

**Flygtningenævnets baggrundsmateriale**

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| <b>Bilagsnr.:</b>               | <b>695</b>                                                                                                       |
| Land:                           | Sri Lanka                                                                                                        |
| Kilde:                          | JUBILEE                                                                                                          |
| Titel:                          | United Nations Human Rights Council: Universal Periodic review of the Democratic Socialist Republic of Sri Lanka |
| Udgivet:                        | juli 2022                                                                                                        |
| Optaget på baggrundsmaterialet: | 5. februar 2024                                                                                                  |

**United Nations Human Rights Council**  
**Universal Periodic Review of the Democratic Socialist Republic of Sri Lanka**

**I. Background**

1. **Jubilee Campaign**, in special consultative status with ECOSOC, submits this analysis of religious freedom and human rights in the Democratic Socialist Republic of Sri Lanka as a contribution to the Universal Periodic Review.

**II. Scope of international obligations and cooperation with international human rights mechanisms and bodies.**

2. Sri Lanka has ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention against Torture; the International Covenant on Civil and Political Rights; the Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography; and the Convention on the Rights of Persons with Disabilities.
3. Sri Lanka has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; and the Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance.

**Recommendation(s)**

We urge the Democratic Socialist Republic of Sri Lanka to:

4. Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; and the Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance.

**III. Violations of international human rights obligations, considering applicable international humanitarian law**

**A. Freedom of thought, conscience, and religion**

5. Article 9 of the Constitution of the Democratic Socialist Republic of Sri Lanka accords Buddhism the status of the nation's "foremost" religion; however, Article 10 goes on to provide Sri Lankan citizens "freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice".<sup>1</sup>
6. Chapter XV of the Penal Code of Sri Lanka entirely focuses on supposed "religious offenses". Article 290A imposes a term of not exceeding one year to any individual who: "does any act, in or upon, or in the vicinity of, any place of worship or any object which is held sacred [...] with the intention [of] wounding the religious feelings of any class of persons"; "with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person"; or "insults or attempts to insult the religion or the beliefs of [any class of persons]".<sup>2</sup>
7. Sri Lanka's Prevention of Terrorism Act (PTA) and International Covenant on Civil and Political Rights Act of 2007 – the latter of which's Article 3 criminalizes the "propagation of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" with a maximum ten-year prison sentence – have been misused to crack down on individuals who present dissenting religious beliefs, even beliefs which in no way incite hatred or violence.<sup>3</sup>
8. In April 2019, Sri Lankan authorities arrested author Shakthika Sathkumara on allegations that he had committed blasphemy by posting online "a short story that made references to homosexuality within the Buddhist clergy". Authorities held Sathkumara in arbitrary and prolonged detention without formal charges for a total of 127 days before releasing him in August 2019. In February 2021 it was reported that the Sri Lankan Attorney General formally dropped Sathkumara's charges.<sup>4</sup>
9. In October 2019, authorities interrogated playwright and filmmaker Malaka Dewapriya for four hours on accusation that he had "distorted Buddhist terminology" in a radio program.<sup>5</sup>
10. In July 2020, authorities summoned atheist Sri Lankan man Indika Rathnayake to the Organized Crimes Prevention Division for questioning after Buddhist monk Angulugalle Siri Jinananda filed a complaint alleging that Rathnayake had been "propagating fictitious ideas about Buddha and Buddhism" for his Facebook posts stating that Buddhism originated from

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<sup>1</sup> [\*The Constitution of the Democratic Socialist Republic of Sri Lanka \(As amended up to 29<sup>th</sup> October 2020\)\*](#) [Sri Lanka], Parliament Secretariat.

<sup>2</sup> [\*An Ordinance to Provide a General Penal Code for Ceylon\*](#) [Sri Lanka].

<sup>3</sup> Parliament of the Democratic Socialist Republic of Sri Lanka, [\*International Covenant on Civil and Political Rights \(ICCPR\) Act No. 56\*](#), 2007.

<sup>4</sup> End Blasphemy Laws, [Sri Lanka](#).

