

December 2021

## **A Commentary on the Country Policy and Information Note (CPIN) issued on Sri Lanka: Religious Minorities**

This commentary identifies what Asylum Research Centre (ARC) Foundation considers to be the main inconsistencies and omissions between the currently available Country of Origin Information (COI) on Sri Lanka and the conclusions reached in the following Country Policy and Information Note (CPIN) issued by the UK Home Office:

- [Country Policy Information Note: Sri Lanka: Religious Minorities, August 2021](#)

Where we believe inconsistencies have been identified, the relevant section of the CPIN is highlighted in bold.

This commentary is intended as a guide for legal practitioners and decision makers in respect of observed inconsistencies, gaps and omissions in the above-mentioned CPIN on Sri Lanka, as well as providing additional relevant COI to the issues identified.

**The commentary should be used as a tool to help identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted in isolation as evidence to the UK Home Office, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to assist in the accurate determination of an asylum claim or appeal.**

**The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.**

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## Introduction

In November 2019, Gotabaya Rajapaksa, former Sri Lankan defense secretary allegedly implicated in historic war crimes and complicit in human rights abuses against minorities<sup>1</sup>, was elected president of Sri Lanka. Since then, a deteriorating human rights situation, including for religious minorities in Sri Lanka, has been widely documented<sup>2</sup>, with President Rajapaksa reversing much of the tentative progress made on political rights and civil liberties under former president Maithripala Sirisena's administration (2015- 2019)<sup>3</sup>. While the UK Home Office Country Policy and Information Note: *Sri Lanka: Religious Minorities* (the CPIN) acknowledges the possibility of rising tensions between religious groups following the election of president Gotabaya Rajapaksa, it stops short of full consideration, based on available country information, of how the changed political landscape, in particular, an increasing lack of political will to accept accountability for past and present violations<sup>4</sup>, is impacting on religious minorities.

It is ARC Foundation's view that key questions, particularly relating to the availability of protection and access to redress for religious minorities in Sri Lanka, must be carefully considered with reference to the current political context. The following sections provide further commentary and information where it is considered that there are inconsistencies or gaps in the assessment provided in the CPIN based on available country information.

## Availability of protection for religious minorities

It is considered that the CPIN includes a number of potentially misleading or contradictory statements with regards to the availability of state protection for religious minorities in Sri Lanka. The CPIN assesses that [emphasis added]:

Excerpt from the August 2021 *Sri Lanka: Religious Minorities* CPIN

[...] 2.5 Protection

2.5.1 If the person's fear is of persecution and/or serious harm by the state, **they are unlikely to be able to avail themselves of the protection of the authorities.** [...]

The use of the phrase "unlikely to be able to avail themselves of the protection of the authorities", and especially the word 'unlikely', opens up the possibility that the state may be both persecutor and protector, and risks undermining a fundamental premise of refugee law, which is that an individual who is persecuted by the state will not be able to avail themselves of the protection of that same state. The suggestion that the state may be both persecutor and protector is also inconsistent with the Home Office's own guidance to its decision makers, which acknowledges that if the state is the persecutor, the concept of 'sufficiency of protection' does not apply [emphasis added]:

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<sup>1</sup> See for example Deutsche Welle, [Sri Lanka: Minorities fear return of Gotabaya Rajapaksa in presidential election](#), 14 November 2019, Human Rights Watch, [Open Wounds and Mounting Dangers](#), 1 February 2021, Amnesty International, [Sri Lanka 2020](#), 7 April 2021

<sup>2</sup> See for example Human Rights Watch, [Open Wounds and Mounting Dangers](#), 1 February 2021, Human Rights Watch, [Sri Lanka: Religious Disharmony Order Threatens Minorities](#), 16 March 2021

<sup>3</sup> See for example Freedom House, [Freedom in the World 2021 – Sri Lanka](#), 3 March 2021

<sup>4</sup> See for example Human Rights Watch, [Sri Lanka: Justice Under Attack](#), 1 February 2021, Human Rights Watch, [Open Wounds and Mounting Dangers](#), 1 February 2021

[UK Home Office, Asylum Policy Instruction: Assessing credibility and refugee Status, 6 January 2015](#)

[...] 8.1 Sufficiency of protection

To qualify for asylum (or Humanitarian Protection), an individual not only needs to have a well-founded fear of persecution, they must also demonstrate that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. **But the concept of ‘sufficiency of protection’ does not apply if the actor of persecution is the state itself** or an organisation controlling the state. [...]

