



Universal Periodic Review 42nd Session – Stakeholders' Report

Sri Lanka: Religious Minorities and Freedom of Religion

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Submission by:

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Introduction

1. Since the third cycle of the Universal Periodic Review, Sri Lanka has faced multiple crises - from the Easter Sunday Attacks in 2019 to the onslaught of the global COVID-19 pandemic to a grave economic and financial crisis. Islamophobia has spiked in the online world and within the communities. Christian and Hindu minorities have faced discrimination and intimidation on the basis of their religious belief. The country has also witnessed great economic and political instability, with people gathering in large-scale protests against the Rajapaksa government. The President indicated that he would resign on 13 July 2022. However, at the time of this submission, he had left the country indefinitely and appointed the Prime Minister as Acting President.
2. The report of the Presidential Task Force on One Country One Law was handed over to the President by the Chairman of the Task Force on 29 June 2022. The report includes concerning recommendations, including the introduction of anti-conversion laws and a ban on wearing clothes in public places that cover the entire face.
3. At the 2017 UPR Session, State delegations recommended to Sri Lanka that legislation be brought in line with international standards. This includes measures to ensure the safety and security of ethnic and ethno-religious minorities and their places of worship and adopt legislation on hate speech, incitement to racial hatred and acts of violence against any race or ethnicity. Further, it was recommended that there be effective participation of minorities in decision-making, equality in access to economic and social opportunities, and the constructive development of practices and institutional arrangements. It was also recommended that the government establish an independent commission on minorities under the Constitution. The repeal of the Prevention

of Terrorism Act was also recommended. Today, all these recommendations remains valid and relevant.

Emergence of Tamil-Hinduism as a Dominant Ideology

4. Since the end of the war, there has been a revived sense of religious-nationalism, with Tamil-Hinduism as a dominant ideology, in the North and East of Sri Lanka. Between 2015 and 2019, Batticaloa district - a Hindu dominated locality - recorded the highest number of anti-Christian incidents (59) in the country, including incidents of discrimination over burial rites.ⁱ
5. Furthermore, the Tamil-Hindu ideology is primarily driven by the perceived existential threats faced by the Tamil-Hindus by the propagation of other religions, including Christian conversions.ⁱⁱ This was evident in May 2022, when the *Rudhirasena* organisation distributed leaflets in Jaffna on the theme that religious conversion is also a planned genocide.ⁱⁱⁱ
6. *Siva Senai*, launched in 2016, in Vavuniya is another Hindu group that stated it would campaign for anti-conversion laws. The organisation was launched with the intention of 'protecting Hindus from threats from other religious groups'.
7. Siva Senai's Chief Organiser Maravanpulavu Sachithananthan stated that the organisation had no direct links to Shiv Sena, the right-wing political party in Maharashtra, but that they have their support."^{iv}

Boycott, Intimidation and Hate Speech: Key Freedom of Religion Challenges

8. A Report commissioned by a faith-based organisation based in Colombo drafted in May 2022 highlighted the current FoRB landscape of Sri Lanka and the challenges to religious liberty. Some of the findings in the report were:
 - (a) Muslims are subjected to hate speech for their religious belief, and customs and for wearing distinct clothing. In one reported incident, a Muslim man has been subjected to harassment by a Sinhalese Buddhist for wearing a Taqiyah (a hat predominantly worn by Muslim men).
 - (b) Boycotting their enterprises due to their religious belief: Muslim enterprises in Sri Lanka are often boycotted by other communities. This situation was manifested both before and after the Easter attacks. Following the Easter attacks, an organised group of individuals prepared a list of 'Sinhalese enterprises' and encouraged customers to boycott the rest.
 - (c) Austerity and Intimidation: Tensions between Sinhala and Muslim communities exacerbated post-Easter attacks. This tension between the two communities gradually impacted personal relationships between Sinhalese and Muslims. Muslims are marginalised and labelled as terrorists.

- (d) **Attacking places of worship:** Since 2018, in multiple instances, Muslim houses, worship places and shops have been attacked by other ethnic communities. In some cases, Muslim shops have been attacked and looted. The report revealed that these incidents had worsened the mistrust among communities in Sri Lanka.
- (e) **Curtailment of religious liberty during the Covid-19 pandemic:** During the Covid-19 pandemic the government took a policy decision to make cremation mandatory for those who succumb to Covid-19. Despite the guidelines provided by the World Health Organisation against the mandatory cremation policy the government justified their decision claiming that burial would contaminate groundwater streams. Muslims were significantly impacted by this blanket policy adopted by the government as burial is an integral part of their rituals. Even when the mandatory cremation policy was withdrawn on 10 February 2021, there were still reports of members of the Muslim community facing such restrictions. Muslims were often blamed for the spread of the virus.
- (f) **Christians too are victims of religious liberty violations.** Christians are often accused of engaging in unethical conversions. In certain instances, Christians are accused and intimidated for helping their fellow villagers. These parties often claim that Christians engage in unethical religious conversion in the guise of helping the poor.
- (g) **Discrimination:** Christian children are discriminated in school admissions. In some instances, their applications are rejected without justification and they are not given a chance to present their case.
- (h) **Advancing Buddhism:** Hindus living in different parts of the country are victimised by the Buddhist nationalist campaigns carried out by the state and non-state parties. During the past few years, many Buddhist religious places have been constructed in predominantly Hindu areas. Mainly in areas such as Trincomalee and Pothuvil Buddhist stupas and bo trees are established against the will of the Hindus.