<sup>5</sup> *Ibid.*

Jainism. Rathnayake faced charges under both Chapter XV of the Penal Code and Article 3 the ICCPR Act; fortunately, however, Sri Lankan authorities dropped the charges against Rathnayake and released him from custody, though his Facebook account has been blocked.<sup>6</sup>

11. In March and April 2021, a new addition was made to the Prevention of Terrorism Act of 1979 which extended the offenses which could be criminalized to include “commission of acts of violence or religious, racial or communal disharmony or feelings of ill will or hostility between difference communities or racial or religious groups”; any individual charged with the above crime can face up to two years’ imprisonment.<sup>7</sup>
12. Sri Lankan authorities have been using the PTA and its additional amendments to arrest Muslim minorities in connection with the 2019 Easter Sunday Bombings of Christian churches in Colombo, despite that these arrested individuals have no connection to the terrorist attack. Muslim lawyer Hejaaz Hizbullah was arrested on accusations of legally assisting one of the Easter 2019 suicide bombers, though it was revealed later that Hizbullah had only been legally representing some of the individual’s family members and only regarding business and finances. Hizbullah had these initial charges against him dropped, though he remains detained over a year later on new charges of “causing communal disharmony”. In May 2020, Muslim poet Ahnaf Jazeem was arrested under the PTA after authorities who were searching a school with connections to the Easter attack found one of Jazeem’s poetry anthologies; he was accused of promoting “religious extremism” and was detained for more than one year despite that his poetry actually discouraged religious extremism and rather advocated for interfaith tolerance and harmony.<sup>8</sup>
13. The Sri Lankan government and society, driven by Sinhala-Buddhist nationalism, has engaged in numerous acts violating the religious freedom of Muslims. In addition to the aforementioned forced cremation of COVID-19 victims in contravention to Islamic burial customs, peaceful Muslim communities have been viciously attacked by mobs in response to the Easter 2019 terrorist attacks; the government has falsely blamed and scapegoated Muslims for the spread of the coronavirus pandemic; the ministry of public security has announced intention to ban burqas and niqabs and close no fewer than one thousand madrassas; the customs offices have confiscated and seized Islamic texts entering the country; and the Bodu Bala Sena (BBS) and other Buddhist nationalist groups have disseminated conspiracy theories

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<sup>6</sup> Ruwan Laknath Jayakody, [“Atheist/Rationalist To Be Questioned By OCPD Following Monk’s Complaint to CID”](#), *Colombo Telegraph*, 16 July 2020. ;

<sup>7</sup> Centre for Policy Alternatives, [“Concerns Relating to the Recent Regulations Issued Under the Prevention of Terrorism Act”](#), 18 March 2021.

<sup>8</sup> Human Rights Watch, [“In a Legal Black Hole”: Sri Lanka’s Failure to Reform the Prevention of Terrorism Act](#), 7 February 2022. ; United States Commission on International Religious Freedom (USCIRF), [Country Update: Sri Lanka](#), October 2021.

regarding Muslims.<sup>9</sup>

14. In 2003, the Supreme Court decided that proselytism and evangelism of any religion other than Buddhism “would not be permissible as it would impair the very existence of Buddhism or the *Buddha Sasana*”.<sup>10</sup> Since 2009, there have been attempts by the government to introduce anti-conversion legislation to codify the Supreme Court’s decision, and recently in 2021, Sri Lanka’s Ministry of Buddhasasana, Religious, and Cultural Affairs has started drafting such a legal framework.<sup>11</sup> While the Sri Lankan constitution does not include the right to evangelize, a legal restriction on the ability to propagate one’s faith would *de facto* contravene the constitutionally-protected right of another individual to adopt a religion or belief of their choice.
15. Christian communities have also been targeted for persecution. The most devastating example was the aforementioned Easter 2019 bombing of three churches and three hotels in Negombo, Batticaloa, and Colombo. Carried out by Islamist terrorist group National Thowheed Jamath (NTJ), “the bombings clearly possessed a religious dimension because the perpetrators were Muslim and the victims predominantly Christian, and churches were also targeted”.<sup>12</sup>
16. In July 2020, a mob of some 40 Hindu extremists ambushed a worship service taking place at Jesus’ Witness Church in Chenkalady; the pastor, his wife, his father, his mother-in-law, and numerous congregants were assaulted and sustained injuries.<sup>13</sup>
17. In October 2020, a Christian pastor named Daniel was forced to close his church in Bakamuna after receiving harassment and intimidation from local Buddhist monks who had compiled a list of the ministry’s members.<sup>14</sup>
18. In January 2021, a pastor visiting the home of some Christian civilians in Passara was threatened by a mob of 75 individuals including one Buddhist monk. While in the home, the mob launched stones at the building, assaulted the pastor’s driver, and forced the pastor and his wife to flee the community they were visiting.<sup>15</sup>