The CPIN provides further inconsistent assessments regarding the willingness of the Sri Lankan state to protect religious minorities. The CPIN’s *Assessment* section references a number of examples highlighting the lack of protection, including police inaction in response to violence against Muslims in the wake of the Easter 2019 bombings (2.4.9), instances of harassment of Christians by police and military personnel, and inconsistent responses from the police regarding societal violence against Christians (2.4.12). While it is acknowledged in the CPIN that the Sri Lankan state has “sometimes been unwilling” to provide protection (2.5.4), it concludes nevertheless that the state is “generally willing and able to provide effective protection to religious minorities” [emphasis added]:

Excerpt from the August 2021 *Sri Lanka: Religious Minorities* CPIN

[...] 2.4 Risk [...]

b. State treatment of Muslims [...]

2.4.9 The Easter 2019 bombings have resulted in an increase of societal discrimination and physical attacks perpetrated against Muslims. **Police action against this violence has generally been inadequate, with little intervention and few arrests made.** [...]

c. State treatment of Christians

2.4.12 [...] **some Christian groups have reported instances of harassment and attempts to restrict the expression of their faith by the police and local authorities**, who occasionally use ‘maintaining community peace’ as a reason to disband religious activities and places of worship. [...] Since the election of Gotabaya Rajapaksa in November 2019, **some Christian places of worship in the Northern Province have had military personnel stationed nearby and pastors have claimed that intelligence agents appear to be monitoring certain religious services. Police responses to societal violence against Christian groups are mixed, with some instances of police disregarding complaints and intimidating those who make them**, and other instances whereby perpetrators of violence against Christians are actively pursued and apprehended; though **conviction rates for those who commit crimes against Christian groups are low** [...]

2.5 Protection [...]

2.5.4 The state operates a generally effective criminal justice system which is able to detect, prosecute and punish acts constituting persecution. **However, whilst the state has sometimes been unwilling, it is generally willing and able to provide effective protection to religious minorities. Each case will need to be considered on its merits** [...]

It is further considered that the CPIN’s assessment fails to adequately acknowledge the impact of the direct and indirect complicity of the authorities in acts of discrimination, harassment and violence against religious minorities on the ability and willingness of those same religious minorities to seek protection from the authorities. The lack of confidence among Sri Lankan religious minorities in their ability to access state protection is evident in the *Country information* section of the CPIN. Country information included in sections 4 (*Legal Context*), 6 (*State Treatment of Religious Minorities*), and 7 (*Societal Treatment of Religious Minorities*) documents frequent incidences in which the police or other authorities have failed to provide protection, and in some instances, have themselves participated in acts of harassment and violence against religious minorities. These incidences also highlight that religious minorities may experience particular difficulty in seeking protection from authorities at the local level. Examples of the Sri Lankan state’s failure to protect religious minorities include: making it difficult to register new religions (4.3.4); misapplication of government circulars to inhibit religious practice or close down places of worship (6.1.4); state support for the appropriation

of religious sites by Buddhist monks (6.1.5; 6.7.1); prejudice within authorities against religious minorities, and unresponsiveness with regard to societal attacks on them (6.1.6; 6.4.9); violence and intimidation perpetrated by state agents towards religious minorities (6.2.1); victimisation and blaming of religious minorities by the police when they make complaints (6.2.1; 6.2.2; 6.2.7), and police refusal to provide protection against threats (7.4.2) [emphasis added]:

Excerpt from the August 2021 *Sri Lanka: Religious Minorities CPIN*

[...] 4.3 Registration of religious groups [...]

4.3.4 Ahmed Shaheed, the United Nations Special Rapporteur on Freedom of Religion or Belief, undertook a visit to Sri Lanka from 15 to 26 August 2019, during which he spoke with a variety of government officials, civil society organisations, research institutions and representatives of a variety of religious organisations. In the preliminary findings of the 'Report of the Special Rapporteur on freedom of religion or belief on his visit to Sri Lanka' (UN SR report 2020), the Special Rapporteur noted that **'minority communities complain that the registration process [for new religions] is opaque and slow; that registration requirement is not clear and is a cumbersome process, and that it also results in monitoring and harassment by local police and authorities.'**<sup>23</sup> [...]

