

Status of Human Rights in Sri Lanka for the 42nd Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations, especially regarding the freedoms of religion and speech, in the Democratic Socialist Republic of Sri Lanka (Sri Lanka) for the 42nd Session of the Universal Periodic Review (UPR).

Background

2. Sri Lanka has an estimated population of 23 million people and is predominately a Buddhist country, with 70% of the population identifying as Buddhist, 12% as Hindu, 9% as Muslim, 6% as Roman Catholic, 1% as Christian, and 0.05% as other.¹

3. Sri Lanka's previous review was held on November 15, 2017.² As a result of the review, Sri Lanka received 239 recommendations, 177 of which were supported by Sri Lanka.³ One of the recommendations, which was made by Belgium and supported by Sri Lanka, was that the government "[i]ncrease efforts to guarantee and protect freedom of religion and belief, in line with its obligations under the International Covenant on Civil and Political Rights."⁴ It was further recommended by Poland and supported by Sri Lanka that the government "[s]trengthen existing law and practice to guarantee the right to freedom of religion or belief for all citizens and residents, in particular by prosecuting and punishing all cases of religiously motivated violence."⁵ Despite Sri Lanka's support of both of these recommendations, not much has changed.

Legal Framework

4. Article 9 of Sri Lanka's Constitution "give[s] to Buddhism the foremost place and accordingly it shall be the duty of the State to *protect and foster* the Buddha Sasana."⁶ However, Article 10 of the Constitution states that "[e]very person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice,"⁷ and Article 14(e) of the Constitution states that every citizen is "entitled to . . . manifest his religion or belief in worship, observance, practice and teaching."⁸ Unfortunately, as discussed below, Sri Lanka's Supreme Court has declared these constitutionally protected rights null and void.

5. In addition to the problematic Supreme Court position, Articles 291A and 291B of the Sri Lankan Penal Code pose a problem as they criminalize blasphemy against religions. Article 291A punishes with imprisonment "the deliberate intention of wounding the religious feelings of any person,"⁹ as well as the utterance of words or sounds, performance of gestures, or placement of objects, which can be interpreted as offensive. Article 291B similarly criminalizes words,

visible representations, insults or attempts to insult if they are deliberately and maliciously intended to “wound[] the religious feelings of any person.”¹⁰

6. Sri Lanka is a party to the International Covenant on Civil and Political Rights (ICCPR) and has a responsibility to uphold the rights enshrined within.¹¹ Articles 18, 19, and 27 of the ICCPR guarantee protections for the rights to freedom of religion and speech. Moreover, Sri Lanka’s actions must also align with the Universal Declaration of Human Rights (UDHR).

Restrictions on the Freedom of Religion

7. While the language of the Constitution of Sri Lanka protects the right to freedom of religion for *all* citizens, Buddhism is given the “foremost place.” Considering that provision, Sri Lanka’s Supreme Court *interpreted* the constitutional provisions guaranteeing religious freedom in an unreasonably restrictive way for non-Buddhist minorities. In a 2003 case, the Court held that “the Constitution does **not** recognise a fundamental right to propagate a religion.”¹² It further stated that “if efforts are taken to convert another person to one’s own religion, such conduct could hinder the very existence of the *Buddha Sasana*.”¹³ As unbelievable as it may seem, that legally flawed reasoning by the Supreme Court is still followed today, and as a result, religious minorities are not afforded the right to choose and practice their religion.

8. For example, many religions, such as Christianity, call on their adherents to go out in the community and peacefully spread news of their religion so that others might also believe. For example, the Bible calls all Christians to “[g]o into all the world and preach the gospel to all creation.” *Mark* 16:15. Also, Christianity calls upon its adherents to provide for the poor and afflicted:

This is how we know what love is: Jesus Christ laid down his life for us. And we ought to lay down our lives for our brothers and sisters. If anyone has material possessions and sees a brother or sister in need but has no pity on them, how can the love of God be in that person? Dear children, let us not love with words or speech but with actions and in truth. 1 *John* 3:16-18.

Although protected in the language of the Sri Lankan Constitution, as well as Sri Lanka’s international commitments, the Supreme Court’s faulty opinion destroys religious freedom for minority religions, as it fails to recognize proselytizing and providing for the vulnerable and needy as legitimate expressions and practice of religious belief, and instead categorizes them as the unconstitutional propagation of religion.