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<sup>9</sup> Amnesty International, [“Sri Lanka: Authorities must end violence and discrimination against Muslims”](#), 18 October 2021. ; Farzana Haniffa, [“What is behind the anti-Muslim measures in Sri Lanka?”](#), *Al Jazeera*, 12 April 2021.

<sup>10</sup> Supreme Court of the Democratic Socialist Republic of Sri Lanka, [S.C. Special Determination No. 19/2003](#). ; United States Commission on International Religious Freedom (USCIRF), [Country Update: Sri Lanka](#), October 2021.

<sup>11</sup> Justice for All, [“Government Begins Framework for Anti-Conversion Laws”](#), 2 May 2021.

<sup>12</sup> Christian Solidarity Worldwide, [A Nation Divided: The state of freedom of religion or belief in Sri Lanka](#), September 2021.

<sup>13</sup> Barnabasaid, [“Church Attacked, Pastor and Congregation Beaten by Hindu Extremist Mob in Sri Lanka”](#), 21 July 2020.

<sup>14</sup> Emily DeMaioNewton and Karen Jensen, [“Buddha Buzz Weekly: Sri Lankan Pastor Closes Church After Intimidation from Buddhist Monks”](#), *Tricycle*, 31 October 2020.

<sup>15</sup> Barnabasaid, [“Sri Lankan Government Drafting New Law Against ‘Unethical Conversions’ Amid Violent Attacks on Christians”](#), 17 March 2021.

19. In February 2021, unidentified assailants destroyed a church building in Divulapitiya with stones and gasoline bombs; fortunately, three female ministry workers who live in the church and who were present during the attack were uninjured.
20. Throughout mid-March 2021, numerous Christian churches were reported facing threats. The pastor of Assemblies of God Church in Padukka was harassed by a group of civilians while on his way to the church; the group ordered the pastor to leave the village. The pastor of Cavalry Church in Ranala received a phone call from police demanding that he stop leading religious worship activities.<sup>16</sup>
21. In late November 2021, the pastor of the Gospel Tabernacle Church in Polgolla visited the home of a Christian family to pray with them; during their prayer, a mob of civilians gathered outside, including one Buddhist monk. The monk informed the pastor that he was not welcome in the “Buddhist village”, and subsequently the mob surrounded the home of members of the pastor’s church and interrogated the Christians about why the children of the family no longer participated in Buddhist instruction. The pastor as well as three other church members sustained minor injuries in the incident.<sup>17</sup>
22. In January 2022, a pastor was summoned to court after local residents filed noise complaints regarding his church activities; the pastor, however, has insisted that the church was closed on the alleged dates in question due to the COVID-19 pandemic.<sup>18</sup>
23. In February 2022, right as Sunday worship service started at New Covenant Life Centre in Bandaragama, seven Buddhist monks and a mob of 20 civilians gathered and warned the pastor that he could no longer conduct religious activities.<sup>19</sup>
24. On the 74<sup>th</sup> anniversary of Sri Lanka’s independence in February 2022, President Gotabaya Rajapaksa remarked that “every Sri Lankan citizen, irrespective of any community or religion has the right to live freely and safely anywhere in the country today”. On the contrary, Sri Lankan authorities have been applying a 2008 Circular on the construction and registration of houses of worship to crack down on the building of churches. In Badulla a pastor was scolded by authorities for holding worship in his home; in another location, a pastor applied for a construction permit for a new home but was informed he would need to ensure that no religious activities would take place in it; in Colombo, a pastor was forced to sign a pledge that he would not lead religious services;<sup>20</sup> in Padavi Sripura a pastor who had used his home for worship services since 2013 and who had repeatedly applied for worship

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<sup>16</sup> Voice of the Martyrs Canada, [“Churches Face Threats and Questioning”](#), 15 April 2021.

