

Navigating Intersecting Rights

Freedom of Religion or Belief and
Freedom of Expression in Sri Lanka



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Table of Contents

Introduction	1
Chapter 1	3
1 Legal Framework	3
1.1 International Legal Framework	3
1.2 Domestic Legislation	5
1.3 Conclusion	12
Chapter 2	13
2 Challenges of Convergence Between FoE and FoRB	13
2.1 Hate Speech	14
2.2 Blasphemy	15
2.3 Propagation and Proselytisation	16
2.4 Registration of Religious Places of Worship	17
2.5 Conclusion	18
Chapter 3	19
3.1 Protecting Religion, Protecting People	19
3.2 Manifesting Religion and the Politics of Propagation	24
3.3 FoE and FoRB Online	26
3.4 The ‘Chilling Effect’ and Civil-Society Response	27
3.5 Tackling ‘Awful but Lawful’ Speech	27
Chapter 4	29
Recommendations	29
Lawmakers and Policymakers	30
Judiciary	31
Law Enforcement	31
Civil Society and Human Rights Defenders	31
Religious Leaders and Faith-Based Institutions	32
Media and Digital Platforms	32



Introduction

Fundamental freedoms, including the Freedom of Religion or Belief (FoRB) and Freedom of Expression (FoE), seek to protect individuals from undue state interference and are the hallmarks of a healthy and free society. FoE and FoRB have a complex relationship, which becomes even more heightened in a diverse and multi-religious context such as Sri Lanka.

FoRB and FoE are both protected by international laws, under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) as well as under the Sri Lankan legal framework.

Both FoRB and FoE are inextricably linked, in that there is an inherent connection between a person's thoughts and the way they express them outwardly.¹ These two freedoms are essential for citizens in relating to the state and to each other, individually or as a group, and have long been considered natural (relating to one's conscience and expression of opinions) and inalienable rights.² They have been closely associated with one another since the human rights framework was developed, and they are next to each other both in the UDHR and in the ICCPR as articles 18 and 19.³ Like all human rights, the free exercise of these freedoms function as a means of holding the state accountable and are therefore vital to a healthy democracy and empowers minorities and

dissenters to challenge the views and actions of the majority.

In the manifestation of one's religion, there is a convergence between FoRB and FoE, which requires a delicate balance in order to ensure that the exercise of one right does not impede the legitimate exercise of the other. (E.g. the imposition of restrictions on FoE in order to prevent incitement of violence against another for his/her belief is a key point of intersection in the exercise of the two rights). Therefore, expressions relating to religion, belief and theology, which lies at the intersection of FoRB and FoE, is the focus of this report. This encompasses both the positive right to express one's beliefs and the negative right to be protected from discrimination or violence on the basis of those beliefs - and are foundational for maintaining a stable, pluralistic, and peaceful society and for encouraging civic participation and fostering dialogue and collaboration.

Unfortunately, people all over the world, including in Sri Lanka, often experience severe limitations on the exercise of their rights in relation to both FoRB and FoE. Sri Lanka in particular has witnessed a rise in such incidents during the post war period⁴. Entrenched institutional biases within state structures, along with deeply rooted existential anxieties, have perpetuated tensions among ethnic and religious communities. These dynamics present significant challenges, especially in upholding accountability and ensuring access to justice, as well as the non-recurrence of FoRB and FoE violations. Minority religious communities experience vulnerability, both in terms of being victims of hate speech and having restrictions imposed on their religious expression, which is further heightened by a lack of sufficient recourse to seek justice due to built-in biases within the state and law enforcement apparatus.

This report will examine the relationship between FoRB and FoE, as well as discuss the complex and complementary nature of these two rights within an international human rights framework as well as specifically in the Sri Lankan context. It will also

consider the imposition of limits on religious expression in light of legally accepted norms. The analysis in the ensuing chapters will explore how hate speech continues to persist in Sri Lanka despite existing legal provisions, as limited prosecutions and ongoing government inaction have fostered insecurity among minority communities and a sense of impunity among perpetrators. On the other hand, the report also highlights emerging positive developments, including recent court decisions, recommendations and directives issued by the Human Rights Commission of Sri Lanka, and improvements in police conduct in investigating violations of FoRB.

Chapter 1 will briefly examine the legal framework governing FoRB and FoE. Chapter 2 will include an analysis of how these freedoms have interacted in practice - the intersection, convergence and related challenges. Chapter 3 will specifically focus on the Sri Lankan experience since 2023, through analysis of case studies, interviews with stakeholders and victims as well as focus group discussions with religious leaders. Chapter 4 will set out recommendations that stem from the findings of the report, in order to create a more enabling climate for religious expression in Sri Lanka.



Chapter 1

1. Legal Framework

This Chapter provides an overview of the international legal framework and existing domestic legal framework in Sri Lanka that pertains to the exercise of FoRB and FoE. This includes the scope of protection provided to these freedoms, state obligations, and permissible limitations under law and highlights certain gaps between international and domestic standards, which prevent the full and free exercise of FoRB and FoE in Sri Lanka.

1.1 International Legal Framework

Freedom of Religion or Belief (FoRB) as a Fundamental Human Right

FoRB is a basic human right that is protected under the UDHR and the ICCPR.⁵ It means that every person has the right to have or not have a religion or belief, change their religion or belief at any time, practice, express, and share their religion or belief—alone or with others, in private or in public. FoRB is a universal right, which means it belongs to everyone, no matter their background, status, or what they believe in. The Human Rights Committee has recognised that **the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts.**⁶

Individuals are free to interpret their religion or belief in their own way. This includes the right to question, disagree with, or leave a religion—even if it challenges the mainstream religion or belief.⁷ This right also protects people from being forced or pressured to follow, change, or give up their religion or belief. The ICCPR further states that people belonging to religious minorities have the right to practice and express their religion together with others in their community.⁸

State Obligations in relation to FoRB

State obligations in the protection of the right to FoRB include both positive obligations to protect these rights against infringement by third parties or non-State actors and negative obligations to ensure that individuals are able to exercise their freedom of religion or belief within legally recognised parameters, without hindrance or discrimination.⁹

Internal and External Dimensions of FoRB

On a closer look, it is evident that FoRB can be enjoyed on two realms - firstly in the internal realm which includes the right to have or adopt a religion or belief (which is encompassed more broadly under the freedom of thought), and secondly in the external realm of manifesting or expressing this religion or belief individually or collectively.

Permissible limitations

While an individual has absolute freedom of thought pertaining to the internal realm of exercising FoRB (i.e. it cannot be limited by any means) - the freedom to manifest or express one's religion or belief can be limited by law for very specific purposes, namely when it is necessary to protect public safety, public order, health, morals, or the rights and freedoms of other people¹⁰.

Interdependence of FoRB with other rights

FoRB cannot be enjoyed in a vacuum and is mutually interdependent on the enjoyment of other human rights. Freedom of Expression (FoE) is one such right which is closely associated with the full and free exercise of FoRB, especially its external

manifestation which intersects with the enjoyment of FoE, and which constitutes the focus of this report.

Freedom of Expression (FoE) as a Fundamental Human Right

Internationally, FoE is protected under both the UDHR and the ICCPR.¹¹ This right guarantees that everyone is free to hold their own opinions and to express them without fear or interference - whether from the government, organizations, or other people. It also includes the right to seek, receive, and share information and ideas through any method—such as speaking, writing, printing, or using digital media. The right applies to a wide range of expression, including the expression of religious views. Therefore, criticism of religious beliefs or ideas is protected under this freedom, even if it is perceived to shock, offend or hurt the holder of the belief.¹² **This is because human rights norms exist to protect individuals and not any belief system.**¹³ Importantly, freedom of expression protects all kinds of opinions—not merely those that are popular or widely accepted, but also those that may be perceived as controversial or offensive.

State Obligations in relation to FoE

States are also responsible for protecting its citizens' FoE from being interfered with by any entity, including private individuals or organisations. This means the state must make sure that no one

unfairly limits someone's ability to express their opinions or share information.¹⁴

Permissible limitations

However, this right is not absolute and carries with it the duty and responsibility not to incite others towards hatred or violence, and may be restricted by law as necessary for prescribed purposes.¹⁵

The ICCPR permits restrictions on free speech that 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, or of public health or morals.

Additionally, the ICCPR provides that any advocacy of, inter alia, religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.¹⁶ **The Human Rights Committee has opined that any restrictions on speech that is deemed to constitute such incitement must also fall within the permissible restrictions in relation to free speech¹⁷** demonstrating the undeniable connection between restrictions on free speech and prohibition of incitement.¹⁸ It has also noted that any restrictions on an individual's FoE may not put in jeopardy the right itself.¹⁹ The Human Rights Committee has clarified that imposing a restriction for one of the permitted reasons set out in the ICCPR is not a sufficient justification and that the limit must actually be necessary to protect

that goal. This idea of 'necessity' also means the restriction must be proportional - it cannot go further than what is truly needed to protect that goal.

