

# From Fear to Violence: Religious Attacks in Sri Lanka

A Legal Analysis of Incidents:  
November 2023 to October 2024



February 2025



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# Introduction

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The National Christian Evangelical Alliance of Sri Lanka (NCEASL) documents incidents of attacks against persons and groups on the basis of their religious identity. During the period November 2023 to October 2024, it documented over 100 such incidents. Many of these incidents potentially constitute violations of Sri Lankan law, including Sri Lanka's Constitution and penal legislation.

NCEASL retained a team of lawyers to analyse each of the incidents reported by NCEASL to assess their legal ramifications. Attorneys-at-law Malsirini de Silva and Avishka Jayaweera are the principal authors of this study. Januki Jayakody designed the cover page and provided editorial and design support. In setting out the contextual framework for the analysis, and framing conclusions, the team relied on the published and unpublished scholarship of legal academics including attorney-at-law Gehan Gunatilleke.

This study is presented in four sections. The first sets out the methodological approach adopted in the legal and quantitative analysis of incidents. The second explains the specific elements of the legal framework, which forms the frame of reference for the analysis of incidents. Each legal provision that is relevant to the analysis is dissected and explained. The third section presents a legal analysis and quantitative account of the incidents based on the data provided by NCEASL. The final section presents the conclusions emerging from the legal and quantitative analysis of incidents.

The main conclusion emerging from the analysis of incidents is that specific religious groups confront specific types of attacks, and that the types of attacks faced by each religious group correspond to the nature of the 'existential fear'<sup>1</sup> underlying the perpetrator group's actions. The study also finds that the continuing impunity of state actors involved in religious attacks and the erosion of the Rule of Law perpetuate the entrenchment of these existential fears.

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<sup>1</sup> This study relies on the Gehan Gunatilleke's analysis of existential fears among communities in Gehan Gunatilleke, 'Fear, Radicalism and Violence: Sri Lanka's Cyclical Crisis' in Farahnaz Ispahani (ed.), *The Politics of Hate: Regional Majoritarianism in South Asia* (HarperCollins 2023).

# 1. Methodological Approach

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The methodological approach adopted in this study entailed two stages.

## Stage 1: Data gathering and the compilation of a database that categorises incidents

Based on NCEASL's incident reports, a database was compiled to categorise each incident involving an attack on a person or group on the basis of their religious identity. LIMITATION: The universe of incidents analysed in this study is not necessarily representative of the prevailing situation in Sri Lanka or in any particular location in Sri Lanka. It is confined to the incidents that are detected through NCEASL's network of monitors in specific locations. There may be many more incidents of religious attacks that have not been detected by this network. Therefore, the quantitative analysis presented in this study should be understood as an *impression* of the ground situation and not necessarily an accurate representation of it.

During the data gathering stage of study, the following information with respect to each incident was recorded to compile a database:

1. Date of incident;
2. Location of incident, i.e., province, district, and division;
3. The religious identity of the person or group targeted by the violence or intimidation;
4. The type of perpetrator, i.e., state official (whether police, armed forces, local authority official, other official), religious actor, private individual, or non-state organisation;
5. The religious identity of the perpetrator;
6. A summary of the salient facts;
7. Type of alleged attack, i.e., whether it is a violation of some aspect of the freedom of religion or belief (FoRB); discrimination on the grounds of religious identity, or another type of attack (physical violence, destruction of property, threat or intimidation, or other type of non-physical attacks) on the basis of religious identity;
8. The relevant legal provision that is potentially violated:
  - a. The Sri Lankan Constitution (articles 10, 12(2) and (3), or 14(1)(e));
  - b. The Penal Code (sections 290, 290A, 291, 291A, 291B, 292, 310-13, or 483);
  - c. The International Covenant on Civil and Political Rights (ICCPR) Act (section 3(1));
  - d. The Police Ordinance (section 79(2));
  - e. The Computer Crimes Act; or
  - f. The Online Safety Act.

## Stage 2: A legal analysis of the incidents

During its analytical stage, the study assessed the incidents categorised in the database and generated a quantitative breakdown of the various categories. It then assessed each incident in terms of the elements of specific provisions of Sri Lankan law that protect persons and groups on the basis of their religious identity.

Based on this assessment, this study offers a legal opinion on whether an incident potentially constitutes a violation of a fundamental rights guaranteed by the Sri Lankan Constitution or an offence under Sri Lankan law. It should be noted, however, that such an opinion was provided based on the information made available to the team and cannot be considered a factual conclusion with respect to the occurrence of a fundamental rights violation or an offence under Sri Lankan law.

Based on the legal analysis of reported incidents, the study then offers broader conclusions on the religious attacks that took place in Sri Lanka between November 2023 and October 2024.

## 2. The Legal Framework

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This study focuses on 'attacks' on a person or group on the basis of their religious identity. The term 'attack' is used as an umbrella term to capture a number of acts, practices and policies that causes some form of harm to persons or groups on the basis of their religion. The term covers the following categories:

1. Violations of a person's or group's FoRB;
2. Discrimination against a person or group on the basis of religious identity;
3. Physical violence against a person or group on the basis of their religious identity;
4. Damage to property on the basis of the religious identity of the property's owners or users;
5. Incitement to discrimination, hostility or violence against a person or group on the basis of their a religious identity;
6. Non-physical violence (such as threats or intimidation) against a person or group on the basis of their religious identity;
7. Causing any other types of non-physical attacks (such as a public nuisance or outraging religious feelings) against a person or group on the basis of their religious identity.

Sri Lanka's legal framework offers protection to persons and groups from each of the above categories of attacks. The subsections below dissect and explain these legal provisions.

### 2.1 Violations of FoRB: Articles 10 and 14(1)(e) of the Constitution

FoRB contains a number of aspects. It first entails the freedom of a person to have or adopt (and therefore change) a religion or belief. This aspect of FoRB is guaranteed by article 10 of the Sri Lankan Constitution. Article 10 provides:

**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.**

FoRB also entails the freedom of a person, either individually or together with others, to manifest their religion or belief through worship, observance or teaching. Article 14(1)(e) provides:

**[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.**

The terms 'worship', 'observance', 'practice' and 'teaching' may be understood by referring to the explanations offered by the United Nations (UN) Human Rights Committee in General Comment No 22 – Article 18 (Freedom of Thought, Conscience or Religion):<sup>2</sup>

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<sup>2</sup> United Nations Human Rights Committee in General Comment No 22 – Article 18 (Freedom of Thought, Conscience or Religion) (30 July 1993), CCPR/C/21/Rev.1/Add.4, para 4.



**Worship:** extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest.

**Observance and practice:** include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group.

**Practice and teaching:** include acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

There may be some overlap between these concepts. Meanwhile, the Supreme Court in the case of *Karuwalagaswewa Vidanelage Swarna Manjula et al v. Pushpakumara, Officer-in-Charge, Police Station, Kekirawa et al* (the Jehovah's Witnesses Case),<sup>3</sup> concluded that 'propagation' did not fall within the protected scope of article 14(1)(e) of the Constitution. However, this position may not be in line with international legal doctrine on the scope of FoRB. For instance, the ability to distribute publications about one's religion is often a fundamental aspect of manifesting religion or belief and may be treated as falling within the scope of 'teaching'. According to the UN Human Rights Committee in General Comment No. 22, practice and teaching include '*the freedom to prepare and distribute religious texts or publications*' (emphasis added). While such distribution cannot impede the rights and freedoms of others, and cannot be coercive, it would appear that propagating one's religion is in fact within the scope of FoRB.

The Sri Lankan Constitution, in articles 17 and 126(2), only provides a remedy to a victim if the violation of their fundamental right is carried out by an executive or administrative actor of the state. Therefore, some acts by private actors, which ostensibly violate rights including the right to FoRB or non-discrimination, may not fall within the scope of article 17, and would not attract a remedy before the Supreme Court of Sri Lanka. For the purpose of this study, the team counted and analysed incidents in which private actors were involved in the violation of fundamental rights while noting the potential absence of a remedy under article 17.

While the state cannot impose legitimate restrictions on the right guaranteed by article 10, the rights guaranteed under article 14(1)(e) may be subject to restrictions under article 15(7) of the Constitution. Article 15(7) provides:

**The exercise and operation of all the fundamental rights declared and recognized by [Article 14] shall be subject to such restrictions as may be**

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<sup>3</sup> SC (F.R) No. 241/14. See Gehan Gunatilleke, 'The Jehovah's Witnesses Case', (2020) 25 *The Bar Association Law Journal* 440.

**prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph “law” includes regulations made under the law for the time being relating to public security.**

Therefore, the freedom to manifest religion or belief may be restricted for legitimate reasons, provided the restriction is imposed by an Act of Parliament or an emergency regulation issued under the Public Security Ordinance, No. 25 of 1947.

The term ‘law’ in article 15(7) should be interpreted in terms of article 170 of the Constitution, which provides:

**“law” means any Act of Parliament and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order in Council.**

Article 170 of the Constitution also provides:

**“written law” means any law and subordinate legislation and includes statutes made by a Provincial Council, Orders], Proclamations, Rules, By-laws and Regulations made or issued by any body or person having power or authority under any law to make or issue the same.**

Notably, an instrument used to restrict a fundamental right should fall within the ambit of ‘law’ and not ‘written law’. In *Thavaneethan v. Dayananda Dissanayake*,<sup>4</sup> the Supreme Court clarified that the term ‘law’ found in article 15(7) of the Constitution is restrictively defined in article 170 to mean Acts of Parliament and Orders-in-Council and is only extended to include emergency regulations issued under the Public Security Ordinance. While in *Faril et al v. Bandaragama Pradeshiya Sabha et al*<sup>5</sup> the Court dismissed the petitioner’s argument that a circular does not come within the definition of ‘law’, the Court cited an interpretation of law relevant to article 12 of the Constitution, and the question of interpreting the term ‘law’ in article 15(7) as set out by the same Court in *Thavaneethan v. Dayananda Dissanayake* was not dealt with. Thus, the team was of the view that the said decision in *Thavaneethan v. Dayananda Dissanayake* reflects the prevailing law with regard to article 15(7).

The Supreme Court has, additionally, held that any restriction of a fundamental right must comply with the criteria of rationality, necessity, and reasonableness. With respect to the criterion of rationality, the Supreme Court has observed that there must be a proximate or rational nexus between the restriction on a citizen’s fundamental right and the object that is ought to be achieved by the restriction.<sup>6</sup> With respect to the test of necessity, the Court has found that the criterion ‘involves a review of whether the restrictions are

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<sup>4</sup> [2003] 1 Sri.L.R. 74, 97-98.

<sup>5</sup> S.C (FR) Application No. 92/2016.

<sup>6</sup> See *Joseph Perera v. the Attorney-General and Others* [1992] 1 Sri.L.R 199, at 217.

proportionate to the legitimate aim pursued'.<sup>7</sup> It was also held that 'the sweeping nature of the restriction can make it over-broad and disproportionate'.<sup>8</sup> In terms of the criterion of reasonableness, the Supreme Court has held: 'If this Court is satisfied that the restrictions are clearly unreasonable, they cannot be regarded as being within the intended scope of the power under Article 15(7)'.<sup>9</sup> These standards were recently endorsed by the Supreme Court in the *Local Authorities Elections (Special Provisions) Bill Determination*.<sup>10</sup> Therefore, each restriction of a fundamental right must be: (1) provided by law; (2) necessary and have a rational nexus to a legitimate aim (such as public order or public health); and (3) reasonable.

In assessing whether a particular reported incident may constitute a violation of article 14(1)(e), the study first assesses whether the conduct of the targeted person or group falls within the scope of the fundamental right. If the right concerns the right to the freedom to manifest religion or belief, the study then assesses whether the conduct of the state is permissible in terms of the authority of the state to impose legitimate restrictions on this right. The study opines whether a violation may have taken place once these analytical steps have been completed.

A typical FoRB violation would be the following scenario. Weekly religious worship is conducted by a pastor at his house for a small congregation. The neighbours have lodged a complaint with the area police about this weekly gathering. As a result, a police officer visits the pastor and makes inquiries about whether the pastor has registered his residence as a place of worship. The pastor responds stating that he has not undergone such a registration process. The police officer then makes reference to a circular titled 'granting approval to build and run new religious centres' issued by the Ministry of Religious Affairs. According to this circular, registration with the District Secretariat is required when establishing new religious centres, places of worship, and prayer centres. The police officer states that the pastor must discontinue holding worship services in his residence until he has obtained the registration as per the circular.

