
**IN THE SUPREME COURT
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an application under Article 121 read with Article 120 of the Constitution in respect of the Bill titled “National Audit (Amendment) No. _ of 2025”.

**1. Transparency International Sri Lanka
(Guarantee) Limited**

No. 366, Nawala Road, Nawala.

2. Pulasthi Hewamanna,

Chairperson, Transparency International Sri Lanka (Guarantee) Limited,

No. 366, Nawala Road, Nawala.

SC (SD) Application No. 21/2025

PETITIONERS

-Vs-

Hon. Attorney General

Attorney General’s Department,
Hulftsdorp, Colombo 12.

RESPONDENT

On this 21st day of July 2025

**TO: HER LADYSHIP THE CHIEF JUSTICE AND OTHER HONOURABLE
JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

The **Petition** of the Petitioners above named, appearing by Ms. Thushari Jayawardena, their Registered Attorney-at-Law, states as follows:

THE PETITIONERS

1. The Petitioners state that:

- (a) The 1st Petitioner is an independent, non-governmental, non-profit, and non-partisan company limited by guarantee incorporated under the Laws of Sri Lanka. All of its Board of Directors are citizens of Sri Lanka, and more than three-fourths (3/4) of the members of the 1st Petitioner are citizens of Sri Lanka. The 1st Petitioner has its registered office at the aforementioned address.

Transparency International maintains an international secretariat in Berlin, Germany, as well as over 100 Chapters worldwide and the 1st Petitioner is the National Chapter of Transparency International (TI), the leading global movement against corruption.

*Annexed hereto marked **P1** and pleaded part and parcel hereof is the Certificate of Incorporation of the Petitioner.*

*Annexed hereto marked **P2** and pleaded part and parcel hereof is the Articles of Association of the Petitioner.*

- (b) The 2nd Petitioner is a citizen of Sri Lanka. He is the Chairperson of the 1st Petitioner and an Attorney-at-Law of the Supreme Court of Sri Lanka engaged in active practice since 2008. He has appeared as counsel *inter alia* in numerous cases for the protection and promotion of the public interest, including in matters pertaining to elimination of corruption.
2. The Petitioners make this Application in their own right and in the public interest, with the objective of safeguarding the rights and interests of the general public of Sri Lanka and securing due respect, regard for and adherence to the Rule of Law, the Constitution, which is the supreme law of the land, and with a view to protecting the fundamental rights required to be respected, secured and advanced as more fully set out, hereinafter.
 3. In the circumstances, the Petitioners have invoked the jurisdiction of Your Lordships' Court in terms of Article 121 read with Article 120 of the Constitution for determination of Your Lordships' Court, to secure a determination that would prevent the enactment of the Bill constituting the subject matter of this application being enacted in a manner that entails negation and/or undermining of the Sovereignty of the People of Sri Lanka, which the Constitution recognizes in Article 3, 'is in the People' and 'is inalienable'.

THE RESPONDENT

4. The Petitioners state that the Hon. Attorney General is made a party to this application under and in terms of Article 134(1) of the Constitution.

THE IMPUGNED BILL

5. The Petitioners state that a Bill titled "*National Audit (Amendment) No. _ of 2025*" (*hereinafter also referred to as "the Bill"*) has been published in the Government Gazette Part II of 20th June 2025 issued on 23rd June 2025, and placed on the Order paper of the Parliament on 08th July 2025, by the Minister of Justice and National Integration.

*Annexed hereto and marked **P3(a)**, **P3(b)**, **P3(c)** and pleaded as part and parcel hereto, are true copies of the Bill titled “National Audit (Amendment) No. _ of 2025” in English, Sinhala and Tamil languages respectively.*

6. The Bill seeks to amend the National Audit Act No. 19 of 2018 (*i.e.* the principal enactment), specifically Sections 7, 9, 11, 18, 19, 20, 21, 22, 23, 38, 42, 43 and 55 thereof.
7. The Petitioners state that the Bill was introduced in the backdrop of the Report by the International Monetary Fund titled “Sri Lanka: Technical Assistance Report – Governance Diagnostic Assessment” and the “National Anti-corruption Action Plan 2025-2029” published by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC).