1.2 Domestic Legislation

Sri Lanka has ratified the ICCPR, and affirmed its commitment under international law towards protecting both FoRB and FoE. However, being a dualist country,²⁰ the mere ratification does not make the contents of the international covenant enforceable domestically. Therefore, the following section will briefly look at the domestic legal provisions applicable to both FoRB and FoE.

Analysis of Sri Lanka's Constitutional provisions

Constitutional Protection of FoRB

In Sri Lanka, FoRB is recognised under Articles 10, relating to one's internal freedom to adopt a religion or belief (which is not subject to any limitations by law), and Article 14 (1) (e) of the Constitution relating to the external freedom to manifest one's religion.

Restrictions on the Manifestation of Religion

Similar to the international legal framework, the external manifestation may be subject to restrictions for the purposes specifically set out by law.²¹ Unlike the ICCPR, Sri Lanka permits restrictions for "general welfare" and even for national security²² -something international standards do not permit.²³ These broader limits have led to frequent religious policing, where authorities often respond to pressure from dominant religious groups, to the detriment of minorities.²⁴

Supreme Court Interpretation of Religious Expression

The Supreme Court recently ruled that Sri Lanka's Constitution protects only four specific forms of expressing religion - worship, observance, practice,

and teaching - and that this is an exhaustive list of religious expression that is protected by law. The Court went on to note that while internal belief is absolute, external religious expressions can affect others and therefore may be regulated. It also stated that, while outward religious expression must fall under either Article 14 (1) (a) (freedom of expression) or Article 14(1) (e) (manifestation of freedom of religion or belief),²⁵ conduct that does not qualify as an external manifestation of religion or belief under Article 14(1) (e) cannot be recast as protected speech under Article 14(1) (a), including through publication.²⁶

Constitutional Protection and limitations in relation to FoE

Sri Lanka's Constitution protects FoE²⁷ but permits limitations for reasons such as racial or religious harmony, parliamentary privilege, contempt of court, defamation, and incitement.²⁸ While the ICCPR recognises defamation and incitement to an offence as permissible restrictions on FoE²⁹, none of these other grounds for restriction are recognised by the ICCPR.³⁰ The Supreme Court has also said that free speech covers not only popular ideas but also those that society may find offensive or disturbing.³¹

Equality, Non-Discrimination, and the Special Status of Buddhism

The Constitution also requires respect for the rights and freedoms of others when enjoying one's own rights and freedoms.³² Moreover, Article 12 guarantees equality for everyone and prohibits discrimination based on race, religion, language, caste, sex, political opinion, or birthplace. Although the Constitution protects all religions, it gives Buddhism a special status and requires the state to promote the Buddha Sasana.³³ This clause stands at odds with international standards, which state that giving one religion a privileged place - or having a majority religion - cannot be used to limit human rights or discriminate against other religious groups or non-believers.³⁴ Notably, it has been widely debated and sometimes used by

officials to favour Buddhist interests, with offensive expressions against minority faith communities often going uninvestigated.³⁵

Broad Executive Powers and Weak Safeguards

Although the Constitution protects the right to manifest one's religion or belief, minority religious groups still face limits on activities like proselytising, converting, and building places of worship.³⁶ One key factor is the wide powers the Constitution gives the government to restrict basic freedoms. Unlike the ICCPR, which requires any limits on freedom of expression to be set "by law" and be "necessary,"³⁷ the Sri Lankan Constitution only requires restrictions to be "prescribed by law," without the need to prove necessity.³⁸ "Law" also includes emergency regulations made by the executive under the Public Security Ordinance, which often pass without substantial parliamentary debate. This means the government can restrict rights through executive orders, commonly justified by claims of national security or public order.³⁹

As a result, the government has broad discretion to limit rights, creating significant challenges for people seeking to freely practice and express their religion.

ICCPR Act

Enactment and Scope of the ICCPR Act

The ICCPR Act (hereinafter the 'Act' for the purposes of this section), was enacted in 2007, purportedly to give effect to certain articles in the ICCPR which have not been recognised under existing laws.⁴⁰ Accordingly, the Act incorporated Article 20 of the ICCPR, which makes it a criminal offence for any person to, inter alia, advocate religious hatred that constitutes incitement to discrimination, hostility or violence.⁴¹ It is also an offence under this section to attempt, aid and abet and threaten to commit such an offence,⁴² and a conviction would result in rigorous imprisonment for a period up to ten years.⁴³

Constitutional Context and Legislative Gaps

The incorporation of Article 20 of the ICCPR through the Act must be viewed in the context of a Constitution that already recognised the right to FoE and its permissible limitations, albeit within a narrower framework than that afforded under international law. The Act fails to incorporate the full scope of FoE and its permitted restrictions while incorporating the prohibition of religious hatred that constitutes incitement to discrimination, hostility or violence, which creates a legal vacuum in domestic law, given the international acceptance of the close nexus between the restrictions on FoE and prohibition of incitement.⁴⁴

Absence of Internationally Recognised Safeguards

In determining cases of hate speech, the Act does not incorporate the internationally recognised three-part test of legality, necessity, and proportionality, nor does it clearly articulate the threshold of "incitement" recognised under international law. This omission further undermines the coherence and legitimacy of the legal framework governing hate speech and incitement in Sri Lanka.

Misuse of the Act and Impact on Fundamental Rights

Although incitement to discrimination, hostility and violence is criminalised under the Act, successive governments have invoked the Act to protect majoritarian beliefs against perceived criticism or insult⁴⁵ - rendering it a tool to crush dissent and silence minority religious communities⁴⁶ instead of providing them protection against incitement, defeating the purpose of the law itself.⁴⁷ Therefore, the Act has ironically become a repressive tool used for curtailing freedom of thought or opinion, conscience, and religion or belief.

Lack of Judicial Interpretation

While there have been some arrests under the Act,⁴⁸ there is a lack of reported judgments or trials that have been concluded in the nearly two decades since its enactment. The only indictment filed in relation to incitement of racial or religious hatred was resolved, with no judicial interpretation.⁴⁹ (Notable arrests under the ICCPR in recent years will be discussed further in Chapter 3 of this report).

Recommendations for proper application of the law

The Human Rights Commission of Sri Lanka (HRCSL) has highlighted the misapplication of Section 3 of the ICCPR Act by law enforcement authorities. To address this issue, the HRCSL has recommended mandatory training for police

officers on the correct application of the Act, with a view to preventing its misuse and ensuring compliance with human rights standards.⁵⁰

On a positive note, the IGP has assured that a new circular will be issued to all police officers containing guidelines to prevent future unlawful arrests under the ICCPR Act, at the conclusion of the Fundamental Rights Petition filed by Nathasha Edirisooriya, who was arrested and investigated under the Act previously (See: 3.1).

Penal Code

Sections 291A and 291B of the Penal Code regulate expressions that are deemed to hurt religious sentiments. Section 291A concerns the uttering of words with deliberate intent to wound religious feelings, while Section 291B addresses deliberate and malicious acts intended to outrage the religious feelings of a class by insulting its religion or religious beliefs. In addition, Section 120 has, in certain instances, been used to prosecute cases involving hate speech. Collectively, these provisions constitute the principal Penal Code framework governing religious expression in Sri Lanka.

Offences relating to Hurting Religious Sentiments (Sections 291A and 291B)

Sections 291A and 291B of the Penal Code both hinge on the requirement of deliberate and malicious intention to outrage or wound religious feelings.⁵¹ Indian Courts, in interpreting similar provisions based on which Sri Lanka's laws have been drafted, have consistently held that mere offensiveness, abusive language, or criticism of religion does not suffice - the conduct must reflect a premeditated and primary intent to cause religious offence, incite hatred, or provoke violence.⁵² In this sense, both provisions are aimed at preventing serious harm rather than shielding religious beliefs from scrutiny or dissent. The Colombo High Court recently considered the application of Sections 291A and 291B in a case involving a Sri Lankan comedian charged for allegedly defaming Buddhism (see section 3.1). The

court held that mere offensiveness does not constitute an offence, and that the statement must be both deliberate and malicious to fall within the scope of these provisions.⁵³

However, the broad wording of Sections 291A and 291B continues to leave room for misapplication. It is important that the offence should apply only when the speech incites violence or is closely linked to causing harm.⁵⁴ Without such limits, the provisions can be used to suppress legitimate expression, particularly affecting minorities and dissenting voices. Accordingly, their enforcement requires careful contextual analysis, and civil society groups have called for their review or repeal to ensure that they do not impose unjustified restrictions on FoRB or FoE.⁵⁵

Offence relating Exciting Disaffection (Section 120)

