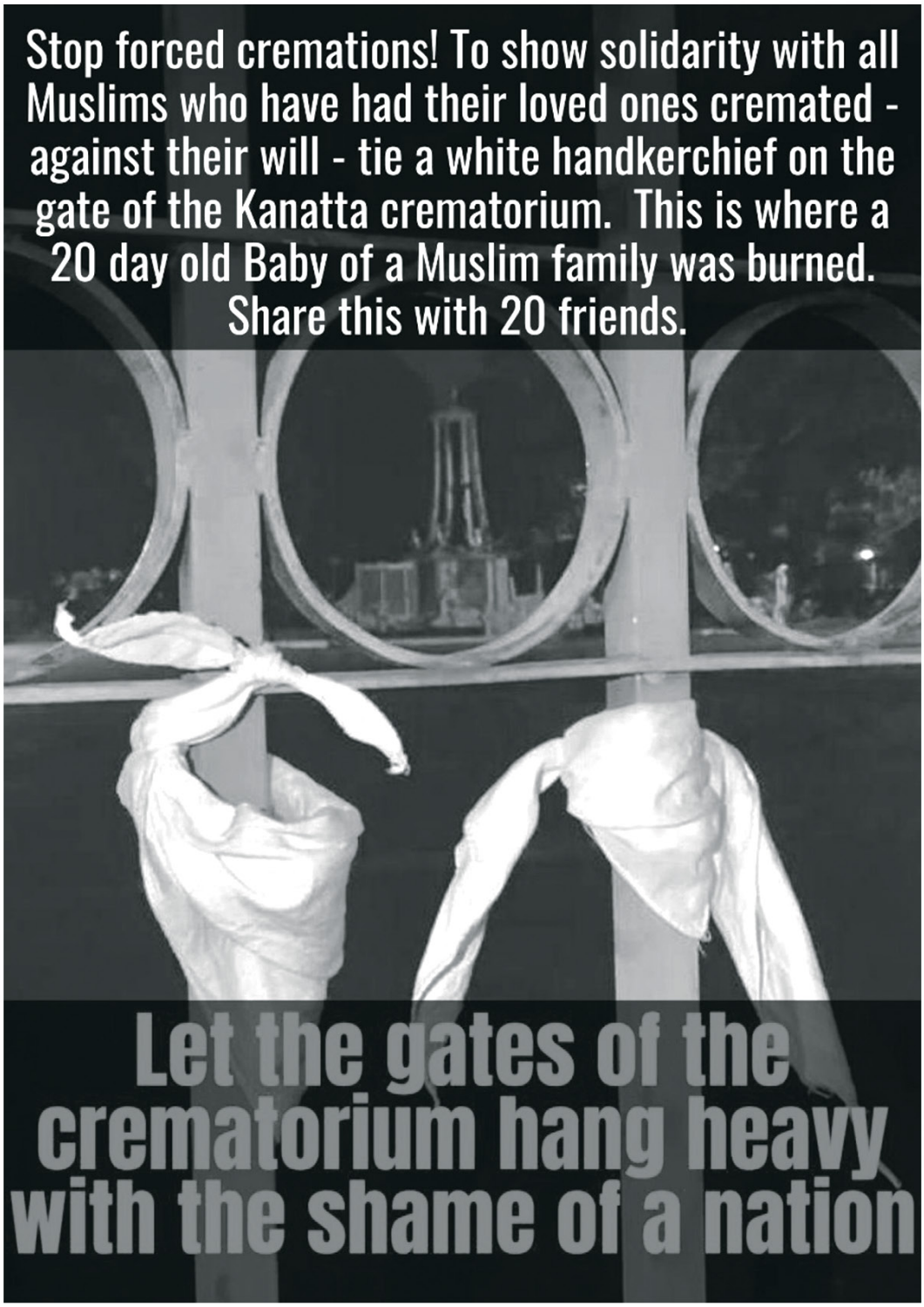
MUSLIMS IN POST-WAR SRI LANKA:

REPRESSION, RESISTANCE & REFORM

Edited by
Shreen Abdul Saroor



The cover of the book was inspired by the above visual. The symbolic use of the visual, captures the emotions of anguish and helplessness, and the white knots symbolize hope. The colour green represents the Muslim community as in the national flag. The cover therefore, symbolically captures the conflicts that arise when cultural diversity is not respected and protected.

MUSLIMS IN POST-WAR SRI LANKA

Repression, Resistance & Reform

Contents

Foreword

Radhika Coomaraswamy*

This volume with research and writing from some of Sri Lanka's best young scholars is a pioneering effort to reflect on the last few years and the particular experience of Sri Lanka's Muslim community. They analyse the Easter Sunday bombings, attacks against Muslims and their properties, the demands for non-discrimination, justice and accountability, the despair of displacement, the experience of being at the receiving end of counter terrorism strategies, the particular dilemmas related to women's rights and Muslim women's experiences during these difficult times.

For years the narrative of the political mainstream in Sri Lanka was to paint Sri Lankan Muslims as the perfect minority. Beginning with Professor Lorna Dewaraja's work on the Kandyan Kingdom, the Muslims were portrayed as a fully integrated, loyal and reliable minority as opposed to the Tamil minority that was seen as violent and rebellious. Many individual Muslim police and army officers contributed to the war effort against the Liberation Tigers of Tamil Eelam (LTTE). Once peace came these efforts were forgotten and the Muslim community is now the one that faces the brunt of ethnic mobilisation and hate speech.

The Muslim community has faced brutality from both sides of the ethnic conflict. In the 1990s they were driven out of their homes in the northern province by the LTTE into a life of displacement and fear. As captured in this volume many have not recovered from the violence they faced. A whole generation of Muslim youth has grown up in these displaced settings, watching the pain of their parents being thrown out of an area where they had lived for centuries.

Muslims have always faced a level of discrimination by the Sri Lankan state and society as described in this book but in recent years they have been physically attacked and their properties burnt in different parts of Sri Lanka. In addition, the counter terrorism measures that have been taken after the Easter Bombings have traumatised and victimised the community with the fear that more young men will become angered and radicalised. The recent laws on rehabilitation where young men and women are subject to rigorous brainwashing and military style discipline is what must say is a new era in the criminal justice system in Sri Lanka.

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* Chairperson International Centre for Ethnic Studies.

Dr. Coomaraswamy served previously served as UN Under-Secretary-General and Special Representative on Children and Armed Conflict, and was formerly UN Special Rapporteur on Violence Against Women. In Sri Lanka, was the Chairperson of the Human Rights Commission between 2003-2006.

The root causes of these actions against Muslims by state and society are analysed in detail in this book. They originate in local rivalries, national level prejudice to regional majoritarian influences, to the international campaign associated with the war on terror and its resultant Islamophobia. The destructive role played by social media and the impunity given to local actors, especially religious actors, expressing hate and engaging in violence against the Muslim community cannot be understated. Chapters in the book also recognise the new politics of forced demographic change that has further endangered and marginalised the Muslim community.

As one reads the lucid chapters contained in this volume one is reminded of the writings of scholars like Professor Veena Das on the nature of violence in South Asia. Along with the rest of the world there is the struggle between terrorism and counter terrorism leading to a great deal of suffering hardship and harassment. The use of the Prevention of Terrorism Act and the recent laws on rehabilitation are examples of the draconian measures states have taken. But in South Asia, there is also the 'ethnic riot' where citizens of the majority community attack members of the minority community and their properties often encouraged by the state and its operatives. Professor Veena Das found this type of violence to be particularly pernicious, tearing apart the social fabric, creating permanent fault lines and perpetual tension. Understanding the roots of this violence and building solidarity at the local level remains an important need in Sri Lanka.

The book has very important chapters on the experience of Muslim women, their demand for equality within the community, the markers of their identity as Muslims and their bodies and dress becoming a site of ethnic contestation. The book also recognises their role as peace builders, reaching out to other communities and ethnic groups in a tradition of peace and reconciliation. Women peace builders have emerged in all the local communities as women reach out to build bridges, work toward reconciliation and attempt to protect their families.

This volume is therefore a review of the recent past, focusing on the Muslim community but also pointing to the major fault lines and gaps in Sri Lanka as a whole — unbridled majoritarianism, impunity for violent crimes, terror and counter terror and a general disregard for the human rights of some of the people living within its borders. At the same time, there is also positive news of which this volume is an example. People are resisting and mobilising in small and determined ways to fight against social injustice and to keep alive the flame for a better future. Against immeasurable odds they continue to strive forward.

Editor's Note

Shreen Abdul Saroor

On the 21st of April 2019, a well-coordinated series of suicide bombings killed at least 269 people, mostly children, and wounded over 500, who were mainly Catholic worshippers attending Easter Sunday mass. The heinous crime was carried out by a local Islamist group with alleged links to global terror group ISIS. These suicide attacks were the deadliest since the end of the armed war in 2009. They targeted three churches (in Colombo, Negombo and Batticaloa), as well as four hotels in Colombo.

A day after the attacks, a few of us decided to go to Negombo. I was anxious when entering the road that took us to the devastated St. Sebastian's Church. There we saw Ayesha's *janazah* being carried to the Periyamulla mosque. Ayesha was a 12-year-old child born to a Muslim father and a Catholic mother. Her grandmother had taken her to St. Sebastian's Church for Sunday mass on that fatal day. We prayed for her and walked on the Katuwapitiya road that led to St. Sebastian's Church. A couple of Muslim men who had close ties to victims decided to walk behind us because they too felt anxious about walking into an area where their close friends and acquaintances lived. The Islamist terror attack portrayed them 'enemies' of a once close-knit community. What I saw there brought back childhood memories of living in the war-torn North: white flags all over the streets, banners with victims' photographs on every house wall (sometimes the entire family were depicted on those banners); relatives weeping and consoling each other. We felt confused and did not know what to do other than to cry with them. Body-bags were brought in, and in some houses, there was no one left to accept them. As a teenager, I witnessed the bloody clashes between Tamil militant movements, the atrocities of the Indian Peace Keeping Force (IPKF), the arrogant Sri Lankan state's bombardment of innocent civilians in villages, and the LTTE turning into a brutal oppressor of dissent. Seeing blown up bodies and disfigured human remains had been normal in the society I lived in then. There had been many bombings of places of worship in which civilians sought refuge in the North too. Yet the Katuwapitiya carnage evoked a different fear in me. It seems to depict the clash between two faiths, driven globally. Not so long ago, we witnessed war crimes and crimes against humanity when the state finished off the war. We have not even begun to digest it. And now we must grapple with another conflict involving Islamist terror, which has brought home the global war on terror.

The growth of Islamic reformist movements has been on the rise in Sri Lanka since the 90s. These include the Tablighi Jama'at, and Jama'at-I Islami. Groups connected to the *thowheeth* ideology became more prevalent, especially in the East. Intolerance towards each group grew rapidly and visibly. One such incident comes to mind. Extremists forcibly exhumed Sufi Muslim leader Abdul Payilvan's body on the 3rd of December 2006 and dumped it on the roadside as a warning to those who preached views different to their interpretation of the

Holy Quran. They also claimed that such preachers cannot be buried in Kattankudy soil. We continued to witness Sufi shrines and their burial sites (*siyaarams*) being destroyed and left to be dilapidated. There was a move to seek exclusivity and an Islamic identity that mostly showed off one as more pious than the other based on which 'Islamic' ideology and 'sect' one followed. Such regressive ideas were imposed mostly on women and children in the form of dress code, control of their mobility (specially mingling with other communities), denial of access to proper education or a push towards religious education, and strictly adhering to *halal* certification and Islamic banking. Kattankudy in Batticaloa today stands as one such example of Muslims seeking not only personal exclusive identity but also territorial, with its date trees and towering mosques with various Middle Eastern architecture.

A few of us within the Muslim community started to critically examine these identity manifestations in relation to the Easter Sunday carnage. After the attacks, we asked ourselves where did we go wrong, how did we fail to see what has been taking place around us, and what can be done? Well, the nature of the Sri Lankan Sinhala-Buddhist state and its racist treatment of minorities, including religious minorities, in the post-war context is well known. But we pondered about the question of how a few people were recruited to carry out this politically lethal project, which must have been in the making for some time. Unless the Muslim community finds a solution to this problem, we will never be able to stop further destruction.

This book not only details the suffering of, and violence and discrimination against, Muslims, but also offers a critical and introspective account of religious identity politics. The conversations I have had over the years with the authors of the various articles in this book have been vibrant and vivid and capture some of these complexities. These conversations are still ongoing. I am grateful for my fellow authors' time, wonderful conversations, and tireless commitment to resist Islamophobia, racism, and radicalisation. I thank all the contributors for their dedicated work — not only for writing their essays but also for their active involvement in addressing injustices across the communities. In addition, I also thank Sakeena Razick for helping me with proofreading, Mahendra Ratnaweera and Ameer Faaiz for their critical comments, Madhri Samaranayaka for the cover design, Jayachithra Velayudan for page-setting and Dr. Radhika Coomaraswamy and Dr. Rajan Hoole for writing the foreword and introduction respectively.

The idea of putting together a collection of essays of this nature emerged during conversations with Prof. Qadri Ismail earlier this year. Sadly, he left us so early and his contribution to this collection remains unfulfilled.

