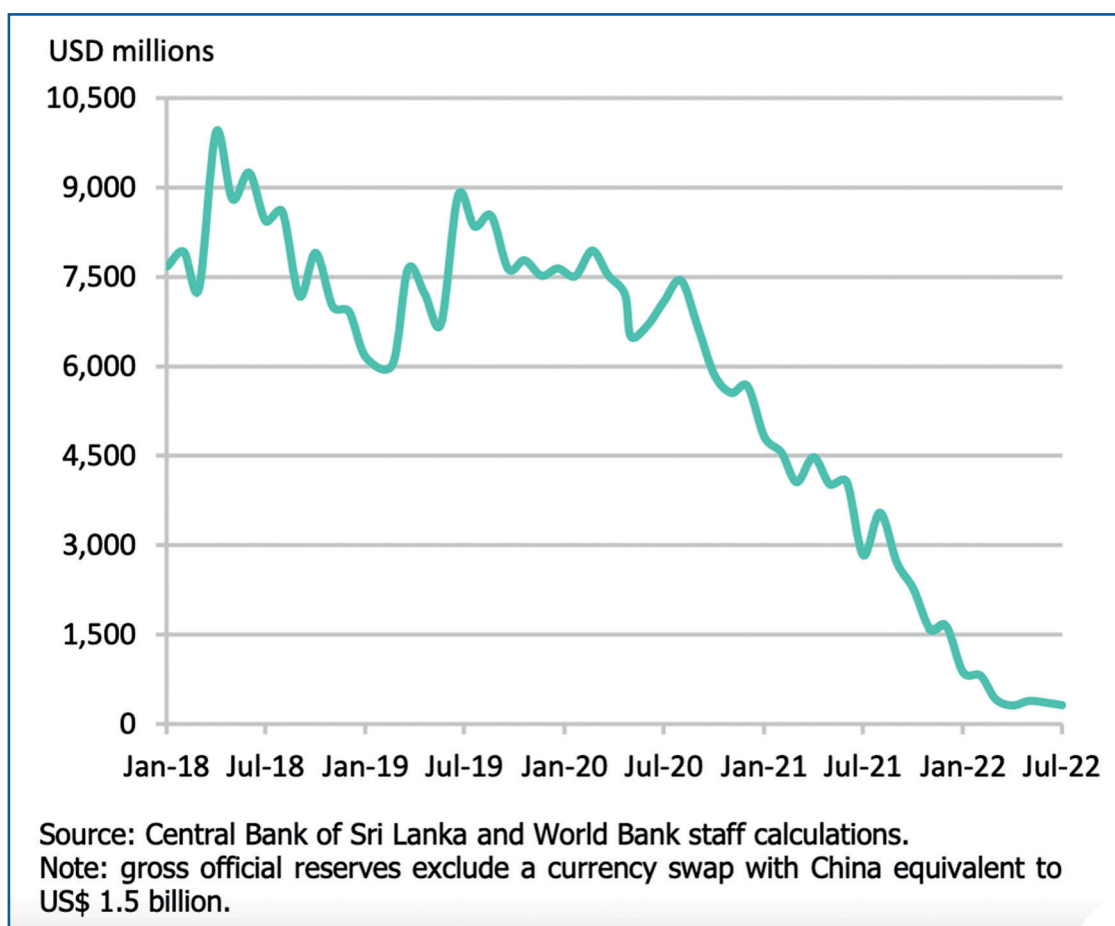


Figure 2.6. Sri Lanka: gross official reserves

2.10 Bail out by the International Monetary Fund (IMF)

An IMF team conducted a virtual mission with the Sri Lankan authorities in May 2022 on an economic program that an IMF lending arrangement could support. The IMF team met relevant authorities, including the Prime Minister, Governor of the Central Bank, Nandalal Weerasinghe and other Officials of the Central Bank.

The team held technical discussions on a comprehensive reform package to restore macroeconomic stability and debt sustainability. Sri Lanka's public debt has been assessed as unsustainable by the IMF, with debt repayments of around 4 billion in 2022, including a USD 1 billion international sovereign bond (ISB) maturing in July. ISBs make up the largest share of Sri Lanka's foreign debt at USD 12.55 billion.

The IMF has approved a USD 2.9 billion loan stressing the need for strengthening governance and structural reforms to reduce the fiscal deficit and public debt

through revenue generation while protecting the vulnerable and the poor¹¹¹. In addition, the IMF is expected to help Sri Lanka to draw assistance of another USD 1 billion from other multilateral agencies such as the World Bank and the Asian Development Bank.

IMF has estimated that the Sri Lankan economy will contract by more than 7 per cent this year, and the GDP will take five years to get back from the current level (USD 3699 per capita) to the 2019 level (USD 3848 per capita). By the end of 2022, half the population could fall below the poverty line due to inflation¹¹². According to the Food and Agriculture Organization, almost two-thirds of the country's population are either food insecure or not consuming acceptable dietary food. Child malnutrition is on the rise while sources engage in a meaningless debate on the issue.¹¹³

The IMF program has seven key conditionalities that will lead to sustainable economic recovery:

1. *Major tax reforms to raise revenue for fiscal consolidation.*
2. *Cost-recovery based pricing for fuel and electricity, in order to minimize fiscal risks arising from public sector enterprises.*
3. *An increase in social spending and improvement in the coverage and targeting of social safety nets, aiding the poor and vulnerable.*
4. *Data-driven monetary policy, fiscal consolidation, phasing out monetary financing, and strong central bank autonomy to restore price stability and allow for a flexible inflation targeting regime.*
5. *Restoring the market-determined and flexible exchange rate to restore foreign exchange reserves.*
6. *Ensuring a healthy and adequately capitalized banking system, while upgrading the regulatory standards and safety nets in the financial sector.*
7. *Fiscal transparency, public financial management and laws/policies to reduce corruption vulnerabilities.*

111 <https://www.aljazeera.com/economy/2022/4/20/imf-says-sri-lanka-needs-to-be-on-a-sustainable-debt-path>

112 <https://www.wsws.org/en/articles/2022/07/26/ocdc-j26.html>

113 <https://www.nutritioninsight.com/news/pure-hell-ongoing-row-in-sri-lanka-over-child-malnutrition-as-protein-and-iron-deficiencies-spiral.html>

2.11 Economy: prospects for recovery

In November 2021, the Minister of Finance presented the 2022 budget in Parliament which, according to the opposition, contained incorrect figures and estimates¹¹⁴. The mismanagement of the economy has been so bad that by June 2022, the government did not know the exact debt number¹¹⁵.

In June 2022, Hamilton Reserve Bank Ltd USA filed legal action against Sri Lanka over the alleged default on a USD 1 billion sovereign bond maturing in July 2022. According to court documents¹¹⁶ seen by News 1st, Sri Lanka's *default is being orchestrated by officials at the highest levels of its government*.

While maintaining the appearance of a full democracy, constitutional amendments have stealthily eroded the democratic order and given unbridled powers to individuals whose self-interests have ruined the economic freedom of 22 million people (see Chapter 3 How constitutional amendments paved the way to a national crisis)¹¹⁷.

Debt restructuring and the implementation of a deep structural reform program are critical for economic stabilization.^{118 119} Sri Lanka is currently negotiating debt restructuring with foreign creditors: United States and European financial firms, Asian Development Bank, China, India and Japan.

The government cannot sidestep structural reforms. It has to impose austerity measures recommended by the IMF: restructure and privatise State-owned enterprises (see Chapter 8); eliminate price subsidies; cut public sector jobs and pensions, raise and broaden both direct and indirect taxes. As a result, the prices of fuel, gas, electricity and fertilizer will continue to rise. Poverty levels will increase. Fortunately, a recent analysis of the Asian Development Bank demonstrate that Sri Lanka can implement macroeconomic and trade reforms without compromising health and education benefits¹²⁰.

114 http://www.colombopage.com/archive_21B/Nov18_1637250041CH.php

115 <http://www.millenniumpost.in/world/sri-lankas-economy-has-completely-collapsed-wickremesinghe-483063?infinitemscroll=1>

116 <https://www.newsfirst.lk/2022/06/22/exclusive-documents-us-firm-suing-sri-lanka-says-rajapakses-created-default/>

117 https://lawreview.law.ucdavis.edu/issues/47/1/articles/47-1_Landau.pdf

118 <https://www.aljazeera.com/economy/2022/6/22/bondholder-sues-sri-lanka-in-us-court>

119 <https://www.theguardian.com/world/2022/jul/07/the-family-took-over-how-a-feuding-ruling-dynasty-drove-sri-lanka-to-ruin>

120 <https://www.adb.org/publications/sri-lankan-economy-charting-new-course>

Further, concrete strategies are needed to expand the revenue of the government. Taxes are the key source of government revenue. During the last four decades, Sri Lanka's per capita GDP has been rising, but the tax to GDP ratio has been falling. Countries with GDP per capita comparable to Sri Lanka collect about 24 per cent of GDP as tax revenue compared to 11 per cent collected by Sri Lanka¹²¹. Therefore, tax revenue needs to be increased, including through improved tax administration, to ensure that the government has enough money for welfare and development while avoiding the risks of high budget deficits and debt levels.

The economic crisis is likely to last into 2023. According to the World Bank *"The fluid political situation and heightened fiscal, external and financial sector imbalances pose significant uncertainty for the outlook. The growth outlook is subject to high uncertainty and will depend on the progress in fiscal consolidation, debt restructuring, and growth enhancing structural reforms. Despite tightened monetary policy, inflation will likely stay elevated."*¹²²

The economic crisis will stoke further protests and demands for greater accountability, and hopefully, may result in fresh parliamentary and presidential elections. A newly elected government needs to recognize and address all deep roots of the crisis to ensure that Sri Lanka does not return to such a deplorable position in the future once again ¹²³. These deep roots include, abuse of the Constitution (see Chapter 3), Systemic corruption (see Chapter 4), Assault on dissent (see Chapter 5), Politicization of the central bank (see Chapter 6), Authority without accountability and transparency (see Chapter 7) and Mismanagement of State-owned Enterprises (see Chapter 8).

121 <https://publicfinance.lk/en/topics/Fixing-Sri-Lanka's-Revenue-Problem-is-a-Priority-1620821022>

122 <https://www.worldbank.org/en/region/sar/publication/south-asia-economic-focus>

123 <https://www.orfonline.org/research/sri-lankas-imf-saga/>

How Constitutional Amendments paved the way to a national crisis

3.1 Model of governance

The national government of Sri Lanka has three branches: the legislative, the executive and the judiciary (Figure 3.1). The legislative branch creates the law, the executive branch oversees the execution of the law, and the judicial branch interprets and applies the law. Each branch has separate powers and areas of responsibility but operates together in harmony. This governance model with separation of powers helps ensure that the government is effective and citizens' rights are protected.

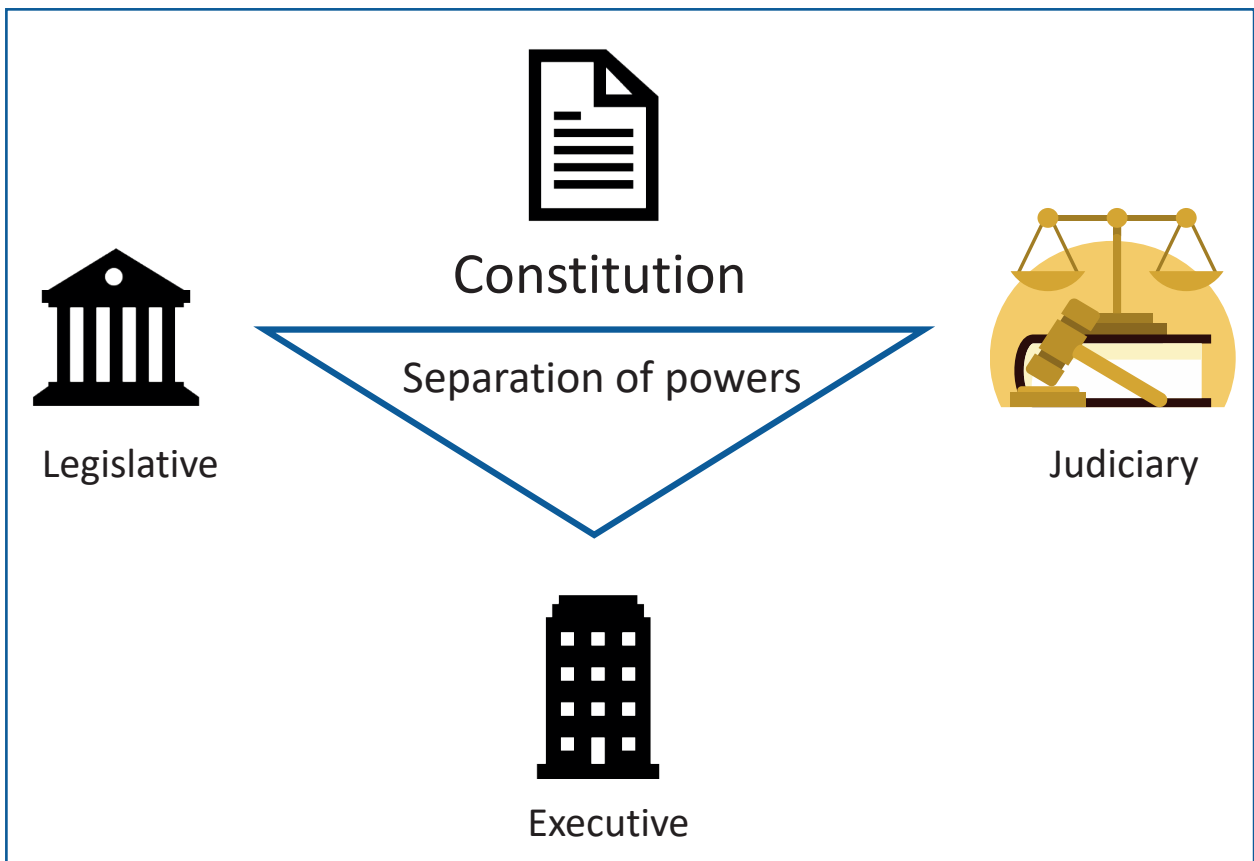


Figure 3.1 The three branches of government. Each branch needs to have power to check the other two, to ensure that no one branch becomes too powerful. In a democracy people's will is represented if citizens are allowed to influence public policy and to remove officials who abuse their power.

The national legislative body of Sri Lanka is the parliament, composed of 225 members who are elected by Sri Lankan citizens aged 18 years or older. The executive branch of the government is composed of the president, the prime minister, and the cabinet. The judicial branch of government includes the supreme court, the court of appeal, the high court, district court, and magistrate courts.

It is essential to balance the power of the three branches of government. No branch should have too much power or influence over the other branches. Excessive powers were assigned to the president (the executive) through the 18th and the 20th amendments of the Constitution. The excessive authority vested in a single individual led to abuse of power and autocracy: a fundamental reason for the sociopolitical and economic turmoil in Sri Lanka.

3.2 The Constitution of Sri Lanka

The Constitution of Sri Lanka, like in any other country, is its fundamental law and the foundation of its system of governance. After independence in 1948, Sri Lanka adopted the so-called Soulbury Constitution establishing parliamentary democracy. The Soulbury Constitution continued until 1972, when the Republican Constitution was adopted. It provided for a legislature named the National State Assembly with a term of office of 6 years and a nominal president appointed as the Head of State by the prime minister. The Constitution was amended in 1975 to change the basis of delimitation of constituencies (first amendment). President J.R. Jayawardene, who was elected to office in 1977 passed the Second Amendment, which made the presidency an executive post for six years. The 1978 Constitution lacked checks and balances and did not maintain the vital separation of powers between the legislature, the executive and the judiciary¹²⁴. Late Dr N M Perera, the Lanka Sama Samaja Party leader and a former Finance Minister, had forewarned the country of the dangers of the executive presidency, which opened the doors for a totalitarian form of government¹²⁵.

President Ranasinghe Premadasa succeeded President J R Jayawardane, followed by President Chandrika Bandaranaike Kumaratunga and President Mahinda Rajapakse as Presidents of Sri Lanka. Both Chandrika Bandaranaike Kumaratunga and Mahinda Rajapakse were elected on a pledge to abolish the Executive Presidency. Kumaratunga lacked the two-thirds majority required for a change of the Constitution. However, the 17th Amendment passed by parliament under her presidency restricted the president from appointing judges in the upper

124 <https://www.colombotelegraph.com/index.php/the-19a-centrepiece-of-good-governance/>

125 <https://www.colombotelegraph.com/?s=N.+M.+Perera&x=12&y=2>

judiciary and the president's involvement in independent commissions like the Election Commission. In bodies like the Police Commission and the Human Rights Commission, the president had the power to make appointments but only with the consent of a politically independent Constitutional Council.

3.3 The 18th Amendment (18A)

President Mahinda Rajapakse, instead of abolishing the executive presidency, introduced the infamous 18th Amendment, which abolished the two-term limit of the Presidential office¹²⁶. The 18th Amendment made the president powerful as Head of State, Head of the executive, Head of the Cabinet and Commander in Chief. The president was also given unrestricted control over the Human Rights Commission, Election Commission, the Police Commission, and the Commission to Investigate Allegations of Bribery or Corruption. He could also appoint senior judges and legal officers like the attorney general, the auditor general, and the inspector general of police. It paved the way for dismantling democracy and establishing a constitutional dictatorship in Sri Lanka.

3.4 The 19th Amendment (19A)

In January 2015, President Maithripala Sirisena won the presidential elections on the promise of implementing a 100-day constitutional and governance reforms, after which parliamentary elections were to be held.

The 19th Amendment (19A) to the Constitution of Sri Lanka was passed by the 225-member Sri Lankan Parliament, with 215 voting in favour in 2015. The 19th Amendment was considered a *"a key step forward in Sri Lanka's path towards sustainable human development"*¹²⁷ *"a centrepiece of good governance,"*¹²⁸ and *"a new beginning"*¹²⁹ by eminent scholars. It provided an opportunity to bring about the fundamental constitutional change required in a country emerging from a protracted armed conflict. However, in parliament, it was negotiated in a process that undermined the prospects for constitutional reform.

126 <https://www.colombotelegraph.com/index.php/demons-of-the-18th-amendment-are-devouring-body-and-soul-of-sri-lanka/>

127 <https://www.colombotelegraph.com/index.php/the-19a-a-key-step-forward-in-sri-lankas-path-towards-sustainable-human-development/>

128 <https://www.colombotelegraph.com/index.php/the-19a-centrepiece-of-good-governance/>

129 <https://www.colombotelegraph.com/index.php/the-future-of-the-country-has-begun-with-the-19a/>

However, the 19th Amendment brought about changes to the executive presidency, such as:

- reducing the term of office
- removing the president's power to dissolve parliament
- reintroducing the two-term limit on the number of terms of office
- disqualifying persons under 35 years of age and dual citizens from being elected
- strengthening the prime minister and the cabinet in relation to the president
- introducing the concept of duties of the president: duty to respect the Constitution; to promote national reconciliation; to ensure the proper functioning of the constitutional council, and to ensure the conduct of free and fair elections.

The President's powers of appointment were also limited by the setting up of the Constitutional Council and various other provisions, such as the procedure for consultation for appointment of the judges of the supreme court and the court of appeal. The Constitutional Council was responsible for making appointments to the key high posts in the country based on guidelines.

In its report on Sri Lanka, the Office of the United Nations Human Rights Commissioner (OHCHR) referred to the central importance of the 19th Amendment in providing checks and balances against the executive¹³⁰.

The 19th Amendment was viewed by a legal expert as "*a return of Sri Lankan politics to an older and more democratic mould, after the interlude of the Rajapaksa regime in which populism, nationalism, and authoritarianism retarded Sri Lanka's Constitutional development*"¹³¹

3.5 The 20th Amendment (20A): The beginning of the end of democracy?

The government's failure to prevent the Easter Sunday terrorist attack in April 2019 brought discredit to the model of executive power-sharing under the 19th Amendment. The terrorist attack was carried out in the backdrop of a dysfunctional

130 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/051/04/PDF/G2005104.pdf?OpenElement>

131 <https://constitutionnet.org/news/sri-lanka-nineteenth-amendment-constitution-start-finish>

State machinery due to frequent clashes between the President Maithripala Sirisena and the Prime Minister Ranil Wickremasinghe (see Chapter 7 Authority without accountability contributed to the crisis)).

In November 2019, President Gotabaya Rajapaksa was elected on an election campaign promise to do away with the 19th Amendment and restore the executive presidency¹³². While the 19th Amendment curtailed the powers of the president and the parliament and placed much of the responsibility of decision making in the hands of several independent commissions including the Constitutional Council which has non- parliamentarians, the 20th amendment reversed these reforms. It brought back most of the constitutional powers to the president¹³³. The Constitutional Council was replaced by the Parliamentary Council, which is entirely composed of Members of Parliament. Under the 20A, key appointments are made by the president after getting the observations of the Parliamentary Council.

On 22 October 2020, the 20th Amendment (20A) to the Constitution was passed with a two- thirds majority in the parliament. Despite 39 petitions filed by opposition parties and civil society groups, the Supreme Court determined that the passage of the legislation required only two -thirds majority except for four clauses that required additional public approval through a referendum¹³⁴. The court allowed all the proposed changes except removing the president's duty to create conditions for free and fair elections and the right of citizens to sue the president, giving the president the power to dissolve the parliament after one year, and making it no longer an offence to violate regulations set by the election commission. Political activists and the international community expressed grave concerns about the 20th Amendment^{135 136}. It was viewed as 'another step toward the constitutional dismantling of democracy" ¹³⁷.

132 <https://www.thecitizen.in/index.php/en/NewsDetail/index/6/19325/Sri-Lanka-Seeks-to-Restore-Executive-Presidency--->

133 <https://constitutionnet.org/news/return-sri-lankas-imperial-presidency-twentieth-amendment-constitution-bill>

134 <https://constitutionnet.org/news/sri-lankan-supreme-court-rules-four-clauses-proposed-20th-amendment-will-require-referendum>

135 <https://thewire.in/south-asia/sri-lanka-constitution-amendments-rajapaksa-gotabaya>

136 <https://www.ft.lk/columns/End-to-Sri-Lanka-s-democracy--Shouldn-t-it-be-resisted-/4-706483>

137 <https://thediplomat.com/2020/09/sri-lankas-democracy-on-the-edge/>

3.6 The 21st Amendment (21 A)

The 21st Amendment to the Constitution was placed before the Cabinet in May 2022. The focus was on governance reform and limiting the powers of the executive presidency¹³⁸. It was rejected by the main Opposition Samagi Jana Balavegaya (SJB), the United Left Front¹³⁹, the Janatha Vimukthi Peramuna, the Tamil National Alliance and the Bar Association of Sri Lanka¹⁴⁰. All of them supported the abolition of the Executive Presidency, a key demand of the protesting citizens island-wide in 2022.

The Bar Association of Sri Lanka (BASL) had proposed introducing the 21st Amendment to the Constitution by repealing the provisions of the 20th Amendment and restoring the 19th Amendment, and “the re-establishment of the Constitutional Council and the Independent Commissions which existed under the 19th Amendment”.

The BASL expressed concerns that several vital provisions found in the 19th Amendment are not incorporated into the draft 21st Amendment such as removing the president’s power to retain ministries and retaining powers to prorogue and dissolve Parliament. In addition, the BASL recommended that the following matters which were contained in the BASL proposals be included in the 21st Amendment¹⁴¹:

1. *A provision for the members of the Monetary Board to be appointed with the approval of the Constitutional Council (in addition to the Governor of the Central Bank);*
2. *A provision for the appointments of the Secretaries to the Ministries, Governors of the Provinces, Ambassadors and Heads of Missions be done on the advice of the Prime Minister in consultation with the Cabinet of Ministers;*
3. *A provision to require Presidential Pardons to be done according to the recommendation by a body established by law, appointed by the President on the recommendation of the Constitutional Council;*

138 <https://groundviews.org/2022/04/30/21st-amendment-a-way-out-of-sri-lankas-multiple-crises/>

139 <https://srilankabrief.org/bring-back-the-19-th-amendment-in-full-follow-up-with-the-abolition-of-the-executive-presidency-ulf/>

140 <https://srilankabrief.org/sri-lanka-ranil-gota-constitutional-amendment-farce-in-trouble-basl-opposition-reject-21-a-draft/>

141 <https://island.lk/basl-opposition-reject-21-a-draft/>

4. *A provision to enhance the financial independence, transparency, and accountability of the Independent Commissions.*

In a letter to the Minister of Justice, the Leader of the Opposition Sajith Premadasa also pointed out that the proposed draft strengthens president's executive powers contrary to the 19th Amendment. The opposition proposed the following¹⁴²:

- *the realisation of a competent, efficient, transparent, and accountable, and the values mentioned in the Preamble to the Constitution, as necessary requirements of the economic recovery of the country.*
- *the abolition of the executive presidential system and replacement with a parliamentary executive, while also reinforcing constitutional democracy through the separation of powers and strong checks and balances.*
- *the reinstatement of the fourth pillar framework with the re-establishment of the Constitutional Council and the independent governance oversight commissions. Finally, the introduction of two new institutions: the Council of State and a National Security Council.*

The 21st Amendment was challenged in the Supreme Court by the Samagi Jana Balawegaya (SJB)¹⁴³. Sri Lanka's Supreme Court judged that the majority of clauses in the Samagi Jana Balawegaya's (SJB), proposed 21st Amendment are unconstitutional and will require a two-thirds majority in parliament to be passed as well as approval via a public referendum¹⁴⁴.

142 <https://economynext.com/sri-lankas-opposition-sjb-presents-proposed-21st-amendment-to-constitution-93247/>

143 <https://www.newsfirst.lk/2022/06/21/21a-supreme-court-says-some-clauses-inconsistent-must-pass-by-special-majority-referendum/>

144 <https://www.tamilguardian.com/content/sjb-proposed-21st-amendment-struck-down-sri-lanka-s-supreme-court>

3.7. The 22nd Amendment (22 A)

The draft bill on the 22nd Amendment was approved by the Cabinet and gazetted in September 2022¹⁴⁵. The Supreme Court cleared the bill ruling that it could be adopted with two-thirds majority in Parliament and some clauses requiring a nationwide referendum¹⁴⁶. The Sri Lankan Parliament passed 22A with over two-thirds majority¹⁴⁷.

Regrettably, the 22nd Amendment does not significantly curb the powers of the president or introduce checks and balances demanded by the people to improve transparency and accountability¹⁴⁸.

The Centre for Policy Alternatives (CPA), a public policy research and advocacy think tank, noted that *“it does not revert the Constitution to the structure of that prevailed under the 19th Amendment (2015-19). It leaves intact the unchecked powers of the Executive President.”*¹⁴⁹ The proposed Constitutional Council has been significantly weakened from what was present under the 19th Amendment. The proposed composition of the Council enables the government to control seven of the ten members undermining the original intent behind the design of the Constitutional Council to de-politicise governance.

The CPA said *“The only appropriate institutional reform response to this unprecedented disaster through constitutional reform is the complete abolition of the executive presidential system and the return to a full parliamentary constitutional democracy”*.

145 <https://www.outlookindia.com/international/sri-lanka-s-new--to-press-ahead-with-22nd-amendment-minister-news-213654>

146 <https://www.thehindu.com/news/international/sri-lankas-22-constitutional-amendment-gets-clearance-from-supreme-court/article65856210.ece?homepage=true>

147 https://www.business-standard.com/article/international/sri-lanka-passes-constitutional-amendment-curtailing-president-s-powers-122102101400_1.html

148 <https://groundviews.org/2020/01/16/constitutional-amendments-a-blast-from-the-past/>

149 <https://economynext.com/sri-lankas-gazetted-22nd-amendment-bill-is-a-diluted-version-of-itself-cpa-96704/>

3.8 The Constitution: perspectives of opinion leaders

A survey conducted in December 2020 assessed the knowledge, attitudes and perceptions of leaders from the four main ethnic communities (Sinhala, Tamil, Up Country Tamil and Muslim) across the island. The study was conducted by a collaborative partnership of the Centre for Policy Alternatives (CPA), the International Institute for Democracy and Electoral Assistance (International IDEA) and the Edinburgh Centre for Constitutional Law (ECCL)¹⁵⁰. Religious leaders, officials, office holders of community-based organizations, teachers and school principals participated in the survey. The survey collected information on perceptions of the constitutional text, the Presidency, human rights and the nature of political and economic order. While only about a tenth of opinion leaders had a great deal of awareness of the content of the Constitution, the vast majority responded that they were aware of it to some extent. Efforts are needed to increase public awareness of the importance of the Constitution.

While 42 per cent responded that the executive presidency should be completely abolished, 31 per cent said it should continue, with fewer powers vested in the president. Regarding the functioning of democracy, 52 per cent indicated that they were satisfied, and 48 per cent claimed to be dissatisfied with it. Only 13 per cent reported that the judiciary is independent. Nearly a quarter claimed that Sri Lanka's courts and judges are not independent. Important issues that opinion leaders wanted the Constitution to address were economic prosperity, national security and a pluralistic society.

No citizen, however powerful is above the law. On the contrary, judicial independence protects citizens because it is the judiciary that will apply the law fairly and evenly to all. Therefore, judges must be insulated against all sources of improper influence¹⁵¹. Sri Lanka is a country with a history of a robust, independent and accountable judicial system. Regrettably, in the last two decades, political interference appears to have affected public confidence in the independence of the judiciary¹⁸. In this context, it is the fair application of the rule of law in all court cases, including those implicating powerful political figures¹⁵², that will restore the public confidence.

150 <https://www.idea.int/sites/default/files/publications/the-scope-and-the-content-of-the-sri-lankan-constitution-en.pdf>

151 Yap J and Scott C. Breakdown of the law in Sri Lanka. An overview. https://digitalcommons.osgoode.yorku.ca/all_papers/268/

152 <https://www.newsfirst.lk/2022/06/06/prasanna-ranatunga-sentenced-to-2-year-ri-suspended-for-five-years/>

The power of the executive presidency is unlikely to be radically clipped anytime soon. Successive governments have hindered the process of constitutional reform and abolition of an over-powerful executive presidency. The *Aragalaya* was not merely a cry for the incumbent president to resign, but also for constitutional reform with effective checks and balances. Sri Lanka will not be able to recover from the present crisis unless constitutional reforms address national priorities and rectify weaknesses in the Constitution that are at the core of the crisis.

Systemic corruption contributed to the crisis

4.1 Corruption

Corruption is the misuse and exploitation of entrusted power for personal gain. Recently, corruption has become a pervasive problem in Sri Lanka¹⁵³. It is one of the root causes of the present crisis. Corruption has threatened Sri Lanka's fragile democracy¹⁵⁴ and human rights position for many years^{155 156 157}.

