

WCC-CCIA

International Study Consultation on Freedom of Religion and Rights of Religious Minorities (Istanbul, Turkey. 27 Nov – 2 Dec 2011)

Country Situation – Srilanka

Introduction

The constitution of Srilanka provides for parity of status to all religions and beliefs. However in practice consecutive governments have used nationalist religious language (i.e., giving majority Sinhala Buddhists greater recognition) to continue in power. The country is not free from discriminatory practices despite a clear commitment in the form of constitutional guarantee to equality and non-discrimination.

While freedom of religion and rights of religious minority communities are at the centre of discourses among Christian leaders and leaders of other minority religious traditions, it is noted that a lot more need to be done, as also in other South Asian countries, about non-discrimination as a citizen based on the religion one professes and also with regard to effectively counter the contention of the governments and the dominant communities as to the rights one could claim in proportion to ones number.

Country profile

Srilanka is an island nation with a land area of approximately 25,000 square miles. The population of Srilanka is estimated to be 18.7 million according to 2001 census. However some estimates of 2010 put the figure at 20.1 million. Buddhists are said to be 70% of the population, with Hindus constituting 15% and Christians and Muslims 8% and 7% respectively. It is said that most members of the Sinhala community that form approximately 72% of the population (only 1981 census is available for this calculation) belong to the Theravada Buddhism. Almost all Muslims are of the sunni fold; a small community of Shi'as including Bohras are said to exist in Srilanka. It is estimated that almost 80% of Christians in Srilanka are Roman Catholics; Anglican and other mainstream protestant churches including and besides Seventh Day Adventists, Jehovah's Witnesses, Methodists, Baptists, Dutch Reformed Pentecostals, and members of the Assemblies of God are also present in Srilanka. Evangelical Christian Groups are known to have developed recently with a small exclusive membership.

State Position

The Constitution of Sri Lanka provides for parity of status to all religions and beliefs. However, in practice, consecutive Governments have used nationalist religious language (i.e giving majority Sinhala Buddhists greater recognition) to continue in power. Often the majority religions, Buddhism is favoured over other religions.

Srilanka acceded to the ICCPR in 1980 and to the First Optional protocol in 1997.

Constitutional provisions

The Constitution of the Democratic Socialist Republic of Sri Lanka has been the constitution of the island nation of Sri Lanka since its original promulgation by the National State Assembly on 7 September 1978. It is Sri Lanka's second republican constitution and its third constitution since the country's independence (as Ceylon) in 1948. As of September 2010 it has been formally amended 18 times. Most amendments can be carried out with a two-thirds majority, while some such as those relating to "certain basic features such as the clauses on language, religion, and reference to Sri Lanka as a unitary state require both a two-thirds majority and approval at a nation-wide referendum".

- **Article 10**

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.

- **Article 14(1)(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 and teaching;

- **Article 9**

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).

- **Article 15(7)**

The exercise and operation of all the fundamental rights declared and recognized by Articles 12, 13 (1), 13 (2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.

- **Article 15(8)**

The exercise and operation of the fundamental rights declared and recognized by Articles 12 (1), 13 and 14 shall, in their application to the members of the Armed Forces, Police Force and other Forces charged with the maintenance of public order, be subject to such

restrictions as may be prescribed by law in the interests of the proper discharge of their duties and the maintenance of discipline among them

The right guaranteed by Article 10 is couched in absolute terms since Article is an entrenched provision that requires referendum for any amendment, repeal, etc. Article 14(1)(a) deals with external expression of such belief. Although Article 9 places minority religions on an equal footing in regard to the rights guaranteed by Articles 10 and 14 in reality Buddhism is accorded a privileged position by the State and State agencies.

Other related Constitutional Provisions

- **Article 4(d)**

The fundamental rights which are by the Constitution declared and recognized shall be respected, secured and advanced by all the organs of government and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided ;

- **Article 12(1)**

All persons are equal before the law and are entitled to the equal protection of the law.

- **Article 12(2)**

No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds;

Provided (two provisos relating to requiring any persons to acquire sufficient knowledge of any language)

- **Article 12(3)**

No persons shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public, restaurants, hotels, places or public entertainment and places of public worship of his own religion.

- **Article 27(1)**

The Directive Principles of State Policy herein contained shall guide Parliament, the President and the Cabinet of Ministers in the enactment of laws and the governance of Sri Lanka for the establishment of a just and free society.

- **Article 27(2)**

The State is pledged to establish in Sri Lanka a democratic socialist society, the objective of which include – The full realization of the fundamental rights and freedoms of all persons;

- **Article 27(5)**

The State shall strengthen national unity by promoting cooperation and mutual confidence among all sections of the People of Sri Lanka, including the racial, religious, linguistic and other groups, and shall take effective steps in the fields of teaching, education and information in order to eliminate discrimination and prejudice.