9. In October 2005, the UN Human Rights Committee overruled the Supreme Court’s 2003 decision, stating that its decision restricted the rights to freedom of religious practice and to freedom of expression and amounted to a breach of Article 18 of the ICCPR.¹⁴ The HRC’s decision ordered Sri Lanka to provide an “effective remedy giving full recognition to the [organization’s] rights under the [ICCPR].”¹⁵ However, Sri Lanka has done nothing. In fact, in response, the Supreme Court of Sri Lanka ruled that HRC decisions are not binding on Sri Lanka.¹⁶ Thus, the 2003 Supreme Court decision is still in effect today, and its preferential treatment of Buddhism, combined with its restriction of the rights of religious minorities, continues to have a deleterious effect on the rights of religious minorities.

10. Continuing in the trend of restricting rather than advancing religious freedom, Sri Lanka's former Prime Minister, Mahinda Rajapaksa, announced in March 2020 his plans to introduce an anti-conversion bill.¹⁷ According to reports, this “anti-conversion legislation would criminalise all attempts to force or falsely coerce people into converting from one religion to another.”¹⁸ If enacted, those found guilty of violating the law would face a sentence of seven years in prison and a maximum fine of €2,400.¹⁹ It should be noted that, while such a legislation, on its face, only prohibits “forcible” or “false” conversions, we only have to look to India to see how these anti-conversion laws are used to suppress religious minorities. A proposed anti-conversion bill would also contradict Articles 10 and 14(1)(e) of the Constitution. To counter this, government officials “hope that Article 14 of the Constitution would be amended” because “at the moment there is no legal provision through which [they] can act” to stop religious conversions.²⁰ At the time this report was written, the proposed law had not been enacted, but the ECLJ is gravely concerned that the Prime Minister would even consider such a law. While Prime Minister Rajapaksa has since resigned, Sri Lanka appears to be following India's lead on restricting the rights of religious minorities, which has led to an uptick in religiously motivated attacks on Christians in India. Similarly, violence against religious minorities has – and will likely increase – if Sri Lanka continues to model itself after India.

11. Additionally, government authorities have placed restrictions on religious freedom in other ways as well. Several reports indicate that police and other government officials continue to use an obsolete 2008 circular, which requires prior approval of construction of new places of worship, when they obstruct religious services or the construction of religious places.²¹

12. As a party to the ICCPR, Sri Lanka has a responsibility to uphold the rights enshrined therein. The Supreme Court's restrictive interpretation of the constitutional provisions protecting the freedom of religion and the former Prime Minister's planned anti-conversion legislation contradict Article 18 of the ICCPR,²² which protects manifestation of the freedom of religion by proselytization and conversion.²³

Restrictions on the Freedom of Speech

13. In addition to restricting the religious freedom of minorities under the restrictive interpretation of the constitutional provisions, Articles 291A and 291B of the Sri Lankan Penal Code criminalize blasphemy, thereby prohibiting freedom of religious speech. Under Article 291A of the Penal Code, uttering any word, sound, or even a *gesture* with an intention to wound the religious feelings of any person is punishable with up to one year imprisonment.²⁴ Under Article 291B, intentionally outraging the religious feelings of any class of persons by insulting or attempting to insult the religion or the religious beliefs of any class by words, either spoken or written, or even by *visible representation*, is punishable with two year imprisonment.²⁵

14. On June 8, 2020, a Buddhist monk filed charges against an atheist, Indika Rathnayaka, alleging that he was “‘propagating fictitious ideas about Buddha and Buddhism’ on Facebook.”²⁶ When Rathnayaka brought this matter to the attention of the Sri Lankan Human Rights Commission, the matter was eventually dropped.²⁷ In another case, a notable author, Shakthika Sathkumara, was arrested and detained on April 1, 2019, for publishing a story deemed defamatory to Buddhism. He was detained for 127 days until he was granted bail.²⁸ The UN Working Group on Arbitrary Detention found that his detention was arbitrary, and eventually, in 2021, the charges against him were dropped.²⁹

