



ADF INTERNATIONAL

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**SRI LANKA**

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## Introduction

1. ADF International is a faith-based legal advocacy organisation that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report outlines the continued lack of respect for the rights to freedom of religion or belief and expression in Sri Lanka. In particular, it raises serious concerns over laws and policies discriminating against religious minorities, as well as the lack of legal protection for non-coercive forms of proselytism. Furthermore, it addresses the grave impact of increasing mob violence and hostility towards religious minorities, including Christian and Muslim communities, and related impunity.

### (a) Freedom of Religion and Expression

#### *Background*

3. Sri Lanka has a population of over 21 million people, estimated to be roughly 70% Buddhist, 13% Hindu, 10% Muslim, and 7% Christian.<sup>1</sup>
4. Articles 10 and 14(1)(e) of the Sri Lankan Constitution guarantee all citizens the freedom to adopt, practice, and teach any religion of their choice. Article 9 grants to Buddhism 'the foremost place' in the country, and 'accordingly it shall be the duty of the State to protect and foster the Buddha Sasana.'<sup>2</sup>
5. Buddhism has been present in Sri Lanka since the third century B.C. The presence of Christianity became significant during the 16<sup>th</sup> century due to the influence of Portuguese missions, leading many Sri Lankans to consider Christianity to be a foreign and colonial religion.<sup>3</sup> Since Sri Lanka's civil war, which ended in 2009, discrimination, harassment and persecution against Christians and Muslims in Sri Lanka have persisted.<sup>4</sup>
6. During the third Universal Periodic Review cycle in November 2017, Sri Lanka supported general recommendations to ensure that the right to freedom of religion is guaranteed and respected, while rejecting practical recommendations to repeal the Prevention of Terrorism Act.<sup>5</sup> Regrettably, over the reporting period, the situation of freedom of religion or belief in Sri Lanka has failed to improve both in law and in practice.

#### *Prevention of Terrorism Act*

7. Without providing a definition of terrorism, the 1979 Prevention of Terrorism Act (PTA) provides for extraordinarily broad powers for prosecution, unwarranted searches and prolonged detention for the mere suspicion of unlawful activity.<sup>6</sup> The

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<sup>1</sup> Ada Derana 'Sri Lanka Committed to Uphold and Advance Religious Freedom – *Foreign Secretary*' (July 2018) <<http://www.adaderana.lk/news/48985/sri-lanka-committed-to-uphold-and-advance-religious-freedom-foreign-secretary>>; World Bank 'Population, Total – Sri Lanka' (2021) <<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=LK>>.

<sup>2</sup> The Constitution of the Democratic Socialist Republic of Sri Lanka (Revised Edition 2021) <<https://www.parliament.lk/files/pdf/constitution.pdf>>.

<sup>3</sup> Lausanne Movement 'Christianity in Sri Lanka' <<https://lausanne.org/content/lga/2014-03/christianity-in-sri-lanka-how-we-can-learn-from-and-support-the-church-there>>.

<sup>4</sup> CSW 'General Briefing: Sri Lanka' (March 2022) <<https://www.csw.org.uk/2022/03/22/report/5616/article.html>>.

<sup>5</sup> Human Rights Council 'Report of the Working Group on the Universal Periodic Review: Sri Lanka' (December 29, 2017) UN Doc A/HRC/37/17 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/370/50/PDF/G1737050.pdf?OpenElement>>.

<sup>6</sup> Prevention of Terrorism Act (1979). <https://www.lawnet.gov.lk/prevention-of-terrorism-3/>.

applicable list of offences includes, inter alia, the following:

'Any person who ... by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or *religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups* (emphasis added)'.<sup>7</sup>