- **Article 27(6)**

The State shall ensure equality of opportunity to citizens, so that no citizen shall suffer any disability on the ground of race, religion, language, caste, sex, political opinion or occupation.

Other judicial determinations and regulations

Article 9 has been used to refer to Sri Lanka as a Buddhist Country and to give Buddhism preferential treatment. In Supreme Court Special Determination, SCSD 19/03, it was stated that conversion to Christianity would violate Article 9.

Several Local Authorities have gazetted regulations regarding erecting and operating places of religious worship, which are unconstitutional as they not only violate Article 10, but also Article 12(1), which provides that everyone must be treated equally. Some of the requirements under the local authority regulations adversely prejudice those belonging to minority religions, especially Christians.

Situations warranting attention

- Apart from the other religious days celebrated by the Buddhists, every full moon day is declared a public/Bank and/or mercantile holiday as being a holy day for Buddhists. However, all the other religions are given only one or two of their festival days as national holidays (e.g Thai Pongal, Deepavali, Hajj, Christmas and Good Friday).
- Religious education is mandatory in public schools, but in areas with less Christians, many children are compelled to study Buddhism.
- In the numerous attacks on churches and Christians the State has failed to take necessary steps to arrest and prosecute the perpetrators, even where they were clearly identified. Police inaction and/or active support of the perpetrators has proved to be the norm.
- Around 2005 a Bill was presented in Parliament titled "Prohibition of Forcible Conversion of Religion" commonly known as the "Anti –conversion Bill" by a private member belonging to a minority party of Buddhist monks and Buddhist hardliners called the Jathika Hela Urumaya (JHU). The Bill among others sought to criminalise "unethical" conversion. When challenged, the Supreme Court refused to make a ruling that the entirety of the Bill was unconstitutional, but did hold that some of the provisions were unconstitutional. Due to much opposition from Christians and moderate Buddhists and civil society groups, the Bill has been put on hold.

- Formerly, newly formed churches either sought to be incorporated through an Act of Parliament or register themselves as not for profit Companies. But since two determinations by the Supreme Court In SCSD 2/01 and SCSD 19/03 both options are no longer available to churches. The Supreme Court held that religious and philanthropic objectives could not be mixed and since then the Registrar of Companies has refused registration of Christian organisations that wish to engage in charitable work under the companies laws, while permitting Buddhist organisations to be registered.
- The Government has limited the issuance of temporary work permits to foreign clergy. Some Evangelical Christian groups have experience discrimination in the provision of services by the State. These groups reported that state-run schools refuse to admit Christian children or forced them to study Buddhism
- The constant complaint of radical Buddhists and Hindus (in the areas where Hindus are the majority) that Christians lured the poor and vulnerable of society to convert to Christianity by offering them economic benefits.
- There have also been instances when new converts to Christianity are encouraged to smash religious statues in public in demonstration of their break with their past. But this has provoked outrage and misunderstanding among other communities.
- Christians also hold worships services in churches with loud speakers or usings sound systems thus becoming a nuisance to the neighbourhood. They have also proved to be insensitive to the neighbours, especially when these services are conducted in residential areas in some incidents conducted at homes. For e.g. carrying out a loud service when there is a funeral in the neighbourhood.
- The manner in which many Christian leaders conduct themselves has led to suspicion within the other communities.
- However, there are numerous instances that Buddhist monks have been at the forefront of attacks on churches. In one such attack, the whole incident was televised and aired on a local television channel. But none of those involved either apologised or showed any remorse for the violence perpetrated by them.
- Many Christian leaders, especially in remote areas have been attacked and churches burnt without any provocation, as the Buddhist monks feel threatened by the rapid growth in these churches. Several Roman Catholic, Methodist and such mainline churches too have been attacked.

- In September 2009 there were attacks on the Prayer Tower Church in Puttalam District (northwest) that resulted in the partial destruction of the church and injury to some of the congregants.
- (In May 2009 security forces conducted a raid on the officers of the National Christian Evangelical Alliance of Sri Lanka, in Colombo. They searched for documents and interrogated staff).
- There were local police, JHU affiliated monks in 2008 and early 2009 who put pressure on Assembly of God church in Kaluthara to close down.
- On March 28. 2010, a mob of approximately 150 person's, led by three Buddhist monks, attacked a church at Germanwatha Pugoda in the Gampaha District . They destroyed furniture, threatened the pastor with death unless he stopped Christian worship in the area. Some attackers spat on the face of an elderly mother.
- On March 22. 2010, the owner of a hotel located near the AOG church at Wellawaya in the Moneragala District assaulted four youth on their way from a prayer meeting at the church.
- On December 15, 2009, unidentified person attacked and destroyed the Calvary Worship Centre at Thimilaithivu in the Baticalo District.
- On December 23, 2009, a mob threatened the pastor at the Jeevena Church at Godallahena in the Kurunegala District to stop holding services. The group claimed there were problems with the registration of the church, and the pastor and a few members of the congregation were taken by two Buddhist monks and the villagers to the police for questioning.
- A Community Centre being constructed with appropriate local government approval by the Methodist Church at Mawathegama was demolished in 2009.
- The Worship Centre at Pilana of the Methodist Church was attacked by a mob in 2009 and worship prevented to date.

