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لجنة حقوق الإنسان
الدورة الثانية والستون
البند ١١ (هـ) من جدول الأعمال المؤقت

الحقوق المدنية والسياسية، بما في ذلك مسألة التعصب الديني

تقرير المقرر الخاصة المعنية بحرية الدين أو المعتقد،
السيدة أسما جاهانغير

إضافة

البعثة إلى سري لانكا*

* يعمم موجز هذه الوثيقة بجميع اللغات. ويعمم التقرير، المرفق بالموجز، باللغة التي قُدم بها فحسب.

موجز

قامت المقررة الخاصة المعنية بحرية الدين أو المعتقد، بزيارة إلى سري لانكا في الفترة من ٢ إلى ١٢ أيار/مايو ٢٠٠٥ بهدف تقييم حالة حرية الدين أو المعتقد في البلد، ولا سيما في ضوء التقارير الأخيرة التي تفيد بحدوث هجمات على بعض المجموعات الدينية، وادعاءات حصول عمليات لا أخلاقية لحمل الأشخاص على اعتناق ديانة غير ديانتهم، وإدخال مشاريع قوانين تجرّم أفعالاً معينة ترمي إلى حمل أي شخص على اعتناق ديانة غير ديانتته.

وتدين المقررة الخاصة في هذا التقرير الهجمات التي شُنّت ضدّ أفراد الأقليات المسيحية وتنتقد موقف الحكومة السليبي. وتحث الحكومة على اتخاذ إجراءات منتظمة، بما في ذلك من خلال جهازها القضائي، من أجل التصدي لهذه الهجمات.

وبالإضافة إلى ذلك، فإن المقررة الخاصة إذ تلاحظ وجود أمثلة معينة على استخدام بعض المجموعات الدينية لسبل غير لائقة لإقناع الأشخاص بتغيير دينهم، تدعو تلك المجموعات إلى احترام ديانات الغير والامتناع عن استخدام أشكال عداوية من أشكال التبشير. بما يمكن أن يعكّر صفو الوثام بين الأديان ويزيد من حدة التوتر الديني. وهي تحذّر في نفس الوقت من اعتماد مشاريع قوانين تجرّم أفعالاً معينة ترمي إلى إقناع أي شخص بتغيير دينه واعتناق ديانة أخرى، ذلك أن تنفيذ مشاريع قوانين من هذا القبيل من شأنه أن يؤدي إلى انتهاكات لحقوق الإنسان، ولكون ذلك لا يمثل حلاً ملائماً للأوضاع الدينية المتوترة حالياً.

**REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF
RELIGION OR BELIEF, ASMA JAHANGIR, ON HER MISSION TO SRILANKA
(2 to 12 May 2005)**

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Introduction

1. From 2 to 12 May 2005, the Special Rapporteur on freedom of religion or belief carried out a visit to Sri Lanka in fulfilment of her mandate, at her request and at the invitation of the Government.
2. The Special Rapporteur had most of her meetings in Colombo, but also travelled to Kandy, Batticaloa, Kattankudy, Ampara, Umagama, Jaffna and Killinochi, where she met with local officials, political leaders and religious representatives as well as members of the civil society.
3. During her visit, she held talks with the Minister for Foreign Affairs, the Minister of Justice, the Minister for Constitutional Affairs, the Minister for Hindu Affairs, the Minister of Buddha Sasana, the Minister for Christian Affairs, the Attorney-General, the Secretary-General of the Peace Secretariat and other officials dealing with questions related to the mandate on freedom of religion or belief. She also had meetings with the leader of the opposition, representatives of different political parties, including the Jathika Hela Urymaya (JHU) and the Janatha Vimukthi Peramuna (JVP), and the Human Rights Commission of Sri Lanka.
4. The Special Rapporteur also had talks with representatives of religious communities and religious organizations, including Venerable Udagama Sri Buddhakhitta, Bishop Frank Marcus Fernando of the Catholic Church and Bishop Duleep de Chickera of the Anglican Church, as well as Muslim religious leaders in Colombo and Kattankudy. She is particularly grateful to Venerable Udagama Sri Buddhakhitta for agreeing to see her on short notice and giving her the unique opportunity of visiting the heart of the Temple of the Sacred Tooth Relic.
5. In Killinochi, the Special Rapporteur met with representatives of the Liberation Tigers of Tamal Eelane (LTTE) and with members of the Northeast Secretariat on Human Rights.
6. Consultations with non-governmental human rights organizations were organized individually and in group at all locations that the Special Rapporteur visited, including with the Civil Rights Movement, the Centre for Policy Alternatives, the Law and Society Trust, INFORM, the Institute of Human Rights (IHR), the Centre for Human Rights and Development and the Joint Committee of Buddhist Organisations.
7. The Special Rapporteur wishes to thank the Sri Lankan authorities for their invitation and for the cooperation they extended to her during her visit despite the still difficult circumstances related to the post-tsunami period. She considers that the practical organization of official meetings was remarkable and was particularly pleased by the transparency and openness shown by her interlocutors at the governmental level. Moreover, further to an exchange of letters she already had with the Permanent Mission of Sri Lanka in this regard, she would like to reiterate her sadness at the assassination of the Minister for Foreign Affairs.
8. She is also grateful for the positive attitude that religious representatives manifested throughout her presence in Sri Lanka and for the information and opinions that they transparently shared with her. The Sri Lankan civil society was also extremely open and flexible during the duration of the visit and provided invaluable assistance in the organization of different meetings.

9. Lastly, she would like to thank the United Nations Development Programme in Colombo which assisted in organizing all practical aspects and logistics related to the visit. In particular, she would like to express her gratitude for the invaluable assistance of the Senior Human Rights Adviser to the United Nations Country Team.

10. During her visit and in this report, the Special Rapporteur has concentrated on the situation of freedom of religion or belief in Sri Lanka including in the light of recent reports related to the attacks on certain religious groups, allegations of unethical conversions, and the introduction of draft laws criminalizing certain attempts/acts intending to convert anyone to another religion. She has also collected information on various problems faced by different religious minorities.

11. Finally, the Special Rapporteur deplores the fact that after her visit attempts were made by individuals and certain groups to intimidate and pressurize her, possibly to influence her conclusions. She also received a communication from one group challenging her impartiality. She regrets that the content of this communication was misleading and mischievous.

I. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

12. Sri Lanka is a State party to the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict; and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

13. The Special Rapporteur would like to recall the text of article 18 of the International Covenant on Civil and Political Rights (ICCPR):

- “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 that would impair his freedom to have or to adopt a religion or belief of his choice.
- “3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals.
- “4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”

14. The Special Rapporteur would also like to emphasize that in her analysis of the situation in Sri Lanka, she relies both on the terms of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, general comment No. 22 (1993) of the Human Rights Committee on article 18 and other relevant provisions of ICCPR.

II. RELIGION AND BELIEF IN SRI LANKA

15. The main religions present in Sri Lanka are Buddhism, Hinduism, Islam and Christianity.

16. Buddhism is the religion of most members of the Sinhalese community, who represent approximately 70 per cent of the population. Buddhism constitutes therefore the major religion of the country and is found in most parts of Sri Lanka except in the predominantly Tamil areas of the north and east.

17. Hinduism is the religion of 15 per cent of the population and the major religion of the Tamil community.

18. Christians represent 8 per cent of the population and live almost everywhere, but mainly in the west. There are many Christian denominations present in Sri Lanka: Roman Catholics account for 90 per cent of the Christian population, the other 10 per cent being composed of Anglicans and other Protestant Churches, including Methodists, Baptists, Lutherans and Dutch Reformed, as well as newer Evangelical and Pentecostal Churches and other smaller groups like the Jehovah's Witnesses.¹ According to various estimated that are sometimes contested, the Christian population has not significantly grown over the last 20 years. While it is true that Evangelical and Pentecostal Churches have increased in number, this has mainly been at the expense of more "traditional" Christian Churches.

19. With respect to the different Christian denominations present in Sri Lanka, citizens - have generally taken the habit of making a distinction - not always with much thought - between (usually) recently established Christian communities, which they characterize as "fundamentalists", and the other more traditional Christian churches.

20. According to most figures, Muslims account for 7 per cent of the population, but they contest this figure and consider that it has recently come closer to 10 per cent owing to the birth rate and conversions. A particular characteristic of the Muslim community in Sri Lanka is that it is also recognized as a separate ethnic identity.

21. The great majority of Muslims are of Sunni background while a small minority is Shia. Other Muslim minorities are present in Sri Lanka such as the Sufi Muslims, who are located in the east of the country. There is also an Ahmadiyya community whose members are mainly concentrated in the outskirts of Colombo.

22. Finally, there are smaller religious groups or communities of belief who are disseminated throughout the country, like the Bahà'ì community.

23. The Rapporteur on Religious Intolerance of the Human Rights Commission of Sri Lanka reports that, “there has been general acceptance in Sri Lanka that a person is free to change his or her faith or belief for any reason, or to become an unbeliever, although such change may not find acceptance with all religions. Unquestionably the spirit of tolerance in [the] matter of religious belief is very strong, and for this much of the credit must go to the dominant religion, Buddhism”. He addressed the question of conversion in the light of the current situation, which had “arisen from attacks on persons who want to assert their right to spread their faith by preaching and practice”.

24. Some of the Special Rapporteur’s interlocutors pointed out that religion is being used for political purposes and that the heightened religious tensions are being driven by a few from various communities, in particular the Buddhist community.

III. LEGAL FRAMEWORK

25. The Constitution of Sri Lanka does not provide for a State religion, but it gives Buddhism a prominent place. Indeed, according to article 9 of the Constitution, “[t]he 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).”

26. This article of the Constitution has recently become a matter of controversy with emerging religious tensions and following the third determination of the Supreme Court in the *Sisters of Menzinger* case.² Certain members of the Buddhist community rely on the foremost place accorded to Buddhism and the State’s obligation to protect and foster Buddha Sasana³ to justify measures designed to protect Buddhism from threats perceived to be emanating from other religious groups.

27. In its article 10, however, the Constitution unequivocally provides for freedom of religion: “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.” This provision is complemented by article 14 (e) according to which “[every citizen is entitled to] 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.”

28. Finally, it is to be noted that “in the interest of religious harmony”, article 15 provides that the right to freedom of peaceful assembly as well as the right to freedom of association may be subjected to certain restrictions, which in many cases could potentially affect the right to manifest one’s religion.

29. In practical terms, religious affairs are dealt with by separate ministers, one for each of the main religions: the Ministry of Buddha Sasana, the Ministry for Hindu Affairs, the Ministry of Muslim Religious Affairs and the Ministry for Christian Affairs.⁴

30. To have legal status, religious communities have to register either as charitable organizations or as corporation. While the first type of entity permits tax exemption, the second allows less government involvement in the internal affairs of the community. However, by a decision of 1 August 2003, the Supreme Court rejected the incorporation of an organization called the

“Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka” because the provisions of the incorporation bill created

“a situation which combines the observance and practice of a religion or belief with activities which would provide material and other benefits to the inexperienced, defenceless and vulnerable people to propagate a religion. The kind of activities projected in the Bill would necessarily result in imposing unnecessary and improper pressures on people, who are distressed and in need, [in] their free exercise of thought, conscience and religion [and in] the freedom to have or to adopt a religion or belief of [their] choice”.⁵

31. The reasoning of the Supreme Court in the above case has remained partly the basis on which it later addressed the questions raised by the draft legislation on conversion (see sect. V)

IV. INTERRELIGIOUS TENSIONS

A. Overview and background

32. For the past few years, religious tolerance and harmony among religious groups in Sri Lanka has undoubtedly declined. The main religious tensions can be found between the Buddhist community and certain Christian groups.

33. Many interlocutors at the governmental level but also from different religious communities, including from so-called traditional Christian communities, have asserted that there was a problem with the alleged proselytising behaviour of certain Christian religious groups, often referred to as “Christian fundamentalists” or “fundamentalists”, which have arrived or appeared in the country in recent decades. Today, many Sri Lankan Buddhists, but also members from the Hindu community, allege that they feel their identity threatened.

34. This phenomenon has existed for many years in Sri Lanka but, because of the war, did not attract very much attention. It has amplified even further with the humanitarian efforts after the tsunami, though the draft laws on conversion were proposed much earlier and strong lobbies were being built around that issue.

35. While this phenomenon originally developed because of the activities of certain religious communities, it has increasingly included the activities of some, mainly foreign, non-governmental organizations with a religious agenda that work in development and humanitarian assistance. The issue came to a climax during the crisis that immediately followed the tsunami. After 26 December 2004, an important number of foreign humanitarian NGOs arrived in Sri Lanka and it has been claimed that some of those with a religious affiliation took advantage of the disaster to promote their religion.

36. In 2002, on the basis of complaints that Christian communities were carrying out improper conversions, the “Presidential Commission on Buddha Sasana” was created to inquire into a wide range of matters bearing on the well-being and long-term survival of the position of Buddhism. The conclusions of the Commission, which the Special Rapporteur will not discuss in the present report, were aimed inter alia, at preserving the place of Buddhism in the Sri Lankan society. It

appears that instead of easing the religious tensions, it provided more justification for religious intolerance.

37. Many Buddhists, including those who support the draft legislation intending to criminalize (see sect. V) “unethical” conversions, maintain that while Buddhism has been established in the country for 2,300 years, there has never been a real difficulty with traditional Christian denominations which have arrived since the beginning of the sixteenth century. Religions lived side by side in mutual respect and conversions, when they occurred, were genuine. However, as confirmed by the conclusions of the Presidential Commission on Buddha Sasana, new Christian groups have started to arrive in recent decades and have, it is claimed, damaged the existing harmony with aggressive proselytism. These groups or communities have allegedly taken advantage of Buddhist tolerance to try to convert Sri Lankans to their faith.

38. There is also a strong feeling among people motivated by religion but also among politicians that the programme carried out by these “new “ Christian communities constitutes outside interference, in particular from the United States. Whether representing a genuine feeling or one that is induced by outside discourse, some have claimed that it is tantamount to a new form of colonialism. In this regard, many refer to the significant financial means that these communities enjoy, with funds coming mostly from abroad, and to the very professional way their missionary activities are conducted.

39. Religious sensitivity is thus very often coupled with nationalism, and the words “Sinhalese” and “Buddhist” are increasingly becoming interchangeable.

40. At the same time, there does not seem to be a very high level of knowledge among the population, but also among religious leaders or authorities, about the differences between Christian denominations or groups, or between different religious minorities. A distinction is, for example, often made between Catholics and Christians, the Church of Scientology is sometimes considered a Christian movement, and there is rarely agreement on which groups or Christian communities should qualify as “fundamentalist”. This confusion has had the general effect of stigmatizing Christian minorities among the population.

41. Many interlocutors have claimed that the Government’s reactions to these tensions have been very weak. Even Buddhists said that the present situation could have been avoided if there had been appropriate action on the part of the authorities in due time.

42. Finally, there were numerous reports of destruction of religious symbols such as crosses and statues of Buddha and other religious personalities. For instance, a dispute over the erection of a Buddhist statue in Trincomalee was the cause of considerable tension in the weeks following the Special Rapporteur’s visit. It was often claimed that these symbols or revered statues had been deliberately put in a place populated by followers of another religion. Sometimes it appeared that the level of intolerance had fallen so low that even the sight of religious symbols of other communities was seen as offensive.

B. Complaints of “unethical conversions”

43. The description of the behaviour complained of is not clear, but has mainly to do with a feeling that the religious groups that are the objects of complaint deceive people because they are not totally transparent about their motivations. It is claimed, in particular, that some groups promise material benefits such as food and medicine, bicycles or even housing. In some cases, assistance was promised with getting a job or an authorization to build a house.

44. It is claimed that those who are the most sensitive to these appeals are the poorest sections of the population. Therefore, it is felt by many that those actions are a form of manipulation and abuse of the most vulnerable.

45. After the tsunami, it was reported that in the east of the country many have converted for health reasons because medical assistance and supplies were brought in by Christian non-governmental organizations and groups. However, a significant number converted back to their original religions later, which sometimes provoked negative reactions from the community.

46. Even members of those Christian communities whose beliefs are relatively close to those being complained of told the Special Rapporteur that it was true that some Evangelical Churches were conducting a rather aggressive form of proselytism with which Sri Lankans were not familiar and which disturbed them. Many, including Christians themselves, emphasized that the Buddhists and Hindus have a far less proactive attitude in propagating their religion.

47. Members of the communities blamed for aggressive proselytism have categorically denied using any coercive methods. Most have also denied using unethical methods, but a few have argued that inducement is central to all beliefs, like the promise of reward for being pious and adhering to the tenets of one's belief. They claimed that there was inducement in all conversions like there was inducement in all political campaigns before elections, but ultimately the choice lies with every individual.

C. Assessment of the complaints

48. Incidents of inappropriate methods of conversion and proselytizing by some “non-traditional” Christian groups were brought to the attention of the Special Rapporteur. These incidents were usually vaguely described and unclear with regard to the circumstances. Despite repeated requests, the Special Rapporteur did not meet any person who had changed his or her religion because of allurements or other form of inducement. She has also not received any substantiated cases of conversion that would constitute a violation of the right to freedom of religion or belief, such as forced conversions.

49. The Special Rapporteur has also tried to obtain some statistical data on religious affiliation in Sri Lanka as well as on the number of conversions that have occurred in the last few years. Since she has received contradictory data, she has not been in a position to confirm the veracity of the sources of this information and has received no official figures from the Governmental in this regard. According to the information available, there does not appear to have been a significant number of conversions in the last few years, in particular from Buddhism to Christianity.

50. Having said this, the Special Rapporteur understands from different testimonies and statements she heard during her visit that some religious communities or religiously affiliated non-governmental organizations have demonstrated behaviour that, while not constituting per se violations of the freedom of religion of others, were very disrespectful and dishonest vis-à-vis the local population they were addressing. A number of such organizations have proved culturally insensitive and have lacked respect for the beliefs of Sri Lankans.

51. Nevertheless, at the same time, the reaction to such inappropriate behaviour has been sharp and somewhat alarmist. The resulting acts of violence and threats against the Christian community clearly are in violation of their freedom of religion or belief.

D. Other forms of religious tension

52. Although the tensions between Buddhists and some Christian communities attract the most attention, the Special Rapporteur wishes to underline that in some places, including in the east, instances of violence between other religious minorities have been reported, including between Christians and Hindus or Muslims and Hindus, although at a more limited level than the attacks described in part VI and not always motivated on purely religious grounds.

E. Desecration of religious symbols

53. In many occasions, people complained to the Special Rapporteur about the improper use of some religious symbols, in particular Buddha. In the majority of cases, the complaints related to commercial use of Buddha. This inappropriate exploitation was sometimes compounded by the fact that pictures of Buddha were associated with images or behaviours that constitute an insult to the religion such as the case of a picture of Buddha printed on underwear or trousers.⁶

54. The Special Rapporteur has also observed that Sri Lankan legislation includes provisions that criminalize acts of defilement or discretion of religious symbols. The interpretation of these provisions by the Sri Lankan judiciary has appeared to be relatively strict. In one case where young boys had been found in possession of Buddha Bar CDs, prison sentences were suspended only because the boys confessed to their offence.

55. The Special Rapporteur was told by a number of interlocutors that the use of the image of Buddha was not done with the intention of insulting Buddhists, or in any way calculated to disrespect Lord Buddha. Some insisted that the Buddha symbol is often used as a sign of respect and admiration for the message of tolerance, peace and serenity spread by him.

V. DRAFT LEGISLATION ON “UNETHICAL CONVERSIONS”

A. Background and overview

56. The idea of criminalizing certain conduct or acts leading to unethical conversions has circulated in Sri Lanka for some years. Recently, however, a number of initiatives have led to the drafting of at least three different bills. Some of the Special Rapporteur's interlocutors asserted that these bills were political manoeuvres rather than being essentially related to religious tensions.

57. The adoption process nevertheless remains relatively slow. This is probably due to reluctance on the part of Sri Lankan society, in particular the authorities but also to the outcry from the international community. For example, the governmental bill prepared by the Ministry of Buddha Sasana has been delayed several times.

58. While she is not able to ascertain to what extent these texts are public documents, the Special Rapporteur has received a copy of each of the drafts and observed that they have been widely circulated among the public by different means of communication, including the Internet. Government officials have not raised any problem in this respect. The Special Rapporteur therefore considers that she may openly refer to certain parts of the drafts in question.

59. The Special Rapporteur has noted that those who supported the adoption of specific legislation to fight “unethical” conversions argued that the existing legislation, in particular the Criminal Code of Sri Lanka, does not appropriately address such behaviour. These arguments have, however, not been sufficiently substantiated. The Supreme Court has indeed held that the use of force and the adoption of fraudulent means in this regard were offences already punished by sections 169 c (2)(b) and 23 of the Penal Code.

60. While it is not disputed that Christian communities such as Anglicans and Roman Catholics may have complained about certain behaviour or actions by other Christian groups, including Evangelical Churches, they also oppose the criminalization of unethical conversions. So-called traditional Christian Churches have taken a clear position against the draft laws and have proposed alternative solutions to emerging religious tensions.

61. During her visit, the Special Rapporteur noticed that a number of political leaders, government officials as well as religious leaders of all communities were not in favour of the adoption of this legislation. The Buddhist leaders were clearly irritated and upset by the methods of proselytism of “non-conventional” Christian groups but they recognized that the adoption of such legislation might add to religious tensions.

B. Content of the bills and Supreme Court determination

62. The first draft, entitled “Prohibition of forcible conversion of religion” and presented by members of (JHU), based on article 9 of the Constitution, was designed to “protect and foster the Buddha Sasana”⁷ which is “the foremost religion professed and practised by the majority of people of Sri Lanka”⁸. In this context, the JHU Bill provides in its article 2 that “No person shall convert or attempt to convert, either directly or otherwise, 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.”

63. Those who contravene the above provision may be sentenced to imprisonment for up to five years and a fine of up to 150,000 rupees. These penalties are increased (up to seven years and 500,000 rupees) if the victim of the attempted conversion is a woman, a minor, or a person listed in the first schedule to the Bill.⁹ The proceedings can be instituted by a great variety of persons. The police may take action upon complaint by any “person who has reasons to believe that the provisions of the act have been violated” or by “a person aggrieved by the offence”.¹⁰

64- The JHU Bill also provides that those who have converted to another religion as well as those who have converted another person should report the conversion to the authorities.¹¹

65. The other draft bill proposed by the Ministry of Buddha Sasana has similar provisions, but its definition of the offence of “unethical conversion” appears wider than the one of the JHU Bill.

According to its article 2:

“No person shall unethically convert or attempt to unethically convert any other person espousing one religion, or holding or belonging to, one religious belief, religious persuasion or faith, to another religion, religious belief, religious persuasion or faith which such person does not hold or belong to. No person shall abet any such unethical conversion.”

66. The terms “unethically convert” are further defined in article 10 of the Minority Bill and include a wide variety of acts,¹² which allows for a very broad interpretation of the offence.

67. The constitutionality of the JHU Bill was challenged before the Supreme Court under article 121(1) of the Constitution by 21 petitions. In its determination under article 123 of the Constitution, the Supreme Court held that the provision requiring a person who is converting and any person performing or involved in a conversion ceremony to report to the authorities, as well as the corresponding penalties, are contrary to article 10 of the Constitution. In terms of institution of the proceedings, the Court recommended that they should be initiated according to the Criminal Procedure Code Act subject to the written permission of the Attorney-General. Finally, the Court suggested a minor amendment to the definitions of “allurement”, “force” and “fraudulent means” as they appear in the draft.

68. Therefore, if the JHU Bill is amended according to the Supreme Court’s determination, it would no longer be in violation of the Constitution, in particular its article 10, and could pass to the next phase of the legislative process. On the contrary, if the Bill is not amended according to the Court determination, it would require a two-thirds majority in Parliament and a referendum by the people of Sri Lanka to become law.

69. The Supreme Court has so far not made any determination on the Ministry Bill.

C. Compatibility with the right to freedom of religion or belief

70. Supporters of the “unethical” conversions bills were confident that the text of the bills had been carefully drafted and did not violate or contravene international law, including the right to freedom of religion or belief. They often referred to the findings of the European Court of Human Rights in the case *Kokkinakis v. Greece*,¹³ and in particular its paragraph 48 where the Court held that

“First of all, a distinction has to be made between bearing Christian witness and improper proselytism. The former corresponds to true evangelism, which a report drawn up in 1956 under the auspices of the World Council of Churches describes as an essential mission and a responsibility of every Christian and every Church. The latter represents a corruption or deformation of it. It may, according to the same report, take the form of activities offering material or social advantages with a view to gaining new members for a Church or exerting

improper pressure on people in distress or in need; it may even entail the use of violence or brainwashing; more generally, it is not compatible with respect for the freedom of thought, conscience and religion of others.”

71. In commenting on the determination of the Supreme Court, the Rapporteur on Religious Intolerance of the Human Rights Commission of Sri Lanka observed that the Court had relied on *Kokkinakis* case, “albeit mistakenly”. The Court had made its determination in *abstracto*. Unlike the *Kokkinakis* case, the Court’s jurisdiction had not been invoked by a victim. The Rapporteur concluded that in all three determinations made by the Supreme Court around the issue of conversion, its decisions were “in the realm of conjecture or speculation that the disadvantaged or vulnerable would be subject to improper conversion. What material was submitted to the Court to back this impression is not clear”.

72. While not willing to discuss the findings of the European Court of Human Rights in a particular case, the Special Rapporteur is of the opinion that the supporters of the draft laws have disregarded the context of the *Kokkinakis* case. She recalls that the European Court eventually found a violation of the right to freedom of religion or belief of those who wanted to propagate their religion. The Court also held that

“freedom to manifest one’s religion is not only exercisable in community with others, ‘in public’ and within the circle of those whose faith one shares, but can also be asserted ‘alone’ and ‘in private’; furthermore, it includes in principle the right to try to convince one’s neighbour, for example through ‘teaching’, failing which, moreover, ‘freedom to change [one’s] religion or belief’, enshrined in Article 9 (art. 9), would be likely to remain a dead letter”.

73. In the opinion of the Special Rapporteur, the draft laws do indeed raise concern in terms of human rights law, including in terms of the right to freedom of religion or belief. While some maintain that freedom of religion, and in particular the right to choose a religion, may be violated in cases where, for example, a person in need has converted after having received presents and inducements that may significantly improve his or her life, the enjoyment of that right by the same person may equally be impaired if he or she does not have the possibility to freely decide to convert to another religion, even after having received a gift. Of even greater concern is that the decision to complain is not restricted to the aggrieved party. The Special Rapporteur’s role is indeed to ensure that individuals are both protected against acts aimed at forced conversions and that their freedom to adopt a religion of their choice or to change religion is safeguarded. In its general comment No. 22, the Human Rights Committee clearly held that

“the 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 or to adopt atheistic views, as well as the right to retain one’s religion or belief”.

74. Moreover, the draft laws challenge an aspect of the right to manifest one’s religion because they would criminalize certain acts that, according to how restrictively the laws are interpreted, may be part of the right to manifest one’s religion. According to the Human Rights Committee,

“The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest... In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications”.

75. Finally, the Special Rapporteur considers that article 9 of the Constitution, which gives a “foremost” place to Buddhism, may not per se be contrary to international human rights law, and in particular the right to freedom of religion. Nevertheless, the provision should not be used to limit the right to freedom of religion or belief of religious minorities living on the territory of Sri Lanka. In this respect also, the Human Rights Committee held that

“The fact that a religion is recognized 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. In particular, certain measures discriminating against the latter, such as measures restricting eligibility for government service to members of the predominant religion or giving economic privileges to them or imposing special restrictions on the practice of other faiths, are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26.”

D. Difficulties pertaining to the future implementation of the laws

76. Probably one of the main problems with the draft laws on “unethical” conversions will be in their implementation. In particular, they use wording that allows for too broad an interpretation. Moreover, it is very difficult to assess the genuineness of a conversion. While it may be easy to prove that a person has received a gift, it would not be easy to demonstrate that the person has converted because of the gift. Under international law, freedom of conscience is absolute and cannot be subject to any limitation. A mechanism designed to monitor conversions and thus the reasons and purposes behind them could constitute a limitation on freedom of conscience.

77. The wording of the draft laws is also too vague. It allows too great a margin of interpretation, which could be a source of possible abuse and could potentially transform the law into a tool of persecution by those who are genuinely opposed to religious tolerance. The Special Rapporteur is concerned that the adoption of these laws would provide legitimacy to those who want to promote religious intolerance and hatred vis-à-vis certain religious groups.

78. Criminalizing unethical conversions, as defined by the bills, in particular the Ministry Bill might pave the way for persecution of all religious communities, and particularly of religious minorities. The bills allow anyone to complain even if the victim may be unwilling to do so. It thus

leaves the door wide open for overzealous people to create further polarisation and to generate an atmosphere of fear among religious minorities.

VI. REPORTS OF PERSECUTION OF RELIGIOUS COMMUNITIES

79. Before, but also during and after her visit to Sri Lanka, the Special Rapporteur received numerous reports of attacks and other acts of religious intolerance committed against religious minorities, in particular Christian groups. She notes that these reports are usually very well documented and are very precise as to the factual circumstances of each case submitted. They come from different sources, some religiously affiliated, some not. These attacks have taken place in the context of the religious tensions that have existed in Sri Lanka in the last few years (see sect. VII).

A. Specific cases

80. During her visit, the Special Rapporteur travelled to Homagama, a locality situated on the outskirts of Colombo where St Michael's Catholic Church has allegedly been attacked four times between December 2002 and December 2004.¹⁴ During the attacks, the church was seriously damaged, including by fire, and a number of religious symbols or other objects of worship were desecrated or destroyed. The leaders of the community claim that they were attacked not so much because of their religion, but because they had settled in a place that is considered to be Buddhist land.

81. The Minister for Christian Affairs visited the site of the attacks and promised that the church would be rebuilt. However, although the Special Rapporteur was not able to meet with the police officer responsible for the area, there has not been any tangible result in terms of criminal investigation or judicial proceedings for any of the four incidents. According to her information, no one has been brought to justice and compensation has not been given to the Catholic community.

82. Besides Homagama, between 80 and 100 similar cases have been reported for the year 2004 and the figures are similar for the years 2002 and 2003. Among the acts complained of are attacks, destruction or burning of places of worship and other properties targeted because of the religious affiliation of their owners, desecration of religious symbols or objects, assaults and beatings of members of Christian communities, threats and insults, distribution of leaflets and other publications inciting religious hatred, and disruption of religious ceremonies.

83. It is claimed that the perpetrators of these acts of religious intolerance are generally members of the Buddhist community and, in many cases, Buddhist monks. It has also been alleged that some of these acts were accompanied by threats against the victims who refused to return to Buddhism.

84. As a result of the atmosphere of religious intolerance, many Christians live in fear of being attacked. Certain communities have closed their place of worship or only hold religious ceremonies at night.

B. Government response

85. Although the Special Rapporteur's interlocutors at the official level all condemned the attacks, the reports received claimed that the measures taken by the authorities to bring the perpetrators to justice and to remedy the situation have been either insufficient or non-existent. In only a very few cases have perpetrators been prosecuted under applicable criminal law provisions (destruction

of property, violence). Certain interlocutors claimed that there was political pressure behind the apparent reluctance to make the judicial apparatus function properly.

86. Victims, both communities and individuals, claimed that they have rarely been compensated for the material and moral damage suffered. In a few instances, promises of compensation have been made but not implemented. In some cases the victims themselves were arrested and detained for certain periods. Victims feel that a climate of injustice and impunity for such crimes prevails.

87. In the longer term, besides a number of ad hoc measures taken on security grounds, the Special Rapporteur has been surprised by the weakness of more general policies set up by the Government to promote a climate of religious tolerance among the different religious communities of Sri Lanka. While numerous initiatives have been proposed by some of the religious communities themselves, they appear to have gained little support from government authorities. It has, however, been claimed by the Inspector General of the Police that police training now includes the topics of religious harmony.

88. By letter of 14 September 2005, the Permanent Mission of Sri Lanka to the United Nations Office at Geneva transmitted to the Special Rapporteur tables detailing the actions taken by the police and other law enforcement agencies to address attacks on religious communities. The tables cite a total of 101 cases reported for the years 2001, 2002, 2003, 2004 and 2005. Of the 101 cases reported, 30 inquiries are pending, 46 are pending in the courts and 4 complaints have been withdrawn; 11 cases have been settled by the police, 8 by the courts and 1 by a mediation board.

89. The Permanent Mission claims that the information provided in these tables indicates that the timely intervention and action by the police, including the arrest of 10 suspects in Kabithigollawa on 8 February 2004, brought the violence to a halt in 2005. It recognizes nevertheless that there had been instances of failure to identify perpetrators, which had hampered investigations and further legal action.

90. The Permanent Mission also stressed that the Inspector General of Police had provided security guards for places of worship that could be subject to similar attacks. Moreover, appropriate actions had also been taken against the police officers who had failed to comply with the instructions of the Inspector General on this issue. On the basis of this information, it is claimed that there is no evidence to substantiate allegations of inaction or reluctance on the part of the police in these cases of religious intolerance.

C. Situation of other religious groups

1. Buddhists

91. Many Buddhists feel that the existence of their religion is threatened, including because of the so-called aggressive missionary activities of certain Christian communities. They consider that in many cases these activities violate or otherwise limit the freedom of conscience of Buddhists, in particular those in a vulnerable situation.

92. In other instances, Buddhists have complained that the offensive and insulting ways in which the image of Buddha has been used constituted persecution of the Buddhist community. Cases

involving the use of pictures of Buddha on pornographic websites on the Internet or the commercialization of bikinis with Buddha pictures have been filed with the Supreme Court of Sri Lanka.

93. Finally, while there have been no reports of persecution or limitation of the rights of Buddhists in areas controlled by the LTTE, the Special Rapporteur has noted that almost all Buddhists had fled those territories, and that there was not much room for those who would like to manifest their Buddhist faith. She had the chance to meet one of the last Buddhists monks remaining in the northern areas and noted that religious practice in those areas was very limited.

94. Buddhist has also complained about the Governments' refusal to grant a radio frequency for the Temple of the Sacred Tooth in Kandy, the most sacred Buddhist site in Sri Lanka.

2. Hindus

95. During meetings with members of the Buddhist community, members of the Hindu community were usually also present and expressed very similar concerns.

3. Muslims

96. While the Muslim community used to live in harmony with the other religions for most of Sri Lankan history, their expulsion from northern Tamil areas by the LTTE in 1990 remains an extremely painful experience, although it was not related to their religion. Today, many of those who have been affected by the expulsions would like to return to rebuild their lives with dignity.

97. Recently, the LTTE authorities have shown themselves willing to improve their relationship with the Muslim community. Reports that Muslims are being encouraged to return to the areas from which they had been expelled have to some extent been confirmed. Nevertheless, many difficulties remain in terms of land issues and Muslims are still very reluctant to go back in the present conditions.

98. Besides this particular issue, Muslims complain about the behaviour of the media towards their religion. They claim that, on a regular basis, the Muslim community or their religion is depicted in a very wrong or negative way. Moreover, while they usually take advantage of a right to reply, their statements are allegedly never published.

4. Minority groups within the Muslim community

99. Representatives of a Sufi group in Batticaloa met with the Special Rapporteur and told her about the difficulties they had suffered for 25 years. Between 1979 and 1982 their mosque was burned three times, and more recently, in September 2004, Muslim organizations allegedly incited a mob which destroyed the mosque used by 32 Sufi families. The attack went on for seven days. Shortly afterwards, a fatwa was pronounced against their leader, declaring him an infidel. It was subsequently withdrawn under the condition that the Sufi leader would give up teaching Sufism.

100. In another incident, members of the Tharikathul Mufliehen society, a religious movement based on Islam but rejected by mainstream Muslims, reported to the Special Rapporteur that in October 2004 in Kattankudy, their place of worship and the residences or properties of some of their members were allegedly attacked by a mob of approximately 500 people lead by Muslim

organizations. The properties were either destroyed or set on fire and several members of the society were injured. The police arrested eight alleged perpetrators who were later released on bail. Meanwhile, some mainstream Muslim organizations continued to threaten the members of the society to force them to abandon their belief. As the police reportedly failed to provide protection to the victims of these attacks, they had to flee and find refuge in Colombo. Since then, they have not been able to return to their properties because of continued threats and the absence of appropriate measures by the authorities.

101. As in other countries, the Ahmadiyyas community's main difficulty is that its members are not recognized as Muslims by mainstream Muslims. As a result, they are also not recognized as Muslims by the authorities, which are under strong pressure from Islamic leaders, and face many obstacles in the exercise of their right to freedom of religion. The Ahmadiyyas cannot build a proper place of worship. Instead, they have a community centre in Negambo that they use for worship. Burials are particularly difficult because members of their community are refused access to Muslim cemeteries. They do not enjoy any form of tax exemption and they cannot offer long-term residence status to their foreign missionaries. In their daily life, Ahmadiyyas are also the object of insults by the Muslim population and Ahmadiyya children attending Muslim schools are rarely accepted.

102. Finally, women's groups complained that there was a constant pressure on Muslim women by their community leaders to dress "modestly" and to preserve "Islamic social values". The Special Rapporteur was not, however, presented with actual cases, policies or laws that discriminated against Muslim women. She is therefore not in a position to draw any conclusions on this subject.

5. Others

103. The Special Rapporteur was informed that Sri Lanka did not offer any legal framework for those citizens who do not believe in any religion. In this regard, the obligation to follow religious education at school may constitute an infringement on the right to freedom of religion, which includes the right not to believe¹⁵.

104. The Special Rapporteur has noted that violence occurs in and between all religious groups. In this respect, she has received reports according to which members of the Jehovah Witnesses community were allegedly attacked by a mob of 200 Catholics in Negambo on an unspecified date.

VII. RESOLVING RELIGIOUS TENSIONS AND ALTERNATIVES TO THE DRAFT LEGISLATION ON CONVERSION

105. The Special Rapporteur considers that the criminalization of acts leading to so called "unethical" conversions is not an adequate response to existing religious tensions. Many interlocutors expressed their confidence that neither the Ministry bill nor the JHU Bill would ever be adopted by Parliament. The Special Rapporteur cannot however rely on this to eliminate the sources of her concerns.

106. It was also reported to her that a referendum on this question (to be organized if the initiators of the draft laws did not want to amend them in accordance with the determination of the Supreme Court) would be a perilous exercise and could lead to violence and a deepening of differences.

107. The Special Rapporteur has observed that in response to these tensions, religious minorities have not only proposed alternatives to the legislative process but also unilaterally committed themselves to abide by certain rules or principles, or taken other actions in particular cases. In one of the cases reported to the Special Rapporteur, the Catholic Church formally and publicly apologized for showing a movie that injured the sensitivities of Buddhist believers. More generally, and in the longer term, a number of religious minorities, in particular Christians, have taken steps to adopt and formally recognize sets of guidelines or codes of conduct for church activities and to promote the establishment of mechanisms to deal with religious tensions, including allegations of improper conversions. Among them is the creation of an inter-religious council composed proportionately of representatives of the religious communities present in Sri Lanka and tasked with taking preventive measures to strengthen religious tolerance, as well as with acting on certain cases and situations that reveal improper conducts by religious communities. So far these proposals have not been followed up by the authorities.

VIII. EDUCATION

108. Throughout her visit, the Special Rapporteur tried to establish a link between the situation of freedom of religion or belief in Sri Lanka and the educational system. She had received complaints from different groups, most of them blaming the educational system for not giving sufficient importance to their respective religion. Some Christians complained that in public schools children were forced to perform certain Buddhist rituals in violation of their freedom of religion. She has not received information about actual initiatives that were taken to promote religious tolerance and dialogue by the school system.

IX. CONCLUSIONS

109. The Special Rapporteur considers that Sri Lanka is a country with a high level of tolerance and which has always experienced religious harmony. Moreover, the Government generally respects freedom of religion or belief and has so far remained neutral vis-à-vis the different religious communities present on its territory. Nevertheless, the recent deterioration of religious tolerance and the absence of appropriate action by the Government have brought respect for freedom of religion or belief to an unsatisfactory level.

110. While the acts that have led to violations of the right to freedom of religion or belief are usually committed by non-state actors, the Government has to fulfil its positive obligations under the right to freedom of religion. The best way to prevent escalating religious intolerance is prompt action by Governments, who are obliged to address the situation in a timely and appropriate manner.

Persecution of religious minorities – Acts of religious intolerance

111. The right to freedom of religion or belief is a universal right enjoyed by all human beings and therefore by members of all religious communities, whether old or new and whether they have been established in a country for a long time or recently.

112. In this context, the Special Rapporteur condemns all acts of religious violence and intolerance that have been committed in Sri Lanka against any religious communities, but also within religious communities. These acts depending on the circumstances constitute violations, or unlawful limitations of the right to freedom of religion or belief.

113. In the face of such events, the Government of Sri Lanka has to fulfil its positive obligation to protect the right to freedom of religion or belief of all its citizens, irrespective of the religious community to which they belong. These positive obligations include, first and foremost, the prompt investigation of any act of religious violence or intolerance, the prosecution of all perpetrators and the awarding of compensation to the victims of these violations.

114. The Special Rapporteur considers that in most of the cases that have been brought to her attention and despite the information provided by the Permanent Mission, these obligations have not been satisfactorily fulfilled by the Government. Moreover, the implementation of these obligations should constitute an essential priority in guaranteeing the enjoyment of the fundamental right to freedom of religion or belief of all Sri Lankan citizens and a prerequisite for maintaining the high level of religious tolerance and harmony that has so far prevailed in Sri Lanka.

Religious tensions

115. Like many observers, the Special Rapporteur had the feeling that while religious minorities felt vulnerable, the Buddhist majority seemed to feel insecure. Members of the Buddhist community indeed often voiced their concerns with respect to the behaviour of members of certain religious minorities. Nevertheless, the Special Rapporteur considers that the allegations of “unethical” conversions have rarely been precise and largely overestimated.

116. The Special Rapporteur deplors in particular the lack of precision in the claims that have been made against certain religious groups. The resulting confusion has led to generalized condemnation of those groups. This lack of caution has provoked among the population a dangerous pattern of blaming certain religious groups as a whole; a groundless conviction that certain groups are per se the perpetrators of wrongdoing.

117. One of the main characteristics of a State that is governed by the rule of law is that only those persons in respect of whom there are clear indications that they have personally committed wrongful acts are prosecuted according to the laws of the land. A society where individuals are considered wrongdoers merely because they are or – even worse – thought to be members of the same community as persons who may indeed have committed wrongful acts, is displaying clear and dangerous signs of becoming a place where there is discrimination and persecution of a certain group, with terrifying consequences.

118. The Special Rapporteur is convinced that the foundations of Sri Lankan society have been solidly laid and strengthened with history to address the signs of such dangers appropriately.

119. Moreover, the Special Rapporteur has not received sufficient elements of proof to convince her that some of the acts complained of were in fact forced conversions. While it is arguable that forced conversion can also be committed by subtle, indirect means, coercion still has to be proved, which is difficult. However, while some have exaggerated behaviour that does not necessarily raise concern in terms of human rights, the Special Rapporteur recognizes that a number of improper ways of persuading people to change their religion may have been used by members of some religious groups or organizations and that many Sri Lankans may perceive this as a form of disrespect on the part of certain groups of Western origins, which might have affronted Sri Lankan values and traditions without respecting and understanding them.

120. The Special Rapporteur is of the opinion that these religious groups should make a clear separation between their humanitarian efforts and their religious work, respect other religious beliefs in their missionary activities and not use aggressive forms of proselytizing, as they could disturb the atmosphere of religious harmony and provoke further religious intolerance.

Draft laws

121. Further to the observations made in section V, the Special Rapporteur is of the opinion that the draft legislation¹⁶ is not an appropriate response to the religious tensions and is not compatible with international human rights law, in particular with the right to freedom of religion or belief.

122. She considers that the adoption of such laws would lead to violations of the essential and fundamental part of the right to freedom of religion or belief; the Government would be taking a very serious risk with respect to its obligations under the relevant international conventions. Moreover, the very principle of these laws as well as their wording could engender widespread persecution of certain religious minorities. Finally, the future implementation of the laws may prove extremely difficult and lead to an unlawful discrimination.

123. On the other hand, the Special Rapporteur considers that alternative mechanisms such as an inter-religious council would have the advantage of promoting an interreligious dialogue, which is the only way to address such tensions.

124. The Special Rapporteur wishes to make clear that a majority of the persons with whom she spoke during her visit expressed sentiments that could pave the way for dissipating emerging tensions and overcoming the forces of intolerance. In the current situation, as is often the case, the voices of intolerance are given a place that does not correspond to their real position in society. The Government clearly has the tools to reverse this tendency and properly address religious tensions while observing respect for international human rights law.

X. RECOMMENDATIONS

Persecution of religious minorities

125. With respect to the persecution of religious minorities, the Special Rapporteur is of the opinion that the primary obligation of the Government of Sri Lanka is to ensure that justice is done promptly and properly. This obligation extends to guaranteeing the full investigation of all acts of violence or other acts of religious intolerance committed against religious minorities, including the identification and prosecution of the alleged perpetrators, allowing victims the possibility of filing claims for the damage they have suffered and the awarding of appropriate compensation.

126. The Government should also abide by its obligation to ensure the protection and security of all religious groups that may be targeted and that should be entitled to practise their religions freely and without any obstacles, including those erected by non-State actors. This obligation includes the protection of religious groups within wider religious communities and ensuring that the right to freedom of religion of members of these groups is not limited. In this regard, the Government should pay particular attention to the protection of Muslim minorities and take the appropriate measures to ensure for the members of the Ahmadiyyas community the full enjoyment of their rights.

Religious tensions

127. For the reasons explained in section V and in the above conclusions, the Government should reconsider whether to adopt legislation that would criminalize so called unethical conversions, and instead take suitable measures to implement existing criminal provisions that could appropriately address the behaviour of certain religious groups and organizations.

128. The Government should urgently take steps to consider the different mechanisms proposed to deal with religious tensions, including those aiming at creating an inter-religious body, and start the relevant procedures for their implementation. In this context, the Government should hold consultations with members of the civil society and representatives of religious communities, both at the national and at the local level, and make a detailed assessment of the needs to be addressed by these mechanisms.

129. In addition, the Government should seek assistance from United Nations agencies and civil society to explore possible models for the creation of an inter-religious body that would help to diffuse tensions and take appropriate measures to maintain a constant dialogue between religious communities at all levels of the society and encourage all initiatives that seek to promote religious tolerance in the educational system.

130. The Special Rapporteur also calls on all religious actors and groups as well as religiously affiliated NGOs present in Sri Lanka to abide strictly by the recognized principle of humanitarian ethics as well to demonstrate sensitivity and respect for the religious symbols and sentiments of the Sri Lankan society in all their activities.

131. Finally, the Special Rapporteur urges the leaders of the LTTE to further implement a culture of religious tolerance in the territories they control, to increase their efforts to fully reintegrate with dignity the Muslim communities that have been displaced during the conflict in their places of origin, to allow access to all places of worship and other religious sites, and to ensure the protection of religious minorities present on their territory, regardless of their size.

Notes

- ¹ There are a large number of “new Churches” in Sri Lanka, some calling themselves “prayer centres”.
- ² See Supreme Court Special Determination No. 19/2003 of 1 August 2003, examining the constitutionality of a bill entitled “Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation)” and holding, inter alia, that the propagation and spreading of a religion other than Buddhism “would not be permissible as it would impair the very existence of Buddhism or the Buddha Sasana”.
- ³ Buddha Sasana involves every aspect connected to the practice of Buddhism.
- ⁴ According to information received, the Ministry for Christian Affairs only covers the so-called traditional Churches to the exclusion of, for instance, evangelical communities.
- ⁵ Supreme Court Special Determination No. 19/2003 of 1 August 2003, op. cit.
- ⁶ In the majority of the cases, reference was made to commercial products produced outside Sri Lanka.
- ⁷ Preamble to the Bill.
- ⁸ Ibid
- ⁹ The persons listed in the first schedule are those who have a subordinate position to the one attempting to convert, such as prison inmates or students.
- ¹⁰ Article 5 of the Bill.
- ¹¹ Article 3 of the Bill.
- ¹² “Unethically convert” means: (a) to directly or indirectly make, persuade or influence a person to renounce his religion, religious belief, religious persuasion or faith and to adopt another religion, religious belief, religious persuasion or faith which such person does not hold or belong to; or (b) to intrude on the religion, religious belief, religious persuasion or faith of such person, with the aim of undermining the religion, religious belief, religious persuasion or faith which such person does not hold or belong to, either by the use of any kind of allurement or promise of allurement, or inducement or promise of inducement, or moral support or promise of moral support, or of material assistance or promise of material assistance, or by fraudulent means or by coercion or by the use of force or by other means or by taking advantage of such person’s inexperience, trust, need, low intellect, naivety or state of distress.
- ¹³ Judgement of the European Court of Human Rights of 19 April 1993, *Kokkinakis v. Greece*, case No. 3/1992/348/421.
- ¹⁴ The two other attacks on the church allegedly took place on 30 December 2003 and 15 June 2004.
- ¹⁵ See general comment No. 22 of the Human Rights Committee, para. 2.
- ¹⁶ The Special Rapporteur here generally refers to any of the proposed bills that have been brought to her attention.
