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**Tom Lantos Commission on Human Rights**

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**Accountability and Human Rights in Sri Lanka**

**Testimony of John Sifton, Asia Advocacy Director, Human Rights**

Thank you for providing Human Rights Watch with the opportunity to testify on Sri Lanka today.

It is more than 12 years since the end of Sri Lanka's brutal civil war, and the defeat of the separatist Liberation Tigers of Tamil Eelam (LTTE). However, as United Nations High Commissioner for Human Rights Michelle Bachelet [said earlier this year](#), the country's human rights situation is now deteriorating. The government is, under President Gotabaya Rajapaksa, "in a state of denial about the past," and there are "warning signals" that grave rights violations may recur. Civil society groups and human rights defenders are being suppressed, and minority Tamil, Muslim, and Christian communities are being targeted with discriminatory laws, policies, and practices.

It is important to recall the brutalities in Sri Lanka that led to US action to promote human rights in the island nation, including repeatedly at the UN Human Rights Council.

The 26-year civil war that ended in 2009 was marked by serious abuses of international human rights and humanitarian law by both sides, and mass atrocities against civilians in the final months that shocked the conscience of the world. During the armed conflict the LTTE committed political assassinations, suicide bombings against civilians, and used child soldiers, among other human rights abuses. The LTTE also used civilians as human shields. Government security forces committed countless arbitrary detentions, extrajudicial killings, and enforced disappearances, and often brutally tortured detainees in their custody. In the final months of the war the security forces bombarded Tamil civilians inside state-declared no-fire-zones, including the targeting of hospitals, killing thousands. Videos emerged at the war's end of soldiers summarily executing prisoners and jeering over the unclothed bodies of women

combatants. Almost the entire leadership of the LTTE was killed or forcibly disappeared, in some cases after surrendering to the Sri Lankan army.

In Colombo and elsewhere, security agencies killed and disappeared journalists and other perceived opponents of the government.

In the year after the war ended, the government detained tens of thousands of Tamil civilians in militarized camps where many of them suffered torture, rape, and enforced disappearance. Those suspected of membership of the LTTE were detained for years without trial.

In 2015, President Mahinda Rajapaksa, who had been in power for a decade, was defeated in a presidential election. Between 2015-2019, under President Maithripala Sirisena, the human rights situation improved. Pressure from minority Tamil and Muslim communities and local activists, as well as from concerned countries, including the United States, led the new government to agree to address human rights abuses and war crimes. Sri Lanka joined a consensus resolution of the UN Human Rights Council in 2015, resolution 30/1, which included measures to ensure truth telling, reparations, security sector reform, and justice through a hybrid mechanism including international investigators, prosecutors, and judges. There was also a commitment to replace the draconian Prevention of Terrorism Act (PTA), which had been used to enable torture, enforced disappearance and prolonged arbitrary detention since 1979, with rights-respecting legislation.

The level of repression inside Sri Lanka decreased. However, by the time Sirisena left office there had been little progress on accountability or institutional and legal reform to reduce the risk of future violations. The PTA remained unamended.

On Easter Sunday, April 21, 2019, suicide bombers attacked three churches and three hotels, killing over 260 people including three US citizens. This led to a spate of mob attacks on Sri Lankan Muslims, often incited by Sinhalese Buddhist monks and political leaders.

Following his electoral defeat in 2015, Mahinda Rajapaksa formed a new political party, the Sri Lanka Podujana Peramuna (Sri Lanka People's Front, SLPP). His brother, Gotabaya Rajapaksa, who was defense secretary between 2005-15, became the SLPP's presidential candidate and began his 2019 campaign with a pledge to act against terrorists, to block international efforts towards accountability for war crimes, and instead to protect "war heroes."

