

## INTRODUCTION

1. Christian Solidarity Worldwide (CSW) is a human rights organisation specialising in freedom of religion or belief (FoRB). CSW has been monitoring and raising awareness of the human rights situation in Sri Lanka for more than ten years. We undertake fact-finding assignments to the country, with the latest undertaken in 2016. This submission seeks to draw attention to particular concerns over the right to freedom of religion or belief in Sri Lanka.

## CONSTITUTIONAL AND INTERNATIONAL OBLIGATIONS

2. Sri Lanka has an extensive national and international body of laws to guide the relevant judicial institutions to protect and promote freedom of religion or belief. The freedom of thought, conscience and religion is enshrined in Article 10 and 14 (1) (e) of the constitution of the Republic of Sri Lanka. However, the constitution also contains Article 9 that establishes that the “The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)..”
3. Sri Lanka acceded on 11 June 1980 to the International Covenant on Civil and Political Rights (ICCPR), on 18 February 1982 to the International Convention on the Elimination of all Forms of Racial Discrimination and on 11 June 1980 to the International Covenant on Economic, Social and Cultural Rights (ICESCR).
4. **Recommendations: the government should review amendments to Article 9 recommended by members of the Constituent Assembly. When the state itself announces its religion in the Constitution, the law arguably ceases to reflect the ethnic and religious variety of the society, opening the floodgates to religious intolerance.<sup>1</sup>**
5. **The government should fully ratify treaties to which it has acceded, including the International Covenant on Civil and Political Rights (ICCPR), whereby it is recommended that the Sri Lanka ICCPR Act 2007 includes all provisions of the ICCPR, and the International Covenant on Economic, Social and Cultural Rights (ICESCR).**
6. **The government of Sri Lanka should take necessary actions to comprehensively implement its existing FoRB obligations under international law.**

## FREEDOM OF RELIGION OR BELIEF RECOMMENDATIONS FROM PREVIOUS UPR CYCLES

7. During the first Universal Periodic Review (UPR) cycle, Sri Lanka was characterised as a multi-ethnic, multi-religious, multilingual and multicultural country. Its efforts to ratify a number of core international human rights instruments were commended alongside its action to launch the country’s Human Rights Action Plan, and its engagement in the UPR process. In doing so, the following recommendations made specifically on issues related to freedom of religion or belief were accepted by Sri Lanka: Step up efforts to protect freedom of religion and promote inter-religious dialogue as a tool to foster tolerance and peaceful-coexistence (Italy); Increase efforts aiming to guarantee the right to freedom of religion and belief (Spain); Promote national reconciliation taking into account and protecting Sri Lanka’s ethnic and religious pluralism, ensuring that all religious denominations are granted equal treatment and enjoy their

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<sup>1</sup> Heiner Bielefeldt (2014), “Freedom of Religion or Belief: Thematic Reports of the UN Special Rapporteur 2010 – 2013”, Religious Freedom Series Volume 3, International Institute for Religious Freedom.

fundamental rights (Holy See); Enact urgent legislative amendments to the Penal Code to ensure that the rights of women from all religious and ethnic communities are safeguarded (New Zealand).

8. **Recommendations: the government needs to implement the recommendations it accepted in previous UPR cycles, and to make efforts to accept and implement the recommendations noted previously.**
9. **In this regard, and in particular taking into consideration Sri Lanka’s openness and active engagement in ensuring that human rights violations are addressed, the government is also urged to implement the recommendations made by the Lessons Learnt and Reconciliation Commission (LLRC). Recommendations deemed necessary and important include (i) The development of an early warning system to ensure that communal or religious tension does not lead to conflict, undermining law and order; and to promote efforts towards reconciliation and peace-building; (ii) Religious leaders and institutions should play a lead role in the process of reconciliation; and (iii) The establishment of a special institution to deal with citizen grievances, and an interfaith peace and reconciliation committee at district and provincial levels to act as a feeder mechanism supporting the special institution.**

#### **POLITICAL TRANSITION IN SRI LANKA**

10. Sri Lanka held historical, free and fair Presidential and Parliamentary democratic elections respectively in January and August of 2015. The pledge made by President Maithripala Sirisena to ensure religious harmony by establishing institutions and mechanisms amongst religious leaders to work for religious coexistence and against extremism remains highly welcomed. CSW also recognises several positive steps taken by Sri Lanka, including the passage of the 19<sup>th</sup> Amendment of the Constitution, an action that paved the way for the country’s Parliamentary elections in August 2015 and the establishment of the Constitutional Council. The latter is aimed at supporting the depoliticising of public services and government authorities, including the country’s Human Rights Commission.
11. Resolution 30/1 adopted by the Human Rights Council on 1 October 2015 promoting reconciliation, accountability and human rights in Sri Lanka remains an important document promoting truth, justice, reparation and guarantees the non-recurrence. It reaffirms “*..that all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity, in a peaceful and unified land*”.

