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Date: June 19, 2025

To:

The Chairperson and Members,
Human Rights Commission of Sri Lanka (HRCSL)
14 R.A.de Mel Mawatha
Colombo 04, Sri Lanka

Subject: Executive Summary and Legal Rebuttal Regarding Recommendation to Repeal Penal Code Sections 365 and 365A

Dear Chairperson and Honorable Members,

We hereby submit the attached comprehensive legal rebuttal in response to the Human Rights Commission of Sri Lanka's recommendation to repeal Sections 365 and 365A of the Penal Code in a letter addressed to the Minister of Justice & National Integration on 22 May 2025.

This recommendation, if pursued, poses significant constitutional, legal, cultural, and social threats to our nation. We respectfully present the key points that threaten our nation below:

1. Conflict with Supreme Court Rulings (2024 Gender Equity Bill):

The Supreme Court of Sri Lanka has unequivocally affirmed that the legal recognition of sex is limited to biological male and female, and any alterations require a formal constitutional amendment. The Commission's recommendation stands in direct contradiction to this binding judicial precedent.

2. Absence of Binding International Obligation:

Sri Lanka is under no enforceable international legal duty to decriminalize homosexuality. Recommendations from bodies such as the UN Human Rights Council and the Universal Periodic Review remain policy suggestions without binding authority.

3. Exceeding Constitutional Mandate:

The Human Rights Commission's role is to uphold human rights within the scope of Sri Lankan law and Constitution. The recommendation to repeal substantive criminal laws usurps the exclusive legislative authority of Parliament, constituting an ultra vires act that risks judicial scrutiny and public litigation.

4. Protection of Public Morality and Children:

Sections 365 and 365A play a critical role in safeguarding children and maintaining social morality for centuries. Their repeal under ideological influence threatens these protections and undermines national well-being.

Reviewed.
S. K.
At D(12.5)
2025/06/19

5. Respect for Article 9 & religious multi-faith values and Constitutional Duty:

The State, as mandated by Article 9 of the Constitution, and must protect these values and the Buddha Sasana. Our nation's major religious communities support the moral frameworks embedded in existing law.

We urge the Commission to reconsider this recommendation in light of constitutional supremacy, public interest, and societal values. We stand ready to engage constructively and provide further evidence supporting the retention of these legal protections.

Respectfully,
Mothers' Movement



Shanuka Elangasekere
Chairperson



Shenali Waduge
Secretary



Krishantha Rathnaweera
National Convenor