

UNIVERSAL PERIODIC REVIEW

SRI LANKA

Joint stakeholders' report submitted by:

- **World Evangelical Alliance (WEA)**, an NGO with special consultative status since 1997. WEA is a network of churches in 129 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide. WEA was founded in 1846 in London.
www.worldevangelicals.org
- **Asia Evangelical Alliance (AEA)**, founded in 1983 is a network of national alliances representing 16 Asian nations and 11 associate members.
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EXECUTIVE SUMMARY

Sri Lanka is a pluralistic society made up of diverse ethnic, religious and cultural communities. Sri Lanka also is emerging from a period of over 30 years of internal conflict which polarized society. Hence there is a critical need to maintain an equitable balance in ensuring the fundamental human rights of all citizens while restoring normalcy and pursuing peace and security.

This report focuses in particular on the freedom of thought, conscience and religion and in a wider context on other rights violated by a culture of impunity and the absence of the rule of law.

Certain policies, procedures and actions adopted by government agencies including local government agencies have directly alienated and discriminated against a segment of society who fall within the minority Christians who are not members of the traditional protestant church. This is a community already beleaguered by violent attacks. Denial by government agencies to acknowledge their legitimate existence has resulted in the violation of their right to enjoy all the human rights enumerated within the freedom of religion or belief as enshrined in Article 18 of the Universal Declaration of Human Rights¹ and wider democratic freedoms.

In the general sphere of human rights, there prevails among the civilian population a sense of fear and insecurity. A high number of abductions and enforced disappearances of civilians prevails and remains unsolved.

The issues addressed in this report constitute infringements of basic human rights standards set down in the Sri Lankan Constitution as well as international standards.

¹ General comment No. 22 of the Human Rights Committee – “The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest (...). In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.”

SRI LANKA CONSTITUTIONAL & LEGAL FRAMEWORK

1. Article 9 of the Sri Lankan Constitution accords Buddhism “the foremost place” and makes it “the duty of State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)”, granting Buddhism which is the majority religion special protected status and state patronage.
2. Article 10 guarantees that “every person is entitled to the freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.” Article 14(1)(e) guarantees that, “Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching”.
3. Article 12 of the Constitution guarantees equality before the law and stipulates that no citizen shall be discriminated against on the grounds of race, religion, language, cast, sex, political opinion, place of birth or any one of such grounds.
4. In 2005, two separate anti-conversion bills were unveiled, one by the government (through the Minister of Buddha *Sasan* and Justice and Legal Reform W.J.M. Lokubandara) titled ‘Freedom of Religion Bill’ and the other proposed by the *Jathika Hela Urumaya* (JHU) titled ‘Bill for the Prohibition of Forcible Conversions’. Both sought to criminalize religious conversions and were aimed at the Christian minority. Both attempts at legislation were stalled by administrative and procedural issues. The Bill for the Prohibition of Forcible Conversions was resurrected by the JHU in 2009, but referred by the then Minister of Religious Affairs H. E. Mahinda Rajapakse to a consultative Committee of the Ministry of Religious Affairs.

INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

5. Sri Lanka recognizes the Universal Declaration of Human Rights (UDHR) and the Sri Lankan Constitution’s guarantee of religious freedom echoes Article 18 of the UDHR. Sri Lanka is also a party to the International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Convention on the Rights of the Child (CRC) and its two first optional protocols.

VIOLATIONS OF THE FREEDOM OF RELIGION AND BELIEF

a. Denial of Recognition:

