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RELIGIOUS FREEDOM IN SRI LANKA

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RELIGIOUS FREEDOM IN SRI LANKA

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation 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 highlight religious freedom abuses in Sri Lanka for the 2012 Universal Periodic Review (UPR). These abuses primarily result from the Sri Lankan government's unwillingness or inability to ensure equal protection under the law for all of its citizens. Although Sri Lanka has been engulfed in a civil war, it must abide by the rule of law if it sincerely hopes to "secure unity" among all Sri Lankans and achieve "lasting peace."¹

Extremist Attacks on Religious Minorities

2. The 2008 UPR expressed concerns that Sri Lanka's National Human Rights Commission (NHRC) is too dependent on the government, which often abrogates human rights with impunity.² A growing area of concern is an institutional failure to address an uptick in extremist attacks on Christians. Since 2008, Buddhist extremists have threatened and physically assaulted Christians, who account for 8% of the population.³ Extremists have also repeatedly vandalised and ransacked Christian places of worship. While the government may not be able to prevent every attack from occurring, it must do more to investigate and prosecute those responsible for such attacks. Anything less undermines Sri Lanka's own constitution and its obligations under Articles 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR) to guarantee equal protection of the law to all persons.⁴

Verbal Threats and Physical Attacks.

3. In March 2010, Buddhist monks and affiliates of a local politician led a mob of more than 100 persons to disrupt the dedication of a pastor's residence. The mob threatened the pastor and shouted at Christians attending the service. The demonstrators claimed that Sri Lanka was a Buddhist country and that Christians needed permission to hold meetings. After the pastor filed a complaint, the local police advised the monks not to resort to violence. The police then demanded that the pastor show authorisation from the Ministry of Religious Affairs to conduct religious activities on the premises. A showing of authorisation, however, is not required under Sri Lankan law.⁵ Moreover, Article 14 of the Sri Lankan constitution guarantees citizens the right to peacefully assemble and freely manifest their religious beliefs.⁶

¹See Rep. of the Working Group on the Universal Periodic Review, Human Rights Council, 8th sess., June 2008, ¶ 81, U.N. Doc. A/HRC/8/46 (June 2008) [hereinafter 2008 Working Group Report].

²*Id.*, ¶¶ 21, 26, 28.

³See U.S. DEP'T OF STATE, *July–December, 2010 International Religious Freedom Report – Sri Lanka* (13 Sept. 2011) [hereinafter *July–December, 2010 Int'l Religious Freedom Report*], <http://www.state.gov/documents/organization/171760.pdf>.

⁴International Covenant on Civil and Political Rights, 16 Dec. 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

⁵U.S. DEP'T OF STATE, *2010 International Religious Freedom Report – Sri Lanka*, § II, at 5 (17 Nov. 2010) [hereinafter *2010 Int'l Religious Freedom Report*], <http://www.state.gov/j/drl/rls/irf/2010/148802.htm>.

⁶SRI LANKA CONST. art. 14(b), (e).

4. In August 2009, a group of fifty protestors prevented a Christian pastor and his wife from leaving one of their congregant's homes. The protestors blocked the door of the house and shouted that "they would not tolerate any further Christian activity in the village."⁷ The pastor was beaten with a rod and had a bucket of cow feces thrown on him. After two hours and repeated requests for assistance, the police arrived. Three of the protestors were arrested; however, they were released soon after.⁸ In a similar incident, in July 2009, Akila Dias and three other members of the Vineyard Community Church suffered severe injuries after they were attacked by seven men wielding swords. One of the attackers had assaulted the church's pastor with a machete a few months earlier, but he was released on bail.⁹ Furthermore, in April 2009, four Buddhist monks threatened to kill Pastor Kumara and his family if they did not leave the village by the next morning. Police arrested the leader of the group, but released him the next day. After being released, the lead instigator gathered together another group of Buddhist monks and villagers to sign a petition against the church. The group then told Kumara's landlord they would destroy the house unless the landlord evicted the Kumara family by the end of the month. Fearing for his family's safety, Pastor Kumara cancelled Good Friday and Easter Sunday services and fled to a safer location.¹⁰

