

Briefing

Sri Lanka

Religious Freedom Threatened By Anti-Conversion Legislation

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CHRISTIAN SOLIDARITY WORLDWIDE

SRI LANKA 2004: RELIGIOUS FREEDOM THREATENED BY ANTI-CONVERSION LEGISLATION

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Summary

Violence against Christians, including the burning of churches and physical attacks on pastors and congregations, has escalated significantly in the past year. In addition, religious freedom is now under threat from proposed anti-conversion legislation in Parliament. This briefing will focus primarily on the issues surrounding the legislation.

Overview

In the past five years, there has been a significant increase in the activities of Sinhala Buddhist nationalists. One way in which this nationalism has been expressed is through the rise in anti-Christian violence and intimidation. The situation has escalated year on year. In 2000, 14 incidents of attacks on churches were reported, according to the National Christian Evangelical Alliance of Sri Lanka (NCEASL). In both 2001 and 2002, 13 incidents were reported. In 2003, the total rose to 91 attacks on Christians and churches. In 2004, during the first four months alone, 44 churches have been attacked, and in the past year over 140 churches have been forced to close due to attack, intimidation and threats. It should be noted, however, that it is widely accepted that approximately 40% of incidents are not reported. It should also be noted that while Muslims and Tamil Hindus have at various times been the targets of riots and communal violence, these have not been religiously motivated.

Parliamentary elections were held in Sri Lanka in April, and the President's party, the United National Freedom Alliance, won a majority of the seats. However, a Buddhist nationalist party, the Jathika Hela Uramaya (JHU), emerged as a strong political force in the country, winning over 500,000 votes and nine seats in Parliament. With the third largest party, the Tamil National Alliance (TNA), the JHU hold the balance of power in Parliament, meaning that the main parties are dependent on JHU support for their legislative programme. After the election results were announced, the JHU reiterated its objectives of establishing a Buddhist kingdom in Sri Lanka and introducing anti-conversion legislation. Although the Supreme Court has ruled two clauses of the JHU's bill unconstitutional, the JHU has yet to decide whether it will make the required amendments or whether it will present it to Parliament in its current form (which would require a two-thirds majority and a referendum to pass). The introduction of such legislation is therefore still on the agenda – and in addition to the JHU's draft bill, the Government itself is tabling anti-conversion legislation, approved by the Cabinet on June 16. The JHU's bill, the Bill on Prohibition of Forcible Conversion, will be presented as a Private Member's Bill, while the Government's bill, the Act of Safeguarding Religious Freedom, will be proposed by the Minister of Buddha Sasana, Ratnasiri Wickremanayake. The title of the Government's bill is misleading, because it proposes to make conversion from one religion to another an offence under law, going further than the JHU's bill.

Sri Lanka has a population of approximately 18.5 million. An estimated 70 per cent of the population are Buddhist, 15 per cent Hindu, 8 per cent Christian (1.5 million) and 7 per cent Muslim. Christians are concentrated in the west of the island, while the north is predominantly, and in parts exclusively, Hindu. The other parts of the country are a mixture, with Buddhism dominating the south. Among Christians, 90 per cent are Roman Catholic, but there are also Anglican, Methodist, Baptist, Presbyterian, Salvation Army, Quaker and Assemblies of God groups, and Seventh-Day Adventists and Jehovah's Witnesses.

While the Constitution accords Buddhism the “foremost place”, it does not recognise any one religion as the state religion. Religious freedom is provided for in the Constitution, and the Government generally respects the rights of minority religions to practice their faith freely.

Anti-Conversion Law

The most urgent issues at the moment are the two proposed anti-conversion laws, one by the JHU to be tabled as a Private Member’s Bill and the other by the Government with Cabinet approval, and separate legislation to create courts known as ‘Sanghadikarana’, presided over by Buddhist monks, to resolve village disputes.

