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FROM BURNING HOUSES TO BURNING BODIES

ANTI-MUSLIM VIOLENCE, DISCRIMINATION AND HARASSMENT IN SRI LANKA

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Cover photo: Photo of burnt shops taken by Amnesty International in Minuwangoda, a town in the Western Province, in 2019 following anti-Muslim violence on 13 May 2019.

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1. EXECUTIVE SUMMARY

Sri Lanka's past has been sullied by violence against minorities, committed in the name of religious and ethnic nationalism. Muslim and Tamil minorities in particular have faced repeated incidents of violence since the 1880s. In this report, Amnesty International documents the attacks against the Muslim minority in Sri Lanka over the years, focusing on emblematic moments in history that have set the stage for the anti-Muslim rhetoric and discrimination which proliferate and manifest in violence against Muslims today.

The Muslim community has been a target of recurrent incidents of violence and discrimination over the years, and especially since the end of the civil war in 2009. This report explores how anti-Muslim sentiment, and acts of violence and harassment against the community, have become systematic over time and manifest themselves in official state policy today. The perpetrators have not only been non-state actors, but have included armed groups, and at times even the state.

This report uses previous research and recent interviews conducted by Amnesty International, along with secondary research such as civil society reports and papers, fact-finding missions and reports, and data published by United Nations agencies.

In the post-civil-war context, anti-Muslim harassment, discrimination and violence began with the tacit approval of the state. The attacks on Muslims included campaigns against *halal*¹ certification of food items, attacks on Muslim businesses, properties and homes, and false narratives perpetrated to promote the boycott of Muslim businesses. As a result of the anti-*halal* campaign in 2013, Islamic clerics temporarily withdrew *halal* certification in Sri Lanka. In 2013, violent Sinhala Buddhist mobs attacked a Muslim-owned shop and business in the suburb of Pepiliyana and a mosque in Colombo, while extremist Buddhist groups such as *Bodhu Bala Sena* spewed hate filled messages against Muslims at public meetings in town centres. Despite international human rights law obligations and domestic laws to protect the freedom of religion, the government failed to protect the rights of Muslims and the attackers were allowed to act with impunity. The lack of accountability for these incidents further fuelled anti-Muslim harassment, discrimination and violence. A year later, a Sinhala Buddhist nationalist group rally triggered anti-Muslim riots in the southern coastal town of Aluthgama.

Despite a change of government in 2015, which promised more justice and accountability for ethnic and religious minorities, attacks against the Muslim population continued. Between 2015 and 2016, civil society groups recorded 64 anti-Muslim incidents, which included hate speech, threats and intimidation, discrimination, destruction of property, economic embargoes and physical violence. In 2017, in the southern coastal town of Ginthota, at least two mosques, along with Muslim-owned homes, vehicles and businesses were damaged in anti-Muslim mob violence. In 2018, similar violence broke out in the Central Province town of Digana, resulting in one death. According to the only publicly available figures on the extent of the violence, compensation was claimed for damage to 355 houses, 233 shops, 83 vehicles, 20 mosques and two temples. In each of these incidents, the state failed in its duty to protect the Muslim minority community during attacks; hold perpetrators to account; and deliver justice and reparations to victims.

Other religious minorities have also faced violent attacks. For instance, between 2009 and 2016 Christians, predominantly the evangelical groups, reported at least 181 incidents of violence, harassment and/or discrimination by Sinhala Buddhist groups, state officials, religious leaders and even neighbours.

The state failed in its duty to protect its citizens and deliver justice to victims, in violation of domestic safeguards such as Articles 10 and 12 of the Sri Lanka Constitution and Section 291A of the Penal Code of

¹ Halal certification signifies that food products have been processed in accordance with Islamic law and are thereby permissible for consumption by Muslims.

Sri Lanka, and international human rights law such as Articles 2, 9, 18, 20, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR) and Articles 4 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

On 21 April 2019, more than 250 people died when seven suicide bombers from a local Islamist armed group attacked two Catholic churches in Colombo and Negombo, a Zion church in Batticaloa and the Shangri-La, Kingsbury and Cinnamon Grand hotels in Colombo. Following these attacks, Muslim-owned houses and businesses were attacked in Negombo, south of Colombo city, and in surrounding towns and villages. Refugees and asylum-seekers from Pakistan, Afghanistan and Iran were attacked and posts advocating violence against Muslims were shared via social media. On 13 May 2019, Muslims in several towns in the North Western Province came under widespread attacks from violent mobs. At least one person was killed and hundreds of Muslim-owned homes, businesses and properties were destroyed. People interviewed by Amnesty International described how these attacks left the Muslim community feeling vulnerable and fearful of further violence, and distrustful of their non-Muslim neighbours and law enforcement.

Prior to the 2019 elections, Amnesty had documented how anti-Muslim sentiment had been weaponized by the current government and used to garner support from the majority Sinhala Buddhist population. The current government came into power on the promise of authoritarian leadership and strengthened public security, particularly against extremist Islamic factions, and continues to target and scapegoat the Muslim population to distract from other political and economic issues. This was evidenced in a series of recent official policies and positions – for example, in 2020 the government adopted a mandatory cremation policy to dispose of the bodies of Covid-19 victims. This policy was implemented despite cremation being expressly forbidden in Islam and a lack of scientific evidence to substantiate the claims that burying Covid-19 victims would further the spread of the disease. The forced cremation policy was reversed in February 2021, 11 months later, after protests from the Muslim community, local and international civil society organisations, and international pressure ahead of a vote on Sri Lanka at the United Nations Human Rights Council, but burials for Covid-19 victims are still only permitted in the town of Oddamavadi in the Eastern Province. Furthermore, the state is looking to implement discriminatory legislation, such as a ban on the *niqab* and on *madrasas* (Islamic schools), claiming face veils are a sign of ‘religious extremism’ and that these measures would improve national security. If executed, these restrictions would violate people’s freedom from discrimination based on religion, guaranteed and safeguarded by Sri Lanka’s Constitution and international human rights law, by which Sri Lanka is bound.

These proposed measures would only compound the prevalent misuse of domestic legislation to arbitrarily target Muslims. Amnesty International has documented three cases in which Sri Lanka’s ICCPR Act (legislation purported to uphold the freedom of expression and thought) and the draconian Prevention of Terrorism Act, and its problematic regulations, have been used to target Muslims. These cases are illustrative of the attempts by the Sri Lankan authorities to stifle dissent and further marginalize and discriminate against the Muslim community. Ramzy Razeek was detained for five months for peacefully expressing his opinion. Hejaaz Hizbullah remains in custody, 15 months after his arrest, for his work and opinion. Ahnaf Jazeem too remains in detention 15 months after his arrest in connection with his publishing of a Tamil language poetry anthology.

Although historically the majority of anti-Muslim violence has been carried out by Sinhala Buddhist nationalist groups, there have been perpetrators from other ethnic groups in the country as well, all of whom have operated with equal impunity. During Sri Lanka’s civil war, the Liberation Tigers of Tamil Eelam (LTTE), a Tamil-armed group, were responsible for war crimes committed against Muslims in the Northern and Eastern provinces. In the Eastern Province, the Kattankudy and Eravur massacres in 1990 saw Muslim civilians, both adults and children, targeted and killed. Later that year, in October, the LTTE forcibly evicted around 75,000 Muslims from the Northern Province. The state has consistently failed in its obligation to ensure access to remedy and reparations for victims of war crimes and has done little to facilitate their safe return to the Northern Province, including failing to provide sufficient infrastructure and facilities in the destroyed areas.

The historical origins of the Sinhala Buddhist nationalist movement – the group behind the majority of anti-Muslim violence – are relevant to the present-day anti-Muslim violence. This movement, which aims to uphold the political, economic, and religious supremacy of Sinhalese Buddhists, believes that Muslims are ‘alien’ to the country and that their perceived disproportionate economic and demographic success poses a threat to the Sinhala Buddhist people.

The consistent marginalization, harassment, discrimination and violence against the Muslim community in Sri Lanka are perpetrated by both state and non-state actors, acting with impunity and the implicit approval of the state. The Government of Sri Lanka must uphold its duty to protect the Muslim minority population

from further attacks, to hold perpetrators to account, and to end the use of government policy and legislation to target, harass and discriminate against the Muslim community.

Amnesty International calls on the Government of Sri Lanka to take timely, effective and meaningful steps on the following recommendations:

- Take effective and targeted measures to prevent violence against the Muslim minority and other religious and ethnic minorities, including through effective policing of public disturbance and protest in accordance with international human rights law, and through sustained measures to prevent the incitement of violence and the spread of malicious misinformation against all religious minorities.
- Ensure the police are sufficiently resourced and trained to be deployed in response to riots, with adequate equipment to respond to and protect people during instances of inter-communal violence against minorities. This must include regular training to ensure that the police do not use excessive force against perpetrators or victims and witnesses, and that their responses are necessary and proportionate.
- Hold a prompt, thorough, independent, and impartial investigation into all allegations of human rights violations and abuses during attacks and violence against Muslims, including by the police and armed forces, ensuring that all those reasonably suspected of criminal responsibility and hate crimes are brought to justice through a fair trial by a competent court, without recourse to the death penalty.
- Ensure the protection of the rights of minorities to freedom of expression, to practise and manifest their religion, in keeping with Articles 10 and 12 of the Constitution of Sri Lanka, international human rights law, and international best practice.
- Take measures to educate and create awareness among all Sri Lankans on the right to equality of all, across race, religion, and ethnicity, with the aim of promoting peace and communal harmony, to prevent further violence, and to maintain peace.
- Provide infrastructure and ensure the development of areas in the Northern Province and facilitate the return of forcibly evicted families.
- Amend the Muslim Marriage and Divorce Act in consultation with Muslim women's groups and in compliance with international human rights standards.
- Reject the cabinet proposal to ban the *burqa* and *niqab* and ensure the protection of people's rights to non-discrimination, freedom of expression, and freedom of religion and belief.
- Ensure that the criminal justice system is not misused to target or harass minority communities; and refrain from bringing criminal charges or other proceedings or administrative measures against them that stem solely from the peaceful exercise of their rights.
- Repeal the Prevention of Terrorism Act and end the use of the legislation and related regulations immediately and ensure that people detained as a result of the Act have unrestricted, regular access to their lawyers and family members, without obstruction from police or correctional officials, and that their rights to a fair trial are upheld.

2. METHODOLOGY AND ACKNOWLEDGEMENTS

This report documents anti-Muslim sentiment in society at large in Sri Lanka, and more recently by the state, as well as the marginalization and demonization of the Muslim community, which manifest in many ways including violence against the community.

Since 2013, there have been ongoing incidents of violence and marginalization of Muslims in Sri Lanka occurring with the tacit approval of the state. These have included mob violence during which Muslim-owned houses, shops, businesses and property have been attacked. Most often, perpetrators of violence have enjoyed impunity and the government has consistently failed to deliver justice to victims of this violence. This impunity has culminated in state policies that discriminate against Muslims, indicating state complicity in targeting a group of people based on their religious belief. It must be noted, however, that anti-Muslim violence and discrimination are not a recent phenomenon and have roots in Sri Lanka's colonial past.

The report documents some key incidents of anti-Muslim violence, harassment, discrimination, and marginalization from 1915 to 2021. It analyses the colonial roots of anti-Muslim violence and the effects of colonization on ethnic relations in the country, to explain the patterns of discrimination, hate speech and anti-Muslim rhetoric seen today in society and the state.

This report draws on previous research on this issue by Amnesty International, as well as recent interviews. The desk research for this report draws on reports, fact-finding missions and papers published by Sri Lankan civil society, in addition to reports, statements and data published by UN agencies, namely the Office of the High Commissioner for Human Rights (OHCHR) and special mandate holders. Researchers also reviewed data gathered from government websites, briefings and statements, and media reports; however, it is worth noting that there is very little publicly available information on the scale of damage relating to the anti-Muslim violence documented in this report.

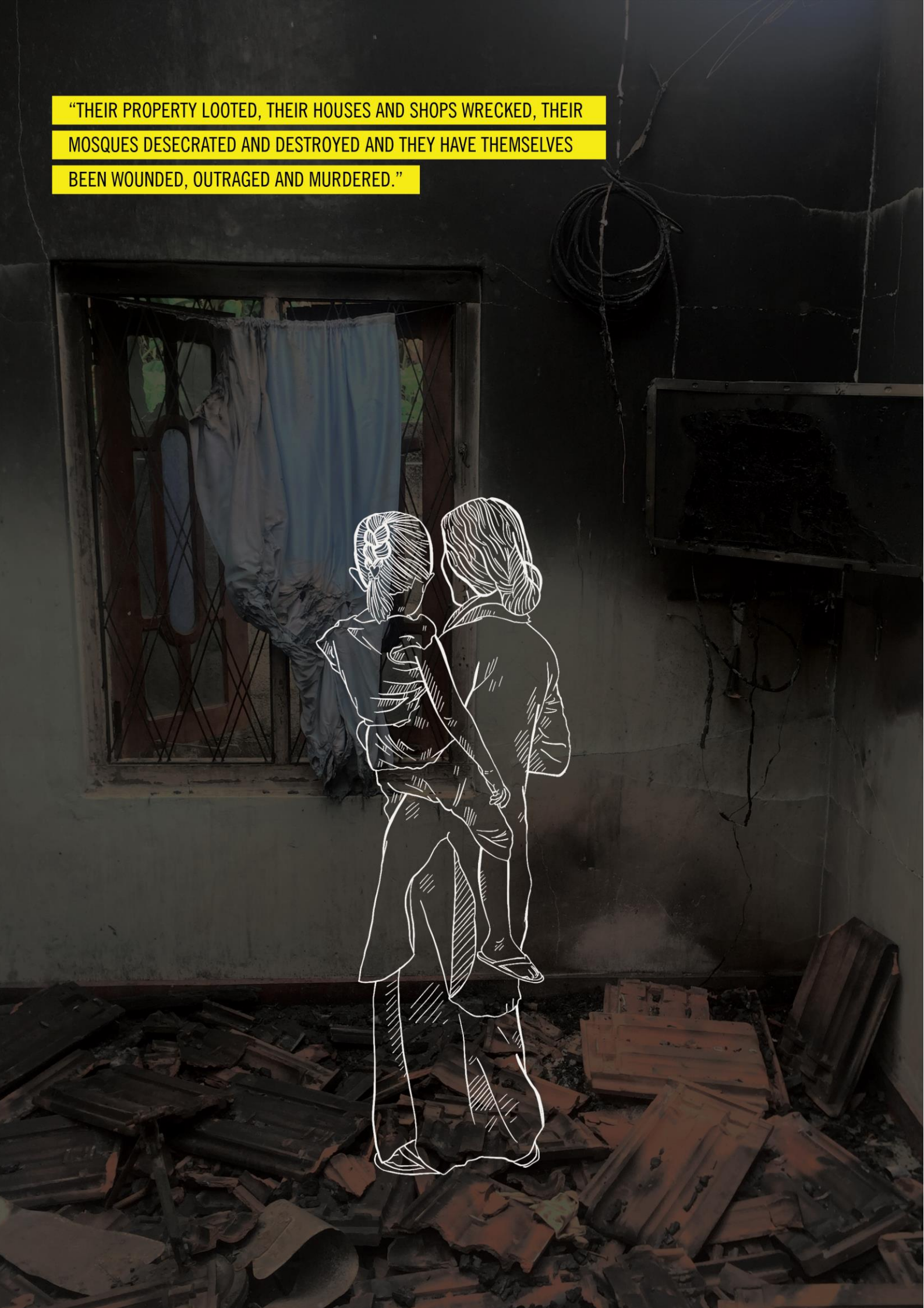
Amnesty International carried out 12 face-to-face interviews and six focus group discussions (FGDs), which were conducted prior to the Covid-19 pandemic, and 12 interviews conducted remotely using secure communications after the onset of Covid-19. Twenty interviews and discussions were with victims of anti-Muslim violence or discrimination, and nine interviews were with rights activists and defenders, journalists, and civil society members. Of those interviewed, 12 interviews and one FGD were with women, and 12 interviews and five FGDs were with men. All but two of those interviewed identified as Muslim.² Some names have been changed to protect the identity and security of interviewees. Amnesty International also wrote to the Inspector General of Police in June 2021 seeking details on any arrests and charges in connection with incidents of anti-Muslim violence documented in this report. At the time of writing, we were yet to receive a response. During the course of interviews after the violence in the North and North Western provinces in 2019, Amnesty International interviewed an Officer in Charge of a police station in an affected town. However he did not permit Amnesty International to publish any information he provided. Amnesty International wrote to the Inspector General of Police and the Ministry of Justice on 8 October 2021, seeking information on the incidents recorded in this report and providing the government with an opportunity to reply. At the time of publication, there was no response to the request for information.

² These two people identified as agnostic and Christian respectively.

In this report, Amnesty International refers to the Muslim community as a homogeneous ethno-religious group. It must be acknowledged, however, that within the Muslim community there are several communities, ranging from Tamil-speaking Moors (the majority of Muslims are from this group), to Malays (whose ancestry traces back to Java), and those whose lineage can be traced back to Mumbai and Gujarat, namely Bohras and Memons. The experiences of these different groups vary based on linguistic, geographical, cultural, class and economic factors.

Amnesty International would like to acknowledge and thank all those who bravely consented to speak with us despite the shrinking space for dissent in the country.

"THEIR PROPERTY LOOTED, THEIR HOUSES AND SHOPS WRECKED, THEIR
MOSQUES DESECRATED AND DESTROYED AND THEY HAVE THEMSELVES
BEEN WOUNDED, OUTRAGED AND MURDERED."



3. BACKGROUND

Sri Lanka, a small island nation in the Indian Ocean, gained independence from its British colonial rulers of 152 years in 1948.³ The island, which comprises nine provinces, is governed by a presidential form of government established by the 1978 Constitution, giving the President of Sri Lanka executive powers as the Head of State. According to the last census, conducted in 2012, Sri Lanka has a population of more than 20 million people,⁴ of which the Sinhalese (75%), Tamil (15%) and Muslim (9%) ethnic groups⁵ account for almost 99.5%⁶ of the total population.⁷

The four main religions in Sri Lanka are Buddhism, Hinduism, Islam and Christianity.⁸ According to the 2012 census, 70% of the total population are Buddhist, 12.5% are Hindu, 9.6% are Muslim and 7.6% are Christian. The Muslim population is considered a homogeneous ethno-religious group, while the Sinhalese and Tamil ethnic groups comprise various religious sub-groups. The Sinhalese predominantly follow Buddhist teachings, while the majority of Tamils follow Hinduism. The former has resulted in an ethno-religious group referred to as Sinhala Buddhists, who are the ethnic and religious majority in the country.⁹

The exploitation of the Sinhalese by the British, and particularly factors such as “inflation, commercial rivalry and economic exploitation” in the 1900s¹⁰ led to a Sinhala Buddhist cultural revival, with a strong leaning towards nationalism.¹¹ This leaning was seemingly in defiance of “foreign Christian rulers and the non-Sinhalese, non-Buddhist minority groups”.¹² The objective of the Sinhala Buddhist nationalist movement of the 1900s was political, economic and religious supremacy.¹³ Rather than targeting the colonial rulers and the systems that perpetuated the subjugation of the Sinhalese, however, the revivalist movement instead targeted the Muslim community.¹⁴ Muslims, who were largely engaged in trade and moneylending, were perceived by Sinhalese nationalists as financially successful “aliens”¹⁵, who reaped the economic benefits rightly owed to the Sinhalese.¹⁶

Cover illustrations: Ema Anais

Cover photo: Burnt Muslim-owned home in North Western Province in Sri Lanka, by Amnesty International

³ Britannica, *Sri Lanka*, www.britannica.com/place/Sri-Lanka

⁴ Department of Census and Statistics, *Census of Population and Housing of Sri Lanka, 2012: Table A3: Population by district, ethnic group and sex*, 2012, www.statistics.gov.lk/popHousat/cph2011/Pages/Activities/Reports/FinalReport/Population/Table%20A3.pdf (hereinafter: Department of Census and Statistics, *Census of Population and Housing of Sri Lanka, 2012: Table A3: Population by district, ethnic group and sex*, 2012)

⁵ Muslims are classed as an ethnic group based on their religious beliefs and cultural differences between them and the Sinhalese and Tamil populations.

⁶ The remaining 0.5% is made up of the following ethnic groups: Burghers, Sri Lanka Chetty, Bharatha and other unspecific groups.

⁷ Department of Census and Statistics, *Census of Population and Housing of Sri Lanka, 2012: Table A3: Population by district, ethnic group and sex*, 2012

⁸ Department of Census and Statistics, *Census of Population and Housing of Sri Lanka, 2012: Table A4: Population by district, religion and sex*, 2012, www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/Population/Table%20A4.pdf

⁹ Centre for Policy Alternatives, *Dynamics of Sinhala Buddhist Ethno-Nationalism in Post War Sri Lanka*, 2016, www.cpalanka.org/wp-content/uploads/2016/04/Dynamics-of-Sinhala-Buddhist-Ethno-Nationalism-in-Post-War-Sri-Lanka.pdf

¹⁰ A. Ali, “Four waves of Muslim-phobia in Sri Lanka: c. 1880-2009”, *Journal of Muslim minority affairs*, 2015, p. 5 (hereinafter: A. Ali, “Four waves of Muslim-phobia in Sri Lanka: c. 1880-2009”)

¹¹ G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”, in *Modern Asian Studies*, 43(3), 2009, pp. 619-648 (hereinafter: G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”)

¹² K. Jayawardena, “Economic and political factors in the 1915 riots”, in *Journal of Asian Studies*, 29(2), 1970 (hereinafter: Kumari Jayawardena, “Economic and political factors in the 1915 riots”)

¹³ G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”, p. 645

¹⁴ A. Ali, “Four waves of Muslim-phobia in Sri Lanka: c. 1880-2009”, p. 5

¹⁵ A. Dharmapala, *Return to righteousness*, p. 540, quoted in Ameer Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, 1981, pp. 1-20

¹⁶ G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”, pp. 619-648

In 1912, the *Sinhala Bauddhaya*, or Sinhalese Buddhist, a journal run by Anagarika Dharmapala, a leader of the Sinhala Buddhist movement,¹⁷ lamented that “from the day the foreign white man stepped in this country, the industries, habits and customs of the Sinhalese began to disappear and now the Sinhalese are obliged to fall at the feet of the Coast Moors and Tamils”.¹⁸ Dharmapala has also been quoted as referring to Muslims as “alien to the Sinhalese by religion, race and language”.¹⁹

The Sinhala Buddhist majority in Sri Lanka has given rise to a state in which the dominance of this ethno-religious group is repeatedly asserted over both ethnic and religious minorities such as Tamils and Muslims. For example, Article 9 the Constitution of Sri Lanka grants Buddhism the “foremost place”²⁰ and assigns the state the duty to “protect and foster the Buddha *Sasana*” or Buddhist teachings.²¹ Moreover, Sinhala, the language spoken predominantly by the Sinhalese, was given the status of the country’s official language by the Official Language Act of 1956, commonly referred to as the “Sinhala Only Act”.²² This was despite the fact that Tamil, the language spoken predominantly by Tamil and Muslim minorities, was previously recognized as an official language. Tamil was only later recognized as an official language in 1958, by the Tamil Language (Special Provisions) Act and the Thirteenth Amendment to the Constitution in 1987.²³

The Muslim minority community was once again at the receiving end of violence and discrimination based on their religious beliefs during Sri Lanka’s civil war. In the 1980s, state discrimination and violence against Tamils, including anti-Tamil riots,²⁴ gave rise to armed groups fighting for a separate state, or “Tamil Eelam”,²⁵ for Tamils in the north and east of Sri Lanka. One such group was the Liberation Tigers of Tamil Eelam (LTTE), operating largely out of the Northern Province, which became the dominant Tamil militant group in the late 1980s.²⁶ A civil war started in 1983 between the security forces, who were mainly Sinhalese, and armed groups such as the LTTE, who were predominantly Tamils. Although the war was mainly fought between these two ethnic groups, the Muslims from the Northern and Eastern provinces were also targeted and attacked. The impact of one such incident, where Muslims from the Northern Province were forcibly evicted by the LTTE, is still seen to date.

The war ended in May 2009, with the Sinhalese security forces defeating the LTTE;²⁷ however, the Northern and Eastern provinces remained highly militarized and the government sought to bolster its power and stifle any dissent.²⁸ Twenty-six years of violence culminated in, according to UN estimates, between 80,000 to 100,000 deaths²⁹ and allegations of war crimes and grave human rights violations committed by the Sri Lankan security forces, the LTTE³⁰ and the Indian Peacekeeping Force, who were deployed to uphold the 1987 Indo-Lanka Accord.³¹

Until a change government in 2015, there were no credible steps towards post-conflict truth, justice, reconciliation and accountability.³² In 2015, the newly elected government under President Maithripala Sirisena made a series of promises to demonstrate its commitment to address impunity for past serious human rights violations, especially in co-sponsoring Resolution 30/1 at the UN Human Rights Council.³³ These included land returns, repeal of the Prevention of Terrorism Act (PTA), and the establishment of the

¹⁷ G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”, pp. 619-648

¹⁸ *Sinhala Bauddhaya*, 1912, quoted in K. Jayawardena, “Economic and political factors in the 1915 riots”

¹⁹ A. Dharmapala, *Return to righteousness*, p. 540, quoted in Ameer Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, 1981, pp. 1-20

²⁰ Article 9, Constitution of the Democratic Socialist Republic of Sri Lanka

²¹ Article 9, Constitution of the Democratic Socialist Republic of Sri Lanka

²² The Official Language Act (No. 33 of 1956)

²³ Tamil Language (Special Provisions) Act (No. 28 of 1958)

²⁴ Al Jazeera, “The history of the Tamil Tigers”, 28 April 2009, www.aljazeera.com/news/2009/4/28/the-history-of-the-tamil-tigers

²⁵ UN Human Rights Council, *Report of the OHCHR Investigation on Sri Lanka (OISL)*, 16 September 2015, UN Doc. A/HRC/30/CRP.2

²⁶ International Crisis Group (ICG), *Sri Lanka: Women’s insecurity in the North and East*, 2011, Asia Report

N°217, www.refworld.org/docid/4f056e132.html

²⁷ Amnesty International, *Sri Lanka: Reconciliation at a crossroads: Continuing impunity, arbitrary detentions, torture and enforced disappearances: Amnesty International submission to the UN Universal Periodic Review* (Index: ASA 37/008/2012)

²⁸ Amnesty International, *Sri Lanka: Reconciliation at a crossroads: Continuing impunity, arbitrary detentions, torture and enforced disappearances: Amnesty International submission to the UN Universal Periodic Review* (Index: ASA 37/008/2012)

²⁹ Reuters, *Sri Lanka faces U.N. scrutiny over civil war crimes*, 23 March 2021, www.reuters.com/article/sri-lanka-rights-un-idUSKBN2BF1DF

³⁰ UN Human Rights Council, *Report of the OHCHR Investigation on Sri Lanka (OISL)*, UN Doc. A/HRC/30/CRP.2

³¹ A peace accord signed by former Indian Prime Minister Rajiv Gandhi and former Sri Lankan President J.R. Jayawardene in July 1987. This accord temporarily ended the armed conflict, and deployed the Indian Peace Keeping Force (IPKF) to the Northern and Eastern provinces to maintain the peace. This peace was, however, short lived with attacks between the IPKF and the LTTE restarting in October 1987. During their time in Sri Lanka the IPKF was accused of human rights violations, such as widespread detention without charge or trial, torture, extrajudicial executions and ‘disappearances’. Forty-three such disappearances were documented by Amnesty International in 1990. For more information, please refer to: Amnesty International, *Sri Lanka: The Indian Peace Keeping Force and “Disappearances”* (Index: ASA 37/30/90)

³² UN Human Rights Council, *Resolution adopted by the Human Rights Council on 1 October 2015: 30/1. Promoting reconciliation, accountability and human rights in Sri Lanka*, UN Doc. A/HRC/RES/30/1

³³ Amnesty International, *Flickering hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka* (Index: ASA 37/9715/2019)

Commission for Truth, Justice, Reconciliation and Non-Recurrence, the Office on Missing Persons, the Office for Reparations and a judicial mechanism with special counsel. In January 2019, Amnesty International found that, over three years later, while some progress had been made such as sporadic land returns to civilian owners and the establishment of the Office on Missing Persons, critical commitments remained unfulfilled.³⁴

In November 2019, wartime Secretary of Defence Gotabaya Rajapaksa, brother of former wartime president Mahinda Rajapaksa, was elected President of Sri Lanka, and Mahinda Rajapaksa became Prime Minister.³⁵ The election promise of Gotabaya Rajapaksa, of a “strongman” or authoritarian president,³⁶ and his distancing from previous efforts at truth, justice, accountability, and reconciliation,³⁷ is a cause of great concern. In light of his election campaign, which will be discussed in more detail later, Muslims in Sri Lanka feared anti-Muslim sentiment, violence and discrimination would increase during Gotabaya Rajapaksa’s presidential term.³⁸

PRE-INDEPENDENCE VIOLENCE

The first record of anti-Muslim violence and rhetoric in Sri Lanka can be traced as far back as 1915. According to historians, inflammatory speeches and writings by Buddhist nationalists culminated in a Buddhist mob attacking a mosque in Kandy in 1915 and looting and destroying Muslim shops.³⁹

On 29 May 1915, the day of *Vesak*, a Buddhist festival, a string of violent anti-Muslim attacks by Buddhists took place across the country.⁴⁰ On 2 June 1915,⁴¹ martial law was declared when the riots reached the capital Colombo,⁴² yet the rioting only stopped four days later on 6 June 1915.⁴³ According to reports, anti-Muslim violence took place in 116 centres in five out of Sri Lanka’s nine provinces.⁴⁴

“What has befallen the Muslims at Sinhalese hands in the five provinces is that their property had been looted, their houses and shops have been wrecked, their mosques have been desecrated and destroyed and they have themselves been wounded, outraged and murdered.”⁴⁵

Governor Sir Robert Chalmers addressing the Legislative Council of Ceylon on 6 August 1915

With the declaration of martial law, the British colonial powers took this opportunity to violently repress those they perceived to be a threat. This included the shooting of villagers after the riots, and the execution of other individuals such as D.E. Pedris.⁴⁶ Violence against Muslim communities was thus used as an excuse by the British colonial authorities to increase their oppression in Sri Lanka, and tensions between ethnic groups continued throughout the colonial period.