The wording of Section 120 is similar to the common law offence of sedition (conduct or speech inciting people to rebel against the authority of a state) and in Sri Lanka it has been used to make arrests against those who criticise the state, suppressing dissent and peaceful criticism directed at the Government.⁵⁶ It has also been used against those whose statements have been perceived to cause disharmony among communities.⁵⁷ A Sri Lankan judgment has emphasised that 'intention to incite people to violence' or 'create public disorder' forms an essential constituent element of the offence, and that

the essence of the section lies in determining whether the alleged words prompt individuals to engage in violent or disorderly conduct, rather than assessing their defamatory nature.⁵⁸

It has been argued that the language in the overall provision is vague and broad and is an “unnecessary colonial hangover” which violates Sri Lanka’s obligations under international law, particularly under the ICCPR which prohibits restrictions on freedom of expression unless it is truly necessary and proportionate.⁵⁹ Critics have also questioned the need for the offence in a modern democracy, as it does not serve a pressing social need and successive governments have been accused of applying this provision arbitrarily, in order to crush dissent.⁶⁰

Selective Enforcement and Culture of Impunity

Despite calls for repeal, some governments have proposed new, similar hate speech provisions that were criticised⁶¹, while others have focused on enforcing existing restrictions through police orders and selective application of the law.⁶² These Penal code provisions, in conjunction with the Police Ordinance, gives the Police wide powers to act when public peace or order is threatened.⁶³ However, during riots targeting the Muslim community in Aluthgama, Gintota, and Digana, the Police failed to take action against the alleged perpetrators, who were from the majority community - demonstrating the selective

application of the law. The selective application of the law, by the law enforcement officers, in a context of broad and ambiguously worded laws, contributes to the culture of impunity, and has made the state the main perpetrator of FoRB violations, consequently facilitating FoE restrictions as well. Several fundamental rights cases have been filed against the Police for inaction and selective application of the law.⁶⁴

Need for Comprehensive Reform

The Penal Code, enacted in 1883, has undergone multiple amendments; however, sustained calls for comprehensive reform of provisions relating to hate speech and religious expression have largely been ignored. The existing provisions must be revisited and reformed to ensure alignment with contemporary societal needs and Sri Lanka’s international human rights obligations.

Prevention of Terrorism Act (PTA)

Enactment and Intended Purpose

The PTA, originally intended as a temporary legislation to combat terrorism, has remained a part of Sri Lanka’s legal framework for decades, and has continuously been used to target dissenters and anyone perceived as a threat to the state. The broad and ambiguous manner in which its offences are prescribed has made the PTA subject to severe criticism both locally and internationally.⁶⁵

Ambiguity and Lack of Legal Certainty

Section 2(1) (h) of the PTA⁶⁶ has been particularly subject to criticism due to the broad and ambiguous manner in which the offence has been described, leaving no legal certainty as to how an offence is interpreted and is a central reason as to why the PTA has and continues to attract criticism by the international community since it was enacted.⁶⁷

Impact on Freedom of Expression and Minority Communities

The expansive scope of Section 2(1)(h) has enabled its use as a tool to suppress criticism of the government, including against journalists and political opponents⁶⁸, and has facilitated arbitrary enforcement against minority communities. For instance, in the aftermath of the 2019 Easter Sunday attacks, a significant number of individuals - predominantly from Muslim communities - were arrested and detained under the PTA.

Continued Application and Enforcement Practices

Despite the election of a new President and government in 2024, accompanied by public commitments to governance reform⁶⁹, the PTA remains in force. Arrests under the Act have continued, including the detention of Mohamed Rusdi, a young Muslim man arrested for posting a sticker condemning Israeli military actions in Gaza.⁷⁰ The HRCSL subsequently ruled that the arrest and detention was a violation of his fundamental rights - that Rusdi's views were rooted in personal and religious convictions, and therefore protected under Article 10 of the Constitution which guarantees the freedom of thought, conscience, and religion⁷¹. It also recommended the establishment of proper legal review procedures before any arrest or detention under the PTA, and the consistent issuance of arrest receipts to ensure transparency and accountability.⁷²

Reform Efforts and Recommendations

While there have been several attempts over the years at replacing the PTA with new anti-terrorism laws, these proposed laws still lacked adequate checks and balances, leaving room for abuse if enacted. The latest bill - the Protection of the State from Terrorism Act (PSTA), published by the Ministry of Justice in December 2025⁷³ continues to include an overbroad definition of terrorism, which could potentially criminalise political activism and dissent.⁷⁴ The definition of

terrorism is expanded to include serious damage to public or private property, including religious or cultural sites⁷⁵, even though such acts are not recognised as terrorism under international norms. This is particularly troubling given the history of selective enforcement that has disproportionately targeted non-majority communities, raising the risk that vague and overbroad provisions could be used to restrict or criminalise the legitimate, peaceful religious activities of minority faiths. Similar to the existing law, the bill leaves room for arbitrary exercise of powers of detention, and also empowers the military to engage in law enforcement responsibilities - which is concerning, given the questionable record of the police and military in exercising powers under the PTA. Wide executive powers and weak safeguards render the proposed law further susceptible to misuse, especially in relation to minority communities⁷⁶, and ultimately poses a threat to the free exercise of FoRB and FoE if enacted in its current form.

Until the PTA is in force, it is important that the state establishes clear guidelines and parameters to ensure that it would be enforced keeping in mind the legally permitted reasonable, necessary and proportionate restrictions on the FoE under international law, including religious expression, as highlighted in the recommendations set out by the HRCSL in the Rusdi case.⁷⁷

Online Safety Act

Enactment and Stated Objectives of the Online Safety Act

The Online Safety Act (OSA), enacted in February 2024 through a hurried process with little debate⁷⁸ was presented as a tool to protect online users but in practice imposes heavy limits on online speech and increases state surveillance, encouraging self-censorship — including in religious expression.

Powers of the Online Safety Commission

The Act creates an Online Safety Commission (OSC), appointed by the President, with broad powers to interpret what counts as prohibited speech⁷⁹ and order content removal⁸⁰. Its vague definitions of “false statements” and intent fail to meet international standards of legality, legitimacy, necessity, and proportionality.⁸¹

Criminalisation of Online Expression and Lack of Judicial Oversight

The OSC is empowered to initiate or recommend criminal proceedings without adequate judicial oversight, creating a risk of disproportionate penalties and the criminalisation of legitimate expression, including criticism, commentary, or satire⁸². In its Special Determination on the Online Safety Bill, the Supreme Court observed that several offences contained in the Bill already exist, either directly or indirectly, within the Penal Code,

yet attract significantly harsher punishments without sufficient justification.⁸³ Similar concerns have been raised by the UN High Commissioner for Human Rights following a recent visit to Sri Lanka.⁸⁴

Risks to Religious Expression and Minority Communities

Sections 15 and 16, which penalise “false statements” affecting religious assemblies or “outraging religious feelings” respectively, are especially risky for minorities due to their broad, subjective wording. Combined with Sri Lanka’s history of selective enforcement, these provisions could suppress dissent and target marginalised groups. There is also no clear appeal process for removed content⁸⁵, and the first arrest under the Act was for criticism of government officials⁸⁶—demonstrating its potential misuse.⁸⁷

The OSA further undermines privacy by expanding state access to user data⁸⁸, which poses risks to vulnerable groups who depend on anonymity.⁸⁹ Overall, the Act uses vague language, grants sweeping powers, and lacks safeguards or proportionality.

Review Process and Uncertain Reform Trajectory

While the government has appointed a multi-sectoral committee chaired by a senior official of the Attorney General’s Department to review the Act and incorporate public feedback for proposed amendments⁹⁰, it remains to be seen whether the amendments will adequately address the concerns from a human rights perspective.⁹¹

1.3 Conclusion

Therefore, it is evident that the existing legal framework has contributed to an increasingly restrictive environment for FoRB and FoE in Sri Lanka. Minority communities, dissenters and those challenging mainstream ideologies continue to face heightened risks, compounded by weak enforcement mechanisms and insufficient protection of their fundamental rights.





Chapter 2

2. CHALLENGES OF CONVERGENCE BETWEEN FoE AND FoRB

Human rights are universal (they apply to everyone), indivisible (cannot be applied in part), interdependent (cannot be enjoyed in isolation) and interrelated (one right cannot be considered more important than another).⁹² Although sometimes argued that the protection of one right requires sacrificing another, the interrelated nature of human rights is such that one right cannot be fully achieved by undermining another.⁹³

There is a common misconception that FoE is in conflict with FoRB - particularly when speech is used to challenge and offend individuals' intimately-held religious beliefs and convictions or in relation to statements perceived as threatening to the majority. As a result, it is thought that FoE must be curtailed in order to ensure respect for FoRB. However, FoE is integral to practice and manifest one's religion or belief, and therefore, FoRB and FoE are mutually enforcing and closely connected rights, helping protect the identity of both individuals and communities. Consequently, any limitations on FoE will also limit the full and free exercise of FoRB.⁹⁴ Therefore, in seeking

to ensure respect for all religions or beliefs, the challenge is to ensure that FoE will be exercised in a way that does not incite discrimination, hostility or violence against another individual in relation to their religion or belief.⁹⁵

This chapter will consider challenges that emerge in the convergence of these two fundamental freedoms, and consider means of how these tensions can be reconciled, in order to ensure their complementarity and interrelatedness.