The Fallout from the Easter Sunday Attacks

(i) Lack of Justice

9. Three years have passed since the Easter Sunday Attacks, which took place on 22 April 2019, and no significant progress has been made on securing justice for the victims of the attacks in terms of holding the perpetrators accountable. Several criticisms have been made regarding the Government of Sri Lanka's (GoSL) approach to investigating, identifying, and prosecuting the perpetrators of the Easter Sunday terror attacks. On 18 February 2022, the former Defence Secretary and former Inspector-General of Police (IGP), who held office during the attacks, were acquitted from the case filed against them for their failure to prevent the 2019 Easter attack.^v

10. Furthermore, the recommendations made by the Presidential Commission of Inquiry, appointed by former President Maithripala Sirisena on 21 April 2019 to investigate the Easter Sunday terror attacks, have not been implemented^{vi}. Despite the outcry of the Catholic Church, represented by Cardinal Malcolm Ranjith, social activists and rights groups, who have repeatedly called for an impartial and international investigation into the attacks^{vii} the GoSL has been slow to respond. Further, instead of heeding their calls, there has been a disturbing trend of summoning persons who call for an inquiry into the attacks to the Criminal Investigation Department for questioning.^{viii}

(ii) Arbitrary arrest of Muslims under the PTA and ICCPR

11. Mostly Muslims, including pregnant women and cancer patients, were arbitrarily arrested in connection to the Easter Sunday attacks under the Prevention of Terrorism Act (PTA) and International Covenant on Civil and Political Rights Act, No. 56 of 2007 (ICCPR Act)^{ix} and about 300 remain in custody without trial.^x
12. Dilshan Mohamed, a researcher and activist who expressed anti-extremist sentiments, was arrested in 2019 on the ground that he was supporting the Islamic State on social media. Ahnaf Jazeem, a poet was arrested under the PTA in relation to an anthology of poetry published in 2017 which allegedly instigated racial hate.^{xi} Hejaaz Hizbulla, a practising lawyer and lecturer, was arrested in 2020 for his alleged connection to Easter attack 2019. There have been concerns about legal representation for those detained, with some lawyers being reluctant to or prevented from appearing for them.^{xii} Ahnaf Jazeem was granted bail on 15 December 2021 and Hejaaz Hizbulla was granted bail on 07 February 2022, but the challenges to their cases and trials continue.
13. The Prevention of Terrorism (Temporary Provisions) (Amendment) Bill was passed in Parliament on 22 March 2022. The proposed amendments have been censured as problematic provisions, including sections on the admissibility of confessions, the broad definition of terrorism, lack of judicial oversight of arrest, detention and investigations, and stringent bail conditions have not been amended or adequately addressed.^{xiii} The European Union^{xiv} and the UN Human Rights Commissioner^{xv} have highlighted that the Amendment does not fully comply with the international human rights obligations. Furthermore, in March 2022, the Supreme Court determined that certain clauses in the Prevention of Terrorism (Temporary Provisions) Amendment) Bill are not consistent with the Constitution.^{xvi} These amendments have been passed despite repeated calls locally^{xvii} and internationally^{xviii} for the complete repeal of the PTA.
14. On 12 March 2021, the Prevention of Terrorism (De-Radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021 was promulgated, which provided for the detention of any person suspected of

causing 'religious, racial, or communal disharmony' for a period of up to two years without trial.^{xix} The Regulations are currently being challenged in the Supreme Court, with an interim order having been issued, halting the implementation of the Regulations until a final determination is delivered.^{xx}