³⁴ Amnesty International, *Flickering hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka* (Index: ASA 37/9715/2019)

³⁵ BBC News, “Gotabaya Rajapaksa: Sri Lanka’s powerful new president”, 25 November 2019, www.bbc.com/news/world-asia-50389014

³⁶ The Hindu, “An elusive reconciliation in Sri Lanka”, 19 November 2021, www.thehindu.com/opinion/op-ed/an-elusive-reconciliation-in-sri-lanka/article30009308.ece

³⁷ The Hindu, “President Gotabaya Rajapaksa: Cannot entertain 2015 UNHRC resolution on war crime in its current form”, 20 December 2019, www.thehindu.com/news/international/cannot-entertain-2015-unhrc-resolution-on-war-crime-in-its-current-form-president-gotabaya-rajapaksa/article30358237.ece

³⁸ Al Jazeera, “Sri Lanka’s Muslims have reason to fear the new Rajapaksa era”, 21 November 2019, www.aljazeera.com/opinions/2019/11/21/sri-lankas-muslims-have-reason-to-fear-the-new-rajapaksa-era

³⁹ A. Ali, “Four waves of Muslim-phobia in Sri Lanka: c. 1880-2009”, p. 5

⁴⁰ A. Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, pp. 1-20;

G. Rowell, “Ceylon’s Kristallnacht: A reassessment of the Pogrom of 1915”, pp. 619-648

⁴¹ A. Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, pp. 1-20

⁴² K. Jayawardena, “Economic and political factors in the 1915 riots”, p. 231

⁴³ A. Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, pp. 1-20

⁴⁴ A. Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, pp. 1-20

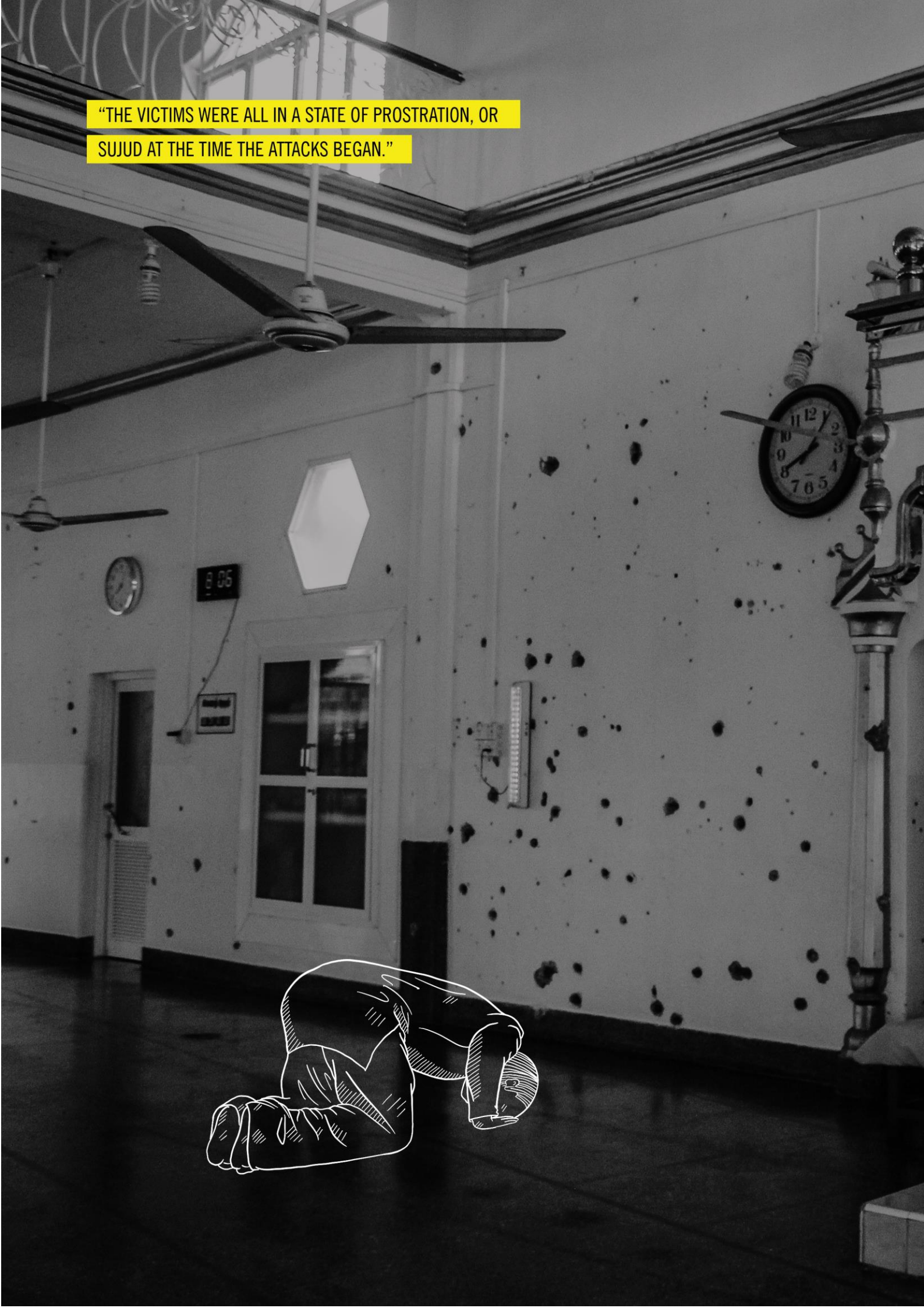
⁴⁵ Hansard, Debates in the Legislative Council of Ceylon, 6 August 1915, quoted in A. Ali, *The 1915 racial riots in Ceylon (Sri Lanka): A reappraisal of its causes*, pp. 1-20

⁴⁶ K. Jayawardena, “Economic and political factors in the 1915 riots”, p. 232

FROM BURNING HOUSES TO BURNING BODIES

ANTI-MUSLIM VIOLENCE, DISCRIMINATION AND HARASSMENT IN SRI LANKA

"THE VICTIMS WERE ALL IN A STATE OF PROSTRATION, OR
SUJUD AT THE TIME THE ATTACKS BEGAN."



4. 1990 – BETWEEN THE MAJORITY AND A MINORITY: VIOLENCE AGAINST MUSLIMS BY THE LTTE

A consequence of discrimination, marginalization and violence by an overtly Sinhala nationalistic state,⁴⁷ the 1980s saw a rise in Tamil nationalism. A fundamental aspect to the expression of Tamil nationalism was the need for a Tamil homeland. While some actors envisioned this homeland for all Tamil-speaking people including Muslims, Muslim leaders, particularly the Sri Lanka Muslim Congress (SLMC), fought for a distinct identity, separate to the Tamils, citing their ethnic and religious differences.⁴⁸ The LTTE disagreed with the assertion of these differences.⁴⁹

Although in recent years most attacks against Muslims have been from Sinhala Buddhist factions, the Muslim community has also been targeted by the Tamils, particularly the LTTE in 1990 in their quest to assert monoethnic dominance in the North and Eastern provinces of the country during the civil war. A civil society fact-finding mission in 2009 stated that the forced eviction of Muslims from the Northern Province by the LTTE was, in part, a reaction by the armed group to the position of the SLMC.⁵⁰

4.1 EASTERN PROVINCE MASSACRES

The Eastern Province of Sri Lanka has historically been ethnically and religiously diverse, with Tamils and Muslims, the two largest ethnic groups, largely living peacefully. In the span of two months in 1990, however, the LTTE carried out a number of violent attacks against Muslims.⁵¹

Cover illustrations: Ema Anais

Cover photo: Meera Jumma mosque in Kattankudy, by Thyagi Ruwanpathirana

⁴⁷ Al Jazeera, “The history of the Tamil Tigers”, 28 April 2009, www.aljazeera.com/news/2009/4/28/the-history-of-the-tamil-tigers

⁴⁸ Citizen’s Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990, *The quest for redemption: The story of the Northern Muslims*, Law and Society Trust, 2012, (hereinafter referred to as *The quest for redemption: The story of the Northern Muslims*, 2012)

⁴⁹ *The quest for redemption: The story of the northern Muslims*, 2012, p. 30

⁵⁰ *The quest for redemption: The story of the northern Muslims*, 2012, p. 31

⁵¹ International Crisis Group (ICG), *Sri Lanka’s Muslims caught in the crossfire*, 2007, p. 7, d2071andvip0wj.cloudfront.net/134-sri-lanka-s-muslims-caught-in-the-crossfire.pdf (hereinafter: ICG, *Sri Lanka’s Muslims caught in the crossfire*); University Teachers for Human Rights –

In July 1990, the LTTE stopped a convoy in the village of Kurukkalmadam and killed more than 60 people returning from the *hajj* pilgrimage, a religious journey made to holy sites in Saudi Arabia.⁵² Witnesses told the University Teachers for Human Rights (UTHR) that older people and children were among those killed.⁵³

On 3 August 1990, in the coastal town of Kattankudy, in the Eastern Province of Sri Lanka, around 300 men and boys were offering their evening prayers at the Meera Jumma mosque.⁵⁴ UTHR reported that armed LTTE members locked the doors of the mosque and began firing into the building with machine guns and hand grenades.⁵⁵ The victims were all in a state of prostration, or *sujud*, at the time of the attack.⁵⁶ A similar attack was carried out simultaneously at the nearby Hussainiya mosque.⁵⁷ The LTTE killed 147 Muslim men and boys in these two incidents.⁵⁸

According to UTHR reports, on 11 August 1990 at 10.30pm, armed LTTE fighters entered the town of Eravur, in the Batticaloa district of the Eastern Province, and began killing Muslims.⁵⁹ There was a report of a pregnant woman's stomach being cut open and the unborn child being pulled out and stabbed.⁶⁰ A total of 121 Muslims were killed in this massacre.⁶¹

“[T]hey were hacking people and shooting at them, without any discrimination; elderly people and pregnant women, sick people who can’t even run away, innocent people. Babies, including, a four-day old child, were hacked to death.”

Ali Zahir Mowlana, Member of Parliament for Batticaloa, speaking about the massacre⁶²

In late August 1990, the government provided arms to some Muslim groups, referred to as ‘home guards’, allegedly to protect themselves.⁶³ According to the International Crisis Group (ICG), following the attacks by the LTTE, the home guards were reported to be part of reprisals against Tamils, including civilians, in the Eastern Province.⁶⁴

These instances of violence carried out by the LTTE against the Muslim population in the Eastern Province illustrate the brutality used by the armed group to target civilians – a violation of international human rights law and humanitarian law. According to Article 3(1)(a) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, each party in an armed conflict has a duty to treat those who are not taking part in the hostilities humanely and the murder, mutilation or torture of any person not taking part in hostilities is prohibited.⁶⁵ As Sri Lanka acceded to this Convention in 1959, it is bound by its provisions and should therefore have provided protection to vulnerable groups such as the Muslims in the Eastern Province.⁶⁶

Jaffna, *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*, 1991 (hereinafter: UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*)

⁵² ICG, *Sri Lanka's Muslims caught in the crossfire*, UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁵³ UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁵⁴ ICG, *Sri Lanka's Muslims caught in the crossfire*, p. 7

⁵⁵ ICG, *Sri Lanka's Muslims caught in the crossfire*, p. 7; The New York Times, “Tamils kill 110 Muslims at 2 Sri Lankan mosques”, 5 August 1990, www.nytimes.com/1990/08/05/world/tamils-kill-110-muslims-at-2-sri-lankan-mosques.html

⁵⁶ UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁵⁷ ICG, *Sri Lanka's Muslims caught in the crossfire*, p. 7

⁵⁸ Commission of Inquiry on Lessons Learnt and Reconciliation (LLRC), *Report of the Commission of Inquiry on Lessons Learnt and Reconciliation*, 2011, p. 270, reliefweb.int/report/sri-lanka/report-commission-inquiry-lessons-learnt-and-reconciliation (hereinafter: LLRC, 2011)

⁵⁹ UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁶⁰ UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁶¹ UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁶² Interview with Ali Zahir Mowlana via Microsoft Teams on 22 January 2021

⁶³ ICG, *Sri Lanka's Muslims caught in the crossfire*, p. 7

⁶⁴ ICG, *Sri Lanka's Muslims caught in the crossfire*, p. 7; UTHR(J), *The clash of ideologies and the continuing tragedy in the Batticaloa and Ampara districts: Report No. 7*

⁶⁵ Article 3(1)(a), Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf

⁶⁶ International Committee of the Red Cross, *Convention (IV) relative to the Protection of Civilian Persons in Time of War*. Geneva, 12 August 1949, ihl-databases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=380

4.2 FORCED EVICTIONS OF MUSLIMS

The Muslim community of the Northern Province of Sri Lanka was once the province's largest minority group,⁶⁷ making up 5% of the population.⁶⁸ They lived alongside Tamils, the ethnic majority in the province, and many described the relationship between them as one of great friendship and brotherhood.⁶⁹

Between 15 and 30 October 1990, however, there was an exodus of around 75,000 Muslims from the Northern Province;⁷⁰ witnesses and affected families reported that the LTTE ordered Muslims to surrender their valuables and leave their homes.⁷¹ Victims recall having between two hours' to two days' notice to leave their homes⁷² and reported the LTTE forcibly taking money, jewellery and even clothing from women and girls.⁷³ This was in addition to having to leave behind their homes, land and other valuables, including house deeds and educational certificates,⁷⁴ which made it difficult to restart their lives after their eviction.

“My mother was a nurse. They give a box to nurses. All her certificates were inside this box. Her nursing certificate also was inside it. She used to say that at one checkpoint they took that box. Due to this she lost her certificate too. [...] When we came to Puttalam she tried very hard to get a job and failed. She never got a job.”

Yusra, human rights activist⁷⁵

As revealed by the fact-finding mission in 2009, many Muslims, including children, pregnant women, and older people, left their homes on foot; their difficult journey was marked by exhaustion and, in some cases, death. One testimony states that their journey on foot was 65 miles (104km).⁷⁶

Despite warnings of the souring of relations between the Muslims in the Northern Province and the LTTE, the government remained wholly unprepared to respond to the expulsion.⁷⁷ Notwithstanding the army's apparent inability to protect Muslims despite having a presence near the towns where it occurred, victims also reported the army making forcibly evicted Muslims spend the night in the jungle outside Vavuniya because they arrived outside checkpoint operational hours (10am to 3pm).⁷⁸ There were, however, reports of some assistance from the state – for example, buses were provided to transport Muslims from Vavuniya to Puttalam.⁷⁹

The act of forcefully evicting the Muslim population from the Northern Province violated aspects of international human rights law and amounted to war crimes and crimes against humanity. For example,

⁶⁷ E. Surenthiraraj & N. De Mel, “Two homes, refugees in both’: Contesting frameworks – The case of the Northern Muslims of Sri Lanka”, *Journal of social and political psychology*, 7(2), 2019, p. 1,047 (hereinafter: E. Surenthiraraj & N. De Mel, “Two homes, refugees in both’: Contesting frameworks – The case of the Northern Muslims of Sri Lanka”)

⁶⁸ S. Thiranagama, “Moving on? Generating homes in the future for displaced Northern Muslims in Sri Lanka”, *Ghosts of memory: Essays on remembrance and relatedness* (ed. Janet Carsten), 2007, p. 126; E. Surenthiraraj & N. De Mel, “Two homes, refugees in both’: Contesting frameworks – The case of the Northern Muslims of Sri Lanka”, p. 1,047

⁶⁹ Citizen's Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990, *The quest for redemption: The story of the Northern Muslims*, Law and Society Trust, 2012, Chapter 9 (hereinafter: *The quest for redemption: The story of the Northern Muslims*, 2012)

⁷⁰ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 60; Groundviews, *Black October: 30 years since, where are we?*, 10 October 2020, groundviews.org/2020/10/10/black-october-30-years-since-where-are-we/; LLRC 2011, p. 207

⁷¹ *The quest for redemption: The story of the Northern Muslims*, 2012, pp. 61, 66-67

⁷² *The quest for redemption: The story of the Northern Muslims*, 2012, pp. 61, 66-67

⁷³ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 81

⁷⁴ *The quest for redemption: The story of the Northern Muslims*, 2012, pp. 80-81

⁷⁵ Interview with Yusra via Zoom on 20 January 2021 (name has been changed to respect the interviewee's anonymity)

⁷⁶ *The quest for redemption: The story of the Northern Muslims*, 2012, pp. 73-74

⁷⁷ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 87

⁷⁸ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 87

⁷⁹ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 90

article 17 of the International Covenant on Civil and Political Rights (ICCPR) prohibits the unlawful or arbitrary interference with a person's privacy, family, or home.⁸⁰ Sri Lanka acceded to the ICCPR in 1980.

According to Article 17 of the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), the displacement of civilians should not be ordered unless required for the security of the civilians or for military reasons.⁸¹ In this case, however, the LTTE forcibly evicted Muslims with the intention of achieving mono-ethnic dominance in the Northern Province. It further states that civilians should not be compelled to leave their own territory due to conflict.

Articles 7 and 8(2)(a)(vii) of the Rome Statute of the International Criminal Court provide that unlawful deportation or transfer constitute crimes against humanity and a war crime. Although the forced evictions in Sri Lanka occurred prior to the establishment of the Rome Statute, the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY), confirms that acts of forcible displacement "constitute a crime against humanity and a war crime" under customary international law and when committed with a discriminatory intent amount to the crime against humanity of persecution.⁸²

The expulsion of Muslims from the Northern Province by the LTTE was also a violation of the Guiding Principles on Internal Displacement. Principle 6 states that every human being has the right to be protected against being arbitrarily displaced from their home.⁸³ Victims reported that, even where army camps were present next to their villages, the soldiers did nothing to prevent the forced eviction, nor did they offer any assistance to the evicted Muslim families.⁸⁴

“None of the army personnel stopped us; they did not even come to our aid. There was a huge army camp called Thalladi next to the village, and there were nearly 3,000-4,000 soldiers, but none came to our rescue.”

M.M. Abdul Majeed⁸⁵

Furthermore, Principle 21 states: “No one shall be arbitrarily deprived of property and possessions.”⁸⁶ As such, the LTTE's seizure of Muslim-owned property and possessions was in violation of international principles.

Under international law Sri Lanka has an obligation to ensure that victims of such crimes and other serious human rights violations have access to reparations, which must include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. However, more than 30 years later, Muslim families from the North continue to experience the adverse impact of these forced evictions.

The state has done little to facilitate the return of the forcibly evicted families. Lack of development in the region, including basic infrastructure such as roads, water, and electricity in the rural areas, has made it difficult for families to return to the place they once called home.⁸⁷ Some mosques still bear the bullet holes from that time,⁸⁸ a grim reminder to the community of the violence that was carried out against them. The return to the North has been particularly challenging for women-headed households, who reported not being able to return without a male in the household who could earn income by working in agriculture or fishing.⁸⁹

⁸⁰ Article 17, International Covenant on Civil and Political Rights, www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx

⁸¹ Article 17, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims

⁸² *Prosecutor v. Milorad Krnojelac* (IT-97-25-A), International Criminal Tribunal for the Former Yugoslavia (ICTY). Under the statute and jurisprudence of the ICTY persecution would also need to meet the threshold of being of a “gravity of which is equal to the other crimes listed in Article 5 of the Statute,” but this is clearly met with forcible transfers of this nature.

⁸³ Principle 6, Guiding Principles on Internal Displacement, www.unhcr.org/protection/IDP/43ce1cff2/guiding-principles-internal-displacement.html

⁸⁴ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 62

⁸⁵ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 62

⁸⁶ Principle 21, Guiding Principles on Internal Displacement, undocs.org/E/CN.4/1998/53/Add.2

⁸⁷ F. Haniffa, *Competing for victimhood status: Northern Muslims and the ironies of post-war reconciliation, justice and development*, 2014, p. 11, ices.lk/wp-content/uploads/2018/07/13-Competing-for-Victimhood.pdf (hereinafter: F. Haniffa, *Competing for victimhood status: Northern Muslims and the ironies of post-war reconciliation, justice and development*)

⁸⁸ Amnesty International staff have visited the Meera Jumma mosque in Kattankudy, where the attacks took place

⁸⁹ *The quest for redemption: The story of the Northern Muslims*, 2012, p. 178

“They would return only when they have access to school, access to clean water, access to road, access to transport. You can’t put them in jungles. You can’t put them in houses without even infrastructure being done.”

Shreen Saroor, human rights activist whose family was forcibly evicted from the Northern Province⁹⁰

This has led to some families having to maintain two households,⁹¹ one in the North and one in Puttalam, an economic burden that few families are able to sustain in the face of insufficient state assistance. Where Muslims have attempted to move back to the Northern Province, the lack of infrastructure has resulted in some moving back to Puttalam in the North Western Province, where most forcibly evicted people moved to.⁹²

The Government of Sri Lanka must take concrete steps to ensure that forcibly evicted people who wish to return to the Northern Province are able to do so, and that the conditions to which they return are at the very least on a par with the conditions when they left. To do this, the government must provide effective remedies to those communities that were affected by the attacks on Muslims, and these must at a minimum include building and developing infrastructure in these areas, to a standard equal to that found in Puttalam. The government must also provide reparations to those moving back to the North, to ease the financial burden on families who may not be able to afford to return.

The right to reparations includes an obligation on the state to hold perpetrators to account, to prevent future violations and to end impunity; however, in Sri Lanka there has been no accountability for these crimes. In fact, Vinayagamoorthis Muralitharan, also known as Karuna,⁹³ a once prominent leader of the LTTE who is alleged to have committed war crimes and crimes against humanity was sworn into Parliament on 7 October 2008, while Mahinda Rajapaksa was president.⁹⁴ In 2009, Karuna was sworn in as a non-cabinet minister for national integration and reconciliation by the same President.⁹⁵ Ahead of the 2020 general elections, Karuna claimed that he had turned down an invitation from Prime Minister Mahinda Rajapaksa to join the parliament through the National List.⁹⁶ Rather than investigate and hold Karuna accountable for any war crimes and crimes against humanity committed by him during his time in the LTTE, the government has instead seen fit to reward him with positions of power.

Understanding the root of the rift between the Tamil and Muslim groups and its continued impact on the Muslim community is important because these divisions continue to be exploited by political actors today to stir up anti-Muslim sentiment within the Tamil population. For example, on 7 June 2020, in the Vanni electoral district in the Northern Province, media reports showed the Sri Lanka *Podu Jana Peramuna* (SLPP) candidate in the area claiming that despite being the majority ethnic group in the district, Tamils were experiencing hardship because “Muslim leaders are ruling Vanni”.⁹⁷

“70% of the Vanni population is Tamil. The remaining 30% are Sinhalese and Muslim. I regard Tamils as the dominant nationality [ethnicity]. But a Muslim leader had been ruling

⁹⁰ Interview with Shreen Saroor via Signal on 10 December 2020

⁹¹ *The quest for redemption: The story of the Northern Muslims*, 2012, pp. 176-180; F. Haniffa, *Competing for victimhood status: Northern Muslims and the ironies of post-war reconciliation, justice and development*, p. 12

⁹² F. Haniffa, *Competing for victimhood status: Northern Muslims and the ironies of post-war reconciliation, justice and development*, p. 22

⁹³ In March 2004, Karuna broke away from the LTTE

⁹⁴ Amnesty International, *Sri Lanka: Karuna's presence in Parliament a travesty of justice* ([Press release](#); 7 October 2008), www.amnesty.org/en/latest/press-release/2008/10/sri-lanka-karuna-28099s-presence-parliament-travesty-justice-20081007/

⁹⁵ BBC, *Ex-rebel made Sri Lankan minister*, 9 March 2009, news.bbc.co.uk/2/hi/south_asia/7933561.stm

⁹⁶ The Hindu, *Ex-LTTE leader Karuna's claim to be probed*, 22 June 2020, www.thehindu.com/news/international/ex-ltte-leader-karunas-claim-to-be-probed/article31892963.ece

⁹⁷ The Leader, “President’s Sinhala candidate spewing hate speech against Muslims”, 11 July 2020, english.theleader.lk/news/790-president-s-sinhala-candidate-spewing-hate-speech-against-muslims (hereinafter: The Leader, “President’s Sinhala candidate spewing hate speech against Muslims”)

Vanni for many years. The reason for the suffering of the Tamil and Sinhala people is the rule of Muslim leaders over Vanni.”

Janaka Nandakumara, SLPP candidate for the Vanni district⁹⁸

In keeping with the ‘divide and rule’ policy employed by numerous governments, the rifts between Tamil and Muslim groups may be used in the future for political gain.

⁹⁸ The Leader, “President’s Sinhala candidate spewing hate speech against Muslims”

"THEY CAME INSIDE THE HOUSE AND TOOK ALL THE FURNITURE THAT WAS THERE IN THE FRONT ROOM. THERE WAS A LCD TV, SEWING MACHINE, AND A LARGE STUDY TABLE. THEY PUT EVERYTHING TOGETHER AND SET FIRE TO THEM."



5. 2013 – A TURNING POINT: ‘YESTERDAY TAMILS WERE THE TARGET; TODAY IT IS MUSLIMS’⁹⁹

Following the defeat of the LTTE and the end of the civil war in May 2009, the government led by President Mahinda Rajapaksa claimed credit for “winning the war”, and leveraged their victory to further centralize power.¹⁰⁰ With the 18th amendment to the Constitution, the government allowed for political appointments to independent commissions and removed the two-term limit for the President.¹⁰¹

“The [war] victory is interpreted by the general public as a victory for Buddhism. One interpretation is that we [Sri Lanka] safeguarded Buddhism as a historical duty. Secondly, Buddhists found that the LTTE was a strong anti-Buddhist movement, so their defeat can easily be seen as a victory for Buddhism.”

Politician from *Jathika Hela Urumaya* (JHU), a Sinhala Buddhist nationalist political party¹⁰²

Cover illustrations: Ema Anais

Cover photo: Burnt Muslim-owned home in North Western Province, by Amnesty International

⁹⁹ Groundviews, “Denying justice while dehumanizing a community at large”, 21 April 2021, groundviews.org/2021/04/21/denying-justice-while-dehumanizing-a-community-at-large/ (hereinafter: Groundviews, “Denying justice while dehumanizing a community at large”)

¹⁰⁰ Amnesty International, *Old ghosts in new garb: Sri Lanka’s return to fear* (Index: ASA 37/3659/2021) (hereinafter: Amnesty International, *Old ghosts in new garb: Sri Lanka’s return to fear*)

¹⁰¹ Centre for Policy Alternatives, *The eighteenth amendment to the Constitution: Substance and process*, 25 March 2011, www.cpalanka.org/the-eighteenth-amendment-to-the-constitution-substance-and-process/

¹⁰² Interview with a politician of the JHU, September 2012, quoted in Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, 2013, p. 29

“In 2009, the war was won by the Sinhala majority armed forces, including the navy and the air force. And after that, there was a fundamental change in the mindset of the Sinhala people... The mindset now was, ‘Okay it’s not Sinhala nationalism anymore; it is the Sinhala Buddhist nationalism.’ So, they wanted to control the entire country. And that was the change that made them focus on the Muslim community.”

Ameer Ali, economist and researcher on Muslim minority affairs¹⁰³

From May 2009 to January 2013, the Centre for Policy Alternatives, a rights group, documented numerous attacks on Muslim places of worship, restrictions on religious practices, land disputes, attacks on clerics, restrictions on the construction of religious places, and hate speech, largely by Sinhala Buddhist groups, including members of the clergy.¹⁰⁴ Instead of condemning these actions, the government echoed and propagated Sinhala Buddhist nationalist rhetoric, while supporting and legitimizing Sinhala Buddhist extremist nationalist groups, who had once again, post war, risen to the forefront.

“In this backdrop, Sinhala Buddhist nationalism can be described as a form of nationalism that is ethno-religious in character and draws on the Sinhala language as well as Buddhism. It is a nationalism which considers the territory of Sri Lanka to be belonging, predominantly, to the Sinhala Buddhists, and its primary aim is to protect the sovereignty and territorial integrity of the country... For them, other groups can exist in the country and expect to be treated with respect as long as they acknowledge the supremacy of Buddhism and the primacy of the Sinhala language and culture.”

Ayesha Zuhair in Dynamics of Sinhala Buddhist ethno-nationalism in post-war Sri Lanka¹⁰⁵

This chapter documents how nationalist groups, such as *Bodu Bala Sena* (BBS) or Buddhist Power Force, and *Sinhala Ravaya* or Sinhala Outcry, were fostered and encouraged by the ruling political leaders, and violence, hate speech, harassment, and discrimination against Muslims were exercised with impunity.