6. While the majority of the population is Buddhist (ethnic Sinhalese); Hindus (Tamil) comprise approximately 14%, Muslims 8%, Roman Catholics 7% and Protestant Christians 1% of the population.
7. The Sri Lankan law does not require the registration of places of worship or religious bodies with the State. However some religious groups voluntarily sought incorporation by an Act of Parliament, for the purpose of attaining legal personae in order to hold property, engage in banking transactions, etc. The door to this option was closed, subsequent to 3 determinations of the Supreme Court,² including the matter of the ‘Sisters of the Holy Cross of the Third Order of St. Francis in Menzigen’ where the Supreme Court denied the right of incorporation of a Catholic order on the reasoning that “the propagation and spreading on Christianity (...) would not be permissible as it would impair the very existence of Buddhism.”³
8. The Christian community comprises of three main bodies: the Roman Catholic Church, the National Christian Council (NCC) and the National Christian Evangelical Alliance of Sri Lanka (NCEASL). The Catholic Church and the more traditional protestant Christian denominations represented by the NCC are ‘recognized’ *de facto* by the government as ‘legitimate’ Christian churches. Christian denominations which are outside these two groups are not. Several churches which are members of the NCEASL and which are legal bodies incorporated by acts of parliament are not recognized in practice.⁴ This includes two of the largest Christian denominations in Sri Lanka.
9. Evangelical Christian churches are facing increasing pressure and harassment by local government bodies to stop worship activities or close down if they are not ‘recognized’ or ‘registered’ with the government.⁵ For example, the Canaan Fellowship International Church which is a member of the NCEASL sought permission from the Office of the Registrar General to register marriages solemnized at their branch church in Kalmunai (Ampara District). This branch was established in 2005. All other branches of this church established previously have been granted permission to register marriages solemnized in their respective churches. The pastor was informed by the

² Supreme Court Determination 2/2001; Supreme Court Special Determination 2/2003; Supreme Court Special Determination 19/2003.

³ Supreme Court Special Determination 19/2003.

⁴ For example a notice issued by the Ministry of *Buddhasasana* and Religious Affairs on the National Christian Literary Festival 2012, as published by the Ministry, states that only “Catholic and Christian (Members of NCC only) laity/clergy artists can apply”.

⁵ In 2003, the government sought the compilation of a list of ‘recognized’ Churches but did not succeed. In 2008 & 2009 there was a move to collect detailed information of Christian churches through the local Police stations and *Pradeshiya Sabhas* (local government body).

Additional Registrar General by letter dated 7th December 2007, that his request is denied since his church is not a member of the NCC.⁶

10. This withholding of ‘recognition’ by the state deprives thousands of Christian citizens of their fundamental rights, including the freedom of thought, conscience and religion. It has created a situation where the state confers legitimacy and recognition on some while denying the rights of others, based on arbitrary and discriminatory grounds.
11. Refusal of ‘recognition’ by the state deprives thousands of Christian citizens of their fundamental rights, including the freedom of thought, conscience and religion. It has created a situation where the state confers legitimacy and recognition on some while denying the rights of others, based on arbitrary and discriminatory grounds.

**b. Discrimination and denial of construction of Christian places of worship
(based on the 2008 Circular):**

12. In September 2008, the Ministry of Religious Affairs and Moral Upliftment was instructed by the Executive to draft legislation whereby future construction of any place of worship is subject to prior permission of the Ministry. The Ministry instructed Provincial Councils and Divisional Secretariats (local government bodies) to comply with this requirement and seek prior approval from the Ministry before approving applications for construction of places of worship.
13. The procedure prescribed by this Circular itself is inconsistent with principles of equality, non-discrimination and justice in that it exempts “traditional religions” from submitting documentary evidence required by the Ministry to prove their bona-fide⁷ but fails to specify what “traditional religions” are. Ministry and local government officials make decisions to grant or deny permission based on their own understanding or biases.⁸
14. Buddhist, Hindu, Muslim, Roman Catholic and Protestant Christian churches which are members of the NCC are given permission, while Evangelical Christian churches are routinely denied permission solely because they are not recognized or accepted by the Ministry. The Assemblies of God in Sri Lanka, for example, which has existed since 1919 and was incorporated by Act of Parliament in 1947 was denied permission to re-construct their church in Kesbewa which was burned down by anti-Christian elements. One of the reasons given by the Kesbewa Urban Council for rejection was that it was not approved by the Ministry.⁹

⁶ Four other churches which were denied permission during 2008 and 2009, based on the same discriminatory grounds: Blessings Missionary Church Batticaloa, Believers Church Kegalle, Assemblies of God Kalutara, New Testament Church of God Panadura. (As per a document submitted to the Hon. Prime Minister on 30th November 2010 seeking redress).

⁷ Application form for new construction of a place of worship, page 2.

⁸ See Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt presented to the Human Rights Council 19th Session, 22nd December 2011, A/HRC/19/60, §33.

⁹ By letter dated 29th April 2010.

