

Growing Up Believing

Exploring Children's Right to Freedom
of Religion or Belief in Sri Lanka



**NATIONAL CHRISTIAN
EVANGELICAL ALLIANCE**
SRI LANKA

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I. List of Abbreviations

ACO: Adoption of Children Ordinance, No. 24 of 1941 (as amended)

ASTC Act 1960: Assisted Schools and Training Colleges (Special Provisions) Act, No. 5 of 1960

ASTC Act 1961: Assisted Schools and Training Colleges (Supplementary Provisions) Act, No. 8 of 1961

CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women, 1979

Charter: Charter on the Rights of the Child, 1992

CRC: Convention on the Rights of the Child, 1989

CYPO: Children and Young Persons Ordinance, No. 48 of 1939 (amended under Act, No. 39 of 2022)

Declaration 1981: Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981

DPSP: Directive Principle of State Policy

EO: Education Ordinance, No. 31 of 1939 (as amended)

FGM/C: Female Genital Mutilation or Cutting

ICCPR: International Covenant on Civil and Political Rights, 1966

ICCPR Act: International Covenant on Civil and Political Rights Act, No. 56 of 2007

ICESCR: International Covenant on Economic, Social and Cultural Rights, 1965

MMDA: Muslim Marriage and Divorce Act, No. 13 of 1951

MRO: Marriage Registration Ordinance, No. 19 of 1907

NCEASL: National Christian Evangelical Alliance of Sri Lanka

UDHR: Universal Declaration of Human Rights, 1948

UNGA: United Nations General Assembly



II. Introduction

Children constitute a substantial proportion of Sri Lanka's population, with approximately 30% under the age of 18.¹ These children grow up believing what they learn from different experiences, shaped by their families, schools, communities, and social and cultural environments. The Freedom of Religion or Belief of children is a sensitive and complex topic. Despite the complexities surrounding it, there lies one simple truth at its core: children by virtue of being human beings are entitled to the right to Freedom of Religion or Belief, and they ought to be protected from discrimination, coercion and harmful practices. This right is guaranteed by both international law and the Constitution of Sri Lanka. When considering the religious rights of children, it is important to recognise the role and rights of parents as well. To better understand the issue, the report explores the following key questions:

- What limitations apply to a child's right to Freedom of Religion or Belief?
- At what age can children make independent religious decisions?
- What is the role of the parents in shaping a child's religious upbringing?
- What are the main challenges children face in exercising their right to Freedom of Religion or Belief or due to their religious identity in Sri Lanka?
- Are there religious or cultural practices that affect children?

The first chapter of this report lays the foundation by examining both domestic and international legal frameworks. The second chapter discusses challenges to children's right to Freedom of Religion or Belief in Sri Lanka. The third chapter focuses on education, religious instruction, and parental rights, and includes insights from a survey of school teachers. The fourth chapter delves into the challenges related to school admissions based on religious quotas, exploring the historical background and relevant case law. The fifth chapter addresses the impact of certain cultural and religious practices on children. Finally, the sixth chapter offers recommendations based on the findings of the research.



III. Methodology

The methodology employed in this research study is a qualitative and quantitative analysis, drawing upon primary and secondary sources of information. A part of the research was conducted through desk-based research, utilising a range of secondary materials, including academic publications and legal documents. In addition, the study was supplemented by an anonymous survey conducted by the NCEASL, among school teachers in 2025, aimed at assessing the state of religious instruction and children's right to Freedom of Religion or Belief within schools in Sri Lanka. The research was further supplemented by five Key Informant Interviews with selected stakeholders in the area to triangulate the findings from the desk-based research.

Limitation: The survey in Chapter 3.3 employed a stratified sampling approach based on administrative districts to improve geographical representation. However, only 125 participants from 22 out of the 25 districts were reached. As such, the findings cannot be generalised to the wider population. The results should be interpreted as indicative of broader trends rather than a precise reflection of the national situation.



1 *The Legal Framework on Children and Freedom of Religion or Belief*

1.1. Legal Definition of a Child

A child is defined as a person under the age of 18 years according to domestic and international law.²

Section 88 of the Children and Young Persons Ordinance, No. 48 of 1939 (amended under Act, No. 39 of 2022):

A “child” means a person under the age of eighteen years.

1.2. Domestic Laws

1.2.1. Constitution and the Best Interest of the Child

A child falls within the ambit of the Fundamental Rights chapter of the Sri Lankan Constitution by virtue of being a ‘person’ or in other words a human being. Furthermore, the Articles of the Fundamental Rights chapter applicable only to the citizens apply also to children if they are a Sri Lankan citizen as a result of the citizenship of the father, and in exceptional cases, the mother. However, this does not include rights that by their very nature cannot be exercised by children either with the assistance of guardians or independently (for example, the right to form and join a trade union).³

The Freedom of Religion or Belief of children is protected under **Article 10 and 14(1)(e) of the Constitution**.

Article 10 of the Constitution:
Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

Article 14(1)(e) of the Constitution:
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 and teaching.

These two Articles, while closely related, are of two different internal and external dimensions.⁴

Article 10 protects its internal dimension that is part of “a person’s inner sanctum (mind), where mental faculties are developed, exercised, and defined” (*forum internum*).⁵ It safeguards the right to form and hold opinions based on conscience, even if others find them objectionable or disagreeable, and guarantees that individuals have the freedom to hold, change or reject any religion or belief without coercion. **This right is considered to be absolute, even in the case of children.** It should, however, be noted that in the case of children, the choice of religion is restricted by the parents’ rights to determine their child’s religion, until the child reaches an age where they are capable of deciding independently.⁶

Freedom of Conscience also includes the right to keep one’s religious or other beliefs private and not reveal them. However, in the context of a school system, including in Sri Lanka, this right may sometimes come into conflict with institutional practices that typically require the parents to disclose their religious preferences.

Article 14(1)(e), which protects the right to express this belief - the *forum externum* - may be subject to limited restrictions by the State under **Article 15(7)** of the Constitution.⁷ Additionally, in the case of children, it may also be limited (1) to protect parental interests with parents

having a right to provide direction and religious education to their children, taking into account the evolving capacities of the child, and (2) to protect the best interest of the child.⁸ The duty of the State to protect the best interests of the child includes, among others, protecting the child from physical and mental harm that could result from certain religious and/or cultural practices such as Female Genital Mutilation or Cutting (FGM/C), and withholding of medication due to religious beliefs.

The duty of the State to uphold the best interest of the child is also underscored in the **International Covenant on Civil and Political Rights Act, No. 56 of 2007 (ICCPR Act 2007)**:

Section 5(2) of the ICCPR Act 2007:

In all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities, or legislative bodies, the courts, administrative authorities or legislative bodies, the best interest of the child shall be of paramount importance.

Furthermore, **Article 12** of the Constitution guarantees the right to equality and protection of children from discrimination on grounds of, among others, religion.

Additionally, **Article 27(13)** of the Constitution underscores the role of the State to enable religious development of children and protect them from discrimination. Article 27 is a Directive Principle of State Policy (DPSP). While a DPSP is not enforceable in any court or tribunal,⁹ they are laid down in the Constitution to guide the Parliament, the President and the Cabinet of Ministers in the enactment of laws and the governance

of the country.

Article 27(13) of the Constitution:

The State shall promote with special care the interests of children and youth, so as to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination.

1.2.2. Other Relevant Laws

The **Education Ordinance, No. 31 of 1939 (as amended)** (EO) is the foundational law governing education in Sri Lanka. The EO primarily classifies the school system into Government schools, assisted schools and unaided schools. A Government school is maintained entirely from State funds, whilst an assisted school receives aid from State funds (for a historical overview of the school system in Sri Lanka see Chapter 4.1).

Notably, **Section 34** of the EO expressly prohibits assisted schools from refusing admission on the basis of religion. While it is silent with regard to Government schools, they are nonetheless bound by **Article 12** of the Constitution as they are part of the executive arm of the State, and therefore cannot discriminate against children based on religious identity.¹⁰

The EO further sets out the framework governing religious instruction in Government schools. **Section 35(1)** of the EO mandates that pupils receive religious instruction based on their parent's/ guardian's religion, with the exceptions of **(1) there being less than 15 students whose parents are of that religion, or (2) the parent requests an exemption in writing**. The EO also specifies that religious instruction shall be taught by adherents of the respective religions.

Section 35(2) of the EO prohibits both Government and assisted schools from requiring students to participate in religious activities outside their parent's faith. However, it remains silent on whether a child's participation in religious instruction or activities that differ from the parent's religion could be permitted with the parent's written consent.

Section 34 of the EO:

No applicant shall be refused admission into any assisted school on account of the religion, nationality, race, caste, social status or language of such applicant or of either of his parents.