*Annexed hereto and marked **P4** and pleaded as part and parcel hereto, is a true copy of pages 31 to 33 of the “Sri Lanka: Technical Assistance Report – Governance Diagnostic Assessment”, of which the full copy is available online at <https://www.imf.org/en/Publications/CR/Issues/2023/09/29/Sri-Lanka-Technical-Assistance-Report-Governance-Diagnostic-Assessment-539804>*

*Annexed hereto and marked **P5** and pleaded as part and parcel hereto, is a true copy of pages 113 to 116 of the “National Anti-corruption Action Plan 2025-2029”, of which the full copy is available online at https://www.ciaboc.gov.lk/media/attachments/2025/04/08/english_action-plan-2025.pdf*

8. The Petitioners further state that in **Dr. Athulasiri Kumara Samarakoon and others v. Ranil Wickremesinghe and others**, SCFR No. 195/2022 and SCFR 212/2022, S.C. Minutes 14th November 2023, Your Lordships’ Court held that:

“[at pg. 116] Public trust reposed on them demands resolving of issues. Any conduct which is manifestly unreasonable, arbitrary or irrational that would lead to further aggravation of issues which are detrimental to the public, tantamount a breach of the trust bestowed on them. This is not the recognition of a ‘new right’ – a right to infallible decisions by the public authorities – but recognition of public officers requiring to discharge their duties to the satisfaction of their inherent core obligations, with due respect to the public trust reposed on them.”

[At pg. 118] The trust reposed in the respondents was not a higher principle or epithet unique to their offices. ‘Public trust’ is an inherent responsibility bestowed on all officers who exercise powers which emanate from the sovereignty of the People. Therefore, as public officers, the respondents were obliged, at all times, to act in a manner which honoured the trust reposed in

them. We are of the view that by the actions, omissions, decisions and conduct hereinbefore identified to have demonstrably contributed to the economic crisis and we are of the view that the 2nd (Mahinda Rajapaksa), 2A (Basil Rajapaksa), 28th (Monetary Board), 29th (Nivard Cabraal), 30th (W.D. Lakshman), 31st (S.R. Attygalle), 32nd (Samantha Kumarasinghe), 32A (Gotabaya Rajapaksa) and 38th (P.B. Jayasundera) respondents had violated the Public Trust reposed in them and we hold that they were in breach of the fundamental right to equal protection of the law ordained by Article 12(1) of the Constitution.”

9. Your Lordships’ Court has, in several decisions, such as **Wijebanda v. Conservator General of Forests** (2009) 1 SLR 337, **Sugathapala Mendis v. Chandrika Kumaratunge** (2008) 2 SLR 339, **Environmental Foundation Ltd v. Mahaweli Authority of Sri Lanka** (2010) 1 SLR 1, and **Premalal Perera v. Tissa Karaliyadde** SC FR 891/2009, S.C. Minutes of 31st March 2016, recognised and given effect to the “Public Trust Doctrine”.

10. The Petitioners state that in terms of Article 27(1) of the Constitution, the Directive Principles of State Policy are to guide, *inter alia*, the Parliament in the enactment of laws and governance of Sri Lanka for the establishment of a just and free society. Your Lordships’ Court further held:
 - (a) In **Environmental Foundation Ltd v. Mahaweli Authority of Sri Lanka** (2010) 1 SLR 1 at page19, His Lordship Justice P. A. Ratnayake observed “*Although it is expressly declared in the Constitution that the Directive Principles and fundamental duties 'do not confer or impose legal rights or obligations and are not enforceable in any Court of Tribunal' Courts have linked the Directive Principles to the public trust doctrine and have stated that these principles should guide state functionaries in the exercise of their powers.*”

 - (b) “*The directive principles of State policy are not wasted ink in the pages of the Constitution. They are a living set of guidelines which the State and its agencies should give effect to,*” per His Lordship Justice Prasanna Jayawardena, PC, in **Ravindra Gunawaradane Kariyawasam v. CEA**, SC FR 141/2015, S.C. Minutes of 04th April 2019.

11. The Petitioners state that the due accountability of the executive in terms of the discharge of their statutory duties, which are discharged in exercise of the powers vested in them in public trust, is an aspect of checks and balances considered by Your Lordships’ Court within the ambit of Article 12(1) of the Constitution. The Petitioners further state that:
 - (a) In **Bulankulama and Others v. Secretary of Ministry of Industrial Development and Others** (2000) 3 SLR 243, Justice Amerasinghe observed:

“Moreover, in the circumstances of the instant case, such collective rights provide the context in which the alleged infringement or imminent infringement of the petitioners’ fundamental rights ought to be considered. It is in that connection that the confident expectation (trust) that the Executive will act in accordance with the law and accountably, in the best interests of the people of Sri Lanka, including the petitioners, and future generations of Sri Lanka, becomes relevant.”