<sup>17</sup> Voice of the Martyrs Canada, [“Christians Beaten Following Prayer Meeting”](#), 16 December 2021.

<sup>18</sup> National Christian Evangelical Alliance Sri Lanka (NCEASL).

<sup>19</sup> *Ibid.*

<sup>20</sup> International Christian Concern, [“Sri Lankan President Presents Half-truth About Religious Freedom”](#), 10 February 2022.

permits with no response from the relevant government ministry received a letter that prohibited him from continuing faith-based activities in his home.<sup>21</sup>

25. In February 2022, a pastor and his family were taken into protective custody by authorities after they received threats from a large mob accusing the pastor of engaging in fraudulent religious conversions.<sup>22</sup>
26. In February 2022, a local monk and a mob of 12 civilians interrupted the burial of a deceased Christian member of the Assembly of God, and threatened the pastor of Foursquare Gospel Church.<sup>23</sup>
27. In early March 2022, a mob of 600 individuals, including 60 Buddhist monks, ambushed the Mercy Gate Chapel, demanded that all religious activities end, ordered the church to be closed, and threatened the lead pastor with death. One church member was physically assaulted by a participant in the mob, resulting in their hospitalization.<sup>24</sup>
28. In late March 2022, while four laypersons of a church in Moragahahena visited a congregant's home to worship, a mob including seven monks and 40 civilians entered the home and physically assaulted the male laypersons on accusations of fraudulent conversions.<sup>25</sup>
29. For many years, thousands of Sri Lankan Buddhist Bhikkhunis – female Buddhist monks and the equivalent of nuns according to Christianity – have been denied national identification cards listing their religion. As a result, they are unable to take exams, their ARMAS (dwelling places) are refused registration, private and public institutions are reluctant to offer them support, and they are effectively prohibited from voting, obtaining passports and traveling, opening bank accounts, applying for jobs, and more. One Bhikkhuni, Amunuwatte Samanthabhadrika, stated “we are treated as if we came from another planet. We are discriminated against in every aspect of life. We are also Buddha's daughters born on this soil.”<sup>26</sup>

### **Recommendation(s)**

We urge the Democratic Socialist Republic of Sri Lanka to:

30. Repeal Chapter XV (Articles 290 through 292) of the Penal Code of Sri Lanka, as blasphemy laws are inconsistent with universal standards of human rights, including the right to freedom of religion or belief;
31. Cease the practice of arbitrarily detaining civilians on charges of ‘distorting/misrepresenting the tenets of Buddhism’, and release unconditionally and with immediate effect those prisoners of conscience listed

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<sup>21</sup> Barnabasaid, [“Sri Lankan Pastor Barred From Conducting Worship Services in His Home”](#), 22 February 2022.

<sup>22</sup> NCEASL.

<sup>23</sup> *Ibid.*

<sup>24</sup> International Christian Concern, [“Mob of 600 Break into Sri Lankan Church”](#), 10 March 2022.

<sup>25</sup> NCEASL.

<sup>26</sup> Saroj Pathirana, [“Sri Lanka's Bhikkuni nuns and their fight for identity papers”](#), *BBC News*, 22 December 2019.

in this submission;

32. Refrain from enacting a nation-wide anti-conversion law;
33. Duly arrest and prosecute perpetrators of religiously-motivated violence, which can be seen in attacks on Christian churches and peaceful Muslim civilians;
34. Cease the practice of arbitrarily detaining Muslim civilians who have no evidentiary link or connection to the Easter 2019 bombings;
35. Ensure that the 2008 Circular is not being misapplied to coerce the closure of churches and other houses of worship;
36. Provide Buddhist Bhikkhunis with national identification cards.