

Assessment on IMF Governance Diagnostic Technical Report and Civil Society Governance Diagnostic Report on Sri Lanka

The International Monetary Fund (IMF) Governance Diagnostic Assessment and the Civil Society Governance Diagnostic Report (Civil Society report) provide recommendations to the Sri Lankan government in relation to governance and anti-corruption measures. These recommendations primarily focus on immediate, short-term, and medium-term strategies to address weaknesses within government structures, legislation, and transparency. This brief outlines the key findings and recommendations from both reports, emphasizing their complementary nature, and setting out where they differ.

IMF Technical Report Recommendations

The IMF assessment offers a total of 89 recommendations, with 16 being categorized as priority recommendations. The recommendations are thematically organized and address the following key areas:

1. Legal frameworks for anti-corruption.
2. Asset declaration.
3. Strengthening the role of the Auditor General.
4. Investigation of corruption cases and money laundering.
5. Improving budget formulation and transparency.
6. Public investment management.
7. State-owned enterprise management.
8. Transparency and accountability in tax policy.
9. Central Bank governance.
10. Reforms to framework handling Employees' Provident Fund.
11. Financial sector oversight.
12. Rule of law.
13. Implementation and enhancement of Right To Information legal framework.

Civil Society Report Recommendations

The Civil Society Governance Diagnostic Report presents 34 recommendations, which are further divided into immediate, short-term, and medium-term actions. The recommendations encompass the following areas:

1. Legal frameworks for anti-corruption, including compliance with the United Nations Convention Against Corruption.
2. Changes to the Constitutional Council to reduce political involvement.
3. Strengthening the role of the Auditor General.
4. Transparency in handling of Employees' Provident Fund (EPF)
5. Anti-money laundering mechanisms and oversight of illicit financial flows.
6. Budgetary reform, increased transparency, and accountability.
7. State-Owned Enterprise management.
8. Tax policy reform and transparency.
9. Implementation of the Anti-Corruption Act.
10. Establishing conflict of interest registers and public access to asset declarations.
11. Establishing a Public Debt Management Office.

Complementary Nature of the Reports

Both reports exhibit considerable overlap in their recommendations, underlining the importance of various governance aspects. The reports are complementary and reinforce each other, making them a comprehensive resource together.

Key Overlaps and Complementary Recommendations

1. Role of the Auditor General: Both reports highlight the need to strengthen the role of the Auditor General, with the Civil Society report's recommendation to 'publish follow-up on actions taken to regularize qualified opinions of the Auditor General' complementing the IMF's recommendation to 'strengthen the role of the Auditor-General in Accountability.'
2. Right to Information (RTI) Act: The importance of the implementation of the RTI Act is emphasized in both reports, with the IMF assessment proposing enhancements, while the Civil Society report recommends proactive disclosure of information relating to projects in line with the Right to Information Act.
3. Legal Framework for Anti-Corruption: The IMF's recommendations for improvements in the legal framework for anti-corruption align with Civil Society report recommendations related to legislation compliance with

international conventions and implementation of the Anti-Corruption Act.

4. Anti-Money Laundering and Oversight: Both reports emphasize the need for stronger anti-money laundering mechanisms and proper oversight of illicit financial flows through Politically Exposed Persons (PEP) information and publicly accessible Beneficial Ownership Register.
5. Budgetary Reform: Both sets of recommendations address budgetary reform, increased transparency, and accountability, while the IMF focuses more on reformation of the fiscal framework, the Civil Society report emphasizes immediate-term transparency measures. The Civil Society report recommends limiting budget allocations under the development activities of the Department of National Budget and transparency of expenditure variations against approved budget.
6. State-Owned Enterprise Management: The management of State-Owned Enterprises is strongly addressed in both sets of recommendations, with the Civil Society report recommending regulations for transparent and accountable management and the IMF emphasizing legal framework reform.
7. Tax Reform: Both reports advocate for tax policy reform and transparency, addressing issues related to exemptions and arbitrary taxation changes without approved schemes.
8. Employees' Provident Fund (EPF): Both reports highlight the importance of changes pertaining to the EPF. The Civil Society report emphasizes transparency in all secondary market transactions of the EPF through published data, while the IMF recommends reform in the form of new management arrangements for the EPF.