15. The broad and vague anti-blasphemy statutes, which punish even a *gesture* that could be deemed insulting, clearly contradict Sri Lanka's international obligations under the ICCPR. The Human Rights Committee in its General Comment 34 on Article 19 of the ICCPR has clearly stated that “[p]rohibitions of displays of lack of respect of a religion or other belief system, including blasphemy laws, are incompatible with the Covenant,” unless the speech in question incites discrimination, hostility, or violence.³⁰

Religiously Motivated Attacks Against Christians

16. The preferential treatment afforded to Buddhism by the Constitution, the Supreme Court's restrictive interpretation of the constitutional provisions on the freedoms of religion and speech, and the existence of anti-blasphemy laws have emboldened Buddhist extremists and others to harass and attack Christians and to prevent them from carrying out religious activities with impunity. A Sri Lankan Christian organization has estimated at least 387 attacks or violations targeting Christians from the beginning of 2015 to June 2019.³¹ Following are just a few examples.

17. For example, in March 2022, a mob of 600 people, made up of “Buddhist fundamentalists who believe that the country is a historic Buddhist land,” including 60 Buddhist monks, stormed a Christian church during Sunday service and demanded that all religious activities stop.³² According to a report, “the Buddhist monks inspected the place of worship and declared it ‘illegitimate.’”³³ The mob then proceeded to harass the pastor and assaulted worshippers, one of whom ended up in the hospital.³⁴ Police eventually showed up and were able to disperse the mob before things escalated further. However, despite the disruption and the physical harm done to at least one Christian, no arrests were made.³⁵ This kind of mob violence against Christians is fueled by the belief that Christianity is “a product of Western colonialism that threatens Buddhists’ identity. . . [and] the practice of Christian evangelism is seen as an obstruction to Buddhists’ vision for the country.”³⁶

18. In February 2021, a church in Divulapitiya was attacked with gasoline bombs and stones.³⁷

19. In January 2021, a mob of about 75 people attacked a pastor who was visiting a Christian home in Passara. The mob violently attacked the pastor's driver and “forced the pastor and his wife to leave the village.”³⁸

20. In October 2020, a Christian pastor shut down his church after “five years of intimidation [from Buddhist monks] that culminated in him being ordered to a police station where he faced further threats not only to himself but against his parishioners.”³⁹ Police arrived at the pastor's house and asked that he come down to the police station.⁴⁰ When he arrived at the police station, he was taken to a room where he was confronted by Buddhist monks who showed him a list with the names of those who attended his church and ordered that he immediately close down his church.⁴¹ Out of fear for the safety of his congregation, the pastor decided to close down his church.⁴² The CEO of Barnabus Fund, a charity that works on the ground with the persecuted church, stated that, “[i]n recent years, [there has been] a steady increase in mobs orchestrated by Buddhist extremists, often led by Buddhist monks against Christian communities. These mobs especially target Christian converts from Buddhism.”⁴³

21. Similarly, on February 2, 2020, a mob of 150 Buddhist extremists, led by four Buddhist monks, went to a Christian house where a Sunday service was being conducted.⁴⁴ The mob demanded that service end, and threatened the pastor, telling him to leave the village and never return.⁴⁵ The monks “claimed [that the village] was a ‘Buddhist village’ where Christian worship activities would not be permitted.”⁴⁶ Fearing for their safety, the pastor, his family, and some fellow Christians, decided to leave the village later that day.⁴⁷ As they were leaving, the Christians were ambushed by a mob of 50 Buddhist extremists, led by three Buddhist monks. Ultimately, three of the Christians were hospitalized as a result of the attack.⁴⁸ When the Christians reported the incident to the police, the police falsely accused them of illegally holding religious services because their church was not registered.⁴⁹ The day after the attack, the police only managed to arrest five people for the attack, “the monks involved in the incident were not taken into custody.”⁵⁰

22. On August 4, 2019, a group “of Buddhist monks viciously beat up a Christian student” following a Sunday service.⁵¹ According to the report, the “monks targeted the head, stomach and spine of their young victim.”⁵² “[T]he monks belonged to ‘a notorious extremist group that promotes religious disharmony and conflict’ in Sri Lanka.”⁵³ The Christian student was later admitted to a hospital where he recovered from his injuries.⁵⁴ However, despite the incident being reported to the police, no action was taken against the attackers.⁵⁵