Corruption interferes with the protection of human rights in two ways. First, corruption directly damages the proper functioning of State institutions, and even the administration of justice¹⁵⁸. When people are selected for official posts based on political affiliations and friendship¹⁵⁹ instead of qualifications and skills, the smooth functioning of government institutions suffers¹⁶⁰. Second, corruption robs societies of resources that belong to the people, which should be used for providing food security, public health, education, infrastructure, and security¹⁶¹. The voiceless poor, and vulnerable groups suffer the most from corruption, as is evident in the present national crisis in Sri Lanka. Corruption cannot be controlled unless the media exposes it and citizens stand up against it. Corrupt leaders suppress the media¹⁶² and harass whistleblowers to further their selfish

153 <https://www.newsfirst.lk/2022/08/21/sri-lanka-s-plunge-to-crisis-caused-by-corruption/>

154 <https://dbsjeyaraj.com/dbsj/archives/67664>

155 <https://thewire.in/world/rights-abuses-corruption-underlying-causes-sri-lanka-crisis-un-report>

156 <http://www.humanrights.asia/resources/journals-magazines/article2/0903-2/bribery-corruption-in-sri-lankas-public-revenue-system-an-unholy-nexus/>

157 <https://www.youtube.com/watch?v=q9YU4aMFR3I>

158 <https://www.bbc.com/news/world-asia-37089546>

159 <https://www.colombotelegraph.com/index.php/bonanza-continues-at-state-expense-for-gotas-californian-buddies/>

160 <https://www.colombotelegraph.com/index.php/srilankan-ceo-spews-f-word-vilifies-colombo-telegraph-and-admits-he-is-incompetent/>

161 <https://www.dailynews.lk/2019/04/18/local/183267/samurdhi-divineguma-bank-fraud-tops-rs108-mn-2014-2016>

162 <https://www.dandc.eu/en/article/rajapaksa-brothers-long-history-suppressing-free-speech-through-attacks-and-intimidation>

agendas¹⁶³.

Germany-based Transparency International compiles the Corruption Perception Index using data from the World Bank, World Economic Forum, private risk and consulting companies, think tanks and others. The scores reflect the views of experts and business people. In 2021, Sri Lanka was ranked at 102 out of 180 countries in the Corruption Perception Index. This was a deterioration of Sri Lanka's corruption perception ranking from 2020 when the ranking was at 94¹⁶⁴.

4.2 Faces of corruption

Corruption can happen anywhere and can involve anyone. In Sri Lanka, like in many other countries some of the politicians, public servants, police, businessmen and members of the public are involved in corrupt activities^{165 166 167 168 169}. Corruption has involved high-level politicians and decision makers, causing unfathomable long-term damage to the economic and social development of Sri Lanka^{170 171 172 173 174}(Figure 4.1).

163 <https://www.ft.lk/columns/A-glimpse-on-whistle-blowing-practices-in-banking-institutions-of-Sri-Lanka/4-735145>

164 <https://www.transparency.org/en/press/2021-corruption-perceptions-index-press-release>

165 <https://www.youtube.com/watch?v=tJGT5CYB770>

166 <https://www.youtube.com/watch?v=j657MI6WrGw>

167 <https://www.youtube.com/watch?v=BdHFTmpKTuM>

168 <https://www.youtube.com/watch?v=4z2gO5OE9tY&list=RDCMUCQgG-dxI1hLJdUoE0COhP6w&index=16>

169 <https://www.youtube.com/watch?v=zN6hwEhHbeM&list=RDCMUCQgG-dxI1hLJdUoE0COhP6w&index=3>

170 <https://thewire.in/south-asia/can-sri-lanka-turn-around-its-corrupted-democracy>

171 <https://srilankatwo.wordpress.com/2017/10/15/a-land-of-poverty-sleaze-drugs-and-lawlessness/>

172 <https://www.youtube.com/watch?v=aqO4bpRv8qA>

173 <https://www.youtube.com/watch?v=ggj34GdAaRo>

174 <https://www.youtube.com/watch?v=j657MI6WrGw>

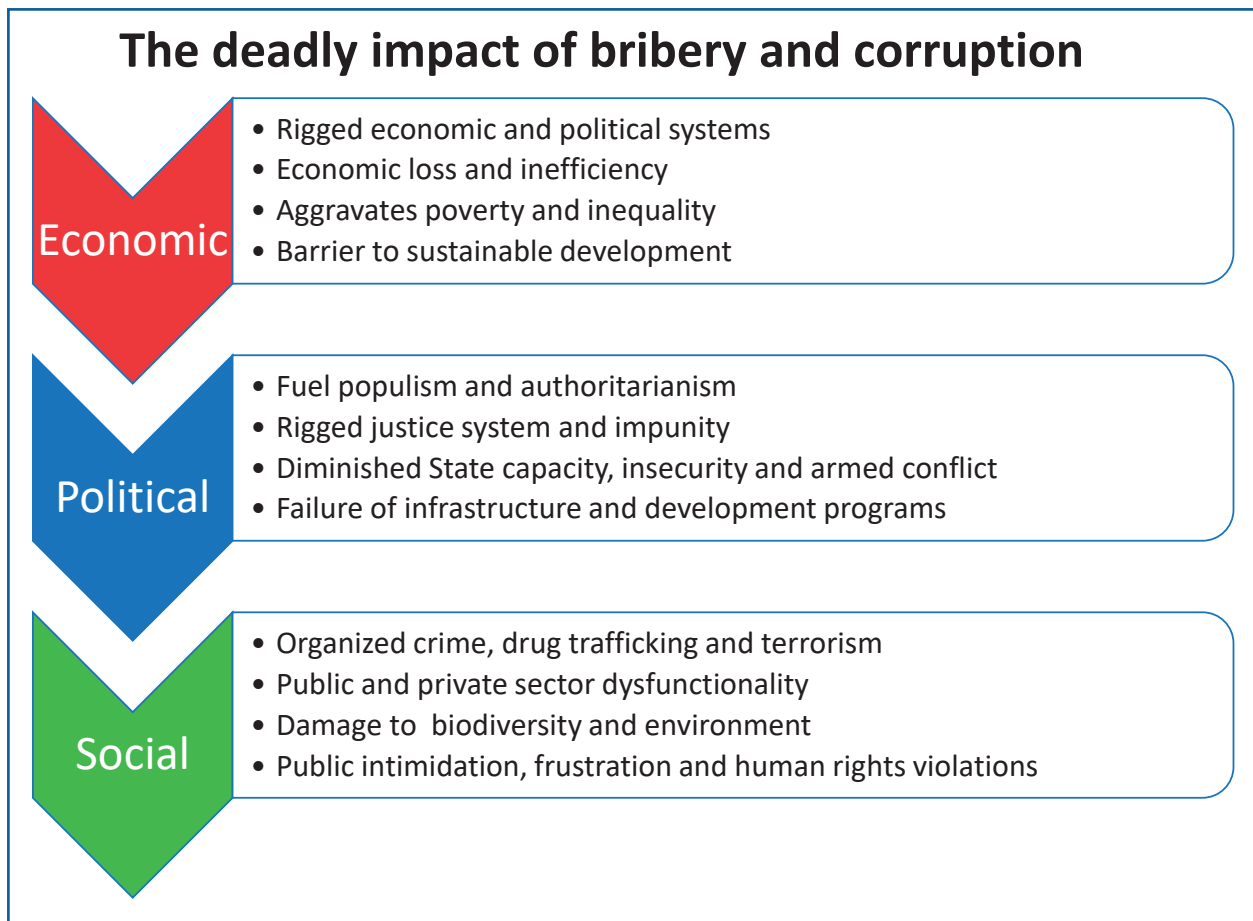


Figure 4.1. Why should everyone care about bribery and corruption?

Corruption presents in different forms and includes:

- political corruption- influences all sectors of State administration, including the judiciary¹⁷⁵
- distortion of how public institutions work and who controls them¹⁷⁶
- using influence and connections to gain favours, secure contracts and jobs
- awarding contracts for private gain, violating tender procedures and taking commissions
- theft of entrusted or public funds and public property
- leaking information for the benefit of certain bidders (see Chapter 6 Politicisation of the central bank and bond scams)
- officials taking bribes to perform routine services and
- fraud in construction and repair work.

175 <https://www.cato.org/blog/corruption-cronyism-agricultural-edicts-drive-sri-lanka-disaster>

176 <https://www.themorning.lk/first-profits-in-20-years/>

The most important institutions in the fight against corruption are CIABOC, the Financial Crimes Investigation Division of the Sri Lanka Police, the Attorney General's Department, Financial Intelligence Unit of Sri Lanka, the Public Service Commission, the National Procurement Commission, the Auditor General and the Special Presidential Task Force for Recovery of Illegally Acquired State Assets. The 20th Amendment of the Constitution and various interventions of the Rajapakse governments weakened the independence of these institutions.

4.3 What makes corruption thrive in Sri Lanka?

According to analysts, at least three significant sources nurture corruption (a) Political degeneration accompanied by the presidential system and electoral procedures promoting misuse of public funds (2) Neo-liberal economic policies facilitating fraudulent business deals and (3) Moral degeneration of the society at large including some religious institutions^{177 178}.

Misuse of public funds is inevitable in an autocratic Presidential system¹⁷⁹ with an inflated Cabinet, a ruling party with an outright majority, members of one family in crucial government positions^{180 181} and a weak opposition¹⁸². The president protects perpetrators of corruption if they are his allies¹⁸³. A massive Cabinet misuses public funds on squads of vehicles, fuel, travel and security teams. No meaningful action is taken when corruption is exposed in Parliament by the opposition¹⁸⁴. The incumbent President, Ranil Wickremasinghe, has already appointed 37 State Ministers, and before long, more Cabinet Ministers will be sworn in. At a time of an economic crisis, instead of solving the people's financial hardships, numerous privileges have been bestowed on a hefty Cabinet at an enormous cost that the country can ill-afford. Each Minister and State Minister

177 <https://www.colombotelegraph.com/index.php/three-components-sources-of-corruption-in-sri-lanka/>

178 <https://indica.medium.com/sri-lankas-corrupted-monks-f1f33ba66826>

179 <https://groundviews.org/2020/10/28/sri-lanka-rising-autocracy-and-historical-experiences/>

180 <https://www.icij.org/investigations/pandora-papers/sri-lanka-rajapaksa-family-offshore-wealth-power/>

181 <https://www.indiatoday.in/world/story/how-rajapaksa-dynasty-controls-sri-lankan-government-unmatched-in-south-asia-1831719-2021-07-23>

182 <https://thedi diplomat.com/2022/09/bailouts-wont-save-sri-lanka-ending-dynastic-politics-might/>

183 <https://www.vice.com/en/article/93a9ke/rajapaksa-wealth-politics-sri-lanka-economic-crisis>

184 <https://www.dawn.com/news/1158710>

will get three official vehicles in addition to vehicles for his team members, free fuel quotas and free telephones. Ministers will also get eight officers each for personal security and free housing in Colombo¹⁸⁵.

Politics has become a gateway to acquiring wealth, and as part of this process misuse of public funds begins when politicians are elected to power in the national, provincial and local governments^{186 187}.

Until 2008, Parliamentary committees such as the parliamentary Public Accounts Committee (PAC) and the Committee on Public Enterprises (COPE) were chaired by opposition parliamentarians in the interest of accountability of financial matters. The primary function of COPE and PAC is the supervision of the use of public funds by government ministries and public enterprises. In 2008, the Rajapakse administration awarded the chairmanships of these committees to Ministers¹⁸⁸ ignoring the conflict of interests, and paving the way to rampant corruption. In recent times, Ministers have even been accused of using welfare funds (*Samurdhi* or *Divineguma*) meant for poverty alleviation for political purposes¹⁸⁹.

Corruption has a fantastic chance to thrive when one political party or a family is in control of most of the key Ministries in government. In Sri Lanka due to lack of laws limiting number of members of the same family to be in office, one family controlled a major part of the national budget during the Rajapakse administrations spanning nearly 14 years^{190, 191}. For example, when Mahinda Rajapaksa was the President of Sri Lanka (2005 to 2015), he assigned himself the defence, finance, ports, aviation and highways portfolios. One brother, Gotabaya Rajapakse was secretary of the Ministry of Defence and Urban Development, another brother was Minister of economic development and yet another brother became the Speaker of Parliament. In addition, a relative of Rajapakse was assigned the post of deputy minister of water supply and drainage.

185 <https://www.themorning.lk/akd-reveals-the-privileges-of-new-State-ministers/>

186 <https://thewire.in/south-asia/can-sri-lanka-turn-around-its-corrupted-democracy>

187 <https://www.dw.com/en/rajapaksa-the-rise-and-fall-of-sri-lankas-powerful-political-dynasty/a-62458780>

188 https://wikileaks.org/plper cent/cables/08COLOMB0753_a.html

189 <https://www.colombotelegraph.com/index.php/basil-rajapaksa-remanded-till-may-5th/>

190 <https://www.aljazeera.com/news/2022/7/10/sri-lanka-protests-how-did-we-get-here-and-what-comes-next>

191 Sri Lanka economic crisis; the all powerful Rajapakses under fire <https://www.aljazeera.com/news/2022/4/1/sri-lanka-economic-crisis-the-all-powerful-rajapaksas-under-fire>

Gotabaya Rajapakse was President of Sri Lanka from 2019 to 2022 and appointed four different Cabinets during his tenure. In the second Cabinet of Gotabaya Rajapakse, he assigned himself the defence and technology portfolios, Mahinda Rajapakse was Prime Minister as well as the Minister of economic policy and plan implementation, urban development and housing and religious and cultural affairs. Another brother was assigned the Ministry of finance. Yet another brother was assigned the Ministry of irrigation, internal security, home affairs and disaster management. One nephew was the Minister of youth and sports. Another nephew was the State Minister of Paddy and Grains, Organic Food, Vegetables, Fruits, Chillies, Onion and Potato Cultivation Promotion, Seed Production and Advanced Technology Agriculture. Recently a complaint has been filed with the Bribery Commission against financial fraud committed by members of the Rajapakse family and several other top officials of the Rajapakse administration^{192 193 194}.

During the Mahinda Rajapaksa administration (2005-2015), journalists who exposed corruption and were perceived to be critical of the Rajapaksa Government found themselves to be the targets of harassment and violence¹⁹⁵. Maithripala Sirisena, was voted in on promises of delivering justice and accountability. However, these promises were not fulfilled¹⁹⁶. While the government initially supported investigations into journalist killings and abductions, the momentum waned off after the first two years in power¹⁹⁷. After Gotabaya Rajapakse returned to power in 2019, several journalists went into exile and the chief detective responsible for overseeing the cases of journalists who had been murdered also sought asylum¹⁹⁸. Intimidation and harassment of journalists and media continue even amidst the present national crisis^{199, 200}.

192 <https://www.colombotelegraph.com/index.php/corruption-complaints-filed-against-all-rajapaksas-and-johnston-type-fraudsters/>

193 <https://www.newsfirst.lk/2015/05/07/rajapaksa-family-worth-rs-18-billion-min-mangala-samaraweera/>

194 <https://explorenetworth.com/namal-rajapaksa-net-worth/>

195 <https://cpj.org/2020/04/sri-lankan-journalists-turn-to-self-censorship-und/>

196 <https://www.sundaytimes.lk/200216/news/cases-galore-convictions-rare-in-yahapalana-govt-s-anti-corruption-sham-392720.html>

197 <https://www.wsws.org/en/articles/2017/08/25/sril-a25.html>

198 <https://www.aljazeera.com/news/2019/11/26/top-detective-who-investigated-high-profile-cases-flees-sri-lanka/>

199 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/sri-lanka-journalists-attacked-during-protest-coverage.html>

200 <https://monitor.civicus.org/updates/2021/10/05/sri-lanka-authorities-crack-down-protests-stifle-critics-and-accused-torturing-detainees/>

4.4 Lawyers Forum for the People

According to media reports, during the recent uprising in Sri Lanka a group of lawyers alerted the Judicial Services Commission, which is entrusted with safeguarding the independence of judges, about an attempt being made to remove the protestors in front of the Presidential Secretariat at “GotaGoGama” through a court order provided by a recently appointed magistrate²⁰¹.

The group, called the “Lawyers Forum for the People”, claimed that lawyers backing the government were preparing documents to obtain this court order. It was also said that the particular magistrate has close links to the government and had been appointed to his current position in early April 2022, shortly after the Mirihana protests (at the private residence of President Gotabaya Rajapakse). The magistrate had previously been charged with several offences, and faced prosecution during the previous “Good Governance” regime. He was arrested and remanded for a certain period and subjected to a suspension of service. However, he was acquitted of all charges in December 2021.

The Lawyers’ Forum for the People filed a complaint at the National Authority for the Protection of Victims of Crime and Witnesses (NAPVCW) against the re-victimisation of victims of the attacks by Sri Lanka Podujana Peramuna (SLPP) supporters on the protest sites of “MynaGoGama” in front of the Temple Trees in Kollupitiya and “GotaGoGama” in Galle Face.

In early June 2022 Lawyers’ Forum for the People Convenor Attorney-at-Law (AAL) Senaka Perera, was summoned by the Criminal Investigations Department over allegations that he had advised protestors to behave disruptively on 25 May 2022²⁰². He denied these allegations.

4.5 Corruption in construction and public works

Transparency International’s 2011 Bribe Payers Index has identified construction and public works as the sector with the highest level of bribery, higher than both the arms industry and the oil and gas sector²⁰³. This is true for Sri Lanka as well, particularly in major construction projects (see Chapter 2 What caused the

201 <https://www.themorning.lk/attempt-to-remove-gotagogama-through-court-order/>

202 Activist attorney quizzed by CID denies allegations. <https://www.themorning.lk/activist-attorney-quizzed-by-cid-denies-allegation/>

203 Bribe payers index 2011 <https://www.transparency.org/en/publications/bribe-payers-index-2011>

economic crisis?)²⁰⁴ and in road construction²⁰⁵. Roads can contribute to progress and development and should be constructed according to a national plan. However, politicians tend to promise roads as election gifts and roads are often built for the main purpose of providing an opportunity for securing commissions and bribes.

Many major construction projects are one-off, making cost comparisons difficult, which in turn makes it easier to inflate costs or hide bribes and commissions.

In a study conducted in the construction industry in Sri Lanka the most important reasons for pervasive corruption in the construction sector identified were²⁰⁶ -

- difficulty in monitoring expenditure
- involvement requiring numerous permits
- weak political will
- lengthy and complicated construction process
- large amount of money involved in a single transaction and
- the discretionary power of civil servants.

4.6 Destruction of the environment due to corruption

There is no question that development initiatives are important for Sri Lanka, including the construction of infrastructure, hydropower plants and roads. At the same time, the environment and forest cover must be protected and preserved for future generations. Forest conservation is essential for the protection of biodiversity, wildlife and the climate, growth of tourism, prevention of pandemics like COVID -19 and our very existence.

For corrupt people in business and politics logging and construction projects are lucrative ways of wealth generation and securing consultancies and contracts. They are good at misleading local communities by highlighting the short-term benefits of such projects like the creation of jobs and access to transport, particularly to win elections.

204 <https://www.colombotelegraph.com/index.php/the-bankruptcy-of-development-in-sri-lanka/>

205 <https://www.colombotelegraph.com/index.php/wikileaks-basil-is-corrupt-education-limited-and-expelled-from-school/>

206 Hadiwattege, C. De Silva, L. Pathirage, C. Corruption in Sri Lankan Construction Industry
https://www.irbnet.de/daten/iconda/CIB_DC24571.pdf

Since 1989, aquaculture development projects have destroyed about 4000 hectares of mangroves and halved the mangrove area of the island²⁰⁷. Land in close proximity to national parks are distributed to political supporters to win elections. Such corrupt activities have been reported in relation to the Lunugamwehera National Park, Wasgomuwa National Park and Ritigala Strict Nature Reserve. It is estimated that about 77000 of the virgin Sinharaja forests were cleared from 1970 to 1990 with the blessing of successive governments. In the past, many planned projects in the Uva province for logging and the creation of new plantations have been blocked as a result of protests by environmental groups and the public.

In 2008, the government initiated the 'Uma Oya hydroelectricity Project,' which is considered by some to be one of the worst environmental projects in Sri Lanka²⁰⁸. Regrettably, the project was initiated before obtaining a proper feasibility study and environmental assessment to satisfy political necessities. Water was needed for construction of the Mattala International Airport, Hambantota Harbor, Hambantota cricket stadium, Hambantota International Conference centre and Hambantota Oil Refinery²⁰⁹ of the Rajapakse regime. Massive amounts of national revenue were used for these projects. After completion, the Hambantota deep sea port was unable to attract ships and cargo volumes²¹⁰. Mattala International Airport was dubbed the world's emptiest airport²¹¹, the new cricket stadium was deficient of matches, and the conference centre went into disuse. The unsound vision of the executive presidency increased the national debt²¹² and further weakened the frail economy.

A questionable Environment Impact Assessment report was obtained for the Uma Oya Project only in 2011²¹³. The project has caused irreparable damage to the highly sensitive ecosystem in the Uma Oya valley. As a result of underground

207 <https://www.wrm.org.uy/bulletin-articles/sri-lanka-politics-in-forests>

208 <https://medialk.com/english/2020/10/19/uma-oya-project-a-silent-disaster-raging-under-the-radar/>

209 <https://www.colombotelegraph.com/index.php/hambantota-refinery-project-a-potential-money-laundering-risk-tisl/>

210 <https://www.forbes.com/sites/wadeshepard/2016/10/28/sold-sri-lankas-hambantota-port-and-the-worlds-emptiest-airport-go-to-the-chinese/?sh=65e8fe934456>

211 <https://www.forbes.com/sites/wadeshepard/2016/05/28/the-story-behind-the-worlds-emptiest-international-airport-sri-lankas-mattala-rajapaksa/?sh=797a5ed27cea>

212 <https://asiafoundation.org/2022/04/13/paradise-squandered-what-really-happened-to-sri-lankas-economy/>

213 <https://www.sundaytimes.lk/170716/news/uma-oya-tragedy-is-all-because-of-a-bad-eia-activists-charge-250473.html>

excavations and constructions, houses collapsed, wells, and water fountains dried up and people lost their traditional livelihoods leading to mass protests²¹⁴. Critics have accused very high-level politicians of misuse of funds. The project cost was increased by USD 248 million, resulting in the Irrigation ministry secretary refusing to sign the agreement resigning his post²¹⁵.

More recently, colossal damage has been done to the World Heritage Sinharaja forest due to the haphazard construction of two illegal mini-hydro projects²¹⁶. Despite the public outcry the government of Sri Lanka allowed the projects to be completed. The Centre for Environmental Justice and five others filed a lawsuit in the Supreme Court in 2017, against those responsible. However, the court dismissed the case on the grounds that the judiciary should not get involved with the duties and obligations of the legislature and executive²¹⁷.

The Constitution of Sri Lanka recognises that *the State shall protect, preserve and improve the environment for the benefit of the community*. There is a dedicated Ministry for Environment, a National Environment Management Authority and a National Environment act ²¹⁸. In addition, there are many environment-related agencies including the Mahaweli authority, the Ministry of Mahaweli Development and Environment, the Forest Department, and the Marine Environment Protection Authority; to name a few. Coordinated action of all of them is needed to tackle the mafia of powerful people who exploit the natural resources of Sri Lanka, with the covert support of the local government and a minority of corrupt officers.

4.7 Legal framework concerning bribery and corruption

Sri Lanka signed the United Nations Convention against Corruption on 15 March 2004 and ratified it on 31 March 2004. In addition, Sri Lanka is a member of the Asia/Pacific Group on Money Laundering (APG) and the Egmont Group of Financial Intelligence Units, the Commonwealth, the International Criminal Police Organization (INTERPOL), the Open Government Partnership, the Forum of

214 <https://www.newsfirst.lk/2017/06/28/mass-protest-bandarawela-uma-oya-water-project/169569/>

215 <https://srilankamirror.com/news/news-in-brief/3714-this-is-how-uma-oya-swallowed-248-million>

216 <https://www.indepthnews.net/index.php/global-governance/un-insider/4362-the-destruction-of-the-world-heritage-sinharaja-forest>

217 <https://ejustice.lk/case-update-supreme-court-case-sc-fr-57-17-on-mini-hydro-development-dismissed/>

218 [https://nema.go.ug/sites/all/themes/nema/docs/Nationalper cent20Environmentper cent20Act,per cent202019per cent20\(1\).pdf](https://nema.go.ug/sites/all/themes/nema/docs/Nationalper cent20Environmentper cent20Act,per cent202019per cent20(1).pdf)

Election Management Bodies of South Asia, and the Asset Recovery Inter-Agency Network for Asia and the Pacific²¹⁹.

The legislative framework to combat bribery and corruption²²⁰ in Sri Lanka has evolved over eight decades. Section 20 of the State Council (Powers and Privileges) Ordinance was enacted in 1942. This was followed by the Public Bodies (Prevention of Corruption) Ordinance 1943. The Bribery Act, enacted in 1954 with subsequent amendments, provide the legal framework to combat bribery. On 5 October 1994, the bill to establish a permanent commission to investigate allegations of bribery and corruption was passed. The declaration of assets and liabilities law (consisting of Acts No. 1 of 1975, No. 29 of 1985 and amending Act No. 74 of 1988) was to monitor the acquisition of wealth by public servants, politicians and others through bribery and corruption. The prevention of money laundering act (No. 5 of 2006) makes it an offence to engage in financial transactions to hide the identity or source of money generated from illegal activities, including bribery. The financial transactions reporting act (No. 6 of 2006) provides that the institution accepting money or valuables should verify the customer's identity. The office of the parliamentary commissioner for administration (Ombudsman) was established under the Second Republican Constitution in 1994.

The 17th amendment to the Constitution (see Chapter 3) sought to depoliticize the country's public administration. Under the amendment, a Constitutional Council was established, which was mandated to provide recommendations to the president on members appointed to several commissions that carried out public officials' appointment, transfer and disciplinary matters.

The 19th amendment to the Constitution of May 2015 establishes the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and empowers it to implement the United Nations Convention against Corruption. The independence of CIABOC is enshrined in the 19th amendment to the Constitution and the provisions on the appointment, tenure and removal of CIABOC commissioners. In this Amendment, several independent institutions were also set up to promote good governance which covered national procurement, judiciary, police and public services.

219 https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2018_09_03_Sri_Lanka_Final_Country_Report.pdf

220 <http://www.humanrights.asia/resources/journals-magazines/article2/0903-2/bribery-corruption-in-sri-lankas-public-revenue-system-an-unholy-nexus/>

4.8 Systematic dismantling of checks and balances against corruption by the Rajapakse regime

A two-thirds majority in the Parliament enabled the Gotabaya Rajapakse administration to pass the 20th Amendment to the constitution by which all powers were vested with the President. A move which weakened governance and paved the way to corruption. According to the Human Rights Watch *'Gotabaya Rajapaksa administration has repeatedly acted to block financial transparency and accountability by weakening independent institutions and by intervening to prevent investigations and prosecutions'*²²¹.

The 20th Amendment provided an impetus for corruption. It undermined the National Audit Office, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) and the judiciary by giving the president unrestricted power in the appointment of senior judges and officials. The amendment also removed the Auditor General's constitutional authority to audit the Prime Minister's Office and the Presidential Secretariat. It eliminated the constitutional status of the CIABOC, because it can be abolished by a simple majority in parliament. These changes make it extremely difficult to hold political leaders, government officials and others accountable for corruption and monitor spending decisions of the government.

In January 2020, President Gotabaya Rajapaksa established the Commission of Inquiry (COI) to Investigate Allegations of Political Victimization which is alleged to have occurred from January 2015 to October 2019. The Commission consisted of a retired Judge of the Supreme Court, a retired Judge of the Court of Appeal and a retired Inspector-General of Police. Some interpreted this as an attempt to derail investigations of corruption against his relatives and political allies that had been begun under the previous administration²²².

The Commission of Inquiry recommended the withdrawal of nearly 40 cases of bribery and corruption pending in the courts, identifying them as incidents of political victimisation. It is of note that despite serious allegations, the suspects had not taken any steps to rectify the claims levelled against them by resorting to legal measures from 2015 to 2019 during the Maithripala Sirisena administration.

221 <http://www.hrw.org/news/2022/04/04/letter-imf-managing-director-re-economic-crisis-sri-lanka>

222 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>

The Bar Association of Sri Lanka said that the report of the COI, which was submitted to the president on December 8, 2020, “*may undermine the Rule of Law in this country, impair the independence of the Judiciary, and erode the impartial and efficient functioning of the Attorney General’s Department.*”^{223 224} Following the submission of its final report to the President, the COI set in motion a Special Presidential Commission of Inquiry to implement several recommendations of the COI, the on-going proceedings of which are not open to the public. Prime Minister Mahinda Rajapakse tabled a Resolution in Parliament on 9 April 2021, seeking approval to implement recommendations of certain sections of the COI. The Resolution was seeking approval to institute criminal proceedings against investigators, lawyers, officers of Attorney General’s Department, witnesses and others involved in these complaints and for the dismissal of several cases currently pending in court, with the effect of undermining the independence of the judiciary and the rule of law²²⁵. The Centre for Policy Alternatives in a commentary noted with concern that proceedings of the Commission of Inquiry and the Special Presidential Commission of Inquiry *are both politicized and problematic, and may have grave implications on the rights of citizens as well as the independence of the judiciary, rule of law and democracy in Sri Lanka*²²⁶.

223 “Statement on the motion before parliament seeking to implement certain decisions of the Presidential Commission of Inquiry (on political victimization),” Bar Association of Sri Lanka, April 17, 2021, <https://basl.lk/Statement-on-the-motion-before-parliament-seeking-to-implement-certain-decisions-of-the-presidential-commission-of-inquiry-on-political-victimization>

224 https://www.researchgate.net/publication/312115121_Sri_Lanka_Interviews_with_Prosecutors_and_Criminal_Defense_Lawyers_Across_the_Globe

225 Centre for policy alternatives. Short note on the resolution seeking parliamentary approval to implement recommendations of the _commission of inquiry on political vicimization _<https://www.cpalanka.org/short-note-on-the-resolution-seeking-parliamentary-approval-to-implement-the-recommendations-of-the-coi-on-political-victimization/>

226 Center for Policy Alternatives. Commentary on the Commission of Inquiry and the Special Presidential Commission of Inquiry on Political Victimisation April 2021

4.9 Role of the judicial branch in the fight against corruption

Article 11 of the United Nations Convention against Corruption stresses the pivotal role of the judicial branch in the fight against corruption. It establishes that in order to carry out this role effectively, the judicial branch itself must be free of corruption, and that its members must act with integrity²²⁷. In 2016, the United Nations Office on Drugs and Crime launched a Global Judicial Integrity Network to share best practices and lessons learned on the challenges relating to judicial integrity and the prevention of corruption²²⁸.

There have been reports on the deterioration of public confidence in the Independence of the Judiciary and in the judicial system in Sri Lanka²²⁹. A study conducted by the Marga Institute which interviewed lawyers, litigants, judges and court officials, reported that lawyers, judges and court officials admitted to being aware of acts of bribery in the legal profession and the judiciary²³⁰.

Corruption may arise due to the interaction between the judiciary and the executive, as well as from the relationship between the judiciary and the legal profession²³¹. Attorney General Dappula de Livera, PC opined on 23 March 2021 at the ceremonial sitting of the Court of Appeal²³²

“The credibility of a judicial system in a country is dependent on the Judges who man it. Judges must be persons of impeccable integrity and unimpeachable independence. A Judge must discharge his judicial functions with high integrity, impartially and intellectual honesty. Speaking of Intellectual honesty; I have said this earlier that the law would be like a ball of clay in the hands of an erudite Judge. Therefore, Judges should be ruthlessly honest, independent, and impartial and possess a judicial conscience to

227 <https://www.unodc.org/dohadeclaration/en/news/2018/04/corruption--human-rights--and-judicial-independence.html#:~:text=Corruptionper cent20decreasesper cent20publicper cent20trustper cent20in,lawyersper cent20andper cent20otherper cent20legalper cent20professionals>.

