

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	656
Land:	Sri Lanka
Kilde:	CSW – Christian Solidarity Worldwide
Titel:	A Nation Divided The state of freedom of religion or belief in Sri Lanka
Udgivet:	30. september 2021
Optaget på baggrundsmaterialet:	13. januar 2022

A Nation Divided

The state of freedom of religion or belief in Sri Lanka

September 2021

CSW everyone
free to believe



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Executive summary

This report provides an overview of the situation of freedom of religion or belief (FoRB) in Sri Lanka and examines surrounding legal issues, the increased role social media has played in communal violence, the effects of the 2019 Easter Sunday bombings, and the immediate effects of the Rajapaksas' return to power. It analyses how past events will impact the future of FoRB in Sri Lanka, with the aim of supporting further advocacy and awareness-raising on the issue.

Religious intolerance in Sri Lanka has been on the rise since 2000, and particularly since the end of the 30-year civil war in 2009. The ending of the civil war set the country on a trajectory of transitional justice, but ethno-religious tensions have persisted where Sinhalese-Buddhist fundamentalism has surged; and discrimination, intolerance and violence continue to be directed at religious minorities, with Christians and Muslims being the primary targets.

One of the main drivers of religious intolerance is the perception among some in the Sinhalese Buddhist community that they are the protectors of the land, deeming Muslim and Christian minorities a threat. An ensuing deterioration in interfaith relations is exacerbated by the primacy given to Buddhism in the Sri Lankan constitution; the 2008 Circular on the construction of places of worship; a reliance by many on social media as a credible news source; hate speech; and a growing culture of impunity.

The use of social media as a credible news source contributes to the spread of false rumours, which has at times culminated in violence against religious minorities, as occurred, for example, in Ampara and Kandy during 2018.

Religious tensions were exacerbated further by the Easter Sunday bombings in April 2019, when churches were attacked in Negombo, Batticaloa and Colombo, along with hotels in Colombo. The Islamic State (IS) claimed responsibility for the attacks, but reports indicate they were perpetrated by a little-known local Islamist group, National Towheed Jamath (NTJ). The bombings were followed by a series of reprisals conducted by Christians and Buddhists against the Muslim population. A state of emergency was declared after the attacks; it can only last for a month at a time and was extended thrice, until 23 August 2019.

In November 2019 Sri Lanka held presidential elections, electing former Secretary to the Ministry of Defence Gotabaya Rajapaksa, who appointed his brother, former president Mahinda Rajapaksa, as interim prime minister. In August 2020, in general elections twice delayed by the COVID-19 pandemic, Mahinda Rajapaksa's Sri Lanka Podujana Peramuna (SLPP) party secured 145 seats in parliament, confirming him as prime minister. Both brothers faced allegations of war crimes during the civil war, with Mahinda's two presidential terms marked by alleged extra-judicial killings of journalists and civilians.

Running on a strong law and order ticket, the Rajapaksas and the SLPP appealed to a Sinhalese-Buddhist fundamentalist base and played on the ethno-religious tensions and divisions present within the country. Now confirmed in power, there are serious concerns the pair will pander to their supporter base and steer Sri Lanka's trajectory away from reconciliation and towards a majoritarian state.

Recommendations

To the government of Sri Lanka

- Guarantee the full enjoyment of the right to freedom of religion or belief for all religious minorities.
- Rescind the 2008 Circular on prior permission for construction and registration of places of worship, and ensure it is not misused to intimidate religious minorities.
- Put in place a public policy framework aimed at ending the culture of hate speech, whereby fundamentalists are emboldened to target religious minorities with impunity.
- Prosecute those responsible for propagating hate speech against religious minorities, while ensuring the freedoms of opinion and expression are protected and promoted.
- Take measurable steps to hold social media networks accountable for content containing hate speech and religious discrimination, and promote media pluralism and diversity.
- Establish mechanisms to increase accountability of state actors, for example by providing training on key human rights issues to the police force and judiciary.
- Take effective measures to encourage reconciliation and social cohesion among different ethnic and religious groups, including supporting initiatives to promote intergroup dialogue.
- Ensure that restrictions on the right to manifest minority religions or beliefs during the COVID-19 pandemic are proportional and non-discriminatory.
- Fully support and provide unhindered access to Special Procedures and the Office of the High Commissioner for Human Rights (OHCHR) if they request to visit Sri Lanka.
- Disclose the findings of the Presidential Commission on the Easter Sunday massacre and take measures to prosecute those directly or indirectly involved in the attacks.
- Fully implement the 2021 UN HRC Resolution of the forty-sixth session, including fostering freedom of religion or belief and pluralism.

To the international community

- Continue to support calls for regular reporting to the UN Human Rights Council (UNHRC) on the human rights situation in Sri Lanka, and to remind the government of its existing obligations under international law.

- Encourage Sri Lanka to ensure all security measures comply with the provisions of the International Covenant on Civil and Political Rights (ICCPR), and ensure those arrested under emergency or counter-terrorism laws are brought before independent and regularly constituted courts with adequate safeguards.
- Hold Sri Lanka to its international obligations with regard to guaranteeing members of ethnic, religious and linguistic minorities effective protection against discrimination, ensuring they are able to practise their own religion, use their own language and culture, and participate in public life fully and without fear.
- Urge Sri Lanka to take measures to actively prevent and end all attacks on Christian and Muslim minorities, including on their places of worship and businesses, and to promptly and effectively investigate and prosecute all reported incidents of violence against ethnic and religious minorities.
- Encourage Sri Lanka to work towards ensuring that all government agencies and relevant stakeholders are fully aware of the National Action Plan for human rights, and effectively implement it for the benefit of all people, including religious minorities.
- Urge Sri Lanka to condemn all acts of intimidation of, or violence against, members of religious minorities; and take concrete measures to prevent hate speech both online and offline, investigating and prosecuting those who incite violence against ethnic and religious minorities.
- Urge Sri Lanka to stop state surveillance, harassment and intimidation of places of worship, human rights defenders and civil society organisations.
- Follow up on the implementation of accepted recommendations from Sri Lanka's 2017 Universal Period Review (UPR).
- Encourage Sri Lanka to hold consultations with Sri Lankan civil society and national human rights institutions during the consultation stage of its next UPR.
- During Sri Lanka's fourth cycle of the UPR, provide tangible recommendations on further protecting and promoting the right to freedom of religion or belief for all.

To civil society in Sri Lanka

- Ensure accurate documentation, analysis and representation of violations committed against religious minorities.
- Continue to advocate for and raise freedom of religion or belief (FoRB) literacy and awareness through dialogue and capacity-building with key stakeholders.
- Continue to educate religious leaders about their rights, and how to report violations of said rights.

Introduction

Sri Lanka continues to experience inter-communal tension along ethno-religious lines, despite the multi-cultural and multi-religious population. At present this tension has not reached the heights of the decades-long civil war, which despite its secular overtones created a religious ‘othering’ of the predominantly Hindu Tamil population. Following the end of the civil war in 2009, the nationalist Sinhalese-Buddhist elements which had formed rose to the forefront. Hindu *kovils* (temples) are coming under threat in the north-east as they are being replaced by Buddhist temples, and the grounds on which the *kovils* stand are being claimed as Buddhist archaeological sites by the Archaeological Department.¹ Additionally, while there have been attacks on Muslims since pre-independence² as well as the targeting of Christians, there are currently more incidents due to the wider publicity they are receiving.

The ‘othering’ of religious minorities is based on the threat they are deemed to pose to Sinhalese-Buddhist dominance and the Buddha *Sasana*.³ Many Sinhalese-Buddhists believe they are a ‘lion race’, inheriting land sanctified by the Buddha. Consequently, the island belongs to them and it is their role to protect the Buddha’s teachings.⁴ This is reflected in the current Sri Lankan constitution, which affords Buddhism ‘foremost place’.⁵ In August 2020 President Gotabaya Rajapaksa announced work would begin on a new constitution.⁶ It is likely, however, that Buddhism will retain its protected status. The guardian mindset is further apparent in the rhetoric of Buddhist nationalist groups such as the Bodu Bala Sena (Buddhist Power Force, BBS), who believe they have ‘to defend the island and Sinhalese-Buddhist culture from being taken over by the *asinhala* (un-Sinhala) and *abaudha* (un-Buddhist)’.⁷ Christians are viewed as a threat to Sinhalese dominance due to proselytism, while fear of Muslims is, in part, stoked by unsubstantiated claims of a higher birth rate, a visibly different culture and perceived competition in the business sector. Yet Muslims comprise around 10% of the

population, while the Sinhalese make up about 70%.⁸ The emergence of Hindu nationalism, especially in the north and east of the country, drawing inspiration from the Rashtriya Swayamsewak Sangh (RSS) in India, is a growing concern. This has led to attacks on churches, death threats, hate speech and opposition to burials, allegedly because of the conversion of Hindus to Christianity.

Unfounded fears of a numerically superior Muslim population are repeatedly cited as one of the causes of the targeting of Muslims. During the 2012 inaugural national convention of the BBS, it ‘advocated a ban on vasectomy and tubal ligation in government health facilities’,⁹ in an attempt to ensure that the Sinhalese would produce more children, thereby increasing their numbers. The catalyst for the 2018 riots in Ampara was a false rumour that Muslims had inserted sterilisation pills into food served to a group of Sinhalese men. In the aftermath of the 2019 Easter Sunday bombings, a Muslim doctor was arrested following unsubstantiated claims that he had conducted the sterilisation of over 4,000 Sinhalese-Buddhist women.¹⁰ Some commentators, such as Stanley Tambiah, have referred to this phenomenon as ‘a majority with a minority complex.’¹¹

Christians have primarily been targeted through legal means, via orders to close or register their places of worship, in line with the 2008 Circular. Occasionally this is carried out by local state actors, who withdraw their request once it is demanded in writing. However, a national civil society organisation (hereafter CSO)¹² has also reported a number of incidents of mob violence against Christians, with churches being vandalised and services disrupted. In addition, instances of intimidation and physical violence have been reported by the CSO. Christians also face opposition when burying their dead in the public cemeteries in local villages. They are either forced to follow the rites of the majority religion in the village (Buddhist or Hindu) or travel several kilometres to another village where they can conduct the burial.

1 Tamil Guardian, ‘Archaeology Dept prohibits development of Hindu temple in Vavuniya’, 6 September 2018 www.tamilguardian.com/content/archaeology-dept-prohibits-development-hindu-temple-vavuniya

2 MinorMatters, ‘The Challenge for the Muslim Community after the Recent Communal Violence in Sri Lanka’, 7 March 2019 www.minormatters.org/en/blog/the-challenge-for-the-muslim-community-after-the-recent-communal-violence-in-sri-lanka

3 Sri Lanka’s war on terror: burqa ban, draconian Act, ‘deradicalisation’ | Explained News, The Indian Express

4 The Diplomat, ‘Sri Lanka’s Anti-Muslim Violence’, 13 March 2018 <https://thediplomat.com/2018/03/sri-lankas-anti-muslim-violence/>

5 Parliament of Sri Lanka, The Constitution of the Democratic Socialist Republic of Sri Lanka www.parliament.lk/files/pdf/constitution.pdf

6 Al Jazeera, ‘Sri Lanka’s President Rajapaksa to scrap reforms limiting powers’, 20 August 2020 www.aljazeera.com/news/2020/08/sri-lanka-president-rajapaksa-scrap-reforms-limiting-powers-200820133347113.html

7 The Diplomat, *ibid*.

8 Central Bank of Sri Lanka, ‘Economic and Social Statistics of Sri Lanka’, 2018 www.cbsl.gov.lk/sites/default/files/cbslweb_documents/statistics/otherpub/economic_and_social_statistics_of_SL_2018_e_0.pdf

9 Counter Terrorist Trends and Analyses, Volume 10, Number 4, ‘Sinhala-Muslim Riots in Sri Lanka: The Need for Restoring Communal History’, April 2018, p.2 www.jstor.org/stable/26402133?seq=2#metadata_info_tab_contents

10 Reuters, ‘Sri Lanka court grants bail for doctor accused of sterilizing Buddhist women’, 25 July 2019 www.reuters.com/article/us-sri-lanka-doctor/sri-lanka-court-grants-bail-for-doctor-accused-of-sterilizing-buddhist-women-idUSKCN1UK2SN

11 The Diplomat, *ibid*.

12 Name of the organisation withheld for security reasons.

The 2019 Easter Sunday bombings significantly increased religious tensions in the country. Previously, Christians and Muslims were both targets of Buddhist nationalism, and there was some semblance of informal solidarity between the two groups. In the immediate aftermath of the attack, there were reports of Christians attacking the Muslim community, including their shops and mosques.¹³

¹⁴ It remains to be seen whether this was merely an emotional, visceral reaction, or a long-term shift in attitudes.

Meanwhile Buddhist nationalists appear to have gained credibility, after years of spreading false rumours and warning of the dangers of the Muslim 'threat'. Ignoring the fact that the wider Muslim community expressed outrage at the Easter attacks and had been warning the government about extremist elements,¹⁵ ¹⁶ the nationalists used the situation to vindicate their stance, stir up violence and gain further influence.

Despite promising in his manifesto that 'freedom of religious belief will be ensured for people belonging to all religions',¹⁷ former president Sirisena was largely ineffective at curbing Buddhist nationalism. While he could not be expected to control every state actor, the office of the president nevertheless sets the tone for the country. Repeated failures to deal with the causes of the violence, or to take action against the leaders of the nationalist movements, continued to embolden these groups and their leaders, creating a culture of impunity.

Perhaps the most blatant example of President Sirisena's indifference occurred on 22 May 2019 when a presidential pardon was extended to Gnanasara Thero, Secretary General of the BBS, who was serving a commuted six-year sentence having been found guilty

of contempt of court and intimidating witnesses. While his charges were not related to his anti-Muslim stance, pardoning Gnanasara 'a week after Buddhist groups attacked Muslim-owned homes, mosques and shops'¹⁸ led to serious questions about the president's will to stop the attacks. Just over a week after his pardon Gnanasara 'promised pandemonium countrywide, if government [sic] doesn't take action against Wahhabism.'¹⁹

The election of former defence secretary Gotabaya Rajapaksa to the presidency and the appointment of his brother, former president Mahinda Rajapaksa, as prime minister, caused concern among minority communities. Both brothers are alleged to have committed grave human rights violations, including war crimes and the establishment of military death squads during their previous tenures.

Both men were elected by a primarily Sinhalese-Buddhist supporter base and were the preferred candidates of nationalist groups such as the BBS. In July 2019, Gnanasara Thero called for Buddhist monks to vote for candidates who best represent the interests of the Sinhalese majority, stating that 'We the clergies should aim to create a Sinhala government. We will create a parliament that will be accountable for the country, a parliament that will protect Sinhalese.'²⁰ After the election of President Gotabaya, many of the extreme nationalist groups reportedly announced their intention to disband following the general election, stating that there was no longer any need for them. This announcement speaks volumes about the expected policies and priorities of the SLPP-controlled executive and legislative, which are expected to have a severe chilling effect on the enjoyment of FoRB by religious minorities.

13 Al Jazeera, 'Sri Lanka blocks social media again after attacks on Muslims', 13 May 2019 www.aljazeera.com/news/2019/05/sri-lanka-blocks-social-media-anti-muslim-attacks-190513053644479.html

14 CNN, 'Muslim shops in Sri Lanka attacked as tensions remain after Easter Sunday bombings', 8 May 2019 <https://edition.cnn.com/2019/05/07/asia/sri-lanka-clashes-christian-mob-intl/index.html>

15 NPR, 'Before Sri Lanka's Easter Attacks, Muslims' Warnings About Terrorism Went Unheeded', 12 December 2019 www.npr.org/2019/12/12/786639735/before-sri-lankas-easter-attacks-muslims-warnings-about-terrorism-went-unheeded

16 Bloomberg, 'Sri Lanka Muslims Had Warned Officials About Group Behind Attack', 22 April 2019 www.bloombergquint.com/politics/sri-lanka-muslims-had-warned-officials-about-group-behind-attack

17 Groundviews, New Democratic Front, 'Manifesto: A Compassionate Maithri, Governance, A Stable Country', 2014 <https://groundviews.org/wp-content/uploads/2014/12/MS-2015.pdf>

18 Al Jazeera, 'Sri Lanka president pardons hardline Buddhist monk', 22 May 2019 www.aljazeera.com/news/2019/05/sri-lanka-president-pardons-hardline-buddhist-monk-190522192204588.html

19 Colombo Telegraph, 'BBS Gnanasara Promises Pandemonium Countrywide By Tomorrow', 2 June 2019 www.colombotelegraph.com/index.php/bbs-gnanasara-promises-pandemonium-countrywide-by-tomorrow/

20 Reuters, 'Hardline Sri Lanka monk calls for Buddhist Sinhalese government', 7 July 2019 www.reuters.com/article/us-sri-lanka-buddhist-idUSKCN1U2078

Legal issues surrounding FoRB

The constitution

The Constitution of the Democratic Socialist Republic of Sri Lanka 1978²¹ contains several provisions that explicitly protect freedom of religion or belief.

Article 9: The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).

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

Article 12(2): No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.

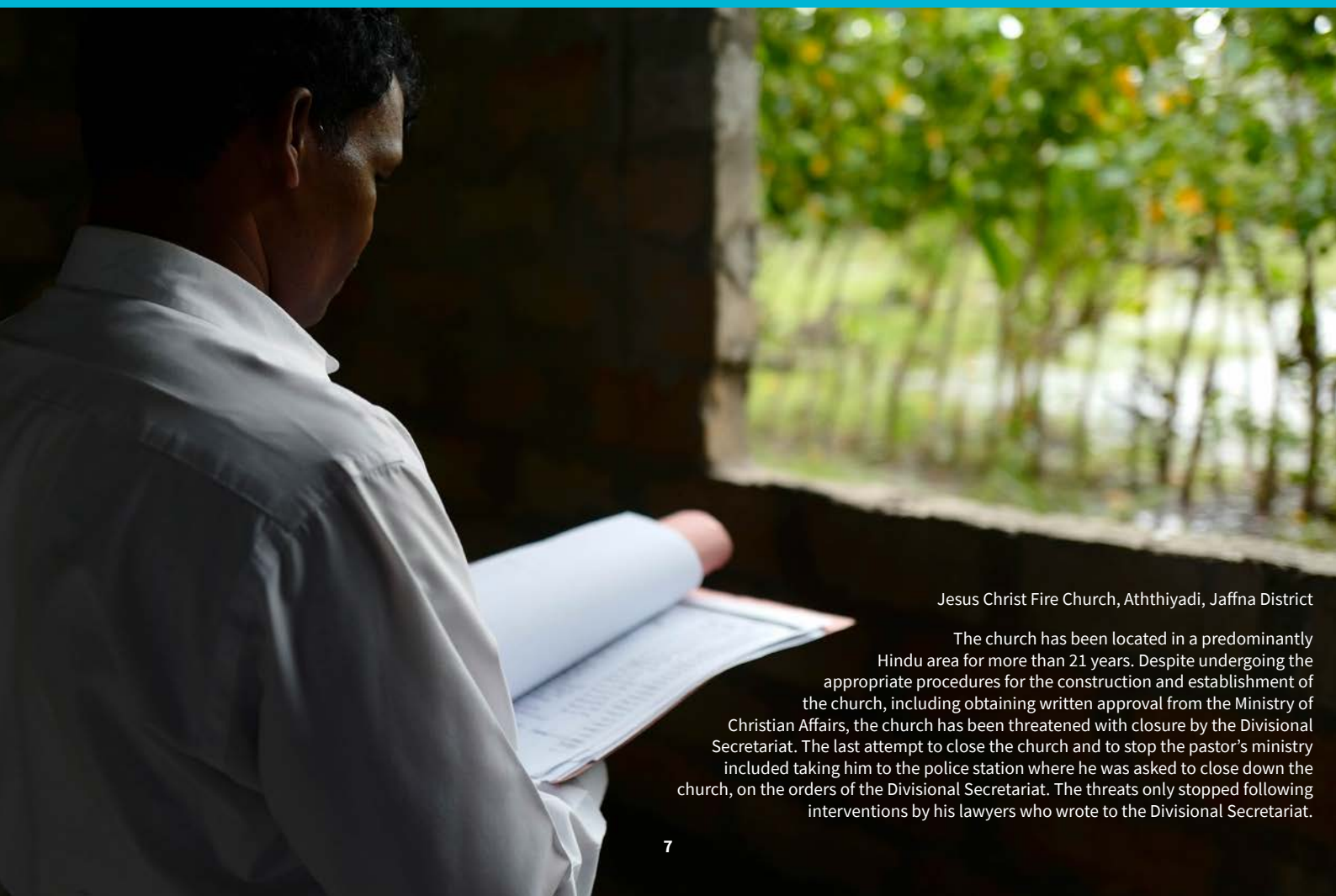
Article 14(1): Every citizen is entitled to-

(e) the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.

In the 1978 constitution Buddhism received a special status it did not possess previously. The 1947 constitution had been criticised for not granting Buddhism this status. Subsequently, the 1972 constitution granted Buddhism primary protection, but did not extend this to the *Buddha Sasana*. While the term *Sasana* generally refers to the teachings of the Buddha, in the Sri Lankan context it is often understood as the ‘physical bounds of the land consecrated by the Buddha.’²² The current constitution, enacted in 1978, prioritises both Buddhism and the *Buddha Sasana* in Article 9.

21 Parliament of Sri Lanka, The Constitution of the Democratic Socialist Republic of Sri Lanka, *ibid*.

22 Asian Journal of Comparative Law, Special Issue 2018, ‘The Constitutional Practice of Ethno-Religious Violence in Sri Lanka’, p.14 www.academia.edu/37434371/The_Constitutional_Practice_of_Ethno-Religious_Violence_in_Sri_Lanka



Jesus Christ Fire Church, Aththiyadi, Jaffna District

The church has been located in a predominantly Hindu area for more than 21 years. Despite undergoing the appropriate procedures for the construction and establishment of the church, including obtaining written approval from the Ministry of Christian Affairs, the church has been threatened with closure by the Divisional Secretariat. The last attempt to close the church and to stop the pastor's ministry included taking him to the police station where he was asked to close down the church, on the orders of the Divisional Secretariat. The threats only stopped following interventions by his lawyers who wrote to the Divisional Secretariat.

The prioritisation of Buddhism contributes to what some commentators have termed an ‘entitlement complex of the Sinhala-Buddhist majority’²³ with Gehan Gunatilleke arguing that ‘Sri Lanka’s “political constitution”...embodies a certain structural dispensation’ that perpetuates ethno-religious violence as a means of maintaining Sinhala-Buddhist dominance.²⁴ It is unlikely that Buddhism will lose this status in any new constitution.

The Supreme Court

A 2003 Supreme Court decision, S.C Special Determination No. 19/2003, on the bill ‘Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation)’²⁵ demonstrates the prioritisation of Buddhism. The Sisters of the Holy Cross sought incorporation by Act of Parliament but were denied on the basis that ‘the propagation and spreading on [sic] Christianity...would not be permissible as it would impair the very existence of Buddhism.’²⁶

In a 2018 case, S.C F.R. No. 241/14, regarding an incident which occurred in 2014, the Supreme Court ruled that ‘the citizens of this country do not possess a constitutionally protected freedom to “propagate” their religion or beliefs.’²⁷ The court referenced Article 9 of the constitution which ‘vests in the Republic, a duty to give Buddhism the foremost place.’²⁸

The case was brought to the Supreme Court by two Jehovah’s Witnesses²⁹ who, while on their way to Kottalbodda village from Kalakarambawa village, North Central Province, on 1 March 2014, were invited into the house of a local resident for a discussion about the Bible and family life. A man then appeared and inquired what they were doing before taking some religious literature and leaving. Shortly afterwards two Buddhist monks and two uniformed police officers arrived, and one of the monks berated the petitioners for ‘attempting to forcefully convert persons for monetary gain.’³⁰ The police officers then took the petitioners to Kekiwara Police Station, keeping them overnight and releasing them on police bail the next day. At no point were they informed of the charges against them.

On 15 March 2014 the petitioners attended Kekiwara Police Station for an inquiry, where they were informed the complaint against them was ‘for forcibly entering premises and forcibly carrying out religious conversions.’³¹ After refusing to sign a document stating that the petitioners would not in the future act in a manner that would cause a breach of the peace, they were instructed to attend Kekiwara Magistrates Court on 17 March 2014. However, no case was filed against them.

The petitioners brought a case to the Supreme Court arguing their constitutional rights under Articles 12(1),³² 13(1)³³ and 14(1)(e) had been violated. The court agreed that their rights under constitutional Articles 12(1) and 13(1) had been violated, calling their arrest unlawful. However, Puisne Justice Prasanna Jayawardena, who presided over the case, refuted the petitioners’ claim that they had been invited to someone’s house in Kottalbodda. Using his understanding of Jehovah’s Witnesses and a Jehovah’s Witnesses website, without referencing which one, he concluded that the visit to the house in question was part of ‘an intended campaign of house-to-house visits.’³⁴

Deeming the discussion the petitioners were engaged in as part of this campaign of house-to-house visits and propagation, the court concluded it could not be ‘properly regarded as being an instance of petitioners manifesting their religion “in worship, observance, practice and teaching”’³⁵. Therefore it was not protected by Article 14(1)(e), and no violation had occurred.

Both rulings reinforce the primacy of Buddhism in Sri Lanka and reveal a latent fear of the spread of other religions, which underlines the targeting of minority faith communities. Furthermore, they set legal precedents and tone for the lower domestic courts to follow.

2008 Circular

On 16 October 2008, the then Ministry of Religious Affairs and Moral Upliftment (now the Ministry of the Buddha Sasana), issued a Circular³⁶ to regional secretaries and local governments concerning the construction and registration of new places of worship, which stated:

23 *ibid.*, p.14

24 *ibid.*, p.3

25 Refworld, In the Supreme Court of the Democratic Socialist Republic of Sri Lanka, A Bill titled “Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation)” www.refworld.org/pdfid/4be3e7042.pdf

26 World Evangelical Alliance, ‘Universal Periodic Review – Sri Lanka’, 30 March 2017 www.worldevangelicals.org/un/pdf/UPR2017-Freedom%20of%20Religion%20and%20Belief%20and%20Transitional%20Justice%20in%20Sri%20Lanka.pdf

27 Supreme Court of Sri Lanka. S.C. F.R. No. 241/14, p.37 www.supremecourt.lk/images/documents/sc_fr_241_2014.pdf

28 *ibid.*, p.36

29 The petitioners.

30 Supreme Court of Sri Lanka. S.C. F.R. No. 241/14, *ibid.*, p.4

31 *ibid.*, p.5

32 All persons are equal before the law and are entitled to the equal protection of the law.

33 No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.

34 Supreme Court of Sri Lanka. S.C. F.R. No. 241/14, *ibid.*, p.31

35 *ibid.*, p.35

36 Hereafter referred to as the Circular.

*New religious groups...must register with the government to obtain approval to construct new places of worship, sponsor religious worker (missionary) visas/immigration permits, operate schools, and apply for subsidies for religious education. Religious organizations may also seek incorporation by an act of parliament, which requires a simple majority and affords religious groups state recognition.*³⁷

While the Circular is not a law, as it was not passed by the legislature, it has been used by law enforcement and local government officials to target religious minority groups and their places of worship. Furthermore, while the Circular only applies to constructions after 2008, attempts have been made to apply it retroactively.

On 28 June 2017, in the case of Faril & others v Bandaragama Pradeshiya Sabha & others, SCFR 92/2016, the Sri Lankan Supreme Court upheld the decision of the local authority and police to halt the construction of a madrasa by the board of trustees of Wekada- Jumma Mosque, Colombo, following complaints by local residents and Buddhist monks that it was going to be used as a mosque.³⁸⁻³⁹ Following the initial decision by the local authority, the petitioners filed a Fundamental Rights application 'on the basis that the freedom of religion and the right to equality had been infringed.'⁴⁰ In particular they argued that the decision was in violation of Articles 10, 12(2) and 14(1)(e) of the constitution;⁴¹ while the respondents claimed that approval of the Ministry of Religious Affairs, as per the 2008 Circular, should have been sought.⁴²

In its ruling, the Supreme Court reasoned that "Law" in Article 12 of the Constitution includes regulations, rules, directions, principles, guidelines and schemes that are designed to regulate public authorities in their conduct;⁴³ and therefore includes the Circular. The ruling legitimised the use of the Circular to close places of worship and emboldened perpetrators to continue violating the right to FoRB as enshrined in the constitution.

In August 2017, the CSO submitted two requests for information to the Ministry of Buddha Sasana and the Department of Christian Affairs, utilising the Right to Information procedure, inquiring whether the 2008 Circular was applicable to Christian places of worship or

Christian clergy. Similar requests were sent by another CSO to the Ministry of Muslim Religious Affairs and Buddha Sasana Ministry with regards to the applicability of the 2008 Circular to Mosques. The responses received stated that the Circular is only applicable to Buddhist places of worship and is no longer applicable to other religious groups. Therefore, the Circular cannot be used to restrict the operation and construction of non-Buddhist places of worship, as it has primarily been used by state actors.

Greater awareness of legal stipulations on the part of religious minorities may assist in preventing the closure of some places of worship. On 12 March 2018, the CSO reported that the Headquarters Inspector (HQI) of Homagama Police Station, Colombo District, told a local pastor to stop his religious activities and register his place of worship with the Divisional Secretariat, following a petition led by a Buddhist monk. When requested the HQI refused to provide any of his instructions in writing.⁴⁴ Similar reports of police or local government officials not providing their closure orders in writing may indicate that perpetrators are aware their actions are not supported by law.

Conversely, many religious leaders are unaware that there is no requirement for them to register their places of worship, and this lack of knowledge facilitates the misuse of the law:

*For maybe an uneducated pastor in a rural area, you get a bunch of people [who] come in, they look official, they have a document that looks official, and you feel frightened by that. So it's really used as an intimidation factor more than carrying the force of law and being upheld by the courts or upheld by judges there. It's really just a tool for intimidation.*⁴⁵

The Circular reborn?

In their February 2020 '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 friendships among Race and Religions,' the Sectoral Oversight Committee on National Security proposed a new Act known as an 'Act for the establishment of religious centres and maintaining religious harmony,'⁴⁶ believing that a 'common

37 United States Department of State, 'Sri Lanka 2018 International Religious Freedom Report', p.3 www.state.gov/wp-content/uploads/2019/05/SRI-LANKA-2018-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf

38 Legitquest, S.C (FR) Application No. 92 of 2016, M.J.M. Faril President of the Board of Trustees Wekada Jumma Mosque, Panadura & Another v. Bandaragama Pradeshiya Sabha, Bandaragama & Others www.legitquest.com/case/mjm-faril-president-of-the-board-of-trustees-wekada-jumma-mosque-panadura-another-v-bandaragama/102595

39 Supreme Court of Sri Lanka. S.C (FR) Application No.92/2016, p.6 www.supremecourt.lk/images/documents/sc_fr_application_92_2016.pdf

40 MinorMatters, 'Sri Lankan Case Law on Religious Freedom Related Issues' www.minormatters.org/storage/app/uploads/public/5b5/5a5/3b6/5b55a53b6c603498014554.pdf

41 Legitquest, ibid.

42 MinorMatters, 'Sri Lankan Case Law on Religious Freedom Related Issues', ibid.

43 Supreme Court of Sri Lanka. S.C (FR) Application No.92/2016, ibid., p.13

44 National Christian Evangelical Alliance of Sri Lanka, 'Incidents of violence and intimidation of Christians 2018', 2019

45 Sri Lanka Brief, 'Petition to remove circular intimidating Sri Lankan Churches', 12 May 2017 <http://srilankabrief.org/2017/05/petition-to-remove-circular-intimidating-sri-lankan-churches/>

46 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, p.297 <https://parliament.lk/uploads/comreports/1582610584075624.pdf#page=1>

policy under common criterion should be introduced regarding the establishment of religious centres of all religions⁴⁷ which will lead to an increase in religious harmony.

The proposal stems from a number of Muslim, Christian and Buddhist places of worship which have not been registered with their religious board, despite there being no obligation to register. The Committee blames attempts at construction of these ‘unregistered’ places of worship as being responsible for communal violence, stating that:

‘Considering the community ratio, the Sinhala and Tamil society see this situation as an act breach [sic] of inter religious harmony. In the recent past, a number of incidents of religious tension mounting were reported from various places of the country at the attempts to try to build Mosques at close proximity to Sinhala and Tamil areas.’⁴⁸

[in reference to Christianity] ‘The clashes that erupted at the attempts to build prayer centres belonging to various sects at areas inhabited by majority Buddhists cannot be forgotten.’⁴⁹

While the report does acknowledge that this problem also occurs with the construction of Buddhist places of worship, its main concern appears to be an alleged increase in Thowheed Jamath Mosques. The National Thowheeth Jama’ath was the extremist group behind the 2019 Easter Sunday bombings, and was designated a terrorist organisation following the bombings. The report claims that following the Easter Sunday bombings a large number of Muslim youth ‘joined with the “Thowheed Jamath” ideology.’⁵⁰

The WAKF Board was established under the Muslim Charitable Trusts or WAKF Act of 1956 and has legal responsibility in relation to matters of Islamic religious centres. According to the WAKF Act, mosques which do not abide by its criteria and are not registered with it are illegal. There is concern regarding the Thowheed Jamath mosques, which do not operate like traditional mosques and can be established in a house. The report further claims that there

have been attempts by ‘Thowheed Jamath ideologists to bring the traditional Mosques under their control.’⁵¹

In principle, laws designed to ease religious tensions and reduce community violence are welcome; however, there are several problematic issues with the proposed Act. For example the seventh of the ‘Conditions to be fulfilled for the construction of Temples, Kovils, Churches, Devalas and Mosques’ states that ‘Demography should be considered when constructing places of worship and at least there should be a significant number of family units.’⁵² Although it goes on to state that the number of family units should be incorporated by regulations, this could be used as grounds for rejection of construction permission by local authorities who seek to deny religious minorities the right to manifest their religion in public and in community with others.

Condition one of ‘Common Conditions’ would grant the Divisional Secretary or the relevant Local Government Body the power of approval when land is purchased/used for constructing/or running a place of religious worship.⁵³ However, many misuses of the Circular were perpetrated by local authorities in attempts to close places of religious worship. If the Act became law this would give perpetrators a legal basis for something they have already been attempting to accomplish. In many districts this would be detrimental to the right of religious minorities to FoRB. Although it is a proposed Act by the Sectoral Oversight Committee on National Security of a previous parliament, it is not inconceivable that it will be taken forward in some form by the current parliament; especially given that the 2008 Circular regarding the registration of places of worship originated during current prime minister Mahinda Rajapaksa’s first presidential term.

Since ‘the state is responsible for creating the environment that either facilitates or impedes religious freedom,’⁵⁴ addressing the problematic constitutional and legal framework surrounding FoRB and educating religious minorities on their rights should be a primary focus.

47 *ibid.*, p.297

48 *ibid.*, p.297

49 *ibid.*, p.297

50 *ibid.*, p.296

51 *ibid.*, p.296

52 *ibid.*, p.299

53 *ibid.*, p.300

54 Asian Journal of Comparative Law, *ibid.*, p.10

Role of social media

Social media plays a major role in the spreading of stereotypes and misconceptions of religious minorities. For many, Facebook has become a primary source of news, with more traditional media, such as newspapers, increasingly ignored. As a result, Facebook is often the medium of choice for those disseminating real or fake stories. A 2016 Centre for Policy Alternatives (CPA) survey, *Consumption and perceptions of Mainstream and Social Media in the Western Province*, found that:

61.5% of respondents would share content pertaining to political or social issues they read online.

37.2% of respondents were more likely to believe online content as truth if they see it shared by a friend first, rather than directly from a media website.

51% of respondents would reconsider their opinion if they see a friend share a story they were previously reluctant to accept as truth.⁵⁵

These statistics highlight the prevalence of socio-political issues discussed on social media, and the willingness of individuals to base opinions on the views of personal acquaintances over authoritative sources. This becomes problematic when the posts contain false information or hate speech. Although the above is only a snapshot of the Western Province, the rapid spread of rumours and the blocking of social media by the government following the 2018 Kandy riots, the 2019 Easter Sunday bombings and the violence in the North Western Province, in May 2019, suggest this is an issue across Sri Lanka.

In a 2016 report 'Voting in Hate: A study of hate speech on Facebook surrounding Sri Lanka's Parliamentary Election of 2015', the CPA documented Facebook accounts and pages which produced and promoted 'hate or dangerous speech, for election related political campaigning.'⁵⁶ It found that Christian candidates were branded a threat to the existence of Buddhism.⁵⁷ One post featured in the report shows a photograph of three Christian candidates with the caption: 'The American Christian fundamentalist

55 Centre for Policy Alternatives, 'Consumption and Perceptions of Mainstream and Social Media in the Western Province,' 28 January 2016, p.41 cpalanka.org/full-report-consumption-and-perceptions-of-mainstream-and-social-media-in-the-western-province/

56 Centre for Policy Alternatives, 'Voting in Hate: A study of hate speech on Facebook surrounding Sri Lanka's Parliamentary Election of 2015', March 2016, p.3 www.cpalanka.org/wp-content/uploads/2016/03/Voting-in-Hate-1.pdf

57 Ibid., p.11



murderers in sheep's clothing who issued the death warrant on Soma Thero.⁵⁸ Soma Thero was a Buddhist monk who died of a heart attack in 2003. Many are suspicious of the circumstances surrounding his death, with some blaming 'Christian fundamentalists'.

The report found that Muslim electoral candidates were also targeted on social media. One post argued: 'Remember, every vote you give this Muslim [derogatory term used] will be part of the great sin of wiping the Sinhala race from this country.'⁵⁹ All the groups behind the posts making these threats and arguments were united in defending Buddhism, often framing themselves as the only answer to radical Islam. The report concluded that Muslim candidates were targeted because of an 'underlying Islamophobia based on fear and anger at the perceived expansion of Muslim influence and culture both in Sri Lanka and worldwide.'⁶⁰

Ampara, Kandy and Digana violence

The targeting of religious minorities on social media has not been limited to election campaigns. The medium is used by Buddhist nationalist groups and individuals to create a climate of intolerance and to mobilise attacks on religious minorities.

In February 2018, false rumours spread on Facebook regarding a seizure of 23,000 sterilisation pills from a Muslim pharmacist in Ampara, Eastern Province.⁶¹ It was rumoured that the pills were being put in the food of Sinhalese customers in restaurants, to ensure a higher Muslim birth rate and facilitate the dominance of Islam.

The day after the rumour began to spread, a customer in a Muslim-owned restaurant found a lump in his food and asked one of the owners in Sinhalese if he had put sterilisation medicine in his food. The owner, who did not speak Sinhalese, and was unaware of the rumours, replied in broken Sinhalese, 'Yes, we put?';⁶² thinking that the customer had identified the object correctly as a lump of flour. A mob which had gathered during the complaint then beat the owner, destroyed the shop, and set fire to the local mosque.

Within hours, a recording of the original confrontation was posted on Facebook. The Buddhist Information Center, a popular Facebook group, shared the video as proof of long-rumoured Muslim plots.⁶³ Responses in relation to the incident included 'Kill all Muslims, don't even save an infant,'⁶⁴ and 'Hit them [Muslims] as hard as you can.'⁶⁵

On 3 March 2018 the death of a Sinhalese Buddhist truck driver, at the hands of a group of Muslim men, sparked riots in Kandy, Central Province. The incident is widely reported to have been a road rage episode. The following day 'hundreds of Sinhalese Buddhists, mostly outsiders... poured into Kandy and attacked and torched dozens of Muslim businesses, houses and mosques.'⁶⁶ The fact that those who rioted were 'outsiders' suggests a level of organisation and planning.

The violence in Kandy had also been fuelled by social media, with many videos circulating on Facebook and WhatsApp. One video showed a man in a maroon robe calling Muslims a 'threat to the Sinhalese' before telling viewers, 'Enough of being patient. The knife you have at home is not just to cut the jackfruit. Now take your knife and go.'⁶⁷ In another Facebook post, an extremist called on his followers to 'descend on the city of Kandy to "reap without leaving an iota behind."'⁶⁸ Amith Weerasinghe, who heads a Sinhalese-Buddhist nationalist group known as the Mahason Balakaya, and has thousands of followers, repeatedly posted on the death of the truck driver being proof of the Muslim threat.⁶⁹

In a further incident, Mr Weerasinghe uploaded a video to Facebook of himself walking around the town of Digana, less than 20km west of Kandy. In the video he warned that too many shops were owned by Muslims and urged Sinhalese to take the town back.⁷⁰ The video was viewed more than 50,000 times in a week.⁷¹ Mobs soon descended on the town, and a Muslim named Abdul Basith died after being trapped in one of the houses that was targeted and set alight. In a call to his uncle at the beginning of the attack he reported, 'They have broken all the doors in our house, large stones are falling inside...The house is burning.'⁷² In early March 2018, Amith Weerasinghe was arrested by the Terrorist Investigation Division for his role in instigating the

58 *ibid.*, p.12

59 *ibid.*, p.36

60 *ibid.*, p.10

61 New York Times, 'Where Countries are Tinderboxes and Facebook Is a Match', 21 April 2018 www.nytimes.com/2018/04/21/world/asia/facebook-sri-lanka-riots.html

62 *ibid.*

63 *ibid.*

64 *ibid.*

65 The Guardian, 'Sri Lanka accuses Facebook over hate speech after deadly riots', 14 March 2018 www.theguardian.com/world/2018/mar/14/facebook-accused-by-sri-lanka-of-failing-to-control-hate-speech

66 Al Jazeera, 'Sri Lanka "on the brink" amid fresh anti-Muslim violence', 8 March 2018 www.aljazeera.com/news/2018/03/sri-lanka-brink-fresh-anti-muslim-violence-180307203031915.html

67 *ibid.*

68 New York Times, 'Where Countries are Tinderboxes and Facebook Is a Match', *ibid.*

69 *ibid.*

70 *ibid.*

71 *ibid.*

72 *ibid.*

violence; however, on 1 November 2018 he was granted bail,⁷³ less than nine months after his arrest.

On 6 March, the Sri Lankan government announced a state of emergency. Recognising the role that social media was playing in spreading the violence, a government spokesman stated that ‘law enforcement would also act against “all communal hate speech posts on social media.”’⁷⁴ Social media platforms such as Facebook, WhatsApp and Viber were blocked across the country. President Maithripala Sirisena (2015-2019) also blamed social media for the riots: ‘Extremist groups were using social media in the most heinous manner... That is why we had to limit it.’⁷⁵

While blocking social media may limit the spread and continuation of violence, Sri Lanka must do more to encourage social media platforms to clamp down on hate speech and false or discriminatory content. Under President Sirisena the Sri Lankan government called for Facebook to improve its moderation system but did not follow up on the issue after meeting Facebook representatives in October 2017.⁷⁶ By allowing hate speech to remain prevalent on social media, the conditions for large scale violence are able to build up over time. In May 2020 Facebook apologised for its role in the violence, after an independent probe commissioned by the platform found that hate speech and rumours spread on Facebook ‘may have led to “offline” violence’.⁷⁷

Moreover, internet bans are easily circumvented through the use of VPNs and other tools, which allow the user to disguise the device’s location. Furthermore, blocking social media may drive purveyors into offline private forums, making hate speech harder to monitor and prevent.

The use of social media to incite hate is not a new phenomenon in Sri Lanka, or globally. However, as the CPA warned in a 2014 report: ‘The danger of glossing over the (long-term) impact of online hate speech is that a process of radicalisation, particularly targeted at and occurring amongst the youth, risks undermining Sri Lanka’s already fragile post-war democratic fabric.’⁷⁸

It is important to note, however, that while social media may be the preferred means of spreading hate, it is not the cause of inter-religious tensions. Presidential advisor Harindra Dissanayake alluded to this when he stated, ‘We don’t completely blame Facebook... The germs are ours, but Facebook is the wind, you know?’⁷⁹ During the COVID-19 lockdown hate speech against Muslims and Christians increased again, on both mainstream and social media.⁸⁰

73 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

74 New York Times, ‘Where Countries are Tinderboxes and Facebook Is a Match’, *ibid.*

75 Al Jazeera, ‘Did Sri Lanka’s Facebook ban help quell anti-Muslim violence?’, 14 March 2018 www.aljazeera.com/news/2018/03/sri-lanka-facebook-ban-quell-anti-muslim-violence-180314010521978.html

76 New York Times, ‘Where Countries are Tinderboxes and Facebook Is a Match’, *ibid.*

77 Al Jazeera, ‘Sri Lanka: Facebook apologises for role in 2018 anti-Muslim riots’, 13 May 2020 www.aljazeera.com/news/2020/05/13/sri-lanka-facebook-apologises-for-role-in-2018-anti-muslim-riots/

78 Centre for Policy Alternatives, ‘Liking Violence: A study of hate speech on Facebook in Sri Lanka’, September 2014, p.15 www.cpalanka.org/wp-content/uploads/2014/09/Hate-Speech-Final.pdf

79 New York Times, ‘Where Countries are Tinderboxes and Facebook Is a Match’, *ibid.*

80 MinorMatters, ‘Hate Speech in Sri Lanka During the Pandemic’, 2020 www.minormatters.org/storage/app/uploads/public/5fc76b014/5fc76b014d43f554793096.pdf

The Christian community

Many associate Christianity with the Portuguese, Dutch and English colonial eras, and the links of diverse denominations with the Vatican or other networks add to this perception.⁸¹ The BBS website has described colonialism in South Asia as ‘the brutal onslaughts of Western Christian armies at the instigation of the Vatican, Dutch Reformed Church [and] the Church of England.’⁸² During the English colonial era, the elite class predominantly comprised English-speaking Christians who enjoyed economic favouritism and political patronage,⁸³ furthering historical animosity. According to Chad Bauman, a professor of religion at Butler University, Islam and Christianity are ‘both portrayed...as foreign religions that don’t have deep indigenous roots in Sri Lanka.’⁸⁴

Further driving intolerance towards Christians is fear of expansion via proselytism. Similar to the narratives surrounding the fear of the expansion of the Muslim population, Sinhalese-Buddhist nationalists perceive proselytism as a threat to their dominance. During the 2004 general election, monks from the right-wing nationalist Jathika Hela Urumaya Party (National Heritage Party) made proselytism a central issue of the election campaign, before failing in an attempt to introduce anti-conversion legislation.⁸⁵ Supreme Court rulings Special Determination No. 19/2003⁸⁶ and S.C.F.R. No. 241/14⁸⁷ both cited the primacy of Buddhism as one of the reasons behind their decision, with ruling S.C.F.R. No. 241/14 going further by stating that proselytism is not a constitutionally protected right. This ruling provides evidence that

81 The Atlantic, ‘How Sri Lanka’s Christians Became a Target’, 24 April 2019 www.theatlantic.com/international/archive/2019/04/sri-lankas-christians-faced-new-persecution/587842/

82 Catholic Herald, ‘Sri Lanka’s not-so-tranquil Buddhists’, 2 January 2015 <https://catholicherald.co.uk/sri-lankas-not-so-tranquil-buddhists/>

83 International Centre for Ethnic Studies & Equitas, ‘The Chronic and the Acute: Post-War Religious Violence in Sri Lanka’, 2015, p.37 <https://equitas.org/wp-content/uploads/2015/11/ICES-Equitas-Gehan-report-for-printing-2015-11-24.pdf>

84 *ibid.*

85 MinorMatters, ‘Study: New Buddhist Extremism and the Challenges to Ethno-Religious Coexistence in Sri Lanka’, 22 August 2018 www.minormatters.org/en/blog/study-new-buddhist-extremism-and-the-challenges-to-ethno-religious-coexistence-in-sri-lanka

86 Refworld, In the Supreme Court of the Democratic Socialist Republic of Sri Lanka, S.C. Special Determination No. 19/2003, A Bill titled “Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation).”, *ibid.*

87 Supreme Court of Sri Lanka. S.C. F.R. No. 241/14, p.37, *ibid.*



Apostolic Church, Kurunegala District

In January 2016 a mob of about 100 people led by two militant Buddhist monks entered the church premises and threatened to kill this man if he continued to attend church. He attempted to register a police report but the police took no notice of the matter. His house was trashed with stones by the same perpetrators for seven months continually.

‘Christian evangelical aims to propagate the religion remain fundamentally at odds with the constitutionally protected aim to protect and foster Buddhism.’⁸⁸ Christians who have travelled to villages to evangelise or live have reportedly been told ‘Don’t come into this village! This is a Buddhist village. You’re not supposed to come and talk about your religion in this place.’⁸⁹

Minority Rights Group’s 2016 report ‘Confronting Intolerance: Continued Violations Against Religious Minorities in Sri Lanka’ analysed 47 reported incidents of violence against Christians between November 2015 and September 2016. It found that 81% of the violence was chronic and non-physical. Worryingly, harassment by state officials accounted for 35% of these non-physical incidents,⁹⁰ and in 31% of the overall incidents the perpetrators were state actors.⁹¹ Highlighting the structural nature of discrimination against Christians, the state (local officials and police) responded negatively in 60% of the 47 cases analysed; this ranged from condoning illegal acts to refusing to record complaints.⁹²

The structural nature of the discrimination against Christians makes this aspect harder to combat, as public and international attention is attracted to national events, such as targeted mob violence against Muslims, rendering the everyday violations almost invisible. At the ministerial level of government, there are indications of a refusal to acknowledge the violence experienced by the Christian community.

In June 2017 lawyer Lakshan Dias criticised attacks on evangelical Christians, noting that there had been nearly 200 cases of religious violence targeting Christian places of worship and clergy.⁹³ In response the Minister of Justice at the time, Wijedasa Rajapakse, threatened to ‘take necessary steps to remove Mr. Lakshan Dias from the legal profession’⁹⁴ unless he apologised.

With the new government, there was a general expectation that a ‘good governance’ administration would seek to create a more tolerant culture; however, the targeted harassment, discrimination and persecution continued.⁹⁵ For example, in December 2019, in Batticaloa, Eastern Province, a viral video emerged of a monk slapping a man who was reportedly a Christian missionary. The monk then

proceeded to criticise a police officer for failing to prevent the promoting of Christianity in the area.^{96 97}

A more recent trend has been the surveillance of places of worship under the guise of national security or public health. There were renewed demands for anti-conversion laws in August 2020 by the current prime minister, and later in March 2021 by Buddhist monks.



Apostolic Church, Alawwa, Kurunegala District

In January 2016 a mob of about 100 people led by two Buddhist monks broke into this pastor’s church and threatened him with violence unless he closed down the church. He attempted to file a police complaint but was reprimanded by the officer in charge, who refused to record his complaint or to provide police protection. Since then, the Apostolic Church has received several more threats from Buddhist monks and villagers, and has made the decision to stop holding worship services.

88 International Centre for Ethnic Studies & Equitas, *ibid.*

89 MinorMatters, ‘Study: New Buddhist Extremism and the Challenges to Ethno-Religious Coexistence in Sri Lanka’, *ibid.*

90 Minority Rights Group International, ‘Confronting intolerance: Continued violations against religious minorities in Sri Lanka’, 8 December 2016, p.10 https://minorityrights.org/wp-content/uploads/2016/12/MRG_Rep_SriLan_Dec16.pdf

91 *ibid.*, p.11

92 *ibid.*, p.12

93 UCA News, ‘Civil society upset as Sri Lankan minister threatens lawyer’, 21 June 2017 www.ucanews.com/news/civil-society-upset-as-sri-lankan-minister-threatens-lawyer/79559

94 Human Rights Watch, ‘Sri Lanka: Minister Threatens Defender of Minority Rights’, 19 June 2017 www.hrw.org/news/2017/06/19/sri-lanka-minister-threatens-defender-minority-rights

95 MinorMatters, ‘Inaction and Impunity: Incidents of religious violence targeting Christians, Muslims and Hindus 2015–2019’ www.minormatters.org/storage/app/uploads/public/5f7/fef/17a/5f7fef17a04b5744424400.pdf

96 Colombo Gazette, ‘Video of controversial monk assaulting man goes viral’, 28 December 2019 <https://colombogazette.com/2019/12/28/video-of-controversial-monk-assaulting-man-goes-viral/>

97 Tamil Guardian, ‘Video of Sinhala Buddhist monk assaulting Christian man goes viral’, 31 December 2019 www.tamilguardian.com/content/video-sinhala-buddhist-monk-assaulting-christian-man-goes-viral

The Muslim community

The Muslim community also experiences severe FoRB violations. A key factor in the violations is the perception by Sinhalese-Buddhist nationalists that Muslims are a threat to both Buddhism and the Sinhalese. 'The Muslim minority threatens the national majority of the Sinhalese because they remind the majority that the unsullied and complete national whole doesn't exist.'⁹⁸

Sinhalese-Buddhist nationalist perceptions are fuelled by a fear of the rapid increase in the Muslim population. The concern is that Muslims could become the dominant ethno-religious group. This is evident during the build-up to the Ampara riots, when it was widely circulated that Muslims, who are 'perceived to have grown disproportionately to other ethno-religious groups,'⁹⁹ were going to exploit their new position through the use of 'sterilisation pills' to end Sinhalese-Buddhist dominance.¹⁰⁰

On 24 May 2019 Shegu Shihabdeen Mohamed Shafi, a Muslim doctor, was arrested following accusations he had sterilised over 4,000 Sinhalese-Buddhist women. Allegations against an unnamed doctor first appeared in mainstream Sinhala language newspaper 'Divaina' on 23 May, which ran the headline 'Thawheed Jamath doctor has sterilized Sinhala Buddhist mothers after C-section surgeries. Details revealed with proof. Widespread investigations carried out to arrest the doctor.'¹⁰¹ Since the National Thowheed Jamath perpetrated the Easter Sunday bombings, this accusation combined the nationalist fears of terrorism and demographic alteration. Social media again played a role in spreading the story, with one post stating: 'Realise the danger now? This is Wahabism. He is a worse terrorist than the terrorist who carried out the bombings.'¹⁰² The following day Mr Shafi was arrested before

98 MinorMatters, 'The Challenge for the Muslim Community after the Recent Communal Violence in Sri Lanka', *ibid*.

99 Groundviews, 'On Kandy: How Myths about Minorities Underlie Violence', 3 September 2018 <https://groundviews.org/2018/03/09/on-kandy-how-myths-about-minorities-underlie-violence/>

100 *ibid*.

101 AFP Fact Check, 'Sri Lankan authorities found the Muslim surgeon had not performed any sterilisations', 5 July 2019 <https://factcheck.afp.com/sri-lankan-authorities-found-muslim-surgeon-had-not-performed-any-sterilisations>

102 *ibid*.



being charged under the country's terrorism law on 27 May. The terrorism charges stemmed from a complaint lodged by Kurunegala Deputy Inspector General Kithsiri Jayalath on 22 May, accusing Mr Shafi of assisting IS bombers in Sri Lanka.¹⁰³

On 27 June, the case was brought before Kurunegala Magistrate's Court. A report submitted by the Criminal Investigation Department of Sri Lanka found no evidence of Mr Shafi engaging in non-consensual sterilisation but did find that 'the investigation into the newspaper report has revealed that this journalist...published the news item without necessary verification of facts.'¹⁰⁴ Furthermore, reports from 13 Sri Lankan law enforcement and intelligence services cleared Mr Shafi of terrorist links.¹⁰⁵ Mr Shafi was granted bail on 25 July.¹⁰⁶

Attempts are also made to reduce the visibility of Islam through the destruction of mosques¹⁰⁷ and restrictive stances on religious clothing, such as calls by the BBS for a ban on the burka in March 2015.¹⁰⁸ In April of the same year the Sinhala Ravaya also demanded a ban on the niqab and the burka, arguing that it should fall under the full-face helmet ban, designed to reduce crime.¹⁰⁹

Muslims are not targeted solely on religious grounds. 'There is a temporal, spatial, political, economic and social dynamic to the anti-Muslim violence.'¹¹⁰ Many propagators of hate speech focused on economic factors, with the misrepresentation that all Muslims are successful businessmen resulting in, among other things, halal boycotts and repeated attacks on and destruction of Muslim businesses.¹¹¹



Aluthgama

This woman's shop and house were destroyed by fire during the 2014 Aluthgama violence, which was perpetrated by the Bodu Bala Sena (BBS), or the Buddhist force. She is a mother of three children. Through kind donations, she was able to restart her business. Despite being bold enough to testify in court on behalf of her community in Dharga, she lives in continued fear after the 2014 violence.

103 ibid.

104 ibid.

105 ibid.

106 Reuters, 'Sri Lanka court grants bail for doctor accused of sterilizing Buddhist women', ibid.

107 MinorMatters, 'The Challenge for the Muslim Community after the Recent Communal Violence in Sri Lanka', ibid.

108 Colombo Telegraph, 'Anti Muslim Sentiment in Sri Lanka: Hate Incidents – January to April 2015', 19 June 2015 www.colombotelegraph.com/index.php/anti-muslim-sentiment-in-sri-lanka-hate-incidents-january-to-april-2015/

109 ibid.

110 MinorMatters, 'The Challenge for the Muslim Community after the Recent Communal Violence in Sri Lanka', ibid.

111 ibid.

Below are examples of the wide-ranging nature of attacks on Muslims and violations of their right to freedom of religion or belief:

- 22 March 2015: Sinhalese Buddhists who had leased shops from Muslims in the Warakapola area claimed ownership of 13 shops, alleging they belonged to the Naga temple of the Dalada Maligawa. Instead of paying rent to the Muslim owners, they began making payments to the temple, and several of the shops were forcefully entered and new locks installed. Extremists also claim Muslims have no right to live in certain areas, and that they should pay tax to the temple.¹¹²
- 6 April 2015: In Kiribathgoda, Colombo District, protests that broke out against the opening of a men's fashion shop ended only when the police arrived. Muslims have not been allowed to open businesses within the Kiribathgoda area for a long time now.¹¹³
- January 2016: Muslim residents in the Nugegoda district of Colombo found the words 'Sinha Le' spray painted on their walls.¹¹⁴ This was part of a wider 'Sinha Le' campaign which had been growing since 2015 and was widely seen as an act designed to provoke ethnic tensions and insinuate that Muslims were the main target.¹¹⁵
- February 2016: Construction of a madrasa in Bandaragama was halted by the Divisional Secretary following opposition from local Buddhist clergy, despite the necessary approval for construction having been granted. The police noted that the construction was legal but advised halting it as they would be unable to protect the madrasa if an attack occurred.¹¹⁶
- June 2016: While addressing an anti-Muslim protest in Mahiyanganaya on the second anniversary of the 2014 Aluthgama riots, the General Secretary of the BBS threatened 'Phase 2' [of the riots] unless the authorities dealt with the Muslim community allegedly overstepping the boundaries.¹¹⁷
- June 2016: Construction of a minaret at the Jumma Line Mosque (also known as the Malay Military mosque) halted when local Buddhists protested that it would be higher than the sacred Buddhist Temple of the Tooth in Kandy.¹¹⁸

The ban on full face covering is a recurring issue among nationalists and the nationalist politicians. Several Muslims have been arrested under the PTA and the ICCPR Act on grounds of inciting religious disharmony – they are detained without charges being filed on unsubstantiated grounds for prolonged periods of time.

112 Colombo Telegraph, 'Anti Muslim Sentiment in Sri Lanka: Hate Incidents – January to April 2015', *ibid.*

113 *ibid.*

114 Minority Rights Group International, *ibid.*

115 Centre for Policy Alternatives, 'Dynamics of Sinhala Buddhist Ethno-Nationalism in Post-War Sri Lanka', April 2016, p.27 www.cpalanka.org/wp-content/uploads/2016/04/Dynamics-of-Sinhala-Buddhist-Ethno-Nationalism-in-Post-War-Sri-Lanka.pdf

116 Minority Rights Group International, *ibid.*, p.17

117 *ibid.*, p.20

118 *ibid.*, p.17

Sinhalese-Buddhist nationalists

Buddhist Nationalist monks and groups such as the BBS play a key role in the spread of religious hatred and violence. They were some of the driving forces behind the 2018 riots in Ampara and Kandy and are often described as ‘a majority with a minority complex.’¹¹⁹ Nationalist groups attempt to portray themselves as the protectors of Sri Lanka’s Sinhalese-Buddhist majority status.

The concept of Sinhalese-Buddhist dominance has its roots in *The Mahāvamsa* (Great Chronicle), a mythical ‘historical narration of Buddhism’s ascendance in Sri Lanka.’¹²⁰ One passage in particular establishes Sri Lanka as a Buddhist land under the protection of Vijaya, the first Sinhalese king in the country.

*Vijaya, son of king Sihabahu, [has] come to Lanka from the country of Lala, together with seven hundred followers. In Lanka, O lord of gods, will my religion be established, therefore carefully protect him with his followers and Lanka.*¹²¹

Another passage describes the aftermath of a battle through which King Dutugemunu unified the island under his rule. Allegedly the king expressed remorse for those who had died and was told by a group of monks not to worry, as non-Buddhists were ‘not more to be esteemed than beasts.’¹²² ‘With a single story, the unscrupulously brilliant author of *Mahavamsa* created a nexus between war, race and religion and consecrated the task of protecting the faith as the *raison d’être* of kingship.’¹²³ School textbooks reinforce this message, borrowing ‘uncritically from these *Mahāvamsian* stories of successful military campaigns led by Sinhala rulers against “foreign rulers” to “protect Buddhism and the Sinhalese nation.”’¹²⁴

119 Asian Journal of Comparative Law, *ibid.*, p.16

120 *ibid.*, p.11

121 *ibid.*, p.11

122 Centre for Policy Alternatives, ‘Dynamics of Sinhala Buddhist Ethno-Nationalism in Post-War Sri Lanka’, *ibid.*, p.12

123 *ibid.*, p.12

124 The World Bank, ‘The Ethnic Conflict in Sri Lanka: A Historical and Sociopolitical Outline’, February 2001 <http://documents1.worldbank.org>



Under colonial rule Buddhism was marginalised, leading to calls by many to restore Buddhism to its 'rightful place'.¹²⁵ Following independence political Buddhism 'gained traction as an ideology emphasising Buddhist supremacy and minority subordination'.¹²⁶ The post-independence era also saw the emergence of the *Jathika Chinthanaya* (national consciousness) movement. Proponents of this movement believe that there is an over-arching Sinhala-Buddhist culture under which people historically co-existed and should continue to exist. If minorities accept the norms of the dominant culture as their own, they are welcome.¹²⁷ This belief is still popular with Sinhalese-Buddhist nationalists in contemporary Sri Lanka.

*The common thread underpinning the Sinhala-Buddhist nationalist ideology is the imagination of a glorious past in which the Sinhala nation was one cohesive polity... This ideology holds that this pristine society in which the Sinhala Buddhist culture reigned supreme and indeed flourished was destroyed by successive foreign invasions and influences (including Hindu, Christian and Islamic) over the centuries... Thus the emphasis on restoring Buddhism to its rightful place and the Sinhala people to their rightful position as rulers of the land...*¹²⁸

'Sinha Le' campaign

In late 2015 and early 2016, the 'Sinha Le' campaign began to gain attention on social media. It was originally a poster campaign featuring an image of the lion from the national flag, combined with the words 'Sinha' (lion) in yellow and 'Le' (blood) in red.¹²⁹ The posters began to appear increasingly in public spaces and on private vehicles, followed by reports of the words being spray painted onto the properties of minorities.

On 6 January 2016 the Sinhalese Jathika Balamuluwa (SJB) was formed with the purpose of safeguarding 'the identity of the Sinhala people and to regenerate the supremacy and pride of the Sinhala people'.¹³⁰ It publicly endorsed the Sinha Le campaign. On 23 January 2016 the SJB organised a motorcade starting in Colombo and concluding with a public rally in Kandy, where the organisation claimed to have distributed over 200,000 Sinha Le stickers.¹³¹

The word *Sinhale* has historically been used to denote the part of the country which remained free from colonial

rule. However, breaking the word into two parts altered its context, making the campaign 'essentially racist, mixing elements of violent xenophobia, Islamophobia, racial slurs and hate speech in what is promoted as a campaign signifying love for country and patriotic zeal'.¹³²

Gnanasara Thero and the Bodu Bala Sena

Founded in 2012 the Bodu Bala Sena (BBS, Buddhist Power Force) has become one of the country's most prominent Sinhalese-Buddhist nationalist organisations. Evidence of the desire to protect the Sinhalese and Buddhism can clearly be found in the reasons given for the 'need' for such an organisation by its theoretician, Dilanthe Withanage:

*Although Sinhalese are the majority of this country, and although Buddhism is given some recognition in the constitution, this is not happening in practice. We thought we have a duty to protect the Sinhalese and Buddhism, and the BBS was created for this purpose... Sinhalese can be considered as the majority, but with globalisation, it is a global minority. If something happens to the Muslims and Tamils all the embassies will raise their voices. But if something happens to the Sinhalese, no one is there to protect.*¹³³

Since its formation the organisation has propagated strong anti-minority rhetoric and false narratives. For example, in 2013 a BBS spokesman stated the Qur'an instructed Muslims to spit three times on meals offered to non-Muslims.¹³⁴

There is evidence of links between the government of Mahinda Rajapaksa and the BBS. Following a speech in June 2014 that precipitated anti-Muslim violence in southern Sri Lanka, President Mahinda Rajapaksa (2005-2015) responded by urging 'all parties to act in restraint'.¹³⁵ As Secretary of Defence (2005-2015), current president Gotabaya Rajapaksa attended several BBS rallies. During his speech at the Defence Seminar 2013, Gotabaya stated:

It is a known fact that Muslim Fundamentalism is spreading all over the world and in this region. This is a situation that our Law Enforcement agencies and Security Forces are concerned about... The possibility that such extremist

125 Centre for Policy Alternatives, 'Dynamics of Sinhala Buddhist Ethno-Nationalism in Post-War Sri Lanka', *ibid.*, p.10

126 *ibid.*, p.11

127 *ibid.*, p.13

128 *ibid.*, p.13

129 *ibid.*, p.27

130 *ibid.*, p.27

131 Sunday Observer, 'The genesis of Sinha Le', 31 January 2016 <http://archives.sundayobserver.lk/2016/01/31/fea14.asp>

132 Sunday Observer, 'A concentrated effort to: Deny and destroy diversity', 10 January 2016 <http://archives.sundayobserver.lk/2016/01/10/spe-uni-04.asp>

133 Centre for Policy Alternatives, 'Dynamics of Sinhala Buddhist Ethno-Nationalism in Post-War Sri Lanka', *ibid.*, p.21

134 *ibid.*, p.22

135 New York Times, 'Sri Lanka's Violent Buddhists', 2 January 2015 www.nytimes.com/2015/01/03/opinion/sri-lankas-violent-buddhists.html

*elements may try to promote Muslim extremism in Sri Lanka is a cause for concern.*¹³⁶

Public statements such as this by government officials served to validate the opinions of groups like the BBS and may cause members of the public to support them. The BBS has also been able to use the state-owned cellular network to raise funds.¹³⁷

There is less direct evidence linking the government of President Sirisena (2015-2019) to Buddhist nationalists; however, his government's failure to clamp down on hate speech and prosecute perpetrators has created a climate of impunity which the BBS have exploited to further their agenda. During this period Gnanasara Thero became so popular that some of his followers said they would 'pour petrol and kerosene and set themselves on fire' if he was arrested.¹³⁸ In May 2017 Gnanasara was leading a group to reportedly attack the mosque in Throrayaya, North Western Province. However, the group was stopped by local police led by the Superintendent of Police, and his followers threatened to 'self-immolate' if he was arrested. When the Superintendent called the Inspector General in Colombo for advice, he was told not to arrest Gnanasara.¹³⁹

At the end of May 2017, following pressure from a number of Muslim ministers,¹⁴⁰ a court issued an arrest warrant for Gnanasara, who then went into hiding. He was eventually arrested on charges relating to contempt of court and the intimidation of witnesses. On 8 August 2018 he was convicted on 'four counts of contempt of court, receiving terms of four years each on the first and the second counts, six years on the third and five for the fourth, all to run concurrently.'¹⁴¹ His anti-Muslim rhetoric and incitement of violence against religious minorities were not mentioned in the charges against him.

On 22 May 2019 President Sirisena pardoned Gnanasara. Some analysts suggest this pardon was part of Sirisena's bid to gain Buddhists' votes in the November 2019 presidential election.¹⁴² The timing of this pardon, as well as the pardon itself, was problematic because it came just a week after attacks on Muslim properties and businesses, believed to have been motivated by the Easter Sunday bombings a

month earlier. At a time of great tension within Sri Lanka, releasing a well-known hate preacher with a history of inciting violence raised understandable concerns.

Within a week of his release Gnanasara threatened to disrupt the security of the country unless steps were taken to address Wahhabism. He supported parliamentarian Athuraliye Rathana Thero in his 'fast-unto-death' which Rathana began on 31 May 2019, demanding the resignation of the Muslim governors Azath Salley and M L A M Hizbullah, and Muslim minister Rishad Bathiudeen, arguing they had links to the Easter bombings.¹⁴³ Gnanasara stated that he was supporting the fast because 'if the terrorist threat of Wahabism [sic] mania and violence is not stopped, it will root itself for another century.'¹⁴⁴ Four days later, on 3 June, the governors and nine Muslim members of parliament resigned.

Political analyst Tisaranee Gunasekara described Rathana's fast as 'an act of blackmail' and added that the government's failure to resist it 'demonstrated in no uncertain terms that it cannot stand up to Sinhala-Buddhist racism.'¹⁴⁵

In July 2019, the BBS held their first meeting since the Easter bombings. The meeting was arranged to decide who to support in the November presidential elections. During the meeting Gnanasara said, 'We the clergies should aim to create a Sinhala government. We will create a parliament that will be accountable for the country, a parliament that will protect Sinhalese.' He further added that the country's fight against Islamic extremism should be left to the Buddhist monks: 'It's our responsibility because this is a Sinhalese country. We are the historical owners of this country.'¹⁴⁶ By repeating the assertion that the Sinhalese require protection, Gnanasara was tapping into the longstanding fears of the Sinhalese population and the *Jathika Chinthanaya* concept.

Gnanasara also criticised the hung parliaments under which Sri Lanka has operated recently, where minority political parties have a say, stating, 'We will build a Sinhala Parliament. If we can get 7000 out of the 10,000 temples we

136 Adaderana, 'VIDEO: Gotabaya "concerned" by attempts to promote Muslim extremism in Sri Lanka', 3 September 2013 www.adaderana.lk/news.php?nid=23950&mode=beauti#.UibPzaxUQQ.facebook

137 New York Times, 'Sri Lanka's Violent Buddhists', *ibid*.

138 DBSJEYARAJ.com, 'Bodu Bala Sena's Gnanasara Thero To Be Arrested Following President Sirisena's Directive To Law And Order Minister Sagala Ratnayake', 23 May 2017 <http://dbsjeyaraj.com/dbsj/archives/53137>

139 *ibid*.

140 Al Jazeera, 'Sri Lanka: Buddhist leader stokes anti-Muslim tension', 26 May 2017 www.aljazeera.com/news/2017/05/sri-lanka-buddhist-leader-stokes-anti-muslim-tension-170526211713093.html

141 Daily FT, 'Galagoda Aththe Thero gets 6-year jail term for contempt of court', 9 August 2018 www.ft.lk/front-page/Galagoda-Aththe-Thero-gets-6-year-jail-term-for-contempt-of-court/44-660560

142 Reuters, 'Freed Sri Lanka Buddhist monk vows to expose Islamist militancy', 28 May 2019 <https://uk.reuters.com/article/uk-sri-lanka-monk-pardon/freed-sri-lanka-buddhist-monk-vows-to-expose-islamist-militancy-idUKKCN1SY1D5>

143 Al Jazeera, 'Sri Lanka Muslim ministers quit to protest "threat to community"', 3 June 2019 www.aljazeera.com/news/2019/06/sri-lanka-muslim-ministers-quit-protest-threat-community-190603083758991.html

144 Colombo Telegraph, 'BBS Gnanasara Promises Pandemonium Countrywide By Tomorrow', *ibid*.

145 Groundviews, 'Held to Ransom: Capturing Fallout of a Fast Unto Death', 4 June 2019 <https://groundviews.org/2019/06/04/held-to-ransom-capturing-fallout-of-a-fast-unto-death/>

146 Reuters, 'Hardline Sri Lanka monk calls for Buddhist Sinhalese government', *ibid*.

have on our side, and they work to gather votes, it will not be as difficult as people imagine.¹⁴⁷

Buddhist extremism and national security

The 'Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019' noted that an alleged rise in domestic Islamic extremism occurs against a backdrop of 'increasing levels of Islamophobia';¹⁴⁸ and cited evidence that Zahran Hashim, the reported leader of the Easter Sunday bombings, began a 'campaign to radicalize Muslim youth and motivate them to use violence to achieve their ends post March 2018 attacks on Muslims in Digana'.¹⁴⁹

Highlighting the detrimental effect Buddhist extremism is having on the security of Sri Lanka, the report proceeds to make several references to the strong link between the rise in Buddhist extremism and the perceived radicalisation of members of the Muslim community:

- 'More recently with the rise of Buddhist extremism in the country, the Islamic extremism moved towards violent extremism.'¹⁵⁰
- 'The ongoing victimization by certain extremists in the Buddhist community of an already vulnerable community over the years fed into the growth of radicalization and extremism in the Muslim community as per the evidence.'¹⁵¹
- 'The growing demonization of Muslims by religious extremists in society over the last few years is contributing to their radicalization. This is compounded by the impunity with which alleged perpetrators operate, with several alleged perpetrators continue [sic] to advocate hate with no evidence of being held accountable for their action.'¹⁵²
- 'The PSC observes that the marginalization of Muslims and widespread Islamophobia since the end of the civil war may have contributed to Muslim youth being more prone to the process of Islamic radicalization.'¹⁵³

147 Daily FT, 'BBS pledges to build Sinhala Parliament', 8 July 2019 www.ft.lk/front-page/BBS-pledges-to-build-Sinhala-Parliament/44-681516

148 Parliament of Sri Lanka, 'Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019', 23 October 2019, p.4 www.parliament.lk/uploads/comreports/sc-april-attacks-report-en.pdf#page=1

149 *ibid.*, p.4

150 *ibid.*, p.94

151 *ibid.*, p.94

152 *ibid.*, p.95

153 *ibid.*, p.95

Easter Sunday bombings

On Easter Sunday 2019 a small Sri Lankan group, National Thowheed Jamath (NTJ), conducted a series of bombings targeting churches and hotels across Sri Lanka, killing over 250 people. The group was founded by Zahran Hashim, the suspected leader of the suicide bombers, as a splinter group from the hard-line Islamist group, the Sri Lanka Thowheed Jamath (SLTJ). The group was relatively unknown prior to the attacks, although some reports have linked the NTJ to the vandalism of Buddhist temples in Mawanella, Sabaragamuwa Province in December 2018,¹⁵⁴ and several Muslim individuals and groups had warned authorities about Mr Hashim as early as 2013.¹⁵⁵

The bombings clearly possessed a religious dimension because the perpetrators were Muslim and the victims predominantly Christian, and churches were also targeted. Furthermore, Mr Hashim had previously made public speeches in which he preached that all non-Muslims should be killed¹⁵⁶ and, in 2016, had distributed leaflets condemning Christianity.¹⁵⁷ An additional factor is that Christianity in Sri Lanka has long been associated with colonialism, with churches viewed as symbols of the West.¹⁵⁸ The hotels that were attacked were ones likely to be hosting foreign tourists.¹⁵⁹

Initially the Sri Lankan government claimed the bombings were in response to the March 2019 mosque shootings in Christchurch, New Zealand.¹⁶⁰ This claim has been widely refuted, in particular by New Zealand's Foreign Minister, who

154 BBC, 'Sri Lanka attacks: Who are National Thowheed Jamath?', 28 April 2019 www.bbc.co.uk/news/world-asia-48012694

155 Parliament of Sri Lanka, 'Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019', *ibid.*, p.4

156 Parliament of Sri Lanka, 'Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019', *ibid.*, p.87

157 Parliament of Sri Lanka, 'Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019', *ibid.*, p.84

158 The Atlantic, *ibid.*

159 *ibid.*

160 BBC, Christchurch mosque shootings www.bbc.co.uk/news/topics/c966094wvmqt/christchurch-mosque-shootings



The aftermath of the Easter Sunday 2019 attacks
REUTERS/Athit Perawongmetha

described it as a ‘cheap shot’ possibly designed to distract blame from the Sri Lankan security services,¹⁶¹ which were widely viewed as having failed to act on intelligence warnings. The failings of Sri Lanka’s intelligence services were confirmed in the ‘Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019’ which found ‘that prior intelligence information was available...but that it was not acted upon.’¹⁶²

The report also noted that several politicians ‘made comments...which were inflammatory and irresponsible,’¹⁶³ while coverage of the attack by mainstream electronic media and on social media ‘provoked animosity and fear mongering,’¹⁶⁴ both of which contributed to the violence and retaliatory attacks that followed. In particular, allowing TV stations to accompany security forces on searches of suspected suspects helped sustain ‘fear mongering, terror-momentum [and] blowing events out of proportion.’¹⁶⁵

Following the attacks, Dilanthe Withanage, a senior administrator for the BBS said, ‘We have been warning for years that Muslim extremists are a danger to national security...Blood is on the government’s hands for ignoring the radicalization of Islam.’¹⁶⁶ Security forces stated that violence [in the North Western Province] is a direct result of the Easter Sunday Bombings.¹⁶⁷

Muslim leaders condemned the attacks, with many denying the bombers a religious burial, sending ‘a clear warning to the entire Muslims [sic] community that such violence in the name of faith was unacceptable.’¹⁶⁸ Some mosque leaders even ‘stopped broadcasting prayer calls over loudspeakers to avoid offending mourners.’¹⁶⁹

Responses by state and non-state actors to the bombings included violence, curfews, bans on face-coverings and social media, and violating various human rights including FoRB. On 22 April 2019, a state of emergency was declared. Under the Constitution of Sri Lanka, a state of emergency can only last for one month at a time. On 27 May, President Sirisena informed international envoys that he would allow emergency laws to ‘lapse within a month as the security situation was “99% back to normal.”’¹⁷⁰ However, the state

of emergency was extended thrice before being lifted on 23 August 2019.

The report of the Presidential Commission of Inquiry (PCoI) into the Easter Sunday terror attacks, which was presented on February 2021, had made some notable recommendations including bringing a criminal prosecution against the Secretary General of the BBS, Gnanasara Thero, the controversial firebrand Buddhist monk known for stoking ethno-racial tensions and inciting hate against religious minorities. The report also called for the proscription of the BBS, as well as other Muslim organisations. In March the government extended the regulations of the Prevention of Terrorism Act (PTA), with the Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) regulations No.01 of 2021. The regulation, which lacks clear definition, gives the state broad powers to determine if someone is a threat to national security, as well as the right to detain someone for rehabilitative purposes. In April 2021, the government issued a further special gazette notification under the PTA banning 11 Muslim organisations, but excluded the BBS from the list. Local human rights monitoring groups have criticised other aspects of the recommendations in the PCoI that calls for the ban on face coverings, which was approved by the cabinet on 27 April with policies to tighten its regulations on places of worship, including the banning of madrasas and the digital space.

Attacks on Muslims

There have been repeated retaliatory attacks on the Muslim community by non-state actors. The perpetrators were members of both the Christian and Sinhalese Buddhist communities. Anti-Muslim violence ravaged the North Western province and the Gampaha district in particular. Hard-line Sinhalese Buddhist mobs attacked mosques, Muslim homes and Muslim businesses, resulting in the death of one person. Police and security officials were accused of complicity due to their refusal to intervene adequately. In Nikawaratiya, North Western Province, a Muslim man complained that ‘two police officers were placed two or three shops away, for the protection of the mosque in the local area. And they were there when

161 Washington Post, ‘Linking Christchurch attack and Sri Lanka bombing a “cheap shot,” New Zealand foreign minister says’, 30 April 2019 www.washingtonpost.com/world/2019/04/30/linking-christchurch-attack-sri-lanka-bombing-cheap-shot-says-new-zealand-foreign-minister/

162 Parliament of Sri Lanka, ‘Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019’, *ibid.*, p.1

163 *ibid.*, p.5

164 *ibid.*, p.173

165 *ibid.*, p.173

166 New York Times, ‘Buddhists Go to Battle: When Nationalism Overrides Pacifism’, 8 July 2019 www.nytimes.com/2019/07/08/world/asia/buddhism-militant-rise.html

167 Al Jazeera, ‘Sri Lanka unrest: Violence against Muslims increases’, 14 May 2019 www.aljazeera.com/news/2019/05/sri-lanka-unrest-violence-muslims-increase-190514122834359.html

168 Colombo Telegraph, ‘Secularism or Barbarism’, 16 May 2019 www.colombotelegraph.com/index.php/secularism-or-barbarism/

169 Washington Post, ‘Sri Lanka’s Muslims fear retaliation after Easter attacks on Christians’, 24 April 2019 www.washingtonpost.com/world/asia-pacific/sri-lankas-muslims-fear-retaliation-after-easter-attacks-on-christians/2019/04/24/9ffdfc8-6611-11e9-a698-2a8f808c9cfb_story.html

170 Asia News Network, ‘Emergency laws to end in a month: Sri Lankan President’, 28 May 2019 <https://asianews.network/2019/05/28/emergency-laws-to-end-in-a-month-sri-lankan-president/>

they [the mob] came and attacked the local shops.¹⁷¹ In Puttalam, North Western Province, a Muslim man was assured by police that local Muslim businesses would receive protection; however, the ‘police only showed up at 7p.m. when they finished burning homes and there was no use of them showing up afterwards.’¹⁷²

Amith Weerasinghe, who had been arrested in connection with the 2018 Kandy riots, was arrested again, this time for acting in a manner breaching peace and reconciliation and directly or indirectly inciting communal tensions.¹⁷³ These charges were in relation to alleged social media posts by Mr Weerasinghe which promoted racial and religious hatred.¹⁷⁴ On 4 June 2019 he was granted bail by a Colombo Additional Magistrate who ‘advised the suspect to refrain from making statements that can be identified as hate speech, or statements which could result in public unrest... [he] has also been banned from attending any gathering of such nature.’¹⁷⁵

In Negombo, Christian men targeted Muslim homes, smashing windows and breaking down doors before dragging people into the street, punching them and threatening to kill them.¹⁷⁶ In Bandaragama, south of the capital Colombo, a shoe shop owned by Mohamed Iqbal was broken into and burned on Easter Sunday evening, hours after the bombings.¹⁷⁷ While the identity of the perpetrators is unknown, it was clearly an act of revenge. Mr Iqbal’s son stated, ‘Our religious beliefs could not be more different from the Islamic State’s... But now everyone is looking at us as if we were the ones who bombed the churches.’¹⁷⁸

Karanthipola, Kuliypitiya in the North Western Province also saw outbreaks of violence, with Sinhalese Buddhists targeting Muslims. On 13 May a mob broke into the store of M.T.M. Sapuwan, eventually setting it and adjoining houses on fire.¹⁷⁹ On the same day in Hettipola, Panduwasnuwara, North Western Province, more than 80 shops, houses and buildings owned by Muslims were damaged, including the central mosque, Masjid Al Huda.¹⁸⁰ In both areas locals blamed outsiders rather than their Sinhalese neighbours. Mr Sapuwan, whose shop and home were burned down, stated, ‘It was our Sinhalese brothers and sisters who helped us, even in this situation. We don’t believe anyone from our neighbourhood in Kuliypitiya was involved.’¹⁸¹ As in the case of the Kandy riots of 2018 where perpetrators were bussed in, this implies organisation by a group or groups rather than spontaneous rioting.

Some members of the Muslim community expressed concern about leaving their houses in light of these attacks. For example, the family of Mohamed Hasan, a 41-year-old living in Dematagoda, Colombo, begged him not to go to work, as ‘they are worried that if I go out, will I be able to come back alive?’¹⁸² Echoing this, Zareena Begum, a 61-year-old also of Dematagoda, revealed, ‘We have been huddled at our homes. We are scared of going out.’¹⁸³

Refugees from Pakistan and Afghanistan, some of whom are Christian, have also been targeted. On 24 April, hundreds left Negombo after receiving threats of retaliation.¹⁸⁴ One man told Reuters, ‘Because of the bomb blasts and explosions that have taken place here, the local Sri Lankan people have attacked our houses... Right now we don’t know where we will go.’¹⁸⁵ Thirty-five Pakistani refugees had to be taken to a police station for their own protection, where they slept on the floor and had little access to food and water.¹⁸⁶

171 Human Rights Watch, ‘Sri Lanka: Muslims Face Threats, Attacks’, 3 July 2019 www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks

172 ibid.

173 News 1st, ‘Mahason Balakaya leader Amith Weerasinghe granted bail’, 4 June 2019 www.newsfirst.lk/2019/06/04/mahason-balakaya-leader-amith-weerasinghe-granted-bail/

174 Daily News, ‘Amith Weerasinghe released on bail’, 4 June 2019 www.dailynews.lk/2019/06/04/law-order/187428/amith-weerasinghe-released-bail

175 News 1st, ibid.

176 New York Times, ‘Sri Lanka’s Muslims Face an Angry Backlash After Easter Sunday Attacks’, 24 April 2019 www.nytimes.com/2019/04/24/world/asia/sri-lankas-muslims.html

177 ibid.

178 ibid.

179 Daily Mirror, ‘Outside hand suspected in Kuliypitiya violence’, 15 May 2019 www.dailymirror.lk/news-features/Outside-hand-suspected-in-Kuliypitiya-violence/131-167152

180 ibid.

181 ibid.

182 Al Jazeera, ‘“Not your enemies”: Sri Lanka Muslims fear backlash after blasts’, 24 April 2019 www.aljazeera.com/news/2019/04/enemies-sri-lanka-muslims-fear-backlash-blasts-190424081042798.html

183 ibid.

184 Reuters, ‘Muslims flee, Christians grieve in Sri Lankan town torn by violence’, 25 April 2019 www.reuters.com/article/us-sri-lanka-blasts-muslim-refugees/muslims-flee-christians-grieve-in-sri-lankan-town-torn-by-violence-idUSKCN1S108P

185 ibid.

186 ibid.

Social media ban

On Sunday 17 May 2019, social media was briefly banned after a Muslim shopkeeper in Chilaw, 70km north of Colombo, commented on Facebook, 'Don't laugh more, 1 day u will cry' on a post, which the community interpreted as a threat.¹⁸⁷ Mobs attacked his shop and a nearby mosque before the violence spread to other towns. Amid rising suspicions of Muslims, the All Ceylon Jamiyyathul Ulama (ACJU), the body of Islamic scholars that provides religious and community leadership in Sri Lanka, called 'upon the members of the Muslim communities to be more patient and guard your actions and avoid unnecessary postings or hosting on social media.'¹⁸⁸

Ban on full-face coverings

The emergency laws enacted under the state of emergency included a ban on full-face coverings, with President Sirisena saying that it was intended to 'ensure national security'.¹⁸⁹ The ACJU supported the ban on a short-term basis, but was against long term legislation. Farhan Faris, assistant manager of the ACJU, told Reuters, 'We have given guidance to the Muslim women to not to [sic] cover their faces in this emergency situation...If you make it a law people will become emotional and this will bring another bad impact...it is their religious right.'¹⁹⁰ The ban was lifted, alongside the other emergency laws, when the state of emergency ended. However, there have been instances even after the lifting of the ban where Muslim women, sometimes wearing only the hijab, were not allowed into public buildings such as banks and schools.

Despite the temporary nature of the ban, and the support of the ACJU, the ban divided opinion within the Muslim community. Some welcomed the ban, while others viewed it as an attack on either their right to freedom of religion or their identity. One woman revealed that her friend:

'...hasn't stepped out of the house from last Sunday. I visited her. She is really scared. You know, she isn't used to going out without her Abayah? Apparently she feels naked without

*it and she is scared that if she goes out in her Abayah, it will become an issue. So she is confined to her house.'*¹⁹¹

In the past Sri Lanka has placed a ban on full-face coverings for national security reasons. In 1991, during the civil war, a ban on full face motorcycle helmets and motorcyclists covering their faces came into force, in case 'terrorists' used them to conceal their identities.¹⁹² This law has been relaxed and then reinforced repeatedly, particularly after a spate of daylight bank robberies where perpetrators wore full face helmets. However, it had not previously been extended to religious garments, or clothing which covers the face.

In 2015 the BBS called for the ban to extend to the burka.¹⁹³ In the same year the Sinhala Ravaya, a similar group to the BBS, also called for a ban on the niqab and the burka, terming them 'a grave threat to national security.'¹⁹⁴

Criticisms of the face-covering ban include the fact that it does not address the true causes of the violence and may reinforce a perceived link between Islamic religious clothing and terrorism. In addition, there is no real evidence that face-coverings were used during the bombings. 'Why has it [Burqa and Niqab] been banned in our country when no acts of terror have been carried out by someone in a Burqa or Niqab?...[The real issue is how] hatred towards a particular community is gradually given shape and form and implemented in some way.'¹⁹⁵

UN Special Rapporteurs' visits

In 2019 the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Voule, and the UN Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, visited Sri Lanka from 16-26 July and 15-26 August respectively. The reports of both rapporteurs noted existing tensions towards the Muslim community, with the aftermath of the Easter bombings seeing an 'intensification of discrimination, hostility and violence against Muslim communities, boycotts of Muslim businesses, vigilante attacks on Muslim women's dress codes and media hate campaigns.'¹⁹⁶

187 Al Jazeera, 'Sri Lanka orders nationwide curfew amid anti-Muslim riots', 14 May 2019 www.aljazeera.com/news/2019/05/sri-lanka-nationwide-curfew-crowds-attack-mosques-190513144625670.html

188 *ibid.*

189 Al Jazeera, '"Unacceptable": Sri Lankans share their views on face veil ban', 29 April 2019 www.aljazeera.com/news/2019/04/sri-lankans-share-views-face-veil-ban-190429120515773.html

190 Reuters, 'Sri Lanka bans face veils after attacks by Islamist militants', 29 April 2019 www.reuters.com/article/us-sri-lanka-blasts-burqa/sri-lanka-bans-face-veils-after-attacks-by-islamist-militants-idUSKCN1S50JG

191 Groundviews, 'In the name of security: How the Burqa/Niqab Ban is Impacting Muslim Women', 22 May 2019 <https://groundviews.org/2019/05/22/in-the-name-of-security-how-the-burqa-niqab-ban-is-impacting-muslim-women/>

192 Colombo Telegraph, 'The Full Face Helmet Fiasco – The Head & The Tail', 21 April 2015 www.colombotelegraph.com/index.php/the-full-face-helmet-fiasco-the-head-the-tail/

193 Colombo Telegraph, 'Anti Muslim Sentiment in Sri Lanka: Hate Incidents – January to April 2015', *ibid.*

194 *ibid.*

195 *ibid.*

196 Office of the High Commissioner for Human Rights, 'Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief', 25 August 2020, p.5 <https://undocs.org/A/HRC/43/48/Add.2>

Dr Shaheed reported that after the Easter bombings, ‘2,289 people (mostly Muslims) were arrested under emergency regulations on suspicion of involvement with terrorism.’¹⁹⁷ In June 2019, a police spokesman informed Al Jazeera that 1,820 of those arrested were Muslim.¹⁹⁸ Families of arrested Muslims allegedly found it difficult to secure legal representation, with some Muslim lawyers reluctant to take the cases for fear of reprisals, and some non-Muslim lawyers refusing due to ‘extraneous considerations.’¹⁹⁹ Most of the detainees were arrested under the Prevention of Terrorism Act 1979, a temporary law designed to remain in effect for three years, which, however, remains in force today.²⁰⁰ Others were arrested under the International Covenant on Civil and Political Rights (ICCPR) Act 2007.²⁰¹ According to Section 3(1) of the Act, ‘No person shall propagate war or advocate national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.’

The majority of these arrests are arbitrary in nature, and have been used selectively to repress fundamental freedoms. The law has been criticised by human rights groups for being used to target fundamental rights of citizens,²⁰² rather than to convict perpetrators who have incited violence, such as the targeted violence against Muslims in Aluthgama in 2014, Digana 2018 and Gampaha 2019.²⁰³

Magistrates’ Courts have no mandate to grant bail to those charged under the ICCPR Act, forcing suspects to appeal to the high courts,²⁰⁴ which many cannot afford to do. On 17 May 2019, Abdul Raheem Mazahina, a 47-year-old grandmother, was arrested in Hasalaka, Central Province due to the pattern on her dress. The motif on the dress depicted a ship’s wheel, but police arrested her because the pattern resembled the *dharmachakra*, a Buddhist symbol. Ms Mazahina was charged under a hate speech law, and a law ‘that prohibits insulting religions with the “malicious intention of outraging religious feelings.”’²⁰⁵ The dress was sent to the Department of Buddhist Religious Affairs to verify the symbol; however, the department was unable to determine whether the symbol on the dress was a *dharmachakra*.²⁰⁶ On 3 June, the Mahiyanganaya Magistrate’s court released Ms Mazahina on bail. Arbitrary arrests such as this caused the Human Rights Commission of Sri Lanka to write to the Acting Inspector General of Police, calling on him to ensure that due process is always followed.²⁰⁷

Dr Shaheed further reported that many arrests followed searches by security forces of mosques and madrasas across the country. Often these searches were conducted with ‘little or no respect paid to religious practices, including by taking sniffer dogs (considered impure by Muslims) into mosques and confiscating Qur’anic and other Islamic texts mainly in Arabic, deemed ‘radical’ material.’²⁰⁸

197 *ibid.*, p.5

198 Al Jazeera, ‘Muslims “targeted with arbitrary arrests” after Easter massacre’, 16 June 2019 www.aljazeera.com/indepth/features/muslims-targeted-arbitrary-arrests-easter-massacre-190613123018003.html

199 Office of the High Commissioner for Human Rights, ‘Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief’, *ibid.*, p.6

200 *ibid.*, p.7

201 A domestic Act to give effect to certain articles in the ICCPR relating to human rights which have not been given recognition through legislative measures.

202 CIVICUS Monitor, ‘Misuse of ICCPR Act and judicial system to stifle freedom of expression in Sri Lanka’, 5 July 2019 <https://monitor.civicus.org/updates/2019/07/05/iccpr-act-and-judicial-system-being-misused-stifle-freedom-expression-sri-lanka/>

203 Verité Research, ‘Broken shield and weapon of choice’, 24 June 2019 www.veriteresearch.org/2019/06/24/iccpr-act-sri-lanka/

204 Journalists for Democracy in Sri Lanka, ‘Muslim woman arrested 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

205 Al Jazeera, ‘Muslims “targeted with arbitrary arrests” after Easter massacre’, *ibid.*

206 *ibid.*

207 Colombo Telegraph, ‘Easter Sunday Attacks: Stop Illegal Arrests – Human Rights Commission Of Sri Lanka Tells Police’, 4 July 2019 www.colombotelegraph.com/index.php/easter-sunday-attacks-stop-illegal-arrests-human-rights-commission-of-sri-lanka-tells-police/

208 Office of the High Commissioner for Human Rights, ‘Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief’, *ibid.*, p.6

Return to power of the Rajapaksas

On 18 November 2019 Gotabaya Rajapaksa, a former defence secretary and brother of two-term president Mahinda Rajapaksa, was sworn in as Sri Lanka's seventh executive president. Gotabaya received just over 52% of the vote, with support coming almost exclusively from Sinhalese-Buddhist areas in the south of the country. He struggled to secure votes in the Northern and Eastern Provinces, where the majority of Sri Lanka's Tamils and Muslims reside.²⁰⁹ Hilmy Ahmed, vice-president of the Sri Lanka Muslim Council, referred to Gotabaya's victory as 'all of our worst fears realised.'²¹⁰

One of Gotabaya's first acts was the appointment of his brother, Mahinda, as interim prime minister. On 5 August 2020 the Sri Lankan Podujana Peramuna (SLPP) secured a two-thirds majority in the general election, installing Mahinda as prime minister. The election, originally scheduled for 25 April, four days after the first anniversary of the Easter Sunday bombings, was twice postponed due to the COVID-19 pandemic.

Despite their popularity the brothers cut divisive figures in Sri Lankan politics. Both stand accused of committing grave human rights violations and war crimes, including the creation of military death squads and involvement in the abduction and disappearance of journalists,²¹¹ while simultaneously being praised by others for ending the long-running civil war with the Liberation Tigers of Tamil Eelam (LTTE).

At the 43rd Session of the Human Rights Council, the Minister of Foreign Relations of Sri Lanka delivered a speech on 26 February 2020 to the council that Sri Lanka was withdrawing from co-sponsoring Resolution 30/1,²¹² which was aimed

209 Groundviews, 'Implications of the populist frenzy of the Presidential Election', 21 November 2019 <https://groundviews.org/2019/11/21/implications-of-the-populist-frenzy-of-the-presidential-election/>

210 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

211 Vice, 'Sri Lanka's "Terminator" Government is Driving Journalists Out of the Country', 21 August 2020 www.vice.com/en_us/article/ep48mw/sri-lanka-terminator-government-is-sending-journalists-on-exile

212 Gotabaya Rajapaksa website, SLPP Election Manifesto, 'Vistas of Prosperity and Splendour: A vision for a resurgent prosperous country', p.i <https://gota.lk/sri-lanka-podujana-peramuna-manifesto-english.pdf>



at promoting reconciliation, accountability and human rights in Sri Lanka. Describing the resolution as flawed, the Minister noted that with the overwhelming majority in support of Gotabaya Rajapaksa, the country would pursue a home-grown solution.²¹³

Electoral and public rhetoric

Throughout his presidential campaign Gotabaya Rajapaksa emphasised the need for national security, referring consistently to his role in ending the civil war during his time as defence secretary, while highlighting the failures of the administration at that time to prevent the Easter Sunday bombings.

In the SLPP Presidential election manifesto, 'A vision for a resurgent prosperous country', and in Gotabaya's maiden campaign speech he vowed that his 'main task would be to ensure that our motherland which is once again under threat from terrorist and extremist elements is safe and protected'²¹⁴ and that he 'will never allow extremist terrorism in this country.'²¹⁵ Without providing evidence, he stated that 'there are many international examples where the collapse or deterioration of national security eventually led to a country losing its status as a nation state,'²¹⁶ before claiming that IS had spread its terror network to Sri Lanka.²¹⁷

This vague rhetoric portrays minorities as a threat to Sri Lanka as a nation state, and by extension the Buddha Sasana; rather than acknowledging that minority extremist groups such as the National Thowheed Jamath, who were responsible for the Easter Sunday bombings, are on the very fringes and disowned by the majority of the Muslim population. This vague language becomes even more problematic when the manifesto states, again without reference, that 'our government will dismantle all structures supporting and nurturing terrorism and extremism. Strict laws will be enacted to curtail such activity.'²¹⁸

Without naming which structures he was referring to, Gotabaya left a multitude of options open to himself and his government. For example, in their '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 friendships among Race and Religions,' the Sectoral Oversight Committee on National Security raised concerns about the

alleged growth of Thowheed Jamath mosques, and alleged attempts by 'Thowheed Jamath ideologists to bring the traditional mosques under their control.'²¹⁹

If mosques are perceived as 'structures supporting and nurturing terrorism and extremism' they are then liable to closure and dismantlement by the government, which would amount to a serious violation of the right of Muslims to manifest their religion in community with others.

Mahinda Rajapaksa chose not to release a manifesto for the parliamentary elections. Instead, the SLLP again relied on 'A vision for a resurgent prosperous country'. During his speech at the inauguration of the ninth parliament, Gotabaya stated:

*'In accordance with the supreme Constitution of our country, I have pledged to protect the unitary status of the country and to protect and nurture the Buddha Sasana during my tenure. Accordingly, I have set up an advisory council comprising leading Buddhist monks to seek advice on governance. I have also established a Presidential Task Force to protect places of archaeological importance and to preserve our Buddhist heritage. While ensuring priority for Buddhism, it is now clear to the people that freedom of any citizen to practice the religion of his or her choice is better secured.'*²²⁰

The focus on Sri Lanka's Buddhist heritage and archaeology reinforces the concept of *Jathika Chinthanaya*, whereby Sri Lanka is viewed as being historically Buddhist – the *raison d'être* of Sinhalese-Buddhist nationalist groups. The speech is also contradictory. There can be no true freedom for every citizen to practise their religion if primacy is given to Buddhism.

Ethno-religious symbolism

President Gotabaya held his oath-taking ceremony at the Ruwanwelisaya Temple, said to have been built by the warrior king Dutugemunu who defeated a Tamil prince, thereby uniting the island. He is the first Sri Lankan president to hold this ceremony at a place of worship.

In 2012, Gnanasara Thero compared the victory in the civil war to the conquest of the Tamils by an ancient Sinhalese king, claiming that 'Tamils have been taught a lesson twice,' and implied that other minorities would face the same

213 Permanent Mission of Sri Lanka to the United Nations, 43rd Session of the Human Rights Council – High Level Segment Statement by Hon. Dinesh Gunawardena, Minister of Foreign Relations of Sri Lanka on 26 February 2020 www.un.int/srilanka/news/43rd-session-human-rights-council-%E2%80%93-high-level-segment-statement-hon-dinesh-gunawardena

214 Gotabaya Rajapaksa website, SLPP Election Manifesto, 'Vistas of Prosperity and Splendour: A vision for a resurgent prosperous country', p.i <https://gota.lk/sri-lanka-podujana-peramuna-manifesto-english.pdf>

215 Daily FT, 'Gota promises to deliver on all fronts in maiden campaign speech', 12 August 2019 www.ft.lk/news/Gota-promises-to-deliver-on-all-fronts-in-maiden-campaign-speech/56-683771

216 Gotabaya Rajapaksa website, SLPP Election Manifesto, *ibid.*, p.2

217 *ibid.*, p.12

218 *ibid.*, p.12

219 Sectoral Oversight Committee on National Security, *ibid.*, p.296

220 Ecomynext, 'Full Text of President Gotabaya Rajapaksa's speech to Parliament', 20 August 2020 <https://ecomynext.com/full-text-of-president-gotabaya-rajapaksas-speech-to-parliament-73220/>

fate if they tried to ‘challenge Sri Lankan culture.’²²¹ The ‘king’ Gnanasara is referring to is Dutugemunu, the same one honoured by Gotabaya via his choice of venue for his presidential oath ceremony. Intentionally or not, Gotabaya is reaffirming the messages of nationalist groups.

Following the general election, the new Cabinet was sworn in at the Temple of the Sacred Tooth Relic in Kandy, the holiest Buddhist shrine; while Prime Minister Mahinda Rajapaksa was sworn in at the Kelaniya Raja Maha Vihara, a famous Buddhist temple near Colombo, as senior monks chanted Buddhist prayers.²²² This conflation of religious identity and the state sent a clear message to minorities about the brothers’ vision for the country and their place in it.

COVID-19

Christians and Muslims have both been blamed for being spreaders of COVID-19 in Sri Lanka by social media and mainstream news outlets and figures. This has led to an increase in online hatred, with little being done to halt this.

In late March 2020, a pastor who visited from Switzerland tested positive for COVID-19.²²³ The Chief of the Sri Lankan Army, and head of the COVID-19-related task force, stated in mainstream media that the pastor was the reason the virus spread to the Northern Province. Christians were ostracised when visiting shops and hospitals, although it is unclear whether this began before or after news broke of the pastor’s positive result. Mainstream media reported on this incident, highlighting that a Christian pastor had tested positive for COVID-19,²²⁴ with one Sinhala newspaper referring to him as the ‘brother-in-law to the devil’.²²⁵ Social media posts, particularly on Facebook, blamed Christians for spreading the virus.

Meanwhile, in April, a video clip of a prominent news anchor speaking to politicians during a commercial break went viral, with the discussion suggesting that Muslims are vectors of the disease.²²⁶ In the clip, the host jokes with guest Mahindananda Aluthgamage, a member of the SLPP and now the Minister for Agriculture, about comments Mr Aluthgamage made claiming that 19 out of the 20 people who had contracted the coronavirus that day were Muslim. The host jests that he should have been paid for allowing

the claim, and that he can use it in his broadcast the next morning to attack the Muslim community. Mr Aluthgamage then states that he used the statistic on purpose. Many believe this was staged, as there is a two-minute gap during which this conversation takes place, before the announced commercial break occurs and the host looks into the camera. However, this cannot be substantiated.

Muslims faced further violations of their right to FoRB when, on 31 March 2020, the Ministry of Health issued guidance requiring that all victims of COVID-19 must be cremated,²²⁷ a practice which goes against Islamic tradition and infringes on Muslims’ right to manifest their religion or belief in practice and observance, as outlined in Article 18 of the Universal Declaration of Human Rights (UDHR)²²⁸ and of the International Covenant on Civil and Political Rights (ICCPR).²²⁹ This was finally revoked in March 2021. However, burials are still only allowed in the East, and hence the remains have to be taken all the way to Ottamavadi in the Eastern Province for burial.²³⁰

Under Article 18(3) of the ICCPR, the right to manifest your religion or belief can be limited only ‘to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.’

However, while the World Health Organisation (WHO) has issued guidelines, ‘Infection Prevention and Control for the safe management of a dead body in the context of COVID-19’, stating that the victims of COVID-19 can be buried or cremated, it did not advocate one approach above the other. The guidelines also allow family and friends to view the body, which was not permitted in many cases, and state that ‘the dignity of the dead, their cultural and religious traditions, and their families should be respected and protected throughout.’²³¹

Four UN Special Rapporteurs, namely the Special Rapporteurs on freedom of religion or belief, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on minority issues, and on the promotion and protection of human rights and fundamental freedoms while countering terrorism, criticised the decision by Sri Lanka’s Ministry of Health, arguing that it breached Article 18(3) of the ICCPR as a less restrictive measure [proportionality] was still available: the burying of victims, albeit with certain procedures. They

221 New York Times, ‘Sri Lanka’s Violent Buddhists’, *ibid*.

222 The Hindu, ‘Sri Lanka Cabinet sworn in’, 12 August 2020 www.thehindu.com/news/international/sri-lanka-cabinet-sworn-in/article32338473.ece

223 ColomboPage, ‘Acquaintance of “Swiss Pastor” becomes coronavirus positive’, 24 March 2020 www.colombopage.com/archive_20A/Mar24_1585024141CH.php

224 - http://www.colombopage.com/archive_20A/Mar24_1585024141CH.php

225 Divaina, Editorial, 7 April 2020

226 Twitter, Mangala Samaraweera @MangalaLK, 1 April 2020 <https://twitter.com/mangalalk/status/1245431168180289537?s=12>

227 Ministry of Health Sri Lanka, ‘Provisional Clinical Practice Guidelines on COVID-19 suspected and confirmed patients’ <https://hpb.health.gov.lk/media/pdf/provisional-clinical.pdf>

228 United Nations, Universal Declaration of Human Rights www.un.org/en/universal-declaration-human-rights/

229 Office of the High Commissioner for Human Rights, International Covenant on Civil and Political Rights www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

230 Colombo Telegraph, ‘Politics Of Costly Covid Burials’, 1 September 2021 www.colombotelegraph.com/index.php/politics-of-costly-covid-burials/

231 World Health Organization, ‘Infection Prevention and Control for the safe management of a dead body in the context of COVID-19’, 24 March 2020 https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC_DBMgmt-2020.1-eng.pdf

further argued that the guidelines were also in violation of Article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.²³²

Anti-cattle slaughter law

In September 2020, the Sri Lankan government approved Mahinda Rajapaksa's proposal to ban domestic cattle slaughter. Health Minister (former Minister of Mass Media) Keheliya Rambukwella announced that legalising the decision would occur in 'due course'.²³³ The proposed ban was welcomed by Sinhalese-Buddhist nationalist and Hindu groups which are against the 'consumption of meat due to religious beliefs'.²³⁴ Under the proposed ban, beef imports would still be permitted and would be sold at a concessionary price to people who consume it, while a programme would be launched for ageing cattle which can no longer be used for agricultural purposes.²³⁵



Anti-animal slaughtering proposals are not new to Sri Lanka and have been entwined with anti-halal campaigns. Both

the anti-slaughter and anti-halal campaigns conducted by Sinhalese-Buddhist nationalist groups, and also supported by Hindu nationalist groups, argue that the slaughter of animals for human consumption and rituals, and halal meat preparation, are against Buddhist values. As Sri Lanka is a Buddhist nation these practices are deemed 'an insult to the nation'.²³⁶

In 2012 some local government offices refused to issue animal slaughter permits for the performing of *udhiya* or *qurban*²³⁷ during *Hajj*.²³⁸ In September of the same year, the Kandy Municipal Council banned the slaughter of cattle and goats within the Kandy municipal limits.²³⁹ In 2013 a Buddhist monk, Bowatte Indarathana Thero, died after self-immolation in protest against the slaughter of cattle and proselytising by Christians.²⁴⁰ In the aftermath of the incident some government ministers 'praised the incident as an act of self-sacrifice for the good of the country',²⁴¹ and members of the Voice of Sinhala, to which Venerable Indarathana belonged, called for him to receive a state funeral.²⁴²

In 2016 President Sirisena announced that he had instructed the Finance Minister during the preparation of the 2016 budget 'to import the necessary beef that is needed [sic] for consumption to Sri Lanka and stop the slaughter of cattle in Sri Lanka'.²⁴³ Sirisena added that as a 'non-meat eater I do not support the killing of animals, whether they are killed in Sri Lanka or abroad'.²⁴⁴ However, this proposal did not come into effect.

According to Mr Rambukwella the current government's ban follows requests from 'various quarters' and was mostly put forward as a 'good gesture' toward the Buddhist community.²⁴⁵ However, the ban will have serious economic consequences for the Muslim community, who dominate the sector. Sri Lanka Muslim Congress leader Rauff Hakeem, who called for the government to provide financial support

232 Special Procedures of the Human Rights Council, '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', AL LKA 2/2020, 8 April 2020 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25175>

233 Devdiscourse, 'Sri Lanka bans cattle slaughter', 29 September 2020 www.devdiscourse.com/article/headlines/1231522-sri-lanka-bans-cattle-slaughter

234 Nikkei Asia, 'Sri Lanka cattle-slaughter ban mimics India's slight of Muslims', 19 September 2020 <https://asia.nikkei.com/Politics/Sri-Lanka-cattle-slaughter-ban-mimics-India-s-slight-of-Muslims>

235 *ibid.*

236 Religions, 2017 8(4), 'Anti-Halal and Anti-Animal Slaughtering Campaigns and Their Impact in Post-War Sri Lanka', p.5 www.mdpi.com/2077-1444/8/4/46

237 *Udhiya* (Arabic) and *Qurban* (Urdu and Persian) is the practice of sacrificing an animal during Hajj to reflect the Prophet Ibrahim's willingness to sacrifice his son Ismail, for the sake of God.

Islamic Relief Worldwide, 'What is Qurbani?' www.islamic-relief.org/what-is-qurbani/#:~:text=Qurbani%20means%20sacrifice,for%20the%20sake%20of%20God

Inter-Islam, 'What is "Udhiya" (Qurbani)?' www.inter-islam.org/Actions/Qurbani.html

238 Religions, 2017 8(4), *ibid.*, p.6

239 Daily Mirror, 'Kandy MC bans animal slaughter within city limits', 26 September 2012 www.infolanka.com/news/IL/dm788.htm

240 BBC, 'Sri Lanka Buddhist monk dies after self-immolation', 26 May 2013 www.bbc.co.uk/news/world-asia-22677058

241 BBC, 'Sri Lanka inquiry into Buddhist monk's self-immolation', 27 May 2013 www.bbc.co.uk/news/world-asia-22681763

242 *ibid.*

243 Daily News, 'Import beef from abroad – President', 19 January 2016 www.dailynews.lk/?q=2016/01/19/local/import-beef-abroad-president

244 *ibid.*

245 Nikkei Asia, *ibid.*

for those working in the sector,²⁴⁶ added that ‘If the ban is due to religious considerations to appease a community, we have no objection. But this should not be a tactic to divert attention from the more pressing economic problems of the people and political issues facing the country.’²⁴⁷

Observers noted that the initial proposal for the ban came at a politically difficult time for the SLPP, which had just announced its controversial 20th Constitutional Amendment bill, followed by the swearing in as an MP of Premalal Jayasekara, who was convicted of murdering an opposition activist in 2015. Roel Raymond, Editor in Chief at Roar Media, stated that ‘the public outrage sparked by Jayasekara’s swearing-in was diffused to some degree by the proposal to ban cattle slaughter, so there’s a degree of political calculation evident here.’²⁴⁸

Paikiasothy Saravanamuttu, executive director of the Centre for Policy Alternatives, went further, arguing the ban is intended to discriminate against Muslims, and stating that the ‘SLPP’s policy is a Sinhala Buddhist majoritarian policy, and they are very much aligning themselves with what they believe what [sic] the Sinhala Buddhist majority wants to see and this move could be to satisfy the Buddhists.’²⁴⁹ Mujibur Rahman, a Muslim parliamentarian representing the Samagi Jana Balawegaya party, argued that ‘if they are following Lord Buddha’s policy, then they must ban slaughter of all animals and not only cattle. So, this is not about Lord Buddha’s policy. Instead, this is Mahinda Rajapaksa’s policy.’²⁵⁰

This ban will have negative economic consequences almost exclusively for the Muslim community, while the fact that the importation of beef will still be permissible suggests the ban is not necessarily about the ethics of cattle slaughter but is tied to long-held Sinhala Buddhist nationalist fears of Muslim economic dominance.

‘The underlying motives are actually ethnic, religious, and material well-being. In this instance, anti-halal and animal welfareism is just a vehicle for attacking Muslims’ religious practices and businesses. It is part of a wider anti-Muslim movement that appeals to general Buddhist principles, which, on the surface, seem reasonable, but in reality, it is used as a device to target and marginalize Muslim communities from the trade and business sectors in the country.’²⁵¹

Militarisation and the closing of civic space

Since the start of President Gotabaya Rajapaksa’s term in office there has been an increasing militarisation of government and an attempt to limit civil society through a climate of intimidation. On 2 March 2020 Gotabaya used his constitutional powers to dissolve parliament, calling for elections on 25 April. Due to the COVID-19 outbreak these elections were postponed, eventually occurring on 5 August 2020. However, parliament was not reconvened, leaving the country without a legislative body for six months. The continued dissolution of parliament despite the election delay was unconstitutional as Articles 70(5)(a), (b) and (c) state that a date for the new parliament to convene must be set ‘not later than three months after the date of such Proclamation.’²⁵²

During this period, five presidential Task Forces were created. Three were created in response to COVID-19, and on 2 June 2020, the president created a Task Force to build a Secure Country, Disciplined, Virtuous and Lawful Society in Sri Lanka (Gazette No. 2178/18)²⁵³ and a Task Force for the Archaeological Heritage Management in the Eastern Province (Gazette No.2178/17).²⁵⁴ With no sitting parliament there was no legislative oversight of these Task Forces, a key component of a democracy. Furthermore, these Task Forces ‘are established with broad, ambiguous mandates,’²⁵⁵ with citizens prevented by the national lockdown from making inputs to express their concerns. Throughout a pandemic a president may need to act unilaterally and decisively; however, this should be supported by strong reasons. It is questionable that a focus on archaeology and heritage should be a priority during this period.

The composition of these Presidential Task Forces is also problematic. Reflective of the increasing militarisation of the government, all the Presidential Task Forces contain military personnel ‘while the Presidential Task Force to build a Secure Country, Disciplined, Virtuous and Lawful Society is composed entirely of persons from the armed forces and police,’²⁵⁶ at the expense of experienced civil service personnel. The Sinhala community is overly represented in each of these Task Forces; in particular, a significant proportion of the Presidential Task Force

246 France 24, ‘Sri Lanka to ban cattle slaughter’, 29 September 2020 www.france24.com/en/20200929-sri-lanka-to-ban-cattle-slaughter

247 *ibid.*

248 TRT World, ‘Why is Sri Lanka planning to ban cattle slaughter?’, 10 September 2020 www.trtworld.com/magazine/why-is-sri-lanka-planning-to-ban-cattle-slaughter-39643

249 Nikkei Asia, *ibid.*

250 *ibid.*

251 Religions, 2017 8(4), *ibid.*, p.10

252 Parliament of Sri Lanka, The Constitution of the Democratic Socialist Republic of Sri Lanka, *ibid.*, p.55

253 Department of Government Printing, The Gazette of the Democratic Socialist Republic of Sri Lanka No. 2178/18, ‘Establishment of a Presidential Task Force to build a Secure Country, Disciplined, Virtuous and Lawful Society’

254 Department of Government Printing, The Gazette of the Democratic Socialist Republic of Sri Lanka No. 2178/17, ‘Establishment of a Presidential Task Force for Archaeological Heritage Management in the Eastern Province’

255 Centre for Policy Alternatives, ‘Statement on the Presidential Task Forces’, 15 June 2020

256 *ibid.*

for Archaeological Heritage Management in the Eastern Province comprises Buddhist monks. The Eastern Province is equally populated by Tamils and Muslims,²⁵⁷ whose interests may not be represented effectively.

Referring to the Presidential Task Force to build a Secure Country, Disciplined, Virtuous and Lawful Society in Sri Lanka, the Regional Director for Asia and the Pacific for the International Commission of Jurists, Frederick Rawski, stated: ‘This Presidential Task Force constitutes another act of over-reach by a government seeking to take advantage of the COVID-19 pandemic to further expand its powers. Its mandate is overbroad, and it empowers its military and police membership – including alleged war criminals – at a time when strong, independent, civilian-led policy-making is what is needed.’²⁵⁸

This militarisation is further reflected in the growing climate of intimidation. In his visit to Sri Lanka in 2019, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Voule, heard accounts of and witnessed plainclothes intelligence officers and military personnel conducting surveillance on civil society, including on individuals and NGOs. Mr Voule was informed that security and intelligence officers frequently enter NGO offices, subjecting staff to questioning. On one occasion military personnel appeared to take note of the Special Rapporteur’s vehicle.²⁵⁹

Following the 2019 presidential elections a number of organisations and churches ‘reported visits from intelligence officers who sought details of staff, programs and funding’.²⁶⁰ This trend continued in 2020, with officers from the Counter Terrorism Investigation Division visiting the offices of several civil society groups. Staff of the National Peace Council (NPC) have been questioned by both unidentified and uniformed men, while participants in its programmes have been questioned after events.²⁶¹ Partners of the NPC have been called to the police headquarters in Colombo and questioned, without being told the reason for investigation.²⁶² Numerous civilian institutions such as the NGO secretariat have been placed under the Ministry of Defence.²⁶³ Places of worship have been visited by the CID, TID, police and the President’s

Security Division officials, and asked various questions about the church leaders, church committees, details of congregants, to which denomination the church belongs, and whether they worship statues.

In February 2020, the acting District Secretary of Mullaitivu District, Northern Province, issued a directive that only NGOs with at least 70% of their activities focused on development would be allowed to function.²⁶⁴ Such a directive allows interference in and the prevention of human rights work. In February acts to regulate and audit foreign donations to Sri Lankan NGOs²⁶⁵ were also announced. These types of financial measures were promoted further by Mahinda Rajapaksa at an election rally in July, when he stated that ‘NGOs will be taken into a special attention under the new government formed after the General Election, specifically, how foreign monies and grants are received to the NGOs from foreign countries and further, activities of the international organizations will be observed.’²⁶⁶ In April the police and Central Investigation Department were ordered to arrest anyone who criticised officials for their handling of the COVID-19 response,²⁶⁷ seriously curtailing freedom of speech.

This increasingly intolerant climate prompted Michelle Bachelet, UN High Commissioner for Human Rights, to warn during the 45th session of the Human Rights Council that ‘the surveillance and intimidation of victims, their families, human rights defenders, journalists and lawyers should cease immediately.’²⁶⁸ In response the Acting Permanent Representative to the UN in Geneva, Dayani Mendis, stated that ‘the prime focus of this government is to ensure national security, and to uphold the rule of law and order in the country for all its citizens, with the aim of creating an environment where any citizen can live freely without any fear for the safety of themselves and their families.’²⁶⁹

Between 2005 and 2015, when Mahinda Rajapaksa served as president and Gotabaya Rajapaksa as Defence Secretary, many journalists were killed, tortured, or disappeared.²⁷⁰ One of the allegations against Gotabaya and Mahinda is that they orchestrated the kidnapping of critical journalists during this period. Attacks on journalists became so brazen that in January 2009, journalist Lasantha Wickrematunge

257 *ibid.*

258 International Commission of Jurists, ‘Sri Lanka: Newly constitutional Presidential Task Force threatens rule of law’, 5 June 2020 www.icj.org/sri-lanka-newly-constituted-presidential-task-force-threatens-rule-of-law/

259 Office of the High Commissioner for Human Rights, ‘Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief’, *ibid.*, p.13

260 International Commission of Jurists, ‘Sri Lanka: lawyers, human rights defenders and journalists arrested, threatened, intimidated’, 29 July 2020 www.icj.org/sri-lanka-lawyers-human-rights-defenders-and-journalists-arrested-threatened-intimidated/

261 Groundviews, ‘The Government’s Hollow Words Fly in the Face of Facts’, 6 October 2020 <https://groundviews.org/2020/10/06/the-governments-hollow-words-fly-in-the-face-of-facts/>

262 *ibid.*

263 International Commission of Jurists, ‘Sri Lanka: lawyers, human rights defenders and journalists arrested, threatened, intimidated’, *ibid.*

264 *ibid.*

265 The Sunday Morning, ‘NGO Finances to be regulated’, 1 March 2020 www.themorning.lk/ngo-finances-to-be-regulated/

266 International Commission of Jurists, ‘Sri Lanka: lawyers, human rights defenders and journalists arrested, threatened, intimidated’, *ibid.*

267 Daily Mirror, ‘Strict action against those criticise [sic] state officials on social media’, 1 April 2020 www.dailymirror.lk/breaking_news/Strict-action-against-those-criticise-state-officials-on-social-media/108-186028

268 Groundviews, ‘The Government’s Hollow Words Fly in the Face of Facts’, *ibid.*

269 *ibid.*

270 Byline Times, ‘Sri Lanka’s Missing and Murdered Journalists: A Call for Press Freedom and Justice’, 29 January 2020 <https://bylinetimes.com/2020/01/29/sri-lankas-missing-and-murdered-journalists-a-call-for-press-freedom-and-justice>

was shot dead in broad daylight on a public highway, a few hundred metres from a security checkpoint.²⁷¹ Many of these incidents occurred during the civil war, when the government's priority was also to ensure national security, yet journalists continued to face threats and assault after the war's conclusion.

Evidence suggests that in the name of national security the Rajapaksa brothers are recreating the conditions of their previous terms in office. Sri Lanka was ranked 127 out of 180 countries in the Reporters Without Borders 2020 World Press Freedom Index, with arbitrary arrests continuing.²⁷² In April 2020 Hejaaz Hizbullah, a human rights lawyer who has represented victims of human rights violations, was arrested under the Prevention of Terrorism Act and has been held for more than a year now without charge.²⁷³ Officials maintain that he was detained because of links to the 2019 Easter Sunday bombings; however, the day before his arrest Mr Hizbullah had submitted a letter to the president criticising the denial of burial rights to the Muslim community under Sri Lanka's COVID-19 response.²⁷⁴ In January 2021, the Detention Order holding Mr Hizbullah was extended by another 90 days. It has also been reported that Mr Hizbullah contracted the coronavirus while in detention.²⁷⁵

On 9 April 2020, blogger and social media commentator Ramzy Razeek was arrested under Sri Lanka's ICCPR Act and the Cyber Crimes Act.²⁷⁶ On 2 April Mr Razeek had on Facebook called for an 'ideological jihad' to stop organised anti-Muslim propaganda; after receiving threats of violence in response to this, he declared he would self-censor.²⁷⁷ The 'ideological jihad' Mr Razeek called for involved using words, not violence, and he has been a consistent opponent of racism and extremism.²⁷⁸

On 9 April, Mr Razeek went to the police to complain about death threats he had received, but on the same afternoon he himself was arrested. His family was informed he would be released the next day, but Mr Razeek spent five months

in detention without charge, before being granted bail on 17 September 2020.²⁷⁹

On 16 May 2020, a poet, Anhaf Jazeem, was arrested and has been detained for more than a year now. He released an anthology of poetry on themes such as non-discrimination and anti-extremism. However, he is being held for allegedly inciting religious disharmony.²⁸⁰

20th Amendment

During his election campaign Prime Minister Mahinda Rajapaksa called for the public to give him and the SLPP a two thirds majority so they could repeal the 19th Amendment, which he claims was 'brought in to take personal revenge' on him,²⁸¹ and insisted this was the only way to deliver a 'strong government' and undo the shortcomings of the previous administration.²⁸²

The 19th Amendment was passed in April 2015, with 215 MPs voting in favour. It diluted many of the executive's powers, introduced a two-term limit for the president, created independent commissions and made the president more accountable to parliament and the courts. It has been described by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Voule, as 'a key achievement with regard to democratization, good governance, post-conflict resolution and transitional justice.'²⁸³

On 19 August 2020 ministers established a sub-committee to formulate a 20th Amendment to the Constitution of the Democratic Republic of Sri Lanka. The proposed 20th Amendment was gazetted on 3 September 2020 and passed by Parliament on 22 October 2020 by a majority of 91 (156 for, 65 against, 1 abstention). As a result of the 20th Amendment:²⁸⁴

271 UCA News, 'No justice for Sri Lanka's missing and killed journalists', 29 January 2016 www.ucanews.com/news/no-justice-for-sri-lankas-missing-and-killed-journalists/75095#

272 Reporters Without Borders, 2020 World Press Freedom Index

273 Al Jazeera, 'Why Sri Lanka jailed a Muslim lawyer without charge for 6 months', 15 October 2020 www.aljazeera.com/news/2020/10/15/sri-lanka-muslim-lawyer

274 IFEX, 'Sri Lanka urged to end attacks against human rights defenders, lawyers, and journalists', 2 August 2020 <https://ifex.org/sri-lanka-urged-to-end-attacks-against-human-rights-defenders-lawyers-and-journalists/>

275 The Sunday Morning, 'Covid-positive Hejaaz Hizbullah raises eyebrows', 8 January 2021 www.themorning.lk/covid-positive-hejaaz-hizbullah-raises-eyebrows/

276 *ibid.*

277 Tamil Guardian, 'Ramzy Razeek released on bail after 5 months of Sri Lankan detention', 18 September 2020 www.tamilguardian.com/content/ramzy-razeek-released-bail-after-5-months-sri-lankan-detention

278 *ibid.*

279 *ibid.*

280 Human Rights Watch, 'Sri Lanka: Joint Statement Calls for Immediate Release of Poet Detained for a Year Without Charge', 16 May 2021 www.hrw.org/news/2021/05/17/sri-lanka-joint-statement-calls-immediate-release-poet-detained-year-without-charge

281 Tamil Guardian, 'Sri Lankan PM calls for two third majority to repeal 19th Amendment', 3 July 2020 www.tamilguardian.com/content/sri-lankan-pm-calls-two-third-majority-repeal-19th-amendment

282 *ibid.*

283 Office of the High Commissioner for Human Rights, 'Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief', *ibid.*, p.4

284 Centre for Policy Alternatives, 'A brief Q and A on the Proposed 20th Amendment to the Constitution', 17 September 2020 www.cpalanka.org/a-brief-q-and-a-on-the-proposed-20th-amendment-to-the-constitution/

- The president is now able to appoint several key commissions, including the Human Rights Commission and the Commission to Investigate Allegations of Bribery or Corruption.
- The president can unilaterally remove or appoint the prime minister and other ministers.
- The president can dissolve parliament any time after halfway through its five-year term. Previously it could only be dissolved after four and a half years unless there was support from two thirds of MPs.
- The mandatory time period which a law must be gazetted before it can be placed on the Order Paper of Parliament has been reduced from two weeks to one week. This shortens the duration of the period in which the public is given notice of a proposed law before it can be passed in parliament.
- The 'Urgent Bills' process, whereby cabinet ministers deem a bill urgent and in the public interest, has been restored. The president can subsequently refer the bill to the Chief Justice, with the Supreme Court required to give a determination on its constitutionality within 72 hours. The rights of citizens to make submissions to the Supreme Court are severely hindered in this process.
- The constitutional recognition given to the Bribery Commission has been removed, and it can now be abolished by a simple majority vote in parliament. Previously, abolition required the support of two thirds of MPs.
- The president now has the sole power to appoint members of the Judicial Service Commission. There is a reduction in the powers of the election commission, and the national procurement commission has been abolished.

The 20th Amendment also restores the Parliamentary Council established by the 18th Amendment, which had been replaced by the Constitutional Council under the 19th Amendment. The composition of the Constitutional Council reflected the pluralistic nature of Sri Lanka, and included three people of eminence and integrity who were not associated with any political party. As such the Council acted 'as a check to ensure appointments are not at the sole discretion of the Executive President.'²⁸⁵ In contrast the Parliamentary Council is smaller and consists only of MPs, with two appointees being required to belong to different communities than the other three appointees.²⁸⁶

The councils also possess different powers and roles in the appointment of different offices. Under the 19th Amendment the president is required to appoint someone from the Constitutional Council's recommendations for commissions such as the election commission and the human rights commission. The president also requires the approval of the Constitutional Council when making appointments such as the Chief Justice of the Supreme Court and the Attorney General. Under the 20th Amendment the Parliamentary Council has no binding effect and can only provide observations to the president, who can ignore them.²⁸⁷

The restoration of the Parliamentary Council and its limited powers ensures the president can appoint whomever they like to key positions. This is likely to politicise bodies such as the Human Rights Commission and the Commission to Investigate Allegations of Bribery or Corruption, the independence of which is crucial for good governance, accountability and providing checks on the power of the executive.

Furthermore:

*The removal of the cap on the number of ministers permits the President to appoint large numbers of MPs to ministerial positions. In this way the President can certainly buy the loyalty of MPs within his coalition, and it may even be a way to co-opt opposition MPs. In a political culture in which patronage distribution in the form of ministerial appointment is already a serious problem, this change will again remove any incentive MPs have to fulfil their constitutional role and instead create a corrupt marketplace for the exchange of patronage and the evisceration of dissent.*²⁸⁸

Prior to the passing of the 20th Amendment, this process, as well as the centralisation and militarisation of government, had already begun. President Gotabaya had already appointed several long-term military allies to key government positions in the Ministry of Law and Order, Ministry of Finance and the Ministry of Health, and moved 'more than 30 agencies under the remit of the defence ministry,'²⁸⁹ as well as appointing his brother Mahinda as interim prime minister. Following the results of the August 2020 parliamentary elections, Gotabaya's brother Mahinda was confirmed as prime minister while his eldest brother, Chamal, was appointed to the cabinet as irrigation minister and Basil Rajapaksa was appointed as Minister of Finance.²⁹⁰ Mahinda Rajapaksa's son Namal was appointed youth and sports minister,²⁹¹ and was recently sworn in as

285 *ibid.*

286 See Appendix A for a direct comparison of the composition of the two councils.

287 See Appendix B for a comparison of the appointments this affects.

288 Sri Lanka Brief, 'Some Reflections on the Twentieth Amendment Bill', 22 September 2020 <https://srilankabrief.org/2020/09/some-reflections-on-the-twentieth-amendment-bill-asanga-welikala/>

289 Foreign Policy, 'Is Sri Lanka Becoming a De Facto Junta?', 17 July 2020 <https://foreignpolicy.com/2020/07/17/sri-lanka-junta-gotabay-rajapaksa-military/>

290 Al Jazeera, 'Sri Lanka's Rajapaksa family tightens grip with ministerial picks', 9 July 2021 www.aljazeera.com/news/2021/7/9/sri-lankas-rajapaksa-family-tightens-grip-with-ministerial-picks

291 Al Jazeera, 'Four members of Rajapaksa family find place in Sri Lanka cabinet', 12 August 2020 www.aljazeera.com/news/2020/8/12/four-members-of-rajapaksa-family-find-place-in-sri-lanka-cabinet

the state minister of Digital Technology and Entrepreneur Development.²⁹²

A new constitution

In addition to repealing the 19th Amendment, Gotabaya has also called for the drafting of a new constitution. In his speech to the new parliament in August 2020, Gotabaya argued that:

‘The basis of the success of a democratic state is its constitution. Our Constitution, which has been amended 19 times, from its inception in 1978, has many ambiguities and uncertainties, presently resulting in confusion. As the people have given us the mandate we wanted for a constitutional amendment, our first task will be to remove the 19th Amendment to the Constitution. After that, all of us will get together to formulate a new constitution suitable for the country.’²⁹³

On 3 September 2020 a nine-member expert committee was established to draft a new Constitution for Sri Lanka, headed by President’s Counsel Romesh de Silva. On 20 October 2020 Extraordinary Gazette No. 2198/13 gave notice to the public of a 30 November 2020 deadline for the submission to the expert committee of ‘any proposals, ideas or views’²⁹⁴ they may wish to make.

Gotabaya laid out some elements of the new constitution and stated that ‘the priority will be given to the concept of one country, one law for all the people.’²⁹⁵ Currently Sri Lanka ‘has a mixed legal system of Roman-Dutch civil law, English common law, Kandyan law (applicable to Kandyan Sinhalese), Tesawalamai law (applicable to Tamils inhabiting the Northern Province) and Muslim law, with the latter three extending largely only to marriage, divorce and intestate succession.’²⁹⁶

There will also be changes to the electoral system:

‘An unstable Parliament that cannot take firm decisions and succumbs to extremist influences very often is not suitable for a country. While introducing a new constitution, it is essential to make changes to the current electoral system. While retaining the salutary aspects of the proportional representation system, these changes will be made to ensure stability of the Parliament and people’s direct representation.’²⁹⁷

The changes under the 20th Amendment are expected to become part of the main constitution, while the primacy afforded to Buddhism and the protection of the Buddha Sasana is also likely to remain. There is a widespread perception among civil society that the Rajapaksa brothers will use this new constitution to further consolidate and centralise their power and the power of the president.

In January 2021,²⁹⁸ the Office of the High Commissioner for Human Rights (OHCHR) released a report which warns that the ‘failure of Sri Lanka to address past violations has significantly heightened the risk of human rights violations being repeated’, expressing concerns regarding Sri Lanka’s trajectory towards an authoritarian form of governance. In March, at the forty-sixth UN Human Rights Council session, 22 countries of the 47-member council adopted a resolution²⁹⁹ calling on the OHCHR to ‘enhance monitoring and reporting on the situation of human rights in Sri Lanka.’ The resolution expressed serious concern over trends which indicate an early warning of the deteriorating situation of human rights in Sri Lanka, including concerns over freedom of religion or belief.

292 Daily Mirror, ‘Namal Rajapaksa gets new State Ministry’, 3 June 2021 www.dailymirror.lk/breaking_news/Namal-Rajapaksa-gets-new-State-Ministry/108-213358

293 Economynext, *ibid.*

294 Department of Government Printing, The Gazette of the Democratic Socialist Republic of Sri Lanka No. 2198/13, ‘Drafting a New Constitution for Sri Lanka, Invitation for Public Proposals’, 20 October 2020 http://documents.gov.lk/files/egz/2020/10/2198-13_E.pdf

295 Economynext, *ibid.*

296 Office of the High Commissioner for Human Rights, ‘Visit to Sri Lanka: Report of the Special Rapporteur on freedom of religion or belief’, *ibid.*, p.6

297 Economynext, *ibid.*

298 Office of the High Commissioner for Human Rights, ‘Sri Lanka on alarming path towards recurrence of grave human rights violations – UN report’, 27 January 2021 www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26695&LangID=E

299 United Nations Human Rights Council, ‘Promoting reconciliation, accountability and human rights in Sri Lanka’, 16 March 2021 <https://undocs.org/A/HRC/46/L.1/Rev.1>

Conclusion

Sri Lanka has a history of violence and discrimination against religious minorities, which continued during the period covered by this report. Christians have faced small-scale mob violence targeting churches and religious services, and repeated attempts by state actors to shut their places of worship.

Muslims have faced similar violations, as well as larger incidents of mob violence, as witnessed during the 2018 Ampara and Kandy riots, and the violence in the North Western Province in the aftermath of the 2019 Easter Sunday bombings. Muslim businesses have also been attacked repeatedly, due to the abiding belief that the community is a threat to Sinhalese-Buddhist ethno-religious dominance, both numerically and economically.

Christians and Muslims are also targeted because they proselytise, thereby deemed to be increasing their number at the expense of the Sinhalese-Buddhists. Muslims in particular are accused of desiring to take over the island, which is why false rumours, such as sterilisation pills and procedures, quickly go viral.

Before FoRB in Sri Lanka can be fully realised it is necessary to address the interpretation of the Buddha *Sasana* and the primacy afforded to Buddhism in the constitution. It is the defence of the consecrated land which drives Sinhalese Buddhist nationalists, who view themselves as its protectors, while the primacy of Buddhism affords the religion legal protection and encourages attempts to stop proselytism and worship by other religions.

According to the UN Human Rights Committee, ‘the fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, [should] not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27.’³⁰⁰ Thus while Buddhism is the religion of the majority, this should not result in infringements on the right to FoRB of other religious communities. However, ensuring this will require changes both in attitudes and in laws.

The rights of followers of all religions should be equally guaranteed in the constitution. The constitution forms the legal basis of a country; no attitudes will change while this basis continues to assert the dominance of Buddhism.

Additionally, the 2008 Circular must be officially and publicly repealed. Its implementation mitigates against freedom of religion or belief by hampering the right to practise a religion or belief in community with others. Furthermore, the Circular is being widely misused in attempts to shut down places of worship that pre-date 2008, despite the Circular only referring to ‘new places of worship’.³⁰¹

Finally, the government of Sri Lanka must promote religious equality, and address every violation of the right of minority religious communities to FoRB. Inaction or ineffective action against the nationalist groups, and potential support for these groups, has emboldened them to the point where they now openly incite violence and effectively blackmail elected officials into resignation. The pardoning and release of Gnanasara is a stark illustration of the extent of the failure of former president Sirisena to protect the country’s religious minorities. Addressing extremism effectively, and educating people on fake social media posts, will go some way towards changing attitudes and perceptions.

With the Rajapaksas returning to power Sri Lanka is at a crossroads. The government’s withdrawal from UN Resolution 30/1, relating to reconciliation and accountability for alleged war crimes committed in the ending of the civil war, and the 20th Amendment demonstrate that the country is already moving towards becoming an autocratic state with a lack of emphasis on human rights. The drafting of a new constitution is expected to confirm this move, and has the potential to entrench restrictions on FoRB and wider civil society for the foreseeable future. To prevent this, the international community must continue to engage with and encourage the government to abide by its international commitments. Implementation of the March 2021 HRC resolution will require further monitoring.

300 Refworld, Office of the High Commissioner for Human Rights, ‘CCPR General Comment No:22: Article 18 (Freedom of Thought, Conscience or Religion’; 30 July 1993 www.refworld.org/docid/453883fb22.html

301 United States Department of State, *ibid*.

Appendices

Appendix A

Table to show the differences in composition of the Constitutional and Parliamentary Councils³⁰²

Member number	Constitutional Council	Member number	Parliamentary Council
1	Prime Minister (PM)	1	Prime Minister (PM)
2	Speaker of Parliament	2	Speaker of Parliament
3	Leader of the Opposition (LO)	3	Leader of the Opposition (LO)
4	MP appointed by the President	4	An MP nominated by the PM
5	5 persons appointed by the President on the nomination of the PM and the LO. 2 must be MPs. 3 persons of eminence and integrity, who are not associated with any political party. When making these appointments all political parties must be consulted to ensure that the Council reflects the pluralistic character of Sri Lankan society, including professional and social diversity.	5	An MP nominated by the LO
6			(These two members should be from communities other than the communities the other three members belong to.)
7			
8			
9			
10	One MP nominated by the majority of MPs from parties/ independent groups other than the party/ independent group the PM and LO are from.		

302 Centre for Policy Alternatives, 'A brief Q and A on the Proposed 20th Amendment to the Constitution', ibid.

Appendix B

A table comparing the differences in appointments under the 19th and 20th Amendments.³⁰³

Official	Present Constitution	Proposed Amendment
Members of the - Election Commission - Public Service Commission - National Police Commission - Commission to Investigate Allegations of Bribery or Corruption (Bribery Commission) - Finance Commission - Delimitation Commission Included under the present Constitution but excluded under the proposed Amendment are the - Audit Service Commission - National Procurement Commission	The Constitutional Council recommends persons to these Commissions, and the President must appoint someone from these recommendations. The Council is required to endeavour to ensure that such recommendations reflect the pluralistic character of Sri Lankan society, including gender (Article 41B(3)).	As per this Amendment it is the President who will appoint both these categories of officers, and he/she shall only have to seek the observations of the Parliamentary Council (proposed Article 41A(1)). Unlike with the Constitutional Council, the decision of the <u>Parliamentary Council has no binding effect</u>, and the President may disregard these observations.
- The Chief Justice and the Judges of the Supreme Court - The President and the Judges of the Court of Appeal - The Members of the Judicial Service Commission, other than the Chairman - The Attorney-General - The Auditor-General - The Parliamentary Commissioner for Administration (Ombudsman) - The Secretary-General of Parliament Included under the present Constitution but excluded under the proposed Amendment - The Inspector-General of Police	In these cases, the President needs the approval of the Constitutional Council before making an appointment (Article 41C).	The Council will have to give their observations within one week of being asked, and if they do not give their observations within that period, the President shall proceed with the appointment (proposed Articles 41A(8) (a) & (b)).

303 ibid.

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