Introduction

Rajan Hoole*

While focusing on violence and discrimination affecting the Muslim community, the broader issues these essays raise, pertain to the law being rendered hostage to a majoritarian ideology that has defined the state from the run up to independence. The orders-in-council of 1946 that conditioned the British grant of independence enabled the Plantation Tamils, who were the cornerstone of Lanka's economy, to be denied the vote in 1949 by a simple majority in Parliament. Its effect was virtual enslavement of a community.

The position of Muslims in the polity remained ambivalent after the Sinhalese-Muslim riots of 1915. However, T.B. Jayah from Colombo Central was the leading voice for equal treatment of minorities, especially the Plantation Tamils, during the days of the Legislative and State Councils. In April 1940, Jayah expressed alarm at 12,000 voters being dropped from the electoral register in Colombo followed by the Immigration and Registration Bills of 1941, when Bandaranaike was Minister of Local Administration. He protested vehemently against the implicit threat to treat the Muslims and persons of Indian origin, born here, as non-Ceylonese (Hansard 14 April 1940 and 27 March 1941). This pressure was the backdrop to Jayah and A. R. A. Razik (Sir Razik Fareed) joining D. S. Senanayake's United National Party (UNP), perceived in 1946 as the future government.

While Jayah's earlier positions had been scholarly and principled, Sir Razik's were different. Addressing the State Council on 27 March 1941, he reminded the House of the special honour conferred on 'Moormen' by the British for their 'fidelity' in the 1815 Proclamation following the suppression of the Kandyan rebellion. While Anagarika Dharmapala, the father of Sinhalese nationalism, had reviled all non-Sinhalese who competed for the trade in Pettah, Sir Razik made it very clear that he joined the Sinhalese leaders in supporting the Bills above targeting Indian residents, chiefly because Indian traders had come to dominate Pettah, which was earlier a Muslim preserve.

Rather than making peace with the Sinhalese leaders, Sir Razik's position amounted to storing up trouble for the future. However, it was just as well for the UNP, which though relying on the Sinhalese nationalist base of Senanayake and Bandaranaike, fared miserably in the 1947 elections, winning just 42 of the 95 contested seats. That underscored the importance of the Muslim vote base and commercial hub in Colombo Central, and its conservative hold on Muslim religious organisations island-wide.

The UNP's disaster at the 1947 elections redoubled the Sinhalese nationalist obsession with curbing the electoral power of the minorities. By lack of principle and absence of foresight,

* PhD in mathematical logic. Former senior lecturer at the University of Jaffna and author of many books including 'The Broken Palmyra' and 'The Arrogance of Power'.

the minority members of parliament (MPs) doomed their future when, out of 13 Ceylon Tamil MPs in Parliament, only three voted against the 1948 Citizenship Bill. Such a show of Tamil elite opportunism made it easy for all the six Muslim MPs to support the Bill depriving Plantation Tamils of citizenship and voting rights.

Dr. Farah Mihlar's observation that the Muslims' 'historical political culture of pandering to the majority and their broader deprioritising of human rights approach has shaped this relationship with justice' could also be applied to the Tamils until the 1950s placed them at the receiving end. From the start, governments have used state patronage to forge alliances with conservative segments of the minorities who are comfortable with Sinhalese majoritarian dominance. The result has been curious. The ruling parties have come to terms with abuse and violence against Muslims as part of the ritual of governance. While doing so the state has ignored persistent demands for reform coming from responsible sections of the Muslim community, particularly of the Muslim Marriage and Divorce Act (MMDA), which would address fears about Muslims.

The fears about Muslims are rooted in differential treatment of Muslims in family laws, which Muslim women are fighting against. Basically, there is a pact between the conservative Muslim leadership and the majoritarian state, which allows the leadership to impose its rules on progressive sections of the community in return for the Muslim leadership allowing the state to inflict violence and humiliation on the community.

A point regularly made as stated in an article below is 'the slight statistical increase in the overall population share of Sri Lankan Moors between 1981 and 2012 — from 7 percent to 9.2 percent underscores the fear [particularly of the Sinhalese majority].' Rather than any fault of the Muslims, as Ameer Faaiz forcefully points out, it is to do with obstructing Muslim demands for reform:

"The ill-effects of the MMDA include directly marginalising women and children. Early marriages and childbearing cost them their education, employability, financial independence, and access to livelihood. Many such women are later abused and abandoned. They and their children become destitute. Cumulatively these contribute to strengthening the vicious cycle of abject poverty. Many of the poverty-stricken children seek solace by enrolling in *madrasas* that can provide food, shelter, and teach only the Quran. … These details shocked the conscience of all — with the exception of the Muslim males…"

While the state, by its dependence on the conservative Muslim lobby has opposed reforms that would modernise Muslim civil laws, it has acted with crude aggression against Plantation Tamils, who rather need social welfare that respects equality. A study done by Sasikumar Balasundaram shows that in the abusive regime of female sterilisation practised on Plantation Tamils, official figures in 2007 show that against a national sterilisation

average among married non-estate women of less than 16 percent, the figure for estate women is 41.1 percent.[1]

The polity is thus one that treats the minorities as a threat and has armed itself increasingly with harsh means of repression, bringing us close to the reality that a parliament that legislates outside the law, leaves us facing anarchy, where each has to decide the law for himself (Chief Justice Holt, 1701). Britain has kept a zealous eye on protecting the most fundamental of law of personal freedom, namely a person's right under the writ of *habeas corpus*, not to be detained except under judicial warrant. The court's jurisdiction is never nullified. Thus, officers of the security forces who commit crimes under a state of emergency are liable to be placed on trial once the emergency lapses. The Public Security Ordinance, the final act passed by the State Council in 1947 on the eve of Ceylon's independence, removed this protection.

The Prevention of Terrorism Act of 1979 was a further milestone in strengthening the state's arbitrary powers of detention, the most ironical to this addition being the International Covenant on Civil and Political Rights (ICCPR) Act of 2007. This is described by Shreen Abdul Saroor and Mytili Bala thus:

"The original aim, drawn from the ICCPR, was to protect vulnerable minority groups from violence and discrimination. Instead, the state uses the ICCPR Act solely as a tool of repression, arresting minorities on grounds that their speech or petitioning activity disrupts 'communal harmony.'" Consequently 'rehabilitation' has become a euphemism for arbitrary detention and even disappearance: "By codifying rehabilitation procedures under the PTA, the government now seeks to formalise abuses that were previously possible only under *emergency* rule."

This hysterical notion of security, as I have argued in Sri Lanka's Easter Tragedy[2], multiplies security agencies while in fact compromising security as happened in the Easter attacks. When tested institutional controls are in a state of confusion, including the all-important Inspector General of Police (IGP) being sidelined, the state had no coherent response. The President, the apex of the system, expended his energies not seeking to prevent the disaster of which he was amply warned, but rather searching for scapegoats to shift the blame. Steady warnings had in fact been coming from a local women's group that had a good estimate of Zahran.

Aneesa Firthous and her allies faced abuse and threats by Zahran and his assistants like Mohamed Niyas. In 2016 this women's group complained to the Police and obtained a judge's

1 Sasikumar Balasundaram, 'Stealing Wombs: Sterilization Abuses and Women's Reproductive Health in Sri Lanka's Tea Plantations' (July-Dec 2011) 41(2) Indian Anthropologist.

2 Rajan Hoole, Sri Lanka's Easter Tragedy: When the Deep State gets out of its Depth (Ravaya Publications 2019).

order restraining Niyas under a bond for two years. Describing the ensuing period, this group of women says in their essay below:

"This period of attacks coincided with an increase in Zahran's declarations of violence as the means to take forward his ideas. As these calls increased women began to back away from his group and he surrounded himself with thug-like persons who felt comfortable with violence rather than an average person, who may have attended his meetings earlier, but began to feel uncomfortable with all this talk of violence." Aneesa Firthous et al further add that in 2017, Zahran disappeared completely from the public sphere in Kattankudy with an arrest warrant against him and his associates.

The book Easter Tragedy adduces testimony from journalists and other sources that Zahran's National Thowheed Jamaat (NTJ) was aided by one or more state security agencies at the time he disappeared from public view in 2017. The change of the object of Zahran's wrath from Buddhist priests in February 2019 to Christian worshippers on 21st of April 2019, suggests Zahran's outfit was persuaded by its handlers to review the objects of destruction.

A group of women who felt alarmed by the talk of violence that in the second week of February 2019 sent leading government and opposition figures a video recording released by Zahran, where he emphatically threatened to engulf in the fires of hell, Buddhist priests and their allies who have killed Muslims, desecrated their mosques and destroyed their properties. As admitted by Sri Lanka Muslim Congress (SLMC) leader Rauff Hakeem, when Prime Minister Wickremasinghe asked him about the video, he, to the best of his belief then, minimised its significance.

The fact that the imminence of the Easter bombings was routinely picked up on the radars of foreign intelligence agencies, especially Indian, raises the question of whether local paralysis was lethargy or something more sinister? The countdown began with the first Indian warning on 4th April 2019. This was locally communicated to several heads of security on 9th April from communication originating from the State Intelligence Services (SIS). Other external warnings too came right until the final blow on the 21st. With the IGP sidelined and the President leaving for India and Singapore on 16th April, there was politically a contrived leadership vacuum. Although the IGP had the statutory power to act, he had been reduced to a mere ornament.

While Minister Prof. G.L. Peiris swears before the Human Rights Commission that Sri Lanka would not tolerate any foreign interference, it was finally external warnings that if heeded could have averted the disaster. The authorities ignored warnings from Muslim women, the first to challenge Zahran, who in February 2019 saw from his video that he had been transformed from a village bully to a lethal instrument. The Terrorism Investigation Division's (TID) monitoring of Zahran showed that his move towards a suicide bomber dated from the attack on Muslims in Amparai in February 2018.

It is apt to say a few words on contributor Gehan Gunatilleke's thesis that 'the persistence of such violence suggests that the drivers of anti-Muslim violence and discrimination are entrenched within the socio-political fabric of the country.' He had said earlier in his book 'The Chronic and the Entrenched: Ethno-Religious Violence in Sri Lanka Colombo, ICES, 2018':

"The entrenched nature of ethno-religious violence in Sri Lanka reflects a disconcerting reality about the Sri Lankan state. Both ultra-nationalist and relatively pluralistic governments have tolerated such violence to varying degrees, while consistently maintaining the overall impunity with which it is perpetrated. In this context, it appears that the Sri Lankan state itself embodies a certain structural dispensation towards ethno-religious violence."

This represents a trend in social science discourse, where it is more acceptable to blame an intangible collective for an outburst of lawlessness than to apportion individual blame even when it stares us in the face. Accordingly, in attacking Tamils or Muslims, the Sinhalese are driven, as it were, by the likeness of the fatal attraction of a moth to the flame. Contrarily, a close study of communal violence points to deliberate provocation by political agents, who point to a particular community as an existential threat to the Sinhalese Buddhists (1956 – 1958 in DeVotta[3], 1977 and 1983 in Hoole[4]).

With regard to the 1977 communal violence, direct responsibility falls on Prime Minister Jayewardene. Following the change of government, the IGP was kept in his office on the sufferance of Jayewardene, while several of his top subordinates ran amok superintending violence against Tamils as recorded in the Sansoni Commission's report and hearings. Jayewardene's role in the violence of 1983 was no less plain, but scholars are cautious about repeating what was common knowledge within living memory.[5] The Easter Tragedy shows that ritual trust reposed on those at the top can be dangerous.

Army Mohideen, who was an intimate associate of Zahran, was also a known regular informant to one or more of the state services. A State Intelligence Services (SIS) officer told the Presidential Commission of Inquiry into the Easter attacks, on 23rd July 2020, that on their advice SI Dias and Sergeant Nandalal of the Criminal Investigation Department (CID) had gone in search of Army Mohideen in Pasikudah on 7th March 2019, apparently at the same address given in Director SIS's memo on 11th April 2019. But they failed to arrest him. On 24th April, three days after the Easter attacks, the SIS went with the two CID officers above

3 Neil DeVotta, *Blowback: Linguistic Nationalism, Institutional Decay, and Ethnic Conflict in Sri Lanka,* (Stanford University Press 2004).

4 Rajan Hoole, *Arrogance of Power*, (UTHR, Jaffna 2001).

5 ibid.

and arrested Mohideen in Oddamavady, in the same area.[6] Available reportage indicates that it was the arrest of Mohideen that led to raids on the 26th evening in Sainthamaruthu (where some of Zahran's family had been moved) and Sammanthurai (that had an arms factory where suicide vests were made).[7]

What comes out quite clearly from the foregoing is that Mohideen more or less stayed where he was and made no attempt at escape or concealment. He was the classic double agent who felt he served the common objectives of both or multiple masters and gave satisfaction to all. Indeed, at the point of arrest, he had appealed to Sergeant Nandalal to exonerate him. Mohideen must have been closely watched by his handlers. His moving away some of Zahran's family three days before the blast suggests he knew, as would have some of his handlers and the latters' patrons. Indian warnings, it seems, may have been redundant.