228 <https://www.unodc.org/dohadeclaration/en/news/2018/04/corruption--human-rights--and-judicial-independence.html#:~:text=Corruptionper cent20decreasesper cent20publicper cent20trustper cent20in,lawyersper cent20andper cent20otherper cent20legalper cent20professionals>.

229 <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lanka-s-judiciary-politicised-courts-compromised-rights>

230 The Marga Institute “A System Under Siege; An Inquiry into the Judicial System of Sri Lanka”.2002

231 Nihal Jayawickrama. Judicial Corruption. <https://www.colombotelegraph.com/index.php/judicial-corruption/>

232 Dappula Livera Corruption has many faces, bribery only one of them. <https://island.lk/corruption-has-many-faces-bribery-only-one-of-them-ag/>

ensure that the ball of clay is moulded according to law”, the AG declared, adding: “It is said that public institutions should command public confidence - so is the Judiciary of a country.”

4.10 Lack of public confidence in the anticorruption agency

Activists are concerned about the failure of Commissioners of the Corruption Commission and its Director General to act as required by law and to initiate credible investigations of corruption cases²³³. In 2019, Verite Research²³⁴ conducted a nationwide survey on public perception of corruption and their confidence in the institutions to combat corruption. The study revealed a lack of public confidence in CIABOC’s ability to investigate corruption allegations. The public perceived the police as the most corrupt sector in the country, followed by the public sector and local officials and agencies. CIABOC depends almost entirely on the existing police force to conduct its investigations contributing to the reduced public confidence on CIABOC. There was a lack of trust in CIABOC’s ability to protect the identity of informers, whistleblowers and witnesses. People perceived a high cost in reporting corruption to CIABOC. One of the main costs relates to accessing CIABOC, which is headquartered in Colombo and has no regional presence. The study identified three structural factors in the operation of CIABOC that facilitate corruption: (a) the lack of clear procedures and written-down requirements, which increases the discretionary space of officials; (b) the lack of essential information and understanding on where to look for such information, and (c) artificial inefficiencies and delays in the processing of cases.

Allegations have been made recently that certain Commissioners of CIABOC have taken steps to impede the follow up of bribery cases of selected ruling party members and their allies²³⁵. Nineteen cases are to be withdrawn because they have been filed without the signatures of all three members of the Commission and cannot be accepted legally. It needs to be clarified why CIABOC failed to re-file these cases correcting the technical errors. Among the 19 cases, 13 are related to assets and misappropriation of public funds by prominent politicians.

233 <https://www.colombotelegraph.com/index.php/attorney-general-jayantha-jayasuriya-charged-with-corruption/>

234 Verite Research. Insights for mitigating corruption Summary Findings 2019

235 Withdrawal of bribery cases against politicians and their allies raises eyebrows <https://www.dailymirror.lk/expose/Withdrawal-of-bribery-cases-against-politicians-and-their-allies-raises-eyebrows/333-235776>

Following media reports that the new chairman of CIABOC has decided to withdraw around 45 similar cases that are claimed to be filed with technical errors²³⁶, Transparency International Sri Lanka filed a Right to Information application with CIABOC to obtain a list of the cases withdrawn between the period of 2018.01.01 - 2021.07.10, further inquiring the plan of action for the re-submission of those cases²³⁷.

4.11 Illicit financial flows and undeclared assets

Illegal Financial Flows (IFFs) are illegal movements of money or capital illegally earned transferred or utilized from one country to another. The primary mechanism for transferring IFFs is trade misinvoicing. The misinvoicing of trade is accomplished by misstating the value or volume of an export or import on a customs invoice. Fraudulent manipulation of the price, quantity, or quality of a good on an invoice allows corrupt government officials, and commercial actors to shift vast amounts of money across international borders, easily²³⁸. The Global Financial Integrity Report titled “Illicit Financial Flows from Developing Countries: 2004-2013” estimates the average annual Illicit Financial Flows of Sri Lanka, in the 10 year period 2004-2013 at USD 1,997 million per annum²³⁹. Of 149 countries, Sri Lanka ranks 53rd for illegal money outflows, with an average of USD 1.99 billion a year pilfered from the country during the 10 years up to 2013²⁴⁰.

In October 2021, the CIABOC was commissioned to investigate the people accused (including Nirupama Rajapakse) of maintaining secret wealth and illegal investments in offshore accounts in the leak of financial documents known as the Pandora papers²⁴¹ ²⁴². As a result, Transparency International Sri Lanka has filed three Right to Information Requests to the Elections Commission, Parliament of Sri Lanka and the Presidential Secretariat, calling for the Declarations of Assets

236 <https://www.hindsight.tisirilanka.org/discontinued-corruption-cases/>

237 <https://www.rtiwatch.lk/requests/?drawer1=CIABOCpercent20withdrawnpercent20cases>

238 <https://www.sundaytimes.lk/160410/news/rs-2-88-trillion-spirited-out-of-sri-lanka-in-last-10-years-189480.html>

239 http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf

240 <https://www.theguardian.com/world/2015/mar/20/sri-lanka-says-mahinda-rajapaksa-officials-hid-more-than-2bn-in-dubai>

241 Sri Lankan power couple piled up luxury homes, artworks and cash offshore as ruling family rose and rose <https://www.icij.org/investigations/pandora-papers/sri-lanka-rajapaksa-family-offshore-wealth-power/>

242 <https://www.themorning.lk/nirupama-rajapaksa-and-husband-out-of-pandoras-box/>

and Liabilities of Nirupama Rajapaksa as an election candidate, Member of Parliament and Deputy Minister respectively²⁴³. The Declaration of Assets and Liabilities Law No 1 of 1975 makes it mandatory for Parliamentarians and senior public officials to annually submit a declaration of assets and liabilities.

4.12 Politicisation of the Attorney General's Department and the police force

Serious concerns have been raised regarding the politicisation of the Attorney General's department even during President Maithripala Sirisena's administration of 'de-politicisation' and good governance. The then Prime minister Ranil Wickremesinghe and the AG's department allegedly collaborated to protect the political interests of the latter²⁴⁴.

There are reports of capable Police officers leaving Sri Lanka for fear of being persecuted by politicians²⁴⁵. The incumbent Inspector General of Police, C.D. Wickramaratne has revealed in writing the extent of damage of the Sri Lanka Police force due to politicisation during the Gotabhaya Rajapakse administration. According to his letter addressed to the Secretary of the Ministry of Public Security, in 2021 alone 126 out of 184 Officers-In-Charge of Police were selected and appointed without interviews at the request of politicians. Fifty-three police officers with inadequate experience were appointed as Officers in Charge (OICs), to police stations. In 2021, twenty-one police officers were arrested with drugs, 156 were found addicted to drugs and 130 were linked to drug traffickers and 359 committed acts of misconduct²⁴⁶. In this environment, it is encouraging to hear that there are senior police officers with integrity who resist taking illegal orders given by high-level politicians²⁴⁷. Sri Lanka needs courageous officers, like Senior Superintendent of Police Gyantha Marapana, who risked his career prospects for the sake of the public. Fortunately, the 22nd Amendment of the Constitution is in effect. It handed the power to transfer police officers that the 20 th Amendment gave to the Public Services Commission back to the Police Commission (see

243 <https://www.tisirilanka.org/tisl-requests-asset-declarations-of-ms-nirupama-rajapaksa-from-president-speaker-and-election-comm/>

244 <https://www.colombotelegraph.com/index.php/inside-story-ranil-ags-dept-buckled-gotas-case/>

245 <https://lankan.org/2022/02/07/they-took-revenge-after-i-stopped-mahinda-rajapaksas-wife-shiranthi-rajapaksas-mothers-vehicle-line-so-i-fled-to-england-with-my-family-former-oic-ajith-dharmapala/>

246 <https://ceylontoday.lk/2022/05/18/igp-writes-to-ministry-of-public-security-about-govts-politicization-of-the-police/>

247 <https://www.lankaenews.com/news/3547/en>

Chapter 3 How constitutional amendments paved the way to a national crisis).

4.13 What can be done to curb corruption?

There is no easy way to address corruption and nepotism in Sri Lanka. It has spread like a malignant cancer and taken root in all levels of society because corrupt political leadership has legitimized such practices. Further, a network of people who benefit from corruption in turn supports corrupt political regimes and leadership. If no concrete anticorruption strategies are put in place the corrupt mafia^{248 249 250} will cause irreparable harm to the governance structures and Sri Lanka will not be able to recover from the present crisis.

Certain sections of civil society, particularly the educated youth understand the damaging consequences of corruption on their future and that of the nation. The recent *Aragalaya* (people's peaceful protest), at its foundation was retaliation against poor governance and corruption. Those in power have taken swift steps to suppress it. They have used various tactics; criminalization, arrest, detention, judicial harassment, smear campaigns and organized online attacks to intimidate and demobilize the social movement. Therefore, it is questionable whether the government will enact laws to genuinely prevent corrupt practices in the bureaucracy²⁵¹. In this context, as noted by several opposition Members of Parliament, there were two vital issues related to corruption that the new President Ranil Wickremasinghe did not speak about in his inaugural policy Statement. One was recovering the stolen wealth of the nation and the other was taking action against those who had plundered the wealth of the nation²⁵². Further, if he is genuinely interested in curbing corruption, why did he reappoint a former chairman of the State Pharmaceutical Corporation who was recommended to be interdicted by a Presidential Commission of inquiry over allegations of irregularities in the importation of Medicines?^{253 254}

248 https://www.youtube.com/watch?v=Rs1-jhh_VSw

249 <https://www.youtube.com/watch?v=7eifUCd3BL8>

250 <https://www.youtube.com/watch?v=iEDRfWzNDfg>

251 <https://www.hrw.org/news/2022/08/09/sri-lanka-new-president-should-chart-path-upholding-rights>

252 <https://www.parliament.lk/en/business-of-parliament/webcast/parliament-live-on-demand?view=vod>

253 <https://thesinhalanews.lk/2022/08/22/corrupt-spc-head-reappointed-breaking-news/>

254 https://www.youtube.com/watch?v=lw7oxplao_o&t=8s

Currently, there is no public access to information on the personal assets of the Members of Parliament. There are allegations that those in power have made massive financial investments which go beyond their earnings²⁵⁵. Anonymous²⁵⁶, a group of hacktivists operating internationally have recently leaked further information on high-level investment of black money that need further verification. Currently, Members of Parliament charged with alleged corruption^{257, 258, 259} are not suspended. In fact, they continue to serve in Parliament even if convicted. To improve the accountability of Members of Parliament, any new amendment to the Constitution needs to include an Article, which unambiguously deals with disqualification for a member of Parliament from sitting in Parliament if convicted for corruption²⁶⁰.

Finally, to combat corruption, Sri Lanka must have means to monitor, identify, expose, and prosecute crime. To achieve this the following measures recommended by several anticorruption organizations can be adopted:

1. *Take measures to encourage the public to report instances of corruption and to vote for politicians without a track record of corruption*
2. *Strengthen whistleblower protection to encourage citizen's to stand up against corruption.*
3. *Amend the constitution to ensure the freedom of the media, independence of CIABOC, criminal investigations department, law enforcement, Attorney General's Department and the judiciary.*
4. *Empower the Parliament to safeguard public funds by strengthening COPE and PAC and reverting their chairmanship to the opposition.*
5. *Strengthen the capacity and effectiveness of CIABOC along the lines proposed by Transparency International²⁶¹ so that it can deal with corruption at the highest*

255 <https://www.theguardian.com/world/2015/mar/20/sri-lanka-says-mahinda-rajapaksa-officials-hid-more-than-2bn-in-dubai>

256 [https://en.wikipedia.org/wiki/Anonymous_\(hacker_group\)](https://en.wikipedia.org/wiki/Anonymous_(hacker_group))

257 <https://www.newsfirst.lk/2022/06/06/prasanna-ranatunga-sentenced-to-2-year-ri-suspended-for-five-years/>

258 <https://www.dailynews.lk/2022/09/09/law-order/286907/mp-johnston-two-others-indicted-cwe-case>

259 <http://lankanstuff.blogspot.com/2015/01/johnston-fernando-probed-in-ethanol-scam.html>

260 <https://www.sundaytimes.lk/220619/columns/a-convict-in-the-Cabinet-can-prasanna-sit-without-qualm-in-the-house-486223.html>

261 https://www.transparency.org/files/content/feature/ACA_Assessment_Report_Sri_Lanka.pdf

level of as well as among low-level officials.

6. *Improve the capacity of the legal system to prevent and control corruption*
7. *Strengthen the Auditor General's Department including through adoption of the National Audit Act in terms of the 19th Amendment.*
8. *Participate in the Stolen Asset Recovery (StAR) initiative, a World Bank and United Nations partnership to support international efforts to end safe havens for corrupt funds, and commit to doing so as part of an agreement with the International Monetary Fund.*
9. *Ensure a role for civil society groups in monitoring the implementation of an anticorruption program.*
10. *Strengthen measures to prevent and detect conflicts of interest, including by adopting rules on what constitutes a conflict of interest, and penalties for non-compliance, creating a monitoring mechanism and providing training to public officials*
11. *Restore independent and impartial investigations into corruption allegations and appropriately prosecute those responsible.*
12. *Consider adopting a comprehensive law on the funding of candidates for elected public office and of political parties and strengthening the asset declaration system in line with the amendments proposed by CIABOC.*

The recent suggestion of the Minister of Justice, Prisons Affairs and Constitutional Reforms to do away with CIABOC is alarming. Sri Lanka needs a more robust and independent CIABOC to fight corruption²⁶². The corruption mafia in Sri Lanka is incredibly powerful. Although the consequences of corruption are causing untold hardship to citizens of Sri Lanka^{263 264 265 266 267} the current government has not

262 <https://mail.google.com/mail/u/0/#inbox/FMfcgzGqRZlwQJPzvMgcghvrkhcWLSnD>

263 https://www.business-standard.com/article/pti-stories/corruption-endemic-in-lanka-opposition-117012401373_1.html

264 <https://dbsjeyaraj.com/dbsj/archives/67664>

265 <https://govinsider.asia/inclusive-gov/exclusive-one-mans-fight-against-sri-lankan-corruption/>

266 <https://www.acc.org.bt/?q=node/1140>

267 <https://www.newindianexpress.com/world/2022/jul/16/never-think-you-are-the-freehold-owners-of-the-country-sri-lankas-opposition-leader-sajith-premadasa-2477244.html>

taken any meaningful measures to curb it ^{268 269}. If at all, corruption is getting worse^{270 271 272}. Addressing the corruption crisis in Sri Lanka is one of the calls of the new resolution that was passed at the 51st session of the United Nations Human Rights Council (UNHRC) in September 2022²⁷³. The IMF delegation that worked on an Extended Fund Facility for Sri Lanka also acknowledged the need to institute deterrent measures against corruption. All law-abiding citizens hope that other International Organizations and Western countries also provide assistance to Sri Lanka to address the economic crisis as well as the corruption crisis, which are intertwined. India and Japan have already given soft loans to Sri Lanka because of their geopolitical interests in Sri Lanka. All loans have to be paid back. So far, China has been evasive about restructuring loans, one of the requisites for an IMF bail out agreement. If Sri Lanka is to get assistance from western countries, the government must take a transparent approach to address ongoing corruption and human rights abuse²⁷⁴. At the UNHRC in September 2022, Sri Lanka's Minister of Foreign Affairs, Ali Sabry, is reported to have said that steps have been taken to strengthen democratic governance and combat corruption²⁷⁵. What exactly are these steps²⁷⁶?

To recover from the present crisis, Sri Lanka must create an environment where policy errors, bribery and corruption at the highest level can be readily exposed in the free media and appropriately investigated. Only a newly elected government with honest Members of Parliament who respect human rights can make this a reality. In the interim, strengthening the capacity to investigate, monitor and prosecute crime is one of the best ways the international community can assist Sri Lanka in moving towards sustainable economic recovery.

268 <https://www.usnews.com/news/business/articles/2022-09-11/usaid-head-urges-crisis-hit-sri-lanka-to-tackle-corruption>

269 <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lanka-keeping-storm-bay>

270 <https://www.themorning.lk/cpc-union-alleges-rajapaksa-link-to-fuel-imports-nr-denies/>

271 <https://colombogazette.com/2022/10/03/charitha-herath-dropped-from-new-cope-committee/>

272 <https://www.youtube.com/watch?v=TSRxoKu4jRs>

273 <https://www.sundaytimes.lk/221009/columns/international-probe-on-economic-crimes-and-corruption-498496.html>

274 <https://www.youtube.com/watch?v=azq70ZFXhcw>

275 <https://www.voanews.com/a/lack-of-democratic-reforms-risks-further-instability-in-sri-lanka-/6745929.html>

276 <https://island.lk/gl-govt-not-concerned-about-corruption-despite-geneva-warning/>

Assault on dissent and violation of human rights

5.1 Human rights and freedom of expression

International human rights law ensures the rights to freedom of expression, association and peaceful assembly (Figure 5.1). These rights are enshrined in the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, and in the International Covenant on Civil and Political Rights (ICCPR), to which Sri Lanka became a State party in 1980. Therefore, Sri Lanka has a legally binding obligation to ensure the rights set out in that treaty.

All people have equal rights

Everyone has the right

- to a decent standard of living (food, clothing, housing, medical and social services).
- to education.
- to take part in the government of their country
- to freedom of assembly and association
- to freedom of opinion and expression
- to life, liberty and security.
- to freedom of thought, conscience and religion
- to privacy
- to seek asylum from persecution

No one shall be subject to arbitrary arrest, or detention.




Figure 5.1. Human rights

Article 19 of the UDHR States: “Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” These rights are set out in Article 19 of the ICCPR which States:

1. Everyone shall have the right to hold opinions without interference.

2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

The right to freedom of expression includes the right to communicate information and ideas. This implies a free press and other media able to comment on public and political issues without suppression²⁷⁷. The UN Human Rights Committee (UNHRC), oversees the State of implementation of the ICCPR.

5.2 Sri Lankas domestic laws are not aligned to international human rights standards

As Amnesty International has highlighted²⁷⁸, Sri Lanka's domestic laws are not fully aligned with international human rights standards. Article 14 of Sri Lanka's Constitution guarantees freedom of speech and expression; freedom of peaceful assembly and freedom of association. However, the Constitution allows for the restriction of all these rights for wide-ranging reasons than those allowed under international human rights law. Restrictions on these rights can be stipulated by law *"in the interests of racial and religious harmony."* Freedom of expression can be limited *"in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence,"* and freedom of association can be restricted by law *"in the interests of the national economy."*²⁷⁹

5.3 Media ownership and press freedom in Sri Lanka

Mass media keep the public informed, influence and shape public opinion and expose irregularities and corruption, nurturing a healthy democracy. Dishonest and dictatorial regimes fear forthright journalism and free flow of information to the public that can expose corruption, irregularities and mismanagement. Suppression of freedom of expression and manipulation of the media has enabled political leaders to move ahead with projects and policies which are not in the long-term national interest.

The media sector in Sri Lanka is dominated by the State and private media companies owned by wealthy and powerful groups. The Ministry of Mass Media runs the Sri Lanka Broadcasting Corporation, the Rupavahini Corporation, the

277 Human Rights Committee, General Comment No. 34, 12 September 2011, UN Doc. CCPR/C/GC/34, para13.

278 Amnesty International. Sri Lankas Assault on Dissent 2013

279 Article 14 Sri Lanka Constitution

Independent Television Network and Associated Newspapers of Ceylon Limited. Most owners of the *private* sector media also have political affiliations. According to the Media Ownership Monitor²⁸⁰, nine out of twelve press outlets (75 per cent) are directly or indirectly affiliated with the State or former/current Members of Parliament or their families. Six out of twelve television networks (50 per cent) are also directly or indirectly owned by politicians. More than 50 per cent of the radio outlets (six out of eleven) and online media sites (six out of eleven) also have political affiliations. Individuals who own private media use their news outlets to promote their political agendas. A handful of independent journalists and media activists strive to disseminate fact-based news and information to the public through the youtube and other channels taking a considerable risk²⁸¹²⁸². These include Dharshana Hadungoda²⁸³, Bharatha Tennakoon²⁸⁴, Tharindu Uduwaragedera²⁸⁵, Sepal Amerasinghe²⁸⁶, Chamuditha Samarawickrama²⁸⁷, Harindra Jayalal²⁸⁸, Asoka Dias²⁸⁹, Abisheka Fernando²⁹⁰, Pathum Kerner²⁹¹ and many others. However, since half the population lack internet access, television and radio broadcasting are the key sources of news and information. As a result of this inequitable media landscape at the grassroots level, Sri Lankans have limited access to independent and unbiased information, making them vulnerable to misleading political propaganda. Politically affiliated newspapers often publish untruthful statements of political leaders as headlines, misleading the public²⁹².

In 2022, Sri Lanka was ranked 146th in the world for press freedom by Reporters Sans Frontières (RSF) in their World Press Freedom Index, dropping 19 places from 2021²⁹³.

280 <http://sri-lanka.mom-gmr.org/>

281 <https://www.youtube.com/watch?v=y07PZ80cqHY>

282 <https://www.newswire.lk/2022/05/24/political-vloggerdarshana-handungoda-summoned-by-cid/>

283 <https://www.youtube.com/watch?v=l5ydnryDZl4>

284 https://www.youtube.com/watch?v=5_6-0C-VoEM

285 https://www.youtube.com/watch?v=ntmllqk_A2M

286 <https://www.youtube.com/watch?v=FmAjzi2Vk-s>

287 <https://www.youtube.com/watch?v=IVl7XEY0k38>

288 <https://www.youtube.com/watch?v=BDUWEe0h4VM>

289 <https://www.youtube.com/watch?v=o4aKp0JaTuE>

290 <https://www.youtube.com/watch?v=GmHnxdfgR60>

291 <https://www.youtube.com/watch?v=bVqr10gVJ9w>

292 <https://www.youtube.com/watch?v=7oo5Yf53lJs>

293 <https://rsf.org/en/country/sri-lanka>

5.4 Violation of human rights

During the armed conflict of 26 years between the Sri Lankan forces and the Liberation Tigers of Tamil Eelam, which ended in May 2009, violations of international human rights were allegedly committed by both sides. During this period, particularly towards the end of the conflict, those in power thrived on a culture of intolerance to criticism and impunity²⁹⁴. Senior officials justified their harsh treatment of critics in terms of national security. There were many instances when those who challenged authority were assaulted, jailed, abducted and even killed. Journalists, public figures, lawyers, national institutions and anyone who expressed opposition to policies were silenced. For decades, reports of many organizations have highlighted the assault on dissent in Sri Lanka, including Amnesty International, Networking for Rights in Sri Lanka, INFORM Human Rights Documentation Centre, the Free Media Movement,²⁹⁵ Committee to Protect Journalists, the Human Rights Watch²⁹⁶ and others²⁹⁷.

The Human Rights Report for the year 2020 noted: *“Impunity remained a significant problem characterized by a lack of accountability for conflict-era abuses, particularly by military, paramilitary, police, and other security-sector officials implicated and, in some cases, convicted of killing political opponents, journalists, and private citizens. Civil society organizations asserted that the government, including the courts, were reluctant to act against security forces alleged to be responsible for past abuses, citing high-level appointments of military officials alleged to have been involved in such abuses. During the year there was no progress on cases against officials accused of arbitrary, unlawful, or politically motivated killings²⁹⁸”*.

5.5 Suppression of the media

There is a saying that *The murder of a journalist is always bad news; even for those behind it*. According to the Committee to Protect Journalists, Sri Lanka has lost 17 journalists. In the last two decades. Ten were murdered, four died in crossfire and three lost their lives while engaged in dangerous assignments. A sizable number

294 <https://groundviews.org/2016/01/31/dismal-failure-of-the-judiciary-ends-up-with-peoples-demand-for-hybrid-justice-mechanism/>

295 <https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>

296 <https://www.hrw.org/asia/sri-lanka>

297 <https://www.refworld.org/docid/3ae6ad236f.html>

298 <https://www.hrw.org/world-report/2020/country-terters/sri-lanka>

have either disappeared or emigrated to other countries²⁹⁹: an irreparable loss to Sri Lanka. After the approval of the twentieth amendment to the constitution, journalists and civil society activists have faced risks scrutinizing the government, because a powerful executive controls the State, courts, and the police. The abduction and torture of Keith Noyahr, the murder of Lasantha Wickrematunge, the disappearance of Prageeth Eknaligoda, the repression of environmental activists and the impeachment of the Chief Justice are examples of how an authoritarian regime curbed freedom of speech and expression and dissent³⁰⁰. A former director of the Criminal Investigations Department (CID) who oversaw several high-profile human rights cases was also arrested and detained^{301 302}. He believes he is being targeted because high-level political leaders have been implicated in some of the investigations³⁰³.

5.5.1 Abduction and torture of Keith Noyahr in 2008

Keith Noyahr, an investigative journalist, was the then Deputy Editor of the Nation newspaper. On 22 May 2008, at around 11 p.m, he was beaten and abducted by an unidentified gang of men, and later released. He had multiple injuries, including head injuries³⁰⁴. Noyahr left the country following the attack and the investigations ended abruptly. However, in January 2015, after the change of government, the Criminal Investigation Department reopened the investigation into his abduction. In February 2017, five Military Intelligence personnel were arrested by the Criminal Investigations Department, produced before the Magistrate court and further remanded. In April 2018, a high-ranking army officer was also arrested concerning the Noyahr abduction³⁰⁵. Despite these initial developments, there have been unexplained delays in finding out who was responsible for giving the directives to

299 <https://srilankabrief.org/the-hague-tribunal-protests-in-sri-lanka-and-challenging-impunity-for-crimes-against-journalists/>

300 <https://thediplomat.com/2020/12/with-the-rajapaksas-at-the-helm-press-freedom-in-sri-lanka-takes-a-hit/>

301 <https://monitor.civicus.org/updates/2021/03/16/ahead-new-sri-lanka-resolution-civil-society-and-un-highlight-ongoing-rights-concerns/>

302 <https://www.aljazeera.com/news/2021/6/25/truth-will-prevail-sri-lankan-criminal-investigator-after-bail>

303 <https://monitor.civicus.org/updates/2022/03/29/assault-civic-freedoms-continue-sri-lanka-economic-crisis-hits-country/>

304 <https://www.colombotelegraph.com/index.php/that-fateful-night-with-dig-anura-senanayake/>

305 <https://www.sundayobserver.lk/2018/04/15/news-feature/phone-records-lead-cid-big-arrest-keith-noyahr-abduction-case>

abduct and torture Keith Noyahr³⁰⁶.

5.5.2 Murder of Lasantha Wickrematunge in 2009

'I hope my murder will be seen not as a defeat of freedom, but an inspiration'. This is the title of an extraordinary article written by Lasantha Wickrematunge, published in the Guardian after he was murdered in Colombo³⁰⁷. Lasantha Wickrematunge was the editor of the Sunday Leader Newspaper. He was assassinated on 8 January 2009 while travelling in his car along Attidiya Road, Ratmalana, by four armed motorcyclists. In 2007, Lasantha Wickrematunge published a series of articles about the procurement of MiG 27 fighter jets for Sri Lanka^{308, 309}. The articles resulted in the Leader paper and Lasantha Wickrematunge being sued for defamation over his reporting on the alleged involvement of the then Defense Secretary, Gotabaya Rajapakse in the transaction³¹⁰. The Financial Crimes Investigations Division found the information published in the Leader paper factual^{311 312}. In 2018, as a result of their investigations, two nationals from Singapore and Ukraine and Udayanga Weeratunge (a cousin of Mahinda Rajapakse and a former Sri Lankan Ambassador to Russia) were accused of defrauding the government of Sri Lanka of nearly seven million dollars³¹³. In 2020, Weeratunge was arrested in the Katunayake airport following an Interpol red notice and remanded pending further investigations relating to the MiG deal. Many opposition Members of Parliament have criticised the delay in further investigations³¹⁴. According to Lasantha Wickrematunge's daughter, *'Gotabaya Rajapaksa shut down the police*

306 https://www.dailymirror.lk/front_page/Keith-Noyahr-Abduction-Probe-AG-unhappy-with-delay-in-sending-progress-report/238-174482

307 <https://www.theguardian.com/commentisfree/2009/jan/13/wickrematunga-final-editorial-final-editorial>

308 <https://www.colombotelegraph.com/index.php/gotas-mig-deal-investigation-finds-secret-bank-account-in-british-virgin-islands/>

309 <https://groundviews.org/2021/01/08/the-mig-deal-why-my-father-had-to-die/>

310 <https://www.sundayobserver.lk/2019/01/06/news-features/anatomy-mig-deal>

311 <https://www.newsfirst.lk/2018/03/18/further-revelations-on-the-infamous-mig-deal/>

312 <https://www.colombotelegraph.com/index.php/court-says-no-to-fcids-request-for-warrant-to-arrest-udayanga-weeratunga/>

313 <https://economynext.com/sri-lanka-aes-mig-probe-extends-to-singapore-australia-10122/>

314 <https://www.newsfirst.lk/2020/02/15/udayanga-weeratunga-admitted-to-prisons-hospital-due-to-sudden-illness/>

investigation into the MiG deal before they could get to the bottom of it^{315 316}

At the initial police investigations into Wickrematunge's murder, the Kalubowila Judicial Medical Officer (JMO) Stated in the autopsy report that the cause of death was a gunshot injury to the head. However, the reports of the Government Analyst and the surgeon who performed an emergency operation on Wickrematunge stated that there were no traces of any gunshot injuries. Therefore, the body was exhumed, and a second autopsy was done revealing that the cause of death was in fact a blow to the head³¹⁷.

In May 2019, a high- ranking military intelligence official-who, according to media reports and court documents, is linked to attacks on several journalists, including Lasantha Wickrematunge was restored to active duty³¹⁸. Thirteen years have passed still, the truth continues to be covered up³¹⁹.

In 2019 Wickrematunge's daughter, filed a civil case in US court against former Sri Lankan Defense Secretary Gotabaya Rajapaksa³²⁰, alleging that Rajapaksa operated a covert military intelligence unit that was responsible for her father's assassination³²¹ as well as attacks on Noyahr and *Rivira* weekly editor Upali Tennakoon³²². However, in March 2020, the case was dismissed because the US District Court took the view that it lacked jurisdiction for the lawsuit, because the allegations pertained to Rajapaksa's actions as a State official. Further, his accession to the presidency in November 2019 gave him immunity from suits in US courts for so long as he remains president³²³. According to leaders of the *Aragalaya*, Rajapaksa who lost his presidential immunity after leaving office,

315 The MIG Deal Why my father had to die <https://groundviews.org/2021/01/08/the-mig-deal-why-my-father-had-to-die/>

316 <https://www.colombotelegraph.com/index.php/gota-says-two-behind-lasantha-murder-who-was-the-other/>

317 <https://www.theguardian.com/world/2016/sep/26/body-sri-lanka-journalist-foresaw-murder-exhumed>

318 <https://cpj.org/2019/05/sri-lankan-army-reinStates-official-suspected-in-l/>

319 <https://groundviews.org/2022/05/12/peoples-tribunal-hears-evidence-against-my-fathers-killers/>

320 <https://cpj.org/2019/04/civil-case-filed-in-us-over-murder-of-sri-lankan-j/>

321 <https://www.washingtonpost.com/opinions/2021/03/02/lasantha-wickrematunge-ahimsa-rajapaksa/>

322 <https://cpj.org/2009/01/editor-injured-in-latest-media-assault/>

323 <https://gijn.org/2022/07/06/who-was-behind-the-killing-of-sri-lankan-journalist-lasantha-wickrematunge/>

should now be brought to justice³²⁴. However, while *Aragalaya* leaders were arrested Rajapakse who returned to Sri Lanka from Thailand was given special security and a state bungalow in a highly residential area in Colombo³²⁵.