The JHU’s Bill, the “Bill on Prohibition of Forcible Conversion of Religions”, was challenged by Christian and civil rights organisations in a petition to the Supreme Court in August. The Supreme Court ruled that Section 3 and Section 4 (b) violate Article 10 of the Constitution, which protects freedom of thought, conscience and religion, “including the freedom to have or adopt a religion or belief of one’s choice”. Section 3 in its current form requires a person converting from one religion to another, and any person involved in a ‘conversion ceremony’, to report to the Divisional Secretary of the area. Section 4 (b) stipulates punishments of a fine and a prison term for failure to comply with Section 3. The Supreme Court has also recommended amendments to Section 4 (a) and Section 5 relating to the institution of proceedings against an accused. These two sections allow categories of people including “any interested person” to institute proceedings in a magistrate’s court, without the sanction of the Attorney-General. The court recommends that action for offences against the bill be instituted in accordance with the provisions of Section 136 of the Criminal Procedure Code Act and subject to the written sanction of the Attorney-General. Sections 8 (a), 8 (c) and 8 (d), relating to the definitions of “allurement”, “force” and “fraudulent means” have been accepted by the court, but with a recommendation that the words “for the purpose of converting a person from one religion to another” be inserted and the words “wilful misrepresentation or other fraudulent means” be added. The bill will now go to a Parliamentary Standing Committee for discussion. It will then be sent to the legal draftsman for amendments, followed by the 2nd Reading in Parliament and then a vote. If the JHU accepts the need to amend the bill, it could then – if the amendments are constitutional – be passed by simple majority. If the JHU decides to proceed with the bill as it is, it will require a two-thirds majority in Parliament, and a referendum. (See draft bill, A Bill On Prohibition of Forcible Conversions of Religions, attached).

There has been no news relating to the development of the Government’s bill, an “Act of Safeguarding Religious Freedom”, since it received Cabinet approval on June 16. The bill has been proposed by the Minister of Buddha Sasana, Ratnasiri Wickramanayake, and the scope of this draft bill extends to banning religious conversions altogether. Section 02 of the draft Bill reads (NOTE: direct translation from Sinhala text, not an official translation) – “No person shall convert nor attempt to convert or aid or abet acts of conversion of another to a different religion.” This Bill, if enacted, will infringe upon an individual’s fundamental right to adopt a religion of choice, by making the very act of conversion illegal.

The Minister for Buddha Sasana has also confirmed that he will introduce the recommendations of the Buddha Sasana Commission, established two years ago, which include legislation to create ‘Sanghadhikarana’ courts. If this legislation is

passed, village disputes can be resolved in Sanghadhikarana, presided over by Buddhist monks, without the involvement of the police or courts of law. This could adversely affect minorities who are victims of violence and discrimination.

Demand for anti-conversion laws has grown over the past year, and extremists intensified their calls for such legislation after the death of a prominent Buddhist nationalist, Venerable Gangodawila Soma Thero, in December 2003. In September 2003 at least 1,500 Buddhist monks gathered in Colombo to call for a total ban on Christian activity. They accuse Christians of offering money to the poor to convince them to convert, a claim Christians deny. In January, Buddhist monks launched a “fast-unto-death” campaign demanding that the government enact anti-conversion legislation within 60 days. The government agreed to this demand, and the fast was called off. Subsequently, however, the Parliament was dissolved, elections were called and the legislation was not introduced. Now, the issue has re-emerged, and the prospect of anti-conversion legislation being introduced is now very serious.