5.1 THE RE-EMERGENCE OF SINHALA BUDDHIST NATIONALIST GROUPS

Sinhala Buddhist nationalist groups have been a constant feature in the Sri Lankan political arena, even prior to independence; however, in 2012, there was a significant cultural shift with the emergence of Sinhala Buddhist nationalist groups such as the BBS, *Sinhala Ravaya*, and *Ravana Balaya* or Ravana Power. These groups targeted the Muslim population, accusing them of aligning with terror groups, using unfair economic practices, being against women’s rights and slaughtering cows,¹⁰⁶ an animal some Buddhist groups considered sacred. These groups rekindled the ideology of their predecessors that Muslims (and other minorities) were a threat to Sinhala Buddhists in Sri Lanka.¹⁰⁷

This rhetoric tapped into the existing feeling within segments of the Sinhala Buddhist population that Sri Lanka is the only country in the world with Sinhalese Buddhists, and therefore it is of utmost importance to protect them from the race, religion, and culture of ‘outsiders’, both within and outside the country. This has led some academics and commentators to refer to the Sinhalese as “a majority with a minority complex”.¹⁰⁸ For example, Dilanthe Withanage, the Chief Executive Officer and founding member of the BBS, has been

¹⁰³ Interview with Ameer Ali via WhatsApp on 22 January 2021

¹⁰⁴ Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, 2013, pp. 55-62, www.cpalanka.org/attacks-on-places-of-religious-worship-in-post-war-sri-lanka/ (hereinafter: Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*)

¹⁰⁵ A. Zuhair, *Dynamics of Sinhala Buddhist ethno-nationalism in post-war Sri Lanka*, Centre for Policy Alternatives, 2016, www.cpalanka.org/wp-content/uploads/2016/04/Dynamics-of-Sinhala-Buddhist-Ethno-Nationalism-in-Post-War-Sri-Lanka.pdf

¹⁰⁶ D.B. McGilvray, “Rethinking Muslim identity in Sri Lanka”, *Buddhist extremists and Muslim minorities: Religious conflict in contemporary Sri Lanka*, 2016, pp. 54-77; BBC News, “The hardline Buddhists targeting Sri Lanka’s Muslims”, 25 March 2013, www.bbc.com/news/world-asia-21840600 (hereinafter: BBC, “The hardline Buddhists targeting Sri Lanka’s Muslims”)

¹⁰⁷ The Diplomat, “Interview with Dilanthe Withanage”, 15 June 2016, thediplomat.com/2016/06/interview-with-dilanthe-withanage/ (hereinafter: The Diplomat, “Interview with Dilanthe Withanage”); BBC, “The hardline Buddhists targeting Sri Lanka’s Muslims”

¹⁰⁸ K.M. de Silva, *Reaping the whirlwind: Ethnic conflict, ethnic politics in Sri Lanka*, 1998;

S.J. Tambiah, quoted in the *The New York Times*, “Sri Lanka struggles to overcome centuries of ethnic ill will”, 30 August 1987, www.nytimes.com/1987/08/30/weekinreview/the-world-sri-lanka-struggles-to-overcome-centuries-of-ethnic-ill-will.html; BBC News, “Sri Lanka: How ethnic tensions grew”, 28 January 1998, news.bbc.co.uk/2/hi/special_report/1998/sri_lanka/50926.stm

quoted in the media as saying Sinhalese Buddhists are a “global minority” with no support internationally.¹⁰⁹ Other leaders of Sinhala Buddhist nationalist groups have expressed similar sentiments:

“This is the only country for the Sinhalese. [...] Look around the world – Malaysia, Indonesia, Pakistan, Afghanistan and others, they were all Buddhist countries – but the Muslims destroyed the culture and then took over the country. We worry they’re planning it here too.”

Akmeemana Dayarathana, founder of Sinhala Buddhist nationalist group *Sinhala Ravaya*¹¹⁰

This perception of victimhood of the Sinhala Buddhist majority mirrors a core principle of the Sinhala Buddhist nationalist movement that they are the self-appointed ‘protectors’ of Buddhism.

“We genuinely believe we are the protectors of Buddhism. There is logic in it. We have been practising Buddhism for the past 2,500 years without a break. No other religion has this record.”

A politician from JHU¹¹¹

In a country barely recovering from a three-decade civil war, groups like the BBS, *Sinhala Ravaya* and *Ravana Balaya* were a threat to national unit,¹¹² and the equal enjoyment of human rights, yet they were allowed to flourish under the Mahinda Rajapaksa government.

“The Sinhalese don’t want to see the Muslim community being a problem, and the politicians made capital out of it... They [politicians] said, ‘Muslims are a threat to the country, so we have to have a government, which is 100% Sinhala, Sinhala Buddhist, so that we can tackle this issue.’”

Ameer Ali, economist and researcher on Muslim minority affairs¹¹³

The government’s tacit approval of these groups enabled the racist, ethno-centric rhetoric peddled by Sinhala Buddhist nationalist groups, which then evolved from hate speech to targeted actions and violence against the Muslim community.

¹⁰⁹ The Diplomat, “Interview with Dilanthe Withanage”

¹¹⁰ BBC News, “The hardline Buddhists targeting Sri Lanka’s Muslims”

¹¹¹ Interview with a politician of the JHU, September 2012, quoted in Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, p. 29

¹¹² BBC News, “The hardline Buddhists targeting Sri Lanka’s Muslims”

¹¹³ Interview with Ameer Ali via WhatsApp on 22 January 2021

5.2 2013 – HALAL CERTIFICATION

On 2 January 2013, the BBS, led by their General Secretary Galaboda Aththe Gnanasara Thero, began campaigning against the halal certification of food, which confirms that a consumable item complies with Islamic law and is therefore permissible for consumption by Muslims.¹¹⁴ On 17 February 2013, the group passed the Maharagama Declaration, which contained 10 points, one of which was that the group would give the government until 31 March 2013 to ban the halal certification of food.¹¹⁵ The declaration also sought to ban allowing Sri Lankan women to the Middle East for work (predominantly as domestic help), the building of mosques with funds from the Middle East, and specific kinds of birth control that the group alleged stunted the growth of the Sinhalese population.¹¹⁶

We will go door to door to make sure this halal certification is stopped – that is our right.”

Galaboda Aththe Gnanasara Thero, General Secretary of the BBS, at a media conference on 15 February 2013¹¹⁷

Under international human rights law and domestic safeguards, the Muslim community has the right to freedom of religion. As halal certification is linked to an important tenet of Islam, the campaign to stop the halal certification of food, by its very nature, is discriminatory.

On 17 February 2013, addressing a rally of thousands of people held in Maharagama, a suburb of Colombo, Gnanasara declared that Sri Lanka was a Sinhalese country and that Sinhala Buddhists should be ready to fight Christian and Muslim extremists, as the country's “unofficial civilian police force”.¹¹⁸ According to Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Sri Lanka acceded in 1982,¹¹⁹ states must: condemn all propaganda and organizations based on the theory of superiority of one race, group of persons, ethnic origin,¹²⁰ and take positive steps to eradicate incitement and discrimination. Article 20(2) of the ICCPR, also refers to obligations on the state to prohibit by law (although not necessarily criminalize) all advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. This obligation must be undertaken with recognition of the right to freedom of expression under article 19 of the ICCPR and must meet the requirements of legality, necessity and proportionality. The government's failure to take positive actions (which could have included education on equality and non-discrimination¹²¹, condemnation of discriminatory language, civil remedies¹²² or in more extreme cases and as a last resort the application of criminal sanctions on incitement¹²³) to prevent such propaganda from being disseminated, was a violation of its obligations under international human rights law.¹²⁴

The BBS campaign against the halal certification was successful, and on 11 March 2013 Islamic clerics stopped halal certification “in the interests of peace”.¹²⁵ The BBS was, however, still unsatisfied and called

¹¹⁴ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*, Law and Society Trust, 2014, www.academia.edu/10331700/Where_Have_All_the_Neighbours_Gone_Aluthgama_Riots_and_its_Aftermath (hereinafter: F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*)

¹¹⁵ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*; Sri Lanka Mirror, “Bodu Bala Sena gives ultimatum to ban halal certification”, 18 February 2013, archive.srilankamirror.com/news/5366-bodu-bala-sena-gives-ultimatum-to-ban-halal-certification (hereinafter: Sri Lanka Mirror, “Bodu Bala Sena gives ultimatum to ban halal certification”)

¹¹⁶ Submission to the fifth periodic report on Sri Lanka on International Covenant on Civil and Political Rights, *The Secretariat for Muslims: Violations of Muslims' rights in Sri Lanka*, 2014,

tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FLKA%2F18205&Lang=en

¹¹⁷ Daily FT, “Bodu Bala Sena anti-halal agitation to begin in Maharagama tomorrow”, 16 February 2013, www.ft.lk/article/136214/Bodu-Bala-Sena-anti-Halal-agitation-to-begin-in-Maharagama-tomorrow

¹¹⁸ Sri Lanka Mirror, “Bodu Bala Sena gives ultimatum to ban halal certification”

¹¹⁹ UN Treat Body Database, *Ratification status for Sri Lanka*, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN

¹²⁰ Article 4(a), ICERD

¹²¹ Paragraph 37 of the Rabat Plan of Action.

¹²² Paragraph 34 of the Rabat Plan of Action

¹²³ Paragraph 34 of the Rabat Plan of Action

¹²⁴ BBC News, “The hardline Buddhists targeting Sri Lanka's Muslims”; F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*, p. 14

¹²⁵ NDTV, “Halal food label withdrawn in Sri Lanka after protests”, 11 March 2013, www.ndtv.com/world-news/halal-food-label-withdrawn-in-sri-lanka-after-protests-515821#:~:text=Colombo%3A%20Islamic%20clerics%20announced%20the,on%20the%20Indian%20Ocean%20island

for a total ban of the halal logo.¹²⁶ On 17 March 2013, Gnanasara Thero claimed victory in their campaign against halal certification.¹²⁷

According to Article 18 of the ICCPR, all people have the right to freedom of thought, conscience and religion, which includes the freedom to manifest their religion or belief in teaching, practice, worship and observance.¹²⁸ This freedom is echoed in Article 18 of the Universal Declaration of Human Rights (UDHR).¹²⁹ Furthermore, Articles 10 and 12 of the Constitution of Sri Lanka guarantee the freedom of religion, and the right not to be discriminated against on the grounds of religion.¹³⁰ Section 291A of the Penal Code of Sri Lanka criminalizes the use of words with the intent to wound religious feelings.¹³¹ As the observance of consuming halal food is an integral part of the Muslim faith, the government's failure to take steps to protect the rights of Muslims is a clear violation of international and domestic laws and safeguards. Further, according to the ICCPR Act, Sri Lanka's codification of their commitments when acceding to the international covenant affirms that "no person shall propagate war, or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence".¹³² In the context of Sri Lanka, and considering the prejudice against the Muslim community that has been documented in this report and the history of violent attacks against the community, vociferous attacks against an integral aspect of the Muslim religion may have had the effect of inciting hatred against the community.

Indeed, the success of the BBS, coupled with the government's tacit approval of their actions, appears to have emboldened some Sinhala Buddhist nationalist groups. Following the issue of halal certification, there were a number of anti-Muslim incidents reportedly carried out by Sinhala Buddhist nationalist groups, with some turning violent.¹³³

On 28 March 2013, a violent mob led by Buddhist monks stoned all the vehicles and set fire to the office of Emerald Trading, a Muslim-owned, heavy-vehicle yard in the town of Pepiliyana, 10km from Colombo.¹³⁴ The mob then pelted stones at a branch of Fashion Bug, a Muslim-owned clothing store in the same area.¹³⁵ According to media reports, this mob of 200 to 500 people shouted anti-Muslim slogans and assaulted workers at the shop.¹³⁶ The media reported that the police stood idly by during the attacks, and only attempted to quell the violence a few hours after the incident started.¹³⁷ Despite 17 suspects, including three monks, being arrested for "causing extensive damages to the building, merchandise and vehicles",¹³⁸ Fashion Bug chose not to pursue legal action in order "to maintain peace".¹³⁹ Subsequently, all the suspects were released without being charged.¹⁴⁰

On 10 August 2013, a Buddhist mob attacked the Deenul Islam mosque in Grandpass, Colombo, injuring 12 people, including seven mosque-goers and two police officers.¹⁴¹ The police declared a curfew in Colombo to prevent further violence;¹⁴² however, it remains unclear whether any suspects were arrested or charged for this attack. Amnesty International has written to the Inspector General of Police seeking details of the people who were arrested and/or charged. At the time of writing, we are yet to receive a response.

The Muslim minority community often had to succumb to the demands of their aggressors, forgoing justice to maintain peace. By contrast, the Sinhala Buddhist groups never issued an apology, undertook remedial action, or took responsibility for contributing to the atmosphere of hatred towards Muslims that led to the violence and property damage that took place. The government also did nothing to stop, prevent or control these violent incidents, thereby emboldening the blatantly racist actions of groups. In fact, Gotabaya

¹²⁶ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*

¹²⁷ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*

¹²⁸ UN General Assembly, International Covenant on Civil and Political Rights

¹²⁹ UN General Assembly, Universal Declaration of Human Rights

¹³⁰ Articles 10 and 12, Constitution of the Democratic Socialist Republic of Sri Lanka

¹³¹ Article 291A, Penal Code of Sri Lanka

¹³² Section 3(1), International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007

¹³³ Groundviews, "The Fashion Bug case: A turning point for Muslim rights in Sri Lanka", 9 April 2013, groundviews.org/2013/04/09/the-fashion-bug-case-a-turning-point-for-muslim-rights-in-sri-lanka/ (hereinafter: Groundviews, "The Fashion Bug case")

¹³⁴ Groundviews, "The Fashion Bug case"

¹³⁵ Groundviews, "The Fashion Bug case"

¹³⁶ Groundviews, "The Fashion Bug case"

¹³⁷ BBC News, "Sri Lanka crowd attacks Muslim warehouse in Colombo", 29 March 2013, www.bbc.com/news/world-asia-21973292

¹³⁸ Daily Financial Times, "Fashion Bug issues statement over attack and amicable settlement", 4 April 2013, www.ft.lk/front-page/fashion-bug-issues-statement-over-attack-and-amicable-settlement/44-144305 (hereinafter: Daily Financial Times, "Fashion Bug issues statement over attack and amicable settlement")

¹³⁹ Daily Financial Times, "Fashion Bug issues statement over attack and amicable settlement"

¹⁴⁰ Daily Financial Times, "Fashion Bug issues statement over attack and amicable settlement"

¹⁴¹ Groundviews, "Statement condemning the attack on the Masjid Deenul Islam at Grandpass, Colombo", 15 August 2013, groundviews.org/2013/08/15/statement-condemning-the-attack-on-the-masjid-deenul-islam-at-grandpass-colombo/; Star Tribune, "Police impose curfew after Buddhist mob storms Sri Lankan mosque, injuring 7 worshippers", 10 August 2013, www.startribune.com/curfew-in-sri-lankan-capital-after-mosque-attack/219119361/ (hereinafter: Star Tribune, "Police impose curfew after Buddhist mob storms Sri Lankan mosque, injuring 7 worshippers")

¹⁴² Star Tribune, "Police impose curfew after Buddhist mob storms Sri Lankan mosque, injuring 7 worshippers"

Rajapaksa, then Minister of Defence and currently President of Sri Lanka, was the chief guest at the inauguration of Meth Sevana, a Buddhist Leadership Academy launched by the BBS in March 2013, the same month in which the attacks on Muslim-owned businesses and mosques took place.

The modern manifestation of violence against the Muslim community must be examined in light of the constant undercurrent of majoritarianism that has plagued Sri Lanka, even prior to independence.

5.3 ALUTHGAMA RIOTS, 2014

With tensions between the Sinhalese and Muslims running high following the recession of the halal certification, and the impunity enjoyed by Sinhala Buddhist nationalist groups, a further wave of anti-Muslim violence emerged – the worst outbreak of communal violence on the island in years.¹⁴³

In the southern coastal town of Aluthgama, relations between the two religious groups were already strained. This was particularly after a Muslim-owned shop was razed by a mob in May 2014, following allegations of sexual assault of a Sinhalese boy by an employee of the shop.¹⁴⁴ These existing tensions were compounded by an alleged clash between the driver of a Buddhist monk and two Muslim youths.¹⁴⁵ According to a fact-finding mission by civil society members, the two Muslim youths, who had gone to the police station to diffuse the situation, were made to kneel and were then slapped by the monk.¹⁴⁶ This assault reportedly took place in the presence of police officials and a large crowd of bystanders.¹⁴⁷

A month later, on 15 June 2014, the BBS held a rally in the town with the permission of the government. This was despite pleas and warnings from Muslim community leaders that the rally would exacerbate tensions between the Sinhalese and Muslims.¹⁴⁸ Addressing the rally, the General Secretary of the BBS used derogatory terms for Muslims and declared that if any Muslim “keeps so much as a hand on a Sinhalese person, let alone a monk, it would be the end” of them.¹⁴⁹

“Our own *sakkili* [a derogatory word that signifies a low caste] Ministers say we are racists, extremists and are creating separation through religion. Yes, we are racists. Yes, we are creating separation through religion.”

Galaboda Aththe Gnanasara Thero addressing a rally in Aluthgama on 15 June 2014¹⁵⁰

¹⁴³ Amnesty International, “Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence”, Press release, 17 June 2014, www.amnesty.org/en/latest/news/2014/06/sri-lanka-act-now-prevent-further-bloodshed-anti-muslim-violence/ (hereinafter: Amnesty International, “Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence”)

¹⁴⁴ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*, p. 15

¹⁴⁵ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*

¹⁴⁶ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*

¹⁴⁷ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama Riots and its aftermath*

¹⁴⁸ Amnesty International, “Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence”

¹⁴⁹ YouTube, “Hated speech by BBS secretary Galabodathe Nanasara Tero (with English subtitles)”, 16 June 2014, www.youtube.com/watch?v=fPMWD8f9IE (hereinafter: YouTube, “Hated speech by BBS secretary Galabodathe Nanasara Tero”); BBC News, “Sri Lanka Muslims killed in Aluthgama clashes with Buddhists”, 16 June 2014, www.bbc.com/news/world-asia-27864716

¹⁵⁰ YouTube, “Hated speech by BBS secretary Galabodathe Nanasara Tero”

HATE CRIME

Hate crimes target people because of their real or perceived links to a group defined by characteristics such as age, disability, ethnicity, gender, gender identity, race, sexual orientation and social or economic status, among others. They constitute a form of discrimination because the target is chosen on the basis of personal characteristics that constitute protected grounds under international human rights law.¹⁵¹

States have a positive obligation to protect everyone in their jurisdiction from acts of discrimination carried out by private individuals or groups.¹⁵² This means that states must ensure that their own officials respect the right of everyone to be treated without discrimination and they must also put in place an effective legal and public policy framework to ensure that everyone has effective protection from discrimination by private individuals.

To fulfil their obligations, authorities should put in place effective mechanisms to prevent, investigate, punish and provide redress for the harm caused by hate crimes perpetrated by private individuals or groups.¹⁵³ These should reflect the positive duty of the police to combat hate crime and to investigate any discriminatory motives behind such crimes when committed. These duties should govern all police actions and be given due consideration when dealing with members of groups experiencing discrimination. In particular, the authorities should adopt laws and policies requiring law enforcement and judicial officials to investigate and prosecute as hate crimes all crimes that are partly or wholly motivated by discrimination. They should also monitor the implementation of these laws by collecting comprehensive data on hate crimes, which should constitute the basis for adopting informed decisions regarding legal amendments or other policy measures that need to be put in place to combat these crimes.

Moreover, the authorities have a responsibility to ensure that victims of human rights abuses can access effective remedies. This requires launching effective, prompt, independent, adequate and thorough investigations aimed at identifying suspects as well as any alleged discriminatory motive associated with the crime. Those suspected of committing hate crimes should be prosecuted in proceedings that comply with international fair trial standards.

The UN Human Rights Committee, the body of independent experts responsible for monitoring states' compliance with their obligations under the ICCPR, has underlined that states must protect individuals from acts committed by private individuals or groups that would impair the enjoyment of the rights set out in the ICCPR, such as the right to non-discrimination, the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment. The committee has stressed that states have an obligation to exercise due diligence to prevent, punish, investigate and provide redress for the harm caused by such acts.¹⁵⁴

The prohibition of discrimination in the enjoyment of the rights set out in Article 2 of the ICCPR imposes on states an additional duty with regards to crimes perpetrated with an alleged discriminatory motive. It requires the authorities to take all reasonable steps to unmask any discriminatory motive associated with a crime. Further, the state has an obligation to investigate and punish attacks against the person where these constitute human rights abuses. For example, the European Court of Human Rights (European Court) has set out a comprehensive framework regarding the duty to investigate, which assists in interpreting obligations under the ICCPR. The European Court has repeatedly stressed that states have a positive duty to investigate physical violence perpetrated by private individuals, if it results in death or amounts to inhuman or degrading treatment.¹⁵⁵ This requires that the authorities carry out a prompt, effective, independent and thorough investigation capable of leading to the establishment of the facts and to the identification and punishment of those responsible. The Court has found violations in situations where the authorities had failed to take reasonable steps to identify and punish the perpetrators of a violent crime.¹⁵⁶

¹⁵¹ Discrimination is "any 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, all rights and freedoms". Human Rights Committee, General Comment No. 18, para. 7

¹⁵² Human Rights Committee, General Comment 31, para. 8, www.refworld.org/docid/478b26ae2.html, and General Recommendation 20, Article 5, ICERD, para. 5, <https://digitallibrary.un.org/record/212172?ln=en>

¹⁵³ Article 2, ICCPR, paras 1 and 2; Articles 2.1.a and 5b, ICERD

¹⁵⁴ Human Rights Committee, General Comment 18, para. 3

¹⁵⁵ The European Court has considered treatment to be inhuman when, for example, it was premeditated, applied for hours at a stretch and caused either actual bodily harm or intense physical and mental suffering. It has deemed treatment to be degrading when it was intended to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them. See, for example, European Court of Human Rights: *Ireland v. the United Kingdom* (5310/71) (1978) para. 167 and *I.I. v. Bulgaria* (44082/98) (2005) para. 67

Sri Lanka passed domestic legislation to reflect its accession to the ICCPR in the form of the ICCPR Act of 2007.¹⁵⁷ The domestic legislation prohibits the propagation of racial or religious hatred, amounting to incitement to discrimination, hostility or violence. The International Convention offers a wider protection, specifically:

- Article 2 guarantees non-discrimination¹⁵⁸
- Article 9 guarantees liberty and security of person
- Article 18 protects the right to freedom of thought, conscience and religion;
- Article 19 protects the right to freedom of expression;
- Article 20 prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence
- Article 26 guarantees the right to equal protection of the law and effective protection against discrimination¹⁵⁹
- Article 27 states that minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.¹⁶⁰

Sri Lanka is bound to apply these protections to all people, but the domestic codification of the ICCPR via the ICCPR Act has several shortcomings and does not afford the same breadth of protection as the international Covenant. For example, the right to life and prohibition of torture, and cruel, inhuman, or degrading treatment or punishment, and the prohibition of slavery, which are all protected by the ICCPR,¹⁶¹ are among some of the rights and protections excluded in Sri Lanka's ICCPR Act. The Constitution of Sri Lanka also incorporates the right to freedom of religion. Yet, these guarantees and freedoms have not been adequately protected by the state.

The state has the obligation to prevent hate crime and to provide remedies to those who have been victims of these attacks. However, the police failed to carry out their duty during the in Aluthgama riots and following the subsequent rally held by the BBS in June 2014, which led to an escalation of tensions between the two communities.

After the rally, the BBS reportedly led supporters into Muslim areas while shouting anti-Muslim slogans.¹⁶² The mob soon turned violent and began stoning, burning and looting Muslim homes and businesses.¹⁶³ A civil society report states that the attacks were "carried out simultaneously by groups of persons already positioned in certain areas".¹⁶⁴ This suggests that the violence was premeditated. The violence soon spread to surrounding villages and continued for two days.¹⁶⁵

The report further stated that the perpetrators carried out the attacks in groups, and carried petrol bombs, sticks and iron rods.¹⁶⁶ During the attacks, groups looted houses, specifically looking for jewellery and money.¹⁶⁷ In some cases, these groups also gathered flammable material such as clothing or tyres in the middle of rooms and set them alight.¹⁶⁸ It was highlighted in the report that, although these groups looted

¹⁵⁶ For example, European Court of Human Rights: *Angelova and Iliev v. Bulgaria* (55523/00) (2007); *Šečić v. Croatia* (40116/02) (2007); *Stoica v. Romania* (42722/02) (2008); *Milanović v. Serbia* (44614/07) (2010); *Abdu v. Bulgaria* (26827/08) (2014); and *Identoba and Others v. Georgia* (73235/12) (2015)

¹⁵⁷ International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007, citizenslanka.org/wp-content/uploads/2015/12/International-Covenant-on-Civil-Political-Rights-ICCPR-Act-No-56-of-2007E.pdf

¹⁵⁸ Committee on Civil and Political Rights, General Comment No. 31, The Nature of the general legal obligation imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add. 13, 2004

¹⁵⁹ General Comment 18 by the Human Rights Committee states, "Article 26 not only entitles all persons to equality before the law as well as equal protection of the law but also prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." See more at: Human Rights Committee, *General Comment 18, Non-discrimination (Thirty-seventh session, 1989), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, 26 July 1994, UN Doc. HRI/GEN/1/Rev.1

¹⁶⁰ UN General Assembly, ICCPR

¹⁶¹ Section 79 (2) of the Police Ordinance (No. 16 of 1865)

¹⁶² OHCHR, "Sri Lanka: Pillay alarmed by intercommunal violence, calls for end to hate speech", 16 June 2014, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14715&LangID=E (hereinafter: OHCHR, "Sri Lanka: Pillay alarmed by intercommunal violence, calls for end to hate speech")

¹⁶³ Amnesty International, "Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence"

¹⁶⁴ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 44

¹⁶⁵ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 40

¹⁶⁶ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 45

¹⁶⁷ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 45

¹⁶⁸ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 45

and razed homes, they generally took measures to avoid injuring people, except where they were met with resistance.¹⁶⁹ They were even seen to order people to leave, with the warning that they were going to burn their homes.¹⁷⁰

“First there was one group that came and this group was led by two monks. They threw stones and broke all the windows of the house. Then 15 minutes later another group arrived. Then a few minutes later, a third group came. They were the worst, they broke and smashed and burnt down everything. Later when we were trying to put out the fires there was another group that came – a group of young boys – maybe 15 years old. The STF [Special Task Force] chased them away. There were others who came with their faces covered and took the stuff from the houses, put them into bags and carried them out.”

Witness to the violence in Aluthgama¹⁷¹

“They came inside the house and took all the furniture that was there in the front room, like the settees [sofa] and chairs, in a vehicle. They come inside the rooms, opened the *almirah* [cupboard], and took cash of 1½ lacks and 10 gold sovereigns. The rest of the things they set on fire. There was an LCD TV, sewing machine, and a large study table. They put everything together and set fire to them.”

Victim from the village of Adhikarigoda¹⁷²

As per media reports, three Muslims were shot dead, and one unarmed Tamil security guard of a Muslim-owned farm was hacked to death during the attacks. At least 80 people¹⁷³ were injured in the violence, including two Muslim youth, who both lost a leg to gunshot injuries.¹⁷⁴ Eyewitnesses recall seeing Muslims

¹⁶⁹ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 45

¹⁷⁰ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 45

¹⁷¹ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 22

¹⁷² F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 32

¹⁷³ BBC News, “Sri Lanka riots: One killed as Buddhists target Muslims”

¹⁷⁴ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 36

being pulled out from public transport and assaulted.¹⁷⁵ As per news reports, most of the injured being treated at hospitals were Muslims.¹⁷⁶

While there is no credible public information on the number of people killed or injured in the attacks, a civil society report provided some data on damage to homes and businesses. According to the Beruwala District Secretariat's office,¹⁷⁷ which has Aluthgama within its jurisdiction the damage to homes and businesses was as follows:

TABLE 1: DAMAGES TO HOMES DURING ALUTHGAMA RIOTS¹⁷⁸

	MUSLIM	SINHALA
COMPLETELY DAMAGED	31	2
PARTIALLY DAMAGED	195	20

TABLE 2: DAMAGES TO BUSINESSES DURING ALUTHGAMA RIOTS¹⁷⁹

	MUSLIM	SINHALA
COMPLETELY DAMAGED	69	5
PARTIALLY DAMAGED	52	9

Victims and eyewitnesses confirmed to civil society members that some of the attackers were from the neighbourhood or neighbouring villages.¹⁸⁰ Speaking to the media, the police said that the majority of the 25 suspects arrested for their involvement in the violence were Sinhalese.¹⁸¹ There were also reports of retaliatory Muslim gangs attacking Sinhalese houses, as reflected in the data above.¹⁸² The government deployed the army to rebuild the damaged buildings.¹⁸³

Despite the imposition of a police curfew, and the deployment of around 1,200 police personnel,¹⁸⁴ the anti-Muslim violence in Aluthgama continued for a further two days.¹⁸⁵ Eyewitness reports claimed that, despite their repeated pleas, the police merely stood by and watched as rioters attacked Muslim houses and businesses.¹⁸⁶

“They started smashing houses around 7 o’clock. STF [Special Task Force] was here at this junction. I went and told them that a mob was smashing the houses and advancing, therefore please come to the spot. They told me to go back,

¹⁷⁵ BBC News, “Sri Lanka Muslims killed in Aluthgama clashes with *Buddhists*”, 16 June 2014, www.bbc.com/news/world-asia-27864716

¹⁷⁶ CNN, “Fear, shock among Sri Lankan Muslims in aftermath of Buddhist mob violence”, 24 June 2014, edition.cnn.com/2014/06/19/world/asia/sri-lanka-muslim-aluthgama/index.html

¹⁷⁷ Beruwala is approximately 6.3km from the town of Aluthgama.

¹⁷⁸ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 22

¹⁷⁹ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 22

¹⁸⁰ F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, pp. 24, 41

¹⁸¹ BBC News, “Sri Lanka riots: One killed as Buddhists target Muslims”; Daily Financial Times, “Death toll rises to 4 from Aluthgama riots”, 18 June 2014, www.ft.lk/article/308988/death-toll-rises-to-4-from-aluthgama-riots

¹⁸² F. et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*

¹⁸³ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, 2021, p. 48, lslanka.org/images/publications/reports/2021/Kandy_fact-finding_report_English.pdf (hereinafter: Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*)

¹⁸⁴ OHCHR, “Sri Lanka: Pillay alarmed by intercommunal violence, calls for end to hate speech”

¹⁸⁵ Amnesty International, “Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence”

¹⁸⁶ Amnesty International, “Sri Lanka: Act now to prevent further bloodshed in anti-Muslim violence”

that they will look after things. When they didn't come, I went a second time. At that time too they didn't pay much attention but scolded me in filth [demeaning language]. ... In the meantime, the mob had smashed the house and set fire to it. Some of our boys gathered together and chased the attackers. Thereafter they ran away and after that the STF came from the same side that the attackers had run to. The STF opened fire, but that was towards us and not on the attackers."

Victim of the violence in Aluthgama¹⁸⁷

President Mahinda Rajapaksa urged restraint from "all parties concerned", saying in a tweet that the government would "not allow anyone to take the law into their own hands".¹⁸⁸ He further claimed that an investigation will be held "to bring to book those responsible"¹⁸⁹ for the violence; however, as per a civil society report, the government attempted to portray the Muslim community as the instigators of the violence.¹⁹⁰

To date, no one has been convicted of carrying out the violence and crimes in Aluthgama.¹⁹¹ Amnesty International wrote to the Inspector General of Police in July 2021 seeking further details of arrests, if any, and the number of people charged in relation to the violence, but no response had been received at the time of writing.