#### **TRANSITIONAL JUSTICE**

12. Transitional justice is rooted in accountability and redress for victims. In September 2015, prior to the adoption of Resolution 30/1, Sri Lanka in its statement to the 30<sup>th</sup> Session of the UNHRC in Geneva recognised the importance of the process of reconciliation, accountability and the importance of judicial and administrative reform in the process of upholding the rule of law and in building confidence amongst its people in the justice system.
13. The establishment of the Commission for Truth, Justice, Reconciliation and Non-recurrence was noted. In the statement, Sri Lanka envisaged a dual structure involving a Compassionate Council which will compose of religious dignitaries from all major religions and a structure composed of Commissioners.
14. CSW urges the government to make further progress in the implementation of Resolution 30/1. We reiterate the UN High Commissioner’s call for the government to communicate, inform and

actively engage the Sri Lankan people of the details of its reconciliation processes. In this regard, we call on the government to put in place a clear strategy of its reconciliation and transitional justice plans and mechanism.

15. **Recommendation: Taking into account the progress made by the government as noted in the report of the Special Rapporteur on minority issues on mission to Sri Lanka released at the HRC 34<sup>th</sup> Session, the government is urged to take effective action to ensure that the government’s commitment to transitional justice is realised. In this regard, we call on the government to put in place a clear strategy for its reconciliation and transitional justice processes.**

### **DISCRIMINATORY LEGISLATIVE FRAMEWORK**

16. In October 2008 a circular was issued by the then Ministry of Buddha Sasana and Religious Affairs, making the construction of new places of worship subject to permission from the ministry. This circular raised several concerns: (i) Use of the undefined term ‘traditional religions’, which allows local authorities and the Ministry of Buddha Sasana and Religious Affairs the freedom to determine the stringency of the application process, and to grant or deny permission, based on their own arbitrary determination of the legitimacy of each religious group; (ii) The misuse of the circular by government officials to close down existing churches; and (iii) The misuse of the circular by the state to restrict the religious freedom of evangelical Christians, on the basis that they do not belong to the National Christian Council (NCC) or the Roman Catholic Church.
17. Sri Lankan legislation does not require the registration of religious places of worship or any religious body. Nevertheless, the circular demands that any “new construction” of places of worship would require the approval from the Ministry of Buddha Sasana and Religious Affairs. Local government officials are said to have continued to apply this circular as a way to intimidate and forcefully close churches. Data collected by the National Christian Evangelical Alliance of Sri Lanka (NCEASL) records over 50 incidents of violence against religious minorities in 2015 to 2016<sup>2</sup>.
18. The challenges posed by the existence of this circular were highlighted in the 2017 report of the Special Rapporteur on minority issues on her mission to Sri Lanka<sup>3</sup>.
19. **Recommendations: the government is urged to work towards the introduction of a comprehensive framework to deal adequately with incidents of communal and targeted violence, including repealing discriminatory regulations such as the 2008 circular that do not conform with international human rights standards.**

### **SINHALA-BUDDHIST NATIONALISM AND EXTREMIST GROUPS**

20. The rise of extremist groups, such as the Sinhala-Buddhist nationalism presence in Sri Lanka is analogous to a rising trend of hate speech. Prominent Sinhala-Buddhist groups in Sri Lanka include the Bodu Bala Sena (Buddhist Force Army), the Sinhala Ravaya (Voice of the Sinhalese), the Ravana Balaya (Power of Ravana) and the Bodu Pawura (Wall of the Buddhist). Although the activities of extremist groups have declined under the current government, the activities of such extremist groups must be continue to be monitored.

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<sup>2</sup> NCEASL Incident Reports 2015 and 2016

<sup>3</sup> Report of the Special Rapporteur on minority issues on her mission to Sri Lanka – A note to the Secretariat at the Human Rights Council, Thirty-fourth session 27 February-24 March 2017.