15. The requirement for the Ministry's approval of proposed construction, in fact, has become a vehicle by which 'legitimacy' is bestowed on religious institutions by the state.
16. While this circular is clearly applicable only to new constructions and does not have retrospective effect, it is misapplied and used by government officials to close down existing churches. For example, the *Kithusevana* church in Galgamuwa which had obtained all the necessary approvals and permission from the local authority for construction in 2007 was informed verbally by a local government official in 2009 that the church building is an illegal construction since they did not have approval from Ministry of Religious Affairs. The pastor was warned of demolition. The Divisional Secretary of Galgamuwa in a letter dated 11th August 2009 informed the pastor that the Secretary of the Ministry of Religious Affairs has instructed the Divisional Secretary to file legal action against the pastor and ordered a halt to the construction. Similar incidents have been reported where the freedoms of religion, worship, assembly and expression of citizens are violated.
17. These violations and the Ministry's instructions are clearly discriminatory against some religious minorities, particularly the Evangelical Christians.¹⁰

c. Discrimination and inequality - construction or continuation of places of worship (based on the 2011 Circular):

18. In September 2011, the Ministry of *Buddhasasana* and Religious Affairs (formerly Ministry of Religious Affairs and Moral Upliftment) issued new Circular for local government authorities and the police, expanding on the previous instructions pertaining to construction of places of worship issued in 2008. The new instruction not only makes it mandatory for the construction of a new place of worship to obtain permission from the Ministry, but also requires the *continuation* of a place of worship to be approved by the Ministry.
19. Accordingly, "any construction of a place of worship, continuation of a place of worship or any activity headed by a religious leader in the guise of religion is deemed illegal unless it has been duly approved by the Ministry."¹¹ It further prescribes the intervention of the police to prevent the continuation of such activities¹².

¹⁰ See further examples in the Annex, §§1-4.

¹¹ Translation of letter issued by the Ministry of *Buddhasasana* and Religious Affairs to local government agencies dated 2nd September 2011, Ref. BSRA/BRA/03/Con/Gen/2011.

¹² On this topic, see the latest report of the Special Rapporteur on freedom of religion or belief: "(...) the Special Rapporteur has received information that in a number of countries members of "non-registered" religious communities have experienced police harassment, surveillance or even criminal sanctions, as their activities are deemed illegal by the State or certain State agencies, such as the police or the secret service. Restrictive measures include the closing of places of worship (...). Against such unacceptable practices, the Special Rapporteur would like to reiterate that the enjoyment of the freedom of religion of belief as such does not depend on any acts of State approval or administrative registration. Moreover, States have an obligation to provide information and clear instructions to those working in law enforcement and other agencies that

20. Application forms must be forwarded to the Ministry completed with observations and recommendations of the relevant Divisional Secretary and the Chairperson of the relevant Provincial Council. When making their observations and recommendations, the said local government officials are required to take special note of the opinion of the general population and other places of worship in the area.
21. In principle, this practice clearly discriminates against religious minorities. Since Sri Lanka is a predominantly Buddhist country where most villages (except in the North and the East) generally comprise of a majority of Buddhists, this makes it nearly impossible for adherents of a minority religion to have a place of worship or engage in religious activities, due to objections by the majority. This is often used as an excuse by the local authorities to deny permission for construction as well as order existing churches to cease function.
22. It must also be noted that since the conclusion of the war in May 2009, many Buddhist temples and statues have been erected in the North of Sri Lanka although there is zero civilian Buddhist population in these areas.
23. The 2011 Circular continues to prevent construction of Christian churches and restricts the continuation of existing churches. For example, the Apostolic Church of Sri Lanka in Anguruwathota, Kalutara District which has been functioning for many years was informed by the Divisional Secretary of Anguruwathota by letter dated 21st September 2011, that as per the Circular issued by the Ministry of *Buddhasasana* and Religious Affairs, the church has no permission to continue without approval from the Ministry.
24. The Pastor of the Assemblies of God in Naula was informed by a letter from the Divisional Secretary dated 23rd December 2011, that he was guilty of having an unauthorized construction and *continuation* of a place of religious worship. He was instructed to obtain permission from the Ministry in order to continue. The building in question was an existing structure.
25. Calvary Church in Rukmalgama was attacked by a mob on 20th November 2011. The clergy and congregation were threatened with death if they continued the church. The pastor made a complaint to the police. During the police inquiry on 22nd November 2011, the pastor was asked by the police to stop worship services. No action was taken against the attackers. He was further informed by the police that by virtue of the 2011 Circular issued by the Ministry, the church had no permission to continue. The church was closed down.
26. An entry was lodged at the police station by the village's Buddhist Association alleging that the Assemblies of God in Wellawaya was functioning without prior permission. On 4th January 2011, the pastor was questioned by the police and instructed to cease

religious manifestations of members of “non-registered” groups must be respected as part of their freedom of religion or belief”. Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt presented to the Human Rights Council 19th Session, 22nd December 2011, A/HRC/19/60, §58.

worship services until he obtained permission from the relevant authorities; even though the church has been functioning for 11 years.