The lack of accountability and justice for victims of the Aluthgama violence created a climate of impunity for perpetrators of violence and law enforcement. This was evident on the two-year anniversary of the Aluthgama violence when the BBS held another rally in the town of Mahiyangana in Uva Province. At the rally, Gnanasara, the General Secretary of the BBS, openly threatened a repeat of the violence of 2014 if the police in Mahiyangana did not start acting in an "unbiased" manner.¹⁹² He claimed that Buddhists were unable to hold demonstrations because the police prevented and acted against them. Gnanasara asked the Inspector General of the Police to take action against local police officers if they do not act in line with the wishes of the Buddhist clergy.¹⁹³

The failure of successive governments to hold perpetrators of anti-Muslim violence accountable has allowed groups such as the BBS to terrorize minority groups with impunity. By not holding the culprits to account or offering access to justice and remedies to victims, the government has sent a message to minorities, particularly Muslim minorities, that they will not be protected from being targets of religiously motivated attacks. This has resulted in a spate of violence and harassment against minorities.

¹⁸⁷ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 28

¹⁸⁸ Mahinda Rajapaksa, Twitter post, 15 June 2014, twitter.com/PresRajapaksa/status/478229959669202944

¹⁸⁹ Mahinda Rajapaksa, Twitter post, 15 June 2014, twitter.com/PresRajapaksa/status/478230510872068097

¹⁹⁰ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*, p. 51

¹⁹¹ This is despite provisions of the Penal Code clearly being violated, namely "Offences relating to religion" (Sections 290-292), which deal with injuring or defiling places of worship, "Mischief" offences (Sections 408-426), "Offences against the public tranquility" (Sections 138-157), "Of criminal force and assault" (Sections 340-349), "Offences against property – of theft" (Sections 366-371), "Of robbery" (Sections 379-385) and "Of criminal trespass" (Sections 427-451).

¹⁹² Colombo Telegraph, "Video: BBS Gnanasara back in action, promises to repeat Aluthgama mayhem", 25 June 2016,

www.colombotelegraph.com/index.php/video-bbs-gnanasara-back-in-action-promises-to-repeat-aluthgama-mayhem/ (hereinafter: Colombo Telegraph, "Video: BBS Gnanasara back in action, promises to repeat Aluthgama mayhem")

¹⁹³ Colombo Telegraph, "Video: BBS Gnanasara back in action, promises to repeat Aluthgama mayhem"

"BY 11AM, THEY HAD STARTED SETTING FIRE TO SHOPS.

THERE WERE CROWDS EVERYWHERE. WHEN THEY SET

UPON OUR SHOP, IT WAS 2PM."



6. 2015 – THE GOVERNMENT CHANGE: HIGH HOPES AND DASHED EXPECTATIONS

In 2015, the incumbent President Mahinda Rajapaksa called for presidential elections, two years before his term was due to end.¹⁹⁴ After 10 years in power, President Rajapaksa was seeking a third term, following a constitutional amendment that removed the two-term limit for the President;¹⁹⁵ however, his opponent Maithripala Sirisena, a member of the cabinet of President Rajapaksa in 2014, won the election with 51.3% of the vote.¹⁹⁶ A fact-finding report by civil society reported that Maithripala Sirisena had received a large proportion of the Muslim population's vote.¹⁹⁷ Although groups such as the BBS did seem to retreat into the shadows temporarily after the 2015 elections,¹⁹⁸ the targeting of minorities did not end.

6.1 2015-2016

Shortly after the change in government in 2015, Minority Rights Group International (MRG) reported 64 incidents against Muslims between November 2015 and June 2016.¹⁹⁹ These incidents included hate speech, threats and intimidation, discrimination, destruction of property, economic embargo, and physical violence largely perpetrated by Sinhala Buddhist groups in districts with a Buddhist majority.²⁰⁰

Cover illustrations: Ema Anais

Cover photo: Burnt shop in Western Province, by Amnesty International

¹⁹⁴ BBC News, "Sri Lanka calls early presidential elections", 20 October 2014, www.bbc.com/news/world-asia-29693336 (hereinafter: BBC News, "Sri Lanka calls early presidential elections")

¹⁹⁵ BBC News, *Sri Lanka calls early presidential elections*

¹⁹⁶ The Times of India, "Maithripala Sirisena sworn in as sixth president of Sri Lanka", 9 January 2015, timesofindia.indiatimes.com/world/south-asia/maithripala-sirisena-sworn-in-as-sixth-president-of-sri-lanka/articleshow/45825848.cms

¹⁹⁷ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*

¹⁹⁸ G. Gunatilleke, *The Chronic and the acute: Post-war religious violence in Sri Lanka*, 2015, p. 46

¹⁹⁹ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, 2016, p. 15, minorityrights.org/wp-content/uploads/2016/12/MRG_Rep_SriLan_Dec16.pdf (hereinafter: MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*)

²⁰⁰ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 16-17

FEBRUARY 2016

In the town of Bandaragama, in the Western Province of the island, Buddhists protested against the expansion of a *madrasa*, or Islamic religious school, despite the school having acquired the required government approvals for the construction. The Divisional Secretary of Bandaragama blocked the construction following protests from the Buddhist clergy from the area. The police confirmed the construction was legal. Yet they warned the school against the expansion, claiming they would not be able to guarantee the *madrasa's* security.²⁰¹

JUNE 2016

Buddhist clergy protested against the construction of the minaret of the Jumma Line mosque in Kandy, on the basis that upon completion, it would be higher than the Temple of the Tooth, a sacred Buddhist temple. The mosque stopped the construction of the minaret to avoid possible violence.”

MRG report²⁰²

Twenty-five such incidents occurred between December 2015 and January 2016, which coincided with the rise of *Sinha Le*, or Lion's Blood, a Sinhala Buddhist nationalist group.²⁰³ This group, whose leadership included Buddhist monks, later formed their own party called the *Sinhale Jathika Balamuluwa* (SJB), or Sinhala National Force.²⁰⁴

“Sri Lanka is a country that belongs to the Sinhala people. We are simply proud of this fact and only the Sinhalese are true Sri Lankans. No one can disagree that even historically, Sri Lanka was considered a Sinhala nation. The various other communities came in and divided our country, declaring it multi-national. This is wrong.”

Madille Pagnaloka Thero, General Secretary of the SJB²⁰⁵

Despite a change in government, incidents against minorities did not seem to end. This included incidents of violence, harassment and discrimination against Christian groups, another religious minority in the country.

ATTACKS ON CHRISTIANS

The focus of this report is the prevalence of anti-Muslim violence, harassment and discrimination in Sri Lanka, but it must be acknowledged that it is not only Muslims who were being targeted, harassed and discriminated against for their faith.

The Centre for Policy Alternatives reported that, of the 65 attacks on places of religious worship reported between May 2009 and January 2013, 35 were on the Christian community, predominantly evangelical churches.²⁰⁶ Another civil society report states that in 2013 alone 69 attacks on Christians were reported.²⁰⁷ A subsequent report, detailing incidents of violence against religious minorities from

²⁰¹ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 17

²⁰² MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 18

²⁰³ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 15

²⁰⁴ Roar, “It's time to stop pretending Sinha-Le is anything but racist”, 31 August 2016, roar.media/english/life/editorial/time-stop-pretending-sinha-le-is-anything-but-racist (hereinafter: Roar, “It's time to stop pretending Sinha-Le is anything but racist”)

²⁰⁵ Roar, “It's time to stop pretending Sinha-Le is anything but racist”

²⁰⁶ Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, 2013, p. 6, www.cpalanka.org/attacks-on-places-of-religious-worship-in-post-war-sri-lanka/ (hereinafter: Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*)

²⁰⁷ G. Gunatilleke, *The Chronic and the acute: Post-war religious violence in Sri Lanka*, 2015

November 2015 to September 2016, shows that over this period there were 47 reported incidents against the Christian community.²⁰⁸

These attacks were not limited to physical attacks on churches and destruction of property; there were also threats of death and violence against members of the Christian clergy and community.²⁰⁹

“In March, a Protestant Christian pastor and his wife were assaulted by a mob of about 250 led by Buddhist monks belonging to *Bodu Bala Sena* in Asgiriya, Kandy.”²¹⁰

Between 2015 and 2016, there was a decrease in incidents of physical harm or property damage, but the harassment, threats, intimidation, and discrimination against Christians continued.²¹¹

“Attacks on the Christian minority have become such a constant that it is deeply worrying that there isn’t really recognition and action taken on it... How does one address it and, given the fact that there is a specificity around the target, that it is concentrated on evangelicals?”

Sameer, human rights activist²¹²

Civil society reports state that most of the attacks between 2009 and 2013 were carried out by Sinhala Buddhist groups, in some instances including Buddhist monks.²¹³ From 2012 to 2016, however, state officials and institutions were reported to be the most frequent perpetrators, followed by religious leaders, villagers, unidentified mobs and neighbours.²¹⁴ Rights groups have found that these attacks occurred as a result of claims from Sinhala Buddhist groups of “unethical conversions” of vulnerable people to Christianity.²¹⁵

“There has been this large accusation which has not been proved in terms of ‘unethical conversions’. This constant accusation levelled at the evangelical Christian community has stemmed from the ‘us vs. them’ mentality that, in fact, Sri Lanka is a Buddhist nation. Christianity is perceived as a Western religion and a colonial tool because of certain events that occurred during the colonial period.”

Chandrika, human rights activist²¹⁶

According to international human rights standards, and Sri Lanka’s domestic law,²¹⁷ the state and the police have a duty to protect people from violence based on their religion and from attacks and violence in general. The Sri Lankan state and police have, however, repeatedly failed to uphold their duties and protect the minority populations.

6.2 2017 – GINTHOTA

In the southern coastal town of Ginthota, a minor road accident on 13 November²¹⁸ caused tensions to escalate between Buddhists and Muslims.²¹⁹ These hostilities were further enflamed by rumours spread on social media, including that Muslims were going to attack a Buddhist temple.²²⁰ Shortly after the road accident, the police and STF intervened, and there was a heavy police and STF presence in the town.²²¹ Activists say that the withdrawal of the STF on 17 November started the violence.²²² They also allege that the

²⁰⁸ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 8

²⁰⁹ Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, p. 34; MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 9

²¹⁰ F. Haniffa et al, *Where have all the neighbours gone? Aluthgama riots and its aftermath*

²¹¹ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 14

²¹² Interview with Sameer via Signal on 1 June 2021 (name has been changed to respect the interviewee’s anonymity)

²¹³ Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, p. 7

²¹⁴ MRG, *Confronting intolerance: Continued violations against religious minorities in Sri Lanka*, p. 12

²¹⁵ Centre for Policy Alternatives, *Attacks on places of religious worship in post-war Sri Lanka*, p. 34; UN, *Report of the Special Rapporteur on freedom of religion or belief: Visit to Sri Lanka*, 2020, UN Doc. A/HRC/43/48/Add.2, undocs.org/A/HRC/43/48/Add.2%20

²¹⁶ Interview with Chandrika via Signal on 2 June 2021 (name has been changed to respect the interviewee’s anonymity)

²¹⁷ UDHR, ICCPR, ICERD, Constitution of Sri Lanka, Penal Code, Police Ordinance

²¹⁸ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”, 24 November 2017, www.aljazeera.com/features/2017/11/24/fear-grips-muslims-in-sri-lankas-ginthota-after-attack (hereinafter: Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”)

²¹⁹ US Department of State, Bureau of Democracy, Human Rights, and Labor, *Sri Lanka 2017 international religious freedom report*, 2017, [lk.usembassy.gov/wp-content/uploads/sites/149/International-Religious-Freedom-Report-for-2017-Sri-Lanka.pdf](https://www.usembassy.gov/wp-content/uploads/sites/149/International-Religious-Freedom-Report-for-2017-Sri-Lanka.pdf)

²²⁰ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²¹ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²² Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

withdrawal of the STF demonstrated that the violence was part of a planned political act in the lead up to local government elections.²²³ The attacks began on the night of 17 November and were reported to have been carried out by mobs armed with crowbars and makeshift weapons, which targeted Muslim homes, businesses, vehicles, and places of worship.²²⁴

“There was a mob of about 150 to 200 people armed with steel crowbars and other makeshift weapons. They smashed our gate and came in and poured petrol on my tuk-tuk and set it on fire.”

Survivor, speaking to the media²²⁵

“My motorcycle was dragged to the street and completely torched. Three minutes after the first attack, another group of five youth destroyed our front door and entered our home... They broke open cupboards and looted the jewellery inside.”

Survivor, speaking to the media²²⁶

Residents reported to the media that the mob included people from the village, as well as non-locals.²²⁷ According to media reports, “additional police battalions, elite police forces, the anti-riot squad and the military”²²⁸ were brought in to control the situation and a curfew was imposed.²²⁹ On 18 November 2017, one day after the violence, a police media spokesperson said that 19 people, including both Muslims and Sinhalese, had been arrested under the ICCPR Act.²³⁰ It is unclear, however, whether any person was charged or prosecuted for their part in the violence. Amnesty International requested this information from the Inspector General of Police in June 2021, but at the time of writing we were still awaiting a response.

6.3 2018 – DIGANA

In the local government elections held in January 2018, the political party led by former President Mahinda Rajapaksa, the SLPP or Sri Lanka People’s Front, secured 45.61% of the total votes.²³¹ This meant that the SLPP had won the majority of seats in the 222 local government bodies across the island.²³²

²²³ Sri Lanka Mirror, “Gintota incident, a planned political act”, 19 November 2017, srilankamirror.com/news/5897-gintota-incident-a-planned-political-act

²²⁴ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²⁵ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²⁶ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²⁷ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²⁸ Al Jazeera, “Fear grips Muslims in Sri Lanka’s Ginthota after attack”

²²⁹ News 1st, “Gintota unrest: Situation under control, nineteen arrested – 12 hour curfew still in place”, 18 November 2017, www.newsfirst.lk/2017/11/18/gintota-unrest-situation-control-nineteen-arrested-12-hour-curfew-still-place/176898/ (hereinafter: News 1st, “Gintota unrest: Situation under control, nineteen arrested”)

²³⁰ News 1st, “Gintota unrest: Situation under control, nineteen arrested”; Act No. 56, ICCPR

²³¹ News 1st, “Sri Lanka Podujana Peramuna wins majority of votes in LG Elections”, 11 February 2018, www.newsfirst.lk/2018/02/11/sri-lanka-podujana-peramuna-wins-majority-votes-lg-elections/ (hereinafter: News 1st, “Sri Lanka Podujana Peramuna wins majority of votes in LG Elections”)

²³² News 1st, “Sri Lanka Podujana Peramuna wins majority of votes in LG Elections”

26 FEBRUARY 2018 – AMPARA

Tensions had been building across the country after violent Sinhalese Buddhist mobs attacked Muslim houses, businesses, mosques, and property in the eastern town of Ampara on 26 February 2018, just three days after the Digana incident.²³³ This violence occurred following a video where a Muslim shopkeeper is seen being coerced into ‘admitting’ that he used “sterilization pills”, or *vanda pethi*, in the food he serves to Sinhalese people.²³⁴ The mob began destroying and setting alight the shop, and subsequently attacked a mosque, four shops, and a number of vehicles in the area.²³⁵ The government Analyst’s Department later confirmed that the particles found in the food were clumps of flour.²³⁶

On 23 February 2018, a fight broke out in Digana between four drunk Muslim youth and a Sinhalese person named Kumarasinghe who died from his injuries.²³⁷ Kumarasinghe died from his injuries on 3 March 2018. In the days leading up to and shortly after Kumarasinghe’s death, meetings between Muslim and Buddhist representatives and law enforcement officials took place to discuss how best to de-escalate the rising tensions in the area.²³⁸ It was decided that the local mosque would pay compensation to Kumarasinghe’s family, which included covering the expenses of the funeral;²³⁹ however, the Muslim representatives who attempted to hand over the money were unable to locate Kumarasinghe’s wife and said that other family members had refused to take the sum.²⁴⁰

Kumarasinghe’s death became a public issue for Sinhala Buddhist nationalist groups. Shortly after the news of his death, three leaders of Sinhala Buddhist groups – namely Gnanasara Thero (BBS), Dan Priyasath (*Nawa Sinhale*) and Amith Weerasinghe (*Mahason Balakaya*) – visited Kumarasinghe’s house 3 March.²⁴¹ Among the group was also Ampitiye Sumanarathna Thero, a Buddhist monk,²⁴² who has since been captured on video verbally abusing public servants with derogatory racial slurs and physically assaulting Christians.²⁴³

UN Special Mandate holders have documented how, after Kumarasinghe’s death, some of these leaders, especially Amith Weerasinghe, used social media to propagate inflammatory statements against Muslims, with the intention of inciting hatred and calling for violence.²⁴⁴ Weerasinghe is the leader of the *Mahason Balakaya*, a group named after a demon in Sinhala mythology, and whose office was in the town of Digana, in the Central Province of the island.²⁴⁵ Weerasinghe, has previously released a video, complaining that the town had been taken over by Muslims, and that he was unable to locate even 20 shops owned by Sinhalese people.²⁴⁶

The same night as the death of Kumarasinghe, a local Muslim-owned grocery was demolished by a violent mob.²⁴⁷ The next day, the police arrested 24 people for this vandalism;²⁴⁸ however, a group including Buddhist monks protested against the arrests outside the police station in the town of Teldeniya, 5km from Digana, calling for their release.²⁴⁹

²³³ Al Jazeera, “Mosque vandalised in Ampara”, 27 February 2018, www.aljazeera.com/news/2018/2/27/mosque-vandalised-in-ampara

²³⁴ Sunday Observer, “Tension in Ampara after fake ‘sterilization pills’ controversy”, 4 March 2018, www.sundayobserver.lk/2018/03/04/news/tension-ampara-after-fake-%E2%80%99sterilization-pills%E2%80%99-controversy

²³⁵ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²³⁶ Daily News, “Ampara: Flour clumps; no chemical – govt Analyst”, 9 March 2018, www.dailynews.lk/2018/03/09/local/145068/ampara-flour-clumps-no-chemical-govt-analyst

²³⁷ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*; UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on freedom of religion or belief, 27 March 2018, UN Ref: UA LKA 1/2018, spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23715 (hereafter: UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*)

²³⁸ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 16-17; UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²³⁹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 17

²⁴⁰ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 18

²⁴¹ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁴² UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁴³ EconomyNext, “Churches urge calm after videos of Monk attacking Christians go viral”, 30 December 2019, economynext.com/churches-urge-calm-after-videos-of-monk-attacking-christians-go-viral-47349/

²⁴⁴ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁴⁵ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*

²⁴⁶ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 14

²⁴⁷ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 18

²⁴⁸ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 19

²⁴⁹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 20

On the day of Kumarasinghe's funeral, Muslim shops and homes were attacked in the villages of Kengalla, Balagolla, Kundasale, Natharanpotha, Digana, Teldeniya and Ambala.²⁵⁰

“There was an old car in the garage. The crowds came and pulled the car outside and burned it. We were inside the house and we could hear their footsteps outside... We were all inside and we had to keep the children quiet... We can't imagine what might have happened if they had found us inside or decided to break that house.”

Survivor of violence in the village of Enderutenne²⁵¹

Despite the police using tear gas to disperse crowds and the imposition of a police curfew, the mobs (which witnesses estimated to total between 2,000 and 2,500 people) continued their attacks on the Muslim community.²⁵²

“By 11am they had started setting fire to shops. There were crowds everywhere. The crowds in Teldeniya were huge. When they set upon our shop it was 2pm. The electricity and the water had been cut off – only in Digana. The way they set about the destruction it was clear that it was very well planned. First, they destroyed the CCTV cameras by throwing stones at the devices, then they broke open the shop. They took out the stocks and the next-door neighbour watched on as this happened. They went on to do this to all the shops in the area.”

Shop owner and victim of violence in Digana²⁵³

As with the Aluthgama violence in 2014, victims in Digana reported a lack of protection from the police and STF who were deployed in the area.²⁵⁴

On 5 March, 27-year-old Abdul Basith died of asphyxiation trapped in his house while it was set on fire by the mobs.²⁵⁵ His brother, who had escaped from the burning house with severe burns, said he had informed

²⁵⁰ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 20

²⁵¹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 32

²⁵² Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 21; UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁵³ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy District March 2018*, p. 22

²⁵⁴ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*; Interview with Fazreen via Microsoft Teams on 14 July 2021 (name has been changed to respect the interviewee's anonymity)

²⁵⁵ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 25; UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

a group of police officers standing outside that his brother was still trapped in the house, but none of them took any action to save him.²⁵⁶

Victims in Digana reported two incidents of violence and assault committed by members of the STF during the curfew on 5 March 2018.²⁵⁷ The first concerned STF personnel assaulting worshippers after *asr* prayers (mid-afternoon prayers) at the Hijra Puram mosque, including two *moulavis* (preachers). The *moulavis* stated that the STF entered the mosque with their boots on (contrary to Muslim custom) and then proceeded to harass and assault the *moulavis*, and attempted to force makeshift weapons into their hands. They were led out of the mosque, but were then released when a Buddhist monk who was on the road intervened.²⁵⁸

The second incident involved STF personnel going to the house of a *Pradeshiya Sabha* member, or local authority member, who took part in the discussions leading up to and after Kumarasinghe's death. The STF, using derogatory slurs against Muslims, demanded that the *Pradeshiya Sabha* member A. Fazil, open the door. When he did so, the STF assaulted him, resulting in a severe head wound. The STF then proceeded to forcibly drag the other occupant M. Fazil out of the house. Continuing to use derogatory, racist language, the STF forced M. Fazil to fill a sack with bottles, then tied his hands and made him carry the sack. M. Fazil recounted that they were then made to walk towards the town, all the while being assaulted by the STF. As they walked, the STF stopped passers-by, predominantly young men, telling them that M. Fazil and A. Fazil, and a teenager who had been restrained and made to walk with them, had been apprehended making bombs for an attack on Sinhalese people. The group was taken to the police station and arrested on the charge of producing petrol bombs. M. Fazil said later that the statement recorded by the police was false because it claimed they had admitted to making the bombs.

The pair were subsequently taken to the Teldeniya hospital, but the doctor refused to treat them. A. Fazil stated that the doctor said, "You killed one Sinhalese person and now you are trying to kill more people? You should be put in jail, not in a hospital."²⁵⁹ A few days later, A. Fazil received eight stitches for his head injury and was admitted to a hospital in Kandy for three days; M. Fazil only sought treatment a week after the incident because he was afraid.²⁶⁰

In July 2018, Journalists for Democracy in Sri Lanka (JDS), a media rights group, were informed that the police had begun an inquiry into the response by their own staff stationed in Digana;²⁶¹ however, there has been no public information on the status of this inquiry. The Human Rights Commission of Sri Lanka (HRCSL) also started an inquiry into the violence carried out in Digana, but according to JDS, as of 10 March 2021, over three years after the violence took place, the HRC report had still not been released.²⁶²

The government imposed an island-wide state of emergency from 6 to 17 March 2018²⁶³ and blocked access to Facebook, Instagram, Viber and WhatsApp for eight days (7-15 March),²⁶⁴ with President Maithripala Sirisena and Prime Minister Ranil Wickremasinghe blaming these social media applications for the violence.²⁶⁵ Two years later, in 2020, Facebook issued an apology for its contribution to the violence in 2018 by failing to respond to hate speech and false news disseminated on the site.²⁶⁶ When speaking to a person who participated in the violence, the Law & Society Trust identified that social media was the method used to mobilize the mobs who went on to terrorize villages.

²⁵⁶ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 23

²⁵⁷ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 23

²⁵⁸ According to witness and victim testimonies reported in the Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 23

²⁵⁹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy District March 2018*, p. 23

²⁶⁰ According to witness testimonies reported in Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy District March 2018*, p. 23

²⁶¹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy District March 2018*, p. 23

²⁶² JDS, "Serious evidence of STF calculus in the Digana attack report not released", 10 March 2021, www.jdslanka.org/s/index.php/2014-12-19-17-57-19/2014-12-19-18-01-31/957-slhrcreport-on-digana-stf-implicated

²⁶³ Amnesty International UK, "Sri Lanka: State of emergency must respect human rights", Press release, 6 March 2018, www.amnesty.org.uk/press-releases/sri-lanka-state-emergency-must-respect-human-rights; DW, "Sri Lanka ends state of emergency as anti-Muslim violence subsides", 18 March 2018, www.dw.com/en/sri-lanka-ends-state-of-emergency-as-anti-muslim-violence-subsides/a-43027498

²⁶⁴ Associated Press, "The Latest: Sri Lanka orders social media networks blocked", 7 March 2018, apnews.com/article/32f432f2173c4b4db10252c13d3a7986; Scroll, "Sri Lanka lifts ban on social media after eight days", 15 March 2018, scroll.in/latest/872156/sri-lanka-lifts-ban-on-social-media-after-eight-days

²⁶⁵ Al Jazeera, "Did Sri Lanka's Facebook ban help quell anti-Muslim violence?", 14 March 2018, www.aljazeera.com/news/2018/3/14/did-sri-lankas-facebook-ban-help-quell-anti-muslim-violence; ADA Derana, "Compensation for victims soon – PM", 9 March 2018, www.adaderana.lk/news/46311/compensation-for-victims-soon-pm

²⁶⁶ Bloomberg, "Facebook apologizes for role in Sri Lankan violence", 13 May 2020, www.bloomberg.com/news/articles/2020-05-12/facebook-apologizes-for-role-in-sri-lankan-violence

“I saw a video of a man being assaulted and killed in Digana. The victim was Sinhalese and the killers were Muslim. There were scenes of the victim in the ICU[Intensive Care Unit]. These were on the internet and I received it on my phone. I was informed of a protest march happening that day. I went quite early in the morning.”

Person who attended the demonstration in Digana²⁶⁷

On 7 March 2018, rumours spread that the temple in the town of Ambatenne, 19km from Digana, had been attacked by Muslims.²⁶⁸ Whether true or not, the rumour caused a group of between 200 and 250 people to attack and destroy the local Welekada Thakkiya mosque, Muslim-owned businesses, and houses in Ambatenne.²⁶⁹ The media reported that although the STF went to the mosque, they did not take any action to stop the attacks because the mob was too large.²⁷⁰ After the mob seemingly moved away from the area, the STF asked Muslims to leave their houses and accompany them so they could be transported to safer areas.²⁷¹ After they left, however, their houses were looted and burnt by mobs.²⁷² Twelve locals were arrested in connection with the attacks.²⁷³ The mosque CCTV had identified many of the attackers as locals residing in the area.

According to UN Special Mandate holders, over 280 people were arrested in connection with the violence in Digana, including Amith Weerasinghe, leader of the *Mahason Balakaya*.²⁷⁴ Ninety-five of those arrested were released on bail and 50 were remanded.²⁷⁵ Weerasinghe was released on bail on 31 October 2018 by the Kandy High Court, which has jurisdiction over the Central Province.²⁷⁶ According to a civil society member, and a civil society fact-finding report, by the end of 2018, all those arrested in connection with the violence had been released on bail.²⁷⁷ At the time of writing, Amnesty International had not received a response to its request to the Inspector General of Police in July 2021 for information on those arrested and/or charged in relation to this violence.

²⁶⁷ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 42

²⁶⁸ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 26

²⁶⁹ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁷⁰ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 26

²⁷¹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 27

²⁷² Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 27

²⁷³ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 28

²⁷⁴ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁷⁵ UN, *Correspondence from the UN Mandates of the Special Rapporteur in the field of cultural rights*

²⁷⁶ Daily News, “Amith Weerasinghe, two others released on bail”, 1 November 2018, www.dailynews.lk/2018/11/01/law-order/167190/amith-weerasinghe-two-others-released-bail

²⁷⁷ Interview with Haya via Signal on 27 July 2021 (name has been changed to respect the interviewee’s anonymity), Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 8

THE 1915 POGROMS AND MODERN VIOLENCE AGAINST MUSLIMS

The forms of violence against Muslim communities in 1915 serve as an important background for current violence against the Muslim population.

For example, in the 1915 pogroms, Sinhalese and Muslim shops and houses had been marked as such, signalling which property should be destroyed.²⁷⁸ Similarly, in more recent violence such as the anti-Muslim violence in the North and North Western provinces in 2019, locals assisted mobs to identify the houses and businesses owned by Muslims.²⁷⁹

In 1915, reports recorded that gangs of between 150 and 200 members from villages near Colombo arrived in Kandy the night before the violence.²⁸⁰ The Police Inquiry Commission (PIC) of 1916 stated that these gangs had arrived on the instruction of an unknown person to see the Castle Street mosque being destroyed.²⁸¹ The PIC recorded that this gang had attacked Muslim shops the next day.²⁸² Similarly, the perpetrators of modern-day anti-Muslim violence have travelled to the towns and villages that were the epicentre of the violence.

Reports also discuss the use of rumours to mobilize gangs to wreak violence on Muslim property.²⁸³ They recount how in 1915 in the town of Kalutara in the Western Province, Muslim shops were looted after people heard false rumours that Muslims had attacked a temple and Sinhalese women.²⁸⁴ It has been documented that false rumours were a factor in every reported violent incident, using either economic rivalry or 'piety' to call for revenge.²⁸⁵ This tactic has been used in recent years to stir anti-Muslim sentiment – for example, in the anti-Muslim violence witnessed in the town of Ginthota in 2017.

Prior to the 1915 violence, there was an upsurge of Sinhala Buddhist activity and many of the violent incidents were led by Sinhala Buddhist activists.²⁸⁶ The PIC narrated an incident in the town of Rambukkana, in the Sabaragamuwa Province, where a group of 2,000-3,000 Sinhalese were gathered for a *perahera* or procession. Unusually, however, there were no women or children in this group; and the men were carrying clubs.²⁸⁷ This group went on to attack Muslim-owned shops and, according to the PIC, by 10pm the whole town was burning.²⁸⁸ Recent years have seen similar incidents, where violent groups have converged under the pretext of a religious rally, which later turned into anti-Muslim violence, as was witnessed prior to the Aluthgama riots in 2014.