5. These incidents reflect an institutional disregard of the law in an attempt to pacify a growing mob mentality. Although these attacks were conducted by private individuals, the government is culpable for its inability or unwillingness to stop such persecution. The government's failure to institute and enforce adequate measures to protect its citizens perpetuates a hostile environment for minority citizens. As seen in the Dias and Kumara cases, the government's failure to adequately investigate complaints and prosecute those responsible leads to more injustice. This cycle undermines the integrity of the Sri Lankan legal system and the spirit of Articles 18 and 19 of the ICCPR, which broadly guarantee the freedom to adopt and express religious beliefs without interference.¹¹

6. An additional area of concern is attacks perpetrated by the Home Guard, a government-sanctioned, supplemental police force.¹² In February 2008, Reverend Samson Edirisinghe was shot and killed in an attack that police determined was a contract killing. The killing was ordered by a man whose wife converted from Buddhism to Christianity. Reverend Edirisinghe's wife was also shot, and his two-year-old son suffered minor injuries. Four people were arrested in

⁷*Rash of Attacks on Christians Reported in Sri Lanka*, COMPASS DIRECT NEWS, (Aug. 17, 2009), http://www.compassdirect.org/english/country/srilanka/2009/newsArticle_6060.html.

⁸*Id.*

⁹*Id.*

¹⁰*Buddhist Mobs Attack Churches*, COMPASS DIRECT NEWS (Apr. 16, 2009), <http://www.compassdirect.org/english/country/srilanka/3094>.

¹¹ICCPR, *supra* note 4, arts. 18, 19.

¹²*See generally Home Guard Service*, MINISTRY OF DEF. & URBAN DEV., http://www.defence.lk/main_abt.asp?fname=homeguard (last visited Feb. 14, 2012) (discussing the history and purpose of the Home Guard). *See also Sri Lanka – The Home Guard*, MONGABAY, http://www.mongabay.com/history/sri_lanka/sri_lanka-the_home_guard.html (last visited Mar. 26, 2012) (stating that 150 Home Guard members are assigned to each member of Parliament who is responsible for the arming and training of these "personal militias").

connection with the murder; two of them were members of the Home Guard.¹³ This incident is troubling because members of the Home Guard are agents of the Sri Lankan government.¹⁴ Consequently, the Sri Lankan government is responsible for the Home Guard's actions and must take measures to prevent unlawful conduct. These perpetrators must be prosecuted to the fullest extent of the law. Anything less casts doubt on the government's ability to "respect, secure, and advance" the fundamental rights guaranteed in the Sri Lankan constitution.¹⁵

Destruction of Christian Property.

7. The 2012 UPR must also address the government's inability or unwillingness to prevent the willful destruction of Christian churches. Similar to the instances mentioned previously, the purpose of these attacks is to restrict public expression of Christian beliefs by intimidating Christians and disrupting church services. These acts violate the spirit of Articles 10 and 14 of the Sri Lankan constitution¹⁶ and Article 18 the ICCPR,¹⁷ which guarantee the freedom to willingly adopt and express religious beliefs. If Sri Lanka is truly committed to upholding human rights,¹⁸ it must take measures to ensure that these incidents are promptly investigated and prosecuted.

8. In October 2010, six Buddhist monks and approximately thirty-five followers intruded on a church service in Kalutara. The group threatened and assaulted the pastor and destroyed church furniture and musical instruments. A complaint was lodged with the police.¹⁹ Two weeks later, three men disrupted an Assembly of God church service in Bulathkohupitiya by threatening the pastor and the congregation. An unidentified gang later set fire to church property.²⁰ The Sri

¹³W. Chandrapala, *Killing of pastor: Motive personal, police act fast*, THE SUNDAY TIMES ONLINE, (Feb. 24, 2008), available at <http://sundaytimes.lk/080224/News/news007.html>.