23. On Easter Sunday, April 21, 2019, Islamic terrorists affiliated with the Islamic State carried out a coordinated attack on Sri Lankan civilians in what is known as “the worst Islamist terror attack the country ha[s] ever seen.”⁵⁶ Three churches were attacked by suicide bombers “as Christians attended Easter mass.”⁵⁷ Three luxury hotels were also targeted, culminating in the deaths of “over 270 people” – including children – and injuries to at least 500 people.⁵⁸ While “[t]he trial of 25 men accused of plotting the 2019 Easter Sunday bombing in Sri Lanka”⁵⁹ is currently ongoing, there are some concerns that “the true conspirators in the attacks could still be at large.”⁶⁰ Part of this concern stems from “allegations that some members of state intelligence knew and had met with at least one attacker,”⁶¹ and that no action has been taken against top officials who failed to prevent the bombings.⁶²

24. In April 2019, a group of violent youths attacked a Methodist church with stones and burning firecrackers on Palm Sunday. Bishop Asiri Perera said that complaints had been filed regarding prior incidents and the police promised to provide protection to the church, but no protection was provided and no arrests were made.⁶³

25. On March 24, 2019, a mob of 2,000 townspeople staged “a mass protest . . . outside the premises of Christ Gospel Church in Ja-ela, Gampaha District, during Sunday afternoon worship.”⁶⁴ The protest was an attempt by “a traders’ association,” to have the church removed from the community.⁶⁵

Recommendations

26. It is imperative that Sri Lanka uphold its obligations under its Constitution, the ICCPR, and the UDHR to protect religious freedom for all its citizens. To do this, it must reform the Penal Code and repeal anti-blasphemy laws, as well as enshrine protections for proselytization, which is part of the religious practice for the adherents of many religions. Sri Lanka should also abide by the 2005 HRC decision and refrain from following the 2003 faulty Constitutional interpretation by the Supreme Court restricting religious freedom. Additionally, Sri Lanka should immediately withdraw all legislative proposals that call for the criminalization of religious conversion. Finally, it is imperative that Sri Lanka increase efforts to properly investigate and prosecute all cases of attacks against Christians and other minorities by Buddhist extremists and actively work to put a stop to these types of religiously motivated attacks.

¹ *Sri Lanka*, WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/sri-lanka/> (Mar. 30, 2022).

² Universal Periodic Review – Sri Lanka, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/lk-index>.

³ UPR of Sri Lanka -Thematic List of Recommendations, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/LK/MatriceRecommendationsSriLanka.docx>.

⁴ *Id.* at A/HRC/37/17 – Para. 116.

⁵ *Id.*

⁶ Constitution of Sri Lanka art. 9, https://www.constituteproject.org/constitution/Sri_Lanka_2015.pdf?lang=en.

⁷ *Id.* at art. 10.

⁸ *Id.* at art. 14(1)(e).

⁹ PENAL CODE OF SRI LANKA, § 291A, [https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/2962721b86fc380ac125767e00582c62/\\$FILE/Penal%20Code.pdf](https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/2962721b86fc380ac125767e00582c62/$FILE/Penal%20Code.pdf) (emphasis added).

¹⁰ *Id.* at § 291B.

¹¹ *Ratification Status for Sri Lanka*, OHCHR,

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN.

¹² Supreme Court Special Determination No. 19/2003, <https://www.refworld.org/pdfid/4be3e7042.pdf> (emphasis added).

¹³ *Id.*

¹⁴ *Sister Immaculate Joseph and 80 Teaching Sisters in Menzingen v. Sri Lanka*, ¶ 7.2 (Oct. 21, 2006), CCPR/C/85/D/1249/2004.

¹⁵ *Id.* ¶ 9.

¹⁶ *Nallaratnam Singharasa v. Att’y Gen.*, S.C. SpL(LA) No. 182/99 (Sept. 15, 2006).

¹⁷ Tamar Svanidze, *Sri Lankan PM Promises to Introduce New Anti-Conversion Bill to Protect Buddhists*, NEW EUROPE (Mar. 27, 2020), <https://www.neweurope.eu/article/sri-lankan-pm-promises-to-introduce-new-anti-conversion-bill-to-protect-buddhists/>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Pamodi Waravita, *New Laws Against Unethical Conversion*, MORNING (Feb. 18, 2021), <https://www.themorning.lk/new-laws-against-unethical-conversions/>.