27. On 18th March 2012, Police together with a Buddhist *Bhikku* informed a Christian Sister who was conducting Bible studies and prayer with a few other Christians in her home in Habarana that the meetings were illegal according to the 2011 Circular. She was ordered to stop the meetings with immediate effect.

EFFECTS ON HUMAN RIGHTS OF RELIGIOUS MINORITIES

28. Discriminatory rules and action by government bodies which violate fundamental human rights¹³ of a particular community further encourages subversive acts of violence by mobs and strengthens the hand of ultra nationalist Sinhala Buddhist elements. The Christian community has been victims of organized violent attacks at the hands of such elements.
29. Since 2003, faith based human rights groups have documented over 450 acts of violence against Christians including murder of clergy, physical assault, arson, demolition and desecration of churches, intimidation and displacement from homes. The majority of attacks go unpunished and the victims have no recourse to compensation¹⁴.
30. Religious minorities are affected by a growing intolerance. The pressure is increasing not only on Christian communities, but also on other minorities, such as the Muslims. On 20th April 2012, Friday *Jummah* prayer of the Muslim community at the Dambulla Mosque (built in 1963) was prevented by Buddhist *Bhikku* and a large mob of Buddhist, claiming the mosque was built illegally on sacred Buddhist land and demanding its demolition. After a discussion with the Prime Minister it has been decided to relocate the Mosque and the few Muslim families living within that area.

¹³ Fundamental Rights which are declared by the Constitution shall be respected, secured and advanced by all the organs of the government and shall not be abridged, restricted or denied except to the manner and extent provided for within the Constitution - Article 4 (d) of the Constitution of Sri Lanka.

¹⁴ Report submitted by the Special Rapporteur on freedom of religion or belief, Asma Jahangir following her visit to Sri Lanka (2 to 12 May 2005) observes that ‘Victims, both communities and individuals, claimed that they have rarely been compensated for the material and moral damage suffered. In a few instances, promises of compensation have been made but not implemented. In some cases the victims themselves were arrested and detained for certain periods. Victims feel that a climate of injustice and impunity for such crimes prevails’ (E/CN.4/2006/5/Add.3, §86).

She further recommends that: ‘the Government should also abide by its obligation to ensure the protection and security of all religious groups that may be targeted and that should be entitled to practice their religions freely and without any obstacles, including those erected by non-State actors. This obligation includes the protection of religious groups within wider religious communities and ensuring that the right to freedom of religion of members of these groups is not limited’ (§126)

WIDER HUMAN RIGHTS ISSUES: ENFORCED DISAPPEARANCES

31. There exists a climate of fear among civil society due to the prevalence of a culture of impunity, heightened by abductions and disappearances. There have been 56 such cases during the past 6 months, and of this number, 29 have occurred during the months of February and March 2012. The phenomenon of disappearances continues to infringe the rights of civilians.¹⁵
32. The victims are from all walks of life, including political activists, journalists, businessmen, students, members of the indigenous *Veddah* community and individuals reported to be members of underworld gangs. The majority of incidents have occurred in Colombo and in the Northern Province. This includes the abduction of a suspect outside Colombo's main Court complex as well as the abduction of a person who had filed a fundamental rights application. Mr. Nethiyas Chandrapala a suspect in a drug offence was abducted in the Court premises and Mr. Ramasamy Prabhakaran a former detainee who was later released as innocent. He was abducted two days before the case he had filed against the police alleging torture while he was detained was to be heard before the Supreme Court.
33. Lawyers from the Bar Association of Sri Lanka protested against the culture of impunity which reflects a serious erosion of the law and order in the country and in particular the abduction which was committed within the sanctity of the Courts of Justice. "We urge the Law Enforcement Authorities to ensure that this incident is investigated fully and promptly and steps (be) taken immediately to rein in this type of conduct and bring the perpetrators of the incident to quick justice," the Bar Association said.
34. While such abductions and disappearances are an obvious violation of the fundamental human rights of the victims, sometimes resulting in death, the fear psychosis brought on by disappearances overshadows civilian life, enforcing self censorship and repression of the freedom of expression.
35. While the end of the war has brought a greater sense of freedom of movement for citizens to travel within the country, a sense of insecurity prevails among the civilian population particularly in the Northern Province.