In analysing the above scenario, the first step would be to assess whether conduct of the targeted person or group falls within the scope of the fundamental right. Here, the pastor was conducting worship services for his congregation which falls within the scope of article 14(1)(e). The subsequent order by the police officer to refrain from conducting worship service until the registration requirement is satisfied as per the circular amounts to a restriction on FoRB, as it places a restriction on both the pastor's and the congregation's freedom to manifest their religion.

An assessment must now be made on whether the conduct of the state is permissible in terms of the authority of the state to impose legitimate restrictions on FoRB. The source of restriction in this scenario is a state issued circular. According to the Constitution, article 15(7) provides that restrictions must be 'prescribed by law'. The key question then is

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<sup>7</sup> *Sunila Abeysekera v. Ariya Rupasinghe, Competent Authority and Others* [2000] 1 Sri.L.R. 314, at 375.

<sup>8</sup> *Ibid*, at 374.

<sup>9</sup> *Wickramabandu v. Herath and Others* [1990] 2 Sri. L.R. 2 348, at 359.

<sup>10</sup> S.C.S.D No. 01/2025-04/2025.

whether the circular constitutes 'law'. Article 15(7) provides that 'For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security'. However, the circular is not such an instrument. Accordingly, the circular does not fall within the category of permitted instruments under article 15(7) and fails the requirement that the restriction must be 'provided by law'. Therefore, the use of the circular as the basis on which the pastor is prevented from holding worship is a violation of article 14(1)(e). Furthermore, as a police officer was involved in causing this violation, it constitutes executive action and falls within the scope of articles 17 and 126(2) of the Constitution. Therefore, a remedy before the Supreme Court of Sri Lanka may lie.

## 2.2 Discrimination: Articles 12(2) and (3) of the Constitution

'Discrimination' is defined by the UN Human Rights Committee to mean:

**[A]ny distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.<sup>11</sup>**

Discrimination on the basis of religion may include a range of areas including socioeconomic discrimination (e.g., banning from certain economic activities or from market participation), political discrimination (e.g., banning of public gatherings), and discrimination in the application of law (e.g., discriminatory application of criminal law). For the purpose of this study, the discriminatory act that the incident involves should directly or indirectly target the religious identity of a person or group.

The Sri Lankan Constitution protects persons from discrimination on the grounds of religion. Article 12(2) provides:

**No citizen shall be discriminated against on the grounds of ...religion...**

Article 12(3) meanwhile provides:

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

Although the remedy for the violation of article 12(3) of the Constitution is confined to 'executive or administrative action' in terms of article 17, the scope of article 12(3) covers a range of locations that are not necessarily owned or administered by the state, i.e., shops, public restaurants, hotels, places of public entertainment and places of public

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<sup>11</sup> United Nations Human Rights Committee, *General Comment No 18: Non-discrimination*, adopted at the Thirty-seventh Session of the Human Rights Committee on 10 November 1989, para 7.

worship. Therefore, denying any person the right to access these places, even if such denial is by a private individual, would constitute a violation of the article if the appropriate state authority has failed to intervene to remedy the denial.

Discriminatory acts can vary. Typical cases of discrimination would include scenarios where a Muslim student is not allowed to sit for their examination at the university due to their attire or appearance, i.e., wearing an abaya or having a beard, or a situation where an individual is forced to remove religious jewellery or ornaments before entering state premises.

A good example of criminal law being used in a discriminatory manner is seen through the use of sections 81, 98, and 106 of the Code of Criminal Procedure Act, No. 15 of 1979<sup>12</sup> against a person or group on the basis of their religious identity. Such discrimination may occur when a group of individuals belonging to Religion A are conducting a religious worship or ceremony in a recently constructed building. Individuals belonging to Religion B complain to the police that the construction and the religious activities constitute noise pollution and are causing a nuisance to the public, which has led to a tense situation in the area. The police, upon this complaint, obtain an order from the Magistrate to halt religious worship to prevent a breach of peace.

Another example is the use of section 66 of the Primary Courts' Procedure Act, No. 44 of 1970.<sup>13</sup> This provision may be utilised when a dispute arises between individuals belonging to Religion A and Religion B over a particular religious site. For example, imagine a scenario in which a particular land in question is of historical significance to Religion A and religious festivals are held at this site. Individuals belonging to Religion B have obtained control over this site. When individual belonging to Religion A attempt to hold their annual festival on the said site, individuals belonging to Religion B lodge a complaint with the police. In this scenario, the police could utilise the said provision to arrest individuals belonging to Religion A and prevent the festivities from taking place. Such action may constitute discrimination in violation of article 12(2) of the Constitution.

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<sup>12</sup> Section 81 reads: 'Whenever a Magistrate receives information that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace within the local limits of the jurisdiction of the court of such Magistrate, or that there is within such limits a person who is likely to commit a breach of the peace or do any wrongful act as aforesaid in any place beyond such limits the Magistrate may in manner hereinafter provided require such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period not exceeding two years as the court thinks fit to fix'. Section 98 relates to conditional orders for the removal of nuisance, and section 106 relates to absolute orders for urgent cases of nuisance.

<sup>13</sup> This provision refers to situations where owing to a dispute affecting land a breach of the peace is threatened or likely.

## 2.3 Physical Violence: Sections 310 to 313 of the Penal Code

The Penal Code Ordinance, No. 2 of 1883 criminalises assault against a person. The elements of the relevant offences are explained below.

Section 310 of the Penal Code provides:

**Whoever causes bodily pain, disease, or infirmity to any person is said to 'cause hurt.'**

Section 312 of the Penal Code provides:

**Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said to 'voluntarily to cause hurt.'**

The main elements of the offence are: (1) the act of causing hurt; and (2) *either* the intention to cause hurt or the knowledge that hurt is likely to be caused.

Section 313 of the Penal Code provides:

**Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said 'voluntarily to cause grievous hurt'.<sup>14</sup>**

The main elements of the offence are: (1) the act of causing grievous hurt; and (2) *either* the intention to cause grievous hurt or the knowledge that grievous hurt is likely to be caused.

A typical instance of physical violence would include a case where police officers, who were mobilised within religious premises to disperse a particular religious festival or worship, assault worshippers with their batons. The assault may gravely injure the worshippers. It is fair to assume that the police officers assaulted the worshippers with the intention to cause hurt, and even if the said intention is absent, it is reasonable to assume that the officer had the knowledge that the action is likely to cause hurt. This would amount to an offence under section 312 of the Penal Code. In the event that one such

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<sup>14</sup> According to section 311 of the Penal Code, 'grievous hurt' is confined to the following acts: (a) emasculation; (b) permanent privation or impairment of the sight of either eye; (c) permanent privation or impairment of the hearing of either ear; (d) privation of any member or joint; (e) destruction or permanent impairment of the powers of any member or joint; (f) permanent disfiguration of the head or face; (g) cut or fracture, of bone, cartilage or mouth or dislocation or sublimation, of bone, joint or tooth; (h) any injury which endangers life or if the consequence of which an operation involving the opening of the thoracic, abdominal or cranial cavities is performed; (i) any injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits, for a period of twenty days either because of the injury or any operation necessitated by the injury.

attack results in the fracture of a person's bones, then the said incident would become an offence under section 313 of the Penal Code.

## 2.4 Damage to Property: Section 290 of the Penal Code

Section 290 of the Penal Code provides:

**Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion or insult any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

'Defilement' is defined as 'the doing of some act which would impair the sacredness of the building'.<sup>15</sup> Meanwhile, the phrase 'any class of persons' has received a liberal interpretation to include sects within each religion'.<sup>16</sup>

The main elements of the offence are: (1) destroying, damaging, or defiling any place of worship or object held sacred by any class of persons; and (2) *either* the intention of insulting the religion or insult any class of persons or the knowledge that any class of persons is likely to consider such destruction, damage, or defilement an insult to their religion.

A typical example of damage to a place of worship would be where an individual throws stones at a church damaging the windows. It would be reasonable to assume that when stones are thrown at a place of worship, such as a church, the perpetrator would have the knowledge that those attached to this particular church would consider the damage an insult to their religion. Thus, the perpetrator potentially commits an offence under section 290 of the Penal Code.

## 2.5 Incitement: Section 3 of the ICCPR Act

Section 3(1) of the ICCPR Act, No. 56 of 2007 provides:

**No person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.**

Section 3 only prohibits certain types of advocacy of hatred, i.e., hate speech that amounts to incitement against persons on the basis of their national, racial, or religious identity. If the speech in question does not involve incitement or does not target a person or group on the basis of their national, racial, or religious identity, it falls outside the scope of the Act. For example, the use of religious slurs against a person, even if it amounts to

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<sup>15</sup> *Sri Mudali v. Sabastian*, (1898) 4 Bal. Rep. 133, 134.

<sup>16</sup> *Sevvanthinathan v. Nagalingam*, (1960) 69 N.L.R. 419.

hate speech, does not fall within the ambit of the Act if there is no incitement. The element of incitement must be satisfied.

The legal test for incitement is set out in a recent judgment of the Supreme Court of Sri Lanka,<sup>17</sup> in which His Lordship Justice Yasantha Kodagoda, P.C. endorsed the guidelines issued by the Human Rights Commission of Sri Lanka (HRCSL) on section 3 of the ICCPR Act.<sup>18</sup> The Supreme Court held that, for any form of expression to constitute an offence under section 3 of the ICCPR Act, several factors must be considered by law enforcement authorities. These include whether the impugned expression amounts to 'incitement' to discrimination, hostility, or violence. This feature of the offence requires law enforcement authorities to consider whether there is an 'imminent danger' that the impugned expression would cause actual harm. Moreover, in its guidelines on section 3 of the ICCPR Act, the HRCSL states that, for there to be 'incitement', there must be a 'reasonable probability' that the expression would cause imminent harm. The HRCSL endorses a six-part test to determine incitement as set out in the United Nations Rabat Plan of Action, i.e., the (1) the context of the speech, (2) the speaker, (3) the intent of the speaker, (4) the content and form of the speech, (5) the extent of the speech, and (6) the imminence of discrimination, hostility, or violence.<sup>19</sup> Accordingly, for there to be an offence under section 3 of the ICCPR Act, the speech concerned must encourage others to commit acts of religious discrimination, hostility or violence, and there must be a likelihood that such acts are imminent.

A typical instance of incitement would be when a politician, during a campaign speech that is well attended by the public, makes a statement that members of Religion A who do not support him are engaged in a conspiracy against the people of his religion (Religion B) and then encourages the attendees to attack members of Religion A.

## 2.6 Threats and Intimidation: Section 483 of the Penal Code

Section 483 of the Penal Code makes criminal intimidation an offence:

**Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.**

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<sup>17</sup> SC (F.R.) Application No. 135/2020.

<sup>18</sup> Human Rights Commission of Sri Lanka, *Legal Analysis of the Scope of Section 3 of the ICCPR Act, No. 56 of 2007 and Attendant Recommendations* (August 2019); Also see Gehan Gunatilleke, 'Is Section 3 of Sri Lanka's ICCPR Act Fit for Purpose?' (2023) 26 *The Bar Association Law Journal* 156.

<sup>19</sup> Human Rights Council, *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred That Constitutes Incitement to Discrimination, Hostility or Violence* (11 January 2013) A/HRC/22/17/Add.4, annex, appendix, para. 29.



The main elements of the offence are: (1) a threat; (2) the content of the threat should concern the injury to a person, reputation, or property, or to the person or reputation of any one that person is interested; and (3) *either* the intent to cause alarm to the person or the intent to cause the person to do any act that person is not legally bound to do or cause that person to omit to do any act that person is legally bound to do.

A typical example of a threat or act of intimidation would be where a police officer threatens a pastor with imprisonment or the confiscation of property unless the pastor ceases to hold worship services at his residence. The action of the police officer is a threat, the content of which concerns the injury of the pastor's reputation or property. It can be presumed that the intent of the threat is to cause alarm to the pastor and thereby make him stop holding worship services which he is lawfully entitled to hold. The act could, therefore, constitute criminal intimidation, which is criminalised under section 483.

Section 342 of the Penal Code makes assault an offence:

**Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit 'an assault'.**

The main elements of the offence are: (1) making a gesture or the preparation of doing an act; (2) causing a person present to apprehend that criminal force is about to be used; and (3) *either* the intention to cause the said apprehension or the knowledge that such a gesture or preparation would induce the said apprehension. While mere words do not amount to an assault, the words said may give a meaning to a gesture of preparation resulting in an assault. Furthermore, actual physical violence is not a requirement for this offence.