6. State treatment of religious minorities

6.1 Overview [...]

6.1.4 With reference to religious minority groups' places of worship, the USSD 2020 IRF report noted that: **'Local police and government officials reportedly continued to cite a government circular, revoked by the Ministry of Buddha Sasana in 2012, requiring places of worship to obtain approval to conduct religious activities. Police also reportedly cited a 2008 circular on the construction of religious facilities when they prohibited, impeded, or closed Christian and Muslim services and places of worship. According to some legal experts, however, there was no explicit basis in national law for such a requirement.'**<sup>43</sup>

6.1.5 The same report further stated: 'On August 20, presenting the government's policy speech at the inaugural session of parliament, President Rajapaksa... highlighted the Presidential Task Force for Archaeological Heritage Management, saying that it had been established to protect places of archaeological importance and to preserve the Buddhist heritage. He said that by "ensuring priority for Buddhism... the freedom of any citizen to practice the religion of his or her choice is better secured." **Tamil and Muslim activists in the Eastern Province predicted that the Task Force for Archaeological Heritage Management would use its authority to claim locations that possess ancient Buddhist relics as a pretext to force minorities off their lands.**

**'Civil society groups and local politicians continued to state the military sometimes acted outside its official capacity and aided in the construction of Buddhist shrines in predominantly Hindu and Muslim areas, although there were few reports of this practice during the year due to movement restrictions imposed because of the COVID-19 pandemic'**<sup>44</sup>

6.1.6 The DFAT 2019 report found that: **'Local sources allege that police and government officials at the local level, who are predominantly Buddhist, are prejudiced against religious minorities and are not responsive to instances of religiously-motivated attacks against them. Religious minorities told DFAT they were losing faith in the state's ability to provide them with protection against Buddhist extremists, particularly at the local government level.'**<sup>45</sup> [...]

6.2 Police treatment of Christians

6.2.1 The DFAT 2019 report found that: **'According to sources from the local Christian community, Christians who file complaints on the basis of perceived breaches of their right to religious freedom are often victimised and blamed by law enforcement officials, and some complaints are not investigated further. Of the incidents of violence and intimidation against Christians documented by the NCEASL since 2015, nearly half involved state agents, either implicitly or explicitly, including police, village officers (grama niladhari) and Divisional Secretariats.** Sources told DFAT that restrictions on Christians' religious liberties were particularly pronounced in rural areas and that, as a result, Christians in these areas were increasingly apprehensive about being open about their faith.'<sup>47</sup>

6.2.2 With specific regard to state treatment of Christians, the USSD 2020 IRF noted that: **'NCEASL said evangelical Christian groups continued to report that police and local government officials were complicit in the harassment of religious minorities and their places of worship. Christian groups said officials and police often sided with the religious majority. NCEASL said police often**

**attempted to coerce Christians into signing statements absolving those harassing them and accused them of breaching the peace if they filed complaints about police behavior.’<sup>48</sup> [...]**

6.2.7 Whilst there have been some instances of positive steps in protecting the rights of the Christian minority, responses remain mixed. The USSD 2020 IRF report highlighted a demonstrable incident: ‘On February 10, according to NCEASL, the pastor and nine congregants of Good Shepherd Church at Sri Nissankamallapura met with local police, government officials and 12 Buddhist monks. The government officials and the monks demanded that the pastor stop religious activities immediately, reportedly saying Christians would not be tolerated in the village. The pastor refused and challenged them to take legal action. **On February 16, a group led by a Buddhist monk went to the church and admonished the pastor for not stopping his religious activities as instructed. At the pastor’s request, local police personnel provided protection to the church. When the pastor went to lodge a complaint against the monks, however, a police headquarters inspector instructed him to sign a statement affirming that he had breached the peace. When the pastor refused, the inspector threatened to place him under arrest. Police accused the pastor of disturbing the peace.’<sup>53</sup>**

6.4 Police treatment of Muslims [...]

6.4.9 The DFAT 2019 report [...] noted that ‘**Muslims reported a lack of police action during violent clashes against the religious group, in retaliation to the Easter 2019 bombings**’.<sup>65</sup> [...]

6.7 State treatment of Hindus

6.7.1 The 2019 DFAT report stated:

‘Local sources told DFAT that **the Department of Archaeology routinely sided with Buddhist monks claiming Hindu archaeological sites in the north and east as Buddhist sites.**’ [...]<sup>72</sup>

7.4 Muslims [...]

7.4.2 In considering perceptions towards and treatment of Muslims, MRGI noted in March 2018 that: ‘Threats and intimidation aimed at the Muslim community include boycotting Muslim-owned shops and businesses, as well as activism to ban traditionally Muslim-owned trades such as butcher shops. The community also regularly faces discrimination in the practice of their religious beliefs. A notable example was the February 2016 report of Buddhist opposition to the expansion of a madrassa in Bandaragama where, in spite of the madrassa obtaining the necessary approval for the construction, the Divisional Secretary halted the construction in deference to the objections of local Buddhist clergy. **Subsequently the police conceded that the construction was legal, but advised the Muslims to abandon the extension, stating that the police would not be able to provide security in the event of an attack.** [...]’<sup>95</sup> [...]