On 2 November 2022, on the International Day to End Impunity for Crimes against Journalists, the People's Tribunal on Murdered Journalists in the Hague took up the case of Lasantha Wickrematunge³²⁶. The indictment alleges the Sri Lanka Government's complicity in the crime. The concluding hearing will be in May 2023. However, the tribunal does not have the legal capacity to punish perpetrators if found guilty.

5.5.3 The disappearance of Prageeth Eknaligoda in 2010

Another journalist critical of the government, Prageeth Eknaligoda, disappeared after leaving the Lanka E-news website's office in Colombo, on 24 January 2010. The abduction took place a few days prior to the presidential polls that year.

According to Amnesty International, he had been previously abducted in August 2009 by a group that arrived in a white van and released the following day. During this time white vans have been associated with many abductions and enforced disappearances in Sri Lanka³²⁷.

The wife of Prageeth Eknaligoda filed a habeas corpus petition with the Homagama Magistrates Court when she failed to get information about her husband's whereabouts through other official channels. Sri Lanka's newly-appointed Chief Justice of the Supreme Court, Mohan Peiris, formerly Sri Lanka's Attorney General and a presidential legal advisor, told the United Nations Committee against Torture in November 2011 that Eknaligoda had left Sri Lanka and was living in a foreign country. In January 2012, the Homagama Magistrate called Peiris to testify in the habeas corpus proceedings. He reportedly told the court, *"I don't know if he is alive or dead. Only god would know if the information that I received about him is true. I don't think even the government knows where he lives"*. On further questioning he had said that he could not remember where he got that information³²⁸.

324 <https://www.theguardian.com/world/2022/sep/03/calls-for-sri-lanka-ousted-president-gotabaya-rajapaksa-arrest-after-return>

325 https://www.business-standard.com/article/international/lanka-s-ex-president-gotabaya-returns-home-gets-special-security-bungalow-122090300551_1.html

326 <https://groundviews.org/2021/11/02/challenging-impunity-for-crimes-against-journalists/>

327 <https://www.themorning.lk/do-not-bring-back-memories-of-white-van-culture-sumanthiran/>

328 <https://www.bbc.com/news/world-south-asia-18332987>

The Criminal Investigations Unit's investigations led by the Inspector of Police Nishantha Silva uncovered an abduction plot allegedly orchestrated by a military intelligence unit operating out of an Army camp. However, the case apparently has dragged on due to the lack of cooperation of the military.

In February 2011, the website that Eknaligoda worked for, Lanka-e-News, was the target of an arson attack that destroyed most of the contents of the office³²⁹. The same year reporters Without Borders and Cartooning for Peace launched an international campaign to draw attention to the case. Finally, five years after his disappearance, the case was reopened following Maithripala Sirisena's election as President in January 2015.

The Attorney General had filed indictments against nine Military intelligence personnel attached to the Giritale army camp. They were accused of conspiring with those unknown to the prosecution between the 24th and 27th of January 2010 and carrying out the abduction³³⁰. Later they were released on bail. On 4 June 2022 they were remanded again over an allegation that they had interfered with the prosecution witnesses in the case³³¹.

According to reports, shortly before the abduction, Eknaligoda had written a comparative analysis of the two Presidential candidates, which came out in favour of the opposition candidate, Sarath Fonseka (who lost in the election when President Mahinda Rajapaksa was re-elected)³³². Was the abduction and suspected murder of journalist Prageeth Eknaligoda a 'politically motivated' crime³³³?

Available information suggests that the assassination of Sunday Leader Editor Lasantha Wickrematunge (2009), the abduction and torture of journalist Keith Noyahr (2008), and the attacks on several other journalists have been carried out by a military intelligence team³³⁴. By 2014, Sri Lanka ranked fourth on an index of countries where journalists are slain - and their killers go free³³⁵.

329 <https://www.bbc.com/news/world-south-asia-12322916>

330 <https://www.newsfirst.lk/2022/06/03/prageeth-ekneligoda-nine-military-intelligence-personnel-who-were-out-on-bail-remanded>

331 <http://www.adaderana.lk/news/82850/nine-accused-in-pradeep-eknaligoda-abduction-case-remanded>

332 <https://www.amnestyusa.org/pdfs/srilanka11.pdf>

333 <https://www.sundayobserver.lk/2019/01/20/news-features/prageeth-per-centE2per-cent80per-cent9C-politically-motivated-crimeper-centE2per-cent80per-cent9D>

334 <https://cja.org/what-we-do/litigation/wickrematunge-v-rajapaksa/advocacy/>

335 <https://cpj.org/reports/2014/04/impunity-index-getting-away-with-murder-2/>

5.6 Repression of environmental activists

Sinharaja forest reserve in Sri Lanka is a biodiversity hotspot and a World Heritage Site recognized by UNESCO. Environmental activists who have raised concerns about environmental and land issues concerning the Sinharaja forest have been attacked. Lakmal Ranabahu an environmental and social activist from Ratnapura was assaulted over an alleged dispute with the Divisional Secretary after inquiring about environmental destruction in the area³³⁶.

Bhagya Abeyrathna, a school student, was also threatened by authorities after exposing alleged deforestation in Sinharaja³³⁷. Rev. Pahiyangala Ananda Sagara Thero faced life threats as a reprisal for opposing environmental destruction. Saranga Madushan was assaulted by unknown persons when concerns were expressed regarding a road development project that allegedly causes ecological destruction in the Rumassala area in Galle.

Devani Jayatilake, a forest officer, was subjected to harassment when she raised concerns about a near-extinct tree that was about to be removed for a road development project³³⁸. Did the Minister of Wildlife and Forest Conservation and the police take action to protect these whistleblowers who took risks to protect our national heritage? On the contrary, a State Minister of Wildlife Protection had allegedly threatened the officials at the Maha Oya Forest Office in Ampara and secured the release of a suspect in their custody after wildlife officials had the suspect arrested for cutting four large trees in the Tampitiya forest reserve.

The Stop Ecocide Mural made by a group of youth environmental activists to raise awareness on climate change and ongoing deforestation in the country was forcibly removed by the Colombo Municipal Council, reportedly on instructions by the Presidential Secretariat.

5.7 Impeachment of the Chief Justice in 2013

In 2012/ 2013, the judiciary had made several rulings in favour of victims of human rights violations and against certain projects of the government. As a result, a key bill, to place previously devolved development funds under the Minister of Economic Development was delayed.

336 <https://english.theleader.lk/news/1110-environmentalists-condemn-attack-on-journalist-lakmal-ranabahu>

337 <https://www.cpalanka.org/wp-content/uploads/2022/04/Human-Rights-and-Democracy-English.pdf>

338 <https://www.inform.lk/repression-of-dissent-in-sri-lanka-january-march-2021/>

Shirani Bandaranayake, the 43rd Chief Justice of Sri Lanka, was impeached by Parliament and then removed by President Mahinda Rajapaksa in January 2013³³⁹. Sri Lanka's Bar Association concluded that the Chief Justice was not given a fair hearing by the Parliamentary Select Committee (PSC) and publicly vowed that it would not recognize a replacement³⁴⁰. The Parliament proceeded with the impeachment despite a Supreme Court ruling of 3 January 2013 that the Parliamentary Select Committee appointed to examine the charges against her did not have the legal authority to do so. On 7 January 2013 Court of Appeal agreed, rejecting the report of the Parliamentary Select Committee. The Parliamentary Select Committee found the Chief Justice guilty of three charges out of 14 listed, all of which were denied by the Chief Justice.

The decision was widely condemned. The International Commission of Jurists³⁴¹ said *"Sri Lanka's parliament and executive have effectively decapitated the country's judiciary in pursuit of short-term political gain. As an immediate matter, this has precipitated a legal and constitutional crisis of unprecedented dimensions; but just as worrying are the consequences of this action, which severely erodes accountability and the rule of law in a country already suffering from decades of impunity."*

The UN's Human Rights Council said the impeachment was an assault on judicial independence. President Maithripala Sirisena reinstated the impeached Chief Justice after he defeated President Mahinda Rajapaksa in the presidential elections on 8 January 2015.

Following the controversial impeachment of the Chief Justice on 15 February 2013, President Mahinda Rajapakse appointed former Attorney General Mohan Peiris as the new Chief Justice³⁴². According to the International Commission of Jurists " "During his tenure as Attorney-General and the government's top legal advisor Mohan Peiris consistently blocked efforts to hold the government responsible for serious human rights violations and disregarded international law and standards."

339 <https://www.crisisgroup.org/asia/south-asia/sri-lanka/impeachment-sri-lankan-chief-justice>

340 The Bar Association of Sri Lanka, <http://www.basl.lk/>

341 <https://www.icj.org/icj-condemns-impeachment-of-sri-lankas-chief-justice/>

342 <https://www.icj.org/sri-lanka-newly-appointed-chief-justices-long-record-of-blocking-justice/>

5.8 Intensified crackdown on dissent in 2022

In early 2022, as the people's resistance gathered momentum, Sri Lankans could engage in digital activism on a range of burning issues and the government avoided blocking social media and communications platforms. However, intimidation of journalists and activists increased, contributing to self-censorship. Since Ranil Wickremesinghe was sworn in as president on 21 July 2022, there has been an intensified crackdown on dissent³⁴³. The police and military have suppressed the people's resistance movement (*Janatha Aragalaya*) through intimidation, surveillance, arbitrary arrests and detention of demonstrators, civil society activists, lawyers, and journalists³⁴⁴. More than 50 people, including journalists were injured in the 22 July 2022 early morning raid on the people's resistance site in Colombo³⁴⁵. Under the State of Emergency³⁴⁶ that was declared by President Ranil Wickremasinghe's administration, a person may be detained for up to 72 hours before being brought to a magistrate. The police and the military have been given additional powers of search and arrest, and the military has been empowered to detain people for up to a day without disclosing their detention, increasing the risk of torture. In addition, the emergency regulations have introduced new sentencing rules for several offences, including damage to property and trespassing, which can now carry a minimum term of 20 years in prison³⁴⁷. Hundred and seventy-five Sri Lankan human rights defenders and civil society organizations, and members³⁴⁸ of the Catholic clergy expressed concern regarding reprisals against protesters. They implored the government to listen to grievances and aspirations of people and take actions to address them.

343 <https://www.newswire.lk/2022/07/31/potential-arrest-of-rev-jeevantha-peiris-1640-catholic-priests-issue-Statement/>

344 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/sri-lanka-journalist-investigated-over-youtube-channel.html>

345 <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent>

346 http://www.documents.gov.lk/files/egz/2022/7/2289-07_E.pdf

347 <https://www.cpalanka.org/wp-content/uploads/2022/07/Emergency-Regulations-promulgated-in-May-and-July-2022-Edited.pdf>

348 <https://srilankabrief.org/sri-lanka-civil-society-Statement-on-attacks-and-reprisals-against-peaceful-protesters/>

As Ranjan Ramanayake³⁴⁹ one of the few honest politicians, stated^{350 351} “ *The Aragalaya is not over; it had just begun. Only the location has changed. The prevailing situation is similar to that of an active volcano*”.

5.9 Bureau of Rehabilitation bill violating the constitution in 2022

The Supreme Court of Sri Lanka rescued people from a draconian bill presented to parliament on 23 September 2022 by the Ranil Wickremasinghe government backed by the Rajapaksas-led Sri Lanka Podujana Peramuna. The Supreme Court ruled that the so-called “Bureau of Rehabilitation” bill violated the constitution³⁵². If not for the Supreme Court ruling, the rehabilitation process would apply not only to drug addicts but to a broad category of people including *ex-militants and those with violent and extremist tendencies*. Furthermore, the bill allowed the President to entrust the administration and management of the Bureau to the members of the Armed Forces upon the request of the Minister.

Civil society activists, opposition lawmakers and human rights lawyers had questioned the legality of the bill and expressed fears that the government could use it to punish protestors and as a deterrent to dissent^{353 354 355 356}. According to Human Rights Watch “The Sri Lankan’s proposed ‘rehabilitation’ efforts appear to be nothing more than a new form of abusive detention without charge. The Rehabilitation Bill would open the door to more torture, mistreatment, and endless detention.”³⁵⁷

349 <https://www.youtube.com/watch?v=QCHe8JcOuPA>

350 <https://www.youtube.com/watch?v=ixQFb88sXuM&list=RDLV5NoHfCiVoSA&index=28>

351 <https://www.dailymirror.lk/print/hard-talk/The-nextaragalaya-will-take-the-form-of-a-guerrilla-battle-Ranjan-Ramanayake/334-244495>

352 <https://economynext.com/sri-lanka-supreme-court-determines-rehabilitation-bureau-bill-inconsistent-with-constitution-101321/>

353 <https://www.youtube.com/watch?v=0nTM1r5QViv>

354 <https://www.dailynews.lk/2022/10/04/political/288463/speaker-receives-copies-six-petitions-submitted-sc-regarding-per centE2per cent80per cent9Cbureau>

355 <https://www.newswire.lk/2022/10/14/sajith-warns-president-for-backing-namals-calls-on-rehabilitation-bureau/>

356 <https://www.youtube.com/watch?v=HSmizBR1hPM>

357 <https://www.hrw.org/news/2022/10/17/sri-lanka-draft-rehabilitation-law-would-spur-abuse>

5.10 International probe on corruption, violation of human rights and economic crimes

Sri Lanka suffered a crushing defeat at the 51st session of the United Nations Human Rights Council (UNHRC) in September 2022. Twenty-one countries voted in favour, and seven voted against the resolution “promoting reconciliation, accountability and human rights in Sri Lanka.” The resolution refers to the current economic crisis, corruption, and the recent protests.

- Preambular paragraphs: *Recognising the recent efforts of the of Sri Lanka to address the ongoing economic crisis and welcoming the staff-level agreement reached between the and the International Monetary Fund.*
- *Recognising also that the promotion and protection of human rights and the prevention of and fight against corruption are mutually reinforcing, that corruption can have a serious negative impact on the enjoyment of human rights, and that poor and those in marginalised and vulnerable situations, including women and girls, are at particular risk of suffering from the adverse impact of corruption on the enjoyment of human rights,*
- *Emphasising that peaceful protests can make a positive contribution to the development, strengthening and effectiveness of democratic systems, and to democratic processes, including elections and referendum, as well as to the rule of law, and stressing the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information, and for democratic participation, transparency, and accountability and of combatting corruption.*
- *Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, including those committed in Sri Lanka in April 2019 that led to a large number of injuries and deaths, and reaffirming also that all measures taken to combat terrorism must comply fully with State’ obligations under international law, in particular international human rights law, and, as applicable, international refugee law and international humanitarian law.*
- *Expresses concerns at other human rights impact of the economic crisis, including as a result of increased food insecurity, severe shortages in fuel, shortages in essential medicines and reductions in household incomes, while stressing the need to promote and protect the right of the most marginalized and disadvantaged individuals, including daily wage earners, women, children, older persons and persons with disabilities.*

- *Also expresses concern at other human rights developments since April 2022 , including violence against the arrests of peaceful protestors, as well as violence against supporters, resulting in deaths, injuries, destruction, and damage to the houses of Members of Parliament, and stresses the importance of independent investigations into all attacks and that those found responsible be held to account.*
- *Recognising the importance of preserving and analysing evidence relating to violations, abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability, and decides to extend and reinforce the capacity of the Office of the High Commissioner to collect, consolidate and analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka, to advocate for victims and survivors and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction.*
- *Also calls upon the government of Sri Lanka to address the ongoing economic crisis, including by investigating, and where warranted, prosecuting corruption, including where committed by public and former public officials, and stands ready to assist and support independent, impartial, and transparent efforts in this regard.*

The latest UNHRC resolution in September 2022 has been the harshest against Sri Lanka ³⁵⁸. All the issues highlighted in the resolution - corruption, violation of human rights, repression of dissent, impunity, lack of accountability and the economic mismanagement - need to be addressed if Sri Lanka is to realize a viable recovery from the present crisis.

358 <https://www.sundaytimes.lk/221009/columns/international-probe-on-economic-crimes-and-corruption-498496.html>

Politicisation of the Central Bank and bond scams

6.1 The Central Bank of Sri Lanka

The Central Bank (CB) manages the country's financial resources, sets interest rates, keeps inflation under control and raises money for the government to govern and develop the country (Figure 6.1). The Monetary Board is the governing body responsible for making all policy decisions related to the management and administration of the CB. The Monetary Board of the CB consists of five members; the Governor, the Secretary to the Ministry of Finance and three non-executive members. The Governor is the Chairman of the Monetary Board. In addition, the Monetary Board has three subcommittees; Advisory audit committee, Ethics committee and Board Risk Oversight Committee.

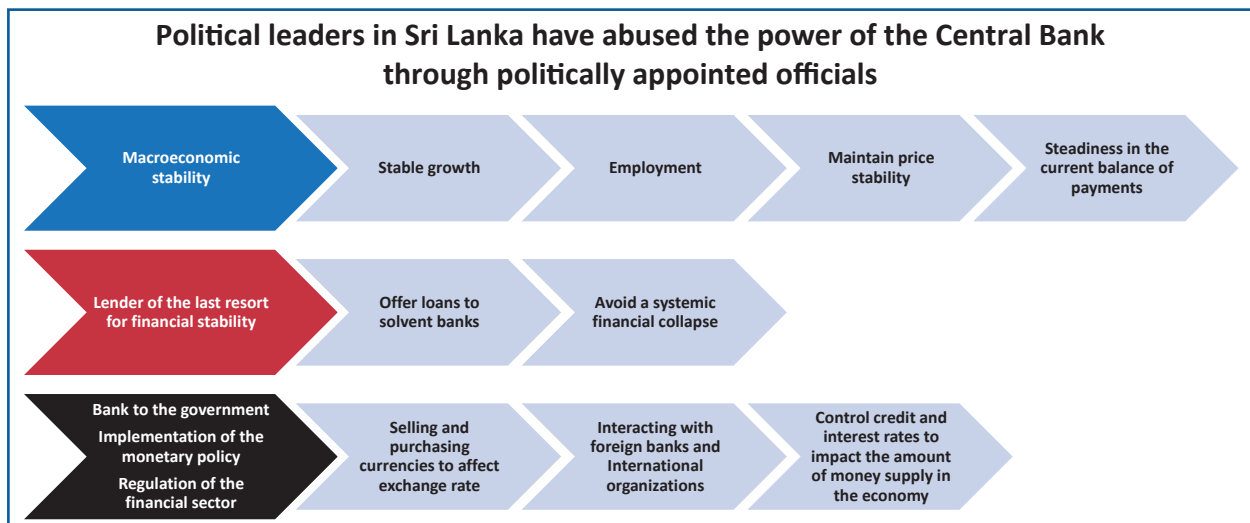


Figure 6.1 The functions of the Central Bank

6.2 Politicisation of the central bank

In the last seven years, the proper functioning of the CB has been severely disrupted by political interference³⁵⁹. Politicians acting in self-interest have abused the power of the CB through political appointees and mismanaged it, causing economic instability³⁶⁰. Moreover, Political appointees who served the partisan interests

359 <https://groundviews.org/2022/06/01/cope-inquiry-reveals-the-people-who-brought-sri-lanka-to-its-knees/>

360 <https://groundviews.org/2022/06/01/cope-inquiry-reveals-the-people-who-brought-sri-lanka-to-its-knees/>

of leaders were unable to act in the best interest of the State and preserve its mandate of delivering price stability and financial system stability³⁶¹.

When Prof. W.D. Lakshman stepped down from CB Governor post in September 2021, President Gotabaya Rajapakse appointed Ajith Nivard Cabraal, a politician, as Governor. The appointment was made amidst opposition³⁶² despite several allegations against Cabraal related to the misappropriation of State funds³⁶³, during his tenure as the CB Governor from 1 July 2006, to 8 January 2015³⁶⁴. It is alleged that Cabraal had paid a sum of USD 6.5 million to a Pakistani American political donor without Cabinet approval³⁶⁵. While serving as the Governor of the CB, Cabraal allegedly caused the government a loss of USD 500 million through sovereign bonds due on 18 January 2022³⁶⁶. It is also alleged that the government incurred a loss of LKR 10.04 billion rupees through the appointing of close relatives of Cabraal to sensitive positions and from the release of confidential information on Treasury bill issues during his tenure as the Governor of the CB. Cabraal has rejected these allegations³⁶⁷. The court case is ongoing³⁶⁸. The anti-corruption front alleges that during Cabraal's term as Governor of the CB, he was involved in several other corruption cases³⁶⁹. In 2011, during his previous tenure as Governor of the CB, the bank invested 0.6 per cent of its reserve portfolio in Greek bonds a few weeks before the debt crisis hit the eurozone and Greece was heading for economic ruin. Part of this investment was sold at a loss of USD 6.6 million³⁷⁰. At the time this investment was made, the credit rating of Greek Treasury Bonds was "non-investment grade or speculative". In his report to the COPE on the

361 <https://www.ft.lk/columns/A-child-s-guide-to-currency-board-systems-Part-V-Has-the-Monetary-Board-failed-the-nation/4-735469>

362 <https://www.colombotelegraph.com/index.php/a-politician-or-a-minister-cannot-be-appointed-as-the-Governor-of-the-central-bank-former-State-minister-of-finance/>

363 <https://www.ft.lk/front-page/Petition-filed-in-CA-challenging-Cabraal-s-CBSL-appointment/44-723091>

364 <https://www.newsfirst.lk/2021/04/20/fr-filed-against-cabraal-over-misappropriation-of-over-rs-23-bn/>

365 <https://www.sundaytimes.lk/210411/news/in-2014-govt-paid-us-6-5-million-to-cia-mole-who-has-now-been-jailed-439751.html>

366 <https://www.ft.lk/news/Harsha-de-Silva-alleges-fraud-committed-in-USB-payments/56-733640>

367 <https://island.lk/cabraal-rejects-akds-allegations-says-legal-action-will-follow/>

368 http://www.colombopage.com/archive_22B/Jul25_1658726473CH.php

369 <https://www.colombotelegraph.com/index.php/from-arjuna-mahendran-to-ajith-nivard-cabraal-cope-on-the-bond-hunt/>

370 <https://www.ft.lk/opinion/Former-Governor-Cabraal-s-Statement-on-Greek-bonds-per-centE2per-cent80per-cent93-A-comment/14-638756>

subject, the then Auditor General said that this “investment is questionable” and had observed that approval of the Central Bank’s Monetary Board had not been obtained for the investment in question. Critics say *it was not prudent for the CB to risk country’s meagre foreign exchange reserves in this manner*.

Despite dwindling foreign currency reserves, foreign debt obligations of around USD 7 billion in 2022, including repayment of bonds worth USD 1 billion in July, Cabraal claimed in January 2022 that Sri Lanka can finance its outstanding debt without any default³⁷¹. He also argued that the government does not need assistance from the International Monetary Fund (IMF) unnecessarily delaying IMF assistance and advice. He reiterated the same position three months later.³⁷²
³⁷³ Obviously it was not an independent position of the CB for the financial stability of Sri Lanka. It was a reflection of political concerns that the austerity policies the IMF may demand could be politically unpopular. A package of remedies (e.g. loose monetary policy, stringent import controls and bilateral swap arrangements with regional economies) were deployed to little effect. Instead of allowing the rupee to depreciate gradually, the CB tried to keep it at a fixed exchange rate of LKR 200 per US dollar. As a result, a profitable black market emerged, and foreign reserves were reduced further, making it difficult to service the foreign debt.³⁷⁴.

In February 2015, the then Prime Minister Ranil Wickremasinghe appointed Arjun Mahendran as the Governor of the CB³⁷⁵. Questions were raised in Parliament on whether it is legal for Arjun Mahendran to serve as the CB Governor as he is a citizen of Singapore³⁷⁶. The largest financial laundering scam, which caused massive financial losses to the nation, took place under the watch of Arjun Mahendran³⁷⁷. According to the final report of the Committee on Public Enterprises, Perpetual

371 <https://www.cNBC.com/2022/01/24/sri-lankas-central-bank-Governor-says-imf-relief-is-not-necessary.html>

372 <https://www.cNBC.com/2022/03/08/sri-lanka-central-bank-chief-on-dealing-with-countrys-economic-crisis.html>

373 <https://odi.org/en/insights/five-lessons-from-sri-lankas-debt-and-economic-crisis/#:~:text=Sri%20Lanka's%20public%20debt%20to,reserves%20of%20US%241.9%20billion>

374 <https://odi.org/en/insights/five-lessons-from-sri-lankas-debt-and-economic-crisis/#:~:text=Sri%20Lanka's%20public%20debt%20to,reserves%20of%20US%241.9%20billion>

375 <https://www.firstpost.com/world/ranil-wickremesinghe-the-corruption-scandal-that-tarnished-sri-lankas-mr-clean-10933831.html>

376 <https://www.news.lk/news/politics/item/8021-no-legal-obstruction-for-arjun-mahendran-s-appointment>

377 <https://www.euromoney.com/article/b12klwwcph6443/sri-lanka-showdown-at-the-central-bank>

Treasuries Ltd (a company linked to Arjun Mahendran's son-in-law Arjun Aloysius), bought a large volume of treasury bonds beyond the announced levels at lower prices and made massive profits³⁷⁸. Arjun Mahendran has denied any wrongdoing.

Former Finance minister Ravi Karunanayake denied responsibility for the bond scam during a media briefing stating³⁷⁹ *"I am not involved in the Central Bank bond scam, it was the former Prime Minister Ranil Wickremesinghe that overlooked the Central Bank, the local banks and also other financial institutions."*

6.3 Treasury Bonds

Treasury bonds were introduced to the Sri Lankan market in 1997. The CB issues treasury bonds (on behalf of the government) in order to meet the financial requirements of the country. The public can invest in them. Treasury bonds are of two types; those that mature in less than a year and those that mature after a year. The face value of a bond is LKR 100. The minimum investment amount in Treasury bonds is LKR 10,000. Investors are paid interest twice a year at a fixed interest rate (known as the coupon rate). On maturity, the principal (purchase price) is paid back to the investor. Once bonds are issued to primary dealers they can also be traded among subsequent investors. By the end of 2015, sixteen government and private institutions had been registered to purchase Treasury bonds as Primary Dealers. The CB employs two methods for the issue of Treasury bonds; the auction method calling quotations from primary dealers and the direct method of issuing bonds to primary dealers.

6.4 Bond scam, Feb 2015 to March 2016 - loss to the government over LKR 68 billion

In 2015, when Arjun Mahendran was appointed as the Governor of the CB, among the sixteen primary dealers, nine were affiliated with banks and seven were private non-bank companies. Perpetual Treasuries, the company at the centre of the alleged bond scam, is a private non-bank company. The Auditor General's analysis of how the fund requirement of the government was met by issuing bonds from January 2014 to May 2016 is shown below (Table 6.1). From January 2014 until February 2015, more than 80 per cent of the total volume of bonds issued within had been issued using the direct placement method. After February 2015 the main method adopted for issuing bonds was through auction. According to the

378 <https://www.colombotelegraph.com/index.php/exclusive-cope-says-arjuna-mahendran-is-guilty-in-bond-scam/>

379 <https://www.themorning.lk/i-am-not-involved-in-the-bond-scam-ravi-k/>

Secretary to the Ministry of Finance and the officials of the CB, the power to take decisions regarding the issue of bonds is vested with the Monetary Board of the CB. The Monetary Board acted according to the financial policy of the incumbent government and changed the method for issuing bonds from direct placement to auction in 2015.

Perpetual Treasuries Ltd, a company in which Arjun Mahendran's son-in-law Arjun Aloysius was a beneficial owner, bought a large volume of Treasury bonds beyond the announced levels at lower prices, at a controversial auction and sold to State funds such as the Employees' Provident Fund making massive profits³⁸⁰. The behaviour of this firm with regard to the treasury bond auction raised suspicion of that company having acquired inside privileged information.

6.5 Bond scam investigation by the Committee on Public Enterprises

The task of investigating the bond transaction of the CB between February 2015 and May 2016 was assigned to the Committee on Public Enterprises³⁸¹. It looked into the financial irregularities in issuing treasury bonds from February 2015 to May 2016. According to the investigation, a bond auction for LKR 1.0 billion had been announced for 27 February 2015, based on a decision taken at a CB meeting the previous day. Those who attended the meeting included the Minister of Finance, the Minister of Highways, Investment Promotion and Higher Education, the Secretary to the Treasury and the Governor of the CB.

Accordingly, bids were called through advertisements published on the internet and in public newspapers on 25th and 26 February 2015 to issue to the 16 primary dealers treasury bonds worth LKR 1 billion at an interest rate of 12.5 per cent, which will mature in 30 years.

Seven primary dealers made bids, and based on these bids CB could have raised the LKR 1 billion, that it originally wanted to raise. As the Auditor General's report points out, as a result of the directive of the Governor of the CB to the Public Debt Department to accept bids up to LKR 10 billion (ten times the original offer), the Perpetual Treasuries company (which was not among the seven primary dealers who had already placed bids) got the opportunity to purchase 50 per cent of

380 <https://economynext.com/sri-lankas-perpetual-treasuries-makes-billions-selling-bonds-to-State-funds-bondscam-inquiry-7700/>

381 Report of the Committee on Public Enterprises which functioned as a Special Committee to look into financial irregularities which have occurred in issuing of Treasury Bonds from February 2015 to May 2016 by the Central Bank of Sri Lanka

the total bond value, i.e. LKR 5 billion (Perpetual Treasuries company had made arrangements to obtain 2 billion out of 5 billion directly and to get LKR 3 billion indirectly through Bank of Ceylon which is another primary dealer). While bids had been invited for LKR one billion, Perpetual Treasuries had submitted bids for a total of LKR 15.0 billion. It is unusual for bids to be submitted for a value that is 15 times greater than the value of bids that had been invited.

Table 6.1 Method of issuing bonds and value. January 2014 to May 2016 (Analysis of the Auditor General)

	Auction	Direct Placement	Total	Auction	Direct Placement
	Rs. Billion	Rs. Billion	Rs. Billion	%	%
January 2014	5.500	32.718	38.218	14	86
February 2014	3.050	80.088	83.138	4	96
March 2014	5.000	130.117	135.117	4	96
April 2014	-	120.373	120.373	0	100
May 2014	5.950	62.745	68.695	9	91
June 2014	-	126.210	126.210	0	100
July 2014	5.300	109.483	114.783	5	95
August 2014		44.230	44.230	0	100
September 2014	2.950	72.458	75.408	4	96
October 2014		22.617	22.617	0	100
November 2014		13.788	13.788	0	100
December 2014	4.000	18.148	22.148	18	82
January 2015		69.923	69.923	0	100
February 2015	10.058	23.524	33.582	30	70
March 2015	171.659	14.144	185.803	92	8
April 2015	44.306		44.306	100	0

May 2015	35.730		35.730	100	0
June 2015	82.900		82.900	100	0
July 2015	99.575		99.575	100	0
August 2015	100.578		100.578	100	0
September 2015	57.576		57.576	100	0
October 2015	55.811		55.811	100	0
November 2015	20.594		20.594	100	0
December 2015	29.545	-	29.545	100	0
January 2016	61.119		61.119	100	0
February 2016	38.959	-	38.959	100	0
March 2016	135.667		135.667	100	0
April 2016	30.440		30.440	100	0
May 2016	114.335		114.335	100	0

The Bank of Ceylon has placed three bids at the rates of 12.50 per cent, 12.75 per cent and 13 per cent up to LKR 13 billion on behalf of Perpetual Treasuries company at the request of the company. This had been the first instance where one primary dealer offered bids for CB bonds on behalf of another primary dealer.