State responses to complaints of minorities

“The State has generally refused to take action against perpetrators and in most cases the local police have sided with the attackers and further victimized those subjected to violence.

When there was a spate of violence unleashed on churches around 2005, in the aftermath of the death of a popular Buddhist monk in Russia, whose death was said to have been caused by Christian

conspirators (!!!), the then President did intervene by offering troops to guard churches, especially during Christmas time to hold worship services.

But such action on the part of the State has been a rarity. There is a tendency to go for amicable solutions”.

Instances of tolerance and mutual co-operation

- During any crisis, whether natural disasters or bombing explosions, etc., the natural tendency of the people has been to help those affected without questioning their ethnicity or religious beliefs. There have been rare instances when these factors have been used not to help those belonging to ethnic or religious minority communities.
- In the aftermath of the 2004 tsunami various religious communities came together to help rebuild destroyed lives and property as the disaster had made no distinction between its victims.
- In the north central part of the Country, comprising of majority Sinhala Buddhists, when some rabid elements from outside burnt down a Catholic church the local community rallied round to rebuild it as they had done previously, of helping build the church in the first place, as the church had been meeting for a long time in the home of a believer.
- In many instances where Christians have faced physical attacks, they have continued to worship together without any retaliation or fear of further attacks, which has inspired the attackers themselves to question their courage and faith.
- Many Christian leaders have begun dialoguing with the leaders of majority religions, which has helped to eliminate suspicion harboured by these leaders against Christians and have won them over to tolerance and active support.
- When Christians suggested that instead of formulating laws to govern ‘unethical’ conversions to appoint a interfaith body to hear and deal with complaints of this nature, many of the leaders of other religions supported this proposal.
- Some Christian leaders have apologised publicly for atrocities committed by colonialists and even in the present day west, especially against Muslims, which has help heal long-harboured anger and bitterness. In the conflict of ethnic violence there are many stories of tolerance.

How religious groups (other than Christians) address religious freedom

- Though the general Buddhist population is tolerant by nature, the extremists discourse primarily affirm that Buddhism is the religion of the Island. The freedom of other religions is subservient to this and to exist under their benevolence.
- The Hindus are not very politically articulate, though in the context of the ethnic conflict, they feel threatened. The increasing Buddhist assertion in the North and East does cause much anxiety among them.
- At times Buddhist and Hindus tend to display their common cultural links as against Muslims and Christians. The Hindus too express sentiments of being affected by Christian proselytism and have called for legislation against conversion. There are incidents of Hindu extremists attacking Christian places of worship as well.

- The Muslims live as a separate ethnic entity as well and are generally very assertive with regard to their privileges and rights. They tend to be less tolerant of other religions in the areas under their occupation as the majority religious group.

Ecumenical initiatives to address rights of minorities

Most initiatives reported are Christian. Further study is needed to explore on the areas in which there is co-operation between people(s), leaders and institutions of the different religions. The NCCSL reports that,

- The National Christian Council of Sri Lanka (NCCSL) does work together for advocacy, Representation with State authorities. The Catholic Bishops Conference too initiates such action. They also work together for common concerns.
- The NCCSL also associates with the Evangelical Alliance of Sri Lanka for similar action.
- However, it has always been difficult for all the three organizations to work together. The Roman Catholics believe that they are affected severely by the very triumphalistic proselytism of the Evangelical Churches.
- The dialogue between the three has not been easy and often it is the NCCSL that acts as a bridge.
- The NCCSL and the Roman Catholic hierarchy are involved in many inter faith forums where they collectively seek to address such issues. The Congress of Religions is one such forum that gave a detailed proposal to establish an Inter-Religious Council to deal with such issues instead of an anti conversion bill.
- The EASL generally tends to make representation to Embassies and International bodies, which can also be counter-productive.
- The NCCSL reports that it already has a Comity statement and the Code of Ethics for Mission. The code of ethics is relevant to this discourse and is reproduced here in full.