- (b) In **Dr. Athulasiri Kumara Samarakoon and others v. Ranil Wickremesinghe and others**, SCFR No. 195/2022 and SCFR 212/2022, S.C. Minutes 14th November 2023, Your Lordships’ Court observed that:

“The above dicta of this Court (i.e. Bulankulama and Others v. Secretary of Ministry of Industrial Development and Others (2000) 3 SLR 243) amply demonstrate that during the last few decades, the Public Trust Doctrine has been applied by this Court when violations of the fundamental rights of People were considered. Furthermore, in relation to powers, functions and duties which are public in nature, this Court has always had respect for the Rule of Law and specifically to the principles of openness, fairness and accountability and observed that process of making a decision should not be shrouded in secrecy and that the powers are conferred upon the Executive in the public interest and in trust for the public and these powers must be governed by reason.”

- (c) In **Sugathapala Mendis and Another v. Chandrika Kumaratunga and Others** (2008) 2 Sri LR 339, Justice Thillakawardane endorsed this view in the following manner:

“The very notion that the organs of government are expected to act in accordance with the best interests of the People of Sri Lanka, necessitates a determination that any one of the People of Sri Lanka may seek redress in instances where a violation is believed to have occurred. To hold otherwise would deprive the citizenry from seeking accountability of the institutions to which it has conferred great power and to allow injustice to be left unchecked solely because of technical shortcomings”

- (d) In the determination of the **Appropriation Bill of 2012** [Decisions of the Supreme Court on Parliamentary Bills 2010-2012 Vol X], it was observed that:
- “due and proper fiscal accountability must be viewed as the bedrock of good governance by any Government and must at all times be balanced and viewed through the lens of intra and intergenerational responsibility and equity.”*

12. In the circumstances, the Petitioners seek to respectfully state that the matters canvassed through this application, relate and pertain to the ability to give meaningful expression to accountability in a manner consonant with the public trust doctrine as required in terms of the provisions of the Constitution, including Article 12(1) read with Article 3.

INCONSISTENCIES OF THE BILL WITH THE CONSTITUTION

13. The Petitioners state that, *inter alia*, the following Clauses of the Bill are inconsistent with the Constitution.

I. Clauses 2, 6(1) and 12 of the Bill

14. Clause 2 of the Bill proposes to amend Section 7 of the principal enactment by the addition of subsections (6) to (8).

*Annexed hereto and marked **P6** and pleaded as part and parcel hereto, is a copy of Section 7 of the National Audit Act No. 19 of 2018.*

15. As per the statement of legal effect, the section is amended to make necessary provisions to complain to a law enforcement authority for legal action in respect of any fraud, corruption or misappropriation found by the Auditor General in carrying out an audit of an auditee entity.

16. Clause 6(1) of the Bill proposes to amend Section 19 of the principal enactment by repealing paragraph (a) of the subsection (1) thereof and substituting (a) as per Clause 6(1)(a).

*Annexed hereto and marked **P7** and pleaded as part and parcel hereto, is a copy of Section 19 of the National Audit Act No. 19 of 2018.*

17. Clause 12 of the Bill proposes to amend Section 38 of the principal enactment by repealing paragraph (h) of the subsection (1) thereof and substituting (a) as per Clause 12.

*Annexed hereto and marked **P8** and pleaded as part and parcel hereto, is a copy of Section 38 of the National Audit Act No. 19 of 2018.*

18. However, these Clauses omit and/or seek to remove and/or exclude the aspect of “negligence” recognised in Section 19(1) and Section 23(10) of the principal enactment, which is inconsistent with the import of Article 12(1) read with Article 3 and 4(d) of the Constitution, inasmuch such exclusion of negligence negates the level of protection of the citizenry from acts or omissions which are on account of negligence and/or the evident result of negligence of an auditee entity and thus, undermines the

wellbeing of people and/or the public trust doctrine in a manner inconsistent with Article 12(1) of the Constitution and/or Article 3 and/or Article 4(d) of the Constitution.

19. The Petitioners further state that in accordance with the State Policy as set out in the National Anti-corruption Action Plan 2025-2029 – P5 and other influential reporting such as Sri Lanka: Technical Assistance Report – Governance Diagnostic Assessment – P6, it is more prudent and meaningful to establish a directory provision with a specified timeframe rather than relying on indefinite terms such as “*immediately*”.
20. In the circumstances, the Petitioners state that such exclusion of the aspect of negligence is inconsistent with Article 12(1) of the Constitution and erodes the Sovereignty of the People in a manner inconsistent with Article 3 and Article 4(d) of the Constitution.