21. The network of extremist Buddhists is growing across Asia, as they collaborate in countries such as Sri Lanka, Myanmar and Thailand. The actions of these extremist groups do not reflect key aspects of Buddhism: tolerance, non-violence and non-discrimination. In an interview with a respected monk in Sri Lanka, CSW was told, “If someone asks me why [extremist] Buddhists behave in the manner they do, I would say that these groups are not true Buddhism and that they are politically motivated”.
22. In June 2016, at the time of the second anniversary of the Aluthgama carnage, Sri Lanka’s largest ever anti-muslim riots displacing 10,000 people, the Bodu Bala Sena had threatened to repeat the Aluthgama violence. Such threats are deeply concerning, and the government should monitor the acts of extremist groups vigilantly to prevent violence motivated by religious hatred.
23. **Recommendation: The government is urged to continue investigating crimes against religious minorities, and to implement, enforce and monitor proposed laws on hate speech, in line with HRC Resolution 16/18. In cases where the evidence is compelling, legal action should be taken against the perpetrators of such crimes.**
24. **Recommendation: The government needs to encourage dialogue between the various religious groups to enhance interfaith solidarity, to prevent potential violence and propaganda motivated by religious hatred spread by extremists groups.**

### COUNTERING NEGATIVE MESSAGES AND HATE SPEECH

25. Research by the Centre for Alternative Policy in Sri Lanka shows that there is an increased correlation between incitement to hatred through social media campaigns and the incidents of violence. This is linked to the notion that media literacy in Sri Lanka is low, resulting in people tending to believe more what they hear through instant messaging services than what they hear through state media. It is therefore necessary to counter negative messaging and hatred by offering counter evidence and/or information and increasing religious literacy and understanding of human rights, including freedom of religion or belief. New interventions in this area are crucial given the improvements in Sri Lanka’s IT infrastructure and the increasing use of smartphones and social media. Data collected by the Secretariat for Muslims recorded over 450 incidents of violence and intolerance against Muslims between 2013 and 2015, and majority of these incidents were triggered by hate speech.
26. **Recommendation: The government must work with civil society and religious institutions to help restore the solidarity and mutual respect between different communities by increasing religious literacy and interfaith dialogue**

### INCIDENTS TARGETING RELIGIOUS MINORITIES

27. CSW’s partner, the National Christian Evangelical Alliance of Sri Lanka reports continued incidents of assaults and threats on religious minorities, particularly Evangelical Christians. In some cases, state officials are involved in either an implicit or active capacity, for instance, law enforcement officials failing to register a First Information Report, or District Commissioners who are biased towards extremist groups. It is unacceptable for such threats and assaults on religious minorities to occur and its perpetrators act with impunity.
28. **Recommendations: Urge the government to ensure officials, law enforcement officers and members of the judiciary are trained on international human rights obligations, including**

**freedom of religion or belief, conducting a thorough investigation and how to adjudicate cases fairly.**

29. **The government should strongly and publicly condemn all acts of intimidation, harassment and violence against religious minorities.**
30. **Take swift action to the full extent of the law, including implementing sections 290-292 of the penal code, against religiously-motivated acts of violence or attempts to incite hatred towards any minority community. This should include disciplinary action against state officials and public servants who commit acts of discrimination or fail to perform their duty in a fair and impartial manner.**

### **CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS**

31. CSW commends the government of Sri Lanka for opening the democratic space after the government change following the 2015 elections. We welcome the positive indication that members of civil society and Human Rights Defenders (HRDs) have been able to assert their civil and political rights. This greater openness to engagement and dialogue with civil society by the government is encouraging and a positive development compared to the practices of the political leadership prior to 2015.
32. **Recommendations: the government is encouraged to continue its efforts to ensure an open and safe environment for civil society and human rights defenders, and address the culture of silence in the face of violence committed in the name of religion.**
33. **The government is encouraged to work with civil society with the aim of creating an open environment for the continued collection of information on freedom of religion or belief, and to find ways to systematically use the information collected as part of an early warning system. The availability of credible data will facilitate empirical studies, and increase understanding of the trends that are emerging in religious intolerance and violence in the country. The findings from such research will support evidence-based policy and decision-making which can facilitate freedom of religion or belief.**
34. **The government is encouraged to work with civil society organisations, including creating common platforms to demonstrate a stronger commitment to freedom of religion or belief, with the aim of creating further solidarity across all religious and cultural divides. We urge the government to find opportunities to engage with moderate Buddhist intellectuals, clergy and civil society organisations, who play a critical role in changing the mind sets of the majority population, whose belief risk being influenced by the extreme Buddhist movement.**