The report of the Committee on Public Enterprises concluded that *Arjun Mahendran is directly responsible for the bond transaction in 2015-2016*. Accordingly, it recommended *taking legal action against him and other relevant officers as well as recovering from him the loss incurred*.

6.6 The special audit report, of the Auditor General on the 2015-2016 bond issue

According to the report of the Auditor General, an estimated loss of LKR 784,898,755 was caused by the issue of bonds on 29 March 2016. Instead of the nominal value of LKR 40 billion that had been expected through the issue of treasury bonds, up to LKR 77.732 billion had been accepted. The loss could have been prevented if the issue of bonds had been limited to LKR 40 billion.

The Auditor General observed that as a result of the change from the direct placement to the auction system from 27 February 2015, the State institutions, which are primary dealers such as the Employees' Provident Fund, National Savings Bank Fund Management Company, Peoples bank, and Bank of Ceylon, had been at a disadvantage. The Employees' Provident Fund had purchased a comparatively lower amount of bonds from the primary market which has a greater yield. Instead, it had purchased bonds from the secondary market with a lower yield. The report questioned why the CB had not drawn its attention towards this conduct of the Employees' Provident Fund which is an institution, coming under the Monetary Board of CB.

The special audit report, concluded that the CB *authorities are responsible for not avoiding LKR 1,674,256,805 of total estimated loss, which could have been avoided in two bond auctions held on 27 February 2015 and on 29 March 2016.* It also concluded that *the Governor of the Central Bank had not observed professional due care, up to the level expected from a Central Bank Governor.*

6.7 Bond scam investigation by a Special Presidential Commission

In January 2017, President Maithripala Sirisena appointed a Presidential Commission of Inquiry to further investigate and report on the issuance of treasury bonds during the period 1 February 2015 to 31 March 2016. The commission conducted an extensive investigation and submitted a 946 -page report ³⁸².

The Commission held that *'Mr. Mahendran acted wrongfully, improperly, mala fide, fraudulently, and in gross breach of his duties as Governor of the CBSL when: (i) he instructed that, Bids to the value of LKR 10.058 billion be accepted at the Treasury bond Auction held on 27 February 2015, for the improper and wrongful collateral purpose of enabling Perpetual Treasuries Ltd to obtain a high value of Treasury bonds at that Auction at low Bid Prices and high Yield Rates; and (ii) when Mr Mahendran provided inside information (or price sensitive information) to Perpetual Treasuries Ltd that, Bids to a very high value would be accepted at that Treasury bond auction even though only a sum of LKR 1 billion had been offered at the Auction.'*

'Mr. Mahendran acted improperly and in excess of his authority when he unilaterally and without the prior approval of the Monetary Board, directed the suspension or stoppage of Direct Placements with immediate effect from 27 February 2015'.

382 REPORT OF THE BOND COMMISSION". Presidential Secretariat. 16 January 2018. Archived from [the original](#) on 28 February 2018.

'Mr. Mahendran committed the aforesaid wrongful, improper, mala fide and fraudulent acts which were in gross breach of his duties as Governor of the CBSL, with the knowledge of and acting in collusion with Perpetual Treasuries Ltd.'

The Commission concluded that Arjun Mahendran and Perpetual Treasuries Ltd (Arjun Aloysius and Kasun Palisena) are responsible for the loss to of LKR 688,762,100/- as a result of the transactions at the treasury bond auction held on 27 February 2015³⁸³. The commission recommended that, appropriate proceedings are instituted against Mahendran and Perpetual Treasuries Ltd for recovery of the loss.

In addition, the Commission recommended that the Members of the Monetary Board and the CB Governor be appointed by the Constitutional Council and consideration be given to developing relevant criteria and a specified Procedure to govern the selection of the Governor of the CB. Other recommendations included a forensic audit of the bond scam, improvement of the supervision over the Public Debt Department, reorganization of the Audit Department, establishment of a legal department, revision of the code of conduct of primary dealers and a requirement for officers of the Public Debt Department and the Tender Board to furnish asset declarations³⁸⁴.

6.8 Action by the Attorney General's Department

Based on what transpired, charges were made against Perpetual Treasuries Ltd³⁸⁵ that they had access to privileged information which enabled them to bid for bonds worth LKR 10.0 billion at high interest rates.

According to the Attorney General's department, the total amount of funds that had allegedly been defrauded during the three bond auctions amounts to LKR 68 billion: LKR 18 billion at 27 February 2015 bond auction, LKR 36.98 billion at 29 March 2016 bond auction and LKR 15 billion at 31 March 2016 bond auction.

Legal action was filed against Arjun Mahendran, Arjun Aloysius, former Finance Minister Ravi Karunanayake and seven others, for conspiracy to commit criminal misappropriation in respect of treasury bonds³⁸⁶. The Attorney General's department filed 24 indictments against the ten accused regarding the first bond

383 <http://www.presidentsoffice.gov.lk/wp-content/uploads/2018/01/CBSLpercent20Bondpercent20bookpercent20editedpercent20A4percent20nopercent20signature.pdf>

384 <https://www.newsfirst.lk/2018/01/17/bond-commission-report-now-available-public/>

385 <https://groundviews.org/2015/03/26/the-bond-issue-controversy-an-analysis/>

386 http://www.colombopage.com/archive_22A/Mar04_1646396653CH.php

auction, and 30 indictments each on the second and third auctions³⁸⁷. However, controversy over flawed indictments caused dismissal of some of the charges against them³⁸⁸.

According to reports, Arjun Mahendran fled to Singapore,³⁸⁹ and extradition requests were made from Singapore³⁹⁰, along with the two Red Notices for his arrest, issued through Interpol³⁹¹. Despite the massive loss to the government during his watch as the CB Governor, he continues to comment on the economic crisis in Sri Lanka!³⁹².

6.9 Forensic audits

The Monetary Board of the CB commissioned six forensic audits to investigate and report on the issuance of Treasury bonds from 01 February 2015 to 31 March 2016. Out of the six forensic audits initiated, five forensic audits have been completed at a cost of LKR 275 million³⁹³.

The audit reports focus on

1. Issuance of Treasury bonds from 2002 to 2015 by the Public Debt Department
2. Primary and secondary market transactions of the Employees' Provident Fund involving Treasury bonds January 2002 to 2015
3. Transactions of the Employees' Provident Fund from 1998 to 2017
4. Issuance of Treasury bonds and remittance of funds received to the General Treasury 2015 / 2016 by the Public Debt Department
5. Conduct of the supervisory and regulatory role by the Superintendent of Public Debt/Director, 2009 to 2017.

The reports contain important technical information relating to the issue

387 AG dept goes to SC over bond decision <https://www.sundaytimes.lk/220306/news/ag-dept-goes-to-sc-over-bond-decision-475414.html>

388 <https://island.lk/treasury-bond-scam-case-controversy-over-flawed-indictments-that-caused-dismissal-of-some-charges-against-ravi-mahendran-ptl-others/>

389 <https://www.colombotelegraph.com/index.php/arjuna-mahendran-bolts-overseas-as-cope-report-presented-in-parliament/>

390 http://www.colombopage.com/archive_20A/Jun16_1592306050CH.php

391 <https://www.newsfirst.lk/2022/07/12/fugitive-mahendran-speaks-about-sri-lankas-economy/>

392 <https://www.newsfirst.lk/2022/07/12/fugitive-mahendran-speaks-about-sri-lankas-economy/>

393 http://www.colombopage.com/archive_21A/Jan18_1610983380CH.php

of Treasury bonds, investments by the Employees' Provident Fund and the supervision of primary dealers by the Monetary Board ³⁹⁴.

In conclusion, to ensure proper management of the nation's economy, the CB needs to be granted a greater degree of autonomy while strengthening public scrutiny and oversight over its work. A number of ways to introduce greater accountability in the work of the CB have been proposed³⁹⁵ including revising the screening and selection process for the Governor and the board members, improving the transparency of the administration and financial works and provisions for the CB to present bank's policy measures to special Parliamentary committees supported by experts in the field.

Sri Lanka Government lost billions in the bond scam. Millions have been spent on committees, commissions and forensic audits for over six years. However, the government has failed to find those accountable^{396 397}. Is this good governance? (see Chapter 7 Authority without accountability contributed to the crisis).

394 Wijewardane WA. A child's guide to forensic audit reports. <https://www.colombotelegraph.com/index.php/a-childs-guide-to-forensic-audit-reports-the-reported-losses-to-be-taken-with-a-pinch-of-salt/>

395 https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/press/pr/speech_20180828_68th_Anniversary_Oration_e.pdf

396 <https://www.newsfirst.lk/2022/10/11/bond-scam-court-released-mahendran-and-others-from-public-property-charges/>

397 <https://www.colombotelegraph.com/index.php/bond-scam-ranil-takes-refuge-in-pre-2015-bond-issue-practices/>

Authority without accountability contributed to the crisis

7.1 What is accountability? Why does accountability matter?

Ministers, Members of Parliament and the civil service are accountable (answerable) to the public for the proper functioning of all aspects of a democratic government. Accountability is about taking responsibility for the duties assigned to you. It is also about learning through scrutiny and improvement. Critical weaknesses in the current system of accountability in Sri Lanka have played a central role in the causation of the unprecedented economic, political and social crisis. Gaps in accountability perpetuate mismanagement and corruption.

Until 2022, Sri Lanka was not a poor country. When adjusted for purchasing power, the per capita GDP of Sri Lanka in 2021 was (Current International \$) 14127.2, higher than that of India at 7333.5 and Indonesia at 12904.3 the same year. However, political dysfunction, mismanagement, corruption and gaps in accountability have collapsed its economy. On 3 June 2022, a fundamental rights case was filed against former Prime Minister Mahinda Rajapaksa, former finance minister Basil Rajapaksa, former finance minister Ali Sabri and 26 former cabinet ministers³⁹⁸. They have been accused of bankrupting the country due to mismanagement of the economy and deliberate neglect of their responsibilities³⁹⁹.

Who is accountable for the Central Bank bond scam? (see Chapter 6 Politicisation of the central bank and bond scams)

Who is accountable for the Easter Sunday massacre⁴⁰⁰?

Who is accountable for the murder of journalists and innumerable cases of fraud, financial misappropriation and misuse of public resources?

398 https://pdfhost.io/v/u3DMTbbue_UJ_Petition_II_Final

399 <https://srilankatwo.wordpress.com/category/uncategorized/page/64/>

400 <https://www.youtube.com/watch?v=q9YU4aMFR3I>

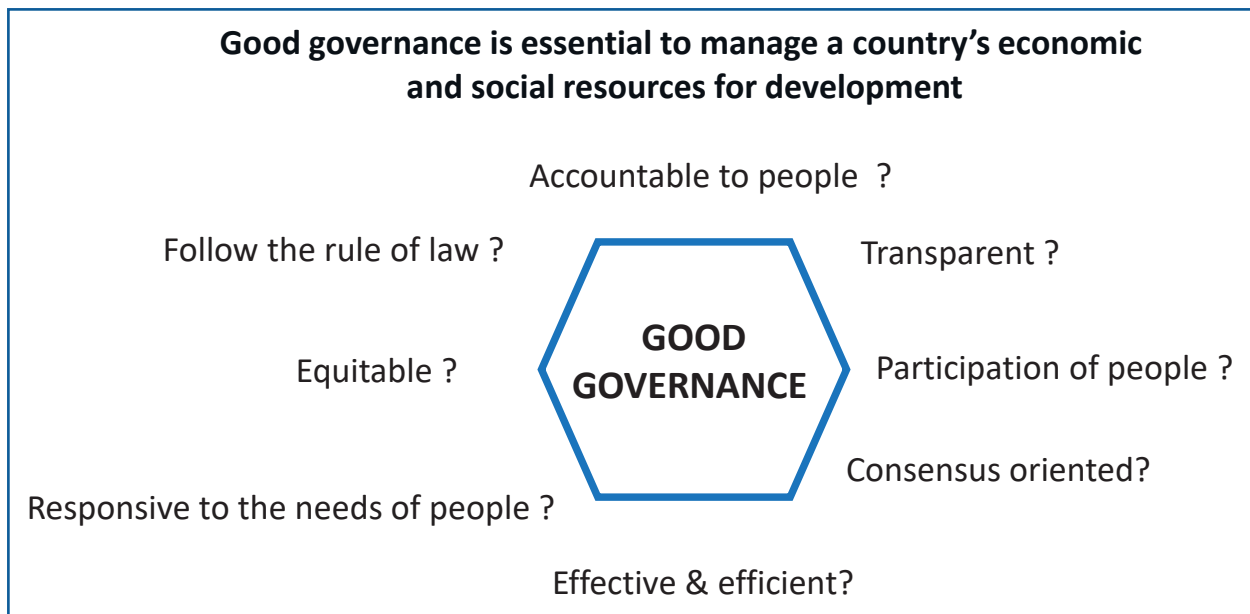


Figure 7.1. Accountability is one of the key principles of good governance. Current parliament has lost the people's mandate to govern the country because it lacks the key features of good governance

7.2 The Easter Sunday massacre

On 21 April 2019, Easter Sunday, nearly 270 people, including 45 children, were killed, and many hundreds were injured, as three churches and three 5-star hotels were hit in a series of coordinated suicide bomb attacks. Most casualties were worshippers in St. Sebastian's Catholic Church in Negombo. The other churches hit were St. Anthony's Shrine in Kochchikade and the Evangelical Zion Church in Batticaloa. Among those killed were 45 foreign nationals at the Shangri-La Hotel, the Cinnamon Grand Colombo and the Kingsbury in Colombo.

A Parliament Select Committee (PSC) was appointed to hold inquiries on the Terrorist Attacks⁴⁰¹. The main conclusions of the PSC were as follows:

- i. The President (Maithripala Sirisena) failed to provide leadership to the State security apparatus, including through convening meetings of the National Security Council, leaving out key individuals in government⁴⁰². In addition, the Prime Minister (Ranil Wickremasinghe), the State Minister of Defence (Sagala Ratnayake)*

401 Parliamentary Series No. 183. Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019. Presented to Parliament by Hon. Deputy Speaker and Chair of the Committee on 23 October 2019.

402 <https://www.aljazeera.com/news/2021/2/23/probe-finds-sri-lanka-ex-president-should-face-charges>

and the Attorney General's Department also neglected their duty to ensure national security.

- ii. The Director of State Intelligence Service received prior intelligence information regarding the impending attack on 4 April and 16 April 2019 but failed to share the same with other intelligence and security personnel. The State security apparatus had been aware of the subversive activities of Muslim extremists since 2013. However, one year before the attack Director State Intelligence Services had taken over the surveillance of suspected extremists and had instructed the Inspector General of Police to discontinue their follow-up.*
- iii. Director State Intelligence Services (Nilantha Jayawardane) was mainly responsible for the dangerous breach in State security. However, other parties in the State security and intelligence apparatus, Ministry of Defence, Inspector General of Police (Pujitha Jayasundera), Chief of National Intelligence (Sisira Mendis) and the Directorate of Military Intelligence also failed in their responsibilities.*
- iv. The attack took place a few months before the 2019 Presidential election. The Commission noted that further investigations would be required to obtain insight into whether those with vested interests did not act on intelligence information to create instability and instil fear and uncertainty among people so that there would be calls for a change of regime in the lead-up to the Presidential election of 2019 and Parliamentary election in 2020.*

7.3 Those responsible for national security were aware of the impending attack

There was evidence of increasing levels of Wahabism and Arabization in the East of Sri Lanka from around 2013, which contributed to the growth of extremism in the Islamic community. In Kattankudy, Arabization was fostered by a former governor of the Eastern province. According to the testimony of a former Governor of the Western Province (Azath Salley), he had informed the then Defence Secretary (Gotabaya Rajapaksa) on several occasions about the threat posed by extremist elements.

Investigations identified Zahran Hashim one-time leader of the National Thowheed Jamaath -an extremist fringe Islamic group-as the mastermind who planned and executed the coordinated attack⁴⁰³. After the attack, when police raided a house in Sainthamaruthu, a bomb exploded, killing 15 relatives of Zahran.

403 <https://www.vaticannews.va/en/church/news/2022-04/sri-lanka-ranjith-third-anniversary-easter-bombings-coverup.html>

Zahran had signed an agreement with M. L. A. M. Hizbullah during the parliamentary election campaign in 2015⁴⁰⁴. In 2017 a written complaint against Zahran's call for the killings of people of other faiths was sent to the President's Office by the Muslim community, with copies to the offices of the Prime Minister, the Minister of Justice, the Minister of Law and Order and the State Minister of Defence, Inspector General of Police, Attorney-General's Department, and Director, Terrorist Investigation Division. In 2018, there was an incident of destroying Buddha statues in Mawanella in which two Muslim persons linked to Zahran were involved. Terrorism Investigation Division obtained an open warrant from the Colombo Magistrate's Court and a blue notice from Interpol in July 2018 to apprehend Zahran.

On 26 October 2018, a constitutional crisis began when President Maithripala Sirisena appointed former President and Member of Parliament Mahinda Rajapaksa as Prime Minister before dismissing the incumbent (Ranil Wickremesinghe)⁴⁰⁵. On 27 October the parliament was prorogued.

In January 2019, several members of the Muslim community met the then Secretary to the Ministry of Defence, (Hemasiri Fernando) and handed over a CD containing extremist speeches made by Zahran Hashim. In March 2019, army intelligence was informed that Zahran was holding secret meetings in Nintavur, Akkaraipattu.

The PSC report has documented that the lack of trust and coordination between officials and agencies responsible for security, law and order, national intelligence and justice (President, Prime Minister, Chief of National Intelligence, State Intelligence service, Police, Directorate of Military Intelligence, Ministry of Defence, Attorney Generals Department, Counter Terrorism and Terrorist Investigation Department), resulted in grave communication gaps and lapses in accountability.

On 4 April 2019 the Director, State Intelligence Service (Nilantha Jayawardane) received the first intelligence report of a potential attack which he shared with the Chief of National Intelligence (Sisira Mendis) and the Inspector General of Police (Pujith Jayasundera). On 9 April 2019 a Meeting of the National Security Council was held attended by the Secretary of Defence (Hemasiri Fernando). The National Security Council is the apex decision-making body on national security and is headed by the President of Sri Lanka.

404 https://www.dailymirror.lk/top_story/Zahran-supported-MS--I-supported-MRpercent3A-Hizbullah/155-169276

405 <https://www.nytimes.com/2018/10/26/world/asia/sri-lanka-political-crisis.html>

On 21 April 2019, the Director of State Intelligence Service (Nilantha Jayawardane) received another warning message regarding the impending attacks which he shared with the Secretary of Defence (Hemasiri Fernando) and the Inspector General of Police (Pujith Jayasundera).

Information about the explosion, as well as possible attackers were available before the attack, but those responsible for the security of the people did not take any action. The President Maithripala Sirisena travelled out of Sri Lanka on 16 April 2019 but failed to appoint an acting Minister for Defence leaving a vacuum.

The Presidential Commission of inquiry recommended that the Attorney General should take legal action against those responsible³. The Attorney General filed court cases against Hemasiri Fernando and Pujith Jayasundara on charges of criminal dereliction of duty for failing to prevent the Easter Sunday attack despite receiving specific intelligence.

However, in February 2022, the Colombo Permanent High Court Trial-at-Bar ordered to acquit and release Ex-Police Chief Pujith Jayasundara from all charges filed against him with regard to the Easter Sunday attack.

Earlier, the Colombo Permanent High Court Trial-at-Bar unanimously ordered to acquit and release Ex-Defence Secretary Hemasiri Fernando.

7.4 Fight for justice

Cardinal Malcolm Ranjith, Archbishop of Colombo, has tirelessly pushed for truth and justice for the victims and their families calling for accountability and transparency. He has alleged that *'the government has been covering up the investigations into the Easter bombings to protect the brains behind the attacks'*⁴⁰⁶. Since the recommendations of the Presidential Commission of Inquiry into the Easter Sunday attacks have not been implemented, the Cardinal has taken the case to the international community. In November 2021, Rev Fr Cyril Gamini, who often acts as the spokesperson of the Cardinal, was called before the CID and interrogated for hours because he had openly expressed concerns about the attack and the delay in the investigations^{407 408}.

406 <https://www.vaticannews.va/en/church/news/2022-04/cardinal-ranjith-sri-lanka-easter-bombings-mass-justice-crisis.html>

407 <https://www.colombotelegraph.com/index.php/easter-sunday-attacks-harassment-of-fr-cyril-gamini/>

408 <https://www.inform.lk/wp-content/uploads/2022/03/Dissent-Oct-Dec-2021.pdf>

Sri Lanka's former Attorney General Dappula de Livera has said "*There is a Grand Conspiracy with regard to the 2019 April Attacks*"⁴⁰⁹.

After the Easter Sunday attack, incidents of ethnic tension and violence targeting the Muslim community were reported. President Gotabaya Rajapaksa campaigned on a promise to investigate the attack⁴¹⁰. Those who have lost loved ones, demand answers to many questions. Was the attack used to win the presidential election by raising concerns on the issue of national security? Why did the former President, intelligence units and the police conceal details of the impending attacks despite having prior knowledge of the attack? Did they have contact with the terrorists who carried out the attacks? Why are the recommendations of the Presidential Commission not been implemented? Is there a cover up?

In response to a private plaint filed by a member of the National Catholic Committee for justice to Easter Sunday Attack Victims (Fr Cyril Gamini Fernando), the Magistrate Court in Colombo Fort named former President Maithripala Sirisena a suspect in the Easter Sunday Attack and has directed him to appear in court on 14 October 2022⁴¹¹.

7.5 Deaths in custody

In recent years there has been a recurring pattern of deaths of accused implicated in organized criminal activities⁴¹². Mabulage Dinith Melan Mabula, Dharmakeerthi Tharaka Perera Wijesekera, Hewa Lunuwilage Lasantha and Samarasinghe Arachchige Madush Lakshitha are examples. They were killed in crossfire during Police raids or shootouts with other gangsters. The general public considers such events even justifiable as they have been labelled criminals.

Are such custodial deaths attempts to conceal the involvement of influential people? For instance, opposition Parliamentarians have warned that the death of the alleged drug kingpin Makandure Madush in an apparent shootout with other gangsters on 20 October 2020 was an attempt to conceal information about several politicians who are said to be "*involved in drug racketeering.*" Madush was deported from Dubai on an Interpol warrant and had said he had revealed details

409 <https://www.newsfirst.lk/2021/05/17/exclusive-grand-conspiracy-behind-2019-april-attacks-ag-dappula-de-livera/>

410 <https://groundviews.org/2022/03/08/preventing-or-promoting-terror-regimes-rough-ride-at-un/>

411 <https://www.thehindu.com/news/international/court-names-sirisena-a-suspect-in-easter-attack-case/article65898850.ece>

412 <https://www.themorning.lk/custodial-deaths-dystopian-truths>

about many politicians involved in drug rackets to the CID⁴¹³. Madush was in CID custody for one-and-a-half years and died in a shootout a few days after he was handed over to the Colombo Crimes Division.

Keerthi Ratnayake, a journalist for the website LankaEnews who exposed a plot to kill Madush three days before he was gunned down in the custody of the Colombo Crimes Division (CCD) was arrested and detained for eight months⁴¹⁴ under the Prevention of Terrorism Act⁴¹⁵. Fort Magistrate Priyantha Liyanage, on 9 February 2022 ordered his release on a personal bail of Rs. 50,000. The Attorney General had stated that there were not enough charges against the journalist to pursue a case under the Prevention of Terrorism Act.

7.6 Expelling corrupt and inept Members of Parliament is a national imperative

According to political analysts “the roots of the current crisis lie with ethnocracy which has led a country from meritocracy to kakistocracy” (The country is governed by its worst citizens)^{416 417}. Corrupt and inept Members of Parliament have no interest in being accountable to the people^{418 419 420} (Figure 7.2). Therefore, it would be impossible for Sri Lanka to recover from the crisis without expelling them from parliament at the next general election⁴²¹.

The Right to Information (RTI) Act, which came into force in February 2017, was a critical step towards public disclosure of the assets of Members of Parliament⁴²².

413 <https://colombogazette.com/2020/10/20/opposition-suspects-madush-was-killed-to-protect-politicians/>

414 <https://www.colombotelegraph.com/index.php/journalist-who-predicted-makandure-madush-execution-in-police-custody-arrested/>

415 <https://www.lankaenews.com/news/3457/en>

416 <https://foreignpolicy.com/2022/07/12/sri-lanka-crisis-politics-economics-rajapaksa-protest/>

417 <https://edition.cnn.com/2020/09/09/asia/sri-lanka-parliament-death-row-intl-hnk/index.html>

418 <https://www.colombotelegraph.com/index.php/unmasking-the-likes-of-cabraals-a-national-imperative/>

419 <https://www.colombotelegraph.com/index.php/controversial-mp-diana-gamage-charged-for-committing-multiple-offences-and-poised-to-lose-her-seat/>

420 <https://island.lk/parliament-rejected-two-anti-corruption-propoals/>

421 <https://www.dailymirror.lk/opinion/Corruption-in-Sri-Lanka-A-crime-without-criminals/172-236164>

422 <https://www.tisirilanka.org/rti-commission-orders-release-of-ranil-wickremesinghes-asset-declaration/>

Accordingly, Transparency International filed RTI applications with the Presidential Secretariat and Prime Minister's office, seeking copies of the asset declarations of the country's apex political leaders. On 5 December 2018, the Right to Information Commission (RTIC) directed the Presidential Secretariat to disclose the declaration of assets & liabilities of Hon. Ranil Wickremesinghe in his role as Prime Minister for 2015 and 2016. Since February 2019, only 17 Members of Parliament have submitted their asset declarations for public disclosure^{423 424}. The other 208 Members of Parliament should have no difficulty in doing so if their earnings are legitimate. The public should pay close attention to this asset list before electing new Members of Parliament at the next general election⁴²⁵. However, verifying the truthfulness of asset declarations will remain a challenge. The expose' dubbed the Pandora papers show how corrupt politicians and high ranking public servants hide stolen wealth and assets in offshore banking networks and shell companies⁴²⁶.

Sri Lanka can recover from the current crisis only if legislators possess the required knowledge and competency to govern and are accountable for government policies. In the 1970s, Sri Lanka had eminent economists of the calibre of Dr N. M. Perera holding the post of Minister of Finance. However, the executive presidency resulted in the President appointing Parliamentarians based on family connections with no qualification in economics to this critical post. When the country is facing the worst economic crisis since independence and second highest malnutrition rate in children in South Asia⁴²⁷, the 2022 budget presented in Parliament by one such Minister had LKR 250 billion allocated for road construction⁴²⁸. However, funding for children's school meals was slashed from LKR 6 billion to LKR 2 billion⁴²⁹. The same Minister was unable to make a Statement to the parliament for three months amidst a paralysing economic crisis⁴³⁰.

423 <https://www.transparency.org/en/blog/shedding-light-on-incomes-assets-and-interests-in-sri-lanka>

424 <https://www.tisirilanka.org/mpassets/>

425 https://www.youtube.com/watch?v=u_1KKxy_Ou0

426 <https://theeconreview.com/2022/02/22/the-pandora-papers-and-the-exposure-of-sri-lankas-elite/>

427 <https://globalnutritionreport.org/resources/nutrition-profiles/asia/southern-asia/sri-lanka/>

428 Ameer Ali <https://www.colombotelegraph.com/index.php/basils-budget-dreams/>

429 <https://reliefweb.int/report/sri-lanka/school-meals-menu-children-sri-lanka-economic-crisis-bites>

430 <https://island.lk/basils-silence-for-three-months-amidst-dire-economic-situation-causes-uproar-in-parliament-for-second-day/>

In the 2017 Parliament, 94 Members of Parliament had not passed their Ordinary Level examination and only 25 were graduates^{431 432}. Yet, Sri Lanka has a high literacy rate ⁴³³ and a high percentage of graduates. Civil society organisations, human rights activists and academics need to motivate and support young, educated Sri Lankans with integrity to enter politics.

Given the dire straits of the economy, shouldn't Sri Lanka contain the high costs of running a House of Parliament with 225 members ⁴³⁴. The allocated amount for recurrent expenditure for the Parliament for 2019 was around LKR 2.8 billion, including salaries of administrative staff. In addition, the costs of parliamentary meals add up to LKR 120 million annually. Furthermore, the total amount spent on electricity, telephone facilities, and drinking water is approximately LKR 103 million per year⁴³⁵.

According to a recent news item, the public has to pocket out Rs. 38.4 million to convene the Parliament 8 days a month. On numerous days the Parliament does not convene because the quorum of 20 MPs needs to be met⁴³⁶. The parliament has 12 food and beverages outlets, including five exclusive restaurants and dining suites. Many allowances and benefits are provided to Members of Parliament, including an office allowance LKR 100 000, member allowance LKR 54285, sitting allowance LKR 2500, committee allowance LKR 2500, Entertainment allowance LKR 1000, drivers allowance LKR 3500, telephone allowance LKR 50 000, transport allowance for personal staff LKR 2500 each, annual allowance postage LKR 350 000, and fuel allowances based on the approved market price of fuel⁴³⁷. In addition, successive governments have imported luxury cars on tax concessionary terms for Members of Parliament, costing billions of dollars⁴³⁸.

Can a bankrupt country justify this massive expenditure to sustain an ineffective Parliament? What per cent of Members in the current Parliament have insight regarding the present national crisis? How many of them have allegations of corruption levelled at them? During an economic crisis shouldn't the Parliament

431 <https://www.ft.lk/article/603681/Educated-MPs>

432 <https://www.youtube.com/watch?v=lzRF0YZWJmU>

433 <https://www.dfat.gov.au/sites/default/files/country-information-report-sri-lanka.pdf>

434 https://www.youtube.com/watch?v=PQCnAQ_SRgw

435 <https://www.newswire.lk/2022/10/06/govt-bungalow-ceb-bill-hated-argument-between-dayasiri-kanchana/>

436 Dilshani Ranawake <http://www.themorning.lk/can-sri-lanka-afford-to-feed-225-mouths/>

437 <https://www.parliament.lk/members-of-parliament/allowances-and-benefits>

438 <https://www.colombotelegraph.com/index.php/-wants-parliament-approval-for-rs-1-1-billion-to-buy-32-luxury-vehicles-for-top-politicos/>

consider using zoom facilities for some of its discussions in order to cut down on costs? Shouldn't there be an upper age limit for serving as a Member of Parliament? Why are the well- educated and experienced parliamentarians not doing enough to get rid of corrupt parliamentarians?

In the opinion of most, Sri Lanka's Parliament has lost its mandate to govern, particularly so with the Presidential system of Governance. Efforts need to be made to rectify this situation through an early general election⁴³⁹.

7.7 Charges withdrawn due to technical or procedural errors

In the last three years, despite charges for alleged murder, fraud, financial misappropriation, and misuse of public resources, accused people with political affiliation have been set free^{440, 441}. Technical or procedural errors in the filing process by legal institutions and insufficient evidence have been given as reasons that have prevented further proceedings, thereby influencing the acquittal and the exoneration of the accused⁴⁴².