Registration of Places of Worship

15. On 16 October 2008, the Ministry of Religious Affairs and Moral Upliftment, which is currently known as the Ministry of Buddhasasana Religious and Cultural Affairs, issued a Circular addressed to the heads of Divisional Secretariats and local government entities regarding the construction of new places of worship. The Circular stipulated a requirement for any potential construction of places of worship to first seek approval from the Ministry. The Circular further vests power in the law enforcement authorities to take steps to halt any religious activities carried out without such approval.
16. Despite the legality of these circulars being in question due to interference with the freedom of religion and right to manifest religious beliefs guaranteed under Articles 10 and 14(1) (e) respectively of the Constitution, they have been repeatedly used by government officials against minority religions and their places of worship.
17. On 28 June 2017, the Supreme Court of Sri Lanka delivered a judgement (SCFR 92/2016) regarding the construction of a Madrasa. The Court ruled that the Petitioner had failed to comply with the 2008 Circular and that the circular could be regarded as a law. However a letter sent by the Ministry of Buddha Sasana on 12 September stated that the requirement of registration under the 2008 circular only applies to Buddhist places of worship.
18. However, on 20 January 2022, the Ministry informed that the requirement of registration is now applicable to all places of worship, including Christian and Muslim places of worship. The Ministry has further justified that the decision was arrived at to prevent conflicts between ethnic and religious communities.
19. A [circular](#) issued by the Ministry of Buddha Sasana, Religious Affairs and Cultural Affairs dated 21 April 2022, states that for new places of worship/religious centres/prayer centres - an application must be submitted to the Divisional Secretary (the government agent appointed for each administrative division). These are then to be referred to the Ministry, along with the recommendations of the Divisional Secretary and respective regional religious leadership. After that, if the Secretary to the Ministry deems it necessary to grant approval to the application, the Secretary may submit the matter to an appropriate committee for recommendations.
20. Article 15(7) of the Constitution stipulates that rights under Article 14 can only be restricted by law, which "includes regulations made under the law for the time being relating to public security". The Circulars in question do not stem

from any existing legislation, and are not 'regulations' issued under the Public Security Ordinance, No. 25 of 1947 (PSO). As such, these Circulars cannot be used to curtail fundamental rights as per the Constitutional guarantees of religious freedom.

Discrimination and Violence Against Christians

21. Since the previous UPR cycle, a non-governmental organisation working on religious freedom documented 449 incidents of violence against Christians. According to this data, state officials have been involved in 70% of these incidents in the last two years.^{xxi}
22. Between October 2020 and October 2021, police were either actively or tacitly supportive of religiously motivated violence carried out by fellow state officials, Buddhist monks, and identifiable individuals from the area. Furthermore, there is a concerning pattern of active and tacit police support for acts of violence against Christian clergy, churches and Christian congregants. Police action has only been recorded when violence has reached high levels of severity (such as physical violence and property damage), and these interventions were observed only after a violation had taken place.^{xxii}
23. Some incidents instigated by state officials against Christians include: falsely accusing a pastor of not being a registered member of the Christian clergy and then refusing to accept the pastor's credentials even when the relevant documents of proof were produced (certified documents such as the church appointment letter and degree certificate), joining Buddhist monks in opposing Christian religious activities and admonishing pastors and attempting to cease Christian activities by citing COVID-19 regulations even when informed that such regulations were being followed. In an extreme case, on 14 January 2021, non-physical violence turned into physical violence when a group of approximately 75 individuals (including a grama niladhari (village/town officer), a pradeshiya sabha member and Buddhist monks) subjected a pastor, his wife and other Christians to death threats and assaulted them; the pastor's driver was beaten with sticks.^{xxiii}

Acquisition of and Encroachment on Muslim and Hindu Places of Worship

24. On 02 June 2020, the President gazetted a Presidential Taskforce for Archaeological Heritage Management in the Eastern Province (to identify, conserve, restore and promote sites of archaeological importance in the

Eastern Province),^{xxiv} made up entirely of Sinhala representatives, even though Tamils and Muslims constitute two-thirds of the population in the province. The task force also includes several Buddhist monks but no representatives of Hinduism or Islam. This task force was placed under the purview of the Ministry of Defence.^{xxv}

25. Over the past years, there have been incidents reported on the acquisition and encroachment of Muslim and Hindu places of worship. A recent incident was reported in Trincomalee, where Hindu devotees have historically been worshipping at Malayadi Pillaiyar temple in Muthur.. Since 2018, the military and a Buddhist monk living in the area have occupied the temple and its adjacent 185 acres of farmland, calling it Buddhist land. On 23 April 2022, a group of 225 devotees were restricted by the Buddhist monk, police and army from visiting the Hindu shrine, after threatening them and confiscating mobile phones.^{xxvi}
26. Another recent encroachment was in Kuragala. Kuragala is a site contested between Buddhists and Muslims since 1961. The site comprises a mosque (Dafthar Jailani) and historical records verify that the site holds religious significance for Muslims for over 800 years. In 1971, the Cabinet agreed that the site would be in the control of the Muslims, that other communities could visit and the conservation work of the site would be carried out by the Archaeological Department and asked for a circular to be issued by the Department to the effect that the rights of Muslims of Kuragala would not be affected. However, since 2011, nationalist Sinhala Buddhist organisations have attempted to claim Kuragala, saying that it is a site of significance for Buddhists. In 2019, the site was taken over by a monk and the Trustee board of the Jailani mosque was forced to comply. In 2020, the Ministry of Defence assisted the monk in establishing Kuragala Raja Maha Viharaya.^{xxvii} In February 2022, the entrance minarets of the Dafthar Jeilani Mosque were demolished by unidentified individuals.^{xxviii} On 15 May 2022, the Kuragala Buddhist vihara and the Sacred Land Development Project were completed and ceremonially opened with the Sri Lankan Army Commander as the chief guest.^{xxix}