Law enforcement officials had admitted that the police response to the violence in Digana was inadequate due to the following factors:²⁸⁹

- an under-staffed police force insufficiently trained to handle 'community-based violence'
- Muslim villages are far away from main roads and therefore difficult to reach
- less than 1% of Sri Lanka's total police force is Muslim and this is said to affect trust between the police and Muslim communities
- there was apathy and a "lack of clear instructions"²⁹⁰ from those in authority, both politicians and law enforcement
- the culture within the police force is such that officials who would have carried out their duty against a mob comprising Sinhala Buddhists may have been reprimanded as the mobs may have political favour;
- most of the law enforcement officers belong to the areas where the violence took place, so they might have known the perpetrators of violence and would therefore have been reluctant to arrest them.

²⁷⁸ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 629

²⁷⁹ Discussed subsequently in the section on violence in the North Western and Western Provinces on 13 May 2019

²⁸⁰ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 631

²⁸¹ C.O. 57/193, Sessional Paper XVI of 1916, proceedings of the Police Inquiry Commission, quoted in G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 631

²⁸² C.O. 57/193, Sessional Paper XVI of 1916, proceedings of the Police Inquiry Commission, quoted in G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 631

²⁸³ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 633

²⁸⁴ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 633

²⁸⁵ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 634

²⁸⁶ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 636

²⁸⁷ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 637

²⁸⁸ G. Rowell, "Ceylon's Kristallnacht: A reassessment of the Pogrom of 1915", p. 637

²⁸⁹ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, pp. 51-57

²⁹⁰ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 52

FROM BURNING HOUSES TO BURNING BODIES

ANTI-MUSLIM VIOLENCE, DISCRIMINATION AND HARASSMENT IN SRI LANKA

Amnesty International

“Egregious issues in terms of how the police failed and the ethnicization of the police also led to their failure. But there were instances where regardless of these problems, some things could have been done, and they were not.”

Haya, civil society member²⁹¹

As of July 2018, claims for compensation made to the Rehabilitation of Affected Property and Industries Authority (REPIA) included 335 damaged houses, 233 shops, 83 vehicles, 20 mosques, and two temples.²⁹² Speaking to Amnesty International, a civil society member said that the official calculation of the cost of the damages was much lower than the actual cost.²⁹³ This was further supported by a fact-finding mission on the incident.²⁹⁴ Prime Minister Ranil Wickremasinghe stated that LKR250 million (approximately USD1.25 million) had been set aside for the compensation of victims;²⁹⁵ however, only LKR19 million (approximately USD95,760) had been paid as compensation to victims of the Digana violence by late 2019, with larger claims still pending cabinet approval.²⁹⁶

²⁹¹ Interview with Haya via Signal on 27 July 2021 (name has been changed to respect the interviewee's anonymity)

²⁹² Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 61

²⁹³ Interview with Haya via Signal on 27 July 2021 (name has been changed to respect the interviewee's anonymity)

²⁹⁴ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 61

²⁹⁵ Daily FT, “Rs 205 million allocated for compensation of Kandy riots victims”, 9 August 2018, www.ft.lk/News/Rs-205-million-allocated-for-compensation-of-Kandy-riots-victims/56-660546

²⁹⁶ Law & Society Trust, *Fact-finding report on the anti-Muslim violence in the Kandy district March 2018*, p. 4

"MY HOUSE WAS SET ON FIRE IN FRONT OF
THE POLICE OFFICER."



7. 2019-2021: VIOLENCE AND DISCRIMINATION AGAINST MUSLIMS

Up to 2019, anti-Muslim violence, harassment and discrimination were largely carried out by non-state actors, with the tacit approval of political powers. 2019 marked a distinct shift in this pattern, with the government's role evolving from tacit complicity to active implementation of state policies and laws that were overtly discriminatory against the Muslim community. This chapter will analyse some of these policies and practices, particularly those introduced after the Easter Sunday bombings.

7.1 EASTER SUNDAY BOMBINGS

On 21 April 2019, in a series of incidents referred to as the 'Easter Sunday bombings', seven suicide bombers targeted three churches and three hotels across the country. Two Catholic churches in Colombo and the western coastal town of Negombo, along with a Zion church in the eastern coastal town of Batticaloa, and the Shangri-La, Kingsbury and Cinnamon Grand hotels in Colombo were targeted. Two further suicide bombings occurred in the aftermath, in response to police operations.²⁹⁷ The attacks, carried out by the *National Thowheed Jamath* (NTJ), a local Islamist armed group, claimed the lives of more than 250 people and injured at least 500.²⁹⁸ The NTJ and their preachings were reported to the government and police multiple times by local Muslims; however, these reports were ignored.²⁹⁹

On 29 April 2019, then President Maithripala Sirisena implemented emergency regulations under the Public Security Ordinance banning face coverings.³⁰⁰ The ban stated: "No person shall wear in any public place any garment, clothing or such other material concealing the full face which will in any manner cause any hindrance to the identification of a person."³⁰¹

This act stigmatized Muslim women who wore the *niqab* (a face veil) or *burqa* (a veil that covers a woman's body) as part of their religious expression. It also violated their right to non-discrimination, freedom of expression, and religion, as guaranteed by domestic law and international human rights law.³⁰² This initial

Cover illustrations: Ema Anais

Cover photo: Burnt Muslim-owned home, by Thyagi Ruwanpathirana

²⁹⁷ Amnesty International, "Sri Lanka: Solidarity with the victims, unity against the forces of hatred", **Error! Hyperlink reference not valid.** Press release, 26 April 2019, www.amnesty.org/en/latest/news/2019/04/sri-lanka-solidarity-with-the-victims-unity-against-the-forces-of-hatred-2/

²⁹⁸ The New York Times, "Blasts targeting Christians kill hundreds in Sri Lanka", 21 April 2019, www.nytimes.com/2019/04/21/world/asia/sri-lanka-bombings.html

²⁹⁹ UN, *Report of the Special Rapporteur on freedom of religion or belief: Visit to Sri Lanka*, 2020, p.13, UN Doc. A/HRC/43/48/Add.2, undocs.org/A/HRC/43/48/Add.2

³⁰⁰ Amnesty International, *Sri Lanka: Respect human rights in the aftermath of Easter Attacks* (Index: ASA 37/0297/2019)

³⁰¹ Government of Sri Lanka, *The Gazette of the Democratic Socialist Republic of Sri Lanka*, No. 2121/1, 2019, Regulation 32, www.documents.gov.lk/files/egz/2019/4/2121-01_E.pdf

³⁰² Amnesty International, "Sri Lanka: Ban on face-veil risks stigmatizing Muslim women", Press release, 30 April 2019, www.amnesty.org/en/latest/news/2019/04/sri-lanka-ban-on-face-veil-risks-stigmatizing-muslim-women/

ban was lifted when the emergency regulations lapsed on 23 August 2019,³⁰³ but groups within the government resurrected the issue again on 27 April 2021 by proposing the criminalization of the *niqab*.

“[A]ctually the Easter Sunday attack was performed not by women or by a person who was covering the face. So targeting the *niqab* at this time was something very unjustifiable.”

Zainab, human rights activist³⁰⁴

These emergency regulations were also used by the state to detain large numbers of Muslims following the Easter Sunday bombings. By June 2019, 2,289 suspects had been arrested in connection with the bombings, of whom as many as 1,820 were Muslims,³⁰⁵ with most of those arrested having a tangential connection to the bombings at most, and in some cases no connection at all.³⁰⁶ By July 2019, 1,655 had been released on bail, 423 had been remanded, and 211 were still in detention.³⁰⁷

“Jufaithiya, a 55-year old cancer patient, has been denied treatment and is currently in Tangalle Navy camp. She was arrested because she listened to a banned *National Thawheeth Jamath bayan* (sermon) on a single occasion. In that same camp are 15-month-old Yunoose and 12-month-old Imara, who are spending their toddler months in custody alongside their mothers who have been detained under the PTA... A man named Mohamed Irfan was arrested because he once carried food in his tuk-tuk to one of the main suicide bombers in Kattankudy.”

Shreen Saroor, activist³⁰⁸

The police arrested a large number of Muslims despite the HRCSL issuing guidelines to the police to avoid illegal and arbitrary arrests resulting from “cultural misunderstandings or uncertainty and others due to suspicions expressed by members of the public”.³⁰⁹ R. Mazahima is a case in point, arrested by the police using the pretext of the Easter Sunday bombings. In May 2019, 47-year-old Mazahima was arrested in the town of Hasalaka for wearing clothing with a print of a ship’s wheel, which the police mistook for a

³⁰³ Al Jazeera, “Sri Lanka ends emergency rule imposed after Easter bombings”, 23 August 2019, www.aljazeera.com/news/2019/8/23/sri-lanka-ends-emergency-rule-imposed-after-easter-bombings

³⁰⁴ Interview with Zainab via Signal on 15 January 2021 (name has been changed to respect the interviewee’s anonymity)

³⁰⁵ MENAFN, “Sri Lankan Muslims targeted after Easter attack”, 2019, <https://menafn.com/1098740572/Sri-Lankan-Muslims-targeted-after-Easter-attack>

³⁰⁶ ICG, “After Sri Lanka’s Easter bombings: Reducing risks of future violence”, 27 September 2019, www.crisisgroup.org/asia/south-asia/sri-lanka/302-after-sri-lankas-easter-bombings-reducing-risks-future-violence

³⁰⁷ UN, *Report of the Special Rapporteur on freedom of religion or belief: Visit to Sri Lanka*, 2020, UN Doc. A/HRC/43/48/Add.2, undocs.org/A/HRC/43/48/Add.2

³⁰⁸ Groundviews, “Denying justice while dehumanizing a community at large”

³⁰⁹ ColomboPage, “Sri Lanka Human Rights Commission issues guidelines to police on arrests”, 3 July 2019, www.colombopage.com/archive_19A/Jul03_1562151714CH.php

dharmachakra wheel, a symbol of Buddhist teachings.³¹⁰ Mazahima was released on bail three weeks after her arrest,³¹¹ and proceeded to file a Fundamental Rights application against her arrest, which she claimed was unlawful.³¹² Mazahima was cleared of her charges in August 2020, 15 months after her arrest.³¹³

A month after the Easter Sunday bombings, on 17 May 2019, the Sectoral Oversight Committee on National Security was charged with assessing proposals submitted by Members of Parliament “for formulation and implementation of relevant laws required to ensure national security that will eliminate new terrorism and extremism by strengthening friendship among races and religions”.³¹⁴ The report of this committee, dated 19 February 2020, makes a number of recommendations, most of which infringe on the rights of Muslims to practise their religion, such as the criminalization of wearing the face veil and limiting the number of *madrasas* or religious schools in the country.³¹⁵

7.1.1 ATTACKS ON REFUGEES

Following the Easter Sunday bombings, anti-Muslim sentiment in Sri Lanka reached new heights, leading to a series of attacks on the refugee population in the country in the western coastal town of Negombo, 39km from Colombo.³¹⁶ Negombo, which is home to St. Sebastian’s church, one of the three churches targeted in the bombings, housed a large population of refugees and asylum seekers who were predominantly from the predominantly Muslim countries of Pakistan, Afghanistan, and Iran, and of varying faiths (Ahmadi Muslims, Christians, and Shi’a).³¹⁷ During investigations, Amnesty International found that around 1,063 refugees and asylum seekers were either forced to vacate their homes in Sri Lanka because of a hostile environment, threats of violence by individuals and groups, or forcible eviction.³¹⁸ Some aggressors told the refugees to leave Sri Lanka, in addition to putting pressure on landlords to evict their refugee and asylum-seeking tenants.³¹⁹

The attacks on these refugees were reportedly triggered by rumours that Pakistanis in the Negombo area were responsible for the Easter Sunday bombings.³²⁰ Despite relocating to a mosque and the police station in Negombo, and a mosque in Pasyala, a town approximately 50km from Colombo, the refugees and asylum seekers feared further attacks following a demonstration by locals outside one of their temporary shelters.³²¹

7.1.2 SPORADIC ATTACKS LEADING UP TO 13 MAY 2019

Muslim religious and political leaders condemned the Easter Sunday bombings and rejected the NTJ and the extremist ideologies that motivated the bombings. Still the Muslim community continued to be subjected to demonization and attacks.³²² This section documents some of the sporadic attacks that occurred prior to the violence on 13 May 2019.

On 5 May 2019, it was reported that a traffic incident had ignited clashes once again in Negombo.³²³ According to media reports, the personal dispute served as a catalyst for armed mobs to attack Muslim

³¹⁰ JDS, “Muslim woman jailed for wearing dress disliked by Sri Lankan Buddhists”, 28 May 2019, www.jdslanka.org/index.php/news-features/human-rights/889-muslim-woman-jailed-for-wearing-dress-disliked-by-sri-lankan-buddhists

³¹¹ Amnesty International, *Urgent Action: Writer released on bail, still at risk of jail* (Index ASA 37/0998/2019), 5 September 2019, www.amnesty.org/en/documents/asa37/0998/2019/en/

³¹² Sunday Times Online, “Woman who was arrested for wearing a dress with ship’s wheel files FR petition”, 15 June 2019, www.sundaytimes.lk/article/1091518/woman-who-was-arrested-for-wearing-a-dress-with-ships-wheel-files-fr-petition

³¹³ Amantha P., Twitter post, 20 August 2020, twitter.com/AmanthaP/status/1296258650432921600

³¹⁴ Sectoral Oversight Committee on National Security, *Report of the Proposals for Formulation and Implementation of relevant laws required to ensure National security that will eliminate New Terrorism and extremism by strengthening friendship among Races and Religions*, 19 February 2020, www.parliament.lk/uploads/comreports/1582610584075624.pdf#page=1

³¹⁵ Sectoral Oversight Committee on National Security, *Report of the Proposals for Formulation and Implementation of relevant laws required to ensure National security that will eliminate New Terrorism and extremism by strengthening friendship among Races and Religions*, 19 February 2020, www.parliament.lk/uploads/comreports/1582610584075624.pdf#page=1

³¹⁶ Amnesty International, *Unsafe at home, unsafe abroad: State obligations towards refugees and asylum-seekers in Sri Lanka* (Index: ASA 37/1250/2019) (hereinafter: *Amnesty International, Unsafe at home, unsafe abroad*)

³¹⁷ *Amnesty International, Unsafe at home, unsafe abroad*

³¹⁸ *Amnesty International, Unsafe at home, unsafe abroad*

³¹⁹ *Amnesty International, Unsafe at home, unsafe abroad*

³²⁰ *Amnesty International, Unsafe at home, unsafe abroad*

³²¹ *Amnesty International, Unsafe at home, unsafe abroad*

³²² UN, *Report of the Special Rapporteur on freedom of religion or belief: Visit to Sri Lanka*, 2020, UN Doc. A/HRC/43/48/Add.2, undocs.org/A/HRC/43/48/Add.2

³²³ The New York Times, “Sri Lanka sends troops to keep peace as communal tensions rise”, 6 May 2019, www.nytimes.com/2019/05/06/world/asia/sri-lanka-negombo-muslim-tensions.html

houses.³²⁴ A curfew was imposed overnight on 5 May, but according to media reports, no action was taken by law enforcement against the perpetrators of the attacks.³²⁵

On 12 May 2019, a Facebook post by a Muslim shopkeeper sparked attacks on mosques and Muslim-owned businesses in the western coastal town of Chilaw, 46km from Negombo.³²⁶ The post, which read, “Don’t laugh more, 1 day u will cry”, was interpreted by a local Christian as a threat of an attack.³²⁷ Law enforcement authorities managed to disperse the crowds, but the violence spread into neighbouring towns.³²⁸

On 12 May 2019, there was an incident involving mobs throwing stones at three mosques in the town of Bingiriya, 18km from Chilaw. This occurred despite a police curfew imposed in the area.³²⁹ Six suspects were arrested and detained at the Hettipola police station,³³⁰ but Member of Parliament Dayasiri Jayasekara personally brought the suspects back to the Bingiriya police station and secured their release on bail.³³¹ Speaking to the media, the police attempted to justify the stone-throwing incident, claiming it was the result of the anger felt by Sinhalese locals upon discovering weapons in a roofing tile factory in the town.³³²

7.2 THE VIOLENCE OF 13 MAY 2019

The sporadic violence after the Easter Sunday bombings was an indication of what was to come on 13 May 2019. Violent mobs wreaked havoc on Muslim-owned homes, businesses, property, and mosques in towns across the North Western and Western provinces of the country. Amnesty International visited six affected towns following the incident and spoke to victims, direct and indirect witnesses, and law enforcement officials.

KOTAMPITIYA – NORTH WESTERN PROVINCE

“They did this to terrorize us and cripple our economy.”

Asim, Jumma mosque committee member³³³

On 12 May 2019, hundreds of people stormed a mosque in Kinyama, a village approximately 18km from Kotampitiya.³³⁴ Members of the Kotampitiya Huda Jumma mosque told Amnesty International that they requested security from local law enforcement because of the attack, but no security was provided.³³⁵ On hearing that shops in the village of Hettipola in the North Western Province were being attacked, the mosque repeated its request for protection, but only five police officers were deployed in response.³³⁶

In Kotampitiya, the attacks on 13 May began at around 11am targeting small shops. Shortly after, a politician, arrived in the village and assured the people that the mosque would be safe.³³⁷ By 2.30pm, a police curfew had been imposed. According to media reports and people who spoke to Amnesty International, a group of hundreds of people, possibly as many as 1,000,³³⁸ entered the village in vehicles

³²⁴ DBSJEYRAJ, “Anti-Muslim violence erupts in Negombo with attacks occurring on Sunday night despite Curfew being in force: Situation reported calm on Monday”, 8 May 2019, dbsievarai.com/dbsi/archives/63925 (hereinafter: DBSJEYRAJ, “Anti-Muslim violence erupts in Negombo with attacks occurring on Sunday night despite Curfew being in force”)

³²⁵ DBSJEYRAJ, “Anti-Muslim violence erupts in Negombo with attacks occurring on Sunday night despite Curfew being in force”

³²⁶ Al Jazeera, “Sri Lanka blocks social media again after attacks on Muslims”, 13 May 2019, www.aljazeera.com/news/2019/5/13/sri-lanka-blocks-social-media-again-after-attacks-on-muslims (hereinafter: Al Jazeera, “Sri Lanka blocks social media again after attacks on Muslims”)

³²⁷ Al Jazeera, “Sri Lanka blocks social media again after attacks on Muslims”

³²⁸ Al Jazeera, “Sri Lanka blocks social media again after attacks on Muslims”

³²⁹ Daily Mirror, “Police curfew imposed countrywide”, 14 May 2019, www.dailymirror.lk/print/front_page/Police-curfew-imposed-countrywide/238-167064 (hereinafter: Daily Mirror, “Police curfew imposed countrywide”)

³³⁰ Daily Mirror, “Police curfew imposed countrywide”

³³¹ Daily Mirror, “Police curfew imposed countrywide”

³³² Daily Mirror, “Police curfew imposed countrywide”

³³³ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³³⁴ BBC, “Sri Lanka vows ‘maximum force’ against anti-Muslim rioters”, 14 May 2019, www.bbc.co.uk/news/world-asia-48257299; The Straits Times, “Sri Lanka imposes nationwide curfew after mosques attacked”, 14 May 2019, www.straitstimes.com/asia/south-asia/sri-lanka-town-under-curfew-after-anti-muslim-attacks

³³⁵ Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³³⁶ Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³³⁷ Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³³⁸ Media reports say hundreds of rioters were present at Kotampitiya: The Star Online, “Sri Lanka clashes kill one; imposes nationwide curfew after mosques attacked”, 13 May 2019, www.thestar.com.my/news/world/2019/05/13/sri-lanka-blocks-social-media-platforms-after-muslim-shops-mosques-attacked/

including buses, bikes, a jeep and a lorry.³³⁹ Witnesses and victims who lived away from the village centre also confirmed the size of the group.³⁴⁰ The crowd soon became violent. According to witnesses, the police fired shots in the air to disperse the crowd.³⁴¹ Although the police apprehended some people, witnesses said many were released on the spot.³⁴²

“The security provided was inadequate – so much so that we couldn’t say if it was the police that was driving this. We couldn’t trust the police.”

Irfan, Jumma mosque committee member³⁴³

The failure of the police to prevent and protect Muslims from these attacks mirrors the incidents in Aluthgama and Digana. Once again, the police and state appear to have failed in their duty to protect people from discriminatory violence based on their religion, in contravention of both domestic law and international human rights law.³⁴⁴

Speaking to Amnesty International, a victim of the violence in Kotampitiya described how a group of attackers broke down the gate of his house, a window and the front door.³⁴⁵ The victim recounted that the group proceeded to destroy his TV and attack the water pipelines. The victim was then physically assaulted by two people, who hit him with an iron rod, continuing to beat him even after he fell to the ground.³⁴⁶ Other victims described having to abandon their homes and run for safety.³⁴⁷

HETTIPOLA – NORTH WESTERN PROVINCE

“Because people from our towns have also been involved, we can’t say whether this will happen again.”

Farhan, witness and Hettipola resident³⁴⁸

On 13 May, a group of 400 to 500 people gathered outside the Hettipola police station, demanding the release of suspects arrested in connection with anti-Muslim violence in Bingiriya and Kiniyama the previous day.³⁴⁹ After Minister of Parliament Dayasiri Jayasekara took the suspects back to the Bingiriya police station to get them released on bail,³⁵⁰ the crowd gathered outside the police station became violent. The violent mob began attacking Muslim-owned houses, shops and a mosque in the area. Farhan, a witness to the violence, told Amnesty International that despite the large gathering at the police station, there were no army personnel deployed in the area until much later.³⁵¹

“If this was connected to the 21st [Easter Sunday] attacks, then we would have been attacked on the 22nd. We weren’t. This is a different game.”

Farhan, witness and Hettipola resident³⁵²

³³⁹ Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³⁴⁰ The size of the mob was corroborated at an FGD with seven people in the area, as well as another resident witness from the area during interviews with Amnesty International in Kotampitiya on 23 May 2019.

³⁴¹ Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³⁴² Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³⁴³ Names have been changed for the privacy and safety of individuals. Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³⁴⁴ UDHR, ICCPR, ICERD, The Constitution of Sri Lanka, Penal Code, Police Ordinance

³⁴⁵ Witness/victim interviewed by Amnesty International on 23 May 2019 in Kotampitiya

³⁴⁶ Witness/victim interviewed by Amnesty International on 23 May 2019 in Kotampitiya

³⁴⁷ Affected people who spoke with Amnesty International at an FGD on 23 May in Kotampitiya

³⁴⁸ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Hettipola on 23 May 2019

³⁴⁹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Hettipola on 23 May 2019

³⁵⁰ News 1st, “Tense situation reported from Hettipola earlier today”, 13 May 2019, www.newsfirst.lk/2019/05/13/tense-situation-grows-from-hettipola/

³⁵¹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Hettipola on 23 May 2019

³⁵² Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Hettipola on 23 May 2019

NIKAWERATIYA – NORTH WESTERN PROVINCE

“There were stories that something might happen, so there was a meeting planned [between inter-faith groups and community leaders]. For these meetings it’s only the good people from each religion that attend. The ones who make trouble don’t.”

Hussain, FGD with direct and indirect witnesses³⁵³

According to witnesses and victims, violence in the village of Nikaweratiya, in the North Western Province, began at around 4pm on 13 May, despite a police curfew in the surrounding areas of Hettipola, Kuliyaipitiya, Dummalasuriya and Bingiriya.³⁵⁴ The catalyst for the violence in Nikaweratiya was an incident in town when a Muslim shopkeeper was attacked by a large crowd of around 200 people because he looked “suspicious”.³⁵⁵ The mob attacked the Muslim man and a police officer who tried to diffuse the situation. After the shopkeeper was taken to the hospital, the crowd moved on to attack Muslim-owned shops, houses, and mosques in the area. In the neighbouring villages of Nebadawa and Thalahena, even small makeshift roadside shops owned by Muslims were attacked.

A woman from the village of Thalahena told Amnesty International that a mob-like group initially missed her house, but eventually attacked it in the evening while the police curfew was in place.³⁵⁶ She said that the group were armed with iron rods which they used to attack the house.³⁵⁷

In the neighbouring village of Millegoda, vehicles were also attacked between 7pm and 7.30pm, during the police curfew.³⁵⁸ According to interviewees who saw the CCTV footage, the attacks were carried out by around 350 to 400 people, but only some in the group were actively attacking property, while the others mainly watched.³⁵⁹ As most of the police personnel were deployed in Hettipola, residents claimed that there was no protection for houses and villages that were located far away from the main Nikaweratiya town.³⁶⁰

Speaking to Amnesty International, Aslam, a shopkeeper, recalled how he recognized one of the attackers: “The person who bought things on credit from the shop in the morning came back later the same day to attack the shop.”³⁶¹

NATTANDIYA – NORTH WESTERN PROVINCE

“Putting a curfew in place is scary now because it means we are going to get attacked.”

Rashid, affected shop keeper³⁶²

In Nattandiya, a town in the Puttalam district of the North Western Province, many Muslim-owned shops, closed early on 13 May fearing violence.³⁶³ A shopkeeper with access to CCTV footage told Amnesty International that a group of around 200 to 300 people carried out the attacks.³⁶⁴ The small army and police

³⁵³ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nikaweratiya on 23 May 2019

³⁵⁴ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nikaweratiya on 23 May 2019

³⁵⁵ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nikaweratiya on 23 May 2019

³⁵⁶ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thalahena on 23 May 2019

³⁵⁷ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thalahena on 23 May 2019

³⁵⁸ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Millegoda on 23 May 2019

³⁵⁹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Millegoda on 23 May 2019

³⁶⁰ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Millegoda on 23 May 2019

³⁶¹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nikaweratiya on 23 May 2019

³⁶² Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nattandiya on 22 May 2019

³⁶³ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nattandiya on 22 May 2019

³⁶⁴ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nattandiya on 22 May 2019

presence in Nattandiya was outnumbered by the attackers, and the violence continued unabated for about 20 minutes as law enforcement officers stood by.³⁶⁵

“Muslims only get protection after the incident.”

Rashid, affected shop keeper³⁶⁶

THUMMODARA – NORTH WESTERN PROVINCE

“This is a serial attack on a number of towns; they [the police] should have taken precautionary measures.”

Hiraz, affected house owner³⁶⁷

In the town of Thummodara, attacks began around 6.30pm on 13 May, just as Muslim residents in the area were breaking their evening fast.³⁶⁸ When news of attacks in neighbouring Nattandiya reached them, villagers said they called the national emergency number for protection, but still the security at the time of the attacks was inadequate.³⁶⁹ Two mosques on the same road were attacked by a group of between 200 and 500 people.³⁷⁰ Danish, a 17-year-old victim who suffered burn injuries as a result of the attacks, was hiding when a group of people entered his house, looted valuables and set fire to the mattress of the bed under which he was hiding.³⁷¹ Witnesses reported that the attacks went on for about two hours and were carried out by mobs wearing motorcycle helmets to avoid identification.³⁷² They further stated that the mob used petrol bombs in their attacks.³⁷³

KOTTARAMULLA – NORTH WESTERN PROVINCE

“My house was set on fire in front of the police officer.”

Hafsa, victim³⁷⁴

According to interviews conducted by Amnesty International, the violence in the town of Kottaramulla began around 6.30pm.³⁷⁵ Witnesses described the size of the mob as ranging from 20 to around 500 people.³⁷⁶ Despite this inconsistency in terms of the size of the mob, all testimonies gathered from this village were consistent about the nature of the attacks. According to witnesses, the mobs looted, burnt, and pelted houses with sticks and stones. Interviewees consistently mentioned the inadequate protection provided by law enforcement. Witnesses told Amnesty International that the crowds did not disperse despite law enforcement firing into the sky. People questioned how the mob had managed to enter the town despite a roadblock being set up on the Negombo-Kalpitiya road, alleging the complicity of law enforcement in the attacks.

³⁶⁵ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nattandiya on 22 May 2019

³⁶⁶ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Nattandiya on 22 May 2019

³⁶⁷ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁶⁸ The holy month of Ramadan commenced on 7 May 2019 in Sri Lanka. ADA Derana, “Ramadan fasting to commence on May 7”, 5 May 2019, www.adaderana.lk/news/54908/ramadan-fasting-to-commence-on-may-7

³⁶⁹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁷⁰ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁷¹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁷² Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁷³ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Thummodara on 22 May 2019

³⁷⁴ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Kottaramilla on 22 May 2019

³⁷⁵ Interviews conducted by Amnesty International in Kottaramilla on 22 May 2019 with one affected house owner, FGD with mosque board of management, and neighbour of deceased victim

³⁷⁶ Interviews conducted by Amnesty International in Kottaramilla on 22 May 2019 with one affected house owner, FGD with mosque board of management, and neighbour of deceased victim

According to interviews with the local mosque board of management, a clash between the mob and residents in Kottaramulla had left one Sinhalese man injured.³⁷⁷ Another Muslim man named Ameer was murdered by the mob in front of his house. They said that Ameer was hiding in his house but stepped outside when the mob began attacking his vehicle. The mob stabbed Ameer and ran away. Ameer was taken to the local hospital but succumbed to his injury.

MINUWANGODA – WESTERN PROVINCE

“This isn’t a racial attack. This is because of jealousy. Everyone knows our hotel.”

Fiyaz, co-owner of attacked restaurant³⁷⁸

The violence in the town of Minuwangoda began at a popular local restaurant, which was attacked at around 6pm on 13 May. The attackers first looted the cash register and then targeted the restaurant. According to witnesses, only a small number of police and army personnel were deployed to control the crowd, which was estimated to have been between 500 and 1,000 people.³⁷⁹ The mob then began attacking the central market, setting fire to shops that were owned by the local municipal council but run by Muslims. The fire quickly spread to adjoining shops, some of which were owned by Sinhalese people. The mob then attacked a local mosque, whose committee told Amnesty International that their CCTV footage showed a group of between 300 and 400 people taking part in the attack.³⁸⁰

“It’s not about giving compensation. It’s about it not happening at all and preventing this. The government has to have had information of this.”

Jamal, Minuwangoda Jumma mosque committee member³⁸¹

WEAPONS AND STRATEGY

Witnesses and victims interviewed by Amnesty International described the following weapons being used in the attacks:

- sticks and stones
- iron rods
- sharp objects such as swords and machetes
- makeshift and improvised weapons
- petrol bombs (‘Molotov cocktails’)
- fuel extracted from the bikes that the attackers travelled on.