Sri Lanka’s Obligations under International Human Rights Law

As a member of the United Nations, Sri Lanka should respect Article 18 of the Universal Declaration of Human Rights, which protects the “freedom to change religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Of more significance is the fact that Sri Lanka is a party to many of the core international human rights conventions, including the International Covenant on Civil and Political Rights (ICCPR). Article 18 of the ICCPR declares that “everyone shall have the right to freedom of thought, conscience and religion” and that this right includes “freedom to have or to adopt a religion or belief of his choice.” (This is incorporated into the Sri Lankan Constitution in Chapter 3, Article 10.) The Human Rights Committee (HRC) General Comment 22 of 1993 articulates that the ICCPR’s term “necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another.” The proposed anti-conversion laws in Sri Lanka fail to recognise or articulate an individual’s right to adopt a religion of choice, as set out under international standards. HRC General Comment 22 of 1993 also states that any limitations imposed for the purposes of protecting “public safety, order, health or morals, or the fundamental rights and freedoms of others” must be “directly related and proportionate to the specific need on which they are predicated.” It is difficult to regard the imposition of a prison sentence of up to five years and a fine of up to 150,000 Rupees, as set out in the draft bill, as a “proportionate” penalty for conversion (see draft bill attached, 4 (b) and 3 (a) and (b)). Finally, HRC General Comment 22 of 1993 also states that: “The fact that a religion is recognised as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers.”

Other forms of discrimination

Within the past two years, three petitions have been presented to the Supreme Court in Sri Lanka challenging the right of Christian ministries to be incorporated under Act of Parliament. In August, 2003 the Supreme Court ruled against the registration of an order of Catholic nuns, the Sisters of the Holy Cross of

the Third Order of St. Francis in Menzigen. The Supreme Court has also ruled against the incorporation of New Harvest Wine Ministries and Sahanaye Doratuwa ministry, arguing that the incorporation of a Christian organisation that spreads the Christian message is unconstitutional.

On January 15th, in Weliveriya, Gampaha District, a member of the local Assemblies of God (AoG) church was denied burial at a public cemetery, and hundreds of people led by monks organised to prevent entry into the cemetery. The family were denied entry, despite the deployment of police, and eventually the deceased person was buried in the family garden.

Examples of anti-Christian violence since January (Source: NCEASL):

- May 25 – the Assemblies of God (AoG) church in Navatkerny, Batticaloa District, was burned down during the night and completely destroyed.
- April 29 – At 11.30pm, the house of Pastor Kumarasiri of Peniel Evangelical Church in Hali-ela, Badulla, a predominantly Buddhist area in Uva province, was attacked by a gang which threw kerosene and prepared to set fire to the building. While arson was prevented by neighbours shouting at the attackers, the group destroyed the temporary structure in which services were held, and pulled down the concrete pillars of the new church building under construction. The incident was reported to the police, but so far no investigation has been conducted. Earlier that day, the Chief Monk of the Uduwara Pirivena complained to the local police, accusing the pastor of building an unauthorised structure. The pastor, however, claims to have obtained approval and a permit last August from the Pradeshiya Sabha.
- April 12 – At 3.30am, the house of the pastor of the Assemblies of God church in Mahaoya, Ampara district, was attacked at 3.30am by a gang using kerosene bombs. This church has been the focus of intense opposition from the village Buddhist temple, and villagers have demanded that the pastor leave the area.
- On Easter Sunday, a Christian Fellowship Church in Kalutara district was attacked, and ten people were injured. The church had been closed for three months following an initial attack in late December, when a mob of 300 villagers prompted a riot at the church. The pastor resumed services on Good Friday, and on Easter Sunday, a mob demanded that church members leave the building. They threw stones, damaging the windows, and beat the pastor and other church members as they emerged. According to Compass Direct, “parents tried to shield their terrified children, but despite this, a few children were among the ten or so people injured in the attack.”
- February 15 - three churches came under attack in one night. The Pastor of the Apostolic Church, who had received continuous threats of attack, was warned that his church would be attacked that night. The Senior Pastor called the police, but the police failed to provide protection, or to investigate the threats. Later that night, a large crowd of about 100 people arrived with two vehicles. The church and the staff living quarters were completely

demolished and all their personal belongings were set on fire. The police were again alerted that the church was under attack, and they later arrested five people. Christians in the area continue to face threats from villagers who are demanding the release of those arrested.