Having heard and read so much about Army Mohideen, the latest to wonder about him was Cardinal Malcolm Ranjith, several of whose churches had been attacked, at a press conference on 13th August 2021. Army Mohideen was arrested more than two years ago and within weeks he should have been produced and charged in court, but not a stir so far. A trial would no doubt have been devastating. But fortunately for those in authority, our laws are formulated not to expose and arrest wrongdoing, but to facilitate disappearance.

That brings us back to an earlier question. The entrenchment and overall impunity referred to by Gunatilleke are mutually destructive and cannot sustain a unified Sinhalese polity. The 'entrenched' violence against Tamils in 1983, under the rubric of the same impunity, led to the banning of three left parties, including the Janatha Vimukthi Peramuna (JVP) in a futile attempt to shift the blame. Fighting for power and survival with the same weapon of lawless cynicism, the JVP paralysed the country for more than two years. The Jayewardene Government's opening of the Tamil insurgency in the East in April 1985 by dispatching Minister M. H. Mohamed's Muslim thugs from Colombo Central to attack Tamils in Karaitivu in the East, led in time to the formation of Muslim paramilitary units. Of these Zahran and Army Mohideen are later manifestations.

In 2018, the size of the Muslim vote was a major concern for the Rajapaksas' Sri Lanka Podujana Peramuna (SLPP), which had acquired notoriety over anti-Muslim violence. In March 2018 columnist D. B. S. Jeyaraj pointed to a leading SLPP parliamentarian as having planned the anti-Muslim violence in Amparai.[8] In his defence, the parliamentarian did not deny as alleged that he had been in the area meeting supporters and policemen a few days

6 'Questions raised at PCoI over CID's failure to arrest 'Army Mohideen'', *Ada Derana*, (23 July 2020) <http://www.adaderana.lk/news/65801/questions-raised-at-pcoi-over-cids-failure-to-arrest-army-mohideen> accessed September 2021.

7 *ITV News.*

8 D. B. S. Jeyaraj, ''Wanda Pethi,' 'Digakalliya' and the violence in Ampara', *Daily FT*, (17 March 2018) < https://www.ft.lk/front-page/Wanda-Pethi-Digakalliya-and-the-violence-in-Ampara/44-651431> accessed September 2021.

before the attack on 26th February night, which was followed by the arrival of over 100 Sinhalese youths in vehicles to advance the attack. The incident was the immediate provocation for Zahran.

The utter inappropriateness of describing the violence to be entrenched is seen in the case of Dr. Shafi, the doctor from Kurunegala accused of deliberately sterilising a large number of Sinhalese women. The district police visited his home the same day as the 2019 Easter blast and began the kangaroo trial of Shafi organised by leading doctors at the hospital. The accusers were joined by a throng of supporters of the SLPP and *Viyath Maga*, Gotabaya Rajapaksa's brains trust, which included a professor of pharmacology and bigwigs from the Government Medical Officers' Association (GMOA), who descended like a swarm of flies to feast on Shafi's wounds. CID officer Nishantha Silva decisively debunked the Shafi episode as a sham mounted for political propaganda.

What many of the women writers of these articles have asked for is to be allowed their freedom to manage their lives in their localities, free from inhuman impositions whether they stem from religion, custom or ideology. Rights under *habeas corpus* are the most compact and powerful statement of these rights — no one must be constrained except by the operation of law. Starting with the Public Security Ordinance we have practically destroyed these. We had the Easter tragedy which made us a laughing stock. The solemn ceremonies of the state hide emptiness and paralysis. If writers and analysts are to make a difference, it urges us that truth be told bluntly. We are ruled by a sectarian ideology that relies on permanent enemies for its survival. Because of its very nature, it cannot yield progress, development or friendship. Its paradox is placed in stark relief by no action being taken to prevent the Easter bombings when there had been intelligence warnings, with impunity for attacks on innocent Muslims, including Dr. Shafi.

The Current State of the Freedom of Religion or Belief in Sri Lanka

Ria Samuel

1. Introduction

The past decade in Sri Lanka has seen a gradual but significant decline in the freedom of religious expression and practice and a rise in religiously motivated violence and intimidation against religious minorities. In particular, with the conclusion of the war, there was a visible increase in anti-minority sentiment, fuelled by rising religious nationalism and extremism. For instance, since 2009, there has been an intensification of chronic and acute forms of violence and acts of discrimination, including, among others, attacks on minority places of worship, intimidation and surveillance, legal restrictions and hate speech against religious communities.[1] Further, at least four large scale religious riots against Muslim communities occurred in Aluthgama in 2014, Gintota in 2017, Digana in 2018 and following the Easter attacks in 2019. The Easter Sunday attacks, which killed over 250 people in suicide bombings targeting churches and hotels by an extremist Islamist group was a further highlight of the deteriorating state of the freedom of religion or belief (FoRB) in the country.

Different religious communities in Sri Lanka have faced varying types of FoRB violations. For instance, the Christian community has faced chronic forms of violence including attacks on members of the clergy and places of worship. Further, churches have also been the subject of discriminatory action by State officials. This includes the use of restrictive regulations to curb religious gatherings.

The Muslim community, on the other hand, has faced acute, mass-scale communal violence targeting Muslim-owned homes and businesses. Moreover, Muslim communities have also been targeted in hate campaigns on social as well as mainstream media. Two narratives have appeared to drive discrimination against Muslims — the perceived cultural 'peculiarities' of Muslims (e.g. Islamic laws and religious attire) and the fear of Muslim encroachment and extremism.[2]

In comparison, the Hindu community has faced the issue of the replacement of Hindu places of worship with Buddhist shrines and temples. For instance, such incidents were reported in

1 On the increase of religious liberty violations against minority religious communities in the post-war period, see: Jayantha de Almeida Guneratne, Kishali Pinto-Jayawardena and Radika Guneratne, *Not This Good Earth; The Right to Land, Displaced Persons and the Law in Sri Lanka* (Law and Society Trust 2013) 221.

2 Verité Research and NCEASL, *Prejudice And Patronage: An Analysis of Incidents of Violence Against Christians, Muslims, and Hindus In Sri Lanka*, (1st edn, Minormatters 2021).

the Northern and Eastern provinces of the country following the end of the war. Moreover, Hindus have also faced discrimination over land issues and in matters concerning contested archaeological sites.[3]

Moreover, the COVID-19 pandemic has had a significant impact on the state of FoRB in Sri Lanka. For instance, Muslim and Christian communities were aggrieved as a result of the state's policy to mandatorily cremate those deceased as a result of COVID-19 infection. The cremations policy, which was in contravention to the World Health Organization's guidelines, caused intense distress to religious communities. The decision was, however, later revoked in February 2021.

Religion and religious identity have been commonly used in Sri Lanka to consolidate political power. This has, in turn, resulted in the politicisation of religion and has formed the basis for ethno-religious politics. Accordingly, political parties have resorted to hardline nationalist stances and followed a brand of populist politics with a high degree of anti-minority rhetoric and sentiment. Such trends and political strategies have, unfortunately, continued to date to define and shape the political landscape and adversely impact the FoRB situation in Sri Lanka.

2. Historical Progression of FoRB

Historically, the freedom of religion or belief has been a contentious issue in the country. The colonial period, in particular, had a significant influence on relations between religious communities and the freedom of religion as a whole. On a positive note, the signing of the Kandyan Convention in 1815 proved to be a landmark moment in Sri Lanka's history as it recognised religious freedom as a legal right in the country. This followed Lord North's proclamation in September 1799, which declared the government to be secular and provided for the liberty of conscience and the free exercise of religious worship to all persons.[4]

The 1915 anti-Muslim pogrom was another significant moment in Sri Lanka's history in relation to FoRB. In May 1915, communal tensions erupted into violence between the Buddhist and Muslim communities. The Muslims were Indian Moors, who were distinct from the Ceylon Moors, who had been living in Ceylon peacefully for over a thousand years. The violence which erupted in Kandy in the Central Province spread to four other provinces. As the rioting continued, Ceylon Moors also came under attack, as distinctions between the two groups of Moors were not maintained. Widespread attacks took place against Muslim homes, businesses and places of worship in the following days. The riots continued for approximately nine days and resulted in 25 deaths, four rapes, and left 189 people wounded.

3 ibid.

4 Charles W. Karunaratna, 'Buddhism and Christianity in Ceylon (1796 - 1948)' (PhD, University of London 1974).

Moreover, 17 mosques were burned and 4000 Muslim-owned shops were looted. The situation was eventually brought under control by the state through the implementation of martial law between June and August 1915. However, the authorities also committed grave atrocities against innocent Sinhalese in the months governed by martial law, including unlawful executions and imprisonment without charges.[5] The 1915 anti-Muslim pogrom proved to be a significant incident in Sri Lanka's history in relation to FoRB as it further brought out the issue of fixed identities of communities as Sinhala, Tamil and Muslim. Subsequently, in the post-colonial era as political parties began to form, they used religion and ethnicity as tools to garner the favoritism of the population, which then resulted in a widely adopted brand of identity politics based on ethnicity. For instance, the electoral victory of S.W.R.D Bandaranaike's coalition in 1956 had a significant impact in this regard. This is because he used the rhetoric of victimisation of Buddhists and the need for a stronger front for Buddhism in the nation. This was followed by the commissioning of the Buddhist commission report in 1956. The report was titled 'Betrayal of Buddhism' and provided a narrative of Buddhist decline since the Portuguese colonisation in the 16th century. This was then followed by the establishment of the Buddha Sasana Commission in 1957, which was mandated to investigate the demands made by the All Ceylon Buddhist Congress (which was founded in 1919) for special Buddhist legal privileges.[6]

The 1972 Constitution and its provision in article 6 gave Buddhism the foremost place for the first time in the country's constitutional history. The 1978 Constitution then followed suit, continuing to accord Buddhism a special status, while assuring all other religious beliefs rights protected in article 10 and article 14 (1) (e) of the Constitution. The constitutional entrenchment of Buddhism, however, seemed to fuel staunch Buddhist nationalism while also increasing the prominence and influence of the Buddhist clergy in matters of politics.[7]

Another key moment in the history of FoRB in Sri Lanka was the 1991 NGO Commission appointed by President Ranasinghe Premadasa. The Commission, which was mandated to look into the activities of the non-governmental organisations (NGOs), focused also on religious groups, who were then accused of engaging in unethical conversions.[8] This resulted in a wave of hostility, especially against Christian churches in the country.[9]

In 2001, President Chandrika Bandaranaike Kumaratunga commissioned the Buddha Sasana Presidential Commission to investigate the grievances of the Buddhist community. The Commission report recommended laws to prohibit religious conversions and claimed that religious conflicts in Sri Lanka had taken place due to alleged unethical conversions.

5 Shamara Wettimuny, *Catalogue of Events Of Freedom Of Religion Or Belief* (Minormatters).

6 ibid.

7 ibid.

8 Indi Ruwangi Akurugoda, *NGO Politics in Sri Lanka: Local Government and Development*, (2017) 57.

9 Shamara Wettimuny, *Catalogue of Events Of Freedom Of Religion Or Belief* (Minormatters).

Subsequently, in 2004 and 2008, there were attempts to introduce anti-conversion laws in Sri Lanka as a response to allegations of unethical conversions.[10]

Religious identity, therefore, has been a key factor in Sri Lanka's political narrative, gaining prominence during the colonial era and then continuing to grow in importance in the post-independence period. As a result, it could be posited that the politicisation of religious identity has and continues to have a significant bearing on the freedom of religion or belief and, in particular, the status of religious minorities in the country.

3. Recent Trends in FoRB Violations

According to Gehan Gunatilleke, there are three main drivers of ethno-religious violence in Sri Lanka. These include: (1) the entitlement complex of the Sinhala-Buddhist majority; (2) the existential fears of the Sinhala-Buddhist majority; and (3) monastic exceptionalism applicable to the Sinhala-Buddhist clergy.[11] Gunatilleke posits that anti-minority violence is predominantly driven by the 'entitlement complex and existential insecurities' prevalent amongst the segments of the majority community. He further states that the entitlement complex is largely driven by the inherent belief held by some segments of the majority community, that in fact they hold a legitimate historical claim to the country. In effect, this complex gives rise to a host-guest dynamic entrenched in the majority mindset, where Sinhala-Buddhists are viewed as the primary citizens and minorities as guests.[12] This rhetoric, in the recent past, has been increasingly whipped up by extremist groups via social media, targeting specifically younger populations who have been more susceptible to such messaging.

a) Sinhala Buddhist nationalism and the rise in religious extremism

Following the end of the war in 2009, there was a noticeable rise in Sinhala-Buddhist triumphalism in Sri Lanka. This was coupled with tacit state approval enjoyed by extremist elements such as the *Bodu Bala Sena*, *Sinhala Ravaya* and *Ravana Balaya* who carried out attacks on religious minorities with impunity. For instance, the post-2009 period has seen a dramatic increase, in comparison to the pre-2010 period, in the frequency in which incidents of religious violence have taken place.[13]

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10 ibid.

11 Gehan Gunatilleke, 'The Constitutional Practice Of Ethno-religious Violence In Sri Lanka' (2018) 13 Asian Journal Of Comparative Law.

12 Gehan Gunatilleke, *The Chronic and the Entrenched: Ethno-religious Violence in Sri Lanka* (Equitas and ICES 2018) 70.