Section 35 of the EO:

(1) Subject as hereinafter provided, instruction in the religion of the parent of each pupil in a Government school shall be given to that pupil, as part of his course of studies in the school, by a person who is an adherent of that religion and who has been approved by the Director-General:

Provided, however, that-

- (a) instruction in a particular religion need not be given in a Government school where there are not more than fifteen pupils whose parents are of that religion, and*
- (b) attendance of a pupil at any instruction in, or any worship or observance connected with, the religion of his parent shall not be required or permitted if the parent has voluntarily made a written request to the principal of the school to exempt the pupil from such attendance.*

(2) The principal or any person for the time being in charge of a Government school or an assisted school shall not require or permit a pupil of the school to attend, in the school or in any hostel of the school or in any chapel or place of worship situated within the premises of the school, any instruction in, or any worship or observance connected with, a religion which is not the religion of the parent of the pupil.

(3) The time for any instruction in, or for any worship or observance connected with, any religion at a meeting of a Government school or an assisted school shall be at the beginning or at the end or at the beginning and the end of such meeting, and shall be specified in a time table approved by the Director-General and kept permanently and conspicuously affixed in every classroom of the school.

(4) For the purposes of this section-

- (b) the religion of the parent of a pupil shall be determined in accordance with the following provisions :-*
 - (i) where the father of the pupil, being of sound mind, makes a declaration of his religion, that religion shall be deemed to be the religion of the parent of the pupil;*
 - (ii) where, in the absence of the declaration referred to in the preceding paragraph (i), the mother of the pupil, being of sound mind, makes a declaration of her religion, that religion shall be deemed to be the religion of the parent of the pupil;*

(iii) in any case other than that referred to in any of the preceding paragraphs (i) and (ii), the religion which any person having legal or actual control of the pupil declares to be the pupil's religion shall be deemed to be the religion of the parent of the pupil.

(5) In the case of any assisted school, the Director-General may, for the breach of any of the provisions of this section, withhold or refuse to pay any such grant from State funds as may be payable to the manager of the school or remove the school from the list of registered schools.

The Children and Young Persons Ordinance, No. 48 of 1939 (amended under Act, No. 39 of 2022) (CYPO) governs the juvenile justice system and the protection of children. According to the CYPO, prior to placing a child in an approved or certified school or with a caregiver, the court shall ascertain the child's religious persuasion and, if practical, ensure they are placed in a school or with someone who shares that faith.¹¹ If a child detained in an approved school is of a different religion from the proprietor or manager of the school, they cannot be required or permitted to participate in any religious activity or instruction (whether in the school or elsewhere) unless the parent's explicit written consent is given.¹² However, if a child shares the same religion as the proprietor or manager of the school, the school could compel the child to attend religious activities or instruction.¹³

Where an order has been made to place the child in a school of a different religion, the CYPO allows the parent, guardian, or nearest adult relative to make an application

to the court or Minister to have the child removed or moved to a school of the child's religious persuasion.¹⁴ Similarly, if a parent, guardian, or near relative believes a child is not being raised in accordance with the child's religious persuasion under a caregiver, they could make an application to the court to revoke or change the order.¹⁵

Additionally, as per the CYPO, schools may refuse to accept children if they are designated for a specific religion which does not align with the child's religion.¹⁶ While this appears to contradict Article 12 of the Constitution and Section 34 of the Education Ordinance, such a measure could also be seen as a means to protect the religious freedoms of both the child and the parents.

Section 53(2) of the CYPO:

The manager of an approved or certified school shall be bound to accept any person who, in pursuance of this Ordinance, is sent or transferred to his school or otherwise to his care, unless-

- (a) the school is an approved school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer; or*
- (b) the manager of the school satisfies the Minister that there are already as many persons detained in that school, or, as the case may be, otherwise under his care, as is desirable.*

Other domestic laws with provisions relevant to Freedom of Religion or Belief in general include the Penal Code of Sri Lanka,¹⁷ Online Safety Act,¹⁸ Cemeteries and Burials Ordinance,¹⁹ ICCPR Act,²⁰ and the Prevention of Terrorism Act.²¹

1.2.3. Evolving Capacities of Children and Age of Discretion

After ratifying the Convention of the Rights of the Child (CRC), Sri Lanka introduced the **Charter on the Rights of the Child** in 1992 (Charter).²² Though the Charter holds no legal force, it serves as a policy framework to guide the country's legal reforms and policy making regarding children's issues.²³

Article 14 of the Children's Charter:
Freedom of thought, conscience and religion

(1) The State shall respect the child's right to freedom of thought, conscience and religion, subject to appropriate parental guidance.

(2) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect national security, public order, public health or morality, or the fundamental rights and freedoms of others.

It is of note that, while the Charter is quite similar to the CRC in certain aspects, there are some distinctive differences particularly with regard to religious upbringing of children. In both documents, **Article 5** states that the State shall respect the rights and duties of the parents to provide direction in the exercise of their rights, in a manner consistent with the "evolving capacity of the child". While the CRC re-emphasises the above in **Article 14** pertaining to religious freedom (see Chapters 1.3.2 below), the Charter instead emphasises a parental obligation to provide a religious upbringing. The Charter mentions that (1) the State shall make it obligatory on the parent/ guardian to raise the child in a "proper religious

environment" through education of teachings and practices of the religion,²⁴ and (2) the State shall make it obligatory on the teacher to recognise the "paramount importance of the religion as a way of life"²⁵ (See Chapter 3.2.2. below for more on the evolving capacity of the children.)

While not directly related to Freedom of Religion or Belief, a Sri Lankan statute that requires a child's opinions to be taken into consideration in a decision that impacts them is the **Adoption of Children Ordinance, No. 24 of 1941 (as amended)** (ACO). The ACO stipulates that an adoption order cannot be made for a child over 10 years old without his or her consent.²⁶ In contrast, in custody matters, Sri Lankan case law establishes that the age of discretion is sixteen for girls and fourteen for boys, with the court generally not considering the wishes of children younger than these ages.²⁷ However, this is not consistent with **Article 12** of the CRC (and **Article 12** of the Charter), which requires the State Parties to ensure that a child capable of forming their own views has those views appropriately considered in matters that affect them, in line with the child's age and maturity.²⁸ According to the UN Committee on the Rights of the Child:

By requiring that due weight be given in accordance with age and maturity, article 12 makes it clear that age alone cannot determine the significance of a child's views. Children's levels of understanding are not uniformly linked to their biological age. Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child's capacities to form a view. For this reason, **the views of the child have to be assessed on a**

case-by-case examination.²⁹

1.3 Obligations under International Law

Freedom of Religion or Belief is a universal human right recognised under the **Universal Declaration of Human Rights (UDHR)**.³⁰ Sri Lanka also holds international obligations to protect the right to Freedom of Religion or Belief and the right to Equality, by virtue of being a State Party to many international treaties, including the **International Covenant on Civil and Political Rights (ICCPR)**,³¹ the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**³² and the **Convention on the Rights of the Child (CRC)**.³³

1.3.1. UDHR, ICCPR, ICESCR and the Declaration 1981

The UDHR, ICCPR and ICESCR give special emphasis to the rights of the parents and legal guardians to raise children in conformity with their own religious and moral convictions:

Article 26(3) of the UDHR:

Parents have a prior right to choose the kind of education that shall be given to their children.

Article 18(4) of the ICCPR:

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.

A similar provision is found in **Article 13(3) of the ICESCR**.

The aforementioned provisions have been reaffirmed in the **Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981** (Declaration 1981), which lays down the following guidelines:

Article 5 of Declaration 1981:

(1) The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

(2) Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.

(3) The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

(4) In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or

belief, the best interests of the child being the guiding principle.

(5) Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

1.3.2. Convention on the Rights of the Child

While the aforementioned instruments focus on the rights of the parents, the CRC combines parental rights and the right of the child to Freedom of Religion or Belief.³⁴ In contrast to the ICCPR and ICESCR, the CRC refers unambiguously to the **right of the child to Freedom of Religion or Belief** under **Article 14(1)**. The CRC recognises the rights and duties of the parents/ legal guardians to provide direction to the child in a way that aligns with the “**evolving capacities of the child**”.

While the CRC is the most widely ratified international human rights treaty - except by the United States - several countries have made reservations regarding **Article 14**, citing reasons such as the prioritisation of parental authority over a child's religious upbringing, conflicts with Islamic Shariah, and existing national laws or constitutional provisions related to State religion and the child's age of maturity.³⁵

Article 2 of the CRC

(1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's

race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

(2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 12 of the CRC

(1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

(2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 14 of the CRC

(1) States Parties shall respect the right of the child to freedom of thought, conscience and religion.

(2) States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

(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, or the fundamental rights and freedoms of others.

Article 18(1) of the CRC

States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

Article 29(1)(c) of the CRC

States Parties agree that the education of the child shall be directed to the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

Article 30 of the CRC

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Sri Lanka signed and ratified the CRC on 26th January 1990 and 12th July 1991, respectively, with no reservations. In Sri Lanka's dualist legal system, ratified international instruments must be integrated into national law through legislation for them to have legal effect. While the CRC has not been directly incorporated into Sri Lankan law, by ratifying the CRC, the country has committed itself to uphold its values and standards in its domestic jurisdictions.³⁶

In a recent case, *Selvanayagam Gnanasegaran v M Abeygunasekara, Principal Kandy Girls High School et al* (2024), His Lordship Samarakoon, J stated that 'the state and its officers are bound by the Convention on the Rights of the Child' (emphasis added).³⁷

The international standards and interpretations of parental rights and the "evolving capacity of the child" in the context of education are explored further in Chapter 3.2.2.