Gotabaya Rajapaksa, who then held US nationality in addition to his Sri Lankan citizenship, is implicated in war crimes committed by the Sri Lankan military between 2005-2015. Police investigations that were able to proceed under the Sirisena administration also linked him to

the killing and enforced disappearance of journalists and other serious violations. In April 2019, he was served with a court summons in California after Ahimsa Wickrematunge filed a civil suit for his role in the 2009 killing of her father, newspaper editor Lasantha Wickrematunge. In July 2019, the Center for Justice and Accountability amended the complaint with details on attacks against journalists during the Mahinda Rajapaksa government.

US courts later recognized that Rajapaksa had immunity as a head of state following his election in November 2019, but a February 2020 ruling by the Ninth Circuit Court of Appeals cleared the way for litigation to resume after he leaves office. Gotabaya Rajapaksa surrendered his US nationality during his presidential campaign, as required by the Sri Lankan constitution. Following Gotabaya's election, former President Mahinda Rajapaksa became prime minister in his brother's administration. Other senior figures in the current Rajapaksa administration who are implicated in violations including possible war crimes and crimes against humanity include the defense secretary, Gen. (retd.) Kamal Gunaratne, and the chief of defense staff, Gen. Shavendra Silva, whom the US banned from travel to the United States in 2020, citing credible information about his responsibility for the commission of extrajudicial killings in 2009.

One of Gotabaya Rajapaksa's first acts on becoming president was to establish a "Presidential Commission of Inquiry to Investigate Allegations of Political Victimization." The aim of this commission was to derail criminal investigations into human rights abuses and corruption against political allies, officers in the security forces, and members of the Rajapaksa family, which the police had launched during Sirisena's presidency. These included cases in which evidence implicates the president himself. The commission recommended halting these investigations, dropping prosecutions in ongoing cases, and instead investigating the investigators for allegedly fabricating evidence. A resolution to implement the commission's recommendations is before parliament.

In addition, Gotabaya Rajapaksa repudiated the previous government's sponsorship of Human Rights Council resolution 30/1. In response, in March 2021, the Human Rights Council adopted resolution 46/1, which mandated the OHCHR to collect, analyze, and preserve evidence of international crimes committed in Sri Lanka for use in future prosecutions. The Sri Lankan government opposed the resolution. The United States supported it. This work, called the OHCHR Sri Lanka Accountability Project, is expected to begin in earnest next year.

Since taking office, the Rajapaksa administration has used the security and intelligence services to harass, intimidate and intrusively surveil civil society groups, human rights defenders and the relatives of victims of past abuses who have campaigned for truth and accountability, including members of the group Mothers of the Disappeared. This has occurred across the country, including in Colombo, but is most severe in the predominantly minority provinces in the north and east. Since early 2020, human rights defenders and activists have

described to Human Rights Watch patterns of abuses by various security and intelligence agencies, including the Terrorism Investigation Division (TID) of the police, in which their offices and homes have been visited, intimidating messages passed to their families and friends, and personal and financial information has been collected. Many organizations have had the transfer of funds from abroad blocked or delayed on the pretext of combatting “terrorist financing.” Numerous human rights defenders have told Human Rights Watch that it has become unsafe or near impossible to continue their work and that victims and their families are too afraid to raise their cases with human rights groups.

In 2020, the parliament, in which the president’s supporters have a two-thirds’ majority, adopted the 20<sup>th</sup> amendment to the constitution, which included provisions to undermine the independence of the judiciary and of previously independent bodies—including the previously independent Human Rights Commission of Sri Lanka.

The Rajapaksa administration has pursued policies hostile to the country’s Tamil, Muslim, and Christian minorities, raising concerns of future communal violence. An early step was to end the singing of the national anthem in the Tamil language at Independence Day celebrations. During the first year of the Covid-19 pandemic, the administration banned the burial of people who died with the virus on spurious public health grounds, causing distress to bereaved Muslim families. The ban was later relaxed to allow burials of Covid-19 infected people in a remote location, often far from most families’ homes.

In June 2020 President Rajapaksa established the Presidential Task Force for Archaeological Heritage Management in the Eastern Province – a minority majority area – which is composed entirely of security officials and Buddhist monks. Members of the Tamil and Muslim communities allege that the task force is engaged in erasing their heritage in the region, and appropriating land belonging to members of their communities.