A high-ranking politician was acquitted and released from two cases. In one of them, the Attorney General indicted him and three other officials in the Colombo High Court for committing a criminal breach of trust by misappropriating LKR 2,992 million belonging to the Divineguma Bank, in the run-up to the presidential election in 2015⁴⁴³. In the other case,⁴⁴⁴ the Attorney General filed a case for misappropriation of public funds by purchasing a large property and building a luxury villa⁴⁴⁵. In October 2016, the court ordered authorities to auction the luxury villa estimated to have been built at the cost of LKR 240 million on a 16 -acre land valued at LKR 60 million following a case filed by the Criminal Investigations Department⁴⁴⁶. In July 2022, during the *Aragalya*, immigration officials prevented

439 <https://www.dailynews.lk/2022/05/05/editorial/278270/timely-act>

440 <https://www.refworld.org/pdfid/50ae365b2.pdf>

441 <https://www.inform.lk/wp-content/uploads/2021/11/Dissent-July-Sept-2021.pdf>

442 <https://groundviews.org/2021/11/19/the-case-for-acquittal-justice-or-impunity/>

443 <https://www.newsfirst.lk/2021/07/19/ag-to-consider-request-from-defense-on-gi-pipe-case-against-basil/>

444 <http://nakkeran.com/index.php/2022/03/22/basil-rajapaksa-gave-1100-lakhs-to-build-malwana-house/>

445 <http://www.slguardian.org/2021/10/sri-lanka-basil-rajapaksa-is-not.html>

446 <https://srilankatwo.wordpress.com/2016/10/15/basil-loses-his-240-million-worth-luxury-villa-in-malwana/>

the same politician from flying out of the country⁴⁴⁷. He later left Sri Lanka. On 20 November 2022 he returned. He was able to use the VIP lounge facilities of the Bandaranayake International airport and a police escort took him from the airport to his residence, although he had no official position in government⁴⁴⁸.

The Attorney General charged a former Member of Parliament on charges of money laundering amounting to over LKR 306.26 million ⁴⁴⁹. He has also been accused of causing a financial loss of LKR 883 million as the Chief Executive of a local airline⁴⁵⁰. The case was later withdrawn. Another Member of Parliament and two others were released from a lawsuit filed against them in the Colombo Magistrate's Court causing a loss of LKR 40 million to the government ⁴⁵¹. A former Minister of Ports and Shipping was charged for unlawful acquisition of assets to the value of LKR 41.2 million while serving as a Minister. The case was withdrawn due to technical errors.

The Bribery Commission filed indictments against the chairman of a company providing Maritime Services ^{452 453} for involvement in the act of bribery amounting to LKR 35.5 million between 2012 and 2014⁴⁵⁴. The indictments were filed on 47 counts under the Bribery Commission Act.⁴⁵⁵ Charges were later withdrawn due to “technical glitches” in the case⁴⁵⁶.

447 <https://thewire.in/south-asia/sri-lanka-basil-rajapaksa-stopped-from-leaving-country-immigration-officers-close-vip-lounge>

448 <https://colombogazette.com/2022/11/21/opposition-questions-decision-to-give-basil-vip-treatment/>

449 <https://www.dailynews.lk/2021/01/14/local/238802/sajin-vassper centE2per cent80per cent99-money-laundering-case-trial-march-1>

450 <https://dbsjeyaraj.com/dbsj/archives/46452>

451 http://www.colombopage.com/archive_22A/Jan28_1643350496CH.php

452 <https://www.colombotelegraph.com/index.php/expose-avant-garde-repatriation-mafia-revealed-as-nandasena-allows-buddy-to-rake-in-big-bucks/>

453 <https://www.colombotelegraph.com/index.php/expose-avant-garde-repatriation-mafia-revealed-as-nandasena-allows-buddy-to-rake-in-big-bucks/>

454 <https://island.lk/top-ags-dept-official-compelled-to-retire-in-spite-of-court-order-for-her-reinStatement/>

455 <https://www.dailynews.lk/2021/07/27/law-order/255020/nissanka-senadhipathipalitha-fernando-released-avant-garde-case>

456 <https://www.dailynews.lk/2021/07/27/law-order/255020/nissanka-senadhipathipalitha-fernando-released-avant-garde-case>

7.8 Action against corruption portrayed as political victimisation

Former President Maithripala Sirisena gave an election undertaking to take legal action against corruption. During his term in office (2015-2019) a spate of court cases was filed. Suspects were accused of different types of misconduct, including illegal possession of baby elephants, murder, bribery, unlawful acquisition of land, misappropriation of public funds in development projects and financial misconduct, causing an estimated total loss of at least LKR 12 billion to the government.

As highlighted in the media,⁴⁵⁷ in 2020/2021, a sizable number of these court cases against politicians and high-level officials have been discharged, sighting technical and procedural errors⁴⁵⁸ and faulty filing process by legal institutions⁴⁵⁹. The main argument by the accused was that the cases were baseless and filed seeking political revenge. However, from 2015 to 2019, during the previous government's tenure the suspects did not take any initiative to rectify the allegations levelled against them.

When Gotabaya Rajapakse came to power a Commission to Investigate Political victimisation was appointed by an extraordinary gazette proclamation in January 2020 to examine alleged political victimisation that took place during the tenure of the previous government⁴⁶⁰. The commission report recommended the withdrawal of nearly 40 bribery and corruption cases pending in the courts. However, a leaked copy of the Presidential Commission of Inquiry (PCoI) on political victimization reveals that it has been used to exonerate and acquit without charge perpetrators of serious crimes committed in Sri Lanka in the recent past, including the murder of Lasantha Wickrematunge (Figure 7.2)⁴⁶¹ (see Chapter 5 Assault on dissent and violation of human rights).

457 The case for acquittal. Justice or impunity <https://groundviews.org/2021/11/19/the-case-for-acquittal-justice-or-impunity/>

458 <https://www.colombotelegraph.com/index.php/sri-lankas-courts-a-joke-the-ag-a-bigger-joker/>

459 <https://island.lk/sjb-plans-major-campaign-over-dismissal-of-cases-by-ag-and-ciaboc/>

460 <https://thewire.in/south-asia/srilanka-rajapaksa-rule-of-law-suffers-onslaught-politics>

461 Full Text of the Leaked Report: War Criminals, Murderers And Fraudsters Exonerated By Nandasena's Political Victimisation Commission <https://www.colombotelegraph.com/index.php/full-text-of-the-leaked-report-war-criminals-murderers-and-fraudsters-exonerated-by-nandasenas-political-victimisation-commission/>

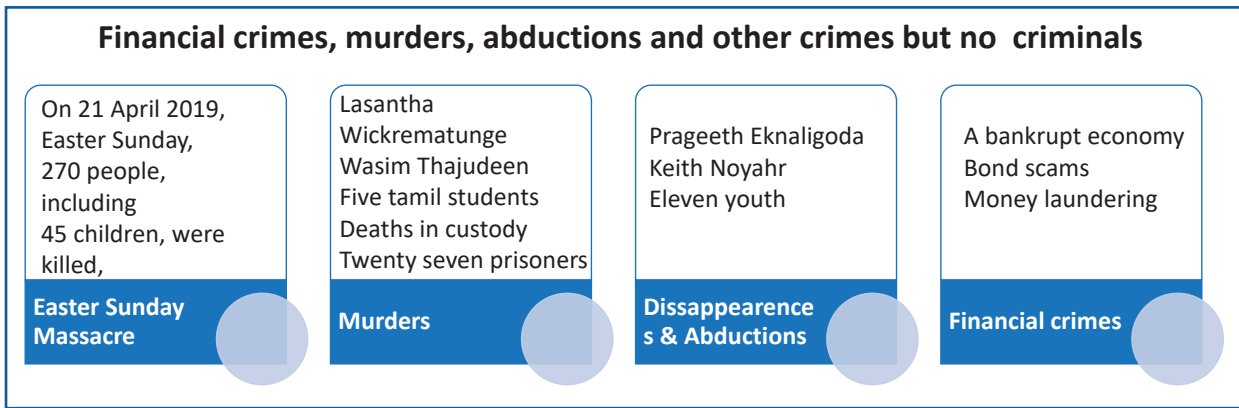


Figure 7.2. Who is accountable for these crimes?

At the time of writing, a section of the ruling Sri Lanka Podujana Peramuna (SLPP) is attempting to push a Cabinet paper originally drafted by Mahinda Rajapakse through the office of the new Prime Minister recommending over LKR 117 million in compensation to State officials who were allegedly “victimised” from 2015 to 2019⁴⁶².

7.9 Presidential pardons undermine the rule of law

During his term, President Gotabaya Rajapaksa pardoned two people convicted of murder through the courts. A few months after assuming office, he pardoned former Army Sergeant Sunil Ratnayake, who was convicted for the murder of eight people in Mirusuvil in Jaffna, including a 5-year-old child, in 2000. In July 2015, the Colombo High Court convicted Sunil Ratnayake and sentenced him to death.

In 2021, a Presidential pardon was granted to Duminda Silva,⁴⁶³ a former parliamentarian and ex-provincial councillor. He was involved in a shooting incident on 8 October 2011, during Local Authority Elections, where former Member of Parliament Bharatha Lakshman Premachandra and three of his bodyguards were killed. The High Court of Sri Lanka convicted Duminda Silva and four of his associates for murder and imposed the death sentence on them on 16 September 2016.

Subsequently the sentence was appealed but a five-Judge bench of the Supreme Court upheld the murder conviction of Silva in a verdict issued on 16 October 2018⁴⁶⁴. “The outgoing Chief Justice Priyasath Dep. in his 51-page order, noted

462 <https://economynext.com/move-to-pay-117-mn-in-compensation-to-victimised-sri-lanka-officials-report-98511/>

463 <https://www.themorning.lk/duminda-silva-pardoned-decision-widely-condemned/>

464 <https://www.ft.lk/columns/Hirunika-and-the-Presidential-pardon-of-Duminda-Silva/4-735854>

a string of crimes, including election law violations, committed by Silva and his cohorts culminating in the killing of Bharatha Lakshman Premachandra and three others⁴⁶⁵." In less than three years, a Presidential pardon was granted to Duminda Silva⁴⁶⁶. About 150 death row inmates went on hunger strike in protest⁴⁶⁷. The Bar Association of Sri Lanka sent a letter to President Rajapaksa seeking clarification on whether due process was used to grant the presidential pardon⁴⁶⁸.

The following month, President Gotabaya Rajapakse appointed Duminda Silva as Chairman of the National Housing Development Authority. During the time of President Mahinda Rajapaksa, Duminda Silva served as Monitoring Member of Parliament of the Defence Ministry while Gotabaya Rajapakse was the Defence Ministry Secretary.

Following the Presidential pardon of Duminda Silva, the victim Bharatha Lakshman Premachandra's widow, daughter and the former Commissioner of Human Rights Commission filed Fundamental Rights petitions seeking a declaration that the Presidential pardon of Duminda Silva was invalid in law. As a result, on 31 May 2022 a three-judge bench of the Supreme Court issued an Interim Order suspending the Presidential pardon granted by President Gotabaya Rajapaksa to Duminda Silva⁴⁶⁹. The interim order will remain effective until the final determination of the three Fundamental Rights petitions^{470 471}.

7.10 Delayed justice and accountability

Spotlighting ten emblematic cases, the Centre for Policy Alternatives, proposes several structural and legal reforms vital for Sri Lanka to deliver on justice and accountability⁴⁷². The cases are Murder of Mylvaganam Nimalarajan, 2000, 'The

465 <https://www.dailymirror.lk/opinion/Killing-of-Premachandra-and-conviction-of-Duminda-Silva/172-198981>

466 <https://www.themorning.lk/duminda-silva-pardoned-decision-widely-condemned/>

467 <https://www.aljazeera.com/news/2021/6/25/sri-lanka-ex-mp-pardon-death-row-hunger-strike>

468 <https://www.newswire.lk/2021/06/24/bar-association-asks-06-questions-from-president-on-dumindas-pardon/>

469 <https://www.asianews.it/news-en/Colombo:-Presidential-pardon-for-former-MP-sentenced-to-death-revoked-55937.html>

470 <https://www.aljazeera.com/news/2022/5/31/sri-lanka-court-suspends-pardon-for-rajapaksa-loyalist>

471 <https://www.devdiscourse.com/article/politics/2263415-ousted-lanka-president-rajapaksa-summoned-in-court-over-presidential-pardon-to-murder-convict>

472 Bhavani Fonseka CPA <https://www.justsecurity.org/74866/emblematic-cases-expose-the-long-road-to-justice-in-sri-lanka/>

Trinco Five': Murder of Five Tamil Students 2006, Killing of ACF Aid Workers, 2006, The Missing Eleven': The Abductions of 11 Youth, 2008/09, Abduction of Keith Noyahr, 2008, Murder of Lasantha Wickrematunge, 2009⁴⁷³, Disappearance of Prageeth Eknaligoda, 2010, Welikada Prison Incident which killed 27 prisoners, Rathupaswala Shooting which killed three 2013 and Murder of Wasim Thajudeen, 2012⁴⁷⁴. The Rathupaswala shooting incident involved the shooting of peaceful, unarmed civilians protesting against the pollution of drinking water. Three were killed, and more than 30 were injured. Indictments were filed in 2019. The court case was taken up at the Gampaha High Court on 29 January and postponed until 23 April 2022 ⁴⁷⁵.

Mohammed Wasim Thajudeen was a 28-year-old rugby union player who played for Havelock Sports Club and the national team. The death was first made to look like an accident⁴⁷⁶. According to court reports by the Criminal Investigation Department (CID), he was tortured and murdered after being abducted late in the evening of 16 May 2012 in a Land Rover vehicle that was officially given to Mahinda Rajapaksa's wife for the use of her Siriliya charity⁴⁷⁷. The State Counsel informed the courts that the Ex Officer in Charge of the Narahenpita Police had received several phone calls from the Presidential Secretariat on the day he was killed⁴⁷⁸.

Following an exhumation, a new post-mortem report found signs of torture, assault, and several missing body parts. Three arrests have been made of those alleged to have covered up the evidence. Two of them, the ex-Chief Judicial Medical Officer and Ex Senior DIG, have since died. The Criminal Investigation Department (CID) has failed to arrest anyone in relation to the murder⁴⁷⁹. On the 10-year anniversary of his murder, Thajudeen's family and friends organised a memorial march that ended at the 'Gota Go Gama' protest site in an act of solidarity with the people's movement demanding a system change.

Human rights violation cases have experienced numerous setbacks, including delays, victim and witness protection challenges, tampering with evidence, and

473 <https://www.youtube.com/watch?v=q3E5cjloGG4>

474 <https://www.youtube.com/watch?v=YXLiHyJbBTg>

475

476 <https://thuppahis.com/2016/11/27/sins-and-kills-the-rajapaksa-clan-and-their-messy-cupboard/>

477 <https://www.dailynews.lk/2017/08/16/local/125310/i-donper centE2per cent80per cent99t-know-shiranthi>

478 <https://www.colombotelegraph.com/index.php/thajudeen-murder-former-narahenpita-crimes-oic-received-calls-from-presidential-secretariat/>

479 <https://www.newsfirst.lk/2020/07/16/key-suspect-in-thajudeen-homicide-case-dead-another-seriously-ill/>

political interference⁴⁸⁰. Moreover, as the CPA notes, it is unrealistic to expect a genuine improvement in accountability so long as a *powerful authoritarian president, makes direct appointments to key institutions such as the Supreme Court, the Court of Appeal, the Attorney General, and independent commissions.*

A constitutional reform that ensures the separation of powers and independence of the executive, legislative and judicial branches of government is the only durable solution. The constitutional reforms in the 21st amendment do not even come close to what is required.

480 <https://www.inform.lk/wp-content/uploads/2022/03/Dissent-Oct-Dec-2021.pdf>

Mismanagement of the State-owned enterprises

8.1 State - Owned Enterprises (SOEs)

Sri Lanka has five hundred and twenty-seven State-Owned Enterprises (SOEs)⁴⁸¹: Fifty-five strategic SOEs, two hundred eighty-seven SOEs with commercial interests, and one hundred and eighty-five SOEs with non-commercial interests. These include educational institutions, statutory bodies, regulatory agencies, promotional institutions and public companies. Many of them are running at a loss (see Table 8.1) and have become a burden on the treasury, contributing to the present economic crisis. Some well-known examples are the Ceylon Petroleum Corporation, the Sri Lankan Airlines, the Ceylon Electricity Board and the State Engineering Cooperation. The cumulative losses of the fifty-five strategic SOEs from 2006-2020 amount to LKR 1.2 trillion⁴⁸². The existing government subsidy system allows enterprises such as the Ceylon Electricity Board and the Ceylon Petroleum Corporation to provide electricity and fuel at tariffs priced below cost even to the wealthy, causing a burden on the economy.

SOE	Year of latest online data availability	Retained Earnings/Accumulated Loss (LKR Millions)
Ceylon Petroleum Corporation	2019	-337,047
Sri Lankan Airlines Ltd	2020	-326,341
Lanka Sathosa Ltd	2017	-11,824
National Water Supply and Drainage Board	2018	-8,437
Hotel Developers Lanka Ltd.	2018	-6,733
Ceylon Fishery Harbours Corporation	2014	-2,187
Sri Lanka Fisheries Corporation	2014	-853
Sri Jayawardenepura General Hospital	2017	-774
Sri Lanka Broadcasting Corporation	2014	-290
Sri Lanka Cashew Corporation	2017	-70
Sri Lanka Handicraft Board	2014	-26

*Availability as of 30th of November 2021
Source - Annual reports of relevant SOEs

PUBLIC FINANCE .lk

Table 8.1 Eleven SOEs with negative retained earnings and accumulated losses based on the latest available online data (Source: <https://publicfinance.lk/>)

481 <https://www.dailynews.lk/2021/12/13/business/267142/State-owned-enterprise-losses-mount-staggering-rs-12-trillion>

482 <https://groundviews.org/2022/01/03/State-owned-enterprises-a-major-crisis-in-the-making/>

en/topics/25-of-52-key-soes-identified-by-ministry-of-finance-do-not-have-financial-data-available-online-from-2017-onwards-1640065932)

Many countries mandate internal audits of the business activities of their SOEs and the publication of annual reports with financial information. However, such transparency is seen only in about 10 per cent of SOEs in Sri Lanka.

There are several fundamental reasons why the majority of SOEs in Sri Lanka are doomed for failure:

1. The pay and benefits of senior managers who run the enterprises are not based on performance.
2. Senior management is often appointed based on political backing. Some of those appointed lack the required expertise and skills. Capable and qualified staff find it difficult to work under incompetent bosses, so they either leave or stay on doing the minimum.
3. Lack of internal audits, financial disclosure and budget constraints. Reporting of fraud and misconduct is not rewarded and protected
4. Citizens who are the owners of SOEs do not individually have the means or incentives to monitor the performance of SOEs.
5. Despite its role as regulator, the government may suppress market competition by granting SOEs various benefits such as tax concessions.

The public sector workforce has expanded over the last fifteen years partly due to politicians using SOEs to pay back political supporters by giving them jobs in SOEs. Currently the State sector employs about 1.4 million people⁴⁸³. A large portion of the tax revenue (about 86 per cent) is used to cover the salary and pension bills of the public sector. In 2021, for example, the State tax revenue was LKR 1,298 billion and out of that LKR 1,115 billion was spent on salaries and pensions of the public sector.

While the vast majority of staff in SOEs are suitably qualified and of high calibre, they fall victim to mismanagement and corruption. Corruption has become entrenched in some SOEs because whistleblowing on fraud and misconduct is not rewarded and protected (see below).Whistleblower protection requirements have been introduced in the United Nations Convention against corruption. Anti-corruption frameworks recognize the critical importance of having whistleblower

483 <https://thediplomat.com/2022/07/sri-lankas-State-owned-enterprises-are-a-big-part-of-its-economic-problems/>

protection laws⁴⁸⁴.

The Power and Energy Minister of the present government has made the following Statement regarding overstaffing in the Ceylon Electricity Board (CEB), Ceylon Petroleum Corporation (CPC), and Ceylon Petroleum Storage Terminals Limited (CPSTL). *“A good 500 workforce instead of the 4200 could do the job efficiently at CPC- CPST Land half of the 26000 workforce at CEB. Trade Unions thrive on inefficient members.”*

As there are limited budget constraints and no public accountability⁴⁸⁵ SOEs have little incentive to control costs or generate profits. Most require major reforms to improve efficiency, governance and accountability. The digitalisation of data, budgets and accounts can improve accountability and transparency. Some of the SOEs causing huge losses will have to be privatised⁴⁸⁶.

8.2 Breakdown of losses and profits 2020

Successive governments have embraced short-term economic approaches giving electricity, fuel, and gas at lower rates than the market price to all instead of making politically unpopular decisions to remove such unsustainable subsidies from the wealthy. State enterprises such as the Ceylon Electricity Board and the Petroleum Corporation are running at a loss due to this reason. In 2020, total credit directed to the fifty two State-owned business enterprises by Banks was close to LKR 920 billion, and Treasury support given to State-owned business enterprises was LKR 75 billion⁴⁸⁷. According to the Fiscal Management Report 2020-2021 issued by the Ministry of Finance during the first eight months of 2020, the 52 strategic SOEs monitored by the Ministry of Finance recorded a net loss of LKR 10 billion. Nearly half of them do not have financial data available online after 2017 (see Figure 8.1). By the end of 2020, a net profit was recorded due to measures introduced by the ministry of finance to improve the liquidity positions of these SOEs and the decrease in fuel bill. It was observed that 97 per cent of losses were contributed by 5 SOEs: Ceylon electricity board 47 per cent, Sri Lankan Airlines 44 per cent, Sri Lanka Transport Board three per cent, Airport and Aviation services two per cent, and Lanka Sathosa one per cent. Concerning

484 G20 Anti-corruption Action Plan. Protection of whistleblowers. <https://www.oecd.org/corruption/48972967.pdf>

485 <https://www.parliament.lk/en/committee-news/view/2556?category=33>

486 <https://thediplomat.com/2022/07/sri-lankas-State-owned-enterprises-are-a-big-part-of-its-economic-problems/>

487 https://www.chamber.lk/images/COVID19/pdf/SOEReformsPostPandemicEconomicRevival_25June.pdf

profits 83 per cent were contributed by 6 SOEs: Employees' Trust Fund Board 20 per cent, Sri Lanka Insurance Corporation 14 per cent, Bank of Ceylon 14 per cent, Peoples Bank 13 per cent, National Savings Bank 10 per cent and Sri Lanka Ports authority 12 per cent.

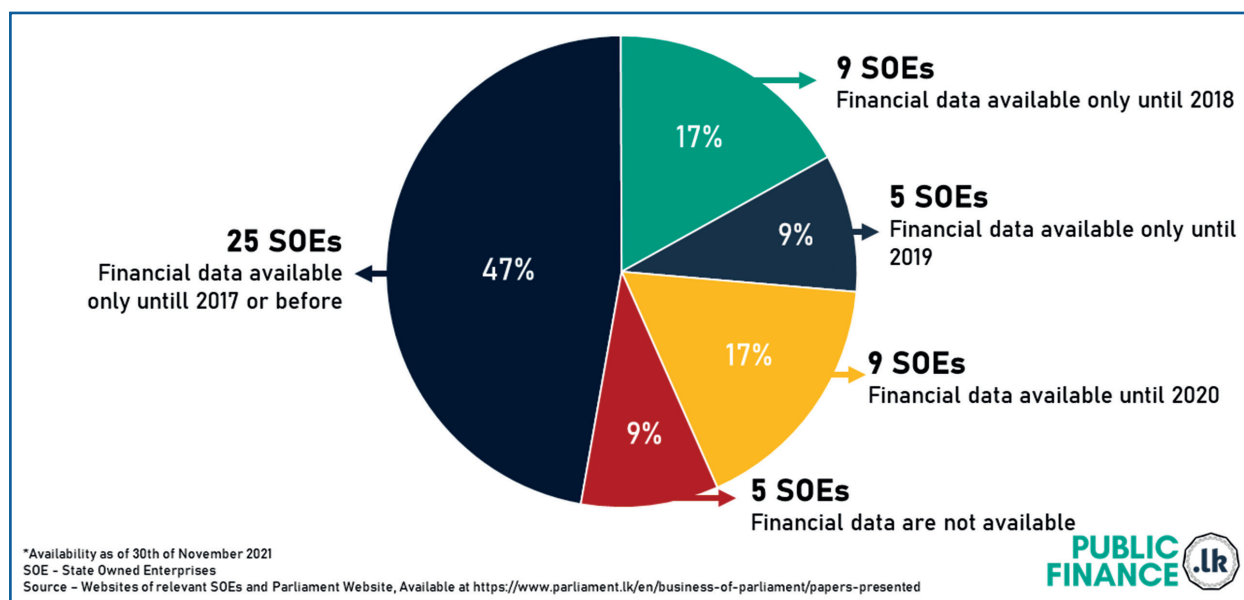


Figure 8.1 Availability of financial data of 52 State Owned Enterprises monitored by the Ministry of Finance. Source: Public finance.lk (Verite research) ⁴⁸⁸

8.3 The Ceylon Petroleum Corporation

According to the third report of the Committee on Public Enterprises (COPE), in 2018, the Ceylon Petroleum Corporation (CPC) alone made an enormous loss of LKR 105 billion. As of 20 April 2022, the total liability payable to the two State banks by CPC reached LKR 1,223.63 billion.

According to the Ministry of Power and Energy, some of the factors that have contributed to the heavy losses include⁴⁸⁹:

- selling fuel at a subsidised price
- high distribution costs incurred by the CPC
- the debt of Sri Lankan Airlines (USD 300 Million) and the Ceylon Electricity

488 <https://publicfinance.lk/en/topics/25-of-52-key-soes-identified-by-ministry-of-finance-do-not-have-financial-data-available-online-from-2017-onwards-1640065932>

489 <https://www.newscutter.lk/sri-lanka-news/ceylon-petroleum-corporations-losses-explained-05082022-45228/>

Board (LKR 60 Billion)

- paying high premiums for fuel while paying demurrage for delays with regard to payments made for fuel shipments.
- overstaffed, inefficient and overpaid management
- importing refined petroleum products rather than operating the refinery.

It is shocking that amidst an unprecedented economic crisis and severe hardships people face by people due to the high price of fuel, irregularities of procurement continue at the Ceylon Petroleum even in August 2022. The Sapugaskanda Oil Refinery routinely imports Murban and Siberian light crude oil, which can be purchased at USD 90-100 per barrel. According to media reports 220, 000 metric tons of crude oil are supposed to reach Sri Lanka in August 2022. The opposition has revealed that a minimum of USD 150 per barrel is being paid for Urais crude oil purchased from the United Arab Emirates- based Coral Energy Company when a barrel of less expensive crude oil can be purchased at less than USD 100. It is alleged that the Urals Russian oil has been procured through a third party due to some underhand dealings⁴⁹⁰. Why is President Ranil Wickremesinghe not issuing directives to rectify such irregularities? One can only hope that at the following general election, people will reject outright all politicians linked to such corrupt practices^{491 492}.

A Member of Parliament from the opposition (Samagi Jana Balavegaya) has lodged a complaint with the Criminal Investigation Department (CID) to investigate the irregular procurement activities of the CPC and the Ceylon Petroleum Storage Terminals Limited (CPSTL)⁴⁹³. The opposition also claims that the supply of jet fuel for aircrafts, which is mostly supplied by the Sapugaskanda Oil Refinery, is to be handed over to the Coral Energy Company. although by jet fuel supply the government has made profits of over USD 25 million per month.

490 <https://www.dailymirror.lk/opinion/Will-the-next-fuel-shipment-arrive-via-a-company-owned-by-a-Rajapaksa/231-240935>

491 https://www.dailymirror.lk/breaking_news/Kanchana-Ministry-involved-in-massive-corruption-Dayasiri-reveals/108-246289

492 https://www.youtube.com/watch?v=wdWjfPSfF_Q

493 <https://www.themorning.lk/sjb-alleges-corruption-in-crude-oil-procurement/>

8.4 The Sri Lankan Airlines

The loss of Sri Lankan Airlines Limited from the day it was taken over by the, was LKR 372 billion. According to official sources. as of 31 March 2021, Sri Lankan Airlines owed LKR 1.46 trillion to the two State banks. Ex-President Mahinda Rajapaksa ousted Emirates Airlines as managing shareholder and re-nationalized the airline ⁴⁹⁴, when the airline was unable to provide seats to the Sri Lankan President, and 35 officials who were travelling to Britain⁴⁹⁵. At the time Emirates left in 2008, LKR 4.4 billion profit had been reported⁴⁹⁶.

Unlike other international airlines, the Sri Lankan has failed to use pragmatic management strategies and restructuring to overcome the impact of the Covid-19 pandemic, rising costs of jet fuel and competition in the global market. Although the government inherited a profitable airline in 2008 with capable staff, systems and infrastructure, it has become a burden to the taxpayer and treasury due to mismanagement, politicisation and corruption. Since 2008, the Chairman and Board of Directors were appointed at times not based on professional expertise and experience but based on political patronage⁴⁹⁷. Further, Inconsistent hiring practices and a lack of transparency in selecting senior management were reported⁴⁹⁸. Presidents and their entourage used the airline for overseas visits and even to transport their pets,⁴⁹⁹ disrupting regular operations⁵⁰⁰. In addition,

The salaries of senior staff have become unsustainable⁵⁰¹. As observed by the COPE Committee, a senior management officer serving in Sri Lankan Airlines as on 31 March 2021 received a monthly salary of LKR 3.1 million and eighty-two receive a monthly salary of over LKR two million, another 142 pilots, twelve aeronautical engineers, nine engineering managers and three top management

494 <https://www.aljazeera.com/news/2008/1/16/emirates-to-sell-sri-lankan-stake>

495 <https://groundviews.org/2016/05/09/the-re-nationalisation-of-srilankan-airlines-and-the-follies-of-State-enterprise/>

496 <https://groundviews.org/2016/05/09/the-re-nationalisation-of-srilankan-airlines-and-the-follies-of-State-enterprise/>

497 <https://www.colombotelegraph.com/index.php/srilankan-airlines-a-tale-of-State-abuse-mismanagement/>

498 <https://economynext.com/srilankan-airlines-appointments-in-2017-ad-hoc-political-issues-cited-witnesses-11226/>

499 <https://www.colombotelegraph.com/index.php/gota-has-gone-to-the-dog-srilankan-airlines-and-a-puppy-dog-for-his-wife/>

500 <https://www.colombotelegraph.com/index.php/srilankan-airlines-a-tale-of-State-abuse-mismanagement/>

501 https://www.business-standard.com/article/international/sri-lanka-s-new-pm-to-sell-national-airline-print-money-to-pay-salaries-122051700177_1.html

officers of Sri Lankan Airlines receive a monthly salary of between LKR one million and LKR two million⁵⁰².

8.5 The Ceylon Electricity Board (CEB)

Sri Lanka uses hydropower, thermal power (diesel or coal), wind power and solar power to generate electricity for the national grid. The CEB and the private sector own these power stations.

The CEB was established in 1970 and was run at a profit until the mid-1990s. The CEB has become a burden on the treasury due to a lack of foresight, mismanagement and corruption⁵⁰³. During the last two decades, high-ranking politicians and their allies have become shareholders or owners of private Power Plants. During emergencies, power had also been purchased from Mini Electric power plants which are owned by CEB engineers. From 2010 to 2018, the number of such plants doubled to 181.