13 Verité Research, *Inaction And Impunity: Incidents Of Religious Violence Targeting Christians, Muslims And Hindus* (NCEASL 2021).

Moreover, there has also been an emergence of Hindu extremism in the country, influenced by Hindu extremist groups in India such as the Shiv Sena. Moreover, Islamic radicalisation and extremism have also been on the rise. Some scholars have stated the rise of Islamophobia in Sri Lanka has led to the Muslim community feeling threatened, which has, in turn, paved the way for certain youth from within the community to be susceptible to hardline rhetoric from extremist factions.[14]

The recent rise in religious extremism could be identified as a potential source for the Easter terror attacks in Sri Lanka. The immediate or direct cause for the Easter terror attacks was attributed to the National Thowheed Jama'ath an Islamic extremist outfit with its presence mainly in the Eastern part of the country. According to L R C Jayasuriya (Ref), Sri Lanka has experienced a spread of Wahhabism in the recent past. But, as noted by Jayasuriya, the ideology has been wielded not towards the majority community, but at the broader Muslim community themselves. However, it is also important to situate the rise in Islamic extremism in the light of the spread of anti-Muslim sentiment and Islamophobia in Sri Lanka, particularly since 2012.[15] For example, since 2012, there have been large scale incidents of mob violence against the Muslim community such as the violence in Aluthgama (2014), Ginthota (2017), Digana and Teldeniya (2018) and Gampaha and Kurunegala (2019). This has been coupled with rampant hate speech on social media.

New dynamics concerning religious extremism have also altered the landscape of FoRB in the country. For instance, up until the Easter Sunday attacks, violent incidents targeting the Christian community were characterised as being of low intensity. Moreover, the incident also marked an emergence of a new dynamic that departed from the typical pattern of violence perpetrated by Sinhala Buddhist extremist factions. This has led to a new victim-perpetrator dichotomy in Sri Lanka between Christians and Muslims in the country as well.[16]

b) State involvement

In a study carried out by Verité Research on the incidents of religious violence targeting Christians, Muslims and Hindus between 2015 and 2019, it was reported that the state was an active perpetrator in 40 percent of the incidents reported against Christian communities. This was further corroborated in a more recent study by Verité Research of FoRB violations against Christians in Sri Lanka during 2019-2020, where it was revealed that state officials were involved as perpetrators in the majority of the recorded incidents. State officials here mainly comprised local level actors such as grama niladhari (village officers), divisional

14 A.R.M. Imtiyaz, 'The Easter Sunday Bombings and The Crisis Facing Sri Lanka's Muslims' (2019) 55 Journal of Asian and African Studies.

15 S.M. Aliff, 'Post-War Conflict In Sri Lanka: Violence Against Sri Lankan Muslims And Buddhist Hegemony' (2015) 59 International Letters of Social and Humanistic Sciences.

16 Verité Research, *Inaction And Impunity: Incidents Of Religious Violence Targeting Christians, Muslims And Hindus* (NCEASL 2021).

secretaries, pradeshiya sabha (local government authority) officers and the police. Overall, they were the offending party in 65 percent of the incidents analysed that had a negative bearing on Christians.[17]

Further, the research also indicated that there was a nexus between the state's use of authority and its display of prejudice against Christians or 'negative biases' towards the Christian community in episodes of non-physical and structural violence.[18] In particular, the research identified that particular police action, for the most part, was actively involved or was inactive during the incidents of religious violence recorded. For instance, in only one of the 63 incidents analysed was police action recorded as actively positive. Moreover, out of the 41 instances in which state officials targeted Christians, the police were identified as the key perpetrator in at least 27 of these instances (66%). In terms of the geographical spread, violence against Christians were recorded in 16 out of the 25 administrative districts, with the Batticaloa and Polonnaruwa districts recording the highest number of incidents.[19]

The police also seemed to protect fellow state officials who displayed negative bias towards Christians. Thirty-one out of 41 times (76%) the police actively or tacitly sided with state officials by not acting in defence of targeted groups or individuals. In certain cases, the police were silent when state officials explicitly threatened or spoke strongly against Christians (at least seven instances).[20]

Further, minority religious communities have also stated that law enforcement officials appear to engage in acts of surveillance, making inquiries about the legality of places of worship, the number and identity of congregants, and details about pastors and the church leadership.

As in the case of Christians, research also shows during 2019-2020 the state was involved in discrimination and violence perpetrated against the Muslim and Hindu communities. For instance, the state introduced certain policies and bodies that were widely criticised for discriminating against Muslims and Hindus (e.g. mandating cremation for COVID-19 victims and the Presidential Task Force for Archaeological Heritage Management in the Eastern Province). Further, Muslims and Hindus have also raised concerns over institutional discrimination, particularly with the increasing involvement of military officials in civic administration.

17 Verité Research, *Prejudice And Patronage: An Analysis Of Incidents Of Violence Against Christians, Muslims, And Hindus In Sri Lanka (September 2019 – September 2020)* (NCEASL 2020).

18 ibid.

19 Ibid.

20 ibid.

c) Restrictive laws

Registration of places of worship

Sri Lanka boasts of a legal framework that on paper safeguards the freedom of religion or belief. However, the problem lies in its implementation. Further, with the COVID-19 pandemic, there has also been a marked rise in authoritarian rule that has led to the introduction of more stringent laws and regulations, which has negatively impacted religious minorities.

In 2008, there was a move by the state to register religious places of worship. For instance, a circular dated *October 2008* was issued by the Ministry of Buddha Sasana and Religious Affairs demanding that all *'new constructions'* of places of worship should obtain approval from the said Ministry. Subsequently, authorities have cracked down on Christian churches and mosques, requiring them to register with the state or discontinue their religious activities. This was in contravention to Sri Lankan law, which does not require places of worship or religious bodies to register with the state.

However, the then Ministry of Buddha Sasana and Religious Affairs instructed provincial councils and divisional secretaries to comply with this requirement before approving applications for the construction of places of worship. Interestingly, the circular exempts *'traditional religions'* from submitting documentary evidence to prove their bona-fide. In view of the fact that there are no guidelines as to what constitutes a 'traditional religion', the Ministry and local government officials often made decisions to 'grant or deny permission based on their own understanding or biases'. This circular, accordingly, has resulted in minority faith communities being routinely denied permission to construct places of worship solely because they failed to get approval from the Ministry.

While the Circular 2008 is clearly applicable only to new constructions and does not have retrospective effect, it is also often misapplied and used by government officials to close down existing churches.

In 2017, in a right to information request made to the Ministry of Buddha Sasana and the Department of Christian Affairs, it was stated that the circular in question was only applicable to Buddhist places of worship and that it was no longer applicable to other religious groups. However, government and law enforcement authorities have continued to utilise the circular against minority places of worship despite being made aware of these developments.

Other recent restrictive regulations

Since 2020, other regulations, such as the Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021, was introduced following a recommendation by the Presidential Commission of Inquiry on the Easter

Sunday attacks of 2019.[21] This expansion of the draconian Prevention of Terrorism Act provides for the detention of any person suspected of causing 'religious, racial, or communal disharmony'. Further, the attorney general is vested with the power to recommend this remedy in lieu of constituting criminal procedure against a surrenderee or a detainee.[22] Among other discretionary powers of the Minister of Defence, Regulation 7(2) of Regulation No. 01 of 2021 empowers the minister to extend the period of rehabilitation of a detainee for a period of six months at a time, up to 12 months. The regulations have been subjected to heavy criticism by many international entities including the United Nations, as well as many Sri Lankan progressives. For instance, Human Rights Watch has requested the immediate withdrawal of the regulations as it threatens minorities.[23]

Further, the gazette notification issued on rehabilitating persons suspected of engaging in extremist activities have also violated due process norms and is liable to disproportionately target minorities in the name of preserving national security. Similarly, the proposed ban on face coverings has also disproportionately targeted Muslim women and their right to manifest their faith through their attire.

Moreover, recently, while there have also been calls for the introduction of anti conversion laws in Sri Lanka, based on allegations of unethical conversions, another proposed legislation has sought to censor, review, and regulate publications on Buddhism and the character of the Buddha.[24] This regulation has the potential to seriously infringe the rights of Buddhist groups whose religious beliefs do not conform to the state's accepted interpretation of Buddhism.

d) Judicial bias and impunity

Judicial sentiment concerning FoRB issues of religious minorities have largely lacked intent in Sri Lanka. For example, a 2016 study conducted by Verité Research found that the Supreme Court had a tendency to use a procedural approach when determining outcomes

21 ''De-radicalization' regulations should be immediately withdrawn' (International Commission of Jurists 18 March 2021) <https://www.icj.org/sri-lank-de-radicalization-regulations-should-be-immediately-withdrawn/> accessed 3 September 2021.

22 Regulation 5(4) of the Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021.

23 'Religious Disharmony' Order Threatens Minorities, *Human Rights Watch, Sri Lanka,* (March 2021) <https://www.hrw.org/news/2021/03/16/sri-lanka-religious-disharmony-order-threatens-minorities> accessed 3 September 2021.

24 Hiranyada Dewasiri, Buddhism-related Publications to be Censored, *The Morning*, 24 March 2021: <https://www.themorning.lk/buddhism-related-publications-to-be-censored/> accessed 3 September 2021.

that protect minority religious rights.[25] According to the study, this approach had often led to the failure of the judiciary to substantially expand the jurisprudence on the state's role to promote, protect, and fulfil an individual's freedom of religion. In contrast, the study states the court has adopted a substantive approach when dealing with cases that restrict the freedom of religion, particularly of minority groups. Furthermore, the judiciary has also shown a tendency to perceive any overt attempt to propagate religion in Sri Lanka as a threat to the socio-cultural dominance of Buddhism as seen in a series of judgements given between 2001 and 2003 in relation to the incorporation of three Christian organisations by way of private member bills.[26]

e) Disinformation and hate speech

In Sri Lanka, extremist elements have implemented targeted disinformation campaigns against the country's minorities. For instance, while Christians have been accused of engaging in unethical conversions of Buddhists, Muslims have been 'othered' citing cultural particularities and allegations of land acquisition and encroachment. Hindu communities, on the other hand, have been accused of taking over Buddhist archaeological sites. For instance, the Athi Lingeswarar Hindu Temple at Vedukkunari has been claimed by the Archeological Department as a Buddhist site.[27] Similarly, 2000 other sites in the Eastern province are subject to archaeological examination according to Ven. Ellawala Medhananda Thero, a member of the Presidential Task Force (PTF) for Archaeological Heritage Management.[28]

With regard to Muslims, extremist elements have perpetuated notions that Muslims have certain laws, customs, and practices that were 'at odds with that of the Sinhalese-Buddhists' and which discouraged cultural assimilation. When viewed within the host-guest dynamic mentioned previously, the 'majority-host' are seen to interpret the perceived cultural 'peculiarities' of the 'minority-guest' as attempts to change the host-guest dynamic. Insecurities held by certain segments of the population in this regard have resulted in increased scrutiny and propaganda against Muslims' religious attire, *sharia* law, Islamic financial systems, and the consumption of *halal* certified food.

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25 Sabrina Esufally, *Judicial Responses to Religious Freedom: A Case Analysis* (Verite Research/NCEASL, Colombo 2016).

26 See Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation) S.C. Special Determination No. 19/2003; S. C Special Determination No. 2/2001 and S. C. Special Determination 2/2003.

27 Vellupillai Thangavelu, 'Gotabaya Rajapaksa Government Had Opened Another Battle Front Against Hindu Tamils - Colombo Telegraph', *Colombo Telegraph*, (2021) <https://www.colombotelegraph.com/index.php/gotabaya-rajapaksa-government-had-opened-another-battle-front-against-hindu-tamils/> accessed 3 September 2021.

28 ibid.

During the COVID-19 pandemic, the perceived cultural 'peculiarities' of Muslims were overemphasised as threats to public health on two occasions. First, during the initial outbreak of the virus in Sri Lanka, Muslims were blamed for reportedly prioritising cultural practices and habits over public health concerns. Negative stereotypes of Muslims also surfaced during this time, directing public anger towards Muslims. For example, several reports highlighted that Muslims tend to live in large groups that could accelerate the risk of spreading COVID-19. Some news reports claimed that Muslims were predisposed to lie and were concealing vital information relating to COVID-19. The racial profiling of patients or highlighting of patients from Muslim majority areas by media personnel were also normalised in the daily news cycle.

Another preconceptions against the Muslim community are the notions of population rebalancing and economic prosperity. There seems to be this notion within the Sinhala Buddhist community that the Muslim community in Sri Lanka is more economically prosperous. This narrative has contributed to two negative outcomes. Firstly, Sinhala consumers are encouraged to boycott Muslim-run businesses. Secondly, this narrative generally precedes actual incidents of anti-Muslim violence where Muslim-owned businesses are targeted.