Additionally, section 79(2) of the Police Ordinance, No. 16 of 1865 criminalises the use of threatening, abusive or insulting words or behaviour intended to breach the peace:

**Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour which is intended to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence under this section.**

The specific elements of the offence are: (1) the use of threatening, abusive or insulting words or behaviour; (2) in a public place or at any public meeting; and (3) *either* intention to provoke a breach or knowledge that a breach of peace is likely to be occasioned.

## 2.7 Other Types of Non-Physical Attacks

### Offences under the Penal Code

Apart from physical and non-physical acts of violence, the law offers protection to persons and groups from certain types of attacks that target their religious beliefs. The Penal Code contains several offences of this nature.

Section 290A criminalises acts in relation to places of worship with intent to insult the religion of any class:

**Whoever does any act, in or upon, or in the vicinity of, any place of worship or any object which is held sacred with intent to or in veneration by any class of persons, with the intention of wounding the religious feelings of any class of persons or with the knowledge that any class of persons is likely to consider such act as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.**

The main elements of the offence are: (1) doing any act, in or upon, or in the vicinity of any place of worship or any object which is held sacred or in veneration by any class of persons; and (2) *either* the intention of wounding the religious feelings of any class of persons or the knowledge that any class of persons is likely to consider such act an insult to their religion.

Section 291 of the Penal Code makes disturbing a religious assembly an offence (see the discussion on the Online Safety Act below for the corresponding online offence):

**Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.**

The main elements of the offence are: (1) voluntarily causing disturbance; and (2) the assembly is lawfully engaged in the performance of religious worship or religious ceremonies. The courts have held that for a religious worship or ceremony to be engaged in 'performance', it should be in progress at the time of the disturbance.<sup>20</sup> For example, the obstruction of a priest or monk on their way to the religious worship or ceremony would fall outside this offence.

Section 291A of the Penal Code criminalises uttering words with deliberate intent to wound religious feelings:

**Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or**

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<sup>20</sup> *Sub-Inspector of Police, Bentota v. Zoysa*, (1921) 23 N.L.R. 125.

**makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.**

The main elements of the offence are: (1) the deliberate intention of wounding the religious feelings of any person; and (2) uttering any word or making any sound in the hearing of a person or making a gesture in the sight of a person or placing any object in the sight of a person.

Additionally, section 291B criminalises deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs (see the discussion on the Online Safety Act below for the corresponding online offence):

**Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of persons, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

The main elements of the offence are: (1) the deliberate and malicious intention of outraging the religious feelings of any class of persons; (2) words, either spoken or written, or visible representations; and (3) insulting or attempting to insult the religion or the religious beliefs of that class.

Finally, section 292 criminalises trespassing on burial places:

**Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.**

The main elements of the offence are: (1) *either* committing any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies; and (2) *either* the intention of wounding the feelings of any person, or the intention of insulting the religion of any person, or the knowledge that the feelings of any person are likely to be wounded, or the knowledge that the religion of any person is likely to be insulted thereby.

A typical example of a type of non-violent attack would be where a worship service is ongoing at a residence and is disrupted by the neighbours. The neighbours light

firecrackers, play loud music, and shout obscene language aimed at those attending the worship, demanding that the worship be stopped. First, the neighbours are voluntarily causing a disturbance. Second, the worship service is an assembly lawfully engaged in the performance of religious worship and is currently ongoing. Based on the above facts, the neighbours are disturbing a religious assembly and thereby committing an offence under section 291 of the Penal Code. Additionally, the neighbours are engaging in acts in the vicinity of a place of worship, and it can be assumed that the neighbours would have the knowledge that the acts would likely be considered an insult to the religion of the worshippers. Thus, the perpetrators may be committing an offence under section 290A of the Penal Code. Finally, the above event may also involve offences under sections 291A and 292B of the Penal Code. The former may occur if the deliberate intention of 'wounding the religious feelings of any person' is established. The latter may occur if 'deliberate and malicious intention of outraging religious feelings' is established.

The elements of some of these Penal Code offences, such as the offences under sections 291A or 291B, are akin to 'blasphemy'. 'Blasphemy' may be defined as an act that is sacrilegious or insulting towards a divine being or sacred object.<sup>21</sup> Notably, United Nations Special Rapporteurs on Freedom of Religion or Belief have opined that blasphemy laws or 'defamation of religion' laws often criminalise conduct that is 'offensive' towards a particular religious belief but would not meet the international legal criteria for a permissible restriction on the freedom of expression.<sup>22</sup> Therefore, although these offences remain in the Penal Code of Sri Lanka, they remain inconsistent with international law, and notably article 19(3) of the ICCPR.<sup>23</sup>

### **Offences under the Online Safety Act**

Section 15 of the Online Safety Act, No. 9 of 2024 provides:

**Any person, whether in or outside Sri Lanka who by communicating a false statement, voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three hundred thousand rupees, or to both such imprisonment and fine.**

The main elements of the offence are: (1) communicating a false statement; and (2) voluntarily causing disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies.

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<sup>21</sup> 'Blasphemy' in the *Merriam Webster Dictionary* (2013).

<sup>22</sup> Human Rights Council, *Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt*, 23 December 2015, A/HRC/28/66/Add.1, para. 61; Human Rights Council, *Freedom of religion or belief: Report of the Special Rapporteur on freedom of religion or belief*, 5 March 2019, A/HRC/40/58, paras. 25-30.

<sup>23</sup> Article 19(3) of the ICCPR provides that a restriction on the freedom of expression shall 'only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.'

Section 16 of the Online Safety Act provides:

**Any person, whether in or outside Sri Lanka who with the deliberate and malicious intention of outraging the religious feelings of any class of persons by way of an online account or through an online location by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class by communicating a false statement, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three hundred thousand rupees or to both such imprisonment and fine.**

The main elements of the offence are: (1) the deliberate and malicious intention to outrage the religious feelings of any class of persons; (2) by way of an online account or through an online location and by words, either spoken or written, or by visible representations; and (3) insults or attempts to insult the religion or religious beliefs of that class by communicating a false statement.

A typical example of an offence under the Online Safety Act would be where A posts a video on a social media platform where he insults Religion X and makes false allegations against individuals belonging to Religion X. It can be assumed that he had a 'deliberate and malicious intention to outrage the feelings' of individuals belonging to Religion X. He did this act through an online account using words and has insulted Religion X by making false allegations. Accordingly, a *prima facie* case of an offence under section 16 of the Online Safety Act can be noted.

For there to be an offence under the Online Safety Act, the statement made should be established as 'false'. Therefore, if X had visited a place of worship and posted a video online stating that individuals belonging to Religion A are meeting for worship services at this particular place, and that people should come there and disrupt it, the act would fall outside the scope of section 15 of the Online Safety Act, as the statement about the meeting taking place would not be ostensibly false. However, the act may still fall within the scope of section 291 of the Penal Code, and may, if the elements of incitement are established, fall within the scope of section 3 of the ICCPR Act.

### **Offences under the Computer Crimes Act**

Section 6(1) of the Computer Crimes Act, No. 24 of 2007 provides:

**Any person who intentionally causes a computer to perform any function, knowing or having reason to believe that such function will result in danger or imminent danger to**  
**(a) national security;**  
**(b) the national economy; or**  
**(c) public order,**

**shall be guilty of an offence and shall on conviction be punishable with imprisonment of either description for a term not exceeding five years.**

The main elements of the offence are: (1) intentionally causing a computer to perform any function; (2) knowing or having reason to believe such function will result in danger or imminent danger; and (3) *either* to national security, *or* national economy, *or* public order.

A typical example of an offence under this section would be a case where a person uses a computer to periodically post videos on social media that encourages violence against individuals belonging to Religion A. By intentionally causing the computer to perform the posting of videos on social media and having a reason to believe that the said videos will cause a danger to public order, the said person may commit an offence under section 6(1) of the Computer Crimes Act.

### 3. Legal Analysis

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This section presents an assessment of the incidents reported by NCEASL in terms of whether they constitute a violation of any fundamental rights or constitute an offence under Sri Lanka's penal law. It then presents a quantitative account of these incidents.

#### 3.1 Sociocultural, Economic, and Political context

Prior to presenting the analysis of incidents, it may be useful to briefly set out the broader context in which attacks on persons and groups on the basis of their religious identity take place.<sup>24</sup>

Post-war Sri Lanka has witnessed a rapid rise in violence of a distinct ethnoreligious nature – particularly against Muslims and Christians. For instance, widespread anti-Muslim mob violence took place in the Southern Province in 2014 and 2017, in the Central Province in 2018, in the Eastern Province in 2018, and in the Western and North-Western Provinces in 2019. In most of these episodes, except for the anti-Muslim violence in 2019 following the April 2019 Easter Sunday Attacks, common altercations, such as a traffic dispute or arguments at restaurants, triggered widespread mob violence.

The overarching context of this post-war ethnoreligious conflict reflects, at least with respect to anti-Muslim violence, a cyclical relationship between majoritarian discrimination and violence, and violent radicalisation within minority communities. For example, in the lead up to the Easter Sunday Attacks and its aftermath, years of anti-Muslim violence and discrimination are likely to have prompted some disenfranchised members of the Muslim community to gravitate towards radical forms of Islamism.<sup>25</sup> In turn, Sinhala-Buddhist militant groups point to such radicalism to justify further hostility and violence towards Muslims. However, it should be noted that this same cycle is not always evident in all contexts of religious attacks.

There are two underlying drivers of conflict that have sustained violent ethnoreligious conflict in Sri Lanka. These are as follows:

**Entitlement complexes:** A sense of entitlement to land, sociocultural dominance, and economic dividends among the majority Sinhala-Buddhist community is founded on the belief among some segments of this community that Sri Lanka is a Sinhala-Buddhist country, and that Sinhala-Buddhists are the original inhabitants of the island.<sup>26</sup> The culmination of generations of political and ideological discourses, and socialisation

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<sup>24</sup> This section relies on Gehan Gunatilleke's forthcoming article in the *Zygon Special Issue on Religion and Contemporary Crisis*: 'Do Faith-based Conflict Resolution Mechanisms Prevent and Mitigate Ethnoreligious Conflict in Sri Lanka?'

<sup>25</sup> Gehan Gunatilleke, 'Fear, Radicalism and Violence: Sri Lanka's Cyclical Crisis' in Farahnaz Ispahani (ed.), *The Politics of Hate: Regional Majoritarianism in South Asia* (HarperCollins 2023), 126.

<sup>26</sup> Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka* (East-West Center 2007), 5.

through school curricula have contributed to this complex. The same 'complex' may also manifest similarly in the case of regional or local majorities, including in Tamil, Muslim, and Catholic majority areas. For example, assertions by groups, such as *Siva Senai*, that certain territories in the North and East are 'Hindu', reflect regional entitlement complexes and underlie antagonism towards other communities.

**Existential fears:** Some Sinhala-Buddhists feel deep existential fears that their dominant status at the national level would be eroded by the activities of Tamils, Muslims and Christians. Similarly, certain members of the Hindu, Muslim and mainline Christian communities possess existential fears connected to their regional entitlement complexes.

First, there are fears that Muslim population growth and perceived Muslim dominance over trade threaten the numerical majority and economic prosperity of other communities. These fears also include a sociocultural dimension and underlie antagonism towards Muslim appearance and attire, which are perceived as representing the 'growth' of Islamic cultural and ideological influence.

Second, Christian proselytization is perceived as a threat to the numerical and cultural dominance of other communities. This threat has historical roots, as the propagation of Christianity is associated with colonial missionary projects through which many Buddhists and Hindus converted to Christianity, and certain Buddhist and Hindu sites of worship were destroyed.

Third, longstanding conflict over territory in the North and East underlie existential fears among Sinhala-Buddhists with respect to Tamil (and by extension, Tamil Hindu) claims to autonomy and notions of a homeland. These fears often drive Buddhist-Hindu contestation over sacred sites.

The above existential fears are relevant to this study, as the team analysing the data began to observe a nexus between the nature of the existential fear and the type of attack encountered by the targeted religious group.