Code of Ethics for Mission

Preamble

We the Churches of the National Christian Council of Sri Lanka affirm that all mission is the work of God and recognize that we are called to co-operate with God to share the whole Gospel of Jesus Christ, His Life, Death and Resurrection for the whole human being with all people through the whole life and work of our Communities.

We declare our commitment to the following code of ethics, and also assure one another of our willingness in continuing, individual and collective self evaluation in order that we may honour Christ in this our task.

(1) We shall enhance and strengthen our common witness, worship and mission nationally, and locally, through regular consultation and co-operation, and this way seek to encourage and challenge one another.

(2) We will refrain from directly or indirectly influencing or persuading Christians of one denominations to join our Denominations. However, in circumstances where it is clearly

prudent and/or pragmatic that Christians of one of our Denomination should join another, such changes will only take place after mutual consultation and agreement between the persons and the respective local leaders of the Denominations concerned.

(3)At times of pastoral need such as sickness, death and marriage we shall co-operate with each other to service human need, ease unnecessary tensions and strengthen our common witness. We shall also address any traditions or practices within our respective Denominations that are a hindrance to ecumenical witness at such times.

(4)We shall endeavour to build united congregations under rotating Pastoral care, where more than one Denomination exists. We shall not set up new Churches or work in areas in which other Churches are already located. In some exceptional circumstances, where it is necessary to set up new Denominational work we shall do so only after proper and adequate consultation with the Denomination already located in the area.

(5)We categorically denounce the use of direct or indirect methods that seek to persuade persons to become Christians for wrong reasons and will ourselves desist from the use of such methods.

(6)We shall treat and serve the poor of all communities with equal dignity and seek to reduce poverty. We shall not exploit poverty to make them Christians.

(7)We shall do our utmost to defend all victims of violence and injustice and articulate their cause in collaboration with other Interest Groups.

(8)We shall uphold the rights of children and conduct our affairs in such a way that will respect and safeguard the dignity, trust and innocence of children.

(9)We shall practice Christian stewardship and ensure transparency and strict accountability in all our financial dealings. We shall endeavour to generate our financial needs locally and ensure that whenever foreign funding is necessary we shall retain our autonomy in framing our own mission policy.

(10)We shall ensure that our methods of mission are relevant to the local context and that such methods and our public worship are sensitive to the immediate cultural and human environment and that we do not disturb the neighbourhood or unnecessarily provoke the religious susceptibilities of other religious communities.

(11)We shall respect the doctrines, traditions, symbols and practices of the other major religions and refrain from ridiculing or exploiting any weakness of a given religious community or leader for our own gain.

(12)We shall seek to build relationships of trust with all religious communities and to co-operate in community service wherever possible. We shall encourage our local leaders and communities to sustain cordial relationships with the leaders and communities of other religions.

(13)We shall encourage other Christian communities outside the NCC to consider and abide by this code of ethics, and shall similarly be prepared to learn from them. We shall co-operate with those who do and agree to disagree with those who do not.

Conclusion

It is suggested that to address religious freedom in Sri Lanka a continuous dialogue with religious leaders is necessary. The NCCSL also feels that a stronger advocacy network (national and international), building awareness at the level of the local congregation, a proper documentation of the systemic discrimination and incidents that affect religious freedom, government/local authority circulars, By-laws, laws affecting religious freedom, and international pressure to adhere to international laws and accepted standards to respect and promote religious freedom, is very important to address religious freedom and to ensure the rights of minority communities.

To this end the NCCSL feels that a dialogue between NCCSL, the Roman Catholic Church and the Evangelical Churches in Sri Lanka should be facilitated. The council also feels that younger churches should reflect on their methods of evangelism which at times border on aggressiveness. It is also proposed that strong ties should be nurtured between various organisations of different religious communities. The council suggests that responding to issues relating to religious freedom in inter-religious platforms will be more fruitful. Establishment of an inter-religious council is also considered to be a way forward. Avoiding segregating education on religious and ethnic lines, strengthening respect for mutual religions through intra-faith and inter-religious fora, maintaining constructive link with law makers and promoting continuous advocacy, and conducting vigils and prayer campaigns for unity and peace are some of the other measures that the Council proposes as worth attempting for the affirmation of the freedom of religion.

It is felt that Common South Asian strategies will help especially in the following areas and particularly from the Sri Lankan point of view:

- To understand the manner in which Christians are treated in other South Asian countries and learn from each other.
- To express to Buddhists how they are treated in countries where they are minorities.
- To learn from experience where Hindus and Muslims are majorities whereas in Sri Lanka they are minorities.
- To learn from countries where there is active cooperation between the Evangelicals, Protestants, Orthodox, and the Roman Catholics.
- To learn from each other's constitutions/laws.
- To create a South Asian Forum for Religious Tolerance/Peace.