¹⁵ Ms Louise Arbour, UN High Commissioner for Human Rights, speaking to the Human Rights Council on 11th December 2007, on her visit to Sri Lanka "During my visit, I paid special attention to the issue of abductions and disappearances, which have been reported in alarming numbers in the past two years. While the Government pointed to several initiatives it had taken to address these issues, there has yet to be an adequate investigation or public accounting for the vast majority of these cases".

RECOMMENDATIONS TO THE GOVERNMENT OF SRI LANKA

- 36. The government should ensure that all government officials including members of law enforcement bodies respect principles of religious freedom and do not discriminate on the grounds of religion or belief¹⁶, and that they are provided with training on human rights including religious freedom standards.**
- 37. The government should not discriminate against certain religious minorities and impede their legitimate exercise of religious freedom by not according them equal recognition.**
- 38. The Ministry of *Buddhasasana* and Religious Affairs should withdraw the Circular issued in September 2011 pertaining to the construction or continuation of places of worship; or set out clear guidelines for such activity, which are consistent with the Constitution and international human rights standards.**
- 39. The government should urgently implement an effective mechanism along the lines of an inter-religious body which is inclusive of and adequately represented by all religious groups to deal with any issues of religious tensions.¹⁷**
- 40. The government should ensure that law enforcement bodies follow due process as prescribed by existing laws when conducting investigations, apprehending and detaining suspects.**
- 41. The government should take immediate remedial action to address the prevalent culture of impunity and restore the rule of law, investigate, apprehend and bring to justice the perpetrators of abductions and reunite victims of abductions with their families.**
- 42. The government should ratify and implement the Convention for the Protection of All Persons from Enforced Disappearances.**

¹⁶ “States should instruct members of law enforcement and other State agencies that religious activities of non-registered religious or belief communities are not illegal, as the status of freedom of religion or belief prevails over any acts of state registration” Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt presented to the Human Rights Council 19th Session, 22nd December 2011, A/HRC/19/60, 73 c).

¹⁷ Also see Recommendation by Special Rapporteur on freedom of religion or belief, Asma Jahangir following her visit to Sri Lanka, E/CN.4/2006/5/Add.3, §128.

ANNEX

Instances of misapplication / discrimination of the 2008 Circular

1. On the 13th August 2009, the pastor of the Vineyard Community Church, Makandura was summoned before the local government authority and asked to furnish approval from the Ministry for his church to continue. The pastor informed them that this church has existed for many years and was not a new construction and does not fall within the preview of the 2008 Circular. He was however ordered to stop worship services temporarily.
2. On 27th July 2009, the pastor of the Assemblies of God in Middeniya was informed by the Urban Development Authority to furnish proof / obtain permission from the Ministry even though the building in question was an existing building.
3. On 15th September 2010 the pastor of the Assemblies of God in Neluwa was informed by the Divisional Secretary to obtain permission from the Ministry, even though the building in question was a an existing building.
4. The construction of a new building for the Baby Bright Montessori in Bulathkohupitiya was referred by the local authority to obtain permission from the Ministry of Religious Affairs. The applicant replied that the Montessori in question is a reputed pre-school which has been functioning in the region for several years and sought clarification as to why the construction of an educational institution requires prior permission from the Ministry of Religious Affairs. On 25th May 2010, he was informed by the *Pradeshiya Sabha* chairman to forward a duly completed application as per the 2008 Circular to the Ministry of Religious Affairs. The Ministry in return has written to the Pradeshiya Sabha that there are complaints that this building is being used for religious services and to inquire into it. However, this allegation is unfounded as the building was not yet constructed. The blatant misapplication of the Circular and harassment in this instance is due to the fact that the Montessori in question is being run by the wife of a Christian clergyman who pastors a church in the same region. The matter remains unresolved.