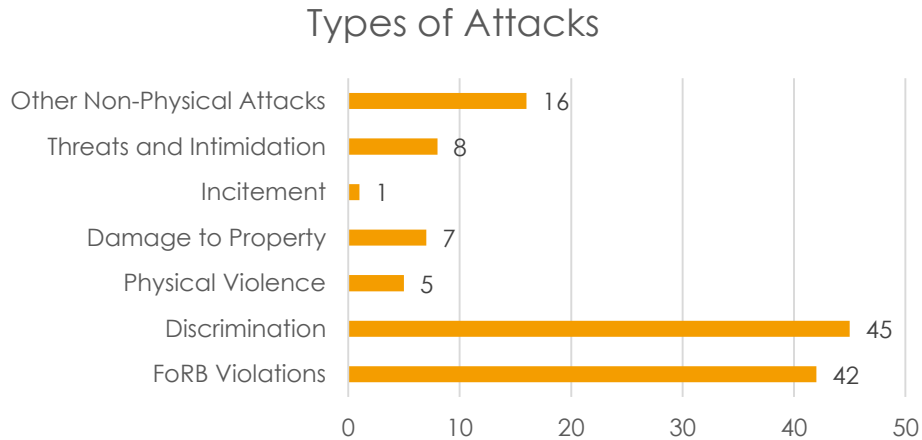
Additionally, local dynamics or fault lines between ethnoreligious groups may, either by themselves or in combination with more deeply rooted drivers of conflict, produce the conditions for religious attacks. These fault lines include:

- a. Economic fault lines: competition over scarce resources, such as land, capital and business opportunities;
- b. Political fault lines: political disputes, such as disputes over power-sharing arrangements, that underlie tensions between communities; and
- c. Sociocultural fault lines: disputes over sociocultural matters, such as religious attire, sacred space, and burial rites.



### 3.2 Analysis of Incidents

A total of 124 'attacks' on a person or group on the basis of their religious identity were reported by NCEASL during the period November 2023 to October 2024. This figure only includes attacks that the team assessed as constituting a violation of a provision of law. Moreover, some attacks took place in the context of the same incident. Therefore, a single incident may have produced more than one attack.

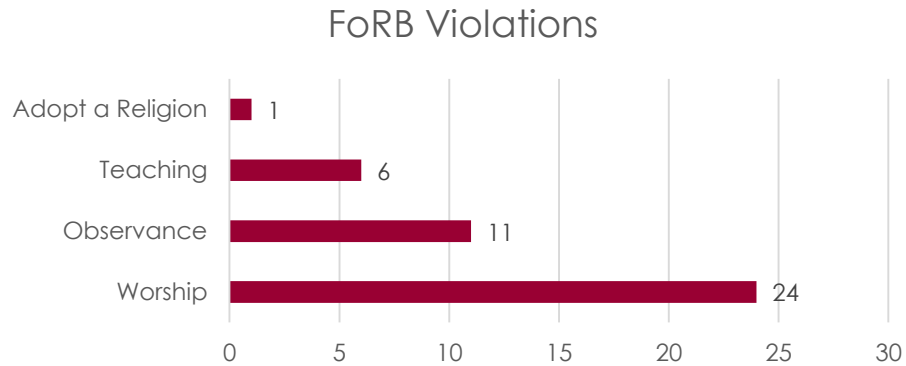


**Figure 1: Types of Attacks**

The most common types of attacks were discrimination based on religious identity (45 attacks) and violations of FoRB (42 attacks). Among the other attacks, the most common was other non-physical attacks, which include, for example, incidents where individuals would interrupt ongoing worship or make statements aimed at wounding or outraging religious feelings. While there was one incident that met the legal threshold of incitement, there were several other incidents of hate speech that did not involve incitement. None of these other incidents of hate speech met the strict criteria required under section 3(1) of the ICCPR Act. In this respect, some of the attacks involving hate speech constituted an offence under the Penal Code and were countered under 'other types of non-physical attacks' discussed below. There were also four incidents that did not meet the Penal Code threshold either. While these incidents might have featured 'hate speech' of some kind (i.e., the advocacy of hatred), such speech did not constitute any violation of law, and, therefore, did not attract a legal remedy. Such incidents were not counted as an 'attack' for the purpose of this study.

A disaggregation of each type of attack in Figure 1 can be found in the figures presented below.

## FoRB Violations

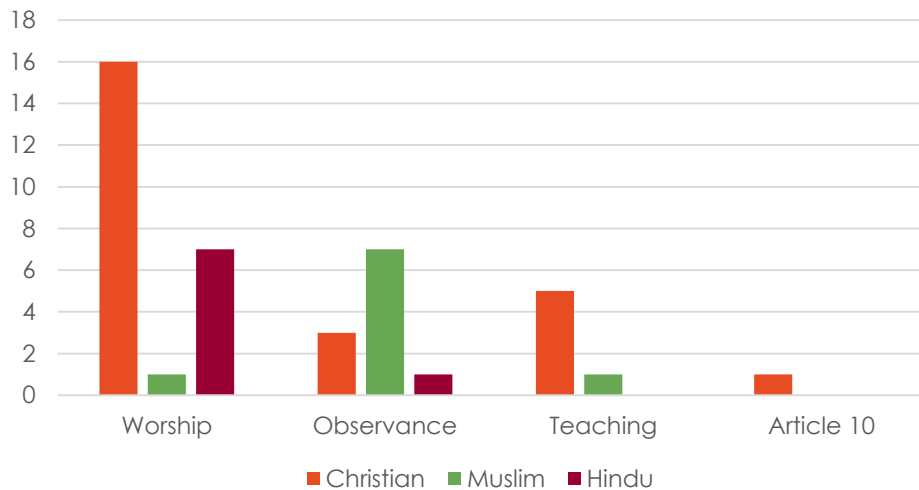


**Figure 2: Disaggregation of FoRB Violations**

The most common type of FoRB violation (42 attacks) was related to an interference with religious worship. Interference with religious observance was the second most common type of violation. There was, however, one incident involving an infringement of the right to the freedom of thought, conscience and religion, protected by article 10 of the Constitution.

In an incident from Kurunegala, a funeral aid society threatened Christian members with expulsion unless they convert from Christianity to Buddhism. The team found that this incident potentially constituted a violation of article 10 of the Constitution, which protects the freedom to adopt a religion of one's choice. However, since the alleged perpetrators were private actors, and the information received did not reveal direct executive or administrative action, there was a doubt as to whether a remedy under article 17 of the Constitution existed.

## FoRB Violations by Religion



**Figure 3: Religious Identity of Victims of FoRB Violations**

When FoRB violations (42 attacks) are disaggregated by the religious identity of the victim, it was revealed that most of the violations involving interference with worship related to Christians. This datapoint does not necessarily mean that, compared to other groups, more Christians face interference with worship, as the datapoint is based on the number of incidents recorded by the NCEASL monitors. However, the datapoint does reveal the type of attack that Christians are often exposed to. Most of these incidents involved interference with worship at 'home' or 'house' churches (i.e., a private residence used as a place of worship), where a state official prevented the worship from continuing, or restricted it in some form (e.g., restriction on the number of attendees), citing a government circular (i.e., the circular titled 'granting approval to build and run new religious centres' issued by the Ministry of Buddhasasana, Religious Affairs and Cultural Affairs, dated 21 April 2022).

For example, in August 2024, a pastor in a church in the Kurunegala District received a letter from the Divisional Secretary of the Polgahawela Divisional Secretariat stating that it had decided that only the members of the pastor's family can continue religious activities at his residence, citing a letter by the Department of Christian Religious Affairs that allegedly states that permission is not granted to the pastor to carry out worship activities for others at his residence. Notably, the team examined the said letter, which does not make any such claim. The Officer-in-Charge of the Polgahawela Police Station had summoned the pastor and instructed him to conduct worship services with only the residents of his home. The team assessed that this sequence of events constituted an attack that potentially infringes the pastor's and his congregation's FoRB with respect to worship.

It is also noted that, while the said letter does not support the restriction, in any event, even if the letter did call for the restriction of worship, it does not fall

within the scope of 'law' in terms of article 15(7) of the Constitution, and thus cannot form the basis of a permissible restriction on FoRB. Therefore, a potential violation of article 14(1)(e) of the Constitution with respect to religious worship had taken place.

Hindus faced the second highest number of attacks involving interference with worship. However, the context within which these violations occurred differed from violations concerning Christians, as most of the violations pertaining to Hindus occurred in connection to a festival or ceremony – specifically, a festival or ceremony that is to be held at a sacred site, the origin of which is disputed by Hindu Tamils and Sinhala-Buddhist.

For example, in March 2024, Hindu devotees on pilgrimage from various districts arrived at the Vedukunaramalai Adilingeswarar Temple in Vavuniya to participate in the Maha Shivarathri religious ceremony. Previously, a court had dismissed an application by Sri Lanka Police requesting the court to prevent the ceremony from being held. On the day of the ceremony, the police first arrived and requested the devotees to leave, citing the court order. However, the devotees pointed out that the court order permitted them to carry out their ceremony. Later, the police arrived with a letter from the Department of Archaeology stating that remaining on an archaeology site beyond 6.00pm posed a risk of damage to the antiquities at the site. However, the devotees, citing the court order, refused to leave and continued the ceremony. At around 7.30 pm, it was alleged that the police entered the temple, physically assaulted the devotees, and damaged property. The police also arrested several priests and male devotees. The team examined the information provided to it and concluded that this attack potentially constituted an infringement of the devotees' rights under article 14(1)(e) of the Constitution with respect to religious worship and observance. Additionally, this incident encompassed attacks constituting physical violence and damage to property. Moreover, none of the restrictions imposed on the devotees' FoRB appear to fall within the scope of 'law' in terms of article 15(7) of the Constitution and thus cannot form the basis of a permissible restriction on FoRB.

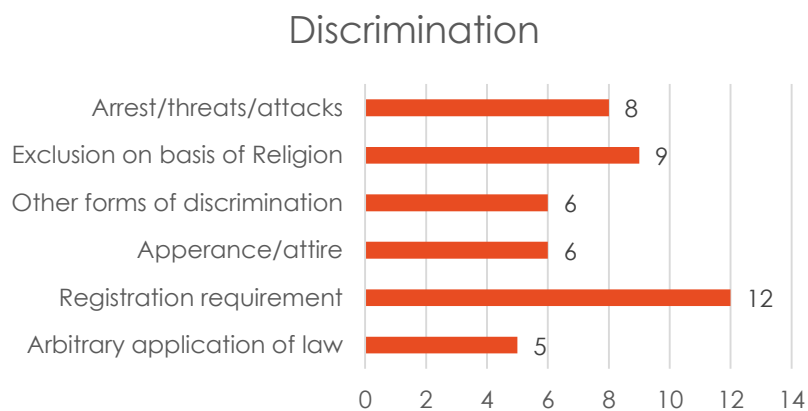
Muslims were targeted in most of the attacks involving interference with observance. These incidents primarily concerned a restriction on their appearance or attire. For males, the restriction tended to target their beard, while for females the restriction tended to target attire, such as a face covering or headscarf.

For example, in an incident in June 2024 from Trincomalee, 70 female students who sat for the GCE Advanced Level Examination in 2023 were denied their examination results on the alleged grounds that the students had, by wearing head coverings, violated the examination rules with respect to ensuring that their ears were visible during the examination. Notably, an investigation by the HRCSL had later revealed that the students had worn shawls wrapped around their heads in a manner ensuring that their ears were visible and that they had

not violated any examination rules. The team found that a potential violation of article 14(1)(e) of the Constitution with respect to religious observance had taken place.

In another incident from Batticaloa, a male Muslim university student from the Eastern University was allegedly prevented from participating in academic activities unless he shaved his beard. According to the information provided to the team, two academics had not permitted the student to participate in their lectures and related academic activities unless he shaved his beard. Once again, the team determined that a potential violation of article 14(1)(e) of the Constitution with respect to religious observance had taken place, given that the student considered his beard to be a matter of religious observance. Moreover, the restrictions imposed on the student's religious observance fall outside the scope of 'law' in terms of article 15(7) of the Constitution and thus cannot form the basis of a permissible restriction on FoRB.

## Discrimination



**Figure 4: Disaggregation of Discrimination**

For an act to be classified as 'discrimination', the team considered the power dynamic between the perpetrator and the victim. For instance, if the victim would be otherwise entitled to a benefit (e.g., entering a shop) and was prevented by some person holding power over entry (e.g., a security guard) purely on the basis of religious identity, the team would classify the attack as discrimination. However, if the person interfering with the benefit had no power over the entitlement (e.g., another customer at a shop demands that the security guard at the entrance denies entry to certain persons on the basis of their religious identity), the act of such a person alone would not constitute discrimination.