Surveillance of Religious Worship Places and Faith-based Organisations

27. Surveillance of religious worship places and faith-based organisations in the guise of national security has shown a significant increase following the 2019 Easter attacks. The state parties have actively engaged in incidents of intimidation and harassment to further their surveillance.

(i) Surveillance of Muslim religious places (Madrasas and Mosques)

28. The intensity of Muslim religious places has significantly increased since 2019. In the guise of seeking justice for the Easter attack victims, the law enforcement authorities are closely monitoring individuals and organisations directly and

remotely involved in the Easter attacks. Surveillance includes frequent visits of the army, navy, the CID and state intelligence officers to Muslim places of worship. Muslim civil society organisations based in Colombo have also been questioned about funding from overseas, and donations from within Sri Lanka. Intelligence officers have resorted to forcibly entering Madrasas to extract details about their administration, activities and funding. Approximately three weeks after the Easter attacks, a group of about 40 officers from the army, the police and the intelligence raided a mosque and the personal residence of a trustee of Darga mosque while the trustee was on a visit to Colombo. Similarly two mosques in Anuradhapura have also been periodically visited by the police and intelligence services. In some instances, officials and congregants of Muslim worship places have been arrested and detained without trial. These acts of surveillance and intimidation have generated a sense of fear among many Muslims and Muslims are reluctant to talk about their experiences even in confidence.^{xxx}

(ii) Surveillance of Christian places of worship

29. Over the last two years, officers from the Criminal Investigation Division and other intelligence officers from the police frequently visit Christian worship places. These officers have constantly inquired about the legality of the place of worship, identity of congregants and details about the pastor and the church governing board. In some instances, these officers have relied on information provided by the Buddhist monk of the area to determine the legality of the place of worship. In other instances, the CID officers have been known to visit a pastor's premises unannounced for inspection with others in the village.^{xxxii}
30. More recently, police and intelligence officials have taken advantage of the disputed 2008 circular to seek information about the worship places. The officials have often sought the church's registration details, claiming that registration is mandatory. When the pastors refused to provide the requested information, these officers, in some instances, resorted to disrupting church services and assaulting pastors and their families. The officials have also taken legal action unjustly against Christian clergy. For instance, on 03 April 2021, during the Good Friday service of a church in Ranala, two police officers requested the pastor to halt her religious activities. The police station later obtained an ex-parte order against the pastor, preventing her from continuing her worshipping. Even though the order lapsed on 21 March and the case subsequently concluded, the police officers have continued to harass the pastor claiming that the order is still in force.^{xxxii}

Recommendations

31. The government should prioritise the investigation into the Easter Sunday Attacks to ensure there will not be a miscarriage of justice for the victims.

32. The government should ensure that law enforcement bodies follow the due process prescribed by existing laws when conducting investigations and apprehending and detaining suspects. Investigations should not disproportionately target/lead to arbitrary arrests of Muslims
33. The government should take steps to repeal the Prevention of Terrorism Act.
34. The circulars on the registration of places of worship are unconstitutional and should be withdrawn as a matter of priority. The practice of issuing circulars to regulate places of worship should cease immediately. All future circulars and gazette notifications should be consistent with the constitutional protections on freedom of religion and the manifestation of religious belief. Law and policy on religious freedom, practice, and worship should be drafted with the participation of all religious groups.
35. The government should take steps to improve and promote religious freedom literacy to combat the various misconceptions regarding the specific content of this right and to address issues of chronic intolerance and violent extremism whilst ensuring non-profiling of minority religious communities.
36. All acts of violence, discrimination, intimidation, and hate speech against religious minorities and their places of worship should be promptly investigated, and those responsible prosecuted, whether they be members of the clergy, political actors, or members of other groups.
37. The government should take steps to protect the land and places of worship of the Tamil community and conduct unbiased investigations on the encroachment and acquisition of the lands of the Tamil community.
38. The government should take action to stop the surveillance, threats, harassment and intimidation against minority places of worship and civil society organisations.

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