8. In 2021, the PTA was amended to further expand the powers of authorities to detain and 'rehabilitate' or 'deradicalize' individuals who are deemed to cause 'religious, racial or communal disharmony or feelings of ill will or hostility' for up to eighteen months, without any judicial process or oversight.<sup>8</sup>
9. Suspects under the PTA can face detention without trial in a 'reintegration center' for up to one year, upon recommendation of the attorney general. In response to this amendment, human rights lawyers and religious leaders quickly filed suit to the Supreme Court, which in August 2021 put the measures on hold until it decides on the case. As of July 2022, the decision is still pending.<sup>9</sup>
10. The lack of definitions and vague terminology in the PTA opens the door to the arbitrary and abusive targeting of persons, particularly those belonging to religious or ethnic minorities, while also creating a chilling effect stifling freedom of expression for fear of reprisals. A recent example was the arrest of Muslim poet Ahnaf Jazeem in May 2020, with authorities claiming that a book of his poetry published in 2017 allegedly promoted religious extremism. Jazeem was released on bail in December 2021.<sup>10</sup>

#### *Restrictions on Religious Conversion*

11. In 2003, the Supreme Court of Sri Lanka held in *Menzingen of Sri Lanka v. Sri Lanka* that 'although it is permissible under our Constitution for a person to manifest his or her religion, spreading another religion would not be permissible as the Constitution would not guarantee a fundamental right to propagate religion.'<sup>11</sup> This decision is incompatible with both the Sri Lankan constitution and international law, but has yet to be overturned by the state's legislature or judiciary. The *Menzingen* decision was further supported by the 2018 Sri Lankan Supreme Court ruling in *Manjula v. Pushpakumara*, which determined that the right to propagate one's religion is not protected by the Constitution because it would impair the existence of Buddhism or the Buddha Sasana in the country.<sup>12</sup>
12. The Parliament of Sri Lanka is expected to pass a new Bill for Prohibition of Forcible Conversion (submitted 2004) in July 2022. The law would punish anyone converting a Sri Lankan citizen from one religion to another using force, fraud, or allurement,

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<sup>7</sup> Id., art. 2(h).

<sup>8</sup> Ground Views, Shreen Saroor 'Denying Justice While Dehumanizing a Community at Large' (April 2021), <<https://groundviews.org/2021/04/21/denying-justice-while-dehumanizing-a-community-at-large/>>.

<sup>9</sup> Human Rights Act 'In a Legal Black Hole: Sri Lanka's Failure to Reform the Prevention of Terrorism Act' (February 2022) <[https://www.hrw.org/sites/default/files/media\\_2022/02/srilanka0222\\_web.pdf](https://www.hrw.org/sites/default/files/media_2022/02/srilanka0222_web.pdf)>.

<sup>10</sup> Id, p.43-44.

<sup>11</sup> *Menzingen of Sri Lanka v. Sri Lanka*, S.C. Special Determination No. 19/2003, p7 <<https://www.refworld.org/pdfid/4be3e7042.pdf>>.

<sup>12</sup> *Manjula v. Pushpakumara*, S.C. F.R. No. 241/14 <[https://www.supremecourt.lk/images/documents/sc\\_fr\\_241\\_2014.pdf](https://www.supremecourt.lk/images/documents/sc_fr_241_2014.pdf)>.

with a fine of up to 500'000 Sri Lankan Rupees and/or seven years in prison. The harshest punishment is reserved for persons converting women or children.<sup>13</sup>

13. After the bill's first reading in Parliament, Sri Lanka's Supreme Court received 22 petitions challenging its validity. The court ruled that two of the clauses - the first requiring participants of religious conversion ceremonies to be reported to government authorities and the second prescribing punishment for such conversions - were unconstitutional. The court held they violated Article 10 of the Constitution, which guarantees the freedom of thought, conscience, and religion, including the freedom to have or adopt a religion or belief of one's choice. The bill was amended accordingly.<sup>14</sup>
14. Concerns have been raised that the prohibitions contained in this bill may eventually affect the practice of peaceful forms of proselytization, which form an integral part of the freedom to profess, practice and propagate one's religion. Its vague wording carries a serious risk of misuse, particularly against persons belonging to religious minorities. In particular, Christians in Sri Lanka fear that elements of the bill allow vast leeway in interpretation and could result in the criminalization of most of their activities, including helping the poor.<sup>15</sup>