The electricity generation mix in the year 2019 comprised 34 per cent from coal, 30 per cent hydropower (including mini hydro), and 31 per cent from oil-powered plants, with the balance five per cent contributed by wind and other renewable energy sources. The total energy generation in 2019 was 15,922 GWh⁵⁰⁴. While the average unit cost of electricity generation was recorded as LKR 23.29/kWh in 2019, CEB provided electricity at an average unit price of LKR 16.63/kWh, which is one of the reasons for the very high operational loss.

To generate thermal power, CEB purchases fuel from the Ceylon Petroleum Corporation (CPC). The CEB owes the CPC LKR 91 billion. The CPC is in debt and owes LKR 652 billion to the Bank of Ceylon and the People's Bank⁵⁰⁵.

In June 2022, the Committee on Public Enterprises (COPE) decided to hold a special meeting to look into the power generation, procurement, distribution, and projects of the CEB. The COPE reported that 50 generators purchased in 2017 and 2018 at the cost of LKR 3,100 million were allegedly not functional at the time of

502 <http://www.adaderana.lk/news/75232/cope-reveals-srilankan-airlines-incurred-over-rs-372-billion-in-losses-since-govt-takeover>

503 <https://longform.watchdog.team/the-sri-lankan-powercut-saga-a-history-of-bad-decisions>

504 https://ceb.lk/front_img/img_reports/162849515303_CEB_English_2019_AR.pdf

505 <https://economynext.com/sri-lanka-cpc-demand-end-to-circular-debt-in-power-amid-forex-crisis-89637/>

purchase⁵⁰⁶. In addition, in 2021 the CEB increased the salaries of employees by 25 per cent incurring a cost of LKR 9.6 billion. The salary rise was based on a draft collective agreement not signed off by employers and unions. COPE also noted that various allowances have been paid to the staff with the approval of the Board of Directors contrary to the provisions of the Management Services Circulars. For example, LKR 2,134.9 million has been provided as allowances in 2021 and LKR 1,544.4 million in 2020⁵⁰⁷.

According to the Ceylon Electricity Workers Union, over 50 per cent of an electricity bill is due to wastage and corruption at the CEB. The leadership of the Union claims that politicians have charged LKR 300 000 to 500 000 and appointed thousands of people to posts at the CEB⁵⁰⁸.

Since its inception, the Public Utilities Commission of Sri Lanka (PUCSL), and the CEB have had a touchy relationship with each other hindering PUCSL from effectively monitoring the CEB. PUCSL has accused CEB engineers of purchasing electricity at higher rates. It is alleged that when the CEB buys electricity at higher rates, the party involved with the transaction gains a commission for facilitating the business⁵⁰⁹.

The engineers of the CEB have queried why the government isn't removing corrupt officials and business people of the PUCS, which is interfering with the independent running of the institution⁵¹⁰. They also state that certain groups within CEB are working to support a scheme that will profit the owners of private power plants.

8.6 The Lanka Sathosa

Lanka Sathosa, a State-owned retail network with over 445 outlets islandwide, is meant to retail goods at government-controlled prices for the benefit mainly of low-income households. According to a former director of the Consumer Affairs Authority, high-level officials at Sathosa, with political backing, manipulated

506 <https://www.dailynews.lk/2022/06/13/local/280762/cope-tells-auditor-general-report-cebs>

507 <https://www.newswire.lk/2022/06/23/cope-reveals-ridiculous-allowances-paid-at-ceb/>

508 <https://www.newsfirst.lk/2019/03/14/corruption-at-ceylon-electricity-board-exposed-over-50-of-an-electricity-bill-is-due-to-wastage-and-corruption/>

509 <https://www.advocata.org/commentary-archives/2019/07/29/a-light-at-the-end-of-cebs-50-year-tunnel-w8xrr>

510 <https://www.dailymirror.lk/expose/Mafia-Groups-Rule-The-Roost-at-CEB/333-151529>

a Cabinet directive meant to provide a steady supply of food items to Sathosa outlets⁵¹¹. the Criminal Investigations Department has not taken action although he had complained about corruption at Sathosa well over a year ago. He resigned from his post in September 2021 due to antagonism that followed after taking a stand against irregularities that were taking place⁵¹². More recent developments, in this case, raise serious concerns regarding the lack of protection given to whistleblowers⁵¹³.

In recent years Sathosa has been plagued by scandals. According to media reports, container loads of garlic and other food items meant to be delivered to Sathosa had been pilfered out from the Port and illegally sold to outside vendors⁵¹⁴. Further, data related to the garlic scam 'have been deleted from the computer database of Lanka Sathosa⁵¹⁵. In addition, a former minister of Co-operatives and Internal Trade was accused of allegedly acquiring more than LKR 5 million worth goods from 'Sathosa', without making any payments⁵¹⁶.

Recently Sathosa lost millions from a sugar scam. On 14 October 2020, the Rajapakse government issued a directive to lower the import tax on sugar. The special commodity levy on a kilogram of imported sugar was slashed from LKR 50 to LKR 0.25. Out of the sixty-seven companies importing sugar, one company imported an unusually high volume of sugar (more than 125 000 metric tons) in the next few months⁵¹⁷. The same company then sold more than 2000 metric tons of sugar imported under the LKR 0.25 levy to the State run Sri Lanka Sathosa for LKR 125.00 per kilogram. Sathosa then sold the sugar to the consumers at LKR 85 per kilogram⁵¹⁸. The loss to Sathosa is estimated at LKR102 million. While certain importers made huge profits as a result of the tax cut, the State lost revenue⁵¹⁹. Further, one company already had 7,608 metric tons of sugar in a bonded

511 <https://island.lk/lak-sathosa-garlic-scam-cid-murder-unit-intervenes/>

512 <http://www.adaderana.lk/news/77045/consumer-affairs-authoritys-executive-director-decides-to-resign>

513 <https://www.dailymirror.lk/opinion/Garlic-scam-at-Welisara-Sathosa-Warehouse-How-can-a-whistle-blower-become-a-suspect/231-230566>

514 <https://www.newsfirst.lk/2021/10/06/garlicscam-businessman-arrested-for-purchasing-garlic-in-a-fraudulent-manner/>

515 <https://www.themorning.lk/garlic-scam-computer-records-tampered-with-cid/>

516 <https://www.colombotelegraph.com/index.php/johnston-fernando-arrested-basil-further-remanded/>

517 <https://www.newsfirst.lk/2021/03/09/sugar-scam-cost-the-State-rs-15-9-bn-in-taxes/>

518 <https://www.newsfirst.lk/2021/03/15/sugar-scam-vs-bond-scam-the-similarities/>

519 <https://www.newsfirst.lk/2022/04/17/sugar-tax-scam-recover-loss-of-rs-16b-from-importer-audit-office/>

warehouse (without paying tax). On the day the tax was reduced, it released 7,468 metric tons to the market, paying the new rate of 25 cents a kilo, profiting from an immediate tax benefit of LKR 378mn⁵²⁰. The Parliamentary Select Committee and the National Audit Office investigated the sugar scam⁵²¹. The National Audit Office has recommended that the government recover the revenue due to the State from importers who made huge profits due to the tax cut⁵²². Will the citizens of Sri Lanka elect a government that will implement these recommendations?

8.7 Oversight of SOEs

Currently, 52 State-Owned business enterprises ⁵²³ are monitored by the Ministry of Finance. Eighty-seven SOEs with strong commercial aspects are monitored by the Department of Public Enterprises and 117 SOEs with non-commercial aspects are monitored by the National Budget Department⁵²⁴.

The Committee of Public Enterprises (COPE) is one of the oversight committees of Parliament. It is mandated to examine accounts, budgets and annual estimates, performance and management of corporations and business undertakings and report to Parliament. The accounts of these organizations are audited by the Auditor-General and form the basis of the COPE investigations. COPE has the power to summon before it any person and call for the examination of any record or other document. The COPE may refer specific cases to the Bribery Commission or courts but otherwise have few sanctioning powers. In the past COPE has levelled serious accusations of corruption and mismanagement at certain public enterprises. However, COPE is only responsible for identifying issues, but has no power to resolve them. The responsibility for acting on the COPE recommendations falls primarily on the Parliament. Parliament has the authority to order further investigations and compel Public Enterprises to act in accordance with Parliamentary conclusions. The Public Enterprise Department of the Ministry of Finance and Planning also has a vital role in this process.

520 <https://www.sundaytimes.lk/220410/news/excessive-sugar-imports-caused-dollar-drain-consumers-did-not-receive-benefit-of-tax-cuts-479572.html>

521 <https://www.newsfirst.lk/2021/03/09/sugar-scam-cost-the-State-rs-15-9-bn-in-taxes/>

522 <https://www.newsfirst.lk/2022/04/17/sugar-tax-scam-recover-loss-of-rs-16b-from-importer-audit-office/>

523 Treasury identifies State Owned Business Enterprises (SOBEs) as the SOEs engaged in business activities and generate revenue by way of sale of goods or services.

524 <https://www.youtube.com/watch?v=-fbK1taTBwc>

In 2007 and 2011, COPE Reports raised issues of corruption and mismanagement. They were tabled in Parliament and endorsed. The third report of the Committee on Public Enterprises (COPE), has also outlined a wide array of malpractice in SOEs, including tampering with financial Statements, exaggerated project valuations, unauthorised procurement, failing to collect outstanding debts, and perpetrating political victimisation. However, two COPE Chairmen (Sunil Hadunnetti⁵²⁵ and Charitha Herath⁵²⁶), strong advocates for reform of public enterprises were removed from their posts. President Ranil Wickremasinghe, when he was in the opposition highlighted the importance of senior members of the Opposition chairing two Parliamentary oversight committees, the Public Accounts Committee (PAC) and the Committee on Public Enterprises (COPE), to improve transparency in public matters⁵²⁷. Nevertheless, under his watch in 2022, COPE is not being chaired by a Member of the opposition⁵²⁸. Will this improve transparency in public matters⁵²⁹?

8.8 Restructure of SOEs

The government needs to consider privatizing some of the SOEs based on an in-depth study to assess risks and benefits systematically. Those that cannot be privatized need to be restructured and reformed so that they can be managed more efficiently and sustainably.

There are success stories related to the privatization of SOEs. In 1997, Sri Lanka Telecom (SLT) was privatized. It transformed Sri Lanka's telecom industry. Reports indicate that compared to before the privatization, business efficiency and the quality of telecom services improved after its privatization⁵³⁰.

Sri Lankan Airlines became a profitable airline when it was privatized in 1998. Forty per cent of its shares were sold to Emirates Airlines, which ran the management of the airline. In 2008, the final year in which Emirates operated the airline, it made a profit of LKR 4.4 billion.

Sri Lanka cancelled the work permit of Sri Lankan Airlines' British boss after the national carrier was unable to provide seats to President Mahinda Rajapaksa

525 <https://www.newsfirst.lk/2019/01/28/sri-lanka-would-function-better-without-politicians-mp-sunil-hadunnetti/>

526 <https://www.parliament.lk/en/committee-news/view/2602?category=33>

527 https://www.sundaytimes.lk/110213/News/nws_08.html

528 <http://www.adaderana.lk/news/85380/prof-ranjith-bandara-elected-new-cope-chairman>

529 <https://www.youtube.com/watch?v=TSRxoKu4jRs&t=6s>

530 https://www.jica.go.jp/english/our_work/evaluation/oda_loan/post/2007/pdf/te05.pdf

and his 35- member entourage returning from a private visit to the UK to watch his son's graduation from a naval college ⁵³¹. Aides had requested seats for the delegation and had been informed that flights were fully booked due to heavy holiday season demand. The airline had offered an alternate routing through the Middle East, which was rejected. Regrettably, in 2008 the emirates contract was also not extended and the airline was renationalized. Sri Lanka had to incur a massive loss as a result of this impulsive decision. Cumulatively Sri Lankan Airlines has lost Rs. 372 billion since 2008, including Rs. 44 billion in 2019, Rs. 47 billion in 2020, and Rs. 45 billion in 2021⁵³².

531 <https://www.reuters.com/article/us-srilanka-airline-idUSCOL14997120071219>

532 <https://www.advocata.org/commentary-archives/tag/Sri+Lankan+Airlines>

What is required for sustainable recovery?

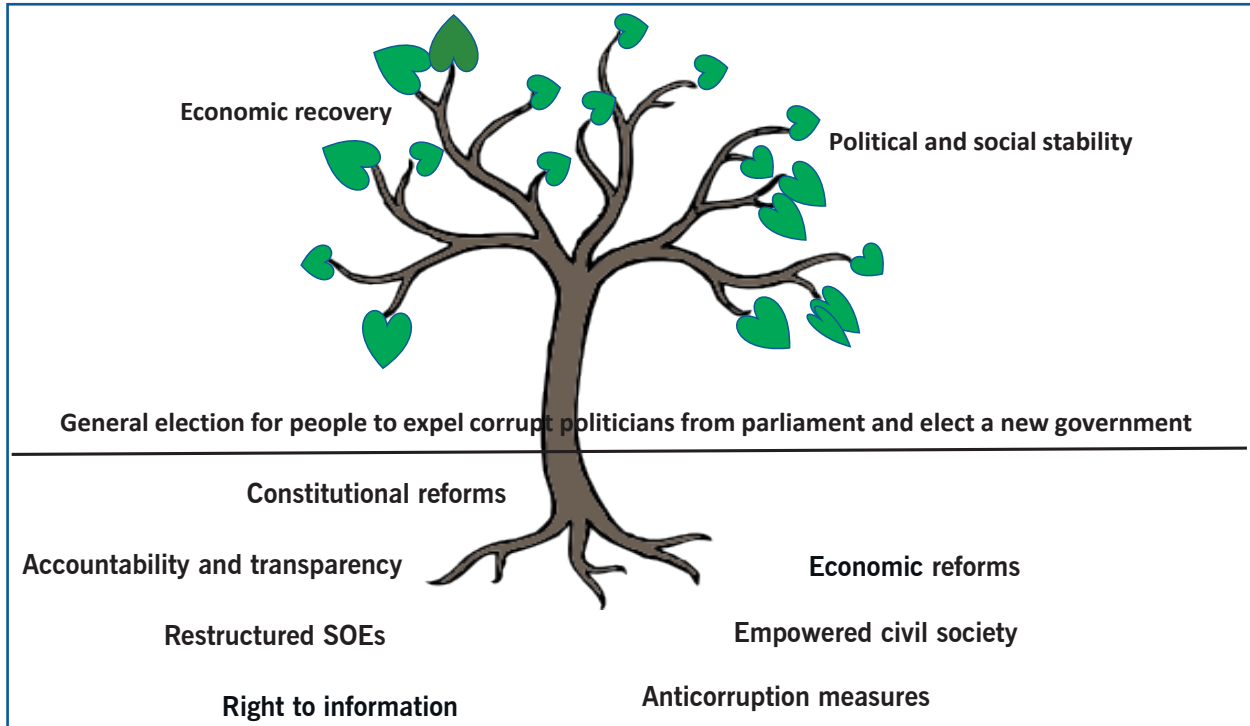


Figure 9.1. Reforms required for sustainable economic and socio-political recovery

9.1 The consequences of the economic and socio-political crisis

People should not underestimate the colossal harm to the nation caused by political leaders' irresponsible and dishonest behaviour⁵³³. The long-term damage goes beyond the destruction of the national economy. In 2021/2022, people in all communities and all walks of life faced acute hardship due to severe shortages of fuel, cooking gas, electricity, food, medicines and other essential items. Hundreds died directly or indirectly due to shortages or violence. Many deaths due to inadequate access to life-saving medicines and emergency medical care, and the consequences of malnutrition are unaccounted. The tremendous progress made over decades in achieving Universal Health Coverage is being upended. Primary Health Care facilities are already experiencing shortages in essential medicines and supplies.⁵³⁴ Almost 200 medical items are in shortage, including 76 essential,

533 <https://www.youtube.com/watch?v=tzjhoNxIZxo>

534 UNICEF, Accelerating progress towards Universal Health Coverage in South Asia, pg. 14.

life-saving drugs and essential surgical equipment. Those living below the poverty line (2.4 million) are affected the most by the loss of livelihoods, food shortages and escalating cost of essential items. Power cuts and the closure of schools and higher educational institutions have led to the disruption of education, and widening of inequalities.⁵³⁵ Yet some continue to shamelessly downplay the harmful impact for political gain and cheap popularity.

Sri Lanka was pushed to the brink of a humanitarian crisis with the International Federation of Red Cross and Red Crescent (IFRC) appealing for humanitarian assistance for 6.7 million people⁵³⁶ and the Food and Agriculture Organisation (FAO) and the World Food Program reporting that an estimated 6.3 million people faced acute food insecurity. Children are already paying the price of a crisis not of their making due to worsening poverty, food insecurity and deprivation. According to UNICEF, 15.7 per cent of children under five are suffering from malnutrition, and Sri Lanka currently has the second highest rate of severe malnutrition in South Asia⁵³⁷. Stunting is reported in 17 per cent and wasting in 15 per cent of children under 5 years of age. Thousands of children in Sri Lanka are at risk of dying from malnutrition-related causes⁵³⁸. Stunting in children will have detrimental long-term consequences for generations, due to poor cognition, low educational performance and productivity of affected children. Galloping inflation and political instability is driving significant numbers of youth, skilled workers, and professionals out of Sri Lanka,⁵³⁹ decimating the wealth of human capital built through years of investment in free education, free health care and social welfare.

Who is accountable⁵⁴⁰? Would this deplorable situation in the country come to pass if some parliamentarians, their families and supporters did not plunder the national wealth? The current parliament meets at the expense of the public and, instead of addressing corruption and mismanagement, wastes valuable time exchanging abuse and insults. Those responsible for the crisis are trying to erase the past and hold on to power based on denials and false promises. Political leaders can use external loans to import fuel, eliminate queues and mislead people that the economy has turned around. People must understand

535 <https://www.unicef.org/srilanka/press-releases/tackling-current-crisis-sri-lanka-put-childrens-needs-first> .

536 <https://www.ifrc.org/press-release/sri-lanka-brink-humanitarian-crisis>

537 <https://www.unicef.org/rosa/press-releases/devastating-crisis-children-sri-lanka-cautionary-tale-south-asia>

538 <https://www.voanews.com/a/thousands-of-children-in-sri-lanka-at-risk-of-dying-as-economic-crisis-worsens-/6612449.html>

539 <https://ihp.lk/publications/docs/SLOTSReport20210ENG.pdf>

540 <https://www.youtube.com/watch?v=ZioezKu08tQ>

that economic recovery will take many years.

9.2 The deep roots of the crisis

The deep roots of the crisis (Figure 9.1) are within the country and not in the COVID-19 pandemic or Russia's war in Ukraine. A succession of governments has contributed to the current situation, particularly after the introduction of the executive presidency. The executive presidency gave a single citizen unbridled powers weakening democracy. Only a few politicians are engaged in politics because they are genuinely interested in the welfare of the people as well as their own. Others make their way into parliament, giving unsustainable election promises to amass wealth for themselves. As explained in Chapters 2 to 8, using the unbridled powers of the executive presidency, they first remove the checks and balances of good governance, then pilfer national resources while stifling media freedom so that people will not know what is going on. This cycle has been repeated over the years violating the whole spectrum of human rights - from the rights to decent work and satisfactory standard of living and social security to access to justice, freedom of expression and the rights to participation, transparency and accountability. In recent years, a divided and weak opposition without a majority in Parliament has been ineffective in protecting Sri Lanka's fragile democracy. In mid -2022, masses protested, demanding a 'system change'. The government has responded by intimidating, arresting and incarcerating the leaders of the uprising⁵⁴¹. Hundred and seventy -five civil society organizations and activists have expressed concern about "ongoing attacks and violence against peaceful protestors" and 'disturbing developments of abduction, arrest, intimidation, and reprisals against protestors.'⁵⁴²

There is no doubt that the crisis was precipitated by short -sighted policies of the Gotabhaya Rajapakse Administration, including tax cuts and a ban on the import of chemical fertilizers in April 2021. However, the crisis evolved over decades, and its roots can be traced back to at least three dynamics, which unfolded over five decades. First is the repeated political tinkering of the constitution, starting in the late 1970s for selfish political motives. Successive amendments to the constitution weakened governance and blurred the vital separation of powers between the three branches of government; the Legislature, the Executive and the Judiciary (see Chapters 2 to 7). Second, during every election cycle, political parties

541 <https://www.ohchr.org/en/press-releases/2022/08/sri-lanka-un-human-rights-experts-condemn-repeated-use-emergency-measures>

542 Sri Lanka: Civil Society Statement on attacks and reprisals against peaceful protestors • Sri Lanka Brief.

garnered support and won elections using ethnicity, religion and language issues to pitch the Sinhala Buddhist majority against Tamil, Muslim, Hindu and Christian minorities, ultimately resulting in a protracted war which spanned nearly three decades. Third, human rights violations, including muzzling freedom of speech during the ethnic conflict, particularly during the Rajapakse administrations, normalized and entrenched a culture of nepotism, corruption and impunity.

9.3 Economic freedom

For three decades, the index of Economic Freedom⁵⁴³ published by the Heritage Foundation has measured the impact of liberty and free markets worldwide. Data have demonstrated that economic freedom has a positive relationship with individual empowerment and prosperity. Financial freedom is the fundamental right of every human to control their own labour and property. There are four broad pillars of economic freedom. A country's overall score is derived by averaging all of them.

Rule of Law (property rights, integrity, judicial effectiveness)

Size (spending, tax burden, fiscal health)

Regulatory Efficiency (business freedom, labor freedom, monetary freedom)

Open Markets (trade freedom, investment freedom, financial freedom)

As Sri Lanka embarks on a path to recovery, there are significant opportunities for improving the performance in all these factors that constrain economic growth and prosperity.

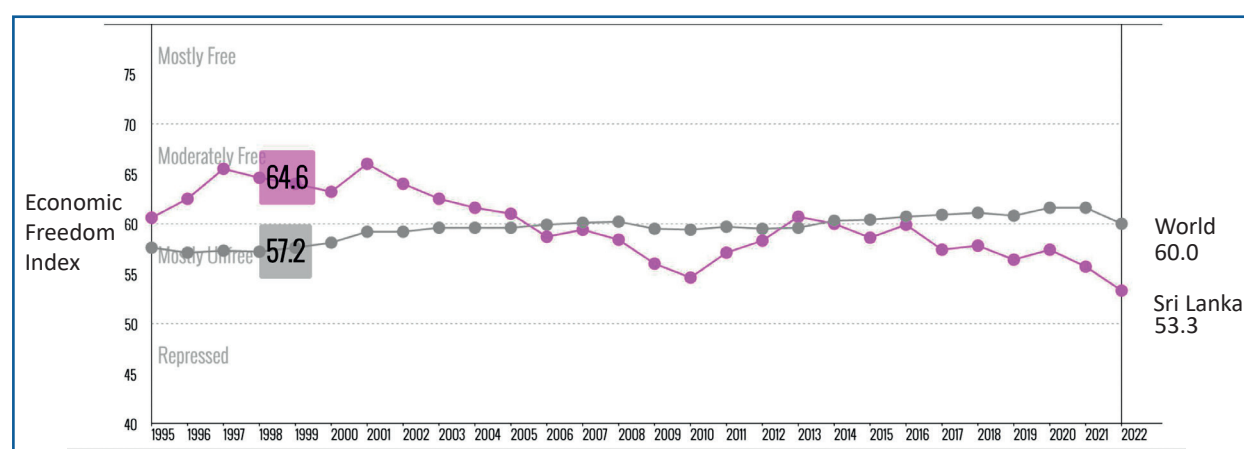


Figure 9.2. Overall score of economic freedom: Sri Lanka has an index of 53.3 compared with the world average of 60.0 in 2022.

543 <https://www.heritage.org/index/>

As shown in Figure 9.2, the economic freedom index of Sri Lanka has declined over the last decade compared to the world average. The world ranking of Sri Lanka is 132 while Singapore, Switzerland, and Ireland have a world ranking of one, two and three, respectively.

9.4 Sustainable recovery: considerable challenges

To be sustainable, recovery must ensure that all citizens in the multiethnic and multireligious society of Sri Lanka enjoy the full spectrum of human rights- civil, political, economic, social and cultural. In addition, there should be a national discourse to recognize the underlying factors that have contributed to the present national crisis and inherent problems of governance.

The people's protest movement has called for accountability for economic crimes, including corruption and abuse of power (see Chapter 1 Mass uprising in Sri Lanka in 2022). In the absence of credible domestic remedies, interested parties must resort to developments at the international level to advance accountability. The United Nations Human Rights Council has encouraged States to explore targeted sanctions against credibly alleged perpetrators of gross human rights violations and abuses in Sri Lanka.⁵⁴⁴ It recommends the use of all potential forms of jurisdiction, including universal jurisdiction, to investigate and prosecute crimes under international law committed in Sri Lanka. In addition, the expatriate community could play a critical role in supporting initiatives to strengthen and empower victims and civil society to meaningfully participate in the design and implementation of accountability processes.

Which ever government comes to power, it will have to focus on austerity policies as urgent measures to redeem the collapsing economy. Austerity measures may also threaten social solidarity and human rights protection. As the government negotiates an economic recovery plan, it must be guided by its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁵⁴⁵. Expert advice needs to be obtained to craft far- sighted fiscal and monetary policies to guarantee social protection while stimulating economic development: a considerable challenge.

544 Regarding sanctions and human rights, see CESCR's GC No. 8, paras. 11 ff.

545 CESCR open letter, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INTper cent2fCESCRper cent2fSUSper cent2f6395&Lang=en.

9.5 Radical reforms are needed for recovery

Recovery cannot be realized through short-sighted strategies aimed at safeguarding the power base of the incumbent president and 225 Parliamentarians⁵⁴⁶. On the contrary, sustainable recovery must ensure the well-being of 22 million by focusing on the following:

- Fundamental constitutional reforms
- A system to ensure accountability and transparency
- Restructuring of SOEs to improve efficiency and effectiveness
- Reforms for economic recovery
- Measures to empower the civil society
- Anti-corruption measures

9.5.1 Fundamental constitutional reforms

The economic and socio-political crisis in Sri Lanka unfolded under an Executive Presidential system reintroduced through the twentieth amendment to the Constitution in October 2020 (see Chapter 3 How constitutional amendments paved the way to a national crisis). As highlighted in the September 2022 report of the United Nations Human Rights Council, the 20th amendment eroded the independence of key commissions and institutions, including the Human Rights Commission of Sri Lanka, the Election Commission, the National Police Commission, the Commission to Investigate Allegations of Bribery or Corruption, and the judiciary.

The 22nd Amendment to the Constitution was passed in Parliament on 21 October 2022.

Passing the 22nd amendment was critical to obtain the indispensable support of the International Monetary Fund (IMF) and GSP+ trade concessions to Sri Lanka. Regrettably, it has not brought back the essence of the more progressive 19th Amendment. However, it is a step in the right direction. Foreign nationals or those with dual nationality are prohibited from entering politics. Some of president's powers have been shifted to the Constitutional Council, representing both government and opposition lawmakers and independent bodies such as the National Election Commission (NEC), the Public Service Commission (PSC), the

546 <https://lankasara.com/news/the-president-assures-better-housing-for-mps-who-have-been-affected-by-the-may-9th-raid-by-unruly-crowds/>

National Police Commission (NPC), the Human Rights Commission of Sri Lanka (HRCSL), the Commission to Investigate Bribery or Corruption (CIABOC), the Finance Commission and the Delimitation Commission. However, the President still has the power to control the appointment of seven of the ten members of the Constitutional Council, thereby undermining the independence of the institutions to which appointments are made through the Council. The amendment also allows the President to hold portfolios, appoint Ministers without the advice of the Prime Minister and dissolve Parliament early.

Critiques have labelled it the new amendment a *watered-down version of itself* which will *destroy whatever little remaining faith citizens might have in constitutional governance*⁵⁴⁷. More fundamental constitutional reforms are essential to strengthen safeguards for the effective separation of powers and devolution of political authority^{548 549}(see Chapter 3 How constitutional amendments paved the way to a national crisis).

9.5.2 A system to ensure accountability and transparency

As discussed in Chapter 7, weak accountability and transparency are deep seated causes of the present crisis. A system of accountability and transparency can promote improvements in how government works. Members of Parliament and Senior officials are democratically accountable to citizens to scrutinise the State Owned Enterprises and major government projects. Strengthening accountability requires a range of reforms to - improve transparency around the feasibility of major projects; provide stronger oversight of the SOEs and public service; and embed strong accountability arrangements to government policies and projects.

Parliamentary select committees are the ultimate form of scrutiny, checking the work of the government. Fundamental constitutional reforms referred to above should make them independent and unbiased (see Chapter 3 How constitutional amendments paved the way to a national crisis). They need adequate staff resources to perform proactive, persistent and long-term scrutiny, including through the use of information generated from feasibility assessments. Earlier scrutiny would prevent issues from developing into crises solved by punishing those perceived to be responsible. Instead, early scrutiny enables those responsible

547 <https://economynext.com/sri-lankas-gazetted-22nd-amendment-bill-is-a-diluted-version-of-itself-cpa-96704/>

548 <https://groundviews.org/2022/04/22/a-brief-response-to-the-current-national-crisis-a-way-forward/>

549 <https://www.colombotelegraph.com/index.php/on-22nd-amendment-to-the-constitution/>

to learn from their mistakes, and correct the course of action.

9.5.3 Restructuring of SOEs to improve efficiency and effectiveness

As discussed in Chapter 8, many State-owned enterprises (SOEs) are running at massive losses⁵⁵⁰. From 2006 to 2020, the loss adds up to a total of Rs. 1.2 trillion placing a massive burden on public finances⁵⁵¹. As of 2019, the losses from SOEs have been estimated to be greater than the national expenditures on education and health combined⁵⁵². Further, although supported by the treasury, the majority of SOEs do not make their financial information public raising serious questions regarding transparency. They borrow from each other and from the two State-owned banks- Bank of Ceylon and Peoples Bank, with no concrete plans to repay the loans. The SOEs in Sri Lanka need to be restructured to address a plethora of weaknesses- high labour costs, mismanagement, lack of audits, inefficiency, corruption and overstaffing through directives of politicians. Institutionalizing transparency and public accountability should be a major component of the restructuring. Privatisation of SOEs which are running at a loss, needs to be explored in collaboration with trade unions in a manner that does not unfairly favour those with political connections. The plans of the present government to privatise profit-making enterprises such as Telecom and Insurance corporation are irrational^{553 554 555}.