2.1 Hate Speech

A key challenge at the intersection of FoRB and FoE is hate speech. There is no universal definition of “hate speech” and most laws focus only on specific, narrowly defined types of harmful speech. A vague legal definition would give governments too much discretion to decide what speech to censor.⁹⁶ However, even these laws involve some subjective judgment, such as deciding what counts as “hatred” or “incitement.” Although what constitutes incitement to hatred depends on the context and the insult, there is no general consensus that offensive speech in itself undermines another’s rights. Hate speech raises important questions about the acceptable limits of FoE. Under international human rights law, speech becomes illegal (an offense) when it incites violence. Rude, offensive, or critical comments may be unpleasant, but they are not criminalised and must be tolerated. Only speech that harms the rights and freedoms of others should be restricted, and this must be in line with international human rights standards.

While States have a margin of discretion to decide the thresholds between permissible insult and prohibited advocacy of religious hatred, they are not under obligation to prohibit speech that is merely provocative or offensive about a religion.⁹⁷ Regrettably, some legislation imposes restrictions on speech not for causing harm, but simply because it might offend a group or provoke a hostile reaction. This makes it easier for authorities to misuse these laws against dissenters, political

opponents and minorities⁹⁸. This problematic trend in legislation seeking to regulate hate speech is evident in Sri Lanka, as discussed in the previous chapter. Imposing limitations to prohibit hate speech would inevitably require limiting some forms of speech, and if this is not done carefully, it can lead to too much censorship and the silencing of dissent. This does not mean that restricting hate speech always violates freedom of expression, but finding the right balance between the two is difficult and requires great care⁹⁹. The ICCPR can be used as a guide when striking this balance on legally permissible restrictions, when in conflict with the exercise of another freedom [See: 1.2], including FoRB, also keeping in mind that any such restrictions should not endanger the right itself.¹⁰⁰

The OHCHR’s Rabat Plan of Action provides a six-part test to decide when speech becomes incitement to discrimination, hostility, or violence. It looks at the context, the speaker’s influence, their intent, the content, how widely the message spreads, and the likelihood and imminence of the potential harm.¹⁰¹ A recent case¹⁰² concerning a statement made by a comedian, which was perceived to be offensive to Buddhism and the comedian arrested under the ICCPR, the High Court referring to this test and the United Nations Strategy and Plan of Action on Hate Speech of September 2020¹⁰³ held that the alleged statement did not encourage hostility toward Buddhism, and that the remarks

were made with humorous intent rather than malicious intent [See: 3.1]. The Court added that while some comments may be perceived as offensive or hurtful, that alone does not make them a crime under the ICCPR Act or Section 291A of the Penal Code¹⁰⁴. For a statement to count as hate speech, that targeted group must face an immediate risk of hostility or violence from the audience or the broader community.

Although there is a general consensus that religious intolerance is wrong, there is ongoing debate about whether offensive speech should be criminalised.¹⁰⁵ Any limits on speech must be necessary and proportional to the goal—such as preventing discrimination, hatred, or violence. Speech that does not reach the level of inciting hatred should not be criminalised, because that would harm free expression. Incitement to hatred should be required before applying criminal penalties. Due to the subjectivity of determining between insulting a religion and true hate speech, laws and courts must provide clear guidelines to avoid punishing criticism of religious beliefs more harshly than necessary.

2.2 Blasphemy

Blasphemy is considered as “the act of insulting or showing contempt or lack of reverence for God.”¹⁰⁶ In countries where religion and state are closely linked, blasphemy is often perceived as political criticism and an act of disloyalty,¹⁰⁷ with blasphemy laws which purportedly

seek to protect the “purity” of religion¹⁰⁸, preserve inter-religious harmony and public order. Ultimately these blasphemy laws mainly serve to protect the majority religion and help the ruling party retain political power. As a result, minority groups are often disproportionately affected under these laws.¹⁰⁹ Blasphemy laws are often vague, which makes them easy to misuse, and can be applied unfairly, especially when used for political reasons¹¹⁰.

From a human rights point of view, blasphemy laws protect neither FoRB nor FoE and should be repealed¹¹¹. FoRB guarantees that people may hold any thoughts or beliefs - even those others see as blasphemous, while FoE guarantees that they can share those ideas publicly. People may also criticise what they view as blasphemy, as long as they do not incite violence. Therefore, blanket limitations that ban disrespect toward religions, including blasphemy laws, generally conflict with human rights law, especially the ICCPR¹¹². The only exception is when the speech clearly incites discrimination, hatred, or violence, which expressions may be limited under Articles 19(3) or 20(2) of the ICCPR, which must be judged on a case-by-case basis. Human rights protect people, not ideas or belief systems. Personal religious feelings or claims about maintaining social harmony are not valid reasons to limit basic freedoms. No religion or religious symbol should be immune from criticism or ridicule.¹¹³ Banning blasphemy may protect some people’s beliefs, but it will inevitably limit the beliefs of others. This makes blasphemy laws a violation of FoRB, which protects individuals, not their religious ideas or symbols. “Religious feelings” are not encompassed in the exercise of FoRB and do not warrant protection under human rights.¹¹⁴ Therefore, blasphemy laws often do the opposite of protecting FoRB¹¹⁵, with countries that have blasphemy laws usually experiencing more social conflict over religion.¹¹⁶ These laws are linked to greater discrimination against minorities and more mob violence based on religion.

Furthermore, blasphemy laws are illegitimate limitations of FoE, which protects a wide range of expressions, even those that may be regarded as deeply offensive to others.¹¹⁷ Rather than protecting religions, as such, emphasis should be on protection against incitement to hatred and violence against individuals.¹¹⁸ Therefore, the argument that FoE needs to be limited for the sake of protecting FoRB does not hold true.

Alongside its antiterrorism laws, the Sri Lankan legal framework contains certain provisions which are enforced as blasphemy laws¹¹⁹, with the ICCPR Act being used as a blasphemy law in addition to Articles 290, 290A, 291A, and 291B of the Penal Code which criminalise expressions deemed intended to offend or harm religious sentiments (discussed in Chapter 1 of this Report).

2.3 Propagation and Proselytisation

Most religions encourage their followers to share their beliefs¹²⁰. Thus, for many believers around the world the right to hold their beliefs is inseparably linked to the right to share these beliefs. This is a point of convergence and tension between FoRB and FoE which has posed continuous challenges, driven by deep seated fears of conversion and perceived threats to the existence and protection of the majority¹²¹.

Various actors-including political, religious, and local community leaders-have called for limiting or banning proselytism, typically to protect the religious majority at national or regional levels or state-supported religions. Such laws aim to preserve the dominant group's religious and political influence, with states fearing that growing minority religions could gain social or political power and challenge its authority. Protecting a particular religious tradition-even one tied to national identity or law-is not a valid basis for restricting FoRB or FoE. Nor is preserving social harmony or coexistence. In cases of unrest, the state should promote tolerance and mutual

understanding rather than curtail these rights.¹²²

Limitations on proselytisation are problematic because they disproportionately target minority religions and are often applied arbitrarily, restricting many legitimate activities. They also violate FoE, which protects both the right to impart and to receive information. Although states may claim such laws shield individuals from unwanted persuasion, it is important to note that FoE does not protect people from exposure to ordinary social influence.¹²³ These restrictions likewise breach the external practice of FoRB, which protects the right to manifest one's beliefs-including non-coercive missionary or preaching activities aimed at persuading others.¹²⁴ Anti-proselytisation laws and other measures that seek to prevent conversion also violate the internal practice of FoRB, which is absolute and cannot be limited - since individuals cannot be prevented from changing or abandoning their beliefs, and the state cannot substitute its own choices for theirs.¹²⁵

In Sri Lanka, propagation is not constitutionally protected. Sri Lankan courts have held that the Constitution does not guarantee a right to propagate religion in the sense of converting others¹²⁶. However, recent decisions have also clarified that spreading one's religion or attempting to convert others is not a criminal offense and cannot justify arrest or form the basis for criminal liability.¹²⁷ [See

Section 1.2]

Following a 2020 country visit, the UN Special Rapporteur observed that minority groups-especially Jehovah's Witnesses, Evangelical Christians, and Muslims-face hostility rooted in fears that conversions threaten majority religious dominance or are achieved through unethical inducements¹²⁸. Whilst Sinhala-Buddhist-led campaigns dominate national discourse, regional majoritarian dynamics are also evident, with Hindu nationalist groups such as the Siva Senai emerging in certain areas, particularly in the Northern and Eastern Provinces, particularly in the Northern and Eastern provinces, creating persistent challenges for other religious communities in such areas.¹²⁹ In essence, Sri Lanka's experience in relation to religious propagation reflects a struggle to balance the state's close association with Buddhism with its constitutional promise of religious freedom for all, which demonstrates the complexities of the intersection of FoRB and FoE in a diverse and multi-religious society.