¹⁴See *Sri Lanka – The Home Guard*, *supra* note 12.

¹⁵SRI LANKA CONST. *supra* note 6, art. 4.

¹⁶"Every 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." *Id.* art. 10.

Article 14 goes on to provide:

Every citizen is entitled to –

(a) the freedom of speech and expression including publication;

(b) the freedom of peaceful assembly;

(c) the freedom of association;

...

(e) 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

Id. Art. 14.

¹⁷Article 18 of the ICCPR states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

ICCPR, *supra* note 4, art. 18.

¹⁸2008 Working Group Report, *supra* note 1, at ¶ 51.

¹⁹July–December, 2010 Int'l Religious Freedom Report, *supra* note 3, at 5.

²⁰*Id.*

Lankan penal code prohibits arson and mischief, as well as the voluntary disruption of a lawfully assembled worship service; however, none of the perpetrators in either case were arrested.²¹

9. Additionally, in July 2009, extremists set fire to an Assembly of God church in Norachcholai, completely destroying the building. A similar arson attack on the church occurred the year before.²² Furthermore, in April 2009, a group of men broke into the Pepiliyana Methodist church. The men stole everything in the church, including musical instruments, computers, Bibles, hymnals, and church records. The police agreed with the pastor that “robbery was an unlikely motive,” but no arrests were made.²³

10. The Sri Lankan government has abdicated its responsibility to secure order and safeguard the rights of all of its citizens. Consequently, a culture of violence and intimidation against Christian minorities has resulted. To avoid the problems of past cultural conflicts and the harms brought by civil war, the government must establish and abide by the rule of law. This entails equal treatment of all persons and groups before the law. The 2012 UPR Working Group should press the Sri Lankan government to fully enforce its own constitutional provisions and comply with its international commitments.

Legal Restrictions on Religious Beliefs

11. The 2012 UPR must also address domestic legislation that is used to curtail religious freedom. Although Article 18 of the ICCPR allows for limitations on the manifestation of religious beliefs to “protect public safety, order, health or morals, or the fundamental rights . . . of others,” the U.N. Human Rights Committee has explained that limitations are strictly interpreted and must not vitiate the rights guaranteed in Article 18.²⁴ The Committee also stated that all restrictions must be proportional to the harm on which they are predicated.²⁵

Proposed Anti-conversion Law.

12. In 2004, the Jathika Hela Urumaya (JHU), a political party represented in Parliament by Buddhist monks, proposed a bill entitled “Prohibition of Forcible Conversion of Religion.”²⁶ The bill criminalised religious conversions induced “by force or by allurements or by any fraudulent means.”²⁷ In 2005, the Sri Lankan Supreme Court ruled that two sections of the bill violated

²¹SRI LANKA PENAL CODE §§ 291, 418.

²²*Rash of Attacks on Christians Reported in Sri Lanka*, *supra* note 7.

²³*Buddhist Mobs Attack Churches*, *supra* note 10.

²⁴U.N. Human Rights Comm., *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18)* [hereinafter *UN HRC General Comment No. 22*] ¶ 8, CCPR/C/21/Rev.1/Add.4 (1993) (emphasis added), available at <http://www.unhchr.ch/tbs/doc.nsf/MasterFrameView/9a30112c27d1167cc12563ed004d8f15?Opendocument>.

²⁵*Id.*

²⁶*Prohibition of Forcible Conversion of Religion Bill* [hereinafter *JHU Bill*] (published in the Gazette on May 31, 2004 and presented before Parliament by MP Dr. Omalpe Sobhitha Thero on July 21, 2004). In 2004, the Sri Lankan government also proposed a bill prohibiting unethical religious conversions, but it was not submitted to Parliament.

²⁷*Id.* at cl. 2.