2

*Challenges
to the Freedom
of Religion
or Belief
of Children*

The challenges children face are often complex and multifaceted, spanning from issues with their communities and education systems to directly being impacted by national-level incidents. One such tragic event was the Easter Sunday attacks in April 2019, when over 260 people, including at least 45 children³⁸, lost their lives, and more than 500, including children, were injured. Explosions targeted, among other locations, three Christian churches - St. Anthony's Church in Colombo, St. Sebastian's Church in Negombo, and Zion Church in Batticaloa. The attacks left many children not only physically injured but emotionally scarred.

Between 2023 - 2025, the NCEASL came across multiple incidents³⁹ of religious freedom violations where children belonging to religious minority communities were affected. The incidents included discriminatory practices, acts of intimidation and physical violence, often linked to religious tension in the localities. In some of these incidents, children were the indirect victims, when their parents or churches were targeted. In one incident reported in 2025, a 12-year-old son of a Christian pastor who was alone at home was subjected to intimidation by religious leaders of a different faith who demanded that the child's father's church be discontinued (Hambantota District). In another instance in 2025, during a protest by villagers against a church, 11 congregants, including two girls, were physically assaulted (Gampaha District), while in another incident in 2024, a 14-year-old son of a Christian pastor was assaulted along with some of the pastors of the church (Nuwara Eliya District). The NCEASL also documented incidents of property damage where a Christian child's gravestone was vandalised twice following opposition against erecting a gravestone

in a public cemetery as the child was Christian, despite there being gravestones of individuals belonging to other faiths (Puttalam District), and acts of vandalism against a Hindu school with damage to Hindu deity images (Trincomalee District).

In 2023 and 2024, there were three reported incidents of female Muslim children facing discrimination over religious attire in the education setting.⁴⁰ In two incidents, in Badulla and Puttalam districts, Muslim female students were compelled by exam supervisors to remove their religious head-covering garments during examinations. In 2024, the GCE Advanced Level results of 70 Muslim female students from Trincomalee were withheld temporarily due to allegedly disobeying the rule to keep their ears uncovered throughout the exam.⁴¹ In this incident, the Human Rights Commission of Sri Lanka (HRCSL) facilitated a discussion with officers from the Department of Examinations and the University Grants Commission to mediate a settlement, and issued interim measures to prevent similar incidents.⁴² Subsequently, the HRCSL issued a press notice⁴³ stating that:

[S]pecific forms of attire, including attire worn by Muslim women and girls that cover their heads, and in some cases, their ears, are protected under Article 14(1)(e) as legitimate forms of religious observance and practice. Any restriction on such attire must be provided by law and be necessary for a specific purpose found in Article 15(7) of the Constitution. Moreover, discriminating [against] any citizen on the basis of such attire could amount to an infringement of such [a] citizen's right to nondiscrimination on the grounds of sex and religion.

Reports have also surfaced of Christian children facing bullying from peers and targeting by teachers, with children of pastors of non-traditional churches being more vulnerable to discrimination and bullying.⁴⁴ This includes teachers scolding Christian students for attending church, forbidding them from reading their Bibles during breaks, and making them attend school on Sundays.⁴⁵ In one incident a student was coerced into participating in non-Christian rituals at school and threatened by teachers with expulsion if refused.⁴⁶ Additionally, due to a shortage of Christian teachers and insufficient funding to onboard them, there have been reports of Christian children forced to study and follow Buddhist or Hindu rituals in schools, leading to harassment, bullying, and poor academic performance.⁴⁷ Some cases where Christian children were denied admission to schools in violation of Education Ministry Circulars have been explored in Chapter 4 below in detail.

Additionally, children also face challenges when attending schools affiliated with a specific religion that are different from their religion. For example, a Hindu girl who could not continue her studies at her original school due to the absence of Advanced Level (AL) examination classes had to transfer to a Muslim school. There, she became the only Hindu student and was required to wear the Muslim girls' uniform, including the shawl and pants. However, on a positive note, she was not forced to attend Islamic prayers.⁴⁸ Similarly, some Christian schools prohibit the wearing of *pottus*⁴⁹ and red holy *kumkum* on foreheads, and holy threads in the hand by Hindu students.⁵⁰ This raises competing considerations. On one hand it could be said that from the institution's perspective, there is a legitimate concern about maintaining a uniform standard and

ensuring that everyone follows a common dress code and it could be part of their mission to uphold certain cultural or religious practices that align with their values. On the other hand, when students are required to conform to dress codes that contradict their personal beliefs or identity, it could cause discomfort and lead to feelings of marginalisation. In such situations, institutions could aim to be flexible, accommodating cultural or religious expressions as long as they do not conflict with the core values and educational environment of the institution.



3 *Education, Religious Instruction and Parental Rights*

“Children do not lose their human rights by virtue of passing through the school gates.”

- Committee on the Rights of the Child, General Comment No. 1, 2001⁵¹

3.1. Right to Education

While the right to education is not mentioned in the fundamental rights chapter of the Constitution, the Supreme Court, in a series of cases, has accepted and acknowledged this right through **Article 12** (the Right to Equality). As a result, “the Supreme Court has not only considered that the Right to Education should be accepted as a fundamental human right, but also has accepted the value of such Education”.⁵²

Moreover, **Article 27(2)(h)** (Directive Principle of State Policy) states:

Article 27(2): The State is pledged to establish in Sri Lanka a Democratic Socialist Society, the objectives of which include-
(h) the complete eradication of illiteracy and the assurance to all persons of the right to universal and equal access to education at all levels.

It is also compulsory for children between the ages of five and fourteen to receive an education through regular school attendance, unless they have arranged for alternative, appropriate educational provisions for the child.⁵³

3.2. Religious Instruction

3.2.1. Compulsory Nature

Religious education is considered to be an essential part of education and a compulsory subject taught until the eleventh year of schooling in Government schools,⁵⁴ with the exceptions of (1) there being less than 15 students whose parents are of that religion, or (2) the parent requests an exemption in writing.⁵⁵ According to former Special Rapporteur on Freedom of Religion or Belief, Heiner Beilefeldt, opting out of a religious instruction should not involve burdensome administrative procedures or penalties, and where possible, alternative courses should be offered to students who choose not to participate due to their differing beliefs.⁵⁶

While religious education remains vital in State schools, it is reported that not every school has sufficient resources to teach all four recognised religions, leading to some students having to study religions other than their own, and sometimes the shortage of teachers requiring available teachers to teach a religion outside their own faith.⁵⁷ In acknowledging that there was a shortage of teachers in religious subjects, Prime Minister Harini Amarasuriya stated in September 2025 that a national-level assessment was being conducted to gather accurate data on the availability of teachers in all provinces, in order to guide a coordinated recruitment and placement strategy.⁵⁸

Given the lack of resources in some schools to employ Christian teachers, certain schools have allowed external organisations, such as the NCEASL, to support volunteers to teach Christianity in schools. The Ministry of Education should replicate and expand such endeavors and seek the

support of religious leaders and faith-based institutions to ensure that children of all religions have access to religious instruction of their choice.

Furthermore, in Sri Lanka, Religion is a compulsory subject for students sitting for the General Certificate of Education (Ordinary Level) exam.⁵⁹ The available options for this subject include Buddhism, Saivanery, Christianity (Roman Catholic), Christianity (Non-Roman Catholic) and Islam.⁶⁰ While this curriculum is designed to reflect the country's religious diversity, it can raise concerns regarding the protection of a child's freedom of religion, belief, and conscience. In cases where a parent's/student's religion is not one of the available options for study or there is no qualified teacher available to teach the parent's/child's preferred religion, the child may be compelled to study and sit for an examination on a religion they do not adhere to. In such instances, this compulsory requirement could be seen as a violation of the child's right to religious freedom and potentially create an environment of discomfort or alienation for students whose beliefs differ from the prescribed curriculum. Furthermore, the Human Rights Committee has emphasised that instruction in a religious context should respect the beliefs of parents or guardians who do not adhere to a particular religion.⁶¹

While the law does not mandate private schools to teach religion, it is generally included in most schools. During a Key Informant Interview, a principal of an international school⁶² - where all four main religions are taught - emphasised that religious instruction should be compulsory from Grade 1 onwards, with both weekly theoretical lessons and daily practical observances. He stated that all children should have access to religious

instruction and further expressed the view that children of parents who do not follow any religion should be encouraged to adopt one, as he considers religion an important source of ethics and values. The principal maintained that, until the age of 18, children remain under the authority and guidance of their parents; accordingly, the religion they study in school should reflect parental preference, even where the child may hold differing personal views. In cases where parents belong to different religions, he suggested that education practitioners could play a mediating role to help determine the religion the child follows. While acknowledging that a child may internally identify with a different religion, he asserted that any formal change in religious affiliation should occur only after reaching adulthood. He, however, noted that although students should attend formal religious instruction classes aligned with the religion chosen by their parents, they could have the freedom to participate in extracurricular activities related to other religions (for example, through clubs or societies).