2.4 Registration of Religious Places of Worship

The establishment and operation of a place of worship is a central element of the manifestation of FoRB.¹³⁰ Yet in Sri Lanka this remains difficult for certain religious minorities, especially smaller Christian groups. The state has

repeatedly restricted the registration of worship spaces through administrative circulars requiring mandatory approval. In 2022, the government issued a circular replacing and broadening previous circulars¹³¹, which now obliges all religious groups to obtain ministry permission to register or build new places of worship. Authorities have used it to order an end to house-based worship, despite lacking legal authority under Article 15(7).¹³² The draft NGO (Registration and Supervision) Bill released in 2024 would further entrench mandatory registration and require alignment with government policy.¹³³ However, international standards require laws to recognise both formal and informal associations - thus, the registration of an organisation is considered to be voluntary rather than a mandatory requirement.¹³⁴ This is crucial for individuals and groups facing legal, social, cultural, or religious barriers to formal registration. Mandatory registration undermines freedom of association by excluding large parts of civil society, enabling excessive state control, and facilitating suppression of groups seen as problematic or objectionable.¹³⁵ As such, mandatory registration is incompatible with the right to freely associate and collectively critique or oppose government policy.

Notably, the National Christian Evangelical Alliance of Sri Lanka (NCEASL) has received multiple responses to Right to Information (RTI) requests from the Department of Christian Religious Affairs confirming that registration is not mandatory.¹³⁶ It is therefore essential that this position is clearly reflected in administrative circulars and consistently adhered to by law enforcement authorities.

2.5 Conclusion

This chapter has shown that FoE and FoRB are not competing rights but mutually reinforcing freedoms rooted in the universal, indivisible, interdependent and interrelated nature of human rights. Therefore, the perception that FoE must be curtailed to protect FoRB is misplaced - in practice, placing limits on expression often undermines the very ability to hold, manifest and share religious or non-religious beliefs.

The issues examined-hate speech, blasphemy, proselytisation and the regulation of places of worship-demonstrate how states frequently exceed the limits permitted under law. While restrictions may be justified to prevent incitement to discrimination, hostility or violence, criminalising mere offense, criticism or peaceful religious expression violates both FoE and FoRB, disproportionately harms minorities, and risks silencing dissent. Blasphemy laws in particular protect beliefs rather than people and are incompatible with human rights principles.

International standards, including the ICCPR and the Rabat Plan of Action, provide clear guidance: any limitation must be lawful, necessary and proportionate, and must not impair the essence of the right itself. Sri Lanka's experience highlights the dangers of vague laws and administrative controls that privilege majority interests at the expense of pluralism. Sustainable religious harmony can be achieved not through censorship, but through protecting open expression while addressing genuine incitement to harm, thereby ensuring the complementary and equal enjoyment of both these freedoms.





Chapter 3

This chapter explores tensions that arise when rights intersecting with the Freedom of Religion or Belief (FoRB) and the Freedom of Expression (FoE) are misunderstood or violated. The analysis draws on expert interviews and incidents from Sri Lanka from 2023 to 2025 that centre on hate speech, religious propagation and allegations of blasphemy.

3.1 Protecting Religion, Protecting People

Sri Lanka's international human rights commitments, guarantee the protection of an individual's right to peacefully¹³⁷ practice their faith. This includes the freedom to hold a faith and manifest it in observance, worship, practice and teaching [See: 1.1].

While these protections are intended to safeguard people, they do not shield religion or its symbols from critique.¹³⁸ In Sri Lanka however various domestic laws are often invoked or misapplied to safeguard "religious feeling", blurring¹³⁹ these lines. In addition, close ties between Buddhism and the state have often - for political ends - influenced attempts to criminalise expression perceived to defame Buddhism.

Comedy, Satire or Defaming Religion

In May 2023, stand-up comedian Nathasha Edirisooriya was arrested for allegedly insulting Buddhism during a performance.

She was investigated under Section 3 of the ICCPR Act No. 56 of 2007 (incitement to discrimination, hostility, or violence); Sections 120, 291 A and 291 B of the Penal Code (on exciting disaffection and wounding religious feelings) and Section 6 of the Computer Crimes Act¹⁴⁰.

Having first been denied bail on the basis that her release would result in 'public disturbance', Edirisooriya was held on remand until July 2023.¹⁴¹ The case was then dismissed in a landmark judgement in June 2024.¹⁴² More recently in February 2026 a Fundamental Rights petition challenging the unlawful arrest also concluded.¹⁴³

Discussing the motivation behind her arrest, Edirisooriya explained that while it was ostensibly for "inciting violence between religions" by defaming Buddhism, it was directed at her frank comments on sex. Setting the context, she described her activism in the space of sexual harassment, sex education and gender-based violence (GBV) and how her approach to "talking about sex, before you talk about sexual harassment" informed her comedy.¹⁴⁴

In the controversial performance of 1 April too, Edirisooriya discussed female sexual experiences and the virtue of virginhood in an all-Buddhist Girls' school. She explained that, **given that her comments on sex could not be criminalised, the segment where she referred to the Lord Buddha was used instead to accuse her of defaming Buddhism.** In this segment, she satirised the competitive nature of Sri Lankan parents by mimicking a parent from Lord Buddha's era comparing their child to young Siddhartha or the Lord Buddha ["Suddhodana's child [the Buddha] walked on the very day he was born...but look at these children; their heads droop..."]¹⁴⁵ Edirisooriya explained how targeting her along

these lines also helped serve a **political agenda that benefited the then government** that was struggling to maintain relevance and "make a case" in the wake of the Aragalaya¹⁴⁶. She recalled how press conferences misidentified her as a Christian woman "defaming Buddhism", despite the fact that she was a Buddhist.

Edirisooriya's case also exemplifies how such laws are **often used and misused to "appease the majority community" and, in fact, "dissuade them from causing unrest"**¹⁴⁷. Investigations led by the Human Rights Commission of Sri Lanka (HRCSL) into the arrest, revealed "illegal action based solely on a mere complaint".¹⁴⁸ This mirrors the Colombo High Court bail order that emphasised that an investigator's task is not to arrest someone simply because the complainant "has the power to motivate society".¹⁴⁹

These findings reveal the influence of organisations like the 'Buddhist Information Centre' (BIC)¹⁵⁰, and state bodies such as the Ministry of Buddha Sasana and Religious Affairs which directly intervened in the arrest.¹⁵¹ The BIC is also understood to have been a complainant¹⁵² in the Shakthika Sathkumara case. Sathkumara was arrested in April 2019, under the same laws, on grounds that his literary work - that contained themes of homosexuality and alluded to an instance of possible sexual abuse involving a former Buddhist monk - was 'defamatory to Buddhism'.¹⁵³

Also evident in Edirisooriya's case was the role played by third

parties in **orchestrating anger and religious hatred at a performance that initially did not cause such a reaction.**

Edirisooriya described a calculated campaign to achieve this, that Sinhala Nationalist Dan Priyasad¹⁵⁴ was enlisted to lead. The tactic involved a press conference where excerpts of her performance were shared without context, and the online circulation of a misleading, 90-second edited clip from her performance. Decontextualised, the video appeared rampant with innuendo, insulting to Buddhism. Passionate speeches at the press conference - claiming that Buddhism had been defamed - were then also shared online, enraging the public. Crucially, Edirisooriya noted, the press conference video was removed a few days later, removing the link to Dan Priyasad and reframing the anger as a reaction to her performance.¹⁵⁵

Edirisooriya's comments, therefore, did not meet the high threshold set by the Rabat Plan of Action¹⁵⁶ that should be considered when applying Section 3 of the ICCPR Act. Her immediate audience only reacted positively¹⁵⁷ with investigations revealing that there was no "hostility towards the Buddhist community" and that her comments were made for the "purpose of humour and enjoyment"¹⁵⁸. The timeline of events, including allegations of defaming Buddhism and targeted threats that followed more than a month after the initial performance¹⁵⁹, further

corroborates these findings.

Comparative Religions, Religious Mockery or Hate Propaganda?

Outside the realm of satire and comedy, faith preachers have similarly faced legal consequences for their remarks on religion.

In December 2023, Pastor Jerome Fernando was arrested over comments made during an April sermon that were perceived as derogatory toward Lord Buddha and other religious figures.¹⁶⁰ Disparaging remarks about Hindu veneration of animals and claims that Lord Buddha was 'actually looking for Jesus' also drew anger. He was charged under Section 3 of the ICCPR Act and 291 B of the Penal Code.