- February 15 - Gethsemane Church in Boraluwewa, Kuliyaipitia was also attacked. The same mob which attacked the Apostolic Church demolished Gethsemane Church's worship centre. In Kurundugaha Hathapma Anuruddhagama (Karandeniya), in Galle, the home in which the Calvary Church worshipped was attacked by a gang of 10, armed with five swords and a gun. The homeowner was attacked with a sword, but he escaped with minor injuries to his hand. He hid in a thicket with his three children, but his wife was trapped in the house and the intruders threatened to kill her if the worship service continued. Furniture, pots and pans were destroyed and the homeowner was in hiding until the morning. The mob returned later in the night to look for him. The family informed the Elpitiya police the next day and asked for protection. So far no protection from the police has been provided.
- January 20 - a mob of militant Buddhist protestors set fire to the doors of St. Anthony's Catholic church in the capital, Colombo, and vandalised a cross. A week earlier, another Catholic church in the suburbs of Colombo had been attacked.
- January 13 - the Calvary Church in Wattedgedara was attacked by a mob of about 20 people armed with bicycle chains at midnight. They attempted to cut the church's telephone line. The police were alerted and the mob was dispersed. On the same day in Thalapatpitiya, a trishaw parked in the grounds of Calvary Church was set on fire.

Action

CSW has been instrumental in initiating the introduction of an Early Day Motion (EDM210: Attacks Upon Christians in Sri Lanka) in the UK Parliament, which has so far been signed by 141 Members of Parliament (see attached).

CSW has provided regular briefings on the situation in Sri Lanka, and is in contact with the UK Foreign & Commonwealth Office, the US State Department Office of International Religious Freedom, the US Commission on International Religious Freedom, the offices of several Senators and Congressmen in Washington, DC, senior officials in the European Commission, the Council of the European Union, members of the European Parliament and the United Nations.

CSW is pleased to note that the Sri Lankan President made a statement in January, warning that anyone who incites anti-Christian attacks will be brought to justice, and appealing to the media to act responsibly and promote ethnic and religious harmony.

For further information please contact Ben Rogers, Advocacy Officer for South Asia, at ben@csw.org.uk or check our website, www.csw.org.uk

CSW-UK is part of an international network of partners, which includes CSW-Australia, CSW-Hong Kong, CSW-USA, the Norwegian Mission to the East and the All India Christian Council. In addition to the CSW-UK website (www.csw.org.uk), information can be found on www.cswusa.com and www.csw.org.hk

A BILL ON PROHIBITION OF FORCIBLE CONVERSION OF RELIGIONS.

An act to provide for prohibitions of Conversion from one religion to another by use of force or Allurement or by fraudulent means and for matters incidental there with incidental thereto.

5. WHEREAS, Buddhism being the foremost religion professed and practiced by the majority of people of Sri Lanka, due to the introduction by great Tathagatha, the Sambuddha in the 8th month after he had attained Buddhahood on his visit Mahiyangan in Sri Lanka and establishment after the arrival of Mahinda hero: -

10. AND WHEREAS, the State has the duty to protect and foster the Buddha Sasana while assuring all the religions the rights generated by Article 10 and 14 (1) (e) of the Constitution of the Republic of Sri Lanka:

AND WHEREAS, the Buddhist and the non Buddhist are now under serious threat of forcible conversions and proselyzing by coercion or by allurement or by fraudulent means:

15. AND WHEREAS, the Mahasanga and other religious leaders realizing the need to protect and promote religious harmony among all religions, historically enjoyed by the people of Sri Lanka:

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows: -

20. 1. This Act may be called the Prohibition of Forcible Conversion of Religions
Act. No. Have 2004.
(Short title)

2. No person shall convert or attempt to convert, either directly or other wise, any person from one religion to another by the use of force or by allurement or by any fraudulent means nor shall any person aid or abet any such conversions
25. . (Forcible conversion illegal.)

3. (a) Whoever adopts a religion from one religion to another shall within such period as may be prescribed by the Minister, send intimation to that effect to the Divisional Secretary of the area in which such adoption took place. (Intimation to the Divisional Secretary).