II. Clauses 7 and 8 of the Bill read with Clauses 3, 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7), 9, 10, 11 and 15(2) of the Bill

21. Clause 7 of the Bill seeks to amend Section 20 of the principal enactment, and Clause 8 of the Bill seeks to amend Section 21 of the principal enactment.

*Annexed hereto and marked **P9** and pleaded as part and parcel hereto, is a copy of Section 20 of the National Audit Act No. 19 of 2018.*

*Annexed hereto and marked **P10** and pleaded as part and parcel hereto, is a copy of Section 21 of the National Audit Act No. 19 of 2018.*

22. Amendments sought to be made also include the following:

- (a) Clause 3 of the Bill, seeks to amend Section 9 of the Act.

*Annexed hereto and marked **P11** and pleaded as part and parcel hereto, is a copy of Section 9 of the National Audit Act No. 19 of 2018.*

- (b) Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), and 6(7) of the Bill, seek to amend Section 19 of the Act.

*Annexed hereto and marked **P12** and pleaded as part and parcel hereto, is a copy of Section 19 of the National Audit Act No. 19 of 2018.*

- (c) Clause 9 of the Bill, seeks to introduce new Sections 21A to 21F immediately after Section 21 of the Act.

- (d) Clause 10 of the Bill, seeks to amend Section 22 of the Act.

*Annexed hereto and marked **P13** and pleaded as part and parcel hereto, is a copy of Section 22 of the National Audit Act No. 19 of 2018.*

- (e) Clause 11 of the Bill, seeks to amend Section 23 of the Act.

*Annexed hereto and marked **P14** and pleaded as part and parcel hereto, is a copy of Section 23 of the National Audit Act No. 19 of 2018.*

- (f) Clause 15(2) of the Bill, seeks to amend Section 55 of the Act as specified therein.

*Annexed hereto and marked **P15** and pleaded as part and parcel hereto, is a copy of Section 55 of the National Audit Act No. 19 of 2018.*

23. The Petitioners state that the Rule of Law, particularly the principles of openness, fairness, and accountability, emphasises that decision-making processes should not be secretive. The powers granted to the Executive are in the public interest and held in trust for the people, and these powers must be clearly governed with necessary checks and balances, and thus, all executives should be held accountable in discharging their respective duties in line with the requirements and framework of the Constitution.
24. Therefore, the Petitioners state that just as the Auditor General is responsible and accountable to parliament in performing his duties under the National Audit Act, the newly introduced Surcharge Review Committee should also be responsible and accountable in like manner to ensure consistency with the Constitution.
25. In the circumstances, the Petitioners state that the absence of such provision to ensure due accountability is inconsistent with the principles embodied in Article 12(1) of the Constitution as well as with Article 3 and/or Article 4(d) of the Constitution.
26. The Petitioners are advised to and thus, respectfully reserve the right to tender the full documents of the said annexures, the relevant extracts/pages of which have been appended hereto, should it transpire necessary and/or expedient for the fuller determination of the matters to be determined by Your Lordships' Court.
27. The Petitioners respectfully reserve the right to furnish such further and/or other material documents in support of the matters set out herein at the hearing of this application if it becomes expedient to do so and/or should the Petitioners become possessed of any such material.
28. In the given circumstances, and for reasons, matters and circumstances adverted to herein and as will be more fully set out and/or urged on behalf of the Petitioners by Learned Counsel for the Petitioners at the hearing of this Petition in Open Court, the

Petitioners respectfully urge that Your Lordships' Court make determination as sought through this Petition.

29. The Petitioners have not previously invoked the jurisdiction of Your Lordships' Court in respect of this matter.

30. An affidavit of the 2nd Petitioner is appended hereto in support of the averments hereof.

WHEREFORE the Petitioners respectfully pray that Your Lordships' Court be pleased to:

- (a) Grant the Petitioners a hearing in respect of this Application;
- (b) Determine that Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and/or 15 and/or other Clauses of the said Bill titled "*National Audit (Amendment) No. _ of 2025*" are inconsistent with the provisions of Articles 3 and/or 4(d) and/or 12(1) and/or other Articles of the Constitution, and require(s) to be passed by not less than two-thirds of the whole number of members of Parliament as required under **Article 84(2)** and approved by the people at a Referendum in terms of the provisions of **Article 83** of the Constitution; and
- (c) Grant such further and other relief(s) as Your Lordships' Court may deem meet.



Registered Attorney-at-Law for the Petitioners



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