Pastor Fernando's case further illustrates haste to "appease the majority community".¹⁶¹ The CID acted on multiple complaints, notably by the Buddhist-monk led New Buddhist Front (Nawa Bhikshu Peramuna) and the Pivithuru Hela Urumaya led by MP Udaya Gammanpila.¹⁶² Amidst allegations by key parties, then President Ranil Wickremesinghe also intervened, ordering an immediate investigation.¹⁶³

Other unrelated factors, however, appear to have played a role in influencing public scrutiny and investigations into Pastor Fernando's remarks. While a separate investigation into his finances was initiated amidst allegations of money laundering¹⁶⁴, investigations have also been shaped by criticism of his unorthodox practices. This includes emphasis on the self-promotion of Pastor Fernando, and focus on 'Prosperity gospel' preaching.¹⁶⁵

Pastor Fernando's qualified apology that maintained that he had "done nothing wrong" but was sorry if his words had "hurt...emotionally"¹⁶⁶ did not help with his case. As of January 2026, cases regarding his controversial remarks and alleged money laundering are still ongoing, though the travel ban imposed as part of his bail condition was lifted in

March 2025.¹⁶⁷

As in the case of Edirisooriya, Pastor Fernando's sermon too does not appear to have met the high threshold for applying Section 3 of the ICCPR. As, Attorney-at-law Thishya Weeragoda notes in a press interview on the case, the law cannot be applied merely because a statement is "irresponsible".¹⁶⁸ While Pastor Fernando's remarks may have been delivered unwisely - trivialising age-old beliefs - his intention¹⁶⁹ appears to have been to compare religions, arguing for Christianity's superiority. In a recent media interview, he claimed that his "desire was to show other faiths...that their thinking is not too far from the gospel of Jesus Christ".¹⁷⁰ Furthermore, media reports indicate that his intended audience reacted only positively¹⁷¹, suggesting little to no risk of imminent harm.¹⁷²

Both Edirisooriya and Pastor Fernando's cases are emblematic of the manner in which Section 3 of the ICCPR Act - primarily intended to protect communities from speech that incites violence - has been used instead as a pseudo blasphemy law.¹⁷³ Following a HRCSL finding that her fundamental rights were violated, Edirisooriya filed a case in the Supreme Court in September 2024 but came to a settlement on the condition that an apology will be issued and arrest procedures under the ICCPR Act will be reformed. In a welcome development on 19 February 2026, a guarantee was provided that a new circular-containing guidelines to prevent future unlawful arrests under the ICCPR Act-will be issued to all police officers. Furthermore, the arresting officer issued an apology for causing "mental and emotional distress" and damaging her "reputation and dignity".¹⁷⁴

Both cases also illustrate the application of Section 291B of the Penal Code to prosecute alleged blasphemy - a provision that's in conflict with human rights doctrine on FoRB and FoE. However, as legal expert Dr. Gehan Gunatilleke notes, 'prosecuting someone in good faith', and 'proving malicious intent' under 291 B is not easy.¹⁷⁵ This echoes the High Court ruling on

the Edirisooriya case that an "act may be deliberate without being malicious and it may be malicious without being deliberate...(and) what is required to constitute the offence is the presence of both."

While Section 291 B was misapplied in Edirisooriya's case and appears to have been similarly misused for Pastor Fernando, its seemingly appropriate use in other instances raises complex questions.

In October 2023, the Police Computer Crimes Division acting on complaints received by the All Ceylon Jamiyyathul Ulama (ACJU)¹⁷⁶, arrested Astrologer Indika Thotawaththa over his statements insulting Islam and allegedly damaging ethnic and religious harmony.¹⁷⁷ He was charged under 291 B of the Penal Code.¹⁷⁸

Thotawaththa is understood to have a history of insulting religious figures, frequently targeting Islam.¹⁷⁹ In this incident, he published a social media post containing inflammatory language directed at Prophet Muhammad, repeatedly alleging that he had "abnormal sexual desires".¹⁸⁰

Following his arrest, Thotawaththa was released on bail after two weeks, on the condition he refrain from further religious insults.¹⁸¹ Although the complainant offered an amicable settlement on the condition that the accused regrets and retracts his statement, Thotawaththa has refused to apologise, maintaining his position with the case proceeding to trial.¹⁸²

While the application of Section 291 B appears pertinent in this case - particularly considering Thotawaththa's history and refusal to apologise - FoRB protects people, not religions, figures or symbols.

Dr. Gunatilleke argues that "however offensive a comment about a faith might be, people of that faith don't have a valid claim under human rights law to seek punishment of the person making the comment", adding that such convictions "cannot be considered a win for FoRB".¹⁸³ Dr. Gunatilleke made these observations in response to the March 2024 conviction of militant monk Ven. Gnanasara Thero of the Bodu Bala under 291 B. Ven. Gnanasara was sentenced by the Colombo High Court for anti-Muslim remarks during a 2016 press conference at a Buddhist Temple in Kurunegala. Charged with hurting religious sentiments, the judge ruled that his remarks were both "intentional and malicious". In January 2025, following a revision petition filed, he was sentenced to nine months of imprisonment and granted bail in February.¹⁸⁴

Events involving Ven. Gnanasara further reveal the selective and problematic enforcement of Sri Lanka's hate-speech laws. Ven Gnanasara is notorious for his role in leading numerous campaigns against minorities, including Muslims. Although 291 B may have been applied correctly in the March 2024 conviction, the provision remains incompatible with human

rights doctrine. It is notable however that Section 3 of the ICCPR Act was never invoked to prosecute Ven. Gnanasara for his role in instigating at least two anti-Muslim riots in June 2014 and March 2018.¹⁸⁵ **While Section 3 of Sri Lanka's ICCPR Act is frequently misused as a pseudo-blasphemy law, it hasn't been invoked for its intended purpose.**

The case of Thotawaththa however raises some concerns with regard to speech that may use religion with the intention of targeting a community.

While acknowledging concerns regarding the curtailing of FoE, and the "difficulty in drawing the line", counsel for the complainant Attorney-at-law Shiraz Noordeen highlighted that the case was primarily brought forward as a "form of protest". He explained that they did not seek to punish Thotawaththa, but sought to address the concerns of aggrieved Muslims.¹⁸⁶

Elaborating further, Noordeen discussed the potential long-term impact on the Muslim community and particularly the youth who may perceive state unfairness if repeated attacks on Islam are left unaddressed. Explaining his approach, Noordeen said that he wanted Muslims to see tangible results, proving that justice is attainable. He observed that if enough had been done to address these grievances through administrative justice, "people like Zahran¹⁸⁷ wouldn't have emerged."¹⁸⁸

Addressing this concern, interviews highlighted that while **religious criticism is important, it must be balanced by assessing intent and context—specifically distinguishing between attacks on a religion versus attacks on a community through religion.**¹⁸⁹ Regarding hate speech targeting the Muslim community, Dr. Gunatilleke noted that "people who want to generate hate... are very clever about framing their hate towards the community in terms of the faith." He further stressed the importance of identifying when "coded language" is used to sidestep doctrinal arguments while still effectively targeting the

community.¹⁹⁰

3.2. Manifesting Religion and the Politics of Propagation

Limits to legitimate expression – both at the state and community level – can also be observed in resistance to acts of and perceived acts of propagation or proselytisation [See: 2.3].

In Sri Lanka, the right to manifest “religion or belief in worship, observance, practice and teaching” is protected. However, unlike the freedom of thought, this right is not absolute and can be restricted in situations of coercion or in the interest of “national security, public order or the protection of public health or morality” [See:1.2]. Dr. Gunatilleke explains that the act of convincing someone to convert, may fall for some religions into the theological tenant of ‘teaching’ or ‘observance’, which is part of one’s ‘right to manifestation’.¹⁹¹

Though Sri Lanka’s constitutional framework upholds the right to manifest one’s religion, **judicial interpretations suggest that this does not extend to a fundamental right to propagate nor is it a right afforded to all religions equally.**¹⁹² However, as reaffirmed in a May 2025 judgment, the act of propagation itself is not a criminal offence.¹⁹³

While propagation has not been criminalised, ambiguity surrounding protection of the right to propagate, together with perceived fears of depleting numbers and threats to socio-cultural dominance has encouraged resistance.¹⁹⁴

According to a survey carried out by the National Peace Council (NPC) in 2024, more than 50% of respondents from the Buddhist, Hindu, and Roman Catholic communities highlighted that proselytisation is taking place in a way that negatively affects their religion.¹⁹⁵ They pointed to “certain Christian groups” – and to a lesser extent Muslims – as being primarily responsible for proselytisation.