#### *State-sponsored Discrimination*

15. Muslim and Christian religious minorities in Sri Lanka have been blamed for allegedly spreading the Coronavirus (COVID-19).<sup>16</sup> In April 2020, after senior government figures made public comments falsely implying that the virus was particularly rife among Muslims, a group of activists, medical professionals and civil society organizations wrote an open letter to the President raising concerns that this had led to increasing hostility against Muslims and that the government measures were seen as 'punitive' for the alleged spread of the disease. The President has not responded to this letter.<sup>17</sup><sup>18</sup>
16. As part of its pandemic response, the Sri Lankan Government implemented forced cremations of the bodies of COVID-19 victims, including that of a baby in December 2020 over the objections of his Muslim parents.<sup>19</sup> This policy disproportionately impacted Sri Lanka's Muslim population, as cremation violates their religious

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<sup>13</sup> Christian Today 'Anti-Conversion Law Likely in Sri Lanka' <<https://christiantoday.com.au/news/anti-conversion-law-likely-in-sri-lanka.html>>.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> United Nations Institute for Peace 'Two Years After Easter Attacks, Sri Lanka's Muslims Face Backlash' (April 2021) <<https://www.usip.org/publications/2021/04/two-years-after-easter-attacks-sri-lankas-muslims-face-backlash>>.

<sup>17</sup> Center for Policy Alternatives 'Disposal of bodies of deceased persons who were infected with and suspected of being infected with COVID-19' (4 April 2020) <https://www.cpalanka.org/disposal-of-bodies-of-deceased-persons-who-were-infected-with-and-suspected-of-being-infected-with-covid-19/>.

<sup>18</sup> Huma Rights Watch 'Open Wounds and Mounting Dangers: Blocking Accountability for Grave Abuses in Sri Lanka' (February 2021) <<https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka>>.

<sup>19</sup> BBC News, 'Covid-19: Sri Lanka forcibly cremates Muslim baby sparking anger' (December 2020) <<https://www.bbc.com/news/world-asia-55359285>>.

<sup>20</sup> Huma Rights Watch 'Open Wounds and Mounting Dangers: Blocking Accountability for Grave Abuses in Sri Lanka' (February 2021) <<https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka>>.

beliefs.<sup>20</sup> The government's decision was reportedly influenced by Buddhist monks, who claimed that the virus could spread from interred remains through the groundwater.<sup>21</sup> The World Health Organization regards as a 'common myth' the claim that those who die of a communicable disease should be cremated.<sup>22</sup>

17. In December 2020, the Sri Lankan Supreme Court dismissed petitions filed by 11 Muslim and Christian activists against mandatory cremation for all COVID-19 victims on the grounds that they violated the right to freedom of religion or belief of Muslims.<sup>23</sup> Since the mandate was rescinded in March 2022, the government only allowed burials in one remote location, which was heavily guarded by the military. This continued to impose hardships on Muslims as well as on the smaller number of Christians and Hindus who choose to bury their dead.<sup>24</sup>
18. The crackdown on Muslims in Sri Lanka has also impacted women's ability to wear religious symbols as well as their educational freedom. On the one hand, in March 2021, the country's cabinet approved a ban that forbids Muslim women from wearing burqas in public, citing national security concerns.<sup>25</sup> A similar ban was temporarily enacted in the weeks following the Easter Bombings in 2019.<sup>26</sup> On the other hand, still in March 2021, the Minister of Public Security announced the government's intent to close more than 1,000 Islamic schools in the country for allegedly failing to adhere to the national educational policy.<sup>27</sup> It also publicly banned the import of Islamic books in the country under the new anti-terror law.<sup>28</sup>

#### *Violence and Hostility against Religious Minorities*

19. Throughout the reporting period, there have been a rising number of cases of extremist attacks on Muslims and Christians, including bombings of churches and mosques and the homes and businesses of persons belonging to religious minorities. There have also been myriad mob confrontations and death threats attempting to intimidate Christians into ceasing their church-related work or leaving

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<sup>20</sup> Huma Rights Watch 'Open Wounds and Mounting Dangers: Blocking Accountability for Grave Abuses in Sri Lanka' (February 2021) <<https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka>>.

