

## Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to Sri Lanka (2 to 12 May 2005)

Conclusions and recommendations of the Special Rapporteur (E/CN.4/2006/5/Add.3)	Follow-up information from UN documents (e.g. UPR, Special Procedures, Treaty Bodies)	Follow-up information from the Government of Sri Lanka
<p>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.</p> <p>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.</p>		
<p><b>Persecution of religious minorities – Acts of religious intolerance</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p><b>A/HRC/7/10/Add.1</b>  <b>Communication sent by the Special Rapporteur on freedom of religion or belief on 1 May 2007</b></p> <p>241. The Special Rapporteur brought to the attention of the Government information she had received concerning members of the All Ceylon Thareekathul Mufliehen society in Sri Lanka. According to the allegations received, the religious leader of the All Ceylon Thareekathul Mufliehen society, a religious movement based on Islam but rejected by mainstream Muslims in Sri Lanka, died on 6 December 2006. His body was exhumed and burned by a mob under the pretext that members of the All Ceylon Thareekathul Mufliehen society were not permitted to bury their dead in Kathankudy soil. During the subsequent riots, the minaret and part of the meditation centre were destroyed and over 117 houses of members of the All Ceylon Thareekathul Mufliehen society were burned down. Furthermore, their lives were threatened and many of them left Kathankudy.</p> <p>242. On 7 February 2007, the Human Rights Commission of Sri Lanka informed the General Secretary of All Ceylon Thareekathul Mufliehen that the Commission cannot interfere in the disputes between various sects of a religion and advised to refer these disputes to the Council of</p>	

that has so far prevailed in Sri Lanka.

Ulemas – All Ceylon Jameeathul Ulama or the Minister of Religious Affairs.

**Observations**

243. The Special Rapporteur regrets that she has not received a reply from the Government concerning the above mentioned allegation. She would like to emphasize that the human rights obligations of States also consist in ensuring the free exercise of freedom of religion or belief and bringing the perpetrators of acts of religious intolerance, discrimination or violence to justice. Already in the report on her country visit to Sri Lanka (see E/CN.4/2006/5/Add.3, para. 100), the Special Rapporteur had referred to another incident targeting the All Ceylon Tharikathul Mufliheen society: In October 2004, their place of worship in Kathankudy 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. While the police arrested eight alleged perpetrators, these were later released on bail and 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.

244. In the country report the Special Rapporteur concluded (see E/CN.4/2006/5/Add.3, paras. 113-114) that “the Government of Sri Lanka has to fulfill 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. 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

	<p>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.”</p> <p><b>A/HRC/WG.6/2/LKA/2</b>  <b>Working Group on the Universal Periodic Review, compilation of information contained in the reports of treaty bodies and special procedures, April 2008</b></p> <p>27. In 2005, the Special Rapporteur on freedom of religion or belief noted, inter alia, a high level of tolerance and religious harmony and that the Government generally respects freedom of religion or belief. Nevertheless, the recent deterioration of religious tolerance and the absence of appropriate action by the Government had brought respect for freedom of religion or belief to an unsatisfactory level.</p>	
<p><b>Religious tensions</b></p> <p>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.</p> <p>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.</p> <p>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</p>	<p><b>A/HRC/WG.6/2/LKA/3</b>  <b>Working Group on the Universal Periodic Review, summary of stakeholders’ submissions, April 2008</b></p> <p>30. [...] IRPP noted that episodes of religious violence and unrest arise sporadically.</p>	

<p>consequences.</p> <p>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.</p> <p>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.</p> <p>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.</p>		
<p><b>Draft laws</b></p> <p>121. Further to the observations made in section V, the Special Rapporteur is of the opinion that the draft legislation 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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p><b>A/HRC/WG.6/2/LKA/2</b>  <b>Working Group on the Universal Periodic Review, compilation of information contained in the reports of treaty bodies and special procedures, April 2008</b>  27. [...] The Special Rapporteur stated that the draft legislation on the criminalization of “unethical conversions” was not an appropriate response to religious tensions and that it would lead to violations of the right to freedom of religion or belief.</p> <p><b>A/HRC/WG.6/2/LKA/3</b>  <b>Working Group on the Universal Periodic Review, summary of stakeholders’ submissions, April 2008</b>  30. The Institute on Religion and Public Policy (IRPP) reported that religious freedom in Sri Lanka is generally respected and protected by both the Government and society at large; however, proposed legislation on religious conversion would seriously curtail religious freedom. The Becket Fund for Religious Liberty (BFRL) reported that the most troubling aspect of the draft anti-conversion</p>	<p><b>A/HRC/8/46</b>  <b>Report of the Working Group on the Universal Periodic Review: Sri Lanka, May 2008</b>  17. In respect of the rights of freedom of religion, Sri Lanka has a non-derogable constitutional provision guaranteeing freedom of religion. This is the standard against which all proposed legislation, including anti-conversion legislation, is assessed. The question of unethical conversion has been examined by a committee of experts appointed by the Minister of Human Rights to assess the recommendations of the Special Rapporteur on freedom of religion or belief.</p>

<p>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.</p>	<p>legislation is that it would criminalize a central principle of religious liberty - the ability to freely choose and change one's religion. BFRL added that since 2001, the Supreme Court issued a series of precedents restricting the rights of non-Buddhist religions under law.</p>	
<p><b>Persecution of religious minorities</b></p> <p>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.</p> <p>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.</p>		
<p><b>Religious tensions</b></p> <p>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.</p> <p>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.</p> <p>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</p>		

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.