This posture is further revealed in the NCEASL’s

documentation of incidents of intimidation and violence against Christians. In 2025, most incidents involving opposition to Churches and Christian centres focused explicitly on concerns over the converted and conversion. Furthermore, recent studies highlight that underlying fears of conversion lie behind many incidents of opposition to Christian religious activity, the establishment of places of worship, complaints of public disturbance and calls for ‘registration’ of places of worship [See: 2.4.].¹⁹⁶

In January 2025, Buddhist monks approached a church in Seethawaka, Colombo demanding an end to all church activities and accusing the pastor of proselytisation. Although the parties came to a peaceful settlement at the request of the police, a monk later told the pastor that they would pursue legal action against him.¹⁹⁷

In a similar incident in February, Buddhist monks demanded that prayer meetings led by an international Christian organisation with a branch in Mattakuliya, Colombo be discontinued, accusing the staff of proselytisation. However, during the police inquiry, the monks shifted their complaint to public disturbance to which the police stated that while they could not stop the prayer meetings, they would investigate complaints.¹⁹⁸ It is notable that given that the “manifestation of religion” can be limited on grounds of ‘public order’, the police are within their right to make inquiries.

It is welcome that in both these events, the police appear to have responded sensibly. Speaking in a discussion, a Colombo-based Evangelical pastor, also suggested a better relationship with local authorities including the police.

He shared that his church has seen gradual acceptance, due to its long presence in the area, and is now routinely included in meetings convened by the local authorities for religious leaders.¹⁹⁹

Incidents recorded in Colombo over 2025, also signal an improvement in police responses to community-led calls for 'registration', often driven by fears of conversion. While some local authorities and police still demand church registration, recent cases indicate a growing awareness among police regarding the legalities of 'registration' and greater willingness to comply with the law. In response to opposition from area residents over a Church in Moratuwa, Colombo and pressure to register, the police emphasised that the decision to register is not mandatory, and that the police do not have the authority to stop a church or a peaceful gathering.²⁰⁰

Reports from the North however, are not encouraging. Active opposition from Hindu fundamentalist groups like the Siva Senai to Christian and Muslim communities continues to influence local authorities. Posters in July 2025 across Jaffna calling for an end to 'Abrahamic domination and the rise of the Sivabhoomi (the land of Shiva)'²⁰¹ were revealing of

opposition to minority faiths in the region, and prevailing ethnoreligious tensions. The inconsistent police response to tensions in the North and South may be indicative of a broader failure to effectively communicate government policy and approach to local authorities.²⁰²

In April 2025, police disrupted a Christian gathering held at the Kalaimagal Sports Ground in Shanthipuram, Jaffna, over alleged "forced conversions". Authorities acted on a complaint by the Siva Senai, who also claimed that the gathering - held at a ground used by young Hindu students - would instigate religious conflict. During the questioning that followed, the pastor denied claims that financial incentives were being offered for conversion.²⁰³

While there have been attempts in the past to bring legislation to criminalise 'unethical conversions'²⁰⁴, these were not successful, and **at present there is nothing that prevents conversion even if it may be perceived to be 'unethical'**. In Sri Lanka, while discussions on 'unethical conversions' have centred on financial incentives, **the subjective nature of the term has made it open to interpretation, revealing the inherent danger of legal restrictions on conversion.**

In 2021, during an interview with The Morning newspaper, Prof. Kapila Gunawardana, then Secretary of the Ministry of Buddhasasana, stressed the need for a legal framework to combat 'unethical conversions', referring to conversions induced by financial assistance or to access services such as education.²⁰⁵ However, others like the Archbishop of Colombo, Malcolm Cardinal Ranjith has suggested that certain practices among Christian Pastors that exploit "problems people have" to convert them through supernatural experiences is 'unethical'.²⁰⁶

Obligation to social-service among religious groups including Christians, adds a further layer of complexity to the issue of financial incentives and conversions. A FGD with two evangelical pastors revealed how allegations of 'unethical

conversions' can be arbitrarily applied and used to restrict almost any kind of activity.²⁰⁷ A Colombo-based pastor shared how assistance was regularly sought out by non-church members, while social-service often helped ease acceptance into the community. While charity was not used here as a means to convert, it was often perceived to be.

While certain groups may be accused - wrongly or otherwise - of using financial incentives for conversion, an individual's motivation to convert should remain a matter of personal preference. Dr. Gunatilleke, critical of communal claims over an individual's faith, notes a 'whole ecosystem' of non-spiritual conversions - such as those for political advantage or marriage - revealing how society selectively scrutinises certain motivations while ignoring others.

3.3 FoE and FoRB Online

Evident across many of these incidents is the role that social media and the internet have played in exacerbating tensions that emerge in the space of FoRB and FoE.

Data collated and analysed by Hashtag Generation and the NCEASL for instance, reveals a number of online narratives furthering fearmongering, and disinformation on propagation. This includes social media posts in July 2025 accusing Christians of being converted for material gain and insinuation that the Minister of Buddhasasana and Religious Affairs was seeking to dismantle the Buddhasasana Ministry and destroy Buddhism with the support of the Catholic Church.²⁰⁸

Also evident is the role social media continues to play in proliferating hate.²⁰⁹ Discussing the impact of online-hate, Edirisooriya shared that following the incident, she took a social media hiatus to prevent the attacks from eroding her peace of mind and allowing her to grow bitter.²¹⁰ Online trends over this year also point to the persistent targeting of the Muslim community, with some posts aiming to incite violence by calling for all

Muslims to "be killed".²¹¹

Furthermore, the cases of Pastor Fernando and Edirisooriya illustrate the volatile nature of speech in the digital age.

Discussing public censure of Pastor Fernando's comments, the FGD with Evangelical pastors raised how problems arose, once his comments reached the internet, moving beyond his immediate audience. They stressed that in the digital age, pastors must act with caution, anticipating backlash from the wider community.²¹²

The FGD further revealed how online content dissemination among Christian ministers has also led to unhealthy competition and conflict. One pastor recounted facing baseless allegations of sexual assault and links to criminal gangs, which targeted both him and his congregants. Highlighting the irresponsible use of social media by sections of the Christian community, he argued that laws to restrict harmful speech were necessary, adding that it would help maintain respectful religious discourse, while still protecting FoE.²¹³

However, legal restrictions on expression, including online content, that does not cross the threshold of incitement can be manipulated and enforced selectively. The Online Safety Act (OSA), now in the process of being amended²¹⁴, is understood to impose restrictions even more stringent than Sections 291 A and 291 B of the Penal Code. Section 16 of the OSA mirrors Section

291 B by criminalising expression made “with the deliberate and malicious intention of outraging the religious feelings”. The OSA, however, includes the additional requirement that the statement be ‘false’. A key concern regarding the OSA is its vague and overbroad definitions including on ‘false’ statements [See: 1.2]. As. Dr. Gunatilleke points out, applying such a definition to matters of theology - that lie outside the boundaries of empirical testing and logic - is doubly problematic, revealing further how easily the law can be subjected to arbitrary interpretation.²¹⁵

3.4 The ‘Chilling Effect’ and Civil-Society Response

While restrictions on legitimate expression affect the individual, their fallout has far-reaching consequences.

Discussing the implications of Section 14 of the Bail Act on Pastor Fernando, Attorney-at-law Noordeen noted that any future sermon while on bail that is perceived to “wound religious feelings,” could lead to the bail’s cancellation. He suggested that the Bail Act applied in this context can effectively “shut down” an individual.²¹⁶

For Edirisooriya, the incident left her “stifled”. She described developing a speech defect and losing her “natural response to humour”. She shared a newfound fear of appearing in public and

becoming overly cautious about her performances and their impact on her family. She also noted that friends who had previously encouraged her became reticent, while fellow artists were “more conscious” of their art.²¹⁷

Civil society including faith-based groups can play a crucial role in sending the right signals to the state²¹⁸ by effectively responding to restrictions on legitimate speech. Silence, delayed or lukewarm reactions are often perceived as tacit complicity.²¹⁹

As observed by activists, wider civil society intervention in the cases of Edirisooriya and Ps. Fernando was notably minimal.²²⁰ Edirisooriya is grateful for the support of individual activists, “who were not paid but who had passion,” and she welcomed the intervention of the HRCSL. She was, however, critical of organisations - particularly working in the space of gender-based violence and cyber bullying - who “did not show up” despite being lobbied. She felt many were wary of challenging the majority who saw her as the comedian who “defamed Buddhism”.²²¹

Similarly, while Pastor Jerome’s conduct and preaching may justify criticism or censure, it does not - according to Sri Lanka’s Human Rights obligations - warrant criminalisation. Pastor Fernando’s ministry should still benefit from the same protections afforded to established religions. His case serves as a reminder that FoRB is not reserved for traditional religions or those with ‘comparable institutional characteristics’, but extends to all forms of belief.²²²

3.5 Tackling ‘Awful but Lawful’ Speech

Sharing a different perspective on the role of civil society, activist Suchith Abeywickreme felt that civil society often takes on a “minoritarian” approach that risks providing space for extremist voices. He emphasised the importance of strengthening moderate narratives within these contexts.²²³

Civil society has a crucial role to play in defending the right to legitimate expression, regardless of how offensive or insulting it may be. However, it has an equally important role in addressing expression that raises concern regarding tolerance. Speech that falls below the threshold for criminalisation, yet incites communal disharmony or carries the potential for conflict [See 1.2], underscores the critical need for responding effectively to ‘awful but lawful’ speech.

However, not all “awful” content warrants a direct response; in some situations, Buddhist teachings suggest countering such speech with calm, mindful non-reaction. In the Akkosa Sutta, The Lord Buddha explains how refusing to ‘receive’ an insult – effectively ‘returning’ it to the giver - diffuses tensions [“When you do not get angry at an angry person, you win a battle hard to win”].²²⁴

For harmful expression that calls for a response however, the Human Rights community recommends a multi-faceted approach. The UN Secretary General, for instance, calls for it to be treated like “every malicious act...condemning it, refusing to amplify it, countering it with the truth, and encouraging the perpetrators to change their behaviour”.²²⁵ Commenting on addressing this concern in the digital sphere, Activist Samarakoon, highlighted a range of methods including digital literacy and the need to adapt social media platform policies to the Global South.²²⁶

Within religious contexts, it is important to also note guidance to curb harmful expression that risks causing conflict. For instance, in response to tensions arising from propagation, Christian networks have promoted guidance warning against combining “charity and preaching in ways that impair the freedom of the recipients to choose whether or not to listen”²²⁷. In addition, these guidelines highlight the importance of being conscious of the perceived vulnerability of the recipients²²⁸, the right to privacy and sensitivity to local social norms²²⁹.

Commenting on ‘awful speech’, the FGD with Evangelical pastors raised concerns regarding pastors who make provocative remarks about other faiths. Commenting on Pastor Fernando’s case, one pastor felt it was unnecessary to make comparisons that risk angering other groups.²³⁰ While FoRB protects the right to “search for meaning by comparing different religions...and to exercise public criticism”²³¹, Christian-centred guidelines offer a framework for doing so in a pluralistic society. This guidance balances “well-reasoned, persuasive critique and rational comparison” while steering clear of misrepresenting or denigrating other faiths.²³²

Faith leaders are often in influential positions to promote such guidance and use platforms like Inter-faith forums to address tensions arising from religious expression. But many of these forums are perceived as purely ceremonial and ritualistic-avoiding difficult topics-while various initiatives, including those state-led, often exclude groups that lack the ‘institutional characteristics’ of their established counterparts.²³³ Addressing these concerns can support Faith leaders in attempts to challenge divisive and harmful rhetoric.²³⁴



Chapter 4

Recommendations

The preceding chapters have demonstrated that the challenges surrounding religious expression in Sri Lanka do not arise from an inherent conflict between FoRB and FoE, but rather from the manner in which these rights are interpreted, restricted, and enforced within law, policy, and practice. While Sri Lanka has formally committed itself to uphold international human rights norms, particularly through its ratification of the ICCPR, persistent gaps between international standards and domestic implementation have resulted in a restrictive environment that disproportionately affects religious minorities, dissenters, and those expressing non-conforming or critical views.

It is important that Sri Lanka moves away from vague, punitive, and majoritarian approaches to regulating religious expression and instead adopt a clear, principled, and rights-based framework. Religious harmony in such a multi-ethnic and religious context cannot be achieved through censorship or fear, but through equal protection of FoRB and FoE, accountability for violence and incitement, and tolerance and respect for diversity in belief and expression.

This final chapter sets out key recommendations

and action points for different stakeholders aimed at creating a more enabling, rights-respecting environment for religious expression in Sri Lanka. They proceed from the understanding that FoRB and FoE are universal, indivisible, interdependent, and interrelated rights, and that their effective enjoyment requires legal clarity, building trust in institutions, equal protection of rights, open debate, and a shared commitment to protecting individuals from harm while preserving the space for disagreement, critique, and diversity of beliefs.

Lawmakers and Policymakers

- Align the constitutional and legislative framework governing FoRB and FoE in Sri Lanka with Articles 18, 19, and 20 of the ICCPR. This should include the following:
 - » Incorporation of the full scope of FoRB as set out under Article 18 of the ICCPR, including the right to change one’s religion or belief, and limiting any restrictions strictly to those permitted under Article 18(3).
 - » Incorporation of the full scope of FoE as recognised under Article 19 of the ICCPR, together with its narrowly defined and permissible restrictions subject to the three-part test of legality, necessity, and proportionality.
 - » Recognising that Article 19 (FoE and its permitted restrictions) and Article 20 relating to the prohibition of advocacy of religious hatred that constitutes incitement to discrimination, hostility, or violence are coherent and inter-related.
 - » Clearly define and articulate the threshold of “incitement” in accordance with Article 20 of the ICCPR, as elaborated in the Rabat Plan of Action, including its emphasis on intent, context, and likelihood of harm and clarify that Section 3 of the
- ICCPR Act applies only to advocacy of religious hatred that reaches the level of incitement to discrimination, hostility, or violence.
- Repeal or amend vague and overbroad restrictions that enable arbitrary or discriminatory interference with religious expression.
 - » Repeal or substantially amend Penal Code Sections 291A, 291B, and 120 to remove offences for perceived offence of religious feelings and require clear intent and imminent risk of harm for criminal liability.
 - » Repeal Section 2(1) (h) of the PTA - that criminalises speech causing “disharmony” or “ill-will” between communities, without requiring a clear link to violence or terrorism.
 - » Amend Sections 15 and 16 of the OSA that penalise false statements and content that allegedly affects religious assemblies or outrages religious feelings, as these provisions lack clear definitions and objective standards - and the application of these provisions to matters of theology, which lie beyond empirical testing

and logic, renders them particularly susceptible to arbitrary and subjective interpretation.

- Ensure legislative processes, including law reform comprise of meaningful public consultation, particularly with minority communities and civil society.

Judiciary

- Judiciary should be intentional and consistent in incorporating the threshold of incitement under the ICCPR in deciding cases on hate speech and in interpreting domestic legal provisions in accordance with Sri Lanka' international obligations.
- Judicial Training Institute should implement mandatory training for judges on the relevant international standards relating to FoRB and FoE and existing domestic legal framework, especially the applicable provisions of the ICCPR Act.

Law Enforcement

- The National Police Commission should establish independent oversight mechanisms to investigate allegations of police inaction, bias, and the selective application of laws, particularly in cases involving violence, hate campaigns, or restrictions on expression

affecting minority religious communities. Such mechanisms must be empowered to ensure accountability for failures to prevent or respond to communal violence and to hold responsible officials where their actions or omissions contribute to a culture of impunity.

- The Inspector General of Police should take steps to operationalise HRCSL guidelines and recommendations on applying laws consistently and in line with international human rights standards²³⁵, including mandatory pre-arrest legal review in speech-related cases and transparent arrest and detention procedures²³⁶.
- The National Police Academy should incorporate training for police officers and new recruits on the scope of FoRB and FoE under international and domestic laws, and proper application of domestic legal provisions

Civil Society and Human Rights Defenders

- Act as watchdogs, advocates, and educators to protect FoRB and FoE.
- Represent the moderate voice, balancing protection of legitimate expression while condemning expression that, though legally permissible, raises concerns in terms of tolerance and respect.
- Support victims of rights violations and counter harmful narratives.
- Document and challenge misuse of laws relating to hate speech, blasphemy, conversion, and online expression.
- Provide legal assistance and strategic litigation in cases involving:
 - » Arbitrary arrests,
 - » Selective enforcement,
 - » Restrictions on religious practice or

expression.

- Advocate for legislative reform aligned with ICCPR standards.
- Conduct public education campaigns explaining:
 - » The difference between offensive speech and incitement,
 - » Why blasphemy laws violate both FoRB and FoE.
- Engage with international human rights mechanisms to raise concerns and seek accountability.

Religious Leaders and Faith-Based Institutions

- Promote tolerance, pluralism, and respect for dissent within and across religious communities.
- Publicly affirm that:
 - » Peaceful propagation and conversion are lawful and protected rights.
 - » Violence and hate speech in the name of religion are unacceptable.
- Support diverse religious participation in interfaith dialogue and mediation forums that include less-established religious groups, while using these platforms to broach controversial topics such as proselytisation.
- Discourage the filing of complaints and prevent the mobilisation of mobs in response to perceived religious “offence.”
- Educate congregations on FoRB and FoE as protections for people, not belief systems.
- Engage constructively with state actors to prevent escalation of communal tensions.

Media and Digital Platforms

- Uphold FoE while acting responsibly in a pluralistic society.
- Resist narratives that conflate criticism with hatred.
- Report responsibly on religious issues by:
 - » Avoiding sensationalism,
 - » Providing context,
 - » Amplifying moderate perspectives.
- Distinguish clearly between:
 - » Legitimate criticism, satire, or dissent and Hate speech that incites violence.
 - » Consider tools that detect both coded and explicit expression directed at religion or religious figures, but intend to incite harm to a specific community.
- Challenge misuse of hate speech and blasphemy laws through investigative journalism.
- Advocate for transparency and due process in content moderation under the Online Safety Act.
- Promote counter-speech and public dialogue rather than calls for censorship.

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