550 The State of State Owned Enterprises <https://www.advocata.org/State-enterprise-srilanka>

551 <https://www.dailynews.lk/2021/12/13/business/267142/State-owned-enterprise-losses-mount-staggering-rs-12-trillion>

552 <https://thedi diplomat.com/2022/07/sri-lankas-State-owned-enterprises-are-a-big-part-of-its-economic-problems/>

553 <https://island.lk/sjb-condemns-move-to-privatise-profitable-state-ventures/>

554 <https://www.consultants21.com/pdf/On%20Sri%20Lanka%20Telecom%20Privatization/1-9.11.1997%20-%20Monopoly%20by%20Nippon%20giant%20NTT.pdf>

555 <https://island.lk/alleged-privatisation-of-slic-slt-slpp-rebel-slams-govt-demands-restructuring-of-loss-making-ventures/>

Table 9.1 Key macroeconomic indicators of Sri Lanka (2019 to 2024)

	2019	2020	2021	2022 e	2023 f	2024 f
Real GDP growth, at constant market prices	-0.2	-3.5	3.3	-9.2	-4.2	1.0
Private Consumption	3.8	-5.8	6.2	-9.8	-4.0	1.1
Government Consumption	6.6	3.6	3.1	-9.4	-2.2	-2.9
Gross Fixed Capital Investment	-12.1	-9.1	9.6	-16.0	-6.3	1.5
Exports, Goods and Services	1.7	-29.6	10.3	1.8	1.9	2.0
Imports, Goods and Services	-3.5	-20.1	4.1	-9.9	0.4	0.6
Real GDP growth, at constant factor prices	0.4	-3.0	4.0	-9.2	-4.2	1.0
Agriculture	0.5	-1.4	2.5	-9.0	2.4	1.5
Industry	-4.1	-5.3	5.6	-11.2	-5.7	1.0
Services	2.9	-1.9	3.3	-8.2	-4.2	0.9
Inflation (Consumer Price Index)	4.3	4.6	6.0	45.6	23.8	8.0
Current Account Balance (% of GDP)	-2.1	-1.4	-3.8	-1.4	-0.7	-0.4
International poverty rate (\$2.15 in 2017 PPP)^{a,b}	1.0	1.5	1.5	6.1	6.8	6.7
Lower middle-income poverty rate (\$3.65 in 2017 PPP)^{a,b}	11.3	12.7	13.1	25.6	28.2	27.7
Upper middle-income poverty rate (\$6.85 in 2017 PPP)^{a,b}	49.3	50.0	51.2	65.4	67.6	67.3
GHG emissions growth (mtCO₂e)	5.2	0.1	4.4	-9.8	-4.7	2.5
Energy related GHG emissions (% of total)	70.2	71.4	71.9	68.8	67.1	67.7

Source: World Bank, Poverty & Equity and Macroeconomics, Trade & Investment Global Practices. Emissions data sourced from CAIT and OECD.
Notes: e = estimate, f = forecast. Poverty data are expressed in 2017 PPP, versus 2011 PPP in previous editions - resulting in major changes. See pip.worldbank.org
(a) Calculations based on SAR-POV harmonization, using 2019-HIES. Actual data: 2019. Nowcast: 2020-2022. Forecasts are from 2023 to 2024.
(b) Projection based on microsimulations for 2020-2022. Projections for 2023-2024 using neutral distribution (2022) with pass-through = 0.87 (Med (0.87)) based on GDP per capita in constant LCU

9.5.4 Reforms for economic recovery

As shown in table 9.1, the World Bank expects the economy to contract in 2022 (-9.2 per cent) and 2023 (-4.2 per cent). Economic recovery requires a coordinated macro-economic policy framework targeting growth⁵⁵⁶. The policy framework must align monetary policy, fiscal policy, industrial policy and export policy (see Chapters 2 and 6)^{557 558 559}. Currently, low levels of Foreign Direct Investment and low revenue from exports and remittances cause difficulties in raising at least USD 5 billion a year in fresh credit required to repay the public debt. The gross debt of Sri Lanka in 2020 (the total of all sums of money that have to be paid to other countries, communities or institutions) is USD 82 billion, USD 3740 per capita⁵⁶⁰. The persistent twin deficit problem of the economy highlights the importance of addressing the Balance of Payment issues (Figure 9.2) on a sustainable basis. Therefore, it is imperative to develop and implement national policies free from changing political regimes, aiming at reducing the external current account deficit and budget deficit to a manageable level.

556 <https://www.adb.org/sites/default/files/publication/373316/sri-lankan-economy.pdf>

557 <https://www.dailymirror.lk/opinion/Money-printing-does-not-lead-to-inflation-Dr-Kenneth-de-Zilva/172-207875>

558 Talal Rafi and Brian Wong. <https://thedi diplomat.com/2022/07/the-deep-roots-of-sri-lankas-economic-crisis/>

559 <https://www.youtube.com/watch?v=RPgQgmbhw1M>

560 <https://www.worlddata.info/asia/sri-lanka/debt.php>

Current account records the value of the flow of goods, services and income between Sri Lanka and the rest of the world.

Trade balance records the value of goods and services that Sri Lanka exports less those that it imports.

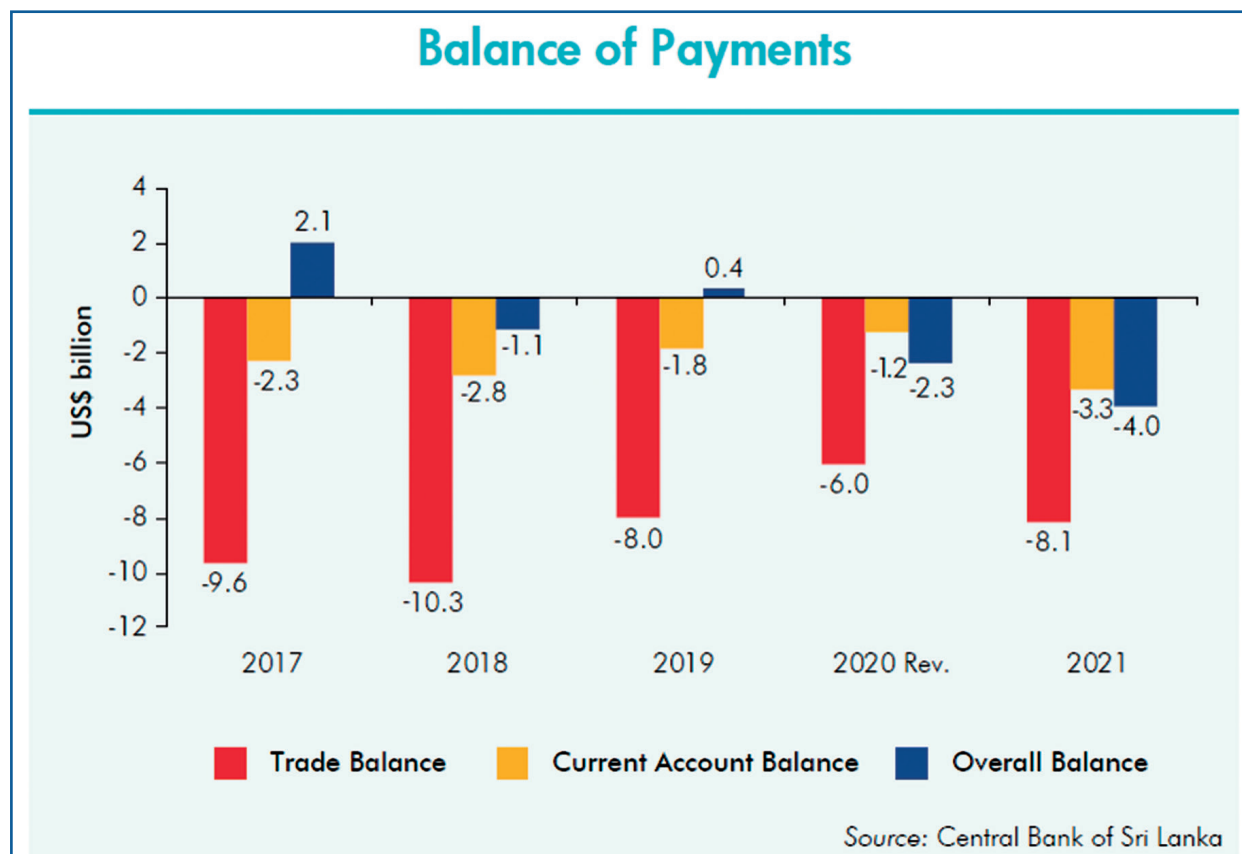


Figure 9.3. Balance of Payments 2017 to 2021

IMF has recommended a *data-driven monetary policy, fiscal consolidation, phasing out monetary financing, and strong central bank autonomy to restore price stability and allow for a flexible inflation targeting regime. As well, restoring the market-determined and flexible exchange rate to restore foreign exchange reserves.*

Economic reforms proposed include the following:

- i. *Restructuring State-Owned Enterprises to achieve fiscal discipline and to minimize fiscal risks arising from them (see Chapter 8 Mismanagement of the State-Owned Enterprises)*
- ii. *Reforming tax policies and to widen the tax base (see Chapter 2 What caused the economic crisis?)*
- iii. *Shifting towards an export-oriented economy.*
- iv. *Encouraging entrepreneurship.*

In August 2022, the government increased main taxes, moving halfway back to the tax rates that prevailed before 2020⁵⁶¹. At present, the bulk of Sri Lanka's revenue comes from indirect taxes. Less than 2 per cent of revenue is through direct taxes and, only 1 per cent of the population comes under the requirement to pay income taxes. The Inland Revenue Services Union has sent a proposal to the president proposing pragmatic measures that can be taken to deliver an improved tax harvest of LKR 1,200 billion per year.

The central bank under the leadership of the new Governor Dr P Nandalal Weerasinghe has undertaken a wide range of policy interventions to steer the economy to transition towards a path of stable and sustainable growth over the medium term⁵⁶².

Sri Lanka has a very low presence of entrepreneurs in the market, numbering less than 3 per cent of the population. In comparison, the total early -stage entrepreneurial activity in the ASEAN is at 19 per cent ⁵⁶³. The growing youth populations and increasing urban middle- class consumers come together to create an environment full of opportunities for the growth of entrepreneurship in Sri Lanka⁵⁶⁴. However, more needs to be done by the government to promote entrepreneurship, including providing easy access to entrepreneurial finance, prioritizing entrepreneurship through government policy and tax concessions, providing entrepreneurial education for school leavers, providing affordable commercial, physical and professional Infrastructure and facilitating ease of entry to markets.

A shift toward an export-oriented economy requires proactive changes, including reduced import tariffs to make raw materials cheaper for export-based companies, free trade agreements with regional partners, and taking regulatory and anti-corruption measures to improve consumer and investor confidence.

The youth of Sri Lanka need to be engaged, supported and encouraged to contribute to economic growth. Instead, in recent weeks, the government has launched a police witch hunt against activists and non-violent protesters -mostly youth –arresting some, and filing court cases—in a move to silence future protests and protect the careers of politicians. Such repression of the younger generation violating their fundamental human rights will only divert the spirit and innovative energy of Sri Lankan youth into clandestine movements that will worsen the

561 <https://economynext.com/sri-lanka-key-tax-changes-top-personal-tax-rate-34-pct-companies-30-pct-95004/>

562 <https://www.youtube.com/watch?v=jBfWaYLuuiA>

563 <https://www.gemconsortium.org/>

564 <https://www.youtube.com/watch?v=kzXmD4VNoCk>

nation's plight.

9.5.5 Measures to empower the civil society

The broader civil society (organized groups and institutions that are independent of the State, including independent mass media, think tanks, non-government organizations, social and religious groups), have a pivotal role to play in supporting the recovery⁵⁶⁵. To be effective, they need to retain their independence and accommodate diversity in their strategies. Civil society should be empowered and resourced to advocate for democracy through the education of the public at grass root level on human rights and obligations of citizens. Civil society also needs to check and monitor corruption, abuse of power and violation of human rights including freedom of expression and access to information. The government needs to set up channels for social dialogue to take civil society's views into account in policy-making and anti-corruption mechanisms. Government should also ensure media freedom and timely access to key financial information to enable civil society to monitor and provide oversight.

The broader civil society, including the independent mass media, has an important role for disseminating information to the public so that politicians will not be able to get elected on promises that ruin the economy. For example, to win elections at any cost, politicians have repeatedly made untenable election promises to the masses that drive up spending and national debt⁵⁶⁶. In the 2019 presidential election campaign, Gotabaya Rajapaska, from the Sri Lanka Podujana Party, promised free fertilizer, commodity price support and loan write-offs. Sajith Premadasa from the Samagi Jana Bala Wegaya promised to start another project to support the people under the "Samurdhi" scheme," . As usual, neither presented the costs of implementing such promises and the impact on the national economy. In the past, subsidized rice, low-priced flour, public sector salary increases, and many other populist promises have been made to hoodwink the masses and win elections. The media should aggressively monitor corruption among politicians. Citizens should also be provided information and insight on corruption so that politicians guilty of pilfering national resources will not be re-elected⁵⁶⁷.

565 <https://www.google.com/search?q=manju+nissanka+and+singularity+sri+lanka&oq=manju+nissanka+and+singularity+sri+lanka&aqs=chrome..69i57j33i160l4.13450j0j7&sourceid=chrome&ie=UTF-8#fpState=ive&vld=cid:018eaede,vid:l613ZQuFYfs,st:0>

566 <https://economynext.com/gota-sajith-election-promises-freebies-to-boost-sri-lanka-State-spending-28258/>

567 <https://www.youtube.com/watch?v=tzjhoNxIZxo>

9.5.6 Anti-corruption measures

Sri Lanka has absolutely no hope of recovery unless inroads are made into the prevention of high-level corruption,^{568 569} particularly among the political elite^{570 571} and the network of supporters who benefit from the corrupt set-up^{572 573 574} (see Chapter 4 Systemic corruption contributed to the crisis).

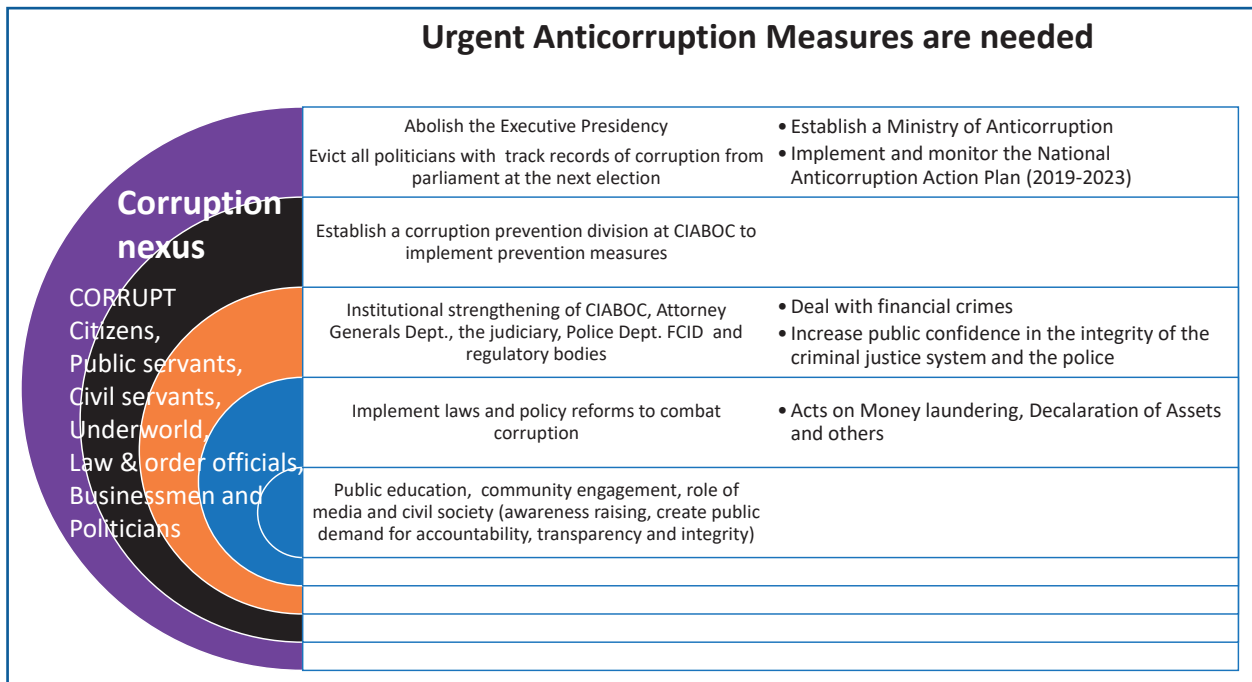


Figure 9.4. Sri Lanka cannot recover without dismantling the corruption nexus

568 <https://www.colombotelegraph.com/index.php/after-darkness-at-noon-deception-in-daylight/>

569 <https://www.youtube.com/watch?v=ykc-ra4ogmM>

570 Karl Schultz. A powerful dynasty bankrupted Sri Lanka in just 30 months <https://www.bloomberg.com/news/features/2022-04-27/the-powerful-rajapaksa-dynasty-bankrupted-sri-lanka-in-just-30-months>

571 <https://lankasara.com/news/thilini-priyamali-has-used-two-ministers/>

572 <https://srilankabrief.org/corruption-ranil-wickremasinghe-vs-shiral-lakthilaka/>

573 <https://www.newswire.lk/2022/10/10/indictments-served-on-johnston-over-lanka-sathosa-case/>

574 <https://www.themorning.lk/wijeyadasas-chamber-appearing-for-thilini-questioned-in-court/>

Corrupt political regimes in Sri Lanka have interfered with judicial independence⁵⁷⁵ and promoted weaknesses in the legal profession and the rule of law⁵⁷⁷. In recent years, the government has suppressed investigative reporting and the judiciary to cover-up corruption and protect controversial State projects (see Chapter 5 murder of Lasantha Wickrematunge and impeachment of the Chief Justice).

The best assistance the international community can give Sri Lanka is help in establishing, institutionalizing and monitoring strong anti-corruption strategies. All aid, loans, grants and assistance should be conditional to effectively implementing anti-corruption measures. Although all Parliamentarians and politicians are not corrupt, too many thrive on corruption at national and local levels of government^{578 579}. It is not realistic to expect citizens to fight corruption only at national elections by voting for politicians with integrity. Corrupt politicians who have amassed wealth through fraudulent means are known to buy-off poorly informed citizens' votes⁵⁸⁰. Sri Lanka also needs laws which forbid members of the same family from contesting elections and holding Ministerial positions.

The IMF bailout of 2.9 billion dollars is contingent on Sri Lanka implementing structural reforms to reduce corruption vulnerabilities. The IMF and the World Bank have successfully established various measures to root out corruption in developing countries helping them to save millions of dollars. Sri Lanka needs to adopt some of these measures. Examples include⁵⁸¹:

- *Reform to improve oversight, monitoring and transparency of public procurement systems*
- *Data analytics systems to monitor the performance of courts and court personnel*
- *Publication of user-friendly Citizen's Budgets and online portals for accessing expenditure information*
- *Participatory platforms to convene stakeholders and identify and follow up on specific anti-corruption actions, to improve integrity and governance and*

575 <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lanka-s-judiciary-politicised-courts-compromised-rights>

576 <https://srilankabrief.org/the-unp-and-the-judiciary-and-ranil-wikremasinhas-legacy/>

577 <https://gsdrc.org/document-library/sri-lankas-dysfunctional-criminal-justice-system/>

578 <https://www.youtube.com/watch?v=VpUePeipaBE>

579 <https://www.seu.ac.lk/researchandpublications/symposium/3rd/Social%20Sci/Accountability,%20Transparency.pdf>

580 <https://www.colombotelegraph.com/index.php/rws-tax-hike-welcome-but-much-more-to-be-done-to-come-out-of-the-crisis/>

581 <https://www.worldbank.org/en/topic/governance/brief/anti-corruption>

International donor advisory committees

- *Systems for disclosure of income, assets and conflicts of interest as public accountability tools to create a culture of scrutiny that deters corruption.*
- *Artificial Intelligence System to identify red-flags of potential fraud in public procurement processes*

In April 2022, in a letter to IMF Managing Director, Human Rights Watch made many recommendations critical for making inroads to control corruption, restoring the rule of law and accountability⁵⁸². At a minimum, the IMF and the World Bank support need to be conditional to the effective implementation of the following recommendations of the Human Rights Watch.

- *Include reforms to restore the independence of institutions, including the judiciary, auditor general, attorney general, and the CIABOC, which are key for economic growth and fighting corruption.*
- *Engage closely with civil society organizations to devise measures that will make the government accountable to the public for its use of resources, and ensure a role for civil society groups in monitoring the program's implementation.*
- *Require the Sri Lankan government to restore independent and impartial investigations into corruption allegations and appropriately prosecute those responsible, which is possible under the provisions of the Monetary Law Act of 1950 and the Fiscal Responsibility Management Act⁵⁸³*

9.6 Does the present government have the mandate to steer Sri Lanka to recovery?

It is vital to address all underlying factors contributing to the economic crisis, including embedded impunity for past and present human rights violations, financial crimes and endemic corruption⁵⁸⁴. A few thousand corrupt individuals and their families with power and wealth are responsible for the immense suffering of 22 million people, particularly the vulnerable and disadvantaged. Yet,

582 Letter to IMF Managing Director Re: Economic Crisis in Sri Lanka
<https://www.hrw.org/news/2022/04/04/letter-imf-managing-director-re-economic-crisis-sri-lanka>

583 <https://island.lk/ranawaka-its-possible-to-prosecute-those-who-bankrupted-country/>

584 <https://www.ohchr.org/en/press-releases/2022/09/sri-lanka-critical-juncture-un-report-urges-progress-accountability>

amid a crippling economic crisis, the focus of the incumbent President and the Parliament that elected him^{585 586}, is on compensating politicians^{587 588}, suppressing the freedom of expression of people^{589 590 591 592 593} and diverting attention from the national crisis to climate change⁵⁹⁴.

A 'system change' will not be achieved by merely constituting a National Council⁵⁹⁵ and appointing many of the same politicians. The recently adopted 22nd amendment to the constitution bill is also inadequate to change the system because it neither curtails the president's powers nor introduces measures for improving governance⁵⁹⁶. Conditions are unlikely to improve as long as leaders and parliamentarians linked to corruption, violation of human rights, and mismanagement continue to govern Sri Lanka⁵⁹⁷. Most interventions are geared mainly to further their political careers. Parliament has already blocked two specific proposals made by the Chairman of the Committee on Public Enterprises (COPE) to enable the Parliamentary Watchdog Committee to engage the Attorney General in high-profile corruption cases directly⁵⁹⁸. Further, although the government claimed that it has been applying a de facto moratorium to the Prevention of Terrorism Act since March, student leaders who supported protest movements were detained under the same act on 18 August 2021⁵⁹⁹.

585 <https://www.aljazeera.com/news/2022/7/20/sri-lanka-protesters-reject-new-president-ranil-wickremesinghe>

586 <https://www.youtube.com/watch?v=1p4d6P-GrHw>

587 <https://srilankabrief.org/prez-ranil-rajapaksa-govt-to-pay-rs-117-million-as-compensation-to-victims-of-pm-ranil-wickremasinghes-2015-2019-govt/>

588 <https://www.hrw.org/news/2022/09/08/sri-lankan-government-appoints-alleged-rights-abusers>

589 <https://www.colombotelegraph.com/index.php/president-ranil-wickremesinghes-time-machine/>

590 <https://island.lk/the-real-ranil-report-and-aragalaya-3-0/>

591 <https://www.youtube.com/watch?v=ayXPeWCELvQ>

592 <https://www.youtube.com/watch?v=1p4d6P-GrHw>

593 <https://www.youtube.com/watch?v=nIX34PQqvp4>

594 <https://www.youtube.com/watch?v=CZYBuVZJ4yc>

595 <https://www.newsfirst.lk/2022/09/20/national-council-resolution-passed-without-vote/>

596 <https://economynext.com/sri-lankas-gazetted-22nd-amendment-bill-is-a-diluted-version-of-itself-cpa-96704/>

597 <https://www.hrw.org/news/2022/09/08/sri-lankan--appoints-alleged-rights-abusers>

598 <https://island.lk/parliament-rejected-two-anti-corruption-propoals/>

599 NV 186/22, page 10.

In the 6 September 2022 report, the Human Rights Council warned that the accelerating militarization of civilian functions undermines democratic institutions in Sri Lanka⁶⁰⁰. Between 2020 and 2022, Gotabhaya Rajapaksa appointed more than 28 serving or former military officers in ministries.⁶⁰¹ ⁶⁰²In 2022, the Defence Ministry had the highest expenditure allocation (1.86 billion, 15 per cent of total expenditure). In comparison, the Health Ministry allocation was reduced to only 790 million, despite the COVID-19 pandemic.⁶⁰³ The report expresses concern that President Ranil Wickremesinghes' administration continues to rely on military appointees and involve the military in law enforcement. Further, 42 entities, including the National Dangerous Drugs Control Board, Telecommunication Regulatory Commission and Sri Lanka Telecom, have been brought back under the oversight of the Ministry of Defence.⁶⁰⁴ The report notes that the NGO Secretariat, which has an important role in civil society registration and oversight, has also been moved back from the Ministry of Foreign Affairs to the Ministry of Public Security.

The \$2.9 billion IMF bailout for Sri Lanka would be disbursed through a 48-month Extended Fund Facility. The IMF's executive board will approve the bailout based on the implementation of agreed reform actions, and on mapping out a sustainable debt repayment path⁶⁰⁵ ⁶⁰⁶ with creditors including China, India and Japan. Sri Lanka's total foreign currency debt is USD 38.7 billion which includes USD 13 billion in international sovereign bonds.

As highlighted by Peter Breuer, the IMF's senior mission chief for Sri Lanka, the IMF-supported economic program aims to "protect the vulnerable and step-up structural reforms against corruption, and unlock Sri Lanka's growth potential in the time ahead⁶⁰⁷." Although the IMF bailout is critical and can bring back macroeconomic stability and debt sustainability, much more revenue needs to

600 <https://undocs.org/Home/Mobile?FinalSymbol=Aper cent2FHRCper cent2F51per cent2F5&Language=E&DeviceType=Desktop&LangRequested=False>

601 A/HRC/46/20, para 22.

602 <https://www.lowyinstitute.org/the-interpretor/curious-case-us-sri-lanka-sanctions>

603 Appropriation Bill for 2022: Defence gets highest allocation; Health reduced - The Island.

604 Extraordinary Gazette No. 2288/24.

605 <https://www.imf.org/en/Videos/view?vid=6311706270112>

606 <https://www.imf.org/en/News/Articles/2022/04/23/pr22129-IMF-Team-Statement-on-Sri-Lanka>

607 <https://www.google.com/search?q=peter+breuer+and+IMF+and+SRI+Lanka+and+youtube&oq=peter+breuer+and+IMF+and+SRI+Lanka+and+youtube&aqs=chrome..69i57j33i160l2.15936j0j7&sourceid=chrome&ie=UTF-8#fpstate=ive&vld=cid:f464c146,vid:aWVYyruOyqA>

be generated by the government for economic recovery. If the 2023 budget had tangible plans to expand the government's revenue while reducing expenses, Sri Lanka could have realized its dreams for recovery. The 2023 budget addresses a few reforms, such as raising tax revenue, preserving central bank independence and promoting fiscal discipline. However, the budget lacks targeted policies to curb corruption, adequately increase government revenue, and rebuild confidence inside and outside Sri Lanka⁶⁰⁸.

9.7 Opportunity for reforms: What can citizens do?

So, despite the rhetoric, the incumbent government's policies appear to reflect continuity with the past⁶⁰⁹. Therefore, in the interest of Sri Lanka's sustainable recovery, IMF should stringently monitor government actions to address the economy, corruption and human rights.

People need to understand that only a set of educated political leaders with integrity will bring about meaningful change in Sri Lanka. Therefore, the protest movement and broader civil society must continue the call for early elections for a renewed democratic mandate⁶¹⁰.

The present crisis, dreadful though it is, has a silver lining. It has exposed the depth of corruption and mismanagement among politicians and their networks and its drastic impact on the country. It provides a unique opportunity to transform Sri Lanka into a vibrant democracy based on accountability, the rule of law, non-discrimination and respect for human rights. This can be realized only through the education of the public and the active engagement of civil society. Fundamental reforms are required for a "system change" demanded by the Peoples Protest movement (*Aragalaya*)⁶¹¹.

The current crisis also provides an opportunity to build a strong and resilient economy. However, Sri Lanka is not facing a temporary liquidity shock that another external loan can resolve. There is a danger that corrupt politicians could mislead the people into thinking that Sri Lanka's economy has recovered because there are no fuel queues. Profound and permanent structural reforms are necessary to turn round the economy.

Lankan citizens have the right to vote for the president, the prime minister and the members of parliament. Citizens, therefore, have the power to bring about a

608 <https://economynext.com/analysts-view-on-sri-lankas-2023-budget-102821/>

609 <https://www.lankaenews.com/news/3539/en>

610 <https://www.youtube.com/watch?v=VAP1WHm1EVc>

611 <https://www.youtube.com/watch?v=TSTS5902iAc>

SYSTEM CHANGE using their voting rights to select educated politicians with no track records of corruption and abuse of power. All Sri Lankans, including those who live and work outside Sri Lanka, need to do more to support educated, honest political leaders so that they can replace corrupt politicians at the next general election and shape the destiny of Sri Lanka.

Finally, all who genuinely care about the future of Sri Lanka must do more to support SYSTEM CHANGE. The opportunity will come at the next general election. Corrupt politicians and their allies have amassed enough wealth to finance ruthless election campaigns and to buy votes making the conduct of free and fair elections, a major challenge. This process has already started. People at the grassroots level (many have no access to the internet or mass media) need to be provided information and insight so that they will use their vote to elect honest and capable political leaders. Further, data show that women are underrepresented at all levels of decision-making in Sri Lanka. More women need to take up politics because there is established evidence that women's leadership in political decision-making improves them.

SYSTEM CHANGE was one of the main demands of GOTAGOGAMA, the people's protest. To realize this change, Sri Lankans of all ethnic groups (Sinhalese, Tamil, Muslim, Burgher) and religious denominations (Buddhist, Hindu, Catholic, Christian and Islam) must unite as they did during the *Aragalaya*. The long road ahead to recovery is full of challenges. Democracy has not fully delivered its promise and is fragile. Moreover, the lack of accountability in government is eroding people's trust. However, there is hope in the horizon because many Sri Lankans continue to speak fearlessly through media and non-violent public protests⁶¹² despite ruthless efforts to hide the truth: *'Truth never dies, it only gets stronger with time'*.

612 <https://www.yamu.lk/highlights/7-things-you-should-know-about-gotagogama/>

Democracy will not come
Today, this year
Nor ever
Through compromise and fear.

I have as much right
As the other fellow has
To stand
On my two feet
And own the land.

I tire so of hearing people say,
Let things take their course.
Tomorrow is another day.
I do not need my freedom when I'm dead.
I cannot live on tomorrow's bread.

Freedom
Is a strong seed
Planted
In a great need.

I live here, too.
I want freedom
Just as you.

Democracy by Langston Hughes

Other books by this author

1. The COVID-19 Story (CoronaVirus Disease 2019) : No one is safe unless everyone is safe; Prevent the next pandemic. 2020. Shanthi Mendis. 978-2-8399-3090-1 (e book)
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Shanthi Mendis graduated from the Faculty of Medicine, University of Peradeniya, with First Class Honours in 1974. She was the former senior adviser on noncommunicable diseases at the World Health Organization, Geneva, Switzerland for two decades. She was Professor of Medicine, Faculty of Medicine, University of Peradeniya and Consultant, Teaching Hospital Peradeniya before being recruited to the World Health Organization on a Rockefeller Senior Global Health Leadership Fellowship. She is a Fellow of the Royal College of Physicians of London and Edinburgh and a Fellow of the American College of Cardiology. In a medical career spanning 48 years, she has gathered extensive experience in global health. She has received many awards including the national award Vidya Jothi and the Honorary life Membership of the World Stroke Organization. She is in the 2020 Stanford University List of World's Top two per cent of researchers. She is a founder member and a trustee of The Geneva Learning Foundation (TGLF). She continues to be active in global health as a consultant to the World Health Organization.

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<https://scholar.google.com/citations?user=NIYS3EUAAA AJ&hl=en>