<sup>21</sup> FRANCE 24 'Sri Lanka sticks to cremation of Muslim Covid-19 victims despite uproar' (August 2021) <<https://www.france24.com/en/live-news/20210108-sri-lanka-sticks-to-cremation-of-muslim-covid-19-victims-despite-uproar>>.

<sup>22</sup> World Health Organisation 'Infection Prevention and Control for the safe management of a dead body in the context of COVID-19' (March 2020) <[https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC\\_DBMgmt-2020.1-eng.pdf?sequence=1&isAllowed=y](https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC_DBMgmt-2020.1-eng.pdf?sequence=1&isAllowed=y)>.

<sup>23</sup> The New Indian Express 'Sri Lanka's Highest Court Rejects Petitions from Muslims Against COVID-19 Cremations' (December 2020) <<https://www.newindianexpress.com/world/2020/dec/01/sri-lankas-highest-court-rejects-petitions-from-muslims-against-covid-19-cremations-2230493.html>>.

<sup>24</sup> FRANCE 24 'Sri Lanka Ends Widely Condemned Muslim Burial Policy' (March 2022) <<https://www.france24.com/en/live-news/20220303-sri-lanka-ends-widely-condemned-muslim-burial-policy>>.

<sup>25</sup> Al Jazeera 'Sri Lanka Cabinet Approves Proposed Ban on Burqas in Public' (April 2021) <<https://www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public>>.

<sup>26</sup> The Hindu 'Sri Lanka Cabinet Clears Proposal for Burqa Ban' (April 2021) <<https://www.thehindu.com/news/international/sri-lanka-cabinet-clears-proposal-for-burqa-ban/article34423704.ece>>.

<sup>27</sup> W. Karunatilake 'Sri Lanka to Ban Burqa, Shut Many Islamic Schools, Minister Says' (March 2021) Reuters <<https://www.reuters.com/article/us-sri-lanka-islam/sri-lanka-to-ban-burqa-shut-many-islamic-schools-minister-says-idUSKBN2B5091>>.

<sup>28</sup> The Islamic Information 'Sri Lanka Bans Importing Islamic Books' (March 2021) <<https://theislamicinformation.com/news/sri-lanka-bans-importing-islamic-books/>>.

their Buddhist-dominated communities entirely.<sup>29</sup>

20. In April 2019 on Easter Sunday, a series of suicide bombs were detonated inside 3 hotels and 3 Christian churches during services in Colombo, Negombo, Batticaloa, and Devhiwala-Mount Lavinia, killing 270 people.<sup>30</sup> Many of the Easter Bombing perpetrators have not been brought to justice, despite numerous calls from the Christian community. On March 16, 2022, the Sri Lankan Cardinal called for international support for the Sri Lankan Government to properly investigate the bombings and hold the perpetrators accountable.<sup>31</sup>
21. In October 2020, a Sri Lankan pastor was forced to stop his ministry in Bakamuna, Poonnarauwa district, after being threatened and intimidated by police and Buddhist monks.<sup>32</sup> Following the police's instructions, the pastor went to the police station where he was taken into an office crowded with Buddhist monks. With the pastor's church attendance list in their possession, the monks issued a series of threats against the pastor and demanded his ministry be closed. Congregants of the pastor's church have endured similar threats over the past five years.<sup>33</sup>
22. Such cases of mob violence and hostility reflect concerns over the impunity and even active participation of local law enforcement and state officials in anti-Christian and anti-Muslim riots and persecution.<sup>34</sup> In considering police responses to the treatment of Muslims, Minority Rights Group International noted in March 2018 that:

'Perpetrators were rarely if ever brought before the law, despite being clearly identifiable in footage of these incidents that also shows police officers as bystanders to the violence. Inaction and apathy on the part of the state to effectively address the persecution of minorities, as well as the seeming lack of political will to control the Buddhist Power Force and similar organizations, suggested the tacit approval of the state.'<sup>35</sup>
23. In January 2021, a pastor visiting a Christian home in Passara was threatened by a mob of about 75 people, including a Buddhist monk. The mob threw stones at the house, attacked the pastor's driver, and forced the pastor and his family to leave Passara.<sup>36</sup>