Photographs taken by Amnesty International show clear burn marks on buildings, some of them intense, and damage to metal sheeting, which appears to be torn and punctured.

³⁷⁷ Interviews conducted by Amnesty International in Kottaramilla on 22 May 2019 with one affected house owner, FGD with mosque board of management, and neighbour of deceased victim

³⁷⁸ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Minuwangoda on 24 May 2019

³⁷⁹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Minuwangoda on 24 May 2019

³⁸⁰ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Minuwangoda on 24 May 2019

³⁸¹ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Minuwangoda on 24 May 2019



← (i) A photograph of burn marks on a wall taken by Amnesty International in the North Western Province, following the violence on 13 May 2019

A photograph of the damage to metal sheeting taken by Amnesty International in the Western Province, following the violence on 13 May 2019



PRE-MEDITATED ATTACKS

In the majority of interviews, people were not able to identify individual attackers; however, some direct and indirect witnesses (who saw the violence through CCTV footage) were able to recognize a few attackers from their town or from adjoining towns. It appeared that the participation of locals allowed for the deliberate and effective identification of Muslim-owned property.

Interviewees described the attacks intensifying in a number of villages around the time Muslims were breaking their fast in the evening, when families would gather to eat and pray. Victims in many towns described their water supply being cut off prior to arson attacks. Furthermore, in many instances CCTV cameras were targeted and destroyed prior to, and during, the attacks.

The fact that similar violent attacks were carried out in multiple villages and towns simultaneously, on the same day (13 May 2019), coupled with the weapons and preparation used, suggest a level of planning and coordination between perpetrators, similar to the violence in Digana in 2018.³⁸² The lack of adequate police

³⁸² The Hindu, "Mobs attack mosques, Muslim-owned shops and homes in Sri Lanka's Kurunegala District", 13 May 2019, www.thehindu.com/news/international/mobs-attack-mosques-muslim-owned-shops-and-homes-in-sri-lankas-kurunegala-

presence, action or protection, despite being alerted to imminent violence by locals, raises concerns regarding the response of law enforcement agencies.

DAMAGE

People who spoke to Amnesty International reported that officials from the Assistant Government Agent (AGA)/Divisional Secretariat had visited most of the affected areas and inspected the damage for compensation estimates. In Minuwangoda, in the Western Province, the District Secretariat recorded damage to 12 houses, 64 business premises, one place of worship and nine vehicles, and injuries to four people.³⁸³ In Kurunegala district in the North Western Province, a rights group documented that 457 families, 147 houses, 132 business places, 29 religious places, 52 vehicles and two common facilities were affected in the violence.³⁸⁴ There is no publicly available information on other affected areas.

The government at the time committed to compensate people affected by the violence on 13 May, and to rebuild all properties damaged, within four months.³⁸⁵ According to media reports, in May 2019, government officials were in the process of finalizing the compensation to be paid to victims.³⁸⁶ There is no publicly available information on whether the compensation has been paid and how much

POLICE INACTION

“We called the police, but no one came.”

Shiraz, affected person from Kotampitiya³⁸⁷

Many of the victims interviewed by Amnesty International were dissatisfied with the security provided to them by law enforcement officials.³⁸⁸ They claimed that law enforcement failed to protect people from violence, intimidation or property damage, even when they were deployed in the area. According to these victims, the police were too few in number and unable to control the crowd effectively.

The failure of law enforcement can be broadly categorized as follows:

- There was a lack of protection afforded to people through precautionary deployments of law enforcement or army personnel. The HRCSL, through its own assessments, found that there “appeared to be no preventive measures taken despite the distinct possibility of retaliatory violence against the Muslim communities after the terror attacks of 21 April”. These observations were sent to the Inspector General of Police.³⁸⁹
- There was an absence of intervention by law enforcement and/or army personnel during the attacks, in some cases despite the imposition of a curfew. Witnesses described inaction by both the police and the army who were present at the time their properties were being attacked.³⁹⁰ CCTV footage acquired by Amnesty International corroborates this: the CCTV footage clearly shows that arrests were not made on the spot, even when attacks were being perpetrated in plain sight of law enforcement. Some witnesses said interventions – such as firing into the sky (which international human rights law and standards strongly discourage) or using tear gas – either came too late or were ineffective in dispersing or controlling the crowds that had gathered. Interviewees also mentioned how the large mobs, some up to 1,000 people, outnumbered the handful of law enforcement officers

district/article27119473.ece; The Hindu, “Dozens arrested after anti-Muslim violence in Sri Lanka”, 14 May 2019, www.thehindu.com/news/international/one-killed-in-anti-muslim-riots-in-sri-lanka/article27123889.ece

³⁸³ Daily Mirror, “Anti-Muslim attacks: Process of compensation causes trickle of unease”, 30 May 2019, www.dailymirror.lk/news-features/Anti-Muslim-attacks-Process-of-compensation-causes-trickle-of-unease/131-168220 (hereinafter: Daily Mirror, “Anti-Muslim attacks: Process of compensation causes trickle of unease”)

³⁸⁴ Daily Mirror, “Anti-Muslim attacks: Process of compensation causes trickle of unease”

³⁸⁵ Daily Mirror, “Anti-Muslim attacks: Process of compensation causes trickle of unease”

³⁸⁶ Daily Mirror, “Anti-Muslim attacks: Process of compensation causes trickle of unease”

³⁸⁷ Names have been changed for privacy and safety of individuals. Interview conducted by Amnesty International in Kotampitiya on 23 May 2019

³⁸⁸ Interviews conducted by Amnesty International in Kottaramilla and Thummodara on 22 May 2019 with two victims; in Thummodara on 22 May 2019; in Kotampitiya on 23 May 2019; in Hettipola on 23 May 2019; and in Kotampitiya on 23 May 2019

³⁸⁹ HRCSL, *Recent communal violence in the North-Western Province. Chilaw District and Minuwangoda Town*, 2019, srilankabrief.org/sri-lanka-hrc-provides-evidence-of-police-implicitly-of-anti-muslim-attacks-in-a-letter-to-the-igp/

³⁹⁰ Interviews conducted by Amnesty International in Kottaramilla and Thummodara on 22 May 2019 with two victims; in Thummodara on 22 May 2019; in Kotampitiya on 23 May 2019; in Hettipola on 23 May 2019; and in Kotampitiya on 23 May 2019

deployed to provide protection. Speaking to the media, a police spokesperson countered that 5,500 officers were deployed in the province over 13 and 14 May to control the situation.³⁹¹

- There was a lack of response to requests for police protection. Prior to the attacks, many Muslim villagers reported calling their local police station or the general emergency numbers, 118/119, to request protection. They acted on the news coming in from neighbouring towns and villages, their knowledge of prior attacks on Muslims, and the strong possibility that there may be anti-Muslim violence and attacks on their property. These requests largely went unanswered by the police.

Similar to the response during the violence in Digana in 2018, the government imposed a temporary ban on WhatsApp, Viber, and social media platforms including Facebook, as a measure to contain the violence.³⁹² The restrictions were not limited to the areas in which the violence took place and were in force from 13 to 17 May 2019.³⁹³ These factors make it difficult to justify the ban as a necessary and proportionate form of response, given that those affected also use these same platforms for communication and to seek safety.

The failure of the police to prevent violence or protect minority communities during a mob attack has been consistent. This demonstrates the state's failure to fulfil their obligation to protect the minority Muslim population and hold perpetrators to account. In all of the above instances, the Sri Lankan state has failed in its due diligence obligations to protect against and prevent hate crimes committed against the Muslim community.

DUE DILIGENCE

The concept of due diligence describes the threshold of effort that a state must undertake to fulfil its responsibility to protect individuals from abuses of their rights by anyone, including non-state actors – people and organizations acting outside the state and its organs.

Due diligence includes taking effective steps to prevent abuses, to investigate them when they occur, to prosecute the alleged perpetrators and bring them to justice in fair proceedings, and to ensure adequate reparation, including rehabilitation and redress. It also means ensuring that justice is dispensed without discrimination of any kind.³⁹⁴

The Special Rapporteur on violence against women has held that "... a State can be held complicit where it fails systematically to provide protection from private actors who deprive any person of his/her human rights".³⁹⁵

State inaction can be seen in a range of different areas. These include inadequate preventive measures; police indifference to abuses; failure to define abuses as criminal offences; discrimination in the court system; and legal procedures that hamper criminal prosecution.

Besides state inaction, the state may also be in more direct ways responsible for human rights abuses committed by non-state actors, such as when state officials participate in the abuse or are aware of and acquiesce in the abuse. Complicity, consent, acquiescence and failure to exercise due diligence constitute a spectrum of different forms of state failure to protect individuals from human rights abuse. Focusing on when the state fails to protect people from abuse by others, and how it can be held to share responsibility

³⁹¹ Business Standard, "Sri Lanka army denies colluding with anti-Muslim rioters", 2019, www.business-standard.com/article/pti-stories/sri-lanka-army-denies-colluding-with-ant-muslim-rioters-119051601407_1.html; Daily Mirror, "Violence in Northwestern Province 78 ARRESTED, REMANDED", 16 May 2019, www.dailymirror.lk/front_page/Violence-in-Northwestern-Province--78-ARRESTED--REMANDED/238-167278

³⁹² The Hindu, "Mobs attack mosques, Muslim-owned shops and homes in Sri Lanka's Kurunegala District", 13 May 2019, www.thehindu.com/news/international/mobs-attack-mosques-muslim-owned-shops-and-homes-in-sri-lankas-kurunegala-district/article27119473.ece

³⁹³ NBC News, "Sri Lanka blocks social media after Easter Sunday bombings", 22 April 2019, www.nbcnews.com/tech/tech-news/sri-lanka-blocks-social-media-after-easter-sunday-bombings-n996886; ADA Derana, "Social media ban in Sri Lanka lifted", 17 May 2019, www.adaderana.lk/news/55200/social-media-ban-in-sri-lanka-lifted

³⁹⁴ The standard of due diligence was first articulated and applied by a regional human rights court, the Inter-American Court of Human Rights, although it also applies to obligations under the ICCPR. The court stated: "An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention [American Convention on Human Rights]." (*Velasquez Rodriguez v. Honduras*, Inter-American Court of Human Rights (1988), para. 172.) The court stated in the same judgment: "The State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation." (para. 174.) The court pointed out that a single violation of human rights or one ineffective investigation does not establish a state's lack of due diligence.

³⁹⁵ Commission on Human Rights, *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85*, 5 February 1996, UN Doc: E/CN.4/1996/53

for the abuse, does not ignore the original abusers' responsibility. In every case, the direct perpetrator must be fairly tried and punished for their crimes.

OBLIGATION TO PROSECUTE AND PUNISH

On 22 May 2019, 32 people arrested in Minuwangoda were granted bail by the Minuwangoda Magistrate's Court.³⁹⁶ On 29 May, 31 people arrested in Nattandiya were released on bail by the Marawila District Court.³⁹⁷ There is no publicly available information on whether anyone arrested in connection with the violence was subsequently charged, and if so, the status of their case. This is similar to other incidents of anti-Muslim violence, where no such information is available.

Amith Weerasinghe of *Mahason Balakaya*, who was previously arrested and subsequently granted bail in connection with the violence in Digana in 2018, was arrested in connection with the violence in the North Western and Western provinces on 14 May 2019.³⁹⁸ Dan Priyasad of *Nawa Sinhale* National Organization was arrested in connection with the violence on 14 May 2019;³⁹⁹ he was released on bail on 15 May.⁴⁰⁰ The alleged repeated involvement of leaders of Sinhala Buddhist nationalist groups in incidents of anti-Muslim violence is a testament to the impunity enjoyed by perpetrators of anti-Muslim violence and the repeated failure of the state to ensure justice for victims of anti-Muslim violence.

There is little clarity on which law was used to arrest suspects and what penalties are likely to apply, whether any cases are ongoing, or if anyone has been convicted in relation to the violence. Amnesty International wrote to the Inspector General of Police in July 2021 requesting these details, but at the time of writing we were yet to receive a response.

BOYCOTT OF MUSLIM BUSINESSES

Following the Easter Sunday bombings, there was a concerted effort by Buddhist religious leaders and Sinhalese groups to call for the boycott of Muslim businesses⁴⁰¹ – the same call that was made after the anti-Muslim violence in Colombo in 2013⁴⁰² and Aluthgama in 2014.⁴⁰³ On 15 June 2019, the chief prelate, or chief clergy member of the Asgiriya Chapter, Warakagoda Sri Gnanarathana, an extremely influential Buddhist monk, supported the boycott of Muslim businesses in a sermon delivered by him.⁴⁰⁴

These efforts were not a new phenomenon and were rooted in the historical perception among Sinhala Buddhist nationalist groups that the Muslim community was disproportionately successful in business and wealthier than other ethnic groups in Sri Lanka.⁴⁰⁵ Reports suggest that some Muslims believed that their perceived success caused jealousy among the Sinhala majority, which has resulted in violent attacks against their community, property and lives, despite the lack of evidence for their greater wealth.⁴⁰⁶

³⁹⁶ The Morning, "32 people arrested for causing violence released on bail", 22 May 2019, www.themorning.lk/32-people-arrested-for-causing-violence-released-on-bail/

³⁹⁷ Sunday Times Online, "Marawila court grants bail to 31 accused of rioting", 29 May 2019, www.sundaytimes.lk/article/1089584/marawila-court-grants-bail-to-31-accused-of-rioting (hereinafter: Sunday Times Online, "Marawila court grants bail to 31 accused of rioting")

³⁹⁸ The Hindu, "Dozens arrested after anti-Muslim violence in Sri Lanka", 14 May 2019, www.thehindu.com/news/international/one-killed-in-anti-muslim-riots-in-sri-lanka/article27123889.ece

³⁹⁹ Sunday Times Online, "Marawila court grants bail to 31 accused of rioting"

⁴⁰⁰ ADA Derana, "Dan Priyasad released on bail", 15 May 2019, www.adaderana.lk/news/55154/dan-priyasad-released-on-bail

⁴⁰¹ The Washington Post, "After Sri Lankan attacks, Muslims face boycotts and violence", 7 July 2019, www.washingtonpost.com/world/asia_pacific/after-easter-sunday-attacks-muslims-face-boycotts-and-violence-in-sri-lanka/2019/07/06/3e4a405a-91f6-11e9-956a-88c291ab5c38_story.html

⁴⁰² BBC, "Sri Lanka crowd attacks Muslim warehouse in Colombo", 29 March 2013, www.bbc.com/news/world-asia-21973292

⁴⁰³ D. Herath & H. Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*, 2015, p. 16, ices.lk/wp-content/uploads/2016/04/ICES-Self-Religion-Identity_WEB_-final.pdf (hereinafter: D. Herath & H. Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*)

⁴⁰⁴ The Wire, "Sri Lankan finance minister protests anti-Muslim remarks of top Buddhist monk", 19 June 2019, thewire.in/south-asia/sri-lanka-finance-minister-protests-anti-muslim-remarks-of-top-buddhist-monk (hereinafter: The Wire, "Sri Lankan finance minister protests anti-Muslim remarks of top Buddhist monk")

⁴⁰⁵ Interview with Shreen Saroor via Signal on 10 December 2020

⁴⁰⁶ D. Herath & H. Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*, p. 16

DR MOHAMED SHAFI

On 23 May 2019, approximately one week after the anti-Muslim violence in the North Western and Western provinces, a Sinhala-language media report claimed that a doctor, who was not identified in the article, had sterilized 4,000 Buddhist women without their consent.⁴⁰⁷ The report also claimed that this doctor had links to the National *Thowheed Jamath*, the group responsible for the Easter Sunday bombings.⁴⁰⁸ Two days after the story was reported, Dr Mohamed Shafi, a gynaecologist practising in Kurunegala, a town in the North Western Province, was arrested.⁴⁰⁹

On 27 June 2019, over a month after Dr Shafi's arrest, the Criminal Investigation Department (CID) informed the court that there was no evidence to prove that Dr Shafi had carried out any forced sterilizations, or had any links to extremist organizations, or that he had amassed wealth in an illegal way.⁴¹⁰ The CID further informed the court that there were irregularities in his arrest.⁴¹¹ Dr Shafi was released on bail on 26 July 2019.⁴¹²

"Because of Shafi's case, lots of Muslim doctors who worked in densely populated Sinhala areas couldn't practise and had to shut down."

Shreen Saroor, activist⁴¹³

On 3 August 2019, the media reported that two women who had complained against Dr Shafi, suspecting him of sterilizing them without their consent, had become pregnant.⁴¹⁴

Despite the CID and media reports, on 15 June 2019, Warakagoda Sri Gnanarathana, an extremely influential Buddhist monk, openly exhorted violence from his supporters, stating in a sermon that he would approve of attacks on Dr Mohamed Shafi because he was attempting to sterilize the Sinhala population.⁴¹⁵

Despite the CID submission to the court stating there was no evidence to substantiate the claims against Dr Shafi, on 12 December 2019, a new police team under the new government was assigned to Dr Shafi's case and the court ordered the evidence to be re-recorded.⁴¹⁶

The state has the responsibility to prevent such attacks, especially if there is an established pattern of violence that repeats itself every year, but the Sri Lankan authorities have done little to prevent and protect the Muslim community from harassment, discrimination or violence. Instead, law enforcement and the army were found to be complicit in some of the violence that was carried out after the Easter Sunday bombings. Instead of safeguarding and upholding the rights of the minority community, numerous governments have only doubled down on the demonization and discrimination of the Muslim community.

⁴⁰⁷ Reuters, "Unsubstantiated claims Muslim doctor sterilized women raise tensions in Sri Lanka", 6 June 2019, www.reuters.com/article/us-sri-lanka-doctor-insight/unsubstantiated-claims-muslim-doctor-sterilized-women-raise-tensions-in-sri-lanka-idUSKCN1T71HS (hereinafter: Reuters, "Unsubstantiated claims Muslim doctor sterilized women raise tensions in Sri Lanka")

⁴⁰⁸ Reuters, "Unsubstantiated claims Muslim doctor sterilized women raise tensions in Sri Lanka"

⁴⁰⁹ Reuters, "Unsubstantiated claims Muslim doctor sterilized women raise tensions in Sri Lanka"

⁴¹⁰ Daily FT, "CID informs Court no evidence found for all allegations against Dr. Shafi Shihabdeen", 28 June 2019, www.ft.lk/front-page/CID-informs-Court-no-evidence-found-for-all-allegations-against-Dr-Shafi-Shihabdeen/44-680838 (hereinafter: Daily FT, "CID informs Court no evidence found for all allegations against Dr. Shafi Shih")

⁴¹¹ Daily FT, "CID informs Court no evidence found for all allegations against Dr. Shafi Shih"

⁴¹² Reuters, "Sri Lanka court grants bail for doctor accused of sterilizing Buddhist women", 26 July 2019, www.reuters.com/article/us-sri-lanka-doctor/sri-lanka-court-grants-bail-for-doctor-accused-of-sterilizing-buddhist-women-idUSKCN1UK2SN

⁴¹³ Interview with Shreen Saroor via Signal on 10 December 2020

⁴¹⁴ Colombo Telegraph, "Two complainants against Dr Shafi are now pregnant: CID", 3 August 2019, www.colombotelegraph.com/index.php/two-complainants-against-dr-shafi-are-now-pregnant-cid/

⁴¹⁵ The Wire, "Sri Lankan finance minister protests anti-Muslim remarks of top Buddhist monk"

⁴¹⁶ The Sunday Morning, "New police team to probe on Dr. Shafi", 12 December 2019, www.themorning.lk/new-police-team-to-probe-on-dr-shafi-cid-tells-court/

"A DEAD BODY WILL BE WASHED WITH WATER FOR THE LAST TIME. AFTER WASHING IT WILL BE WRAPPED WITH A 6 YARD WHITE CLOTH. WHILE WASHING, THE BODY WILL BE KEPT ON A TABLE. THEY POUR THE WATER LITTLE BY LITTLE. THEY WASH THE HEAD AND APPLY SOAP. THEY TURN THE HEAD GENTLY; THE HANDS ARE MOVED GENTLY. THIS IS CALLED BATHING THE JANAZA. WE BELIEVE ALTHOUGH THE SOUL HAS DEPARTED, THE BODY HAS SOME LIFE, THE BODY WILL FEEL THE PAIN. THAT IS WHY WE HANDLE IT GENTLY AND BURY IT. UNTIL SUCH TIME WE BURY THE BODY WE HANDLE IT LIKE A FLOWER, WHEN WE PICK A FLOWER, WE HANDLE IT SMOOTHLY TO PREVENT ANY INJURY TO IT. BURIAL OF JANAZA IS THE RESPONSIBILITY OF THE SOCIETY. WE ALL PERFORM THIS DUTY. THEREFORE, THE WORD 'CREMATION OF THE BODY' IS PAINFUL TO ALL MUSLIMS."



8. CONTINUING MARGINALIZATION

In November 2019, seven months after the Easter Sunday bombings, Sri Lanka held a presidential election and elected Gotabaya Rajapaksa, a former wartime Secretary of Defence and the brother of the incumbent President Mahinda Rajapaksa.⁴¹⁷ Promising security and stability⁴¹⁸ to a nation reeling from the 19 April 2019 bombings, the worst violence since the civil war, President Gotabaya Rajapaksa was the candidate of the Sri Lanka *Podujana Peramuna* (SLPP), or Sri Lanka People's Front.⁴¹⁹

The SLPP's election campaign for Gotabaya Rajapaksa was aligned with Sinhala Buddhist nationalist ideology, and he often appeared at rallies supported by Buddhist monks.⁴²⁰ The votes were split along ethnic lines, with President Gotabaya Rajapaksa winning 52.25% of the votes.⁴²¹ According to reports, President Gotabaya Rajapaksa received votes predominantly from the Sinhala Buddhist community, with the majority of the Muslim and Tamil minority community votes going to his opponent, Sajith Premadasa.⁴²² In his first speech as president, Gotabaya Rajapaksa assured all communities that they would have the freedom to practise their religion, however, Amnesty International finds that these promises were swiftly reneged on. This chapter explores how the Gotabaya Rajapaksa government has systemically institutionalized anti-Muslim discrimination by enforcing racist and discriminatory state policies.

8.1 POLITICS OF DEMONIZATION

“The Rajapaksa regime has completely instrumentalized anti-Muslim sentiment and they did so from 2013 onwards and they are doing so now.”

Haya, civil society member⁴²³

Cover illustrations: Ema Anais

Cover photo: Colombo crematorium where Covid-19 victims were being cremated, by Ruki Fernando

⁴¹⁷ The New York Times, “Gotabaya Rajapaksa wins Sri Lanka Presidential Election”, 17 November 2019, www.nytimes.com/2019/11/17/world/asia/sri-lanka-gotabaya-rajapaksa-election.html

⁴¹⁸ Al Jazeera, “Gotabaya Rajapaksa sworn in as Sri Lanka's new president”, 18 November 2019, www.aljazeera.com/news/2019/11/18/gotabaya-rajapaksa-sworn-in-as-sri-lankas-new-president

⁴¹⁹ The Guardian, “Gotabaya Rajapaksa elected president of Sri Lanka”, 17 November 2019, www.theguardian.com/world/2019/nov/17/sri-lanka-presidential-candidate-rajapaksa-premadas-count-continues (hereinafter: The Guardian, “Gotabaya Rajapaksa elected president of Sri Lanka”)

⁴²⁰ The Diplomat, “Sri Lanka's Election results reveal a divided country”, 13 December 2019, thediplomat.com/2019/12/sri-lankas-election-results-reveal-a-divided-country/

⁴²¹ The Guardian, “Gotabaya Rajapaksa elected president of Sri Lanka”

⁴²² The Hindu, “Sri Lanka polls: How did the minorities vote, and why?”, 17 November 2019, www.thehindu.com/news/international/sri-lanka-polls-how-did-the-minorities-vote-and-why/article30000306.ece

⁴²³ Interview with Haya via Signal on 27 July 2021 (name has been changed to respect the interviewee's anonymity)

After successfully winning the election, President Gotabaya Rajapaksa and the SLPP continued to promote anti-Muslim rhetoric and sentiment. According to Farzana Haniffa, Head of the Department of Sociology at the University of Colombo and a prominent civil society member, President Gotabaya Rajapaksa has continued to reinforce his role as a Sinhala Buddhist leader against radical Islamic elements.⁴²⁴ For instance, the President's appointment of the task force to survey archaeological sites in the Eastern Province has been criticized. The Eastern Province, one of the most ethnically diverse provinces in the country, has historically witnessed issues over Buddhist, Hindu, Muslim, and Christian archaeological sites.⁴²⁵ These issues include access to land, ownership disputes, security restrictions, military occupation and land grabbing.⁴²⁶ In light of this, when President Gotabaya Rajapaksa appointed a task force in June 2020 to survey archaeological sites in the Eastern Province and to "take action to preserve them, due to concerns raised about their destruction",⁴²⁷ media reports and commentators voiced concerns that this task force would be used to further the Sinhala Buddhist nationalist agenda.⁴²⁸ President Gotabaya Rajapaksa appointed 11 people to this task force,⁴²⁹ all of them Sinhalese, despite the fact that the Eastern Province boasts archaeological sites from multiple religions and ethnicities.⁴³⁰ In August 2020, it was reported that the President had appointed an additional four members of the Buddhist clergy to the task force.⁴³¹ Despite the Eastern Province boasting archaeological sites from multiple religions and ethnicities, only Sinhalese people were selected to be on the task force. There was no representation from the Tamil or Muslim communities. Speaking to Amnesty International, R. Sampanthan, leader of the Tamil National Alliance (TNA) political party described the lack of minority representation on this task force as extremely problematic.⁴³²

“The issue that it [archaeological committee] raised symbolically was that it was very apparent that just by the officials who were appointed, in terms of ethnicity, it was going to look at one aspect of a really complicated situation... The composition [of the task force] suggests it has already chosen a side in these complicated land disputes and that was how they were planning on addressing it.”

Sameer, a human rights activist⁴³³

2021 also saw several instances where these incendiary anti-Muslim sentiments were subsequently reflected in state practice, including through the prohibition of the niqab and Covid-19 regulations on the mandatory cremation of the bodies of victims of the virus, in contravention of Islamic burial rites.⁴³⁴

⁴²⁴ Al Jazeera, “What is behind the anti-Muslim measures in Sri Lanka?”, 12 April 2021, www.aljazeera.com/opinions/2021/4/12/what-is-behind-the-anti-muslim-measures-in-sri-lanka (hereinafter: Al Jazeera, “What is behind the anti-Muslim measures in Sri Lanka?”)

⁴²⁵ Centre for Policy Alternatives, *Land in the Eastern Province: Politics, policy and conflict*, 2010, www.cpalanka.org/land-in-the-eastern-province-politics-policy-and-conflict/ (hereinafter: Centre for Policy Alternatives, *Land in the Eastern Province: Politics, policy and conflict*)

⁴²⁶ Centre for Policy Alternatives, *Land in the Eastern Province: Politics, policy and conflict*

⁴²⁷ Government of Sri Lanka, *The Gazette of the Democratic Socialist Republic of Sri Lanka*, No. 2178/17, 2020, documents.gov.lk/files/egz/2020/6/2178-17_E.pdf

⁴²⁸ News in Asia, “The politics of entrusting archaeological functions to the Defense Secretary”, 25 May 2020, newsin.asia/the-politics-of-entrusting-archaeological-functions-to-the-defense-secretary/

⁴²⁹ Two Buddhist monks, Major General (Rtd) Kamal Gunaratne, Director-General of Archaeology, Land Commissioner General, Surveyor General, two lecturers from the University of Kelaniya and University of Peradeniya, Senior Police Deputy Inspector General from the Western Province, the Provincial Land Commissioner of the Eastern Province, and Dilith Jayaweera, chairman of a media network closely allied with the current government

⁴³⁰ Government of Sri Lanka, *The Gazette of the Democratic Socialist Republic of Sri Lanka*, No. 2178/17, 2020, documents.gov.lk/files/egz/2020/6/2178-17_E.pdf

⁴³¹ Daily FT, “Four senior members of Buddhist clergy named to Task Force on EP archaeological sites”, 26 August 2020, www.ft.lk/news/Four-senior-members-of-Buddhist-clergy-named-to-Task-Force-on-EP-archaeological-sites/56-705132#X0XXF1xx7vU.twitter (hereinafter: Daily FT, “Four senior members of Buddhist clergy named to Task Force on EP archaeological sites”)

⁴³² Daily FT, “Four senior members of Buddhist clergy named to Task Force on EP archaeological sites”

⁴³³ Interview with Sameer via Signal on 1 June 2021 (name has been changed to respect the interviewee's anonymity)

⁴³⁴ Al Jazeera, “What is behind the anti-Muslim measures in Sri Lanka?”

8.2 INCIDENTS BETWEEN 5 AND 13 MARCH 2021

Over a period of nine days, from 5 to 13 March 2021, Amnesty International documented the following instances of discriminatory policies by the state, resulting in further targeting and marginalization of the Muslim population.

8.2.1 1. *NIQAB* BAN

The lifting of the temporary ban on the use of face veils following the Easter Sunday bombings was short lived, with the government considering a permanent ban of the *niqab*. On 27 April 2021, the cabinet approved the proposal by Public Security Minister Sarath Weerasekera to ban the use of face veils.⁴³⁵ Ironically this was during the Covid-19 pandemic when people were required to wear face masks to prevent the spread of the virus. The minister, referring to the face veil as a “sign of religious extremism”,⁴³⁶ stated that the ban was for the betterment of national security.⁴³⁷ A cabinet spokesman said that the proposal is being drafted and will eventually be brought to Parliament.⁴³⁸

According to academics, the persistent attempts by the government to infringe on Muslim women’s freedom of religion, through bans such as this, stems from the idea that the face veil is a means of “cultural othering”⁴³⁹ – Muslim women setting themselves apart from the rest of “Sri Lankan society”.⁴⁴⁰ While it can be argued that the *niqab* is not a piece of clothing native to Sri Lanka, and is donned by predominantly conservative Muslim groups, activists say such a ban will obstruct Muslim women’s choice to wear a face veil as part of their religious belief.⁴⁴¹ Practically, it will impact on their ability to move freely in society and will push them further into isolated home structures.⁴⁴²

“After the Easter Sunday attack, when there was a ban of the *niqab*, the women struggled a lot. One woman said, ‘I feel like I’m going naked, when I’m opening my face [not wearing the *niqab*].’ And there were even women who had not gone to see the doctors. They did not go out when they became sick.”