Most attacks involving discrimination (45 attacks) related to the discriminatory application of the alleged requirement to register a place of worship. The next most common form of discrimination included a situation where there was exclusion either from a place of worship or a community-based organisation, such as a funeral aid society. Moreover, there were a number of recorded incidents where persons were

arrested, threatened or in some way attacked by a state official or private party purely on the basis of their religious identity.

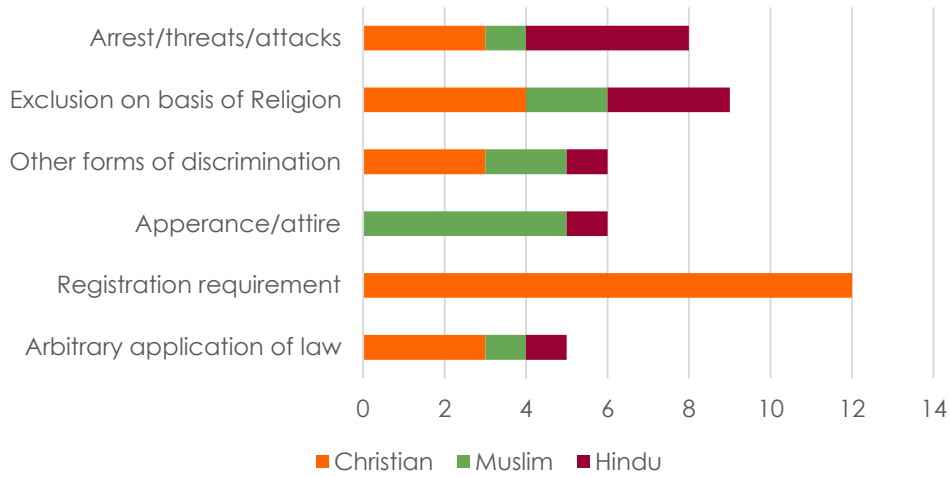
Certain other forms of discrimination were also observed.

In one incident from Mannar, a Christian nun had been appointed the principal of a school. This appointment was met with significant opposition from parents of the student body. These opposing parents belong to a different religion than that of the principal. Given the immense pressure from opposing parents, specifically in relation to the religious affiliation of the newly appointed principal, the Zonal Education Office temporarily halted the appointment of the nun and later appointed her as the principal of another school. In this instance, while the parents do not directly wield power over appointments, they wielded indirect power, as they had a significant say over who is appointed principal – as evident by the actions of the Zonal Education Office. Therefore, since the opposition to the said appointment was on religious grounds, this incident was classified as constituting discrimination.

Another type of attack falling within the scope of 'other forms of discrimination' was where private individuals of one religious group were prevented from carrying on their businesses on a religious day observed by another religious group.

For example, in July 2024, Muslim traders in the Kaduruwela Town in Polonnaruwa were required by the Chief Prelate of the Buddhist temple in the area to close their shops in the town on Poya day, which is of religious significance for Buddhists. The monk had also informed the trade association of the town that it is mandatory for all shops to be closed on Poya days. Upon reviewing the information provided, the team concluded that the extent of the coercion exerted by the monk by utilising his influence could be viewed as constituting discrimination against non-Buddhist traders. However, in the absence of any information that an executive or administrative actor of the state enforced the Buddhist monk's demands, there is a doubt as to whether a remedy under article 17 of the Constitution would lie, as the main alleged perpetrator is a private actor.

## Discrimination by Religion



**Figure 5: Religious Identity of Victims of Discrimination**

All discriminatory attacks involving registration requirements were against Christians. Meanwhile, most discriminatory attacks concerning appearance or attire concerned Muslims. For Hindus, the most common form of discrimination was where there was discriminatory treatment in instances of arrests, threats, or other attacks. Most of these attacks involved police interference during a religious festival or ceremony held at a disputed sacred site.

## Physical violence, damage to property, and incitement



**Figure 6: Disaggregation of Persons Targeted by Physical Violence**

Most attacks that involved physical violence on the basis of religious identity were aimed at laypersons. This analysis excluded instances of physical violence where the violence did not occur due to the victim's religious identity.

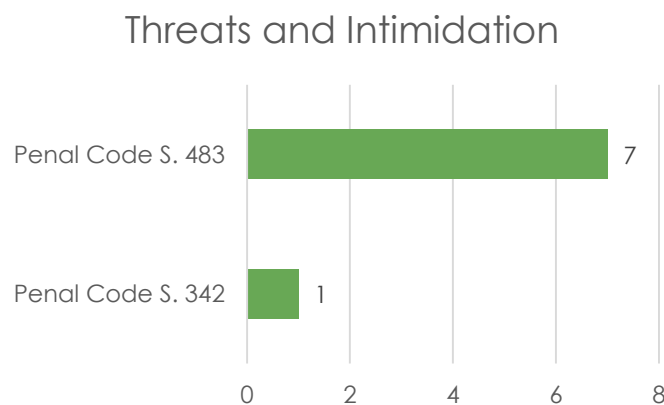
With regard to destruction or damage to property, among the sample of incidents analysed, there were seven (7) attacks involving damage to property based on religious identity, all of which targeted places of worship. Four (4) of such attacks were on Christian 'home' or 'house' churches.

For example, in June 2024, a church in Trincomalee suffered damage allegedly at the hands of the police. It was reported that, following an altercation with the police with regard to a separate matter, several individuals had taken shelter in the church. The police entered the church and had allegedly assaulted the individuals and damaged church property. While the actions relating to the said individuals may not be on the basis of their religious identity, the damage caused to the property may be considered as falling within the scope of this study, as the damage was to and within a place of worship.

Meanwhile, there was one incident that the team determined may constitute incitement under the ICCPR Act.

This incident took place in September 2024, where a group called Viduthalai Pulikal Makkal Munnani organised an election meeting in the Koolavady area of Batticaloa. Although Koolavady is inhabited almost entirely by Hindus and Christians, the group claimed that there were many businesses owned and run by Muslims. Pointing to this context, one of the members of the group allegedly incited violence against Muslims. Based on the available information, the team considered this attack to potentially constitute an offence under section 3 of the ICCPR Act. The impugned speech advocated hatred against a religious group, and such advocacy appeared to amount to incitement based on the legal test recommended by the Supreme Court and the HRCSL.

### Threats, intimidation and other non-physical attacks



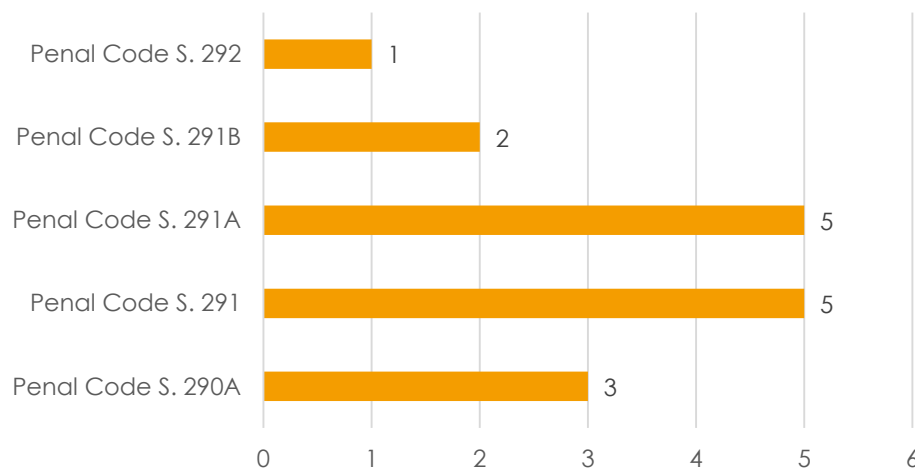
**Figure 7: Disaggregation of Threats and Intimidation**

Section 483 of the Penal Code was the most common legal provision under which offences concerning threats and intimidation were potentially committed.



For example, a Christian pastor from Matale attended a police inquiry following a complaint by a Buddhist monk alleging that the pastor had converted a deceased Buddhist person and was now trying to carry out the person's last rites under Christian traditions. Upon arriving at the police station, the Officer-in-Charge had allegedly threatened to send the pastor to prison for two years if he conducted religious activities in the village. He also allegedly threatened the pastor that if the pastor engages in proselytization, the land that belongs to the pastor and his family would be taken away. The team examined the information provided and determined that the police's action constituted threats and intimidation on the basis of religious identity, potentially amounting to criminal intimidation under section 483 of the Penal Code. The team reached this assessment based on the reported fact that the police officer made a threat, and the threat involved potential injury to the pastor's property by confiscation of property as well as potential injury to his reputation due to arrest and imprisonment.

### Other Non-Physical Attacks

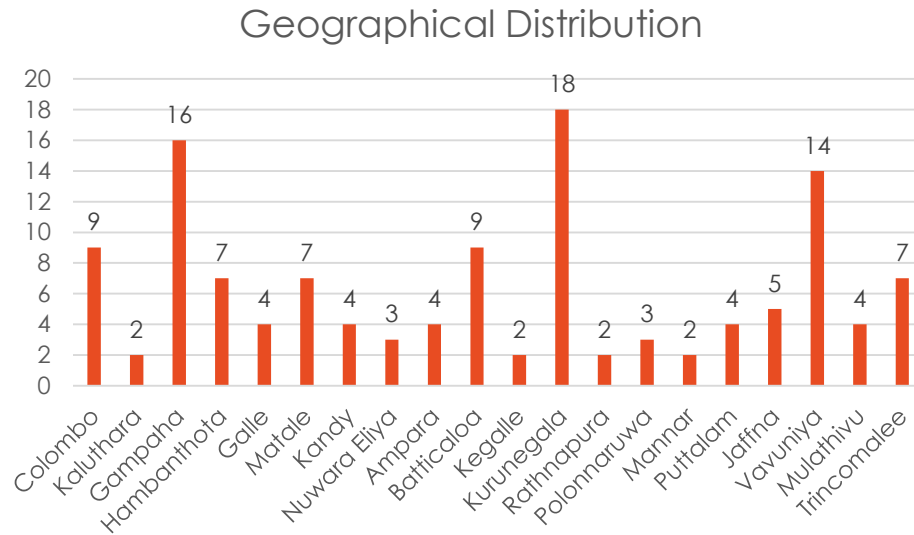


**Figure 8: Disaggregation of Other Non-Physical Attacks**

Sections 291 and 291A of the Penal Code were the most common legal provisions under which offences concerning other non-physical attacks (16 attacks) were potentially committed. These incidents included disrupting religious assemblies and uttering words with intent to wound religious feelings.

Notably, offences under section 15 and 16 of the Online Safety Act may also be relevant to some of these incidents, provided the impugned speech causing the disruption or causing the wounding of religious feelings is a false statement. However, according to section 52 of the Act, the statement must be 'known or believed by its maker to be incorrect or untrue...'. Since this subjective element cannot be established based on the data provided, the team did not classify any of the attacks as falling within the scope of the Online Safety Act.

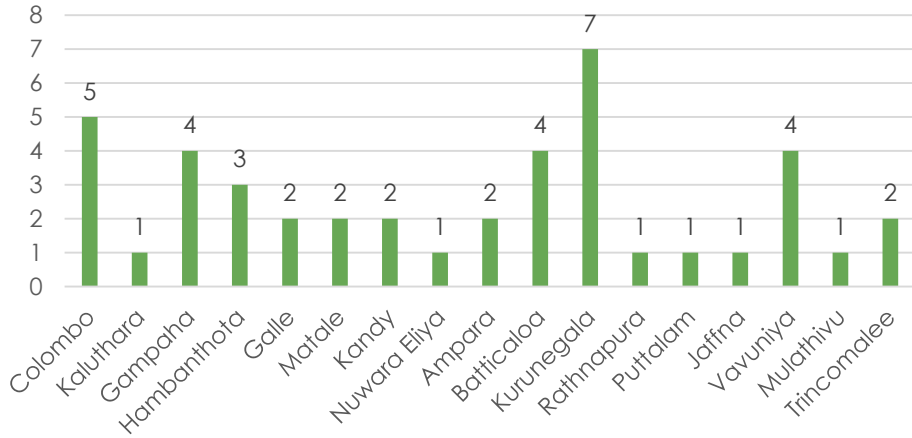
## Geographical distribution



**Figure 9: Geographical Distribution of Attacks**

Most attacks were recorded in the Kurunegala District. Thereafter, the Gampaha and Vavuniya Districts had the highest number of attacks. The Matara, Badulla, Anuradhapura, Kilinochchi, and Monaragala Districts did not contain incidents that amounted to attacks within the scope of this study. It should be noted that this geographical distribution of attacks is only a reflection of the distribution of reported attacks and should not be considered an accurate representation of actual trends. The datapoints below do, however, offer an insight into which districts persons and groups are particularly vulnerable to certain types of religious attacks.