(b) Whoever converts any person from one religion to another either by performing any ceremony by himself for such conversion as a facilitator or by taking part directly or indirectly in such ceremony shall within such period as may be prescribed by the Minister, send in an intimation to that effect to the Divisional Secretary of the area in which such adoption took place.

4. (a) Notwithstanding contrary to any provision in the Code of Criminal Procedure Act, whoever contravenes the provisions of section 2 above shall, without prejudice to any civil liability, shall be guilty of any offence and on conviction before a magistrate be liable to be punished with imprisonment for a term which may not exceeding five years and also be liable to a fine not exceeding Rupees one hundred and fifty thousand:

Provided that whoever contravenes the provisions of section 2 above in respect of a minor, a woman or a person referred to in schedule I hereof, shall on conviction before a Magistrate be punished with imprisonment for a term not exceeding seven years and also be liable to a fine not exceeding rupees five hundred thousand.

(b) Whoever fails, without sufficient cause, to comply with the provisions Of section 3 (a) and (b) above shall on conviction before a Magistrate be punished with imprisonment for a term not exceeding five years or with a fine, not exceeding rupees one hundred and fifty thousand:

5. Proceedings before a Magistrate may be instituted in one of the following Ways: -

(a) by the Divisional Secretary of the area or an officer authorized by him for the purpose;

(b) by the Police in terms of Section 136 of the Criminal Procedure Act, No. 15 of 1979, upon a complaint made to the Police by a person aggrieved by the offence or in the case of a Minor, by his or her father or mother or a lawful Guardian or any other interested person who has reasons to believe that the provisions of the act has been violated, acting in the public interest;

(c) by a person aggrieved by the offence;

(d) by an Attorney-at-Law;

(e) by any person authorized by the Minister.

6. The Minister for the time being in charge of Justice may make rules and regulations for the enforcing and carrying out the provisions of this act and all such rules and regulations so made shall be published in the Government Gazette and shall be placed before the Parliament for approval.

7. In the event of any inconsistency between the Sinhala and Tamil texts of this Act. The Sinhala text shall prevail.

8. In this Act, unless the context otherwise requires-

(a) "allurement" means offer of any temptation in the form of-

(1) any gift or gratification whether in cash or kind;

(2) grant of any material benefit, whether monetary or otherwise;

(3) grant of employment or grant of promotion in employment;

(b) "convert" means to make one person to renounce one religion and adopt another religion;

(c) "force" shall include a show of force including a threat or harm or injury of any kind or threat of religious displeasure or condemnation of any religion or religious faith;

5. (d) "fraudulent" means includes misinterpretation or any other fraudulent contrivance;

(e) "Minor" means a person under eighteen years of age.

SCHEDULE I

1. Those persons classified as samurdhi beneficiaries
2. Prison inmates
3. Inmates of rehabilitation centres
4. Inmates of detention centres
5. Physically or mentally retarded
6. Employees of an organization
7. Members of the armed forces or police
8. Students
10. Inmates of hospitals and or places of healingInmates of refugee centres
11. Any other category as may be prescribed by the minister by regulations