3.2.2. Parental Rights and the “evolving capacities of the child”

In matters related to a child's education, including religious education, Roman-Dutch law asserts that the child's natural guardian holds the authority to make decisions on these issues.⁶³ Furthermore, the Education Ordinance of Sri Lanka mandates that pupils receive religious instruction based on their parent's religion.⁶⁴ Traditionally, it is the father who is recognised as having the right to control a child's religious upbringing.⁶⁵ This paternal authority has been supported by the Education Ordinance and early case law has held that a father may control a child's religious

upbringing even in instances where he is not the custodial parent.⁶⁶ According to the Education Ordinance if the father is of unsound mind, the mother's declaration of religion will apply; and if not, the religion declared by the person in legal or actual control of the child will be considered the child's religion.⁶⁷

International human rights law acknowledges the family as the natural and fundamental unit of society, entitled to protection and support by the society and the State, with parents recognised as the primary caregivers and educators of their children.⁶⁸ Parents having the right to determine the religious instruction of their children is supported by several international human rights instruments, including **Article 26(3)** of the UDHR (which grants parents a "prior right" to choose the kind of education given to their children), **Article 18(4)** of the ICCPR, **Article 13(3)** of the ICESCR, and **Article 5** of the 1981 Declaration (see section 1.3.1. above). Furthermore, **Article 18(1)** of the CRC underscores that parents bear primary responsibility for the upbringing of their children, with the child's best interests being a central concern.

During a Key Informant Interview, a human rights activist⁶⁹ expressed concern that parental authority is sometimes punishment-oriented, reflecting a broader cultural tendency to discipline rather than guide children. She cautioned against granting parents unchecked authority to impose religious practices, emphasising that parental roles should be grounded in care, empathy, and support rather than control. For example, fasting can be particularly challenging for Muslim children, yet some begin observing it as early as six or seven years old due to parental insistence.⁷⁰

The CRC also emphasises that the

"evolving capacities of the child" should be adequately considered - that is, while parents or legal guardians can guide their children, such guidance should align with the child's growing abilities to make independent decisions. This, however, is not considered by the Education Ordinance of Sri Lanka.

The Committee on the Rights of the Child emphasises that children are independent rights holders and should receive appropriate guidance from parents or the State in exercising their rights. It, however, notes that parents' responsibilities, rights and duties to guide their children is not absolute and should respect the rights of the child and evolve with the child's developing capacities. **That is, as children mature, their views should be given more weight, and parents have to transform "direction and guidance into reminders and advice and later to an exchange on an equal footing"**. Furthermore, States are not required to respect parental direction and guidance when it results in the denial of a child's human rights and to protect them from harmful practices, such as child marriage or female genital mutilation.⁷¹

It should, however, be noted that the parents' right to raise their children according to their religion or beliefs is not necessarily diminished by the child's right to freedom of religion.⁷²

In an island-wide consultation on child rights conducted by the Ministry of Women and Child Affairs in 2016 with the direct participation of 1,577 children aged between 11 to 18 years, a majority of 79% of children stated that their parents had an influence on their choice of religion and they had to follow their parents' religious beliefs. In contrast, 21% believed they should have the freedom to choose their own religion, even if it differs from their parents' religion.⁷³

Disagreement between the parents over the child’s religion

According to international standards, if there is a disagreement between the parents over the child’s religion, and if the matter is referred to court, the decision ought to be made based on the child’s right under Article 14 of the CRC, giving serious consideration to the child’s views according to their age and maturity.⁷⁴

3.3. Key Findings from the Teachers Survey 2025

In 2025, the NCEASL conducted an anonymous survey to assess the state of religious instruction and children’s right to Freedom of Religion or Belief within schools in Sri Lanka. The sample for this study consisted of 125 school teachers from schools across 22 districts. A majority of the respondents (93.6%) were from government schools. A questionnaire was distributed to the sample, with some filling hard copies and others completing it via a Google Form.

Province	District	
Central	Kandy	3
	Matale	1
	Nuwara Eliya	4
Eastern	Ampara	8
	Batticaloa	15
	Trincomalee	3
North Central	Anuradhapura	3
	Polonnaruwa	1

Northern	Jaffna	2
	Killinochchi	11
	Mullaithivu	5
	Vavuniya	14
	Mannar	15
North Western	Kurunegala	2
	Puttalam	-
Sabaragamuwa	Kegalle	4
	Rathnapura	5
Southern	Galle	7
	Matara	8
	Hambantota	2
Western	Colombo	7
	Gampaha	-
	Kalutara	4
Uva	Badulla	-
	Monaragala	1
Total		125

Exhibit 1: Districts in which the schools of the survey respondents were situated

Religious education is a standard part of the curriculum in a majority of the schools in Sri Lanka. Accordingly, a majority of the survey respondents (62%) indicated that it is compulsory for all the students to attend religious instruction classes at the school, while 7% stated that it was compulsory for only children from certain religious backgrounds, and 20% said it was not compulsory.

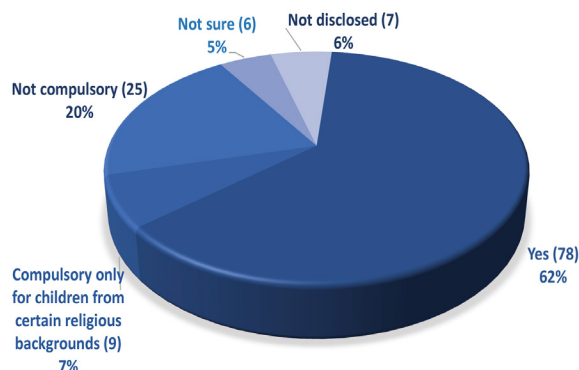


Exhibit 2: Responses to 'Is it compulsory for all students to attend religious instruction classes at your school?'

Furthermore, 79% of the survey respondents stated that all students in the school were allowed to attend religious instruction classes that align with their own/parent's. 6% stated that only some students have access to instruction in their own religion citing the primary cause for it as lack of qualified teachers for certain religions, limited student numbers from specific religious groups, and lack of government or school support for instruction in minority religions. One teacher of a government school in Batticaloa noted that since there was no Islam teacher at the school, the children study on their own during the subject period.

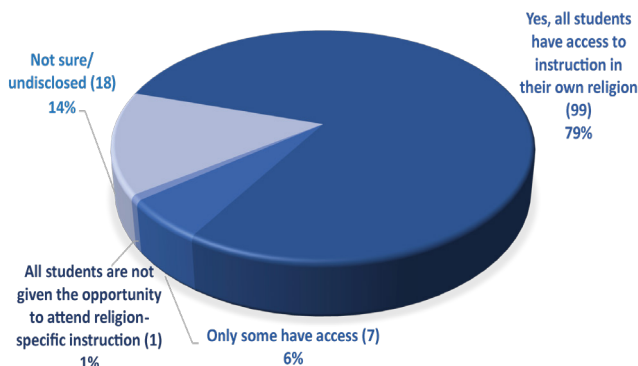


Exhibit 3: Responses to 'Are all students allowed to attend religious instruction classes that align with their own/parent's?'

17% of the survey respondents reported instances where students were pressured or coerced into participating in religious activities outside their own faith. These teachers taught in schools based in 14 districts - Mannar, Batticaloa, Kilinochchi, Hambantota, Ampara, Polonnaruwa, Kandy, Anuradhapura, Ratnapura, Vavuniya, Trincomalee, Kegalle, Galle, and Mullaitivu - indicating that coercion and violations of religious freedom in schools are not confined to a single locality. Specific examples provided by the teachers include attendance at Catholic mass for all students, compulsory attendance at Hindu, Muslim and Buddhist religious events, compelling Christian students to wear *pottus*, forcing non-Buddhist children to bring oil, flowers and incense sticks for Buddhist religious events and participate in them. One teacher from a government school in Ampara shared that a Hindu male student who wanted to attend Christian worship on a Friday and went to a Church was punished by a Hindu science teacher.

While schools play a crucial role in education and social development, they can also be places where authority is exerted, sometimes creating vulnerabilities among

different groups including religious or belief minorities. Schools should follow a “do no harm” approach, allowing children to participate in religious instruction voluntarily rather than being forced.⁷⁵

Article 18(2) of the ICCPR protects individuals from coercion in matters of religion or belief, **Article 18(4)** of the ICCPR protects the parents’ rights to educate their children according to their own religious convictions. With regard to the freedom to manifest one’s religion or belief, both its positive and negative aspects must be equally protected: the right to express one’s beliefs and the right to be free from any pressure, particularly from State authorities or within State institutions, to engage in religious activities against one’s will.⁷⁶

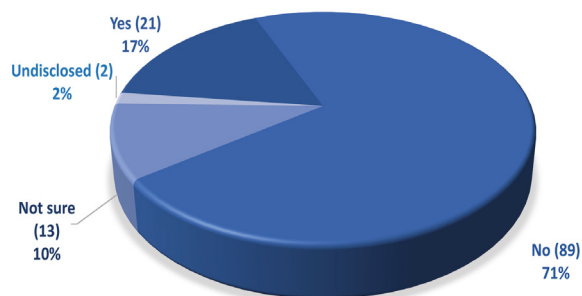


Exhibit 4: Responses to ‘Have there been any instances where students were pressured or coerced to participate in religious activities that do not belong to their own religion?’

While the majority of teachers (65%) did not observe a difference in restrictions based on gender, those who did highlighted specific challenges for female students, including those based on biological and attire-based factors. One teacher from a government school in Ratnapura mentioned that female students face restrictions entering Kovils during their menstruation period, and another teacher from a government school in Batticaloa stated that Muslim girls are not allowed to

wear scarves or jeans at school, and that children have to adjust their clothing (such as pulling up jeans) in ways they might find uncomfortable.

In several cases, the Supreme Court of Sri Lanka has affirmed the right of Muslim women to wear their traditional attire. For example, in *Fathima Sabira Shiam v. Principal, Yatiyantota Siriwardena Maha Vidyalaya and Others*⁷⁷, a Muslim student was prohibited from wearing her traditional dress on the basis that it conflicted with the Buddhist culture of the school. The Court directed the Secretary of the Ministry of Education to raise public awareness of Circular No. 37/95 dated 12 December 1995, which permits “female Muslim students to attend school in their cultural attire.”⁷⁸

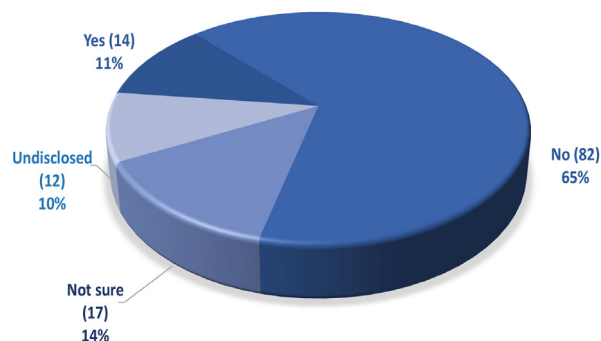


Exhibit 5: Responses to ‘In your experience or observation, do female children face different or additional restrictions on their Freedom of Religion or Belief compared to male children?’

When asked whether the teacher believed that children are entitled to choose or express their own religious beliefs at schools, 54% of respondents believed children have a right to choose or express their own religious beliefs, even if they differ from their parents’ views. 10% stated that children have a right to choose only from a certain age, with some specifying the ages as 6, 10, 12, 14 and 15.

According to the Committee on the Right of the Child, a child's views must be given appropriate consideration based on both their age and maturity, and their opinions must be seriously taken into account when they are capable of forming their own views. Age alone does not determine the weight of a child's views, as their ability to form views is shaped by various factors - including experience, environment, levels of support, social and cultural expectations - requiring a case-by-case evaluation of their capacity to express meaningful views.⁷⁹

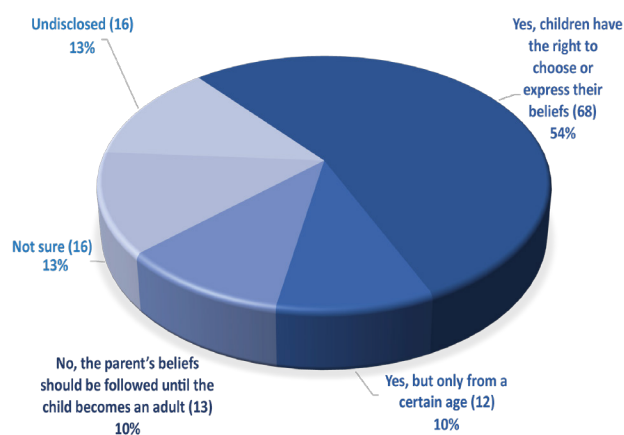


Exhibit 6: Responses to 'Do you believe that children are entitled to choose or express their own religious beliefs at school or outside, even if they differ from their parents' views?'

Student Autonomy vs. Parental Rights: In instances where the student's religious belief or preference differed from their parents, 18% stated that the school supported the parent's preference, while 12% stated that the school respected the student's choice.

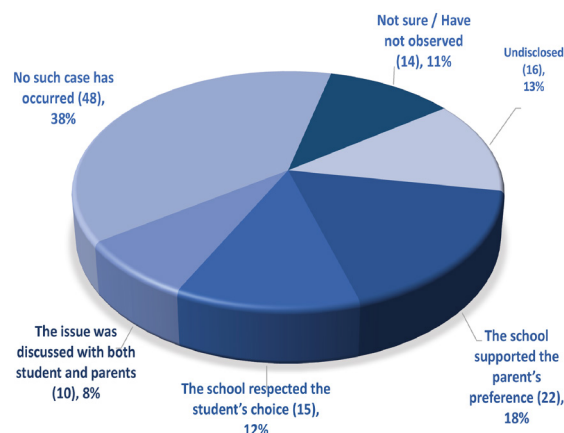


Exhibit 7: Responses to 'If a student's religious belief or preference differs from their parents', how has the school responded (if such a situation has occurred)?'

A majority of the teachers shared that their schools actively promoted a culture of religious respect and inclusion, with some mentioning that this was done through the celebration of all religious events with no bias towards particular religion, conducting inter-religious activities and festivals, and inclusion of daily religious observances in the mornings.

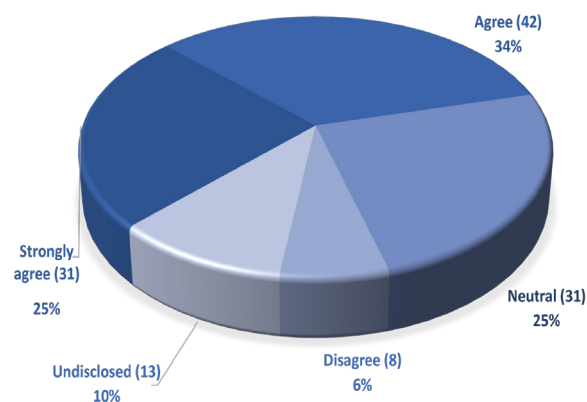


Exhibit 8: Responses to 'Do you feel the school actively promotes a culture of religious respect and inclusion?'

4

*School
Admissions
based on
Religious
Quotas⁸⁰*

4.1. Historical Background

In pre-colonial Sri Lanka, education was not administered through a centralised, State-controlled school system. Instead, learning was primarily provided by temples and institutions such as *pirivenas*, where instruction was offered to lay followers as well as novices preparing for Buddhist monastic life.⁸¹ This situation underwent a significant transformation during the colonial era. Under Portuguese rule in the maritime regions of Sri Lanka, Catholic missionaries, with the support of the colonial authorities, established a system of schools that provided a basic and uniform form of education to both males and females.⁸²

During the period of Dutch East India Company (VOC) rule in the maritime provinces, the Dutch colonial administration operated a network of schools that offered instruction in native languages, arithmetic, and Protestant Christianity.⁸³ The primary objective of this system was to educate students in Christian religion with the aim of propagating that religion whilst improving their skills in literacy and arithmetic.

When the British became the rulers of the Maritime Provinces in 1796 and the entire island in 1815, they introduced extensive and far-reaching educational reforms. While extending financial support to Christian missionary schools and encouraging the establishment of more and more such schools under State supervision, the British colonial administration also operated its own system of State-run schools.⁸⁴ Later the British colonial administration in Sri Lanka also extended financial support to the schools founded by the Hindus, Buddhists and Muslims in the second half of the 19th century without any discrimination.⁸⁵

During British colonial rule in Sri Lanka, the State-supervised school system consisted of government owned schools as well as assisted or denominational schools. Assisted or denominational schools were operated by Christian missions, Buddhist, Hindu, and Muslim organisations, as well as by certain individuals and societies, and were provided with government grants or financial assistance. Teacher training was provided through two types of institutions: government (State) teacher training colleges and denominational or assisted teacher training colleges.⁸⁶ As the following figures show, the number of government schools were much lower than that of the assisted schools during the British colonial rule in Sri Lanka:

Year	1905	1910
Government Schools	554	759
Assisted [Grant-aided] Schools	1582	1910

Exhibit 9: Number of Government Schools and Assisted Schools in 1905, 1910⁸⁷

The number of government schools, however, significantly increased in the decade 1920–30. During this decade, the number of government schools rose from 895 to 1395, whilst the number of assisted or denominational schools rose from 1868 to 2246.⁸⁸

The dual school system comprising the State owned schools and the assisted schools remained in existence even after the British colonial rule until 1960 when the assisted schools (except the schools which opted to remain independent without government subsidies) were taken over by the State upon the enactment of **Assisted Schools and Training Colleges (Special Provisions) Act No. 5 of 1960**

(ASTC Act 1960) and the **Assisted Schools and Training Colleges (Supplementary Provisions) Act, No. 8 of 1961** (ASTC Act 1961). However, a few leading schools in urban areas, mostly Catholic, opted to remain independent without State grants or subsidies.⁸⁹

The takeover of assisted schools in Ceylon in 1961 marked a significant turning point in the country's educational history. The transition from privately managed or assisted institutions to direct State administration cannot be viewed as a mere administrative process, but it involved complex legal issues and processes, protracted negotiations, and stiff resistance and opposition, particularly from the Catholic Church.⁹⁰ The ASTC Act 1960 and ASTC Act 1961 provided the statutory framework for this transformation, notwithstanding its controversial nature and ramifications, vesting these schools in the State without the payment of compensation. Of particular note is the provision that properties used for religious purposes shall be allowed for religious use by that particular religious body when the property is not needed for school activities.⁹¹ Furthermore, in order to avert widespread escalation of unrest, disharmony, and discontent arising from the takeover of assisted schools, the State, having recognised the sensitivities involved and the significant contribution of assisted Christian schools over more than 150 years to education, culture, and society, adopted a conciliatory and compromising measure. This measure was the introduction of a system of religious quotas in school admissions requiring the maintenance of the proportion of children belonging to different religions at the time of the school's vesting. Since the 1960s, the obligation for these religious ratios to be maintained have been repeated in

annual Ministry of Education circulars and Guidelines/ Instructions and Regulations regarding admission of Children to Grade I in Government Schools issued by the Ministry of Education.⁹²

For instance, the 2025 Circular⁹³ issued by the Ministry of Education provides that in filling vacancies in schools vested in the government under ASTC Act 1960 and ASTA Act 1961, the proportion of children belonging to different religions at the time of vesting the school in the government shall be taken into consideration and that the number of vacancies in the said school shall be accordingly divided among different religions and categories. The Circular further provides that when the number of applications is less than the number of vacancies set apart for a given category of a religion, remaining vacancies shall be proportionately divided among other categories of the same religion, and that when there are no applicants from a religion, such vacancies shall be proportionately divided among other religions.

Only about 52 denominational schools which were receiving financial assistance from the State, opted to operate as independent private schools after the State's take over of assisted denominational schools in 1961, without the right to receive State grants and or the right to levy fees from the students. Most of the schools were Catholic schools situated in the urban areas. Thus, after the State's takeover of schools, two types of schools could be seen in Sri Lanka's educational system, namely State schools and private independent schools. Without the State grants and without the right to levy fees from their students, most of these independent private schools had a difficult existence.⁹⁴ Some of these schools, owing to financial

difficulties, were handed over to the government after some time. This situation, however, changed after the United National Party government, which came to power at the 1977 General Election, in 1980 decided to extend financial assistance in the form of teachers' salaries to the independent private denominational schools. Except for a few elite independent schools, the remaining independent denominational schools began to receive State grants to cover the salaries of their teachers.⁹⁵ As a result, the national school system at present consists of (1) State-owned schools (government schools), (2) assisted private denominational schools (assisted schools) and (3) a few elitist private independent schools which do not receive State subsidies but manage on their own funds. The schools known as International Schools do not fall within the national school system and they do not fall within the purview of the Education Ordinance and are not supervised by the Ministry of Education.

4.2. An Analysis of Case Law

Over the past decades, in certain instances, some of these schools taken over by the State following the 1960 and 1961 Acts have failed to adhere to the aforementioned measure to maintain the religious ratios, and in some of these cases the students have come before the courts to seek justice.

This research study examined eight judgements of the Supreme Court judgements and Court of Appeal regarding school admissions and the religious quotas.

Supreme Court:

- *A B T Rasanga v Principal Kingswood College, Kandy et al* (2017)⁹⁶
- *B M Asiri Tharanga et al v Principal Kingswood College, Kandy et al* (2017)⁹⁷
- *R M Dayawathi v Principal Girls' High School, Kandy et al* (2018)⁹⁸
- *Darmaraja Nilithi Prasadi v Sandhya Airani, Principal Southlands College, Galle et al* (2023)⁹⁹

Court of Appeal:

- *N Anton Balasundaram v M Abeygunasekara, Principal Girls' High School Kandy et al* (2021)¹⁰⁰
- *W K Chandrika Sarojani De Silva v Principal Kingswood College, Kandy et al* (2023)¹⁰¹
- *Selvanayagam Gnanasegaran v M Abeygunasekara, Principal Kandy Girls High School et al* (2024)¹⁰²
- *T Udayasooriyan v M Abeygunasekara, Principal Kandy Girls High School et al* (2024)¹⁰³

In these cases, eight Christian children were initially denied admission to schools that were taken over by the ASTC 1960 and ASTC 1961. The petitioners - the parents/guardians of the children - claimed that they were entitled to a seat on the basis of the religious quota. As such, the crux of these cases revolved around the clauses found in the Ministry of Education's circulars and guidelines for Grade I admissions, which outlined filling vacancies based on the religious composition of students when the school was taken over.

For ease of understanding, this research study will provide a case brief of one judgement:

Case brief: Selvanayagam Gnanasegaran v M Abeygunasekara, Principal Kandy Girls High School et al (2024)

Facts:

- In 2018, 13 **Methodist Christian children were admitted to Grade 1** of the Kandy Girls' High School - a school vested in the State under the ASTC Act 1960 and ASTC Act 1961. The father of a Methodist Christian child who was not admitted to the school that year, filed an application before the Court of Appeal requesting the court to direct the school to admit the student based on the religious quota.
- Ministry of Education circular No. 22/2017 stated as follows:

3.2. In filling vacancies in schools vested to the government under Assisted Schools and Training Schools (special provisions) Act No. 05 of 1960 and Assisted Schools and Training Schools (supplementary provisions) Act No. 08 of 1961,

(i) the proportion of children belonging to different religions at the time of vesting the school to the government will be taken into consideration and

(ii) the number of vacancies in the said school shall be accordingly divided among different religions and categories.

(iii) When the number of applications is less than the number of vacancies set apart for a given category of a religion, remaining vacancies shall be proportionately divided among other

categories of the same religion.

(iv) When there are no applicants from a religion, or when the number of applications from a religion is less than the number of vacancies set apart for that religion, such vacancies shall be proportionately divided among other religions.¹⁰⁴

Calculating the religious quota:¹⁰⁵

- At the time the school was vested in the State in 1961, the percentage of Christian children (including Methodists and other Christian denominations) in the school was 38.46%.
- In 2018, the school had 190 vacancies, with 25 reserved for military personnel, leaving 165 vacancies for general categories (proximity, old girls, etc.)
- 38.46% of the 165 vacancies = 64 Christian students
- In 1961, the Methodist students constituted 21.73% of the school's total Christian student population.
- 21.73% of the 64 Christian students = 13.91 = 14 Methodist students
- Thereby, the court calculated that **14 students of the Methodist denomination should have been admitted.**

Decision:

- The court issued a writ of Certiorari to quash the rejection letter and the decision to reject the admission of the child to the school.

- *The court also issued a writ of Mandamus directing the school and the Ministry of Education to admit the child to the school.*

When analysing the 08 judgements, it was observed that in all Court of Appeal cases, Writs of Mandamus were issued compelling the children to be admitted to the schools, and in 03 cases Writs of Certiorari were issued to quash the decisions of the schools to not admit the children. These Writs were primarily issued on grounds of *ultra vires*, unreasonableness, proportionality, irrationality, and abuse of discretion, including the errors in calculating religious ratios. Significantly, in the case of *T Udayasooriyan v Principal Kandy Girls High School (2024)*, the court held that **the child was entitled to admission as a matter of right** - an example where Writs intersect with rights.

In the Supreme Court cases, relief was sought concerning an alleged breach of the Fundamental Right to Equality under **Article 12(1)** of the Constitution. In three of the cases,¹⁰⁶ the Supreme Court found a violation of **Article 12(1)** and directed the children to be admitted to the school. The application of **Article 12(1)** in these cases reflects a broader judicial trend of adopting a conception of substantive equality - one that is expansive and progressive - to protect individuals from arbitrary, unreasonable and capricious executive and administrative action.¹⁰⁷

In several judgments, the court upheld the mandatory nature of the religious quota. In *B M Asiri Tharanga v Principal Kingswood College (2017)*, Her Ladyship S. Eva Wanasundera PC. J. observed that **a Christian child is entitled to admission provided that the number of Christian students already enrolled does not exceed**

the allocated quota for that religious category, and affirmed that '[n]obody can ignore the law provided by two Statutes of Parliament, namely, Act No. 5 of 1960 and Act No. 9 of 1961. **The School authorities and the Ministry of Education cannot turn a blind eye to the provisions of law already in force**' (emphasis added).¹⁰⁸ In *A B T Rasanga v Principal Kingswood College, Kandy (2017)*, the court found that the school principal had violated the petitioner's fundamental rights under **Article 12(1)** of the Constitution by acting in an arbitrary and unreasonable manner, noting that the child fell well within the quota allocated for Christian students, based on the proportion of children belonging to Christianity at the time the school was vested. Furthermore, in *Selvanayagam Gnanasegaran v M Abeygunasekara, Principal, Kandy Girls High School (2024)*, it was held that the religious quota functions not only as a special factor but also as a separate tier of admission, which has an overarching effect on categories such as 'proximity,' 'old girl,' 'sibling,' and 'transfers due to service requirements'. while establishing that a child must still satisfy a minimum requirement under a category. His Lordship D. Nihal Samarakoon, J. underscored that the religious quota 'is a "**dedication in perpetuity**" made in the name of religious faith, history, and culture' (emphasis added),¹⁰⁹ safeguarded under **Article 167** of the Constitution of Sri Lanka.¹¹⁰

The aforementioned case *Selvanayagam Gnanasegaran v M Abeygunasekara, Principal, Kandy Girls High School (2024)* deviated from the Supreme Court judgment of *R M Dayawathi v Principal Girls' High School, Kandy (2018)* which concerned the same school. In *R M Dayawathi v Principal Girls' High School, Kandy*, it was held that a child does not have the right to gain admission to a school solely on the

basis of religion, and that the applicant should meet the minimum qualifications for admission under the respective category (e.g. proximity). His Lordship B. P. Aluwihare PC. J. stated, '[t]he religious quota is a special factor for consideration - and not a separate tier of admission. It does not make eligible an otherwise ineligible applicant'¹¹¹. This reasoning in *R M Dayawathi v Principal Girls' High School, Kandy* was also followed in *N Anton Balasundaram v M Abeygunasekara, Principal, Girls' High School Kandy (2021)* with His Lordship Sobhitha Rajakaruna, J., whilst, holding it is mandatory that: (i) the cut off mark for students applying solely under the respective category and (ii) the cut off mark for students seeking admission on a religious basis as well under the same category, should be distinct and assessed proportionately in a fair manner.¹¹²

It is noteworthy that in all eight cases, no orders regarding costs were issued. Only in *B M Asiri Tharanga v Principal Kingswood College, Kandy (2017)*, did the court provide an explanation stating that:

[The child] would have to look up to his Alma Mater in the future of his life on earth as his second mother from whom he would not only get educated and gain knowledge but also gain moral discipline with regard to doing the right but not the wrong in life.¹¹³

Implications on Freedom of Religion or Belief

Many of these judgments carry significant and positive implications for the legal framework in Sri Lanka and the practical realisation of Freedom of Religion or Belief, affirming the preservation of religious quotas in government-vested schools and ensuring that students from religious minorities are not denied access

to such institutions. However, despite multiple judicial rulings confirming the mandatory maintenance of religious quotas, such cases continue to recur due to failures by authorities to uphold the law and protect the rights of children. According to a lawyer, officials often find loopholes and exploit technicalities - such as missing deeds or additional documents to prove residency - to refrain from admitting children, rather than taking a holistic approach; and he suggested that government officials should be formally advised of their obligations.¹¹⁴

Moreover, the cases that have reached higher courts likely represent only a fraction of the broader problem, as many families may lack the means to seek judicial remedies. As her Ladyship S. Eva Wanasundera PC. J. observes:¹¹⁵

The People of this country have a right to canvass their fundamental right before the Supreme Court but the question which cannot be answered is 'how many of them can afford to come to the Supreme Court'? Moreover, when the authorities are ignoring what is laid down as the law of the country, how can the people be expected to get their rights?



5 *Cultural and Religious Practices affecting Children*

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Article 5(5):

Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development.

Certain cultural practices that are linked to a religious community are often seen as falling under the right of externally manifesting their religious beliefs. While it is important to respect and preserve a child's religious and cultural identity, practices that are not in the best interest of the child and deny the rights afforded in the CRC do not fall within the protections afforded under religious freedom according to international standards. According to the Committee on the Rights of the Child, all children are entitled to all the rights enshrined in the CRC and references to culture or religion cannot be used as a justification for laws, policies or practices that prevent the child from getting their full human rights.¹¹⁶ Such disputed practices include the radicalisation of children to adopt extreme views, female genital mutilation or cutting, child marriage, ordaining of child monks and the refusal of medical care to children due to religious reasons.

5.1. Female Genital Mutilation or Cutting

Female Genital Mutilation or Cutting (FGM/C) encompasses any procedure that partially or completely removes external female genital organs, or otherwise harms them, for non-medical reasons. The World Health Organization (WHO) classifies FGM/C into four major types:¹¹⁷

1. Type 1 (Clitoridectomy): Partial or total removal of the clitoral glans and/or the clitoral hood.
2. Type 2 (Excision): Partial or total removal of the clitoral glans and the labia minora, at times along with the removal of the labia majora.
3. Type 3 (Infibulation): Narrowing of the vaginal opening by creating a covering seal, often through repositioning the labia.
4. Type 4: All other harmful procedures for non-medical purposes, such as pricking, piercing, incising, scraping, and cauterizing the genital area

In Sri Lanka, FGM/C is practiced by some within Muslim communities, including the Sri Lankan Moors, Malays, and the Dawoodi Bohra and the most commonly practiced forms appear to be Type 1 and Type 4.¹¹⁸ The effects of FGM/C include both physically and psychologically complications, including infections, diminished sexual sensation and emotional trauma.¹¹⁹

The procedure, mostly performed on infants and young children without their informed consent, is considered a violation of their rights and violation of health, bodily autonomy and safety.¹²⁰ The practice is said to be carried out in secret by traditional practitioners known as "Ostha Maamis" (or Osthi Mamis), who are often elderly, medically untrained women who have passed down the skill through generations, and in some cases by medical practitioners.¹²¹

In 2018, the Ministry of Health in Sri Lanka acknowledged FGM/C as a harmful traditional practice. In May 2018, the Ministry of Health issued a general circular¹²² prohibiting medical practitioners from any involvement in the practice, characterising it as a human rights violation

with no medical benefit. The circular also emphasised that the practice could lead to both short and long term physical and psychological harm, and that it could also be considered as torture under the Children's Charter. Furthermore, it warned of disciplinary action against any Medical Professional practicing or promoting it. The circular was, however, met with opposition from certain Muslim groups that called for the circular to be withdrawn arguing it to be an infringement of their religious rights.¹²³ Subsequently, the circular was reportedly removed from the Health Ministry's website.¹²⁴

Proponents of the practice often view it as a religious obligation, and in 2008, the All Ceylon Jamiyyathul Ulama (ACJU), regarded as the Supreme Council of Muslims in Sri Lanka, issued a *fatwa* (an Islamic ruling) making female circumcision compulsory.¹²⁵ Beyond perceived religious mandates, cultural justifications for FGM/C include the control and suppression of female sexuality to ensure modesty and sexual morality, to maintain cleanliness, along with social conformity driven by pressure from family elders. However, some Islamic religious scholars in Sri Lanka have opposed the practice of FGM/C stating that the practice of FGM/C is not mentioned in Islamic scripture.¹²⁶

While there is no specific law criminalising FGM/C in Sri Lanka, it can fall under **Sections 308(A) and 311 of the Penal Code** related to cruelty to children and grievous hurt respectively. Furthermore, FGM/C violates the right to equality and non-discrimination under **Article 12 of Sri Lanka's Constitution** and having ratified CEDAW¹²⁷ and the CRC¹²⁸, the State is also obligated to eliminate harmful and discriminatory customs and traditions. In 2008, the World Health Assembly adopted

Resolution WHA61.16 calling for the eradication of female genital mutilation.¹²⁹

5.2. Child Marriage

The **Muslim Marriage and Divorce Act of 1951 (MMDA)** legitimises child marriage in Sri Lanka by failing to stipulate a minimum age of marriage for males, while for females, it permits the marriage of girls under the age of twelve subject to the authorisation of a Quazi following a formal inquiry under **Section 23**. As such, the MMDA is inconsistent with the principle of the best interests of the child. Moreover, even if the Quazi has not approved the marriage, it can still be considered valid under **Section 16** of the MMDA if it follows the Muslim law of the couple's sect.¹³⁰

***Section 23 of the Muslim Marriage and Divorce Act 1951 -** Notwithstanding anything in section 17, a marriage contracted by a Muslim girl who has not attained the age of twelve years shall not be registered under this Act unless the Quazi for the area in which the girl resides has, after such inquiry as he may deem necessary, authorized the registration of the marriage.*

Furthermore, the MMDA also contains several provisions discriminatory towards females that contravene Sri Lanka's international obligations under CEDAW, including the absence of mandatory written consent from the bride, the practice of polygamy, arbitrary maintenance awards determined by Quazis and unequal divorce rights that negatively impact the rights and well-being of Muslim women and children.¹³¹ While the MMDA violates the fundamental right to equality, **Article 16(1) of the Sri Lankan Constitution**, which protects any written or unwritten law existing prior to

1978, shields it from being challenged as unconstitutional. Calls for MMDA reforms have persisted for decades with little progress, and the most recent development is the establishment of an Advisory Committee on Muslim Law reforms by the current Ministry of Justice.¹³²

It is also concerning that **Section 363(e) of the Penal Code** criminalises sexual intercourse with girls under 16, **with the exception of a wife who is over 12 years old and not judicially separated from her husband**. This provision effectively legitimises child marriage under the MMDA undermining child protection, bodily autonomy, and compliance with international child rights standards.

Section 363 of the Penal Code:

A man is said to commit “rape” who has sexual intercourse with a woman under circumstances falling under any of the following descriptions— (e) with or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.

Child marriage is often driven by socio-economic poverty, along with cases where parents tend to rush the marriage in order to evade anticipated legal reforms, and instances to safeguard family honor following instances of teenage pregnancy or statutory rape.¹³³ A human rights activist shared,¹³⁴ ‘In certain contexts, child marriage is also utilised as a form of punishment, particularly when young people engage in romantic relationships. In these instances, families may compel the individuals to marry as a means of addressing perceived social transgressions. This practice is also seen in cases of sexual violence, where a survivor is forced into what is termed a reparative marriage with

the perpetrator. By prioritising concepts of “family honor” over the well-being of the victim, these forced unions can result in a lifetime of continued trauma for the child involved. Under the MMDA, these grave violations of children’s rights have been effectively legitimised.’¹³⁵

Child marriage disproportionately affects girls, disrupting their education and rendering them financially dependent and economically disadvantaged. It also exposes them to early pregnancy, heavy household responsibilities, and physical and psychological trauma from domestic violence, which in some cases have led to physical and psychological trauma, and divorce, which carries social stigma.¹³⁶

While the **Marriage Registration Ordinance, No. 19 of 1907 (as amended)** (MRO), specifies that every male and female is required to attain the age of eighteen in order to contract a valid marriage with a person of their choice, in its long title the MRO explicitly states that the MRO does not apply to the marriages between two Muslims. Muslims, however, are allowed to marry partners from a different ethnicity or religion under the MRO.¹³⁷ It should be noted that child marriage persists in non-Muslim communities as well, through the submission of false documents to bypass the legal registration requirements or through customary ceremonies.¹³⁸

5.3. Child Ordination

Child ordination is the process where children enter the Buddhist monastic order as novice monks or nuns. The ceremony includes shaving the child’s head, wearing saffron robes, adopting a new religious name, and committing to follow the Ten Precepts, which include the prohibition of

eating after midday and entertainment.¹³⁹ The process includes a probationary period in a temple to learn monastic practices before formal ordination.¹⁴⁰ Historical and scholarly sources vary regarding the minimum age for ordination, with some interpretations placing it between six and eight, while some interpret it as fifteen years.¹⁴¹ The reasons for child ordination include spiritual development and merit, access to education, relief from poverty, or to address perceived astrological concerns.¹⁴² In Sri Lanka, the practice is reinforced by State support, including constitutional protections for Buddhism under Article 9. For example, in the mid-1980s, a prime minister launched a campaign to ordain 2,300 children to commemorate the 2300th anniversary of the introduction of Buddhism to Sri Lanka.¹⁴³ A similar campaign to ordain 2600 children in 2010 by the prime minister DM Jayaratne to mark the 2600th anniversary of the Buddha's enlightenment was met with opposition by child rights activists.¹⁴⁴ In 2026, the Cabinet approved the "Yathivara Mapiya Nivahana" program to build 1,000 houses for low-income families who have dedicated their children to the Buddhist priesthood, in recognition of their support for the Buddhist Sasana.¹⁴⁵

While child ordination has deep religious and cultural roots, it intersects with significant child welfare and rights considerations under the CRC. Reports indicate risks of physical and sexual abuse,¹⁴⁶ and unsafe living conditions,¹⁴⁷ and raises nutritional concerns due to fasting rules. Furthermore, ordination restricts access to leisure activities, affecting children's right to rest and play, and involves substantial changes to personal identity, including name changes and religious commitments, raising questions of autonomy, consent and psychological maturity to make such

decisions. Such practices, therefore, need to be regulated and regularly monitored by State institutions to protect the welfare of children, including setting a minimum age for ordination and periodically confirming their willingness to continue.

5.4. Refusal of Medical Care to Children due to Religious Reasons

Some religious communities advocate for faith-based healing and may discourage the use of medical treatment, including vaccines, even in life-threatening situations. In certain instances, such practices have resulted in harm to children. For example, in Sri Lanka, a 10-year-old child reportedly died after being denied medical treatment due to the family's adherence to faith healing practices.¹⁴⁸

Similarly, members of religious groups such as Jehovah's Witnesses may refuse blood transfusions based on their interpretation of religious doctrine. While adults who possess the mental autonomy, capacity and competence could refuse medical treatment, including life-saving interventions, a different standard applies in the case of children.

In Sri Lanka, rules of medical ethics place a primary duty on doctors to act in the best interests of the child. In situations involving minors, particularly in medical emergencies, doctors have to proceed with life-saving treatment, including blood transfusions, even in the absence of parental consent or where such consent is refused on religious grounds. Such actions may be upheld by courts, which recognise the best interests of the child as a paramount consideration. Where time permits, doctors, a relative, or someone acting in the public interest may make such an application to a court of law.

The courts, being the guardians of persons who are incapable of caring for themselves (*parens patriae*), such as children, may make an order in the best interests of the child.¹⁴⁹

Although there are no decided cases reported in Sri Lanka's law reports on the parents' or a child's consent or refusal of medical treatment involving a child, courts in the United Kingdom have consistently affirmed that parental or child objections to life-saving treatment may be overridden where necessary to protect the child's life.¹⁵⁰ In *Re W (A Minor)*, Nolan LJ observed: 'the present state of the law is that an individual who has reached the age of 18 is free to do with his life what he wishes, but it is the duty of the court to ensure so far as it can that children survive to attain that age.'¹⁵¹



6

Recommendations

This section provides a list of recommendations for the Ministry of Education, schools and the State:

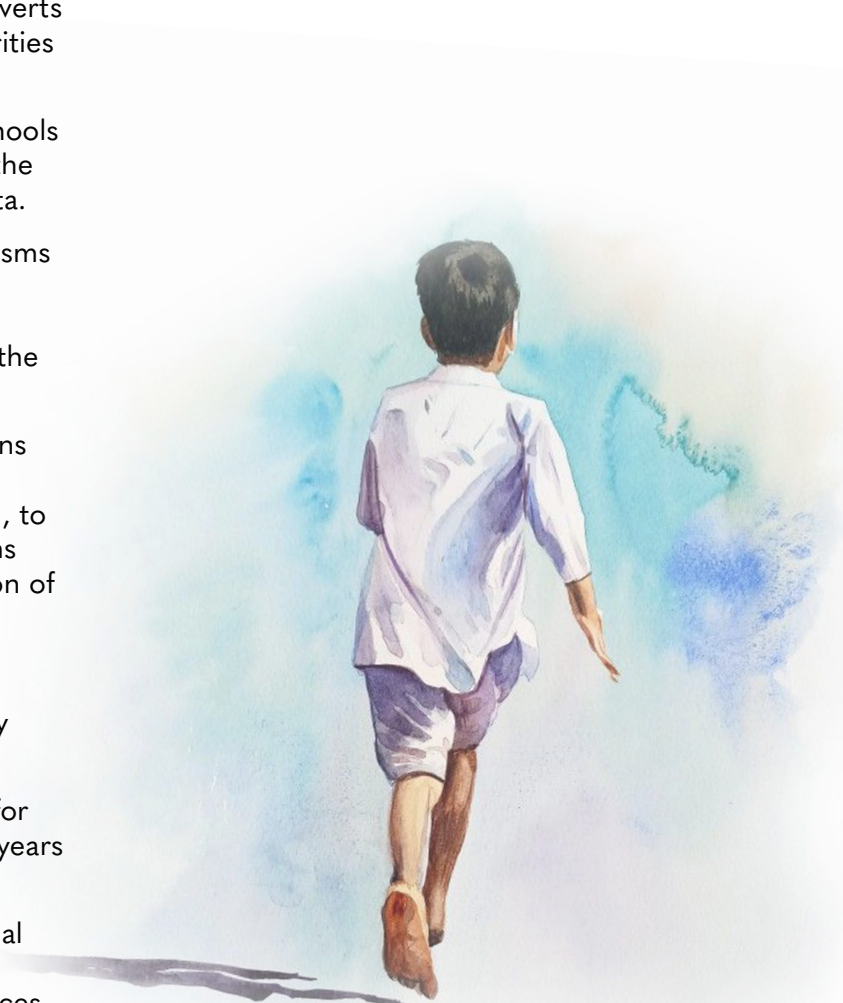
For the Ministry of Education and schools:

1. Ensure that children are not forced to take part in religious instruction or activities or observances at school against their own wishes or those of their parents or legal guardians.
2. Provide training for education practitioners on religious freedom of children and parental rights, emphasising in particular the needs and challenges of children of converts and children from religious minorities in the school.
3. Provide training for officials in schools that were vested in the State on the maintenance of the religious quota.
4. Establish clear reporting mechanisms to identify and monitor violations of children's right to Freedom of Religion or Belief, while ensuring the protection of their rights.
5. Partner with faith-based institutions and religious leaders to facilitate volunteer-led religious instruction, to ensure that children of all religions have access to religious instruction of their choice.

For the State:

6. Enact the CRC as a parliamentary act.¹⁵²
7. Establish the minimum legal age for marriage under the MMDA at 18 years for all individuals.
8. Amend Section 363(e) of the Penal Code of Sri Lanka to abolish the marital exception for sexual offences involving minors and ensure full protection for all children under 18.

9. Introduce laws for the prevention of the practice of FGM/C, while increasing awareness regarding its physical and psychological harm and long-term consequences.
10. Establish regulations and conduct regular monitoring of young children ordained as monks, including setting a minimum age for ordination and periodically confirming their willingness to remain.



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