Article 10 of the constitution.²⁸ Following a failed attempt to amend the constitution,²⁹ the JHU modified the bill and has recently urged Parliament to pass the revised bill.³⁰

13. Asma Jahangir, the former United Nations Special Rapporteur on freedom of religion or belief, noted that the original draft bill raised human rights concerns and serious implementation questions.³¹ The JHU's revisions have not alleviated these concerns. Under the most recent version of the anti-conversion bill, Sri Lankan citizens would be prohibited from changing their faith unless they are given permission by a local magistrate.³² This restriction contradicts Article 18 of the ICCPR, which unconditionally provides the right to adopt a religion or belief of one's choice.³³ Moreover, the JHU's stated purpose to "save the Buddhists, Hindus and Christians . . . from American evangelical Christian missions" does not justify the breadth of the anti-conversion legislation.³⁴ In her report, former UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, stated that she had not met any person who changed his religion due to improper means.³⁵ The anti-conversion bill is not proportional to the harm it seeks to remedy and is not an adequate response to existing religious tensions. In practice, the anti-conversion bill severely restricts religious freedom and violates fundamental human rights, furthering religious conflict and persecution.

14. The 2012 UPR should press Sri Lanka on its stance concerning the JHU's anti-conversion bill. The fact that the bill has yet to be officially renounced by Parliament raises serious concerns as to Sri Lanka's commitment to protect religious freedom. Assuming that there is a credible issue concerning forced conversions, Sri Lanka should handle the issue on a case-by-case basis. The anti-conversion bill creates the danger of discrimination by Buddhists. The Sri Lankan constitution declares that the government shall "give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana."³⁶ Consequently, government officials, who are themselves likely Buddhist or answerable to a

²⁸*Prohibition of Forcible Conversion*, S.C Determination No. 4/2004 (T.B Weerasuriya, N.E Dissanayake, Raja Fernando JJ). Article 10 states "[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." SRI LANKA CONST., *supra* note 6, art. 10.

²⁹See *Nineteenth Amendment to the Constitution*, NATIONAL CHRISTIAN EVANGELICAL ALLIANCE OF SRI LANKA, <http://www.persecution.net/download/srilanka60.pdf> (last visited Mar. 15, 2012).

³⁰*Sri Lanka Buddhist party wants to bring Anti Conversion Bill back*, COLOMBO PAGE (Nov. 11, 2011), http://www.colombopage.com/archive_11B/Nov11_1320982985KA.php.

³¹Asma Jahangir, *Civil and Political Rights, Including the Question of Religious Intolerance: Mission to Sri Lanka*, Addendum to the Report submitted by the Special Rapporteur on freedom of religion or belief to the Commission on Human Rights, at ¶¶ 73, 76-78 U.N. Doc. E/CN.4/2006/5/Add.3 (Dec. 12, 2005).

³²*Sri Lanka: Christians Fear Proposed 'Anti-conversion Law'*, INDEPENDENT CATHOLIC NEWS (Dec. 18, 2011), <http://www.indcatholicnews.com/news.php?viewStory=19516>.

³³ICCPR, *supra* note 4, art. 18. See also *UN HRC General Comment No. 22 which states:*

[T]he freedom to "have or to adopt" a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another . . .

Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions. . . .

UN HRC General Comment No. 22, supra note 24, at ¶ 5.

³⁴*Sri Lanka Buddhist Party Wants to Bring Anti Conversion Bill Back*, COLOMBO PAGE (Nov. 11, 2011), http://www.colombopage.com/archive_11B/Nov11_1320982985KA.php.

³⁵Jahangir, *supra* note 31, at ¶¶ 50, 105.

³⁶SRI LANKA CONST., *supra* note 6, art. 9.

Buddhist constituency, cannot be expected to impartially determine whether a person can convert to another religion.

Conclusion

16. While Sri Lanka has made strides to enact human rights reforms, it must continue to work to protect the rights of all of its citizens. Current evidence suggests that Sri Lanka's efforts to address incidents of religious persecution have been too limited and ineffective. Sri Lanka must institute and abide by the rule of law to secure lasting peace and avoid the hostilities of the past. True justice can only be obtained when every citizen is free from persecution.