²¹ *General Briefing: Sri Lanka*, CSW (May 1, 2020), <https://www.csw.org.uk/2020/05/01/report/4640/article.htm>.

²² International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 18.

²³ See Rep. of the Special Rapporteur on Freedom of Religion or Belief on Visit to Sri Lanka, U.N. Doc. A/HRC/43/48/Add.2 (2020).

²⁴ PENAL CODE OF SRI LANKA, § 291A, [https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/2962721b86fc380ac125767e00582c62/\\$FILE/Penal%20Code.pdf](https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/2962721b86fc380ac125767e00582c62/$FILE/Penal%20Code.pdf) (emphasis added).

²⁵ *Id.* at § 291B.

²⁶ *Indika Rathnavaka*, HUMANISTS INT., <https://humanists.international/case-of-concern/indika-rathnayaka/> (last visited Apr. 13, 2022).

²⁷ *Id.*

²⁸ Opinion No. 8/2020 Concerning Delankage Sameera Shakthika Sathkumara (Sri Lanka). U.N. Doc A/HRC/EGAD/2020/8 (May 22, 2020), https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_8_Advance_Edited_Version.pdf.

²⁹ *Id.*

³⁰ Hum. Rts. Comm., General Comment 34, U.N. Doc. CCPR/C/GC/34 (2011).

³¹ *General Briefing: Sri Lanka*, CSW (May 1, 2020), <https://www.csw.org.uk/2020/05/01/report/4640/article.htm>.

³² *Mob Breaks into Christian Chapel in Sri Lanka*, LICAS NEWS (Mar. 11, 2022), <https://www.licas.news/2022/03/11/mob-breaks-into-christian-chapel-in-sri-lanka/>.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Sri Lankan Government Drafting New Law Against “Unethical Conversions” Amid Violent Attacks on Christians*, BARNABAS AID (Mar. 17, 2021), <https://www.barnabasfund.org/us/news/sri-lankan-government-drafting-new-law-against-unethical-conversions-ami/>.

³⁸ *Id.*

³⁹ Jackson Elliott, *Sri Lankan Pastor Forced to Close Church Amid Escalating Threats from Buddhist Monks*, CHRISTIAN POST (Oct. 28, 2020), <https://www.christianpost.com/news/sri-lankan-pastor-forced-close-church-threats-buddhists-police.html>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Three Sri Lankan Christians Injured in Double Attack by Extremist Buddhist Mobs*, BARNABAS AID (Feb. 27, 2020), <https://www.barnabasfund.org/us/news/three-sri-lankan-christians-injured-in-double-attack-by-extremist-buddhi/>.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Gang of Buddhist Monks Viciously Beat Bible College Students in Sri Lanka*, BARNABAS AID (Aug. 13, 2019), <https://www.barnabasfund.org/us/news/gang-of-buddhist-monks-viciously-beat-bible-college-student-in-sri-lanka/>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Tariq Tahir & Nika Shakhnazarova, *Terror Massacre Sri Lanka Bombings – What Happened on Easter Sunday in 2019*, SUN (Apr. 6, 2020), <https://www.thesun.co.uk/news/8907922/sri-lanka-bombings-easter-sunday-2019/>.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Sri Lanka 2019 Easter Bombings Trial Adjourned*, ALJAZEERA (Jan. 12, 2022), <https://www.aljazeera.com/news/2022/1/12/sri-lanka-resumes-trials-over-2019-easter-sunday-bombings>.

⁶⁰ *Sri Lankan Protesters Demand Justice for 2019 Easter Attacks*, VOA NEWS (Apr. 17, 2022, 9:21 AM), <https://www.voanews.com/a/sri-lankan-protesters-demand-justice-for-2019-easter-attacks-/6532998.html>.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Mobs Attack Sri Lanka Methodist Center for Disabled on Palm Sunday (VIDEO)*, JDS (Apr. 17, 2019), <http://www.jdslanka.org/index.php/news-features/human-rights/876-mobs-attack-sri-lanka-methodist-center-for-disabled-on-palm-sunday>.

⁶⁴ *Sri Lanka*, OPEN DOORS USA (2019), <https://www.opendoorsusa.org/christian-persecution/world-watch-list/sri-lanka-2/>.

⁶⁵ *Id.*