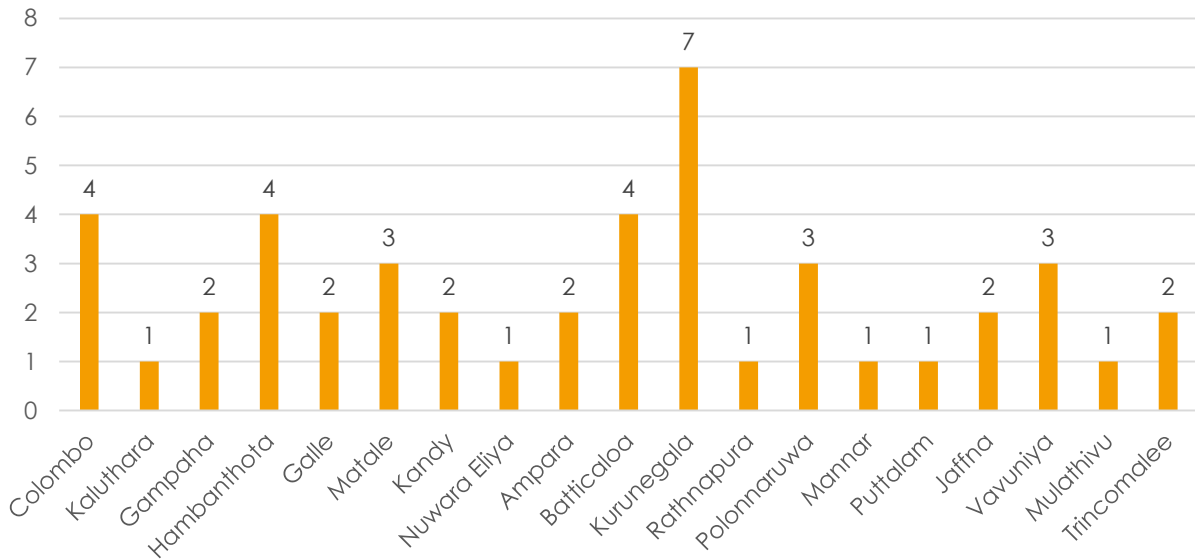
### Geographical Distribution - FoRB



**Figure 10: Geographical Distribution of FoRB Violations**

Most incidents of FoRB violations occurred within the Kurunegala District. The second highest violations were in the Colombo District. In addition to the districts mentioned above, from the dataset of reported incidents, the Matara, Badulla, Anuradhapura, Kilinochchi, Polonnaruwa, Ampara, Mannar, and Monaragala Districts did not contain reported incidents that amounted to FoRB violations within the scope of this study.

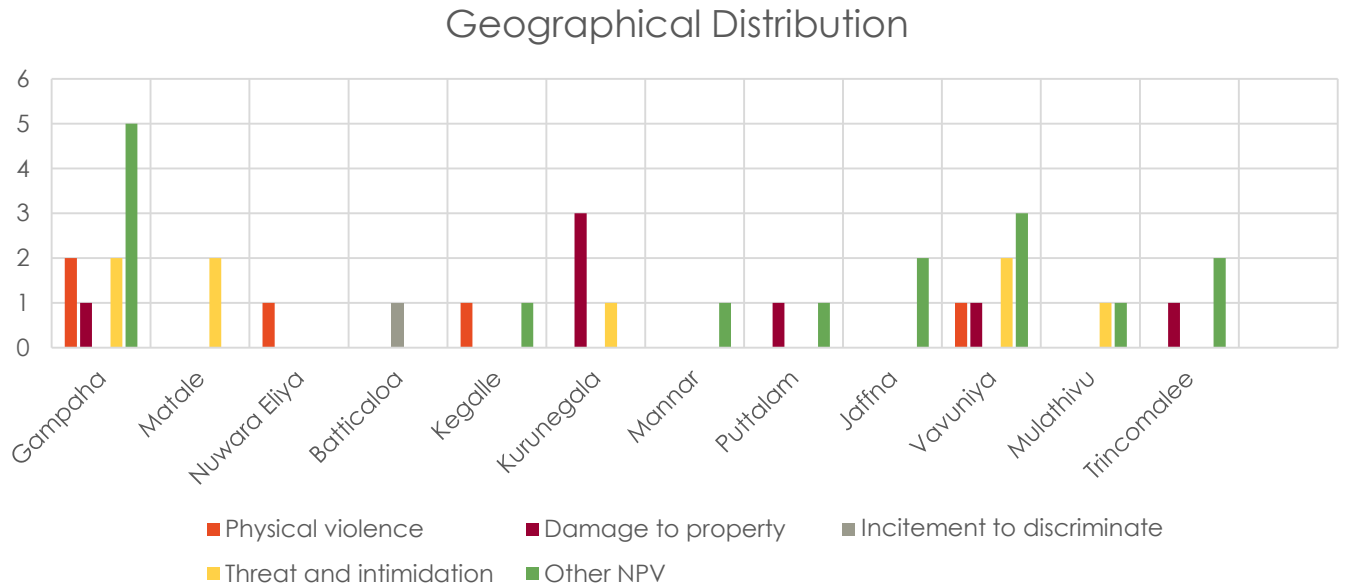
### Geographical Distribution - Discrimination



**Figure 11: Geographical Distribution of Discrimination**

Most discriminatory attacks occurred within the Kurunegala District. Thereafter, Colombo, Hambantota, and Batticaloa recorded a number of discriminatory attacks. From the dataset of reported incidents, the Matara, Badulla, Kegalle, Anuradhapura, Kilinochchi,

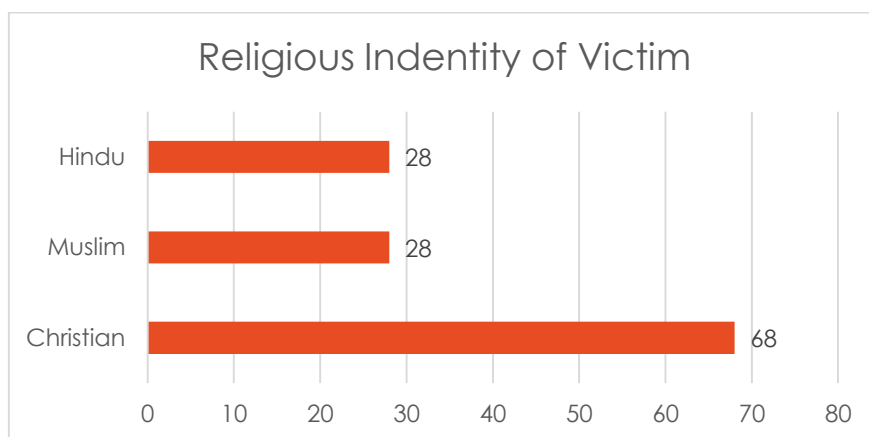
and Monaragala Districts did not report incidents that amounted to discrimination within the scope of this study.



**Figure 12: Geographical Distribution of Physical Violence, Destruction of Property, Incitement, Threats and Intimidation, and Other Non-Physical Attacks**

Most incidents of physical violence occurred in the Gampaha District, while most incidents of damage to property occurred in Kurunegala. The single incident of incitement occurred in Batticaloa. Gampaha, Matale, Vavuniya were where most of the incidents of threat and intimidation occurred, and Gampaha was the district that recorded the greatest number of attacks involving non-physical violence. From the dataset of reported incidents, the Colombo, Kalutara, Hambantota, Galle, Matara, Kandy, Ampara, Rathnapura, Polonnaruwa, Badulla, Anuradhapura, Kilinochchi, and Monaragala Districts did not report incidents that amounted to any of the said attacks within the scope of this study.

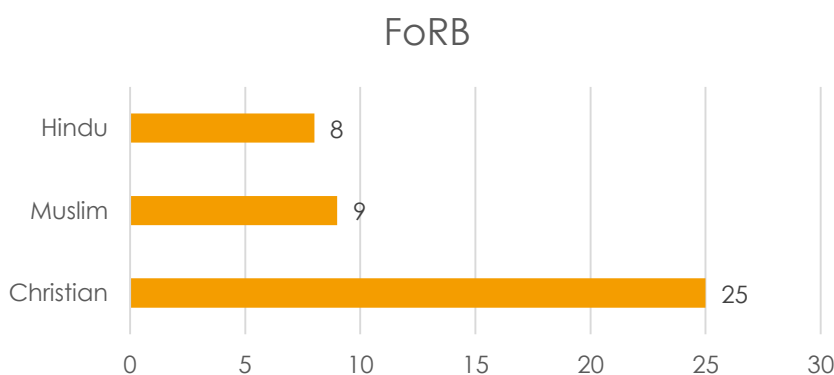
## Disaggregation of victims



**Figure 13: Religious Identity of Victims**

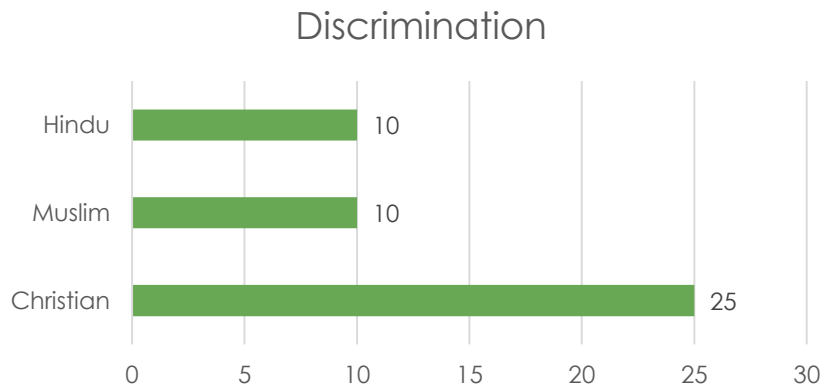
Most of the victims who were subject to attacks reported under this study were Christian, while an equal number of attacks involved Hindus and Muslims. Once again, it is emphasised that the comparative distribution of attacks based on the religious identity of the victims should not be taken to reflect an accurate representation of the actual distribution. Instead, this distribution is based on the sample of incidents reported by NCEASL. However, it is crucial to note that the dataset reveals that all three religious minorities in Sri Lanka, i.e., Christians, Hindus, and Muslims, face religious attacks on a regular basis.

A breakdown of the victims based on the type of attack can be found below (see Figures 14 to 19).



**Figure 14: Victims of FoRB Violations**

Many of the victims of FoRB violations were Christian. However, the distribution of the type of FoRB violations differed for each religious group (See Figure 3 above).



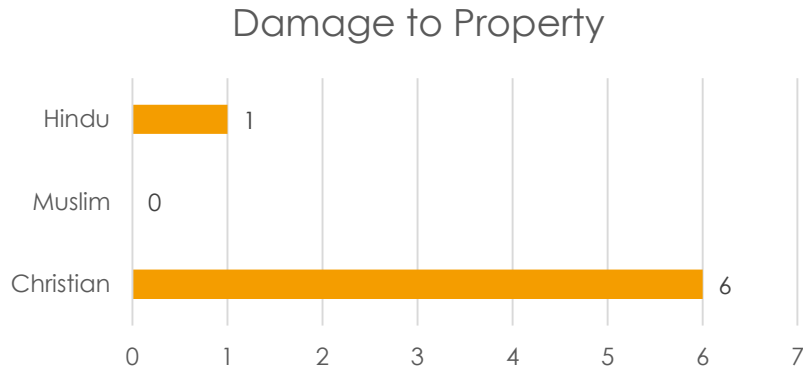
**Figure 15: Victims of Discrimination**

While most of the victims of discrimination were Christian, the type of discrimination faced by each religious group varied (See Figure 5 above).