Rajapaksa has said the purpose of the task force was to “preserve our Buddhist heritage.” In October, he appointed a task force to revise personal laws affecting different religious communities, headed by a hardline Buddhist monk who has been accused of inciting communal violence.

Christian communities in Sri Lanka also face official hostility. Members of the Catholic clergy, led by Cardinal Malcolm Ranjith, have become increasingly vocal in condemning delays in the inquiry into the Easter Sunday bombings, alleging a possible cover-up to conceal official complicity. In October, Maj. Gen. Suresh Sallay, director of the State Intelligence Service, ordered police to investigate Father Cyril Gamini and others who had made these allegations.

In recent months, amid a worsening economic situation, the Rajapaksa government has begun reacting to international pressure over human rights by offering vague promises of reform to foreign diplomats, especially from the European Union, which is conducting a periodic review of rights-linked trading preferences enjoyed by Sri Lanka known as GSP plus. This rhetoric is belied by the government's actions. In particular, the Rajapaksa administration has issued vague promises to reform the Prevention of Terrorism Act, which it continues to use to target Tamils and Muslims, perceived opponents of the government, and members of civil society groups, with prolonged arbitrary detention.

What can the US government do about these problems?

First, US government officials, including members of Congress, should continue pressing the Sri Lankan government on the importance of repealing or substantially amending the Prevention of Terrorism Act and ending the harassment and intimidation of human rights defenders and other critics of the government. US government officials should be urging the government of Sri Lanka to scrap recommendations from the commission on "political victimization." And the United States should maintain its renewed engagement on Sri Lanka resolutions at the UN Human Rights Council.

The United States should engage with allies to implement a coordinated and concerted strategy to protect human rights and civil society space in Sri Lanka. The Rajapaksa government has turned to China for various reasons, including providing diplomatic cover for its abusive laws and policies, but Sri Lanka's most important economic relationships are with the United States, Europe and India.

Congress should also communicate clearly—to both the Biden administration and the government of Sri Lanka—that failure to address Sri Lanka's human rights situation will imperil current and future military-to-military engagements and better economic relations. The US should also be harnessing other allies—in particular the European Union—to keep pressure on the Rajapaksa government.

The country's current economic crisis, and presumably growing anxieties about China's dominance over its affairs, are opportunities for concerned democratic countries—Japan, the European Union, United Kingdom—to offer Sri Lanka renewed support and communicate that more can be provided if human rights improvements occur.

At the same time, the US should make clear that it cannot engage with security officials credibly implicated in gross human rights abuses. The US government has no choice but to engage with President Rajapaksa himself—the country's head of government, with whom the

US must engage as a matter of necessity and diplomatic protocol. But State Department and Pentagon officials and officers should continue to make clear that engagement is impossible with persons and units credibly implicated in human rights, and that Sri Lanka must take steps to hold such persons and units responsible for abuses. In the absence of accountability, the US has no choice but to consider imposing targeted sanctions on those persons and units, under the US Global Magnitsky Act.

The United States has already imposed a travel ban on chief of defense staff Gen. Silva, for his alleged responsibility for war crimes. The US should also impose targeted sanctions on others in the government credibly linked to serious human rights abuses, and the US government should communicate that these sanctions will remain in place until human rights improvements are seen.

The United States should ensure that members of the Sri Lankan security forces deployed on UN peacekeeping missions are subjected to independent vetting. Vetting has until now been conducted by the Human Rights Commission of Sri Lanka, which lacks independence following adoption of the 20<sup>th</sup> amendment to the constitution.

Lastly, given the inconclusive results so far of Sri Lankan investigations into the 2019 Easter Bombings, the United States should push for a prompt, impartial and credible conclusion. The United States and other governments should also examine evidence of transnational corruption and money laundering in cases where the presidential commission on “political victimization” has sought to block domestic investigations.

Thank you again for allowing me to testify, and I look forward to answering your questions.