ATTACKS UPON CHRISTIANS IN SRI LANKA

04.12.03

Mr David Drew

141 signatures

Mr Richard Allan	Mr David Amess	Mr David Atkinson
Mr Adrian Bailey	Norman Baker	Mr Harry Barnes
John Barrett	Mr John Battle	Mr A J Beith
Mr Joe Benton	Mr John Bercow	Mr Roger Berry
Mr Harold Best	Peter Bottomley	Virginia Bottomley
Mr Keith Bradley	Tom Brake	Mr Julian Brazier
Mr Colin Breed	Alistair Burt	Dr Vincent Cable
Mr Gregory Campbell	Mr Alistair Carmichael	Mr Martin Caton
Sir Sydney Chapman	Harry Cohen	Mr Michael Connarty
Frank Cook	Jeremy Corbyn	Brian Cotter
Tom Cox	Mr David Crausby	Mrs Ann Cryer
Mr Jim Cunningham	Mr Edward Davey	Valerie Davey
Mr Quentin Davies	Mrs Janet Dean	Mr Parmjit Dhanda
Jim Dobbin	Mr Nigel Dodds	Mr Jeffrey M. Donaldson
Julia Drown	Mr Huw Edwards	Mr Bill Etherington
Mr Nigel Evans	Annabelle Ewing	Michael Fabricant
Mr Howard Flight	Mr Adrian Flook	Paul Flynn
Mike Gapes	Andrew George	Sandra Gidley
Mrs Cheryl Gillan	Mr James Gray	Matthew Green
Mr Win Griffiths	Mr Fabian Hamilton	Mr Mike Hancock
Nick Harvey	Mr Oliver Heald	Mr David Heath
Lady Hermon	Mr David Heyes	Paul Holmes
Mr John Horam	Mr Lindsay Hoyle	Simon Hughes
Mr Andrew Hunter	Mr Alan Hurst	Mr Jon Owen Jones
Lynne Jones	Mr Nigel Jones	Mr Paul Keetch
Mr Piara S Khabra	Andy King	Norman Lamb
Mr Mark Lazarowicz	Mr Elfyn Llwyd	Mr Peter Luff
Andrew Mackinlay	Mr Khalid Mahmood	Alice Mahon
Rob Marris	Mr Paul Marsden	John McDonnell
Mr Eddie McGrady	Mr Kevin McNamara	Julie Morgan
Dr Andrew Murrison	Mr Edward O'Hara	Mr Mark Oaten
Mr Peter L Pike	Mr Kerry Pollard	Mr Greg Pope
Mr John Randall	Mr Andy Reed	Angus Robertson
Mr Laurence Robertson	Mrs Iris Robinson	Mr Peter Robinson
Mrs Marion Roe	Andrew Rosindell	Chris Ruane
Bob Russell	Mr Mohammad Sarwar	Mr Jonathan Sayeed
Andrew Selous	Mr Barry Sheerman	Mr Richard Shepherd
Ms Debra Shipley	Alan Simpson	Mr Keith Simpson
Mr Marsha Singh	Mr John Smith	Sir Robert Smith
The Reverend Martin Smyth	Mr Nicholas Soames	Mrs Caroline Spelman
Bob Spink	Mr Paul Stinchcombe	Dr Howard Stoaate
Dr Gavin Strang	Mr Gary Streeter	Mr Andrew Stunell
Mr Hugo Swire	David Taylor	Sir Teddy Taylor
John Thurso	Mr Paul Truswell	Mr Dennis Turner
Mr Paul Tyler	Mr Bill Tynan	Mr Robert N Wareing
Steve Webb	Miss Ann Widdecombe	Mr John Wilkinson
Mrs Betty Williams	Richard Younger-Ross	

That this House recognises that the people of Sri Lanka have a long-standing reputation for tolerance and respect; notes however that the plight of one of the religious minorities in Sri Lanka, Christians, is getting worse; notes in particular that there have been a large number of attacks upon evangelical Christian churches over the last two years by Buddhist and Hindu extremists; expresses strong concern at these attacks, such as that in Kadawatha, where on 12th October, a large mob armed with stones and rods attacked a church, beat up the congregation including women and children and destroyed much of the building; further notes that attacks such as this have increased significantly during 2003 and that in one weekend in August five churches were attacked by mobs; notes with concern that virtually no assailants are ever charged following these attacks; is further aware that anti-conversion legislation, modelled on the controversial and divisive anti-conversion law in Tamil Nadu, India, is about to be presented to the Sri Lankan Parliament; believes that such legislation is contrary to Article 18 of the Universal Declaration of Human Rights and Article 18 of

the International Covenant on Civil and Political Rights, as well as being inflammatory and unhelpful; and calls upon the Sri Lankan Government to give full protection to religious minorities, to bring to justice those found to have participated in attacks upon religious minorities, and to promote genuine and lasting inter-faith harmony in Sri Lanka.