**Figure 16: Victims of Physical Violence**

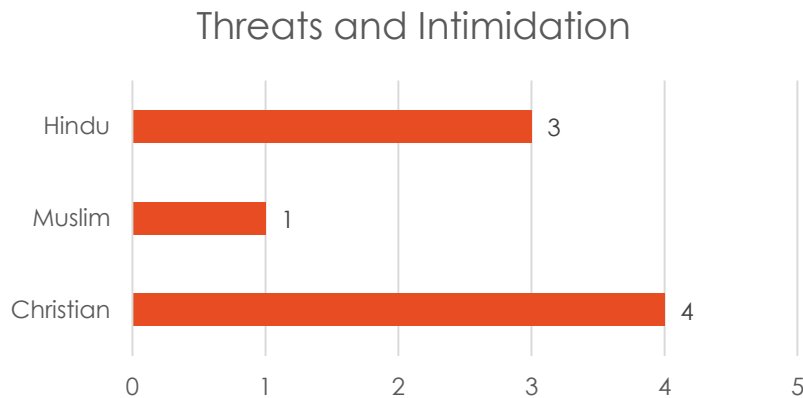
Both Christians and Muslims faced more than one incident of physical violence on the basis of their religious identity. There were several incidents reported where the person facing physical violence happened to be a Tamil Hindu. However, based on the data provided, it was not established that such violence was based on their religious identity. Thus, such incidents were considered to be outside the scope of this study.



**Figure 17: Victims of Damage to Property**

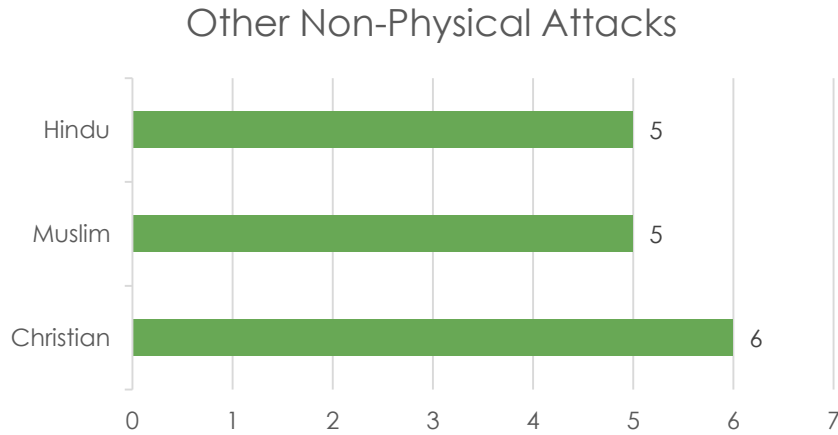
Most of the attacks that constituted damage to property were against Christians, while no such attacks were reported against Muslims. The most common form of such an attack was the throwing of stones at churches and 'home' or 'house' churches.

Meanwhile, the victims of the only recorded incident of incitement (i.e., in terms of section 3 of the ICCPR Act) were Muslims.



**Figure 18: Victims of Threats and Intimidation**

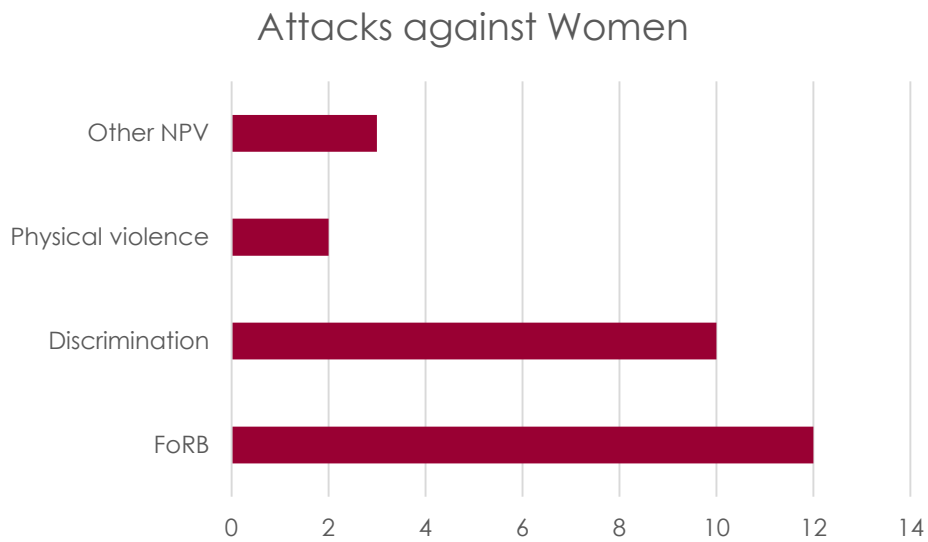
Christians, Hindus, and Muslims faced attacks that constituted threats and intimidation on the basis of religious identity. All three incidents of threat and intimidation faced by Hindus concerned the threat of arbitrary arrest by the police. Apart from constituting a violation of article 12(2) of the Constitution (i.e., discrimination on the grounds of religion) and article 13(1) of the Constitution (i.e., the freedom from arbitrary arrest), a question arose as to whether an incident involving the threat of arbitrary arrest could also constitute an offence under section 483 of the Penal Code. After careful consideration, the team determined that such threats of arbitrary arrest could potentially fall within the ambit of the offence due to the fact that there was a potential threat of injury to the physical liberty or reputation of the person.



**Figure 19: Victims of Other Non-Physical Attacks**

The distribution of other non-physical attacks was observed across all three religious groups. Most such attacks faced by Muslims related to hate speech and did not include any instances of disruption to religious assemblies. By contrast, Christians and Hindus encountered disruptions to religious assemblies, where such disruptions potentially constituted an offence under section 291 of the Penal Code.

With regard to the gender identity of the victim, the team also noted attacks that specifically targeted women. The disaggregation of the types of attacks faced by women is presented below.



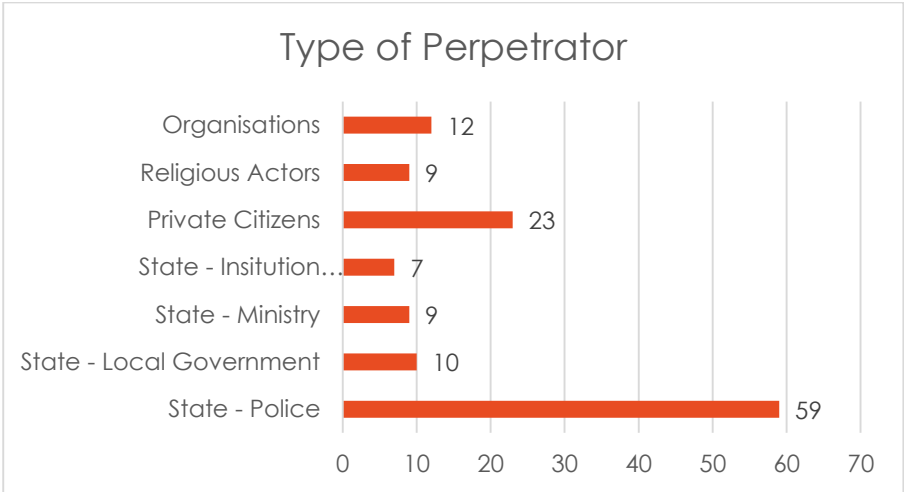
**Figure 20: Disaggregation of attacks against women**

The above figure only includes attacks that specifically targeted women on the basis of their gender identity in addition to their religious identity. For example, while the prevention of worship in a church may restrict the FoRB of women among the congregation, such attacks were not included, as the attacks did not specifically target women. In fact, there was no data on women being explicitly targeted in incidents of



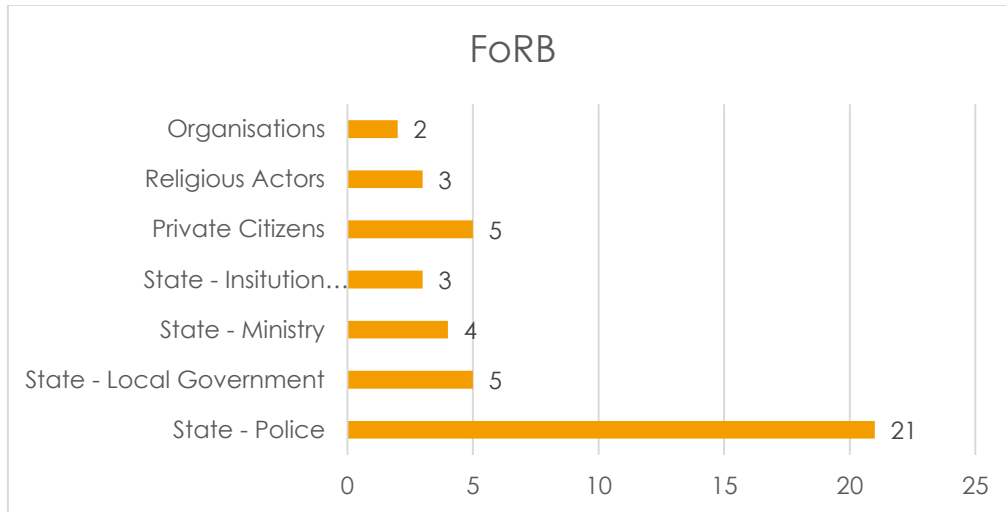
incitement, threats and intimidation, and damage to property. With respect to Christian women, there were incidents in which women pastors were prevented from conducting worship. With respect to Muslim women, most of the attacks related to discrimination or a FoRB infringement concerning religious attire. With respect to Hindu women, most attacks concerned women being targeted during the Veddikkumarimalai Temple incident.

**Disaggregation of perpetrators**



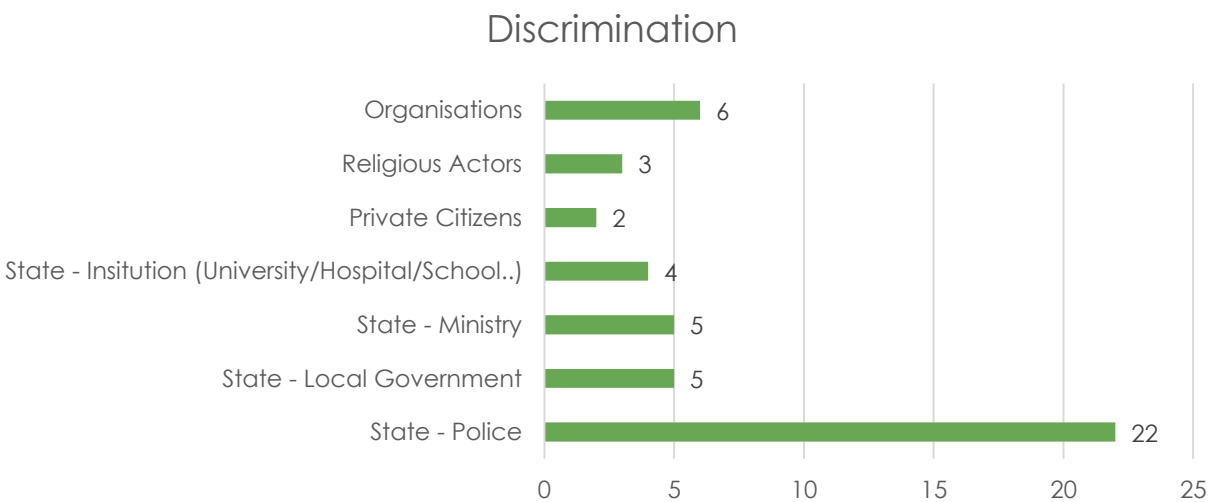
**Figure 21: Types of Perpetrators**

The state was the alleged perpetrator in most of the reported incidents. In fact, Sri Lanka Police (including the Criminal Investigation Department) was listed as the main perpetrator in most attacks. There was one incident from Vavuniya in which Sri Lanka Army officials, along with police officers, were allegedly involved in a FoRB violation by preventing religious worship. Other state institutions involved in alleged attacks included schools, universities, and hospitals.



**Figure 22: Perpetrators of FoRB Violations**

Most FoRB violations reported in the dataset appear to have been perpetrated by Sri Lanka Police. However, it was observed that while the primary perpetrator of the violation was a state actor, in almost all the reported instances, the said state actors had acted in response to a complaint by non-state actors, including religious leaders. For example, a common type of incident reported in the dataset was where a Buddhist monk would complain to the police about the religious activities of a particular person or group, and the police would then restrict the religious activity.