Zainab, human rights activist⁴⁴³

“One woman told me, ‘I don’t care even if die, I will not go outside. The day they lift it [*niqab* ban] I will go out. This will be our life until such time.’”

Ameera, human rights defender⁴⁴⁴

⁴³⁵ Al Jazeera, “Sri Lanka cabinet approves proposed ban on burqas in public”, 28 April 2021, www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public (hereinafter: Al Jazeera, “Sri Lanka cabinet approves proposed ban on burqas in public”)

⁴³⁶ Al Jazeera, “Sri Lanka cabinet approves proposed ban on burqas in public”

⁴³⁷ Al Jazeera, “Sri Lanka cabinet approves proposed ban on burqas in public”

⁴³⁸ The Hindu, “Sri Lanka Cabinet clears proposal for burqa ban”, 27 April 2021, www.thehindu.com/news/international/sri-lanka-cabinet-clears-proposal-for-burqa-ban/article34423704.ece

⁴³⁹ D. Herath & H. Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*

⁴⁴⁰ D. Herath & H. Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*

⁴⁴¹ Interview with Ermiza Tegal via Microsoft Teams on 14 June 2021

⁴⁴² Interview with Ermiza Tegal via Microsoft Teams on 14 June 2021

⁴⁴³ Interview with Zainab via Signal on 15 January 2021 (name has been changed to respect the interviewee’s anonymity)

⁴⁴⁴ Interview with Ameera via Signal on 15 January 2021 (name has been changed to respect the interviewee’s anonymity)

Furthermore, as witnessed during the previous temporary ban, there were concerns that the ban would lead to Muslim women being targeted by the authorities, either out of prejudice or ignorance of the differentiation between a *hijab* and a *niqab*.

“I was asked to remove my *hijab* at the checkpoint. I said, ‘I don’t have to remove the *hijab*, I’m showing the face. I have removed the face cover. So why should I remove the headscarf?’ It was by female soldier at the checkpoint. So I had to argue with her and then she let me go.”

Zainab, human rights activist⁴⁴⁵

The proposed *niqab* ban is not the only piece of legislation that is expressly discriminatory against Muslim women and girls. The Muslim Marriage and Divorce Act of 1951 (MMDA), applicable to all Muslims, is an archaic law that has several discriminatory provisions, including permitting child marriage, polygamy and placing the burden of proof on the wife to provide sufficient reason and grounds for divorce when claiming maintenance and filing for divorce.⁴⁴⁶ A Muslim man is not required to provide similar reasons when filing for a divorce.

The Government of Sri Lanka is duty bound to reform the MMDA in line with international human rights law and standards. The lack of reform of this archaic legislation, despite local Muslim women’s groups⁴⁴⁷ and international bodies⁴⁴⁸ continuously calling for amendments, is discrimination against, and a violation of, the rights of Muslim women and girls. The section below will examine the intersection between calls for reform of the MMDA and how these efforts have been impacted by anti-Muslim sentiment and rhetoric.

THE MUSLIM MARRIAGE AND DIVORCE ACT OF 1951

The MMDA in its current form is in violation of domestic and international human rights law, specifically the rights of women and girls to non-discrimination and equal treatment and protection under the law. It requires urgent and substantial amendments to ensure the protection of these rights.

Article 12 of the Constitution of Sri Lanka guarantees equality as a fundamental right and states that no citizen can be discriminated against on grounds of race, religion, language, caste, sex, political opinion or place of birth.⁴⁴⁹ Furthermore, Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Sri Lanka ratified in 1981, specifically states that parties must take measures to end discrimination against women in matters of marriage and family relations.⁴⁵⁰ Article 16 further states that men and women must have equal rights to enter marriage, freely choose a spouse and freely consent to their marriage.

According to CEDAW, men and women must also have equal rights and responsibilities both in the marriage and upon its dissolution, and equal rights and responsibilities as parents to decide on the number and spacing of children and of guardianship.⁴⁵¹ Article 16 of CEDAW must also be read in line with CEDAW General Recommendation 21, which states that polygamous marriages are an affront to a woman’s right to equality and that a woman’s right to choose her spouse and enter into a marriage freely is essential to life and dignity as an equal individual.⁴⁵²

⁴⁴⁵ Interview with Zainab via Signal on 15 January 2021 (name has been changed to respect the interviewee’s anonymity)

⁴⁴⁶ UN, *Report of the Special Rapporteur on freedom of religion or belief: Visit to Sri Lanka*, 2020, UN Doc. A/HRC/43/48/Add.2, undocs.org/A/HRC/43/48/Add.2

⁴⁴⁷ Muslim Personal Law Reform Action Group, *Muslim women’s demands 2020*, 2020, www.mmdasrilanka.org/muslim-womens-demands-2020/

⁴⁴⁸ Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on the eighth periodic report of Sri Lanka*, 2017, UN Doc. CEDAW/C/LKA/CO/8

⁴⁴⁹ Constitution of the Democratic Socialist Republic of Sri Lanka, 2021, www.parliament.lk/files/pdf/constitution.pdf

⁴⁵⁰ UN Treaty Body Database, tinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN; UN Convention on the Elimination of All Forms of Discrimination against Women, 1979, www.ohchr.org/en/professionalinterest/pages/cedaw.aspx

⁴⁵¹ Article 16, UN Convention on the Elimination of All Forms of Discrimination against Women, 1979,

www.ohchr.org/en/professionalinterest/pages/cedaw.aspx

⁴⁵² CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations, 1994, www.refworld.org/docid/48abd52c0.html

THE STRUGGLE TO AMEND

Women's rights groups have been fighting for comprehensive reforms of the legislation, to ensure equality and justice for Muslim women and girls. In brief, rights groups have been advocating for amendments such as, but not limited to, the minimum age of marriage to be 18 years without exception; for women to be eligible to be appointed as *Quazis* (judges in the *Quazi* court, a judicial body), members of the Advisory Board, Board of *Quazis*, marriage registrars and assessors (jurors); for polygamy to be abolished; and for a signature or thumbprint of both the bride and the groom to be mandatory in all official marriage documentation.⁴⁵³

A committee set up by the government in 2009 to put forward suggested amendments to the MMDA submitted their report to the Minister of Justice nine years later, in February 2018.⁴⁵⁴ Groups who opposed these amendments, including the *Jamaiyathul Ulema* (ACJU),⁴⁵⁵ submitted a different set of recommendations.⁴⁵⁶ Subsequently, in July 2018, the government committee made their report public, including both the original recommendations and recommendations from the opposing groups.⁴⁵⁷ The Muslim Personal Law Reform Action Group (MPLRAG), a women's rights group, said these recommendations did not sufficiently address discriminatory provisions and concerns of Muslim women.⁴⁵⁸ The execution of these recommendations was subsequently put on hold.⁴⁵⁹

Following the Easter Sunday bombings, in July 2019, Muslim Members of Parliament proposed a set of recommendations on MMDA reforms, resulting from increased public scrutiny of the law. The document, which was forwarded to the Ministry of Justice on 6 August 2019, was weak and in places suggested detrimental reforms.⁴⁶⁰ Despite this, the cabinet approved these recommendations in August 2020 and the Legal Draftsman's Department was reportedly in the process of drafting an MMDA amendment bill.⁴⁶¹

While Muslim women were fighting for the amendment of the MMDA, in January 2020, Minister of Parliament and Buddhist monk, Rathana Thero submitted a Private Member's Bill to completely repeal the MMDA.⁴⁶² The repeal of the MMDA would infringe on the rights of Muslims to be married in accordance with their religious and cultural rights, and disregards the clear calls from Muslim women groups to reform the law. Rathana Thero was formally the Chairman of JHU, a Sinhala nationalist political party,⁴⁶³ and is currently a sitting Minister of Parliament after he contested the 2020 general elections from the *Ape Jana Bala* political party, along with Gnanasara, who also contested from the same party.⁴⁶⁴

In January 2021, Justice Minister Ali Sabry confirmed that the government would amend 37 pieces of legislation, including raising the minimum age of marriage to 18 in the MMDA.⁴⁶⁵ At the time of writing, these amendments were yet to materialize.

The battle for the reform of the MMDA has been a difficult one for activists and allies. Their demands to repeal the regressive and discriminatory provisions in the MMDA were met with opposition from conservative factions of the Muslim community,⁴⁶⁶ while racist nationalistic factions – such as Rathana Thero's attempts to repeal the MMDA – use the concerns of women to rationalize further marginalization of the Muslim community.⁴⁶⁷ Any reforms of the MMDA must be centred around the experiences and concerns raised by Muslim women and girls, and their allies.

⁴⁵³ MPLRAG, *Muslim women's demands 2020*, 2020, www.mmdasrilanka.org/muslim-womens-demands-2020/

⁴⁵⁴ MPLRAG, "FAQs: What is happening with MMDA reforms?", 17 August 2020, www.mmdasrilanka.org/faqs-what-is-happening-with-mmda-reform/ (hereinafter: MPLRAG, "FAQs: What is happening with MMDA reforms?")

⁴⁵⁵ A conservative all-male group of religious leaders

⁴⁵⁶ MPLRAG, "FAQs: What is happening with MMDA reforms?"

⁴⁵⁷ MPLRAG, "FAQs: What is happening with MMDA reforms?"

⁴⁵⁸ MPLRAG, "FAQs: What is happening with MMDA reforms?"

⁴⁵⁹ ADA Derana, "Rathana Thera tables Private Member's Bill to repeal MMDA", 8 January 2020, www.adaderana.lk/news/60099/rathana-thera-tables-private-members-bill-to-repeal-mmda (hereinafter: ADA Derana, "Rathana Thera tables Private Member's Bill to repeal MMDA")

⁴⁶⁰ MPLRAG, "FAQs: What is happening with MMDA reforms?"

⁴⁶¹ *FAQs: What is happening with MMDA reforms?*

⁴⁶² ADA Derana, "Rathana Thera tables Private Member's Bill to repeal MMDA"

⁴⁶³ BBC Sinhala, "JHU leader 'ousted' by the party", 2016, www.bbc.com/sinhala/news/story/2010/06/100621_jhu

⁴⁶⁴ ColomboPage, "Athuraliye Rathana Thero sworn in as Member of Parliament", 5 January 2021, www.colombopage.com/archive_21A/Jan05_1609825724CH.php

⁴⁶⁵ Daily FT, *Govt. to amend 37 existing laws including MMDA*, 7 January 2021, www.ft.lk/news/Govt-to-amend-37-existing-laws-including-MMDA/56-711303

⁴⁶⁶ *FAQs: What is happening with MMDA reforms?*

⁴⁶⁷ ADA Derana, *Rathana Thera tables Private Member's Bill to repeal MMDA*, 8 January 2020, www.adaderana.lk/news/60099/rathana-thera-tables-private-members-bill-to-repeal-mmda

FROM BURNING HOUSES TO BURNING BODIES

ANTI-MUSLIM VIOLENCE, DISCRIMINATION AND HARASSMENT IN SRI LANKA

8.2.2 2. MADRASAS

On 13 March 2021, Minister for Public Security Sarath Weerasekera announced government plans to ban more than 1,000 *madrasas* to “control extremist activities” in the country.⁴⁶⁸ If enforced, the ban would amount to discrimination solely on the ground of religion, and would be a violation of Article 18 of the ICCPR, which protects the freedom to manifest religion or belief in worship, observance, practice and teaching.⁴⁶⁹ Additionally, Article 27 of the ICCPR protects the rights of religious minorities to profess and practise their religion in a community with other members.⁴⁷⁰ To justify any limitation to this right, the state must show that the limitation is prescribed by law and is necessary to protect public safety, order, health, morals or the fundamental rights and freedom of others, and is proportionate to the legitimate governmental objective.⁴⁷¹ The proposed ban of *madrasas* does not meet these criteria, because it constitutes a blanket ban that is not based on a realistic assessment of any danger posed by *madrasas*. Thus, while it would be legitimate for the state to regulate the provision of education in *madrasas* including to ensure that they do not propagate discriminatory or violent ideologies, this cannot justify a blanket ban of all such schools.

Sri Lanka has a further duty under Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to respect the liberty of parents and legal guardians to choose schools for their children, so long as the schools conform to minimum educational standards as laid down by the state, and to ensure the religious education of their children in conformity with their own convictions.⁴⁷² In the event the state believes that *madrasas* do not conform with state minimum educational standards, the state authorities should work with these religious schools to ensure they follow national educational policies and standards, rather than imposing an outright ban on *madrasas*.⁴⁷³

8.2.3 3. ISLAMIC RELIGIOUS BOOKS

In June 2020, the Sri Lankan Customs Authority began seizing Islamic religious books brought into Sri Lanka.⁴⁷⁴ Nearly a year later, in March 2021, the Ministry of Defence stated that Islamic books brought into Sri Lanka will only be released after being analyzed and reviewed by the Ministry of Defence, as an alleged ‘counter-terrorism measure’.⁴⁷⁵ This government directive appears to be a clear violation of Articles 18 and 27 of the ICCPR, which state that everyone has the freedom to thought, conscience and religion, and that religious minorities must not be denied the right to practise their religion.⁴⁷⁶

8.3 COVID-19 AND DISCRIMINATION OF MUSLIMS

On 30 March 2020 in Negombo, when the first Muslim person died because of Covid-19, his body was forcibly cremated by health officials against the wishes of his family, and despite protests by the Muslim community, religious, and political leaders.⁴⁷⁷ At the time, both burials and cremations of Covid-19-related deaths were permitted by the Ministry of Health guidelines. It was only on 31 March that the guidelines were revised by the Ministry of Health, requiring the cremation of bodies in confirmed or suspected fatal cases of Covid-19.⁴⁷⁸ The guidelines were introduced even though the World Health Organization’s (WHO) interim

⁴⁶⁸ Reuters, “Sri Lanka to ban burqa, shut many Islamic schools, minister says”, 13 March 2021, www.reuters.com/article/us-sri-lanka-islam-idUSKBN2B5091; Newswire, “I signed the cabinet paper yesterday to ban wearing Burqa in SL” Minister (Audio)”, 13 March 2021, www.newswire.lk/2021/03/13/i-signed-the-cabinet-paper-yesterday-to-ban-wearing-burqa-in-sl-minister-audio/; Economic Times, “Sri Lanka mulls madrasa ban, wearing burqas”, 13 March 2021, www.economictimes.indiatimes.com/news/international/world-news/sri-lanka-to-ban-burqa-shut-many-islamic-schools-minister-for-public-security-says/articleshow/81482928.cms?from=mdr

⁴⁶⁹ Article 18(1), ICCPR

⁴⁷⁰ Article 27, ICCPR

⁴⁷¹ Article 18(3), ICCPR

⁴⁷² Article 13(3), ICESCR

⁴⁷³ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka’s Muslim community* (Index: ASA 37/3866/2021) (hereinafter: Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka’s Muslim community*)

⁴⁷⁴ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka’s Muslim community*

⁴⁷⁵ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka’s Muslim community*

⁴⁷⁶ Article 18(1) and Article 27, ICCPR

⁴⁷⁷ Amnesty International, “Sri Lanka: Religious minorities must have their final rites respected”, Press release, 3 April 2020, www.amnesty.org/en/latest/news/2020/04/sri-lanka-religious-minorities-must-have-their-final-rites-respected/ (hereinafter: Amnesty International, “Sri Lanka: Religious minorities must have their final rites respected”)

⁴⁷⁸ Amnesty International, “Sri Lanka: Religious minorities must have their final rites respected”

guidelines clearly stated that there was no evidence to suggest that Covid-19 could spread from a dead body.⁴⁷⁹

In the Islamic tradition, burials are a key requirement during a person's last rites, and the forced cremation of Muslim victims of Covid-19 caused immense pain to the Muslim community.

“A dead body will be washed with water for the last time. After washing it will be wrapped with a six-yard white cloth. While washing, the body will be kept on a table. They pour the water little by little. They wash the head and apply soap. They turn the head gently; the hands are moved gently. This is called bathing the *janaza*. We believe although the soul has departed, the body has some life, the body will feel the pain. That is why we handle it gently and bury it. Until such time we bury the body we handle it like a flower. When we pick a flower, we handle it smoothly to prevent any injury to it. Burial of *janaza* is the responsibility of the society. We all perform this duty. Therefore, the word ‘cremation of the body’ is painful to all Muslims.”

Ameera, human rights defender⁴⁸⁰

Despite assurances from local and international experts that the burial of Covid-19 victims would not further the spread of the virus, the government continued to impose the arbitrary enforcement of cremations, in clear violation of the ICCPR, ICERD and UDHR, as well as the Fundamental Right to non-discrimination and the freedom to manifest one's own religion or belief safeguarded by the Constitution of Sri Lanka.

While the exact number of forcibly cremated Covid-19 victims remains unknown, a news report published on 4 December 2020 documented that of the 124 Covid-19 deaths in Sri Lanka, more than 50 were Muslims, who were forcibly cremated.⁴⁸¹ Media reports also documented cases of forced cremations of Muslims who tested negative for Covid-19, such as 44-year-old Zubair Fathima Rinosa in Colombo.⁴⁸² Rinosa's son told the media that he was forced to sign a document that consented to the cremation of his mother's body.⁴⁸³

“Three days ago I met an old lady. She told me, ‘Child, I am not scared to die, but I pray to Allah that I should not die

⁴⁷⁹ WHO, *Water sanitation hygiene, Technical note 8. Disposal of dead bodies in emergency conditions*, www.who.int/water_sanitation_health/publications/tech_note8/en/index1.html

⁴⁸⁰ Interview with Ameera via Signal on 15 January 2021 (name has been changed to respect the interviewee's anonymity)

⁴⁸¹ The Guardian, “Muslims in Sri Lanka ‘denied justice’ over forced cremations of Covid victims”, 4 December 2020, www.theguardian.com/world/2020/dec/04/muslims-sri-lanka-justice-forced-cremations-covid-victims

⁴⁸² Al Jazeera, “Sri Lanka: Muslims face extra threat as coronavirus stirs hate”

⁴⁸³ EconomyNext, “Cremating Muslim COVID-19 victims has no scientific basis, is more than a Muslim issue: activist”, 19 May 2020, www.economynext.com/cremating-muslim-covid-19-victims-has-no-scientific-basis-is-more-than-a-muslim-issue-activist-70148/

during this period. If I die during this period, they might burn my body.’”

Yusra, human rights activist⁴⁸⁴

In July 2020, the government’s Chief Epidemiologist, Dr. Sugath Samaraweera, justified this discriminatory state practice stating that burials would “contaminate ground drinking water”.⁴⁸⁵ There was, however, no evidence to support this claim. In fact, in January 2021, the State Minister of Primary Health Care, Epidemics and Covid-19 Disease Control refuted this claim.⁴⁸⁶

“From the Muslim communities’ side, what it seemed to illustrate was the fact that within a couple of weeks it was clear that it wasn’t established on any scientific basis. Then it just seemed that it was based on deep-rooted and at times unspoken communalism, which is evident not just in government but in other key areas of decision-making including among professionals. Because it wasn’t a decision just made by people in the ruling alliance, it was also from doctors.”

Sameer, human rights activist⁴⁸⁷

On 8 April 2020, some Special Rapporteurs⁴⁸⁸ wrote to President Gotabaya Rajapaksa about the forced cremation of victims of Covid-19.⁴⁸⁹ They stated that the policy that ordered mandatory cremation was “inconsistent with the Infection Prevention and Control for the safe management of a dead body in the context of Covid-19 guideline provided by World Health Organisation (WHO Guideline)”.⁴⁹⁰ They further expressed concern about the lack of consideration and sensitivity of different “communities and their religious and cultural practices”.⁴⁹¹ Citing Article 18(3) of the ICCPR, the Special Rapporteurs further explained that any limitation of religion or belief must be non-discriminatory in intent or effect, and as such the prohibition of burials would be in contravention of the ICCPR.⁴⁹² The Special Rapporteurs wrote to the government again on 25 January 2021 urging the government to end its policy of forced cremations.⁴⁹³

⁴⁸⁴ Interview with Yusra via Zoom on 20 January 2021 (name has been changed to respect the interviewee’s anonymity)

⁴⁸⁵ BBC News, “Coronavirus funerals: Sri Lanka’s Muslims decry forced cremation”, 5 July 2020, www.bbc.com/news/world-asia-53295551

⁴⁸⁶ News 1st, “Covid-19 is air-borne & not water-borne; Dr. Sudarshini”, 4 January 2021, www.newsfirst.lk/2021/01/04/covid-19-is-air-borne-dr-sudarshini/

⁴⁸⁷ Interview with Sameer via Signal on 1 June 2021 (name has been changed to respect the interviewee’s anonymity)

⁴⁸⁸ Special Rapporteur on freedom of religion or belief, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Special Rapporteur on minority issues and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

⁴⁸⁹ UN, *Communication by Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on minority issues; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, 8 April 2020, spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25175 (hereinafter: UN, *Communication by Mandates of the Special Rapporteur*)

⁴⁹⁰ UN, *Communication by Mandates of the Special Rapporteur*

⁴⁹¹ UN, *Communication by Mandates of the Special Rapporteur*

⁴⁹² UN, *Communication by Mandates of the Special Rapporteur*

⁴⁹³ UNCHR, “Sri Lanka: Compulsory cremation of COVID-19 bodies cannot continue, say UN experts”, 25 January 2021, www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26686&LangID=E (hereinafter: OHCHR, “Sri Lanka: Compulsory cremation of COVID-19 bodies cannot continue, say UN experts”)

“The imposition of cremation as the only option for handling the bodies confirmed or suspected of COVID-19 amounts to a human rights violation. There has been no established medical or scientific evidence in Sri Lanka or other countries that burial of dead bodies leads to increased risk of spreading communicable diseases such as COVID-19.”⁴⁹⁴

On 21 May 2020, 20 Muslim groups called on the Minister of Health and urged him to revoke the Gazette amending the Ministry of Health guidelines that made cremations mandatory.⁴⁹⁵ They highlighted that more than 185 countries permitted both burials and cremations and pointed to the lack of prior consultation with the affected community.

The discrimination against the Muslim community extended beyond forced cremations. In a concept proposal for the Covid-19 exit strategy presented to President Gotabaya Rajapaksa, the Government Medical Officers' Association (GMOA) and the Information and Communication Technology Agency Sri Lanka (ICTA) identified the Muslim population as a variable in their methodology to determine the risk of the spread of Covid-19 in each district.⁴⁹⁶ The report assigned the highest weight of risk to the Muslim population variable, which implied that the larger the Muslim population, the greater the risk of the virus spreading in those areas. This racial profiling was met with heavy criticism on social media and the ICTA subsequently disassociated itself from the report.⁴⁹⁷ The GMOA has since deleted this version of the report. The revised version, which incidentally does not bear the ICTA name or logo, does not refer to the 'Muslim population', or replaces it with the term 'population density'.⁴⁹⁸

The Muslim community came out in strong opposition against the forced cremation of Covid-19 victims and following pressure from several international and local groups, including the Organisation of Islamic Cooperation (OIC),⁴⁹⁹ it was reported in November 2020 that a government-appointed committee would meet to reassess the government's policy on mandatory cremations.⁵⁰⁰ The committee, however, reaffirmed the decision to permit only the cremation of dead bodies.⁵⁰¹ The HRCSL then wrote to the Ministry of Health urging the Gazette to be amended to allow burials.⁵⁰²

“... [T]he Commission observes that mandating cremation of those who have died or suspected to have died from COVID-19 is neither necessary nor proportionate to the achievement of protection of public health and therefore is not a

⁴⁹⁴ OHCHR, “Sri Lanka: Compulsory cremation of COVID-19 bodies cannot continue, say UN experts”

⁴⁹⁵ Daily FT, “20 Muslim groups call on Health Minister to rescind Gazette on mandatory cremation”, 21 May 2020, www.ft.lk/news/20-Muslim-groups-call-on-Health-Minister-to-rescind-Gazette-on-mandatory-cremation/56-700527#.XsXk8M3qPDk.twitter

⁴⁹⁶ GMOA/ICTA, *Covid-19 exit strategy Sri Lanka*, 2020, www.gmoa.lk/gmoa-icta-covid-19-exit-strategy-concept-proposal/

⁴⁹⁷ Daily FT, “ICTA disassociates itself from GMOA's controversial Exit Strategy”, 20 April 2020, www.ft.lk/front-page/ICTA-disassociates-itself-from-GMOA-s-controversial-Exit-Strategy/44-698999

⁴⁹⁸ GMOA/ICTA, *Covid-19 Exit Strategy Sri Lanka*, 2020, www.gmoa.lk/gmoa-icta-covid-19-exit-strategy-concept-proposal/

⁴⁹⁹ Independent Permanent Human Rights Commission (IPHRC) of The Organisation of Islamic Cooperation (OIC), “OIC-IPHRC expressed deep concerns over reports of forced cremation of bodies of Muslims who died due to Coronavirus by the Sri Lankan authorities as violative of the right to freedom of religion of its Muslim minority”, 4 November 2020, oic-iphrc.org/web/index.php/site/view_news/?id=469

⁵⁰⁰ Xinhua Net, “Sri Lanka to reconsider mandatory cremation for COVID-19 deaths”, 4 November 2020, www.xinhuanet.com/english/2020-11/04/c_139490654.htm

⁵⁰¹ Colombo Gazette, “Expert committee maintains cremation of Covid victims only option”, 22 November 2020, colombogazette.com/2020/11/22/expert-committee-maintains-cremation-of-covid-victims-only-option/

⁵⁰² HRCSL, *HRCSL observations and recommendations on Extraordinary Gazette No. 2170/8 dated 11th April 2020*, 2020, www.hrcsl.lk/wp-content/uploads/2020/02/Observations-Recommendations-Disposal-Dead-Bodies-Covid19_compressed.pdf (hereinafter: HRCSL, *HRCSL observations and recommendations on Extraordinary Gazette No. 2170/8 dated 11th April 2020*)

permissible restriction of the freedom to manifest religion or beliefs.”

Ramani Muttettuwagama, Commissioner in Charge of Investigations and Inquiries, HRCSL⁵⁰³

On 1 December 2020, the Supreme Court of Sri Lanka dismissed all the Fundamental Rights petitions before the court challenging the forced cremation directive,⁵⁰⁴ without giving any reasons. The Ministry of Health subsequently appointed a second expert panel of “virologists, microbiologists and immunologists for the expert opinion on safe disposal of human remains of Covid-19 infected people”.⁵⁰⁵ On 2 January 2021, it was reported that this committee had advised that the burial of Covid-19 victims may be permitted under strict conditions, which they set out in their report;⁵⁰⁶ however, on 7 January, the Minister of Health denied the existence of the committee and claimed that it was merely an ‘informal’ group.⁵⁰⁷ The Minister of Health confirmed that mandatory cremations would continue.⁵⁰⁸

In the days leading up to the UN Human Rights Council session in February and March 2021, where member states were to consider a new resolution on the degenerating human rights situation in Sri Lanka, Imran Khan, the Prime Minister of Pakistan, was due to visit the country on 22 February 2021.⁵⁰⁹ Shortly before Prime Minister Khan’s visit, on 10 February 2021, Prime Minister Mahinda Rajapaksa stated that burials of Covid-19 victims would be permitted.⁵¹⁰ Prime Minister Imran Khan welcomed this decision via a post on Twitter,⁵¹¹ but the next day State Minister Sudarshini Fernandopulle clarified that mandatory cremations would continue and that the government would rely on the decision of ‘the expert committee’.⁵¹²

At a high-level segment at the UNHRC, the OIC stated:

“The OIC is concerned with the situation of Muslims in Sri Lanka, as they are being denied the right to bury the bodies of virus victims following Islamic rules, while adhering to World Health Organisation guidelines.”

OIC Secretary General Yousef Al Othaimen at the 46th Session of the UNHRC on 24 February 2021⁵¹³

On 26 February 2021, the Government of Sri Lanka, in the face of mounting international pressure, finally reversed its decision and permitted the burial of bodies of Covid-19 victims.⁵¹⁴ At the time of writing, the burials are currently only permitted in Oddamavadi, a town in the Eastern Province. Bodies of Covid-19 victims must be transported to burial sites in this town, a journey that can take over six hours from the

⁵⁰³ HRCSL, *HRCSL observations and recommendations on Extraordinary Gazette No. 2170/8 dated 11th April 2020*

⁵⁰⁴ The Guardian, “Muslims in Sri Lanka ‘denied justice’ over forced cremations of Covid victims”, 4 December 2020, www.theguardian.com/world/2020/dec/04/muslims-sri-lanka-justice-forced-cremations-covid-victims

⁵⁰⁵ Amnesty International is in possession of the appointment letter sent to committee members by the Ministry of Health.