Recommendations Unique to Each Report

The IMF's priority recommendations not covered by the Civil Society report include the suspension of the Strategic Development Projects Act, establishing an online digital land registry, creating a designated website for reporting progress on land registration, and implementing a public beneficial ownership registry.

The Civil Society report introduces distinct recommendations, enhancing governance and societal well-being. It suggests immediate national elections, depoliticization of the public sector, establishment of independent public corruption prosecution office, debt transparency and setting up an independent public debt management office, increasing parliamentary standing orders for better accountability, reducing political influence in the Constitutional Council, demilitarization in the north and cutting excessive military spending, strengthening housing and livelihood rights of plantation sector workers who are vital contributors to the Sri Lankan economy, and safeguarding civic space for citizen participation in governance matters. The report also emphasizes specific recommendations on social well-being through increased transparency and accountability of social safety net programmes.

Top Asks related to Corruption

1. Transparency platforms -

- a. Maintain a fiscal transparency platform that displays all information related to tax exemptions (Recommendation 1 – CS report (1.1, 1.5 and 1.6), **Starting in March 2024, publish on a designated website: (ii) a list of all firms receiving tax exemptions through the Board of Investment and the Strategic Development Projects, and an estimation of the value of the tax exemption; and (iii) a list of firms receiving tax exemptions on luxury vehicle import (IMF Diagnostic).**
- b. Quarterly publication of a complete set of updated information on public debt (Recommendation 11 – CS report)
- c. Publish an annual report by 31st March each year, setting out the previous year's expenditure variations against the approved budget, and explanations for the same (Recommendation 2 – CS report)
- d. Quarterly publication of a revenue report detailing changes to revenue measures that might result in annual revenue loss of 0.1% of GDP (Recommendation 3 – CS report)

2. Procurement -

- a. Ensure compliance with proactive disclosure requirements outlined under section 9 of the Right to Information Act No. 12 of 2016 which mandates the minister responsible for a project to disclose information relating to the project three months before commencement (Recommendation 10 – CS report)

- b. Maintain an online platform that publishes all significant public procurement contracts. (When cumulatively above LKR 100 million to any set of connected suppliers) (Recommendation 12 – CS report)
 - c. Strengthen the National Procurement Commission for oversight on unsolicited proposals and pass Procurement Guidelines of 2019 with public consultation (Recommendation 23 – CS report), **(IMF Diagnostic)**
 - d. Conduct special audits on the ten state ministries/agencies with the lowest proportion (in value) of competitive bidding, and over 10 billion in procurement. (Recommendation 24 – CS report)
- 3. Commission to Investigate Allegations of Bribery or Corruption
 - a. **By November 2023, establish an Advisory Committee, composed of independent experts on anticorruption to assist in the nomination of CIABOC Commissioners and the Director General. (IMF Diagnostic)**
 - b. Ensure that the Commission to Investigate Allegations of Bribery Or Corruption's (CIABOC) readiness to investigate and apply the law effectively and equally, is indicated through the exercise of its new powers (Recommendation 16 – CS Report)
 - c. Ensure impartial implementation of the legal framework in the Anti-Corruption Act (ACA) for public access to asset declarations of persons specified therein, and promulgate regulations for its enforcement. (Recommendation 13 – CS Report) & **Publication of Asset Declarations for senior officials (President, Prime Minister, ministers) on a designated website in line with Anticorruption Law by July 2024 (IMF Diagnostic).**
- 4. State-Owned Enterprises
 - a. Reform of tax revenue agencies, including Customs, Excise, and the Inland Revenue Department to address widespread corruption vulnerabilities that directly impact fiscal Revenue (Recommendation 26-CS Report) & **Implement the SOE Reform Policy, ensuring that the holding company (HoCo) and the advisory committee are comprised of skilled, independent, and ethical staff (IMF Diagnostic)**

5. Establish a specialized independent corruption prosecution office with IMF technical guidance based on advising offices established in other countries (Recommendation 32-CS Report, **Annex 2 – IMF Diagnostic – not a recommendation**)

6. Protect civic space

Protect and uphold civic space for citizen participation in all appropriate aspects of governance, including in democratic dissent and protest, where they exercise their fundamental rights as enshrined in the Constitution (Recommendation 18 – CS Report) - context of elections being postponed, Online Safety Bill, Anti-Terrorism Bill, arrests, pending NGO Bill.