Despite Sri Lanka having hate speech and fake news laws in the criminal and penal codes, and in particular the ICCPR Act 2007, these laws have only been used against religious and ethnic minorities, or, of even greater concern, against those who have had dissenting views.[29] As noted by Gunatilleke, since its enactment, not a single individual who has incited violence against minority communities has been convicted under the Act.[30]

In a study commissioned by the Minority Rights Group in 2020,[31] 103 posts, tweets and comments were tracked over a three-month period from March to June 2020; 53 in Sinhala and 50 in Tamil. The majority of the posts, tweets, and comments targeted Muslims, although there were a large number attacking Christians as well. Of the 103 posts surveyed, 60 (58%) attacked Muslims or Islam on a variety of grounds. Thirty-one of the posts attacked Christians (30%) and five attacked Tamils or Hinduism. Of the Sinhala language posts surveyed, a large number attacked Muslims. For instance, of the 53 posts in Sinhala that were surveyed, 42 (or 79.2%) were rants against Muslims or Islam. On the other hand, the online attacks in Tamil were divided more equally between Muslims and Christians. Importantly, the study highlighted a continuation of hate speech from the Easter bombings of 2019 with Muslims being portrayed as purveyors of terrorism in 2019, and as purveyors of the virus in

29 See for example the case of The Democratic Socialist Republic of Sri Lanka v JS Tissainayagam [2008] HC 4425/2008 where the Prevention of Terrorism Act was used to convict a journalist for an innocuous statement made on an online journal, and the case of Shakthika Sathkumara discussed below.

30 Gehan Gunatilleke, 'Broken Shield And Weapon Of Choice', *Verité Research (first published in The Morning)*, (2019) <https://www.veriteresearch.org/2019/06/24/iccpr-act-sri-lanka/> accessed 22 September 2021.

31 MinorMatters, *Hate Speech In Sri Lanka During The Pandemic* (MinorMatters 2020).

2020. Further, the study also highlighted a discernible partiality to Muslims in the Sinhala posts while the hate speech in the Tamil language attacked both Muslims and Christians.

4. Potential Challenges Ahead

Undergirded by a brand of divisive and nationalist politics, rising authoritarianism and a growing culture of impunity has continued to pose increased challenges to Sri Lanka's religious minorities. Further, state biases, restrictive regulations, the proliferation of hate speech and disinformation and the systematic use of violence to curb the free practice of religion has further deteriorated the status of the freedom of religion or belief in Sri Lanka.

Accordingly, the future seems laden with challenges for religious minorities who are likely to experience the effects and impact of rising religious extremism, authoritarian rule and the prevalence of a culture of impunity in the country. In the past, such trends have resulted in acute and chronic forms of violence against religious minorities from extremist factions and restrictions and discrimination from state actors. This was irrespective of the political inclinations of the governments that have been in power. The future, therefore, seems to imply more of the same for Sri Lanka's religious minorities, who have long been victims of divisive political rhetoric that has whipped up the entitlement complexes, existential fears of the majority and fueled state bias against minorities.

5. The Way Forward

Considering the history and present context of the freedom of religion or belief in Sri Lanka, it is important that certain policy changes are introduced to address some of the grievances of minority faith communities. Most importantly, the issue of inaction and bias by local state institutions and officers and their lack of literacy on FoRB needs to be addressed. Moreover, the vulnerability of youth, from the different religious communities, being enticed by extremist groups, is another concerning issue.

Presently, Sri Lanka is witnessing a growth in online communities. This, in turn, presents new opportunities and challenges to FoRB. While on one hand it presents new avenues to harness the power and potential of the digital realm to create positive social change and improve social literacy on FoRB, on the other hand it has exacerbated the issue of hate speech and disinformation against minorities. For example, in order to harness the potential of growing digital communities, MinorMatters, a national campaign to advance FoRB and promote religious harmony in Sri Lanka, recently launched a mobile game to sensitise youth on issues such as hate speech, fake news and discrimination.[32]

32 'Minormatters Launches First Mobile Game For Social Change', *Daily FT*, (20 July 2021) <https://www.ft.lk/it-telecom-tech/MinorMatters-launches-first-mobile-game-for-social-change/50-720664> accessed 3 September 2021.

In Sri Lanka, misconceptions that communities have of each other have been one of the principal drivers of religious tensions and FoRB violations. When looked at closely, such misconceptions, which have then brewed mistrust of communities have also stemmed from the perpetuation of biased historical narratives. This calls for interventions to improve understanding and build trust between communities.

For example, in order to improve the historical awareness concerning the progression of FoRB, and more particularly, relations between religious communities, the MinorMatters campaign is also currently developing a Virtual Museum to trace 200 years of history in relation to FoRB in Sri Lanka. The initiative also comprises an e-Learning platform to equip key target groups such as youth, civil society actors, faith leaders and media personnel among others on FoRB related issues so as to promote FoRB literacy in the country.

Any effort to tackle the issue of FoRB violations in Sri Lanka requires a multi-pronged approach. This includes advocacy for policy change, education for key stakeholders, documentation of right violations and cultural transformation at a societal level. Importantly, however, root causes require careful consideration as well. In fact, any interventions made to advance FoRB should be cognisant of root causes which include the existential fears and entitlement complexes of the majority and the problem of impunity or exceptionalism that has shielded those responsible for tensions and right violations. Therefore, it could be concluded that it is important to address underlying issues first, in order to experience a change in the current landscape concerning the freedom of religion or belief. This also requires effort, which goes beyond the traditional stereotyping of issues, and calls for methods for interventions leading to novel forms of engagement with communities and discourses so that much needed cultural transformation could be brought to bear in the country.

Discrimination and Violence against Muslims in Sri Lanka

Gehan Gunatilleke*

Discrimination and violence targeting the Muslim community in Sri Lanka have proliferated since the conclusion of the armed conflict in 2009. The communal conflict that preoccupied Sri Lanka in the post-independence era has been 'ethno-linguistic' in nature. Yet, with the end of the armed conflict between the Sri Lankan state and Tamil separatists, inter-communal conflict in Sri Lanka has witnessed an added 'ethno-religious' dimension. This particular dimension is not new. It was observed during the pre and post-independence periods. For instance, it drove anti-Muslim sentiment in the late nineteenth and early twentieth centuries, and led to anti-Muslim violence in 1915. Nevertheless, the post-war period has witnessed an unprecedented and rapid rise in discrimination and violence of a distinct ethno-religious nature. Such discrimination and violence has coincided with the emergence of Sinhala-Buddhist militant groups such as *Bodu Bala Sena* (BBS), *Ravana Balaya*, and *Mahason Balakaya*, whose principal target has been the Muslim community.

This article discusses anti-Muslim discrimination and violence in Sri Lanka. It is presented in four sections. The first briefly examines the legal framework relevant to discrimination, and violence in Sri Lanka, and lists some of the weaknesses evident in this framework. The second section presents recent data on anti-Muslim violence in Sri Lanka, and discusses several case studies involving discrimination against Muslims. The third section explains the major drivers of anti-Muslim sentiment in the country, and highlights some of the fault lines that shape antagonism towards the Muslim community. This section also explores how certain transnational discourses influence such antagonism. In the concluding section, I analyse the manner in which various phenomena and factors converge to create and sustain discrimination and violence against Muslims in Sri Lanka.

Legal Framework

Sri Lanka's constitutional framework is replete with provisions that recognise freedom and non-discrimination. The chapter on fundamental rights in Sri Lanka's Constitution recognises the freedom of religion or belief, and the right to non-discrimination on the grounds of religion. Article 10 recognises the freedom of thought, conscience, and religion, and article 12 recognises the right to equality and non-discrimination. Article 12(1) provides: 'All persons are equal before the law and are entitled to the equal protection of the law', and article 12(2) provides: '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

* Attorney-at-law; DPhil (Oxon); LL.M (Harvard).

grounds.' Article 14(1)(e) meanwhile recognises the freedom of a 'citizen…to manifest his religion or belief in worship, observance, practice and teaching'.

Despite this fairly expansive legal framework pertaining to discrimination and violence, Sri Lanka's constitutional text contains certain doctrinal weaknesses that enable majoritarianism. First, article 9 of the Constitution stipulates that Buddhism be given the 'foremost place', and imposes a duty on the state to 'protect and foster' the Buddha *Sasana*.[1] Article 9 goes on to mention that the state should assure 'to all religions the rights granted by articles 10 and 14(1)(e)', i.e. the freedom of thought, conscience, and religion, and the freedom to manifest religion or belief. In practice, however, this clause has shaped the way the state justifies limitations on the religious freedom of minorities, particularly when the impugned conduct is perceived as threatening the status of Buddhism in the country. For example, the Supreme Court in cases such as *Karuwalagaswewa Vidanelage Swarna Manjula et al v. Pushpakumara, Officer-in-Charge, Police Station, Kekirawa et al* (2018)[2] and *Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation) Bill* (2003)[3] has found that non-Buddhists in Sri Lanka do not have the freedom to propagate their religion due to article 9 of the Constitution.

Second, article 15(7) authorises the state to impose limitations on religious freedom and the right to non-discrimination on extremely broad grounds. Limitations may be imposed 'in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society'. What is ultimately evident is that, despite the recognition of religious freedom and the right to non-discrimination in Sri Lanka's Constitution, the limitation grounds found in article 15 are broadly framed and offer considerable latitude to the state to impose limitations on such freedoms and rights.

Data on Discrimination and Violence

A significant number of anti-Muslim attacks took place in Sri Lanka during 2013 and 2014. There were 241 reported incidents of violence against Muslims in 2013, and at least 200 reported incidents in 2014.[4] Many of the attacks involved threats and intimidation against Muslim-owned businesses, and anti-Muslim propaganda and hate speech. Episodic violence featuring largescale physical violence against Muslim homes, businesses, and places of worship also took place. In June 2014, for instance, anti-Muslim mob violence broke out in

1 Budda Sasana is a term that, in a specific sense, refers to the teachings of the Buddha, and in a more general sense, refers to the Buddhist 'community' or 'nation'.

2 SC (F.R) No. 241/14.

3 SC Special Determination No. 19/2003.

4 Verité Research and NCEASL, *Silent Suppression: Restrictions on Religious Freedoms of Christians (1994-2014)* (National Christian Evangelical Alliance of Sri Lanka 2015), 21-24.

Aluthgama, and neighbouring areas. The violence broke out following an incendiary speech by Ven. Galagoda Aththe Gnanasara Thera, the General Secretary of BBS. The monk spoke at a large rally in Aluthgama and called for retaliation against members of the Muslim community for allegedly attacking a Buddhist monk in the area.[5] The ensuing anti-Muslim violence led to the death of at least four persons and the damage or destruction of over a hundred Muslim homes and businesses.

Anti-Muslim violence continued throughout the period between 2015 and 2018. At least 64 attacks on Muslims were recorded during the period between November 2015 and June 2016.[6] In 2017, a spate of attacks on Muslim-owned businesses was recorded in April and May.[7] Then on 17 November 2017, in Gintota in the Galle district, communal tensions following a traffic dispute erupted into anti-Muslim violence resulting in damage to 'dozens of Muslim homes and businesses'.[8] The violence continued during 2018, and in March that year, the worst anti-Muslim violent episode in Sri Lanka's post-colonial history took place in Digana, Teldeniya, and surrounding areas in the district of Kandy. The violence followed a traffic incident that led to the death of a Sinhalese lorry driver, and resulted in two deaths and damage to four mosques and over 400 Muslim-owned businesses and homes.[9]

On Easter Sunday, 21 April 2019, an Islamist group called National Thowheed Jamaat launched simultaneous suicide bombings against three Christian places of worship and three hotels. The attacks claimed the lives of over 250 persons.[10] Up until that point, Islamist militant groups had rarely featured in Sri Lanka's intercommunal confrontations.[11] Therefore, little was known about the motives of the group at the time. The nature of the targets — Christian places of worship and tourist buildings — did not fit with any of the local

5 Farzana Haniffa, Harini Amarasuriya and Vishakha Wijenayake, *Where Have All the Neighbours Gone? Aluthgama Riots and its Aftermath: A Fact-Finding Mission to Aluthgama, Dharga Town, Valipanna and Beruwela* (Law & Society Trust 2014), 1.

6 Roshini Wickremesinhe, *Confronting Intolerance: Continued Violations against Religious Minorities in Sri Lanka* (Minority Rights Group International 2016), 15.

7 Hilmy Ahmed, 'Escalating Violence: Renewed assaults on the Muslim community', *Groundviews*, (22 May 2017) <http://groundviews.org/2017/05/22/escalating-violence-renewed-assaults-on-the-muslim-community/> accessed 7 September 2021.

8 Dharisha Bastians, 'Gintota and the shadows of extremism', *Daily FT*, (23 November 2017) <www.ft.lk/opinion/Gintota-and-the-shadows-of-extremism/14-643843> accessed 7 September 2021.

9 Maneshka Borham, 'Kandy communal violence: Main suspect arrested', *The Daily News*, (9 March 2018) <www.dailynews.lk/2018/03/09/local/145064/kandy-communal-violence-main-suspect-arrested> accessed 7 September 2021.

10 Pamela Constable and Joanna Slater, 'Brothers of Sri Lanka bombing mastermind said to be killed in safe house battle; Catholics watch Mass on TV', *The Washington Post*, (28 April 2019); Amresh Gunasingham, 'Sri Lanka Attacks: An Analysis of the Aftermath' (2019) 11(6) Counter Terrorist Trends and Analyses 8-13.