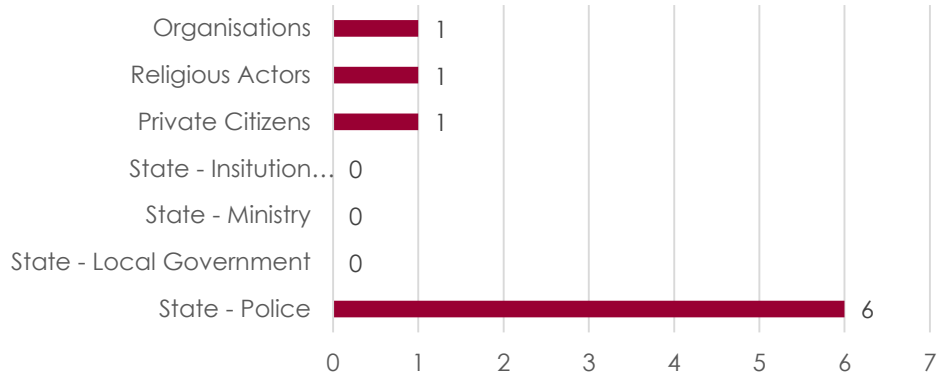
**Figure 23: Perpetrators of Discrimination**

Similar to the above observation, most discriminatory attacks were carried out by the police upon a complaint by a non-state actor.

It may be recalled that there were only a few incidents of physical violence (5 attacks) and damage to property (7 attacks) recorded in the dataset. In both categories, the police were allegedly involved in some of the incidents, whereas private citizens were

involved in the remainder. The most frequent form of damage to property observed in the dataset involved private citizens throwing stones at a Christian place of worship.

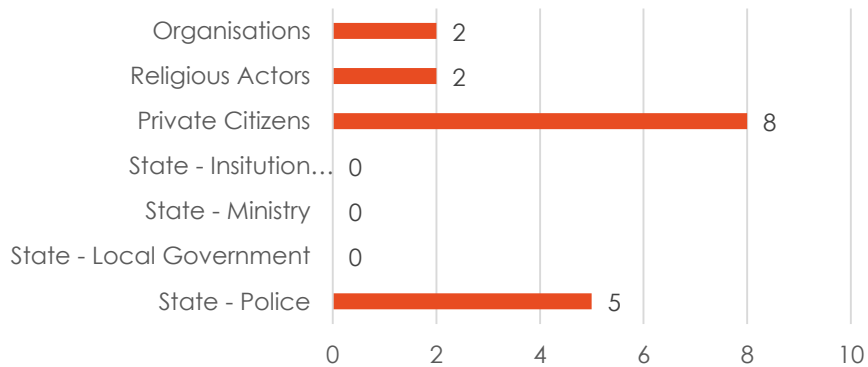
### Threats and Intimidation



**Figure 24: Perpetrators of Threats and Intimidation**

Once again, most of the threats and intimidation recorded in the dataset were made by the police, and most cases involved threats of arbitrary arrest unless a certain religious activity, such as worship or a religious ceremony, was discontinued.

### Other Non-Physical Attacks



**Figure 25: Perpetrators of Other Non-Physical Attacks**

Most non-physical attacks (other than threats and intimidation) were carried out by private citizens, often where such citizens disrupted ongoing worship or engaged in hate speech.

Although a considerable number of religious attacks were carried out by state actors, in most cases, the religious identity of such perpetrators was classified as 'unknown'. While it may be reasonable to assume that most state actors are likely to belong to the majority ethnicity and religion of Sri Lanka, a definitive conclusion cannot be arrived at in the absence of data (specifically on such actors' identities) in the present study.

## 4. Conclusion

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This section presents the main conclusions that may be drawn from the legal analysis of the incidents recorded by NCEASL. Three conclusions emerge in this regard.

**First**, there appears to be a striking correlation between the nature of the existential fear harboured by a perpetrator community and the type of attack faced by the victim community. It comes as no surprise that violence against a particular community is driven by underlying real or imagined grievances against that community. It is already theorised that communal existential fears can lead to suspicion, hostility, discrimination, and eventually violence against the other. This study adds, at least to some extent, a data-driven credence to the theory that existential fears combined with economic, political, social and cultural fault lines can begin a chain reaction that ultimately results in violence. Each type of attack encountered by a religious group appears to be linked to the fears associated with that religious group. Thus, the team's analysis of the dataset reveals a correlation between the high number of attacks of a particular kind encountered by a particular religious group and the existential fears associated with that group.

In the case of Christians, the most frequent type of attack involved restrictions on the religious worship of Christians who belonged to non-mainline churches often perceived as engaging in proselytization. Threats and intimidation against this community also took place in the context of activities involving proselytization or the perception of proselytization. It may be recalled that the principal existential fear harboured by other communities with respect to Christians concerns proselytization. Therefore, the fear of losing adherents to Christian conversion appears to be driving legally impermissible restrictions on FoRB, discriminatory attacks using regulatory instruments, threats and intimidation, and damage to property.

In the case of Muslims, the most prominent type of attack encountered was violations of FoRB concerning religious observance – particularly appearance and attire – and, to some extent, discrimination and arbitrary restrictions on business activities. These types of attacks also correspond to the nature of the existential fears harboured by other communities with respect to perceived Muslim population growth, cultural and ideological influence, and dominance over the economy. Most attacks against this community, emanating from both the Sinhala-Buddhist and Tamil Hindu communities, appeared to target religious observance involving appearance and attire, such as beards and headscarves. Some discriminatory attacks also directly concerned Muslim traders. The sole incident of incitement recorded during the period of this study also targeted Muslims on the basis of their cultural and ideological influence and control over the economy in a particular area. Once again, the team observed a correlation between the types of attacks encountered by Muslims and the principal existential fears associated with them. Although episodic anti-Muslim violence similar to what was witnessed in Aluthgama in 2014 or Digana in 2018 were not observed during the period of this study, it should be borne in mind that the same existential fears fundamentally drove those violent episodes. Therefore, the risk of similar events re-emerging needs to be taken seriously so long as the same fears continue to manifest in lower-intensity attacks.

In the case of Hindus, most attacks against this community concerned sacred sites that featured territorial contestation with Sinhala-Buddhists. These attacks involved impermissible restrictions on FoRB, threats and intimidation, arbitrary arrests, damage to property, and even physical violence. In many of these incidents, the underlying dispute concerned a sacred site that Sinhala-Buddhists claimed. These claims arise from the entitlement complex of the majority community but are also connected to the existential fears about Tamil claims to autonomy and a historical homeland evidenced by Hindu sacred sites. The team, therefore, observed that the vulnerability of Hindus to religious attacks is also linked to the broader existential fears associated with the Tamil Hindu community.

**Second**, a large portion of the religious attacks recorded during the period of the study involved the state, and the police was alleged to be the principal perpetrator in most of these incidents. Previous studies commissioned by NCEASL have found that officials are often involved in a majority of discriminatory attacks against religious groups, and that this trend is driven by entrenched majoritarianism within the state sector, which has led to 'institutional decay'.<sup>27</sup> The analysis in the present study reaffirms this finding that the state continues to be at the heart of religious attacks in Sri Lanka. While powerful non-state actors, such as religious leaders and political actors, wield influence over state actors, the active participation of the state remains a crucial element in the ecosystem that sustains fear and the chain of phenomena that leads to violence. The present study concludes that, without the involvement of the state (in the form of inaction, discrimination, threats and intimidation, arbitrary arrests, and even physical violence), it would be difficult to perpetuate religious attacks targeting Christians, Muslims, and Hindus.

Impunity remains a major stumbling block with respect to disincentivising state actors from participating in religious attacks. Very few recorded incidents examined in this study featured measures to secure the accountability of state officials involved in the religious attacks. Only in the case involving withholding the examination results of 70 students from Trincomalee due to their religious attire was there even a prospect of accountability owing to an ongoing investigation by the HRCSL. No criminal accountability appears to be likely in any of the recorded incidents involving state officials committing offences under Sri Lanka's penal law. Therefore, breaking the cycle of impunity among state actors, and particularly police officers, through decisive legal and institutional reform may be crucial.

The team noted a recent statement by the HRCSL in which it recommended a mechanism in Sri Lanka dedicated to independently and impartially investigating, prosecuting, and holding accountable state officials responsible for enforced disappearance. It recommended that investigation of such crimes should be conducted by an institution or unit that is independent of regular law enforcement authorities. The same rationale applies to any offence committed by members of law enforcement authorities in their official capacity, as the notion that the police should investigate their

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<sup>27</sup> Verité Research and NCEASL, *Inaction and Impunity: Incidents of Religious Violence Targeting Christians, Muslims and Hindus* (2019).

own conduct runs into a serious conflict of interest. The very low rates of conviction in terms of the offence of torture<sup>28</sup> and the fact that there has not been a single prosecution with respect to the offence of enforced disappearance, indicate the systemic challenge in terms of ensuring independent investigations into police misconduct. If impunity is a systemic issue, then overcoming impunity requires a system overhaul where alleged offences committed by police officers are handled by an independent office with investigators and prosecutors who are independent of Sri Lanka Police.

**Finally**, this study reveals a serious breakdown in the Rule of Law concerning religious freedom in Sri Lanka. The failure to interpret and apply the law with precision and good faith remains a major contributing factor to the perpetuation of religious attacks. The main example of this challenge is the misapplication of the limitation regime under article 15(7) of the Constitution whereby entirely impermissible restrictions on FoRB are routinely imposed. It appears that state officials including law enforcement authorities are either ignorant of the legal requirements of article 15(7) or simply disregard those requirements when they impose restrictions on FoRB at the behest of powerful complainants. On some occasions, restrictions are imposed based on letters or circulars that do not fall within the scope of 'law' – an essential element of the legal test set out in article 15(7). On other occasions, no instrument is even cited, and the restriction is imposed entirely arbitrarily at the whim of the state official involved. Additionally, there appears to be institutional disregard for the elements of several specific offences designed to protect vulnerable religious groups (e.g., section 3 of the ICCPR Act), where perpetrators are simply not held to account for serious offences including incitement and criminal intimidation. Accordingly, the present study observes a pervasive disregard for legal safeguards and a general breakdown in the Rule of Law in the domain of religious freedom in Sri Lanka.

This study reveals that the specific vulnerability of religious groups to certain types of religious attacks can only be addressed by confronting the majoritarian existential fears that drive such attacks. This task may seem daunting in a context where many of the fears harboured by communities are deeply entrenched and cannot be easily transformed in the short term. But two major barriers to such transformation require immediate attention.

First, it is crucial that FoRB advocates campaign for an independent accountability mechanism with adequate powers and resources to investigate and prosecute law enforcement officials for offences committed under Sri Lanka's penal law to ensure criminal accountability. Such a mechanism should be contrasted with the current National Police Commission, which only has certain powers of inquiry into the disciplinary conduct of police officers. By contrast, a fully-fledged independent accountability mechanism will feature the power to investigate and prosecute officials for criminal offences, including assault, destruction of property, and criminal intimidation, as well as more egregious offences, such as torture and enforced disappearance. An appropriate equivalent mechanism that already exists with respect to offences relating to bribery and corruption is the Commission to Investigate Allegations of Bribery or Corruption. In the

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<sup>28</sup> Dulan Dasanayaka, 'Torture: A Prevailing Uncivilized System in Sri Lanka', *Groundviews*, <https://groundviews.org/2023/06/26/torture-a-prevailing-uncivilized-system-in-sri-lanka/> [last accessed 1 February 2025].

absence of a similar mechanism to deal with crimes targeting persons on the basis of their religious identity, law enforcement officials appear to be able to perpetuate religious attacks at the behest of powerful non-state actors with complete impunity. Meaningful intercommunal trust-building, which is crucial to dispelling existential fears, remains improbable so long as law enforcement authorities can be animated by powerful non-state actors and continue to spearhead religious attacks.

Second, it is important that the legal tests with respect to determining the permissibility of a restriction on FoRB and the elements of complicated offences, such as the offence under section 3 of the ICCPR Act, are well understood by the state and applied consistently. Restrictions on FoRB imposed through informal means or through instruments that do not fall within the scope of 'law', and the failure to enforce the law when offences are committed, have led to the erosion of the Rule of Law concerning religious freedom in Sri Lanka. FoRB advocates should, therefore, also promote legal awareness with respect to FoRB, the grounds of restricting FoRB, and the elements of specific FoRB-related offences, and campaign for greater enforcement of the law.