⁵⁰⁶ EconomyNext, “Expert committee says burial of Covid 19 dead can take place with precautions”, 2 January 2021, economynext.com/expert-committee-says-burial-of-covid-19-dead-can-take-place-with-precautions-77463/

⁵⁰⁷ Twitter, Ali Zahir Moulana, twitter.com/alizmoulana/status/1347119380832735240?s=20

⁵⁰⁸ Twitter, Ali Zahir Moulana, twitter.com/alizmoulana/status/1347119380832735240?s=20

⁵⁰⁹ The International News, “PM Imran Khan will pay maiden visit to Sri Lanka on Feb 22”, 10 February 2021, www.thenews.com.pk/print/787811-pm-will-pay-maiden-visit-to-sri-lanka-on-feb-22

⁵¹⁰ Al Jazeera, “Sri Lanka to allow COVID burials for Muslims after outcry”, 10 February 2021, www.aljazeera.com/news/2021/2/10/sri-lanka-allows-first-covid-burial

⁵¹¹ Twitter, Imran Khan, 10 February 2021, twitter.com/ImranKhanPTI/status/1359509392597651457?s=20

⁵¹² EconomyNext, “Expert committee to decide on Sri Lanka’s COVID-19 burials, despite earlier assurance”, 11 February 2021, economynext.com/expert-committee-to-decide-on-sri-lanka-covid-19-burials-despite-earlier-assurance-78772/

⁵¹³ Daily FT, “OIC raises Lanka’s forced cremations policy at UNHRC”, 25 February 2021, www.ft.lk/front-page/OIC-raises-Lanka-s-forced-cremations-policy-at-UNHRC/44-713831

⁵¹⁴ Amnesty International, “Sri Lanka: Ending of forced cremations for COVID-19 victims restores dignity of Muslim burials”, Press release, 26 February 2021, www.amnesty.org/en/latest/news/2021/02/sri-lanka-ending-of-forced-cremations-for-covid-19-victims-restores-dignity-of-muslim-burials/

capital Colombo. The location of these burial sites, activists say, is a form of “othering” and marginalization.⁵¹⁵

“Certainly, it’s a bad deal that you’re left with, so you’re forced to bargain within these unreasonable parameters and forced to accept the unreasonable solutions... The fact that the location chosen is on the East Coast is a fall back by the state in again marginalizing the community... That ‘othering’, that marginalization, that very unwelcome approach to this group of citizens is very present in that move as well.”

Ermiza Tegel, activist⁵¹⁶

“WHAT HAPPENED TO US MUST NEVER HAPPEN TO ANYONE”⁵¹⁷

Baby Shaykh was only 20 days old when authorities pronounced him Covid-19 positive. The authorities claimed that a rapid test for Covid-19 (an antigen test), conducted when he was taken to the hospital on 7 December 2020, had come back positive. Both his parents, including his mother who was breastfeeding him, had tested negative. This had created doubts in his parents’ minds about the credibility of the test and whether the results were in fact a false positive. The hospital asked Shaykh’s parents to stay at home and not to visit their baby who had been moved to the intensive care unit.⁵¹⁸

Speaking to Amnesty International, Shaykh’s father, M.F.M. Faahim, said that it was only on 8 December 2020 when he called the hospital to check on his child’s condition that he was informed that his baby had died earlier that day. When Shaykh’s parents attempted to claim their baby’s body, the hospital refused to give it to them. They even refused to show them the report that stated that Shaykh had tested positive for Covid-19.⁵¹⁹ Faahim and other family members refused to sign any document permitting the cremation of the baby. They pleaded for their baby to be buried in accordance with their religious beliefs; however, his body was forcibly cremated against their wishes.

“What they said was ‘place the signature and go, we are not able to give you the body’. We refused to sign because we didn’t want the cremation to take place.”

M.F.M. Faahim, father of baby Shaykh⁵²⁰

Faahim told Amnesty International that he received a call from a Public Health Inspector (PHI) on 9 December 2020, who said they would be cremating his baby’s body, despite the lack of consent from Shaykh’s parents. Shaykh’s parents refused to collect their baby’s ashes following the cremation.⁵²¹

“They told us to come to the cemetery. I stayed out because I couldn’t see or talk about it. That’s why I stayed out. I was unable to go in.”

M.F.M. Faahim, father of baby Shaykh⁵²²

⁵¹⁵ Interview with Ermiza Tegel via Microsoft Teams on 14 June 2021 via Microsoft Teams

⁵¹⁶ Interview with Ermiza Tegel via Microsoft Teams on 14 June 2021 via Microsoft Teams

⁵¹⁷ Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

⁵¹⁸ Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

⁵¹⁹ Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

⁵²⁰ Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

⁵²¹ Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

⁵²² Interview with M.F.M. Faahim via WhatsApp on 27 January 2021

"THE PTA HAD BEEN USED TO COMMIT SOME OF THE
WORST HUMAN RIGHTS VIOLATIONS."



9. TARGETED BY THE STATE

Since coming to power in 2019, the Government of Sri Lanka has targeted key voices critical of the government, including lawyers, journalists, and human rights defenders.⁵²³ Amnesty International has documented the deteriorating human rights situation in Sri Lanka,⁵²⁴ including the crackdown on civil society and freedom of expression, and the resulting climate of fear in the country.⁵²⁵ This chapter demonstrates the impact of the crackdown on dissent, and how the legal system is being used to target and harass the minority Muslim community.

9.1 ARRESTS

The following section details three emblematic cases of Muslims who were, or are currently, arbitrarily detained and became symbolic of a wider issue of state discrimination, harassment, and the targeted use of legislation against minority communities.

9.1.1 RAMZY RAZEEL

Ramzy Razeel, a retired government official and commentator on social media, regularly advocated for inter-faith harmony, equality, justice and anti-racism.⁵²⁶ On 2 April 2020, Ramzy posted the following on Facebook:

“... Muslims have been surrounded on all sides by racist groups operating in the country in a manner that they are unable to face such an ideological war. The Muslim community remains shocked being unable to do anything in the face of intellectual attack... Muslims should immediately prepare for an ideological *jihad* [struggle] for the country and all its citizens, using the pen and keyboard as weapons. Muslims should focus more on helping people understand truth through an ideological struggle, using every available space, including the mainstream media and social media, to face the hate propaganda against Muslims, who are also people in this country. Nothing is impossible.”⁵²⁷

Following his post, Ramzy received death threats from several people, prompting him to file a police complaint with the Inspector General of Police on 9 April 2020. Instead of looking into his complaint, the police detained Ramzy on 9 April 2020, without charge or access to a lawyer. In the absence of a formal

Cover illustrations: Ema Anais

Cover photo: Destroyed Muslim-owned home, by Thyagi Ruwanpathirana

⁵²³ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*

⁵²⁴ Amnesty International, *Sri Lanka: Oral statement at the interactive dialogue on the UN High Commissioner for Human Rights report on Sri Lanka* (Index: ASA 37/3699/2021)

⁵²⁵ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*

⁵²⁶ Amnesty International, *Urgent Action: Health concerns for detained blogger* (Index: ASA 37/2357/2020) (hereinafter: Amnesty International, *Urgent Action: Health concerns for detained blogger*)

⁵²⁷ Amnesty International, *Urgent Action: Health concerns for detained blogger*

charge, it is widely believed that it was his post on 2 April, and previous posts, that resulted in his detention and arrest.⁵²⁸

Due to the Covid-19 pandemic, neither his lawyers nor his family could visit or communicate with Ramzy during his detention.⁵²⁹ According to his lawyer, Ramzy was eventually charged under the ICCPR Act and the Computer Crimes Act. Amidst his deteriorating health, Ramzy was finally granted bail on 17 September 2020, more than five months since his detention.⁵³⁰

This is not the only case in which the ICCPR Act, designed to protect human rights and the freedom of expression and thought, has been misused to arbitrarily detain minorities, journalists, activists, or civil society members or commentators.⁵³¹ In this and other cases such as that of Shakthika Sathkumara⁵³², has had a chilling effect on journalists, activists, and other commentators.⁵³³ Sathkumara, who was declared a Prisoner of Conscience on 30 July 2019, was arrested on 1 April 2019 for writing a short story and sharing it on his Facebook profile.⁵³⁴ He was released on bail four months after his arrest and his case was dropped on 9 February 2021 after the Attorney General decided not to file indictments on him.⁵³⁵ Under the ICCPR,⁵³⁶ the government may only restrict the rights to freedom of expression, thought, conscience and religion in narrow, clearly defined circumstances, provided by law and for the purpose of protecting certain public interests.⁵³⁷ In this case, Ramzy's detention was not within these circumstances.

9.1.2 HEJAAZ HIZBULLAH

On 14 April 2020, 40-year-old senior lawyer and civic and minority rights activist, Hejaaz Hizbullah, received a phone call from a person claiming to be from the Ministry of Health. They instructed Hejaaz to remain at home because he may have been exposed to Covid-19.⁵³⁸ Shortly afterwards, officers from the police CID visited Hejaaz's home and placed him under arrest. Hejaaz was not informed of the reason for his arrest. Prior to the CID leaving, they entered Hejaaz's legal chambers and searched through his case files without a warrant.⁵³⁹

A few days before his arrest, Hejaaz had written to President Gotabaya Rajapaksa about the forced cremation of Muslims who succumbed to Covid-19. Hejaaz's family believes his arrest was part of a larger campaign to silence dissent by targeting religious minorities.⁵⁴⁰ Amnesty International recognized Hejaaz as a Prisoner of Conscience⁵⁴¹ in July 2021 for being targeted because of his work and opinion.⁵⁴²

At the time of writing, Hejaaz had been in detention for more than 17 months. He was initially accused of aiding and abetting Inshaf Ahamed, one of the seven suicide bombers who carried out the Easter Sunday bombings.⁵⁴³ This accusation was withdrawn due to lack of evidence.

Hejaaz was detained under the PTA, which permits suspects to be detained without charge for up to 90 days, and without having to be presented before a court, under a 'detention order', which can be renewed up to 18 months.⁵⁴⁴ This detention order must be authorized by the Minister of Defence; however, in Hejaaz's case, his first three detention orders were authorized by President Gotabaya Rajapaksa, who was not the relevant minister at the time.⁵⁴⁵

Until December 2020, Hejaaz was denied regular, unrestricted and confidential access to his counsel and family, due process rights that are guaranteed under the law and the Constitution.⁵⁴⁶ On 16 December, more

⁵²⁸ Amnesty International, *Urgent Action: Health concerns for detained blogger*

⁵²⁹ Amnesty International, *Urgent Action: Health concerns for detained blogger*

⁵³⁰ Twitter, Amnesty International South Asia, 17 September 2020, twitter.com/amnestysasia/status/1306491406081339394?lang=en

⁵³¹ Amnesty International, *Urgent Action: Health concerns for detained blogger*

⁵³² Amnesty International, *Urgent Action: Writer released on bail, still at risk of jail*, 5 September 2019, (Index: ASA 37/0998/2019)

⁵³³ Amnesty International, *Urgent Action: Health concerns for detained blogger*

⁵³⁴ Amnesty International, *Urgent Action: Writer released on bail, still at risk of jail*, 5 September 2019, (Index: ASA 37/0998/2019)

⁵³⁵ Twitter, Amnesty International South Asia, 9 February 2021, twitter.com/amnestysasia/status/1359041083133448196

⁵³⁶ UN Treaty Body Database, tinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN

⁵³⁷ Amnesty International, *Urgent Action: Health concerns for detained blogger*

⁵³⁸ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*, p. 46

⁵³⁹ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*, p. 46

⁵⁴⁰ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*, p. 46

⁵⁴¹ Amnesty International's Prisoner of Conscience determination is based on the information available to Amnesty International regarding the circumstances leading to the person's detention. In naming a person as a Prisoner of Conscience, Amnesty International is affirming that this person must be immediately and unconditionally released but is not endorsing past or present views or conduct by them.

⁵⁴² Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law* (Index: ASA 37/4525/2021) (hereinafter: Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*)

⁵⁴³ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*, p. 46

⁵⁴⁴ Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

⁵⁴⁵ Amnesty International, *Old ghosts in new garb: Sri Lanka's return to fear*, p. 46

⁵⁴⁶ Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

than eight months since his detention, Hejaaz's lawyers were able to meet him, although only for a short period.⁵⁴⁷

On 18 February 2021, an indictment was filed against Hejaaz in the High Court, and he was charged under the PTA⁵⁴⁸ and the ICCPR Act for "causing communal disharmony".⁵⁴⁹ This indictment was based on the statement of one child, made to the CID. Other children who were questioned at the same time have since filed Fundamental Rights cases in the Supreme Court, alleging that they were coerced by police officers in falsely implicating Hejaaz.⁵⁵⁰ After he was charged in February, Hejaaz was moved to judicial remand custody, where after 10 months he was finally able to speak to his family.⁵⁵¹ Since April 2021, Hejaaz's visitation rights have again been restricted due to Covid-19 and he been unable to meet with his lawyer or family.⁵⁵²

9.1.3 AHNAF JAZEEM

Ahnaf Jazeem, a 26-year-old poet and teacher, was arrested on 16 May 2020 in connection with the publication of a Tamil language poetry anthology called *Navarasam*. Ahnaf was detained under the PTA by authorities who claimed that the anthology promoted extremism. The authorities, who could not understand Tamil, made other unsubstantiated claims including that Ahnaf exposed his students to extremist content to make them follow extremist ideologies.⁵⁵³ There has been no evidence provided to support these accusations. Speaking about *Navarasam* in a media interview, a scholar of the Tamil language and retired Professor of Tamil at the University of Peradeniya, Professor M.A. Nuhman, said, "On the contrary, there are several poems against extremism, violence, and war in this collection."⁵⁵⁴ After reviewing Ahnaf's writing, Amnesty International has confirmed that the poems speak against extremism, violence, and war.⁵⁵⁵

According to Ahnaf's lawyer, he is being detained in conditions that may amount to ill treatment, and that have had a negative impact on his health. The lawyer further alleges that Ahnaf was coerced into making false confessions during interrogations and signing documents in Sinhala, a language he did not understand.⁵⁵⁶ While Ahnaf's family was only allowed access to him five months after he was detained, he was denied access to legal representation for nearly 10 months.⁵⁵⁷ In the few instances thereafter when Ahnaf was allowed to meet his lawyers, their conversations, which by law are supposed to be confidential, were recorded by authorities.⁵⁵⁸ The Bar Association of Sri Lanka issued a statement on 30 May 2021 drawing attention to this unlawful practice and demanding that the Inspector General of Police and Head of CID and the Terrorism Investigation Division (TID) of the police order their subordinates to stop this practice.⁵⁵⁹ Ahnaf remains in detention at the time of writing and the police are yet to produce any evidence to substantiate their allegations against him.⁵⁶⁰

⁵⁴⁷ Daily News, Lawyers allowed access to detained attorney, 16 December 2020, www.dailynews.lk/2020/12/16/law-order/236288/lawyers-allowed-access-detained-attorney

⁵⁴⁸ Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

⁵⁴⁹ Amnesty International has seen a copy of the indictment

⁵⁵⁰ Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

⁵⁵¹ Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

⁵⁵² Amnesty International, *Release Hejaaz Hizbullah and others denied due process under abusive law*

⁵⁵³ Amnesty International, *Sri Lanka: Joint statement calls for immediate release of poet detained for a year without charge* (Index: ASA 37/4124/2021) (hereinafter: Amnesty International, *Sri Lanka: Joint statement calls for immediate release of poet detained for a year without charge*)

⁵⁵⁴ Daily FT, *Arrest of Mannar poet under PTA: Academics, writers and activists cry foul*, 6 January 2021, www.ft.lk/news/Arrest-of-Mannar-poet-under-PTA-Academics-writers-and-activists-cry-foul/56-711244

⁵⁵⁵ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community* (Index: ASA 37/3866/202) (hereinafter: Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community*)

⁵⁵⁶ Amnesty International, *Sri Lanka: Joint statement calls for immediate release of poet detained for a year without charge*

⁵⁵⁷ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community*

⁵⁵⁸ Amnesty International, *Sri Lanka: Joint statement calls for immediate release of poet detained for a year without charge*

⁵⁵⁹ The Bar Association of Sri Lanka, *Violation of the rights of attorneys-at-law and their clients under detention*, 30 May 2021, basl.lk/the-following-is-the-basl-letter-addressed-to-the-inspector-general-of-police-re-violation-of-the-rights-of-attorneys-at-law-and-their-clients-under-detention/

⁵⁶⁰ Amnesty International, *Sri Lanka: Joint statement calls for immediate release of poet detained for a year without charge*

ARREST FIRST, INVESTIGATE LATER: PREVENTION OF TERRORISM ACT AND ITS REGULATIONS

“The PTA had been used to commit some of the worst human rights violations, including widespread torture and arbitrary detention, in the run-up to and during the conflict, particularly to target minorities and suppress dissent.”

Ben Emmerson, former UN Special Rapporteur on the promotion and protection of human rights while countering terrorism⁵⁶¹

The Prevention of Terrorism Act (PTA) has long been used by the government to silence dissent and its misuse has been documented by many international and local bodies including Amnesty International and the UN.⁵⁶² Amnesty International has called for the repeal of the PTA, and for the government to immediately end its use.⁵⁶³ In 2015, in co-sponsored resolution 30/1 at the UN Human Rights Council, Sri Lanka committed to repeal the PTA and replace it with anti-terror legislation in line with international best practice.⁵⁶⁴ Not only have successive governments failed to repeal the PTA, however, they have in fact increased its use, as demonstrated in the cases above.

On 12 March 2021, President Gotabaya Rajapaksa issued new regulations under the PTA, for the purposes of “de-radicalization of people from holding violent extremist religious ideology”.⁵⁶⁵ These regulations seek to refer people who have either surrendered or been arrested on suspicion of a PTA offence to a rehabilitation programme.⁵⁶⁶ Previous de-radicalization, rehabilitation and reintegration centres established using similar legislation have witnessed serious human rights violations, including torture, and sexual and gender-based violence.⁵⁶⁷ Amnesty International is concerned that these regulations may be used to disproportionately target government critics, including Muslims, and calls for the immediate repeal of these regulations.

Amnesty International's main concerns with the regulations are based on the following issues:⁵⁶⁸

- the overly broad, vague and subjective definition of an ‘offence’ under the regulations
- arrest or surrender can be carried out by any police officer, member of the armed forces, public officer or a person authorized by the President; however, police powers should only be wielded by civilian authorities and not by members of the armed forces
- a suspect has no legal means of challenging their detention in a court of law
- a detainee or surrenderer can be rehabilitated at a ‘reintegration centre’ to circumvent a criminal proceeding – the rehabilitation and detention of a detainee can be up to two years without trial
- high risk of torture and other ill treatment, including sexual and gender-based violence, enforced disappearances and extrajudicial executions while in detention
- detainees will have access to family will only once every two weeks, with the permission of the office-in-charge of the reintegration centre.

“It gives the military, police and any person authorized by the President the power to arrest first and conduct investigations afterwards. The rehabilitation can be ordered without a trial.”

Ambika Satkunanathan⁵⁶⁹

A number of Fundamental Rights petitions challenging these regulations have been filed in the Supreme Court, stating that the regulations have overly broad applications, violate constitutional safeguards and

⁵⁶¹ UN, *Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Mission to Sri Lanka*, UN Doc. A/HRC/40/XX/Add.3 (hereinafter: UN, *Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism*)

⁵⁶² Amnesty International, *Countering terrorism at the expense of human rights: Concerns with Sri Lanka's Counter Terrorism Bill* (Index: ASA 37/9770/2019) (hereinafter: Amnesty International, *Countering terrorism at the expense of human rights*); UN, *Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism*)

⁵⁶³ Amnesty International, *Countering terrorism at the expense of human rights*

⁵⁶⁴ UN, *Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism*)

⁵⁶⁵ Groundviews, “Denying Justice While Dehumanizing a Community at Large”, 21 April 2021, groundviews.org/2021/04/21/denying-justice-while-dehumanizing-a-community-at-large/; Emergency (Miscellaneous Provisions and Powers) Regulation, No. 1 of 2019, published in the Gazette Extraordinary No. 2120/5 of April 22, 2019, documents.gov.lk/files/egz/2019/4/2120-05_E.pdf

⁵⁶⁶ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community*

⁵⁶⁷ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community*

⁵⁶⁸ Amnesty International, *Increased marginalization, discrimination and targeting of Sri Lanka's Muslim community*

⁵⁶⁹ The Independent, “Human rights concerns over Sri Lanka's controversial plans for ‘rehabilitation centres’ for extremists”, 29 May 2021, www.independent.co.uk/world/sri-lanka-rehabilitation-centres-muslims-b1856428.html# (hereinafter: The Independent, “Human rights concerns over Sri Lanka's controversial plans for ‘rehabilitation centres’ for extremists”)

international human rights standards, and circumvent judicial authority, including the lack of access to a fair trial and due process.⁵⁷⁰ The Commissioner General for Rehabilitation, however, told the media in April 2021 that the groundwork for these centres has already begun with no indication that the regulations will be revisited.⁵⁷¹

“It is easy to see how the new regulations will lead to arbitrary enforcement against Muslims, who are already being targeted for mass arrests under the PTA. In Kattankudy alone there are over 125 Muslims in detention, including 15 women and two infants. Many of them have been locked up in overcrowded facilities since the 2019 attacks with no hearings or access to counsel.”

Shreen Saroor⁵⁷²

Speaking to the media, rights activists stated that more than 700 people were arrested in connection with the Easter Sunday bombings, most of whom were Muslim.⁵⁷³ Over 300 are still in detention, without being charged, in some cases, for close to two years.⁵⁷⁴

The demonization of Muslims in Sri Lanka reached new heights after the Easter Sunday bombings, and the effects are apparent even two years later. The government must stop the state-sanctioned vilification and arbitrary detention of members of the Muslim community because this not only violates constitutional safeguards, but also international human rights law.

⁵⁷⁰ The Morning, “FR petitions filed against de-radicalisation regulations”, 13 April 2021, www.themorning.lk/fr-petitions-filed-against-de-radicalisation-regulations/

⁵⁷¹ The Independent, “Human rights concerns over Sri Lanka’s controversial plans for ‘rehabilitation centres’ for extremists”

⁵⁷² Groundviews, “Denying justice while dehumanizing a community at large”, 21 April 2021, groundviews.org/2021/04/21/denying-justice-while-dehumanizing-a-community-at-large/

⁵⁷³ The Independent, “Human rights concerns over Sri Lanka’s controversial plans for ‘rehabilitation centres’ for extremists”

⁵⁷⁴ The Independent, “Human rights concerns over Sri Lanka’s controversial plans for ‘rehabilitation centres’ for extremists”

10. CONCLUDING RECOMMENDATIONS

Sri Lanka's history has been marred by marginalization, discrimination, harassment and violence against minorities, as documented in this report. These historical issues, which stem from the colonial period, have manifested in modern-day violence and discrimination. Over the years, however, this discrimination and violence against the Muslim community has become more systematic and is routinely used for political gain or as a distraction from other larger political or economic issues. More recently, the discrimination of Muslims has been weaponized by the state, with its use of racially motivated policies, arrests and regulations. The Sinhala Buddhist nationalist movement, which began as a response to the subjugation of the Sinhala Buddhist people of Sri Lanka, is now being used to subjugate minority populations.

In a country that still bears the scars of a devastating civil war, Sri Lanka must take prompt and meaningful action to stop the harassment, discrimination and marginalization of minorities, if it is ever to achieve lasting reconciliation. The aged 'divide-and-rule' approach employed by political leaders in the country will only be detrimental for Sri Lanka's future.

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF SRI LANKA TO TAKE TIMELY, EFFECTIVE AND MEANINGFUL STEPS AS SET BELOW.

ON PEACE AND RECONCILIATION

- Take effective and targeted measures to prevent violence against the Muslim community and other religious and ethnic minorities, including through effective policing of public disturbance and protest, in accordance with international human rights law, and through measures to prevent incitement of violence against minorities and the spread of malicious misinformation against these communities.
- Ensure the protection of the rights of minorities to freedom of expression, and to practise and manifest their religion, in keeping with Articles 10 and 12 of the Constitution of Sri Lanka, international human rights law, and international best practice.

ON MOB VIOLENCE

- Hold a prompt, thorough, independent and impartial investigation into all allegations of human rights violations and abuses during attacks and violence against Muslims, ensuring that all those reasonably suspected of criminal responsibility for violence and hate crimes are brought to justice through a fair trial by a competent court, without recourse to the death penalty.
- Ensure the police are sufficiently resourced and trained to be deployed in response to riots, with adequate equipment to respond to and protect people during instances of inter-communal violence against minorities. This must include regular training and adequate resources to ensure that the police do not use excessive force, against perpetrators, victims or witnesses, and that the police response is always necessary and proportionate.
- Ensure the police force protects minorities from violence in the community, promptly and effectively, without discrimination.

- Take necessary measures to remedy the lack of representation of minorities within law enforcement, including the police and the armed forces.
- To issue strict instructions to law enforcement officers to heed calls from the community seriously, and to ensure adequate training of officers to effectively respond to and de-escalate riots and prevent violence, especially against minorities.
- Establish a fully independent, public and transparent inquiry to review the role played by the Sri Lanka police, the STF and other armed forces, in failing to prevent and aiding the violence against Muslims, as seen in Aluthgama in 2014, Digana in 2018, and the North Western and Central provinces in 2019.
- Where it is established that police officers have used excessive force or failed to adequately discharge their duties, they should be subject to an independent and impartial investigation and be held accountable through appropriate disciplinary action, and where there is evidence of crimes committed by police officers, they should be subject to criminal proceedings in line with the right to a fair trial.
- Provide all those affected by the violence with justice and the right to remedy, including through compensation, restitution, and accountability for those who perpetrated violence.

ON THE RETURN OF THE FORCIBLY EVICTED

- Provide infrastructure facilities and ensure development of areas in the Northern Province to enable and facilitate the return of forcibly evicted families.

ON LEGISLATION

- Allow the burial of Covid-19 victims in all districts of the island.
- Amend the Muslim Marriage and Divorce Act in line with calls from, and in consultation with, Muslim women's groups, and in compliance with international human rights standards
- Reject the cabinet proposal to ban the *niqab* and ensure the protection of people's rights to non-discrimination, freedom of expression, and freedom of religion and belief.
- Ensure the right to education and freedom of religion in compliance with the ICCPR and ICESCR and permit *madrasas* to be established and function in line with international human rights standards and best practices, including ensuring that the regulation of such schools ensures quality education.
- Ensure that the criminal justice system is not misused to target or harass minority communities, and refrain from bringing criminal charges or other proceedings or administrative measures against them that stem solely from the peaceful exercise of their rights.
- Ensure the use of the ICCPR Act is in line with international best practice and end its misuse against minority communities.

ON THE PREVENTION OF TERRORISM ACT

- Repeal the Prevention of Terrorism Act (PTA) and end the use of the legislation and related regulations immediately.
- Immediately and unconditionally release Hejaaz Hizbullah, who has been in detention for over 15 months, targeted solely for his work and opinion.
- Immediately release Ahnaf Jazeem, or if there is any credible and admissible evidence of wrongdoing, promptly charge him with internationally recognizable criminal offences and try him in court in accordance with international fair trial standards.
- Ensure Hejaaz Hezbullah, Ahnaf Jazeem and other PTA detainees have regular access to their lawyers and family members, without obstruction from the police or correctional officials, and that their fair trial rights are upheld.

AMNESTY INTERNATIONAL CALLS ON THE NATIONAL POLICE COMMISSION AND THE SRI LANKA POLICE TO:

- Ensure the police force protects minorities from violence in the community, promptly and effectively, without discrimination.
- Take necessary measures to remedy the lack of representation of minorities within the police and armed forces.

- Issue strict instructions to law enforcement officers to heed calls from the community seriously and ensure adequate training of officers to effectively respond to and de-escalate riots and prevent violence, especially against minorities.
- Where it is established that police officers have used excessive force or have failed to adequately discharge their duties, they should be subject to an independent and impartial investigation and held accountable through appropriate disciplinary action. Where there is evidence of crimes committed by police officers, they should be subject to criminal proceedings in line with the right to a fair trial.
- Ensure that the criminal justice system is not misused to target or harass minority communities, and refrain from bringing criminal charges or other proceedings or administrative measures against them that stem solely from the peaceful exercise of their rights.
- Ensure Hejaaz Hezbollah, Ahnaf Jazeem and other PTA detainees have regular and unrestricted access to their lawyers and family members, without obstruction from the police or correctional officials, and that their fair trial rights are upheld.

AMNESTY INTERNATIONAL CALLS ON THE HUMAN RIGHTS COMMISSION OF SRI LANKA TO:

- Make public the Human Rights Commission report on the incidents of violence that took place in Digana in 2018.
- Monitor, investigate and make public reports on all communal violence, particularly those incidents targeting minority communities.
- Call on Sri Lankan legislators to reject the cabinet proposal to ban the *niqab*, and urge them to protect the freedom of religion and belief of all people.
- Reiterate the call for Sri Lankan authorities to use the ICCPR Act in line with international best practice.
- Reiterate the call for Sri Lankan authorities to repeal the PTA immediately, and end the use of the legislation and its regulations.
- Protect and ensure the human rights of detainees such as Hejaaz Hezbollah, Ahnaf Jazeem, and others held under the PTA; ensure they are not subjected to arbitrary detention and ill treatment, and are treated with respect for their dignity and humanity. This includes visiting and monitoring them in prisons and detention centres to assess the conditions of their detention, and reporting any cases of arbitrary detention, ill treatment, and torture.
- Call on the Sri Lankan authorities to immediately and unconditionally release Hejaaz Hizbullah, who has been in detention for over 15 months, targeted solely for his work and opinion.
- Call on Sri Lankan authorities to immediately release Ahnaf Jazeem, or if there is any credible and admissible evidence of wrongdoing, promptly charge him with internationally recognizable criminal offences and try him in accordance with international fair trial standards.
- Ensure Hejaaz Hezbollah, Ahnaf Jazeem and other PTA detainees have regular and unrestricted access to their lawyers and family members, without obstruction from the police or correctional officials, and ensure their due process and fair trial rights are upheld.
- Facilitate the provision of justice to people who have suffered because of the PTA (such as being held without charge for extended periods of time or suffering from torture and other forms of ill treatment), in the form of remedies and reparations.

AMNESTY INTERNATIONAL CALLS ON THE INTERNATIONAL COMMUNITY TO:

- Monitor and urge the Government of Sri Lanka to take strict measures to ensure the protection and freedoms of minority communities, especially in relation to the freedom of religious belief, freedom of expression, right to personal security, and freedom from arbitrary detention.
- Regularly engage with the Government of Sri Lanka, both politically and using international mechanisms, to ensure the rights and freedoms of minorities are being upheld and protected.

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FROM BURNING HOUSES TO BURNING BODIES

ANTI-MUSLIM VIOLENCE, DISCRIMINATION AND HARASSMENT IN SRI LANKA

Sri Lanka's Muslim community has faced incidents of violence, discrimination and harassment for decades. Most recently, since 2013, there have been consistent episodes, which have culminated in the adoption of government policies which expressly target the minority community. This is in addition to the misuse, and lack of amendment of domestic legislation to target and discriminate against Muslims. This report documents incidents where Muslims have been targeted, attacked and discriminated against, by various state and non-state actors.