23 OHCHR, ‘...findings of Country Visit to Sri Lanka by the Special Rapporteur’ 26 August 2019 [...]

43 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 7, 12 May 2021

44 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 7-8, 12 May 2021

45 DFAT, Country Information Report – Sri Lanka, para 3.24, 04 November 2019 [...]

47 DFAT, Country Information Report – Sri Lanka, para 3.44, 04 November 2019

48 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 6, 12 May 2021 [...]

53 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 8, 12 May 2021 [...]

65 DFAT, Country Information Report – Sri Lanka, para 3.37, 04 November 2019 [...]

72 DFAT, Country Information Report – Sri Lanka, para 3.47, 04 November 2019 [...]

95 MRGI, Sri Lankan Muslims information page, March 2018

Additional illustrative examples in reverse chronological order found in the public domain at the time of drafting the CPIN, similarly show the direct and indirect complicity of the authorities in violations against religious minorities in Sri Lanka [emphasis added]:

❖ [U.S. State Department, 2020 Report on International Religious Freedom: Sri Lanka, May 2021](#)

Executive Summary [...]

**In two of these cases [of societal assaults on Christian pastors, their family members and congregants], police said the pastors were to blame for holding worship services; in one case, police accused a pastor of breaching the peace. NCEASL reported few arrests and none involving Buddhist monks [...]**

III. Status of Societal Respect for Religious Freedom [...]

It is reported that this [vast outpouring of anti-Muslim hate] included calls on social media to boycott Muslim businesses and false allegations of Muslims spreading COVID-19 deliberately, **which the authorities did not adequately refute.**

❖ [UN Human Rights Council, Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief, August 2020](#)

[...] 26. During and at the end of Ramadan, the Muslim holy month, in 2019, many mosques had to conduct prayers in a discreet manner in fear of attacks. Hundreds of Muslim-owned places of worship, shops and houses were destroyed in a series of attacks that took place between 12 and 14 May in Kurunegala District [...] The Government imposed a curfew to bring the situation under control, but serious concerns were raised after **footage and eyewitness accounts emerged of Sri Lankan security forces colluding with mobs and not acting to prevent or stop the violence.** [...]

❖ [The Jamestown Foundation, Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond, Publication: Terrorism Monitor Volume: 17 Issue: 15, July 2019](#)

[...] Mosques have been stormed and Qurans defaced and defiled. Muslim's shops have been attacked and factories destroyed by fire. **Allegedly, the police have looked on and offered little if any protection—rule of law remains unacceptably weak.** [...]

## Efficacy of the criminal justice system towards religious minorities

The CPIN assesses that access to redress is available for all citizens in Sri Lanka, including through the police, the National Police Commission, the judiciary, and the Human Rights Commission of Sri Lanka (HRCSL) (2.4.6). While the CPIN acknowledges a number of problems with the criminal justice system, it offers no assessment of the efficacy of that same system with specific regard to the availability of redress for religious minorities who are or have been victims of societal or state perpetrated violations [emphasis added]:

Excerpt from the August 2021 *Sri Lanka: Religious Minorities* CPIN

[...] 2.4 Risk

a. State treatment of religious minorities [...]

2.4.6 Sri Lanka has no laws or government policies that hinder access to state protection on the basis of religion or ethnicity. **All citizens have access to avenues of redress through the police, judiciary and the Human Rights Commission of Sri Lanka (HRCSL).** In general, police officers often lack resources/training, the judicial system is overburdened which results in lengthy legal procedures and delays and widespread corruption and a lack of accountability affects overall police effectiveness [...]

2.5 Protection [...]

2.5.2 **There are a number of avenues of redress against police and judicial misconduct, including the Human Rights Commission Sri Lanka (HRCSL) and the National Police Commission (NPC);** both organisations of which have branches across the country [...]

Country information included in sections 6 (*State Treatment of Religious Minorities*), 7 (*Societal Treatment of Religious Minorities*) and 10 (*Criminal Justice System Effectiveness and Avenues of Redress*) indicates the difficulties that religious minorities can face when seeking redress for violations against them. Such difficulties include a generally weak response from the authorities regarding societal harassment and violence perpetrated against religious minorities (6.4.1; 6.4.7; 7.4.1; 10.1.1), a persistent lack of convictions for violations against religious minorities by the courts (6.3.1; 6.3.2; 6.3.3), evidence of a lack of confidence in the police and security forces in some minority communities meaning those communities are unlikely to seek redress through available avenues (10.1.2), a lack of resourcing leading to inefficacy within both the police (10.1.2) and the Human Rights Commission of Sri Lanka (HRCSL) (10.3.3), a general lack of accountability for grave human rights violations including

torture among the police (10.4.2) and questions over the independence of the National Authority for Victim and Witness Protection and the Victims of Crime and Witnesses Assistance and Protection Division (10.2.2) [emphasis added]:

Excerpt from the August 2021 *Sri Lanka: Religious Minorities* CPIN

[...] 6.3 Judicial treatment of Christians

6.3.1 The USSD 2020 IRF report noted in the case of the pastor of Good Shepherd Church at Sri Nissankamallapura who was instructed to cease his religious activities that, after being accused by the police of disturbing the peace: ‘...His case was taken before the Manampitiya Magistrates Court on February 17 and postponed until March 16. **The magistrate ordered the pastor not to invite anyone to participate in religious activities at his premises for one month and imposed a bail bond of 500,000 rupees (\$2,700) if he violated the order.**’<sup>54</sup>

6.3.2 The UN SR report 2020 noted that: ‘...received reports from the National Christian Evangelical Alliance of Sri Lanka of about 87 cases of recorded physical attacks at places of worship, in residential areas, or on pastors or members of Evangelical churches between 2015 and 2019. **Only 50 cases were reported to the police, and 8 of those were brought before the courts, and there was not a single conviction of a perpetrator even though in some cases compensation had been granted to the victims. Similarly, Evangelical Christian communities have documented over 11 cases of incitement to hatred and violence against them, and about 300 instances of harassment or discrimination based on their religious identity. Of those cases that were reported to the police or brought before the courts, the result was the same, that is, there was not a single conviction.**’<sup>55</sup>

6.3.3 With specific regard to Jehovah’s Witnesses’ experience of the judiciary, the same report found that: ‘Jehovah’s Witnesses also reported that, **between 2017 and 2019, they had referred to the police at least 58 cases of physical assaults, harassment and intimidation, the disruption of their worship meetings, the vandalism of their places of worship, and the refusal of permits to build places of worship. Of the 33 cases that had been brought before the courts, only 5 cases were decided in their favour and the perpetrators agreed to stop harassing them, but there has still not been a single conviction.**’<sup>56</sup>

[...] 6.4 Police treatment of Muslims

6.4.1 In considering police responses to Buddhist Nationalists’ treatment of Muslims, MRGI noted in March 2018 that: ‘**Perpetrators were rarely if ever brought before the law, despite being clearly identifiable in footage of these incidents that also shows police officers as bystanders to the violence. Inaction and apathy on the part of the state to effectively address the persecution of minorities, as well as the seeming lack of political will to control the BBS and similar organizations, suggested the tacit approval of the state.**’<sup>58</sup> [...]

6.4.7 The UN SR report 2020 [...] noted that there had been an increase in anti-Muslim hatred and attacks and found that ‘**...The lack of response from the authorities against this violence appears to empower the potential perpetrators to continue with their acts of hate.**’<sup>63</sup>

7. Societal treatment of religious minorities

7.1 Overview [...]

7.1.3 The UN SR report 2020 noted that in Sri Lanka:

‘There is a general perception by the victims that perpetrators of hate speech are free to continue their campaigns and cause harm without any legal repercussions. **The minority communities are feeling extremely vulnerable with the constant threat of hate speech and hate crimes while they have no recourse for justice. Most of them have lost their faith in the State and law enforcement agencies** after multiple traumas from the violence in Aluthgama in 2014, in Gintota in 2017 as well as in Ampara and Digana in 2018. These instances of violence include property damage, grievous injury, and death in the cases of Aluthgama and Digana. These are clear contemporary examples of hate speech and hate violence, politicising the ethnic and religious identities, targeting minority communities, in particular the Muslim community. **Despite sufficient evidence available at each incident, even years after the fact, not one perpetrator has been held accountable even though the Government made a few arrests and some victims have been compensated.** It is also worth noting that such violence did not exclusively target Muslims; similar violence had been committed also against the Tamils and Christians at various points in time.’<sup>75</sup> [...]

7.2 Social media and online abuse

7.2.1 The USSD 2020 IRF report stated: ‘**According to civil society groups, social media campaigns targeting religious minorities fueled hatred.** According to press reports and civil society, Buddhist

nationalist groups such as the BBS continued to promote the supremacy of the ethnic Sinhalese Buddhist majority and denigrated religious and ethnic minorities, especially in social media. **These groups said authorities did not act against those inciting hatred against the Muslim and Tamil community.**<sup>77</sup> [...]

#### 7.4 Muslims

7.4.1 In his preliminary findings following his visit to Sri Lanka in 2019, the Special Rapporteur [on freedom of religion or belief] summarised the treatment of Muslims in society as follows: [...] The Muslim communities have faced increased hostility especially after the April [2019] bombings. Prior impunity has strengthened the anti-Muslim groups. **Weak and un-coordinated responses to anti-Muslim violence have seen the rise in violence and attacks on individuals and the communities in some parts of the country...**<sup>94</sup> [...]

### 10. Criminal justice system effectiveness and avenues of redress

#### 10.1 General police effectiveness

10.1.1 In considering Sri Lanka's criminal justice system, the UN SR report 2020 noted that: '...Some interlocutors also expressed concern about **perceived bias in the way the police addressed complaints**. This was particularly the case when the assailants were members of the majority community. **Many complained that either the police failed to register and investigate complaints they had raised, or the police would act in a punitive manner for complaints raised against them**, while failing to take similar measures when they were the target of attacks. **Many also complained that the police were generally unsure about how to act in responding to infringements of the law by Buddhist monks. Some blamed politicians for influencing law enforcement, citing examples where politicians were allegedly involved in pressuring the police to release persons arrested following violent attacks.**<sup>119</sup>

10.1.2 The DFAT 2019 report noted that: 'Sri Lanka has no laws or government policies that hinder access to state protection on the basis of religion or ethnicity [...] **Some Tamils in the north and east lack confidence in police and security officers and may therefore be less likely to use these avenues to seek redress.**' [...]<sup>120</sup>

10.1.4 Considering the police, the USSD Overseas Security Advisory Council (OSAC) outlined in their Sri Lanka 2020 Crime and Safety Report that: '...Although emergency services personnel answer the number 24 hours a day, police responsiveness may vary. Although there are allegations of corruption and politicization of security services, the Sri Lanka Police Service (SLPS) is becoming increasingly professional, specifically in its specialized units. **However, police officers often lack resources/training, especially at the lower ranks... Response time varies and can be lengthy depending on the type of incident**' [...]<sup>122</sup>

#### 10.2 General complaints procedures [...]

10.2.2 The DFAT 2019 report noted that: 'Sri Lanka Police maintains a separate unit to deal with internal disciplinary action. Police officers are not well paid, and individual officers reportedly engage in petty corruption, such as taking bribes instead of issuing traffic fines, to supplement their income. In 2018, the Sri Lankan Government raised the basic police salary by up to 40 per cent. There are several measures in place for the public to make complaints to the police, including directly to the officer-in-charge at local stations, the public complaints department or via the internet. A 'Tell IGP' (Inspector-General of Police) service allows members of the public to elevate their complaints if no action is taken at local police stations. Complaints can be lodged in Sinhala, Tamil or English on a free call number or through a dedicated website. The public can also lodge complaints with the 64 Police Commission, which investigates complaints against individual police officers and against the police force as a whole. Official statistics on the uptake of this service are not publicly available. **The Assistance to and Protection of Victims of Crime and Witnesses Act (2015) established the National Authority for Victim and Witness Protection, and a Victims of Crime and Witnesses Assistance and Protection Division within the police. Domestic and international civil society groups have raised concerns about the Act with respect to the appointment process for the National Authority, and the lack of independence of the Division from the police hierarchy, which could lead to conflicts of interest in cases of victim and witness intimidation by police.**<sup>125</sup>

#### 10.3 Human Rights Commission Sri Lanka (HRCSL) [...]

10.3.3 Considering the effectiveness of the HRCSL, DFAT's 2019 report noted: 'The Global Alliance for National Human Rights Institutions downgraded the HRCSL to Status B accreditation in 2007 for not being fully compliant with the Paris Principles, the international standard for national human rights institutions. The HRCSL was downgraded over concerns about its independence including in the appointment of commissioners. The HRCSL has since made strong gains in consolidating its



independence, and was assessed as being fully compliant with the Paris Principles and granted Status A accreditation in May 2018. The 19th Amendment to the Constitution in 2015 strengthened the independence of the HRCSL by removing the president's discretion to appoint members (the Constitutional Council now recommends appointments). The capacity of the HRCSL has also improved with the appointment of new commissioners with legal, academic and UN experience. **But resource constraints remain an ongoing challenge, hindering the HRCSL's ability to respond to complaints in a timely manner and fulfil its mandate to ensure new laws are human rights-compliant. Sources told DFAT the government did not always consult the HRCSL adequately in the drafting of legislation, despite its mandate.**<sup>128</sup> [...]

10.4 National Police Commission (NPC) [...]

10.4.2 The 2019 DFAT report noted: **'The police and the National Police Commission have authority to inquire and act upon allegations of torture involving police officers. In practice, police officers against whom complaints have been lodged are typically transferred and seldom suspended from service.** From January to November 2017, disciplinary action was taken against 33 police officers, and one officer was dismissed for assault and torture. The Supreme Court has jurisdiction to hear and determine complaints of fundamental rights violations, including torture, but judgements can take many years. Complainants have difficulty gaining access to the Supreme Court, as it sits only in Colombo and legal costs can be prohibitive.'<sup>132</sup> [...]

- 54 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 8, 12 May 2021
- 55 UN HRC, '...Special Rapporteur on freedom of religion or belief...' para 80, 28 February 2020
- 56 UN HRC, '...Special Rapporteur on freedom of religion or belief...' para 81, 28 February 2020 [...]
- 58 MRGI, Sri Lankan Muslims information page, March 2018 [...]
- 63 DFAT, Country Information Report – Sri Lanka, para 3.37, 04 November 2019 [...]
- 75 UN HRC, '...Special Rapporteur on freedom of religion or belief...' para 67, 28 August 2020 [...]
- 77 USSD, 2020 Report on International Religious Freedom: Sri Lanka, page 15, 12 May 2021 [...]
- 94 OHCHR, '...findings of Country Visit to Sri Lanka by the Special Rapporteur' 26 August 2019 [...]
- 119 UN HRC, '...Special Rapporteur on freedom of religion or belief...' para 78, 28 February 2020
- 120 DFAT, Country Information Report – Sri Lanka, para 5.1, 04 November 2019 [...]
- 122 USSD OSAC, Crime and Safety Report: Sri Lanka 2020, 28 April 2020 [...]
- 125 DFAT, Country Information Report – Sri Lanka, para 5.12-5.13, 04 November 2019 [...]
- 128 DFAT, Country Information Report – Sri Lanka, para 2.55, 04 November 2019 [...]
- 132 DFAT, Country Information Report – Sri Lanka, para 4.27, 04 November 2019 [...]

Additional information found in the public domain at the time of drafting the CPIN, suggests that a 'culture of impunity' for harassment and violence perpetrated against religious minorities in Sri Lanka exists, which the authorities have tacitly sanctioned by their silence and inaction. Information regarding the general human rights situation in Sri Lanka indicates that there remains a lack of accountability within state agencies for past and present grave human rights violations including torture. Under the current government of President Gotabaya Rajapaksa prospects for redress are becoming more distant as the highest officials within the state refuse acknowledgement or accountability for past human rights violations. In the context of the deteriorating human rights situation described by the UN High Commissioner for Human Rights set out below, it may become increasingly difficult for religious minorities in Sri Lanka who are victims of violations to access redress. It is recommended that further specific research regarding the efficacy of the criminal justice system and the availability of redress for religious minorities in Sri Lanka is conducted when representing a Sri Lankan client. The following information is illustrative and presented in reverse chronological order [emphasis added]:

❖ [U.S. Department of State, 2020 Country Reports on Human Rights Practices: Sri Lanka, 30 March 2021](#)

Executive Summary [...]

**Police reportedly harassed civilians with impunity [...]**

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT [...]

**Impunity remained a significant problem characterized by a lack of accountability for conflict-era abuses, particularly by military, paramilitary, police, and other security-sector officials implicated**

**and**, in some cases, convicted of killing political opponents, journalists, and private citizens. Civil society organizations asserted the government, including the courts, were reluctant to act against security forces alleged to be responsible for past abuses, citing high-level appointments of military officials alleged to have been involved in such abuses. **During the year there was no progress on cases against officials accused of arbitrary, unlawful, or politically motivated killings [...]**

- ❖ [Human Rights Watch, Sri Lanka: Justice Under Attack, 1 February 2021](#)  
[...] **Efforts to provide accountability significantly declined during 2020**, Human Rights Watch said. Senior police officers investigating killings and enforced disappearances committed during the Mahinda Rajapaksa administration have fled the country or been charged with apparently fabricated offenses. A commission appointed by the president has sought to interfere in criminal cases involving his allies and supporters.  
**Trials of military and intelligence officials accused of enforced disappearances have been delayed and disrupted.** And the Rajapaksa-dominated parliament passed an amendment to the constitution that abolishes key checks on presidential power, undermining the independence of the judiciary and institutions such as the Human Rights Commission of Sri Lanka [...]
- ❖ [OHCHR, Sri Lanka on alarming path towards recurrence of grave human rights violations – UN report, 27 January 2021](#)  
[...] 37. Recent deaths in custody also occurred in police stations, including allegedly as a result of torture [...]  
38. **These incidents reflect the persistence of longstanding and endemic patterns of custodial deaths, use of torture and other ill-treatment, and extrajudicial killings by law enforcement officials with impunity [...]**  
V. Conclusions  
52. Nearly 12 years on from the end of the war, domestic initiatives for accountability and reconciliation have repeatedly failed to produce results, more deeply entrenching impunity, and exacerbating victims' distrust in the system. **Sri Lanka remains in a state of denial about the past, with truth-seeking efforts aborted and the highest State officials refusing to make any acknowledgement of past crimes. This has direct impact on the present and the future.** The failure to implement any vetting or comprehensive reforms in the security sector means that the State apparatus and some of its members credibly implicated in the alleged grave crimes and human rights violations remain in place. **The 2015 reforms that offered more checks and balances on executive power have been rolled back, eroding the independence of the judiciary and other key institutions further. The beginnings of a more inclusive national discourse that promised greater recognition and respect of and reconciliation with minority communities have been reversed. Far from achieving the "guarantees of non-recurrence" promised by resolution 30/1, Sri Lanka's current trajectory sets the scene for the recurrence of the policies and practices that gave rise to grave human rights violations [...]**
- ❖ [UN Human Rights Council, Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief, 25 August 2020](#)  
[...] Impunity and a lack of the rule of law and accountability  
78. **The culture of impunity in Sri Lanka has been repeatedly pointed out as one of the main reasons why religious extremism and hate speech thrive in the country**, undermining the rule of law and human rights [...]
- ❖ [Australian Government, Department of Foreign Affairs and Trade, DFAT Country Information Report Sri Lanka, 4 November 2019](#)  
[...] RELIGION [...]  
3.26 [...] **Impunity for hate speech and incitement of violence against religious minorities, particularly Muslims, is an ongoing issue [...]**
- ❖ [Centre for Policy Alternatives, The Need for Accountability in Sri Lanka's Criminal Justice System, March 2019](#)

Introduction

Background

**Successive governments have promised investigations after numerous instances of human rights violations in Sri Lanka**, both during the war and subsequently. Despite the long list of promises, limited legal action has been taken to apprehend, prosecute and hold alleged perpetrators to account. The few cases that have witnessed some legal action have devolved into long, drawn-out investigations, a few arrests and few steps are taken to indict and prosecute. **Both the inability and the unwillingness to prosecute perpetrators has hindered progress towards accountability and ultimately contributed to a culture of impunity in Sri Lanka.** [...]

A common thread that follows almost all cases is the fact **that the victims and witnesses of these cases have been intimidated, harassed, kidnapped and in some instances even killed.**<sup>12</sup> Although Sri Lanka at present has enacted the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015, there continues to be challenges in its implementation and effectiveness, and further amendments are required to ensure its independence and impartiality.<sup>13</sup> As an example, **the Act provides for Victims of Crime and Witnesses Assistance and Protection Division, under the Inspector General of Police. Under this scheme, the Division will continue to have links with the Police raising questions of independence. This is a fundamental flaw of this Act since consistent allegations of victim and witness intimidation have been levelled against the Sri Lankan Police in the past.**

<sup>12</sup> In the cases of the Missing 11 Youth, the Trinco Five and the ACF Aid Workers' Killings there have been several instances where witnesses have been threatened. Sandhya Eknaligoda has over the years consistently faced death threats.

<sup>13</sup> Centre for Policy Alternatives, The Need for a Strong Victim and Witness Assistance and Protection Mechanism, (2014) available at <<https://www.cpalanka.org/the-need-for-a-strong-victim-and-witness-assistance-and-protection-mechanism/>>; Victim and Witness protection – the need for further reform (South Asian Centre for Legal Studies, 2015) <[http://sacls.org/index.php?option=com\\_k2&view=item&id=143:victim-witness-protection-the-need-for-further-reform&Itemid=72](http://sacls.org/index.php?option=com_k2&view=item&id=143:victim-witness-protection-the-need-for-further-reform&Itemid=72)> [...]