<sup>29</sup> International Crisis Group 'One Country, One Law: The Sri Lankan State's Hostility toward Muslims Grows Deeper' (December 2021) <<https://www.crisisgroup.org/asia/south-asia/sri-lanka/%E2%80%9Cone-country-one-law%E2%80%9D-sri-lankan-states-hostility-toward-muslims-grows-deeper>>.

<sup>30</sup> CNN 'Terror in Sri Lanka' (<https://www.cnn.com/interactive/2019/04/world/sri-lanka-attacks/>) (April 2019).

<sup>31</sup> International Christian Concern 'Sri Lankan Cardinal Calls for International Support' (April 2022) <<https://www.persecution.org/2022/03/16/sri-lankan-cardinal-calls-international-support/>>.

<sup>32</sup> The Christian Post 'Sri Lankan Pastor Forced to Close Church Amid Escalating Threats from Buddhist Monks, Police' (October 2020) <<https://www.christianpost.com/news/sri-lankan-pastor-forced-close-church-threats-buddhists-police.html>>.

<sup>33</sup> International Christian Concern, 'Pastor in Sri Lanka Forced to Close Ministry Following Threats and Intimidation' (October 2020) <<https://www.persecution.org/2020/10/27/pastor-sri-lanka-forced-close-ministry-following-threats-intimidation/>>.

<sup>34</sup> Reuters, 'Police, Politicians Accused of Joining Sri Lanka's Anti-Muslim Riots' (March 2018) <https://www.reuters.com/article/us-sri-lanka-clashes-insight/police-politicians-accused-of-joining-sri-lankas-anti-muslim-riots-idUSKBN1H102Q>>.

<sup>35</sup> Asylum Research Centre 'A Commentary on the Country Policy and Information Note (CPIN) issued on Sri Lanka: Religious Minorities' (December 2021) <[https://asylumresearchcentre.org/wp-content/uploads/2021/12/ARC-commentary\\_Sri-Lanka-CPIN-Religious-Minorities\\_December-2021.pdf](https://asylumresearchcentre.org/wp-content/uploads/2021/12/ARC-commentary_Sri-Lanka-CPIN-Religious-Minorities_December-2021.pdf)>.

<sup>36</sup> Barnabas Aid 'Sri Lankan Government Drafting New Law Against "Unethical Conversions" Amid Violent Attacks on Christians' (March 2021) <https://www.barnabasfund.org/us/news/sri-lankan-government-drafting-new-law-against-unethical-conversions-ami/>>.



24. On 6 March 2022, a mob of around 600 people broke into the Mercy Gate Chapel in Amalgama, demanding that the church services end and the church be closed. The mob threatened the pastor with death if he failed to cease his religious activities.<sup>37</sup>

**(b) Recommendations**

25. In light of the aforementioned, ADF International suggests that the following recommendations be made to Sri Lanka:

- a. Ensure full respect for freedom of religion or belief and freedom of expression without discrimination of any kind, in accordance with international human rights law;
- b. Amend the Prevention of Terrorism Act to ensure its full compliance with international human rights law, including respect for the freedom from arbitrary arrest or detention, and ensure its non-discriminatory enforcement;
- c. Take measures to effectively guarantee the freedom of all people to engage in non-coercive forms of religious proselytism;
- d. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization;
- e. Increase efforts to protect Christians, Muslims and other religious minorities from all forms of violence and discrimination, including by extremist groups;
- f. End impunity and investigate and prosecute reported incidents of violence or harassment of religious minorities by state officials or police personnel.

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<sup>37</sup> International Christian Concern 'Mob of 600 Break into Sri Lankan Church' (March 2022) <<https://www.persecution.org/2022/03/10/mob-600-break-sri-lankan-church/>>.



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