11 Farzana Haniffa, 'How the Easter Bombings Left Sri Lanka's Muslims With No Path Forward', *The Wire*, (18 October 2019) <https://thewire.in/communalism/how-the-easter-bombings-left-sri-lankas-muslims-with-no-path-forward> accessed 7 September 2021.

intercommunal contexts that pre-existed the attacks.

Anti-Muslim discrimination and violence continued soon after the Easter Sunday Attacks. In May 2019, mobs attacked Muslims in the Kurunegala and Gampaha district.[12] The violence left scores of Muslim-owned homes and businesses destroyed. The timing of the violence suggests that it was opportunistically connected to the Easter Sunday Attacks.

Apart from these major episodes of violence, the Muslim community in Sri Lanka has been subjected to discrimination in several areas of religious and economic life. Three case studies further illustrate the extent of such discrimination. The first case concerns the religious attire of Muslims; the second concerns the construction of Muslim places of worship and educational institutions; and the third concerns Muslim funeral rites.

Religious attire

In just over a week after the Easter Sunday attacks, the state promulgated new emergency regulations under the Public Security Ordinance of 1947 (PSO). On 29 April 2019, it issued Regulation 32A, which provided: 'No person shall wear in any public place any garment, clothing or such other material concealing the full face which will in any manner cause any hindrance to the identification of a person.' The provision also clarified that 'full face' meant 'the whole face of a person including the ears'.

The seemingly neutral prohibition on face coverings had a particular impact on Muslim women, as the *niqāb* — a full face covering worn by some Muslim women — was consequently prohibited in public places. The new regulation appeared to target the Muslim community in particular, and was framed as necessary to enable the identification of suspects. However, the policy quickly unlocked a spate of harassment and intimidation of Muslim women. Even after the relevant regulation lapsed following the discontinuation of a state of emergency, discussions with respect to introducing a permanent ban on face veils have continued. In fact, in April 2021, the Cabinet of Ministers approved a proposal to ban face veils.[13]

The prohibition on face coverings such as the *niqāb* and *burqa*, pursuant to emergency regulations, is in reality a restriction that aligns with pre-existing majoritarian antagonism towards Muslim religious attire. Sinhala-Buddhist militant groups such as the BBS have often capitalised on these prejudices, and have run campaigns calling for the ban of face veils.[14]

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12 Meera Srinivasan, 'Mobs attack mosques, Muslim-owned shops and homes in Sri Lanka's Kurunegala District', *The Hindu*, (14 May 2019) <https://www.thehindu.com/news/international/mobs-attack-mosques-muslim-owned-shops-and-homes-in-sri-lankas-kurunegala-district/article27119473.ece> accessed 7 September 2021.

13 'Sri Lanka cabinet approves proposed ban on burqas in public', *Al Jazeera,* (28 April 2021) <https://www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public> accessed 7 September 2021.

14 Megara Tegal, 'BBS Calls for Ban on Niqab', *The Sunday Leader*, (24 June 2013).

Construction of religious institutions

The physical realm of land, property and the public sphere, has long remained an arena of inter-religious contestation in Sri Lanka. This next case study focuses on state restrictions on Muslim religious institutions, including places of worship and educational institutions. A circular issued by the Ministry of Religious Affairs and Moral Upliftment (as it was known then) in 2008, and a similar circular in 2013, remain the primary means through which such restrictions are imposed. The circulars, which are currently in operation, require prior permission from the ministry in charge of religious affairs to be obtained when constructing a place of worship or similar institution. These circulars are routinely enforced by the police and local authorities to prevent the construction and maintenance of places of worship belonging to minority religious communities.

The 2013 circular was assessed by the Supreme Court of Sri Lanka in *Faril et al v. Bandaragama Pradeshiya Sabha et al* (2017).[15] The case concerned the proposed construction of an Islamic educational institution in Bandaragama. The members of the Muslim group that wished to construct the institution filed a fundamental rights application before the Supreme Court complaining that their rights to equality and non-discrimination had been violated. Local Buddhist monks and villagers had protested the construction, claiming that a Mosque was being constructed as opposed to an educational centre. It was due to these protests that the police and local authority officials ordered the suspension of the construction. The Supreme Court dismissed the petition, and upheld the decision of state officials on the basis that 'due consideration' had to be given to the protests to 'avoid a crisis situation which could spread to other areas of our country'.[16] The Court suggested that a threat to 'public order' might ensue if the construction was not halted. However, in doing so, it legitimised the majoritarian interests at play. The construction of a Muslim religious institution was accordingly perceived as a threat to the Sinhala-Buddhist community in the area, and the restriction on the construction was ultimately upheld to appease the majority community and dissuade them from causing unrest.

Funeral rites

Funeral rites form an essential part of the religious manifestation of many communities. In Sri Lanka, the act of burial is ordinarily associated with the Muslim and Christian communities, whereas Buddhists usually dispose of the dead through cremation. Following the outbreak of COVID-19 in Sri Lanka, the government introduced policy measures that regulated the disposal of corpses. On 27 March 2020, the Ministry of Health issued guidelines titled '2020 Provisional Clinical Practice Guidelines on COVID-19 suspected and confirmed patients'. The guidelines stipulated that 'cremation or burial is allowed. However, burial is

15 SC (FR) Application No 92/2016 (Judgment of the Supreme Court of Sri Lanka, 28 June 2017).

16 ibid, 11.

allowed provided that all steps to prevent contact with body is ensured' [sic].[17] Then on 30 March, the first COVID-related death of a Muslim took place while the said regulations were in force. Yet that Muslim body (*janazah*)[18] was forcibly cremated against the wishes of the family of the deceased. On 31 March, the guidelines were amended to prohibit burials altogether, and the cremation of the corpses of Muslim persons suspected of COVID-19 continued thereafter. At the time, the guidelines did not have the force of law, as they were not issued under any particular law. Later, on 11 April 2020, the Minister of Health and Indigenous Medical Services issued Regulation 61A under the Quarantine and Prevention of Diseases Ordinance of 1897, and declared that 'the corpse of a person who has died or is suspected to have died, of Coronavirus Disease 2019 (COVID-19) shall be cremated'.[19]

The new regulation had a direct bearing on the religious rites of Muslims, as the cremation of deceased persons is understood by many Muslims as contrary to Islamic teaching.[20] Incidentally, the World Health Organization (WHO) guidelines on the issue clearly state that cremation should not be made mandatory, and that the deceased could be either cremated or buried.[21]

It should be noted that the forced cremation policy was not introduced in response to majority aversion to the practice of burials. Although cremation is the traditional Buddhist means of disposing corpses in Sri Lanka, there is no evidence of any Buddhist aversion to burials. In fact, burials are widely practiced among a number of communities, including among Buddhists. Although all communities practice burials, it is only the Muslim community that asserts that their faith specifically prohibits cremation. Therefore, mandatory cremation — even if framed as a neutral policy — had an obvious disparate impact on Muslims. In this context, the forced cremation policy was mostly an act of opportunism to appease anti-Muslim sentiment driven by other factors including fears over population growth, economic competition, and aversion to Islamic symbols, such as certain types of attire. The policy resonated with these broader prejudices and the specific prejudice concerning the alleged culpability of the Muslim community in spreading the virus. At the time, Mahindananda Aluthgamage, a government minister, claimed on national television that a majority of those who violated lockdown regulations in a particular area were Muslim,

17 Ministry of Health, 2020 Provisional Clinical Practice Guidelines on COVID-19 suspected and confirmed patients (27 March 2020), 28.

18 Janazah translates to Muslim funeral rites (prayer and burial). In Sri Lanka, the term is also used to respectfully refer to a deceased body.

19 Gazette Extraordinary No. 2170/8, 11 April 2020.

20 Shamila Dawood et al, *Memorandum on the Disposal of Bodies of Covid-19 Victims* (April 2020).

21 World Health Organization, Infection Prevention and Control for the safe management of a dead body in the context of COVID-19: Interim Guidance (24 March 2020).

although there was no verifiable basis for that claim.[22]

Despite the scientific evidence to the contrary, the government persisted with the forced cremation policy, and justified it on the basis that cremation was a safer means of disposing corpses and mitigating the spread of infection. The policy was finally reversed on 25 February 2021[23] amidst increasing international pressure (particularly from the Organisation of Islamic Cooperation) on the eve of the 46th session of the United Nations Human Rights Council.

Drivers of Discrimination and Violence

Muslim victimisation has persisted regardless of the government in power. Therefore, it is not possible to explain the emergence and persistence of anti-Muslim discrimination and violence by merely pointing to the nature of the government in power. Some governments, such as the government during the period 2010 to 2015 could be described as relatively more 'nationalist', and likely to hold and support majoritarian views. It is possible to argue that Sinhala-Buddhist militant groups thrived under such a government because their politics in many ways reflected those of the government at the time. However, the data on violence does not support the claim that anti-Muslim sentiment is merely associated with the government in charge. The government that came into power in 2015 was characterised as relatively more 'minority-friendly', and in fact promised accountability for those who had engaged in anti-Muslim violence. However, at least four major episodes of anti-Muslim violence took place during that government's tenure: Gintota 2017, Amparai, and Digana and Teldeniya in 2018, and Kurunegala and Gampaha in 2019. The persistence of such violence suggests that the drivers of anti-Muslim violence and discrimination are entrenched within the socio-political fabric of the country.

Two mutually reinforcing phenomena perpetuate violence and discrimination against the Muslim community. First, there are deep-seated fears towards the Muslim community, and these fears often underlie discrimination and violence. Each of the case studies discussed above illustrates a connection between existential fears among the majority, and a particular Muslim activity or practice. There are fears that Muslim population growth in Sri Lanka, and perceived Muslim dominance over trade, threaten the numerical majority of the Sinhala-Buddhist community. The slight statistical increase in the overall population share of Sri Lankan Moors between 1981 and 2012 — from 7 percent to 9.2 percent[24] — underscores this fear. Moreover, competition between certain Islamist groups in Sri Lanka has

22 S.M.M Bazeer, 'Another nail in the coffin for religious tolerance in Sri Lanka', *DailyFT,* (18 April 2020) <http://www.ft.lk/columns/Another-nail-in-the-coffin-for-religious-tolerance-in-Sri-Lanka/4-698925> accessed 7 September 2021.

23 Gazette Extraordinary No. 2216/38 of 25 February 2021.

24 Department of Census and Statistics, Census of Population and Housing of Sri Lanka (2012).

incentivised more overt assertions of Muslim identity and piety, thereby increasing the overall visibility of Muslim religious practices. Typical examples of such external manifestations include women wearing the *niqāb*, and men wearing the white *jubba*.[25] This visibility has 'created an illusion of an increase in the Muslim population, adding to the fear and suspicion of the majority towards the motives of the Muslim community'.[26] Restrictions on Muslim attire — ostensibly for the aim of protecting national security — are often driven by these pre-existing fears around Muslim population growth and Islamist radicalisation. Highly visible assertions of Muslim identity through particular forms of attire have underscored ethno-religious conflicts. Moreover, restrictions on religious institutions and burial rites are connected to pre-existing fears about the perceived expansion of Islam in the country. These fears have underscored actual examples of violence and discrimination against the Muslim community. In 2018, a Muslim-owned restaurant in Amparai was falsely accused of mixing sterilisation pills in food, and such disinformation directly led to anti-Muslim mob violence in the area.[27] In 2019, a medical professional by the name of Dr. Shafi Shihabdeen was arrested for allegedly 'sterilising' 4,000 Sinhalese women. The allegations later turned out to be completely false.[28] Yet the case received widespread media coverage and played to the fears among the Sinhala-Buddhist majority that there was a conspiracy against them.

The economic conditions of Sri Lanka also influence anti-Muslim sentiment. The failure of successive governments to deliver on the promises of economic prosperity following the end of the armed conflict in 2009 has led to the scapegoating of Muslims involved in trade and business enterprises.[29] Post-war governments were therefore able to deflect potential criticism of its policies by fostering a culture of paranoia about the Muslim community's monopolisation of economic gains. Islamophobic discourses in the economic domain are then connected to deeper general frustrations among the Sinhala-Buddhist community with

25 An ankle length rob-like garment usually with long sleeves.

26 ibid, 1 and 22.

27 Maneshka Borham and Dimuthu Attanayake, 'Tension in Ampara after fake 'sterilization pills' controversy', *The Sunday Observer*, (4 March 2018) <http://www.sundayobserver.lk/2018/03/04/news/tension-ampara-after-fake-%E2%80%98sterilization-pills%E2%80%99-controversy> accessed 7 September 2021.

28 'CID informs Court no evidence found for all allegations against Dr. Shafi Shihabdeen', *DailyFT*, (28 June 2019) <https://www.ft.lk/front-page/CID-informs-Court-no-evidence-found-for-all-allegations-against-Dr--Shafi-Shihabdeen/44-680838> accessed 7 September 2021.

29 Ahilan Kadirgamar, 'The Political Economy of Anti-Muslim Attacks', *The Island,* (2 March 2013) <http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=73829> accessed 7 September 2021.

respect to unemployment and class stratification.[30] Therefore, existential fears interact with economic frustrations to incentivise anti-Muslim behaviour.

There are some specific examples of anti-Muslim discrimination worth citing as illustrative of how economic existential fears can drive discrimination and violence. For instance, Sinhala-Buddhist economic associations in localities such as Amparai Town and Kiribathgoda have attempted to exclude Muslim-owned enterprises from operating. Even organs of government at the local level occasionally engage in such practices. For example, in the aftermath of the Easter Sunday Attacks, the Wennappuwa Pradeshiya Sabha banned Muslim vendors from selling goods at the Dankotuwa public market citing 'security concerns'.[31] The decision was prompted by complaints received by Sinhalese residents and business groups following the Easter Sunday Attacks, but were clearly motivated by economic competition and prejudice towards the Muslim community. The cabinet decision in September 2020 to ban cattle slaughter[32] ought to be understood within this overarching context.

Meanwhile, observers in Kandy in the aftermath of the 2018 anti-Muslim violence pointed to the underlying economic dimensions of the violence.[33] For instance, it was observed that the timing of the violence in March 2018, a month before the Sinhalese New Year celebrations in April, was not coincidental. This period marks a notable increase in consumers purchasing goods, as the 'new' year often entails purchasing 'new' items of clothing, food, and household equipment. It was observed that Sinhala-Buddhist business interests stood to benefit from calls to boycott Muslim businesses and the destruction of Muslim shops, as Muslim traders were often in direct competition with Sinhala-Buddhist traders. Therefore, there is a great deal of speculation that the Sinhala-Buddhist militant groups that perpetrated the violence were funded and supported by Sinhala-Buddhist business groups.

A variety of political actors often engage in chauvinist and nationalist political rhetoric that resonates with the existential fears of the majority community. These campaigns both feed off and sustain such existential fears, and have helped certain political actors to secure notable electoral legitimacy. The BBS, for instance, contested the parliamentary election of

30 Newton Gunasinghe, *'The Open Economy and its Impact on Ethnic Relations in Sri Lanka' in Deborah Winslow and Michael D. Woost (eds.), Economy, Culture, and Civil War In Sri Lanka* (Indiana University Press 2004), 99.

31 'Letter by the Wennappuwa Pradeshiya Sabha', *Colombo Telegraph* (25 June 2019) <https://www.colombotelegraph.com/index.php/wennapuwa-a-land-of-its-own-pradeshiya-sabha-bans-muslim-vendors/> accessed 7 September 2021.

32 'Sri Lanka bans cattle slaughter', *New Indian Express*, (29 September 2020) <https://www.newindianexpress.com/world/2020/sep/29/sri-lanka-bans-cattle-slaughter-2203474.html> accessed 7 September 2021.

33 The author conducted a series of interviews in May 2018 in the aftermath of the anti-Muslim violence in Digana and Teldeniya in the Kandy district.

2020 on a platform to ban madrasas (Muslim schools) and the *burqa*,[34] and secured one parliamentary seat.

Second, systemic prejudice within law enforcement and security forces has fostered a culture of impunity with respect to violence against Muslims. On numerous occasions, law enforcement officers and military personnel have been observed standing by as violent mobs attacked Muslim homes, businesses, and places of worship. In fact, the Human Rights Commission of Sri Lanka formally wrote to the Inspector General of Police following the anti-Muslim violence in Kurunegala and Gampaha in 2019 and noted that the police had failed to take adequate action to protect Muslims from the violence.[35] Anti-Muslim militant groups are no doubt emboldened by the general culture of impunity that prevails in the country owing to a long history in which perpetrators of violence against minorities (including Tamils and Christians) have escaped accountability.

Such systemic prejudice is particularly evident in the selectivity in which laws are applied. On the one hand, perpetrators from the majority community, and particularly members of the Buddhist clergy, have enjoyed impunity. A good example of a monk who has enjoyed such impunity is Ven. Ampitiye Sumanarathana Thera, the chief incumbent monk of the Mangalaramaya Temple in Batticaloa. Video footage and photographs of the monk destroying public property, verbally abusing state officials, and assaulting civilians have permeated the media.[36] Yet the monk is still to face criminal charges for his actions, which he has justified on the basis of protecting Sinhala-Buddhists in Batticaloa.[37] Meanwhile, BBS General Secretary, Ven. Gnanasara Thera has enjoyed exceptional status, which is demonstrated by the state's failure to arrest him for inciting violence in the lead up to the Aluthgama riots and the consistent granting of bail despite his history of evading arrests.[38] This exceptionalism has accordingly driven a culture of impunity with respect to anti-Muslim violence committed by militant groups fronted by Buddhist monks. Such a culture has in turn contributed towards the perpetuation of such violence.

On the other hand, Muslim lawyers, activists, and artists have been targeted for advocating Muslim rights. The targeting of Muslims through the selective application of criminal law, and specifically counter-terrorism law, reflects discrimination inherent within the justice

34 INFORM, *Repression of Dissent in Sri Lanka in July 2020*, (Inform Human Rights Documentation Centre September 2020); 'Rathana Thera calls for banning burka, madrasas', *The Island*, (8 July 2020).

35 Human Rights Commission of Sri Lanka, Letter to the Acting Inspector General of Police, (23 May 2019).

36 'Ampitiye Sumanarathana: The Untold Truth', *Frontpage,* (29 November 2016) <http://www.frontpage.lk/page/Ampitiye-Sumanarathana-The-Untold-Truth/16809> accessed 7 September 2021.

37 ibid.

38 'Gnanasara Thera gets bail twice in two days', *Daily News*, (22 June 2017) <http://www.dailynews.lk/2017/06/22/law-order/119728/gnanasara-thera-gets-bail-twice-day> accessed 7 September 2021; 'President pardons Gnanasara Thero', *DailyFT*, (23 May 2019) <http://www.ft.lk/front-page/President-pardons-Gnanasara-Thero/44-678714> accessed 7 September 2021.

sector in Sri Lanka. The case of Hejaaz Hizbullah remains an emblematic example of such targeting. Hizbullah, an outspoken constitutional lawyer directly involved in activism with respect to anti-Muslim discrimination and violence, was arrested in April 2020 under the Prevention of Terrorism Act (PTA) of 1979 and has been in custody since. After over a year of detention, he was formally charged under the PTA and the International Covenant on Civil and Political Rights (ICCPR) Act of 2007 for allegedly radicalising young students. Incidentally, Hizbullah's arrest came days after he co-authored a report on the Muslim burial issue. He was subsequently recognised as an Amnesty International Prisoner of Conscience in July 2021. In another egregious incident targeting Muslim activism, Ramzy Razeek was arrested and detained following a Facebook post calling for an ideological struggle for justice and democracy.[39] Moreover, Ahnaf Jazeem, a Muslim poet, was arrested in May 2020 under the PTA for publishing a Tamil language book of poetry and remains in detention. Authorities alleged that the poems contained 'extremist messaging'. However, a number of Tamil language scholars have evaluated the poetry and have observed no such messaging.[40]

The state has also acted swiftly to investigate the complaints of the Buddhist clergy against practices seen as inimical to Buddhism. For example, writer Shakthika Sathkumara was arrested in 2019 for writing a fictional short story that insinuates an abusive homosexual relationship between a Buddhist monk and the main protagonist. Following the publication of the short story on Sathkumara's Facebook page, a complaint was lodged by the Buddhist Information Centre's director Ven. Agulugalle Siri Jinananda Thera claiming that the story violated both the ICCPR Act and the Penal Code of 1883. Sathkumara was arrested and kept in custody for several months before being eventually released.

Meanwhile, a number of transnational influences also contribute towards anti-Muslim sentiment in Sri Lanka and create conditions for discrimination and violence. Four such influences are worth noting.

First, the cross fertilisation of ideas among militant Buddhist groups in Sri Lanka and other Theravada Buddhist countries such as Myanmar has shaped majoritarian ideology in Sri Lanka. There are parallels between the anti-Muslim discourse in Myanmar and Sri Lanka. Militant groups such as 969 and *MaBaTha* 'have played a pivotal role in propagating anti-Muslim sentiment' in Myanmar since 2012.[41] These groups have been known to have direct ties with Sri Lankan militant groups such as BBS. For example, in October 2014, BBS and 969 signed a memorandum of understanding following a visit from 969 leader U Wirathu to

39 Z.L. Mohamed, 'Ramzy Razeek: An extraordinary struggle for an ordinary life of service upended by a Police arrest', *DailyFT*, (9 May 2020) <http://www.ft.lk/opinion/Ramzy-Razeek-An-extraordinary-struggle-for-an-ordinary-life-of-service-upended-by-a-Police-arrest/14-699917> accessed 7 September 2021.

40 'Arrest of Mannar poet under PTA: Academics, writers and activists cry foul', *DailyFT*, (6 January 2021) <http://www.ft.lk/news/Arrest-of-Mannar-poet-under-PTA-Academics-writers-and-activists-cry-foul/56-711244> accessed 7 September 2021.

41 Dhammika Herath, 'Constructing Buddhists in Sri Lanka and Myanmar: Imaginary of a Historically Victimised Community' (2020) 44(2) Asian Studies Review 315-334, 325.

Colombo.[42] These relationships have added to the momentum sought by BBS with respect to their 'cause': the protection and preservation of Buddhism not only in Sri Lanka, but around the world. It has framed the existential crisis imagined by the Sinhala-Buddhist community as one that is similar to those faced by other Buddhist communities elsewhere. Central to this wider narrative is the idea that Muslims pose the greatest threat to Buddhism.

Second, Hindutva groups in India have in certain ways influenced the Tamil Hindu nationalist movement in Sri Lanka. For instance, local Hindu nationalist groups such as *Siva Senai* have secured the support of more established militant groups in India such as *Shiv Sena.*[43] These relationships shape specific antagonisms as well. For example, the calls for banning cattle slaughter, although ostensibly rooted in Buddhist moral principles, draws from Hindu discourses in India. Some scholars have noted that movements such as the cow protection movement has been 'a way of constructing Hindu identity in the face of non-Hindu Indians — often Muslims'.[44] Accordingly, Hindu antagonism towards Muslims in India, often manifesting in discrimination and violence, has influenced and encouraged mirror antagonisms towards Muslims in Sri Lanka.

Third, growing Islamophobia in China has had an impact in Sri Lanka, particularly in the context of the current government's close proximity to China. China has framed the Uighur community as a threat to national security in the Xinjiang region. According to some United Nations estimates, over a million Uighurs have been detained in secret 're-education' camps in China, and many are subject to torture, and cruel, inhuman and degrading treatment.[45] Interestingly, in March 2021, the Sri Lankan government promulgated the Prevention of Terrorism Regulation No. 1 of 2021. The purpose of this regulation is the 'de-radicalisation' of individuals and preventing them from 'holding violent extremist religious ideology'.[46] China has sought to advertise its so-called counter-terrorism strategy in Xinjiang, and has even aired documentaries on Xinjiang on state television in Sri Lanka.[47] These triumphalist

42 Benjamin Schonthal and Matthew J. Walton, 'The (New) Buddhist Nationalisms? Symmetries and Specificities in Sri Lanka and Myanmar' (2016) 17(1) Contemporary Buddhism 81-115, 82.

43 'Siva Senai in Sri Lanka gets Shiv Sena support', *The Island*, (14 October 2016) <http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=153748> accessed 12 July 2018.

44 Sandria B. Freitag, 'Sacred Symbols as Mobilizing Ideology: The North Indian Search for a "Hindu" Community' (1980) 22(4) Comparative Studies in Society and History 597-625, 610.

45 Stephanie Nebehay, 'U.N. says it has credible reports that China holds million Uighurs in secret camps', *Reuters*, (10 August 2018) <https://www.reuters.com/article/us-china-rights-un/u-n-says-it-has-credible-reports-china-holds-million-uighurs-in-secret-camps-idUSKBN1KV1SU> accessed 7 September 2021.

46 Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulation No. 1 of 2021 – Gazette Extraordinary No. 2218/68 of 12 March 2021.

47 Liu Xin and Fan Lingzhi, 'Rare documentary reveals counter-terrorism perseverance in Xinjiang', *Global Times*, (6 December 2019) <https://www.globaltimes.cn/content/1172486.shtml; https://twitter.com/ChinaEmbSL/status/1253714261811085312?s=20> accessed 7 September 2021.

discourses on countering 'Muslim extremism and terrorism' no doubt reinforce Islamophobia in Sri Lanka, particularly in the aftermath of the Easter Sunday Attacks. Such discourse, similar to what is seen in Myanmar and India, promote the idea that Muslims are 'threats' to national security and the cultural dominance of the majority group.

Finally, global Islamist discourses have also shaped Muslim victimisation in Sri Lanka. There is little doubt that radical Islamist groups have emerged in Sri Lanka and are fairly vocal political voices. Islamist groups have proliferated particularly in the Eastern Province. Many of these groups receive funding from Middle Eastern, and specifically Saudi Arabian, sources,[48] and adopt radical and ultraconservative positions in an effort to outbid each other and attract and sustain such funding. Dennis McGilvray observes that these 'sharp internal conflicts' regarding the practice of Islam have manifested through symbolic 'Islamisation' in the form of Arabic dress, public theological disputes, and the erection of new places of worship.[49] In this context, both the *Tablighi Jamaat* and *Thawheed Jamaat* groups promote ultraconservative ideology. The All Ceylon Jamiyyathul Ulama has for instance strongly resisted reforms to the Muslim Marriage and Divorce Act of 1951 and has also promoted conservative religious attire, on the pretext that it is more authentically Islamic. Meanwhile, several *Thawheed Jamaat* groups have emerged over time, and include the Colombo-based *Dharus Salaf*, the All Ceylon Thawheed Jamaat, and the Sri Lanka Thawheed Jamaat. These Colombo-based groups exert ideological influence over the Muslim community at a national level. Moreover, groups such as the Batticaloa-based *Dharul Adhar*, and the (originally) Kattankudy-based National Thowheed Jamaat (NTJ) have had an impact at the sub-national level. Of course, the NTJ reached infamy as it was subsequently associated with the Easter Sunday attacks of 2019. These Islamist discourses and groups have been exploited by political actors and militant groups to feed the existential fears of other communities, and have added momentum to anti-Muslim discrimination and violence in Sri Lanka.

Conclusion

A plethora of phenomena and factors converge to produce and sustain anti-Muslim discrimination and violence in Sri Lanka. These phenomena and factors are often mutually reinforcing, and have contributed towards a general culture of impunity in which the state either fails to intervene in the discrimination or violence, or actively promotes them.

The cyclical relationship between majoritarian discourses, transnational influences, Islamist radicalism, and ultimately, Muslim victimisation is borne out in the data and case studies on anti-Muslim discrimination and violence. Islamophobic discourses feed off deeper majoritarian existential fears, where the Muslim community comes to symbolise a 'threat' to

48 Gunasingham, 'Sri Lanka Attacks: An Analysis of the Aftermath', 9.

49 Dennis McGilvray, 'Sri Lankan Muslims: Between Ethno-Nationalism and the Global Ummah' (2011) 17(1) Nations and Nationalism 45-64.

the Sinhala-Buddhist community, and often, other regional majorities. This status of being a 'threat' is then seemingly legitimised by intra-Muslim competition that ultimately incentivises Islamist radicalism. Groups such as the BBS have suggested that such Islamist radicalism vindicates their public concerns with regard to the Muslim 'threat'. The ensuing discourse is often filled with hate and antagonism, and has directly contributed towards discrimination and violence against the Muslim community.

Anti-Muslim discrimination and violence can then circle back to incentivise some disenchanted members of the Muslim community to gravitate towards Islamist radicalism. The Easter Sunday Attacks of 2019 in some ways reflect the plausible connection between Muslim victimisation and Islamist radicalism. It is plausible that experiences of anti-Muslim discrimination and violence, and outrage over such injustices, motivate some young Muslims to gravitate towards militant Islamist groups seeking to recruit disenchanted young followers.[50] However, once they join such groups, agendas that are not particularly connected to or interested in local contexts may be prioritised. This prioritisation may explain why the chosen targets of the Easter Sunday Attacks were Christian places of worship rather than Buddhist places of worship — despite the perception that Sinhala-Buddhist militant groups perpetrated violence against Muslims. The choice of Christian places of worship is much more aligned with global radical Islamist agendas.[51]

The Easter Sunday Attacks have become a watershed event likely to create new waves of majoritarian existential fears that underlie prejudice towards the Muslim community in Sri Lanka. Perceptions concerning the Muslim community that are already shaped by deep-seated prejudices are likely to be compounded by these attacks. Therefore, the attacks themselves add to the cycle of fear, radicalism, discrimination, and violence. Unfortunately, Muslim victimisation in Sri Lanka is likely to persist as long as the cyclical phenomena and factors that drive such victimisation endure.

50 Smruti S. Pattanaik, 'Sri Lanka: Securitising Minority Alienation', *The Manohar Parrikar Institute for Defence Studies and Analyses*, (29 April 2019) <https://idsa.in/idsacomments/sri-lanka-securitising-minority_sspattanaik-290419> accessed 7 September 2021.

51 Emma Green, 'How Sri Lanka's Christians Became a Target', *The Atlantic*, (24 April 2019) <https://www.theatlantic.com/international/archive/2019/04/sri-lankas-christians-faced-new-persecution/587842> accessed 7 September 2021. For an interesting discussion on this issue in the Indonesian context, see Melissa Crouch, 'Regulating Places of Worship in Indonesia: Upholding Freedom of Religion for Religious Minorities' (2007) Singapore Journal of Legal Studies 96-116. For a discussion on the Nigerian context, see Lang Michael Kpughe, 'Christian Churches and the Boko Haram Insurgency in Cameroon: Dilemmas and Responses', (2017) 8(8) Religions 143.

The New Enemy: Attacks against the Muslim Community and the Culture of Impunity in Sri Lanka

Bhavani Fonseka

The repeated failure to deal with the root causes of the conflict has posed recurring challenges to Sri Lanka's fragile peace. Post-war years witnessed new dynamics to sustain conflicts including the continuous marginalisation and targeting of the Muslim community in many different ways, such as the spate of ethno-religious violence, the prohibiting of burials on unsubstantiated grounds during 2020-2021, the proposed restrictions on women's attire, and other restrictions imposed in the guise of national security and public health. Against the backdrop of the Easter Sunday attacks and fears of extremism, the community is now confronted with new levels of racism and violence. These trends must also be examined in terms of past cycles of violence linked to extreme Sinhala and Tamil nationalism. Cases linked to the state include incitement, complicity, inaction to prevent the violence and not holding perpetrators to account. Violence is also linked to non-state actors such as the Liberation Tigers of Tamil Eelam (LTTE) that includes the 1990 expulsion of the Muslims from the North and the mosque attacks in Eravur and Kattankudy in the East.

While the violence faced by the Muslim community goes back decades, heightened racism and violence as witnessed in more recent years needs to be examined with the rise of extreme Sinhala Buddhist majoritarianism. Under the Mahinda Rajapaksa presidency (2005-2015), ethnonationalism received traction and emboldened sections of society to pursue racist practices. This period witnessed an increase in new campaigns targeting minorities and the emergence of several extremist groups who portrayed themselves as the protectors of Sinhala Buddhism. Groups such as the *Bodu Bala Sena* (BBS), *Sinhala Ravaya*, *Ravana Balaya*, and *Mahason Balakaya* thrived under the Mahinda Rajapaksa regime, with several linked to incidents of incitement and violence against the Muslim community. As witnessed during this period, the regime was both overtly and covertly appeasing these elements

This publication is a timely initiative that captures the different dimensions of violence faced by the Muslim community. This article in particular briefly examines recent incidents targeting the Muslim community in Sri Lanka and the organised manner of such events. It briefly discusses the status with justice in relation to several emblematic cases linked with the Muslim community and notes the countless indignities and trauma the community has had to face at the hands of both the state and non-state entities. As the article highlights, regardless of the availability of evidence linked to several incidents, little to no steps have been taken to investigate and prosecute perpetrators of such incidents. This is in a context where emblematic cases face numerous setbacks with the culture of impunity deeply entrenched in Sri Lanka. Thus, the Muslim community not only has to face continuous vitriol and violence but also the fact that justice will continue to be elusive.

Incitement and Attacks in Recent Years

Post-war years witnessed a spate of violence targeting the Muslim community including the destruction of mosques, attacks on business properties, and economic ventures owned by and linked to the Muslim community.[1] Several attacks on Muslim-owned properties also occurred in the holy month of Ramazan with apprehension and fear heightened further within the community in the lead-up to and during this period. Such attacks impacted the community economically, not only via the use of violence but also calls to boycott and create fear among other communities who frequented Muslim-owned businesses. A range of issues has been attributed to the increased targeting of the Muslim community: myths of population growth and economic factors with all connected to the insecurity faced by the majority community. In addition, the levels of suspicion with which the community was perceived increased and with it, impacting fragile reconciliation and co-existence initiatives.

The attacks on business premises soon transitioned into more sinister and organised violence. The incidents in Aluthgama (2014), Ampara (2018), and Kandy (2018) are some instances that resulted in deaths, injuries, attacks on places of religious worship, and destruction to properties and contributed to further marginalizing the community. As documented in several instances, violence had an organised nature with mobs moving about freely despite the imposing of curfew. In many instances, eyewitness testimony and media reports identify perpetrators and raise questions of collusion by others. In several cases documentation also showed the presence of some Buddhist clergy and extreme Sinhala nationalist forces at sites of violence. For instance, in both Aluthgama and Kandy, Gnanasara Thero, the leader of the BBS was seen at the locations prior to the violence. As discussed in this article, despite reports documenting the timelines and role of particular actors, there is no known case where perpetrators were held accountable. It is this impunity that has emboldened extremist forces and exacerbated the fear and apprehension of the Muslim community.

Further, in several instances, civil society and community groups in the respective areas had alerted authorities of extremist groups and the potential for violence. For example, in Aluthgama, Muslim civil society groups had urged the authorities of the potential for violence if a planned meeting by the BBS was allowed to take place. Despite the warnings, the meeting was allowed which was subsequently followed by mob violence and targeting of the Muslim community. Similarly, authorities were warned of potential violence soon after the Easter Sunday attacks.[2] Despite warnings, the authorities failed to take necessary steps to protect

1 Farah Mihlar, 'Religious change in a minority context: transforming Islam in Sri Lanka' (2019) 40(12) Third World Quarterly 2153-2169; Vijay Nagraj and Farzana Haniffa, *Towards Recovering Histories of Anti-Muslim Violence in the Context of Sinhala–Muslim Tensions in Sri Lanka*, (International Centre for Ethnic Studies 2017).

2 Jeffrey Gettleman, Mujib Mashal and Dharisha Bastians, 'Sri Lanka Was Warned of Possible Attacks. Why Didn't It Stop Them?' *The New York Times*, (22 April 2019)

the Muslim community, religious places of worship, and properties owned by the community. Notable also is the fact that despite a curfew imposed and with heavy police and military presence, organised mobs were able to move about with death and devastation evident in several instances.

A combination of inaction, complicity, and wilful disregard has contributed to a culture of impunity and the very real perception that perpetrators will be protected. Moreover, it is this belief of no punitive sanction that galvanised certain groups, providing a convenient shield to many who perpetrate violence against the Muslim community. In the wake of the Easter Sunday attacks, more violence and hate campaigns were carried out, posing multiple challenges to the community with real fears for their physical security but also the fundamental question as to why citizens of Sri Lanka were robbed of their dignity.

In addition, social media had a role in spreading posts and clips that perpetuated hate with concerns raised that these resulted in exacerbating tensions and violence. As a result, in several instances, authorities took measures to restrict access to social media platforms. While urgent action was needed during some of these incidents to restrict the spread of fake news, fears have also been raised whether such responses to specific incidents set a precedent and may result in introducing restrictions on freedom of expression, and increased surveillance in the guise of national security.

As this article argues, the events in the post-war context demonstrate the multiple methods of perpetuating hate and violence against the Muslim community. Moreover, national security and the pandemic have provided cover for racist elements in government and society at large to continue this policy. In the absence of genuine action to address discrimination, incitement, and violence, impunity has thrived. And it has raised serious doubts as to whether minorities are able to live as equal citizens with dignity in Sri Lanka.

Emblematic Cases

Sri Lanka's experience with obtaining justice for violations of the past is dismal with a long list of emblematic cases. Previous studies highlight a range of issues for the setbacks with justice in the domestic context including a lack of political will, security considerations, worrying concerns with protection for victims and witnesses, and structural and legal gaps that have contributed to justice being elusive.[3]

The lack of progress with accountability, among others, resulted in several resolutions being adopted at the United Nations Human Rights Council (UNHRC) concerning failures with

<https://www.nytimes.com/2019/04/22/world/asia/ntj-warning-sri-lanka-government.html> accessed 6 September 2021.

3 'Revisiting Ten Emblematic Cases in Sri Lanka: Why Justice Remains Elusive' (Centre for Policy Alternatives, 20 January 2021) <https://www.cpalanka.org/revisiting-ten-emblematic-cases-in-sri-lanka-why-justice-remains-elusive/> accessed 6 September 2021.

domestic mechanisms. In 2015, a spate of ambitious reforms was promised when the then government co-sponsored Resolution 30/1 which included steps with transitional justice and confidence-building measures. Despite subsequent resolutions, limited progress has been made with these pledges. Since 2019, there has been a steady rollback on the limited progress made with increasing fears of heightened security and rights violations.[4]

Increased levels of incitement and violence against the Muslim community in the post-war years have received attention and condemnation nationally and internationally. The ethno-religious violence seen in 2014 in Aluthgama, 2018 incidents in Kandy, 2019 incidents post the Easter Sunday attacks, and more recently the incitement in a pandemic context are some instances of violence faced by the community. It also highlights that these are not isolated incidents, but occur unfortunately within regular intervals with the effect of instilling further fear and apprehension within the community.

The pandemic context has also seen the introduction of racist policies that blatantly targeted the Muslim community, such as the forced cremation policy introduced in 2020.[5] Despite there being no scientific data to back the need for cremations of COVID-19 victims, the policy continued to be in use for about ten months, robbing the community of the dignity to follow religious practices for their deceased. The ill-advised policy was eventually overturned in February 2021 following concerted advocacy by the community, civil society and others in the lead-up to the vote at the UNHRC in March 2021.[6]

The below list, whilst not exhaustive, is an indicator of recent incidents where the community has faced incitement and violence in post-war Sri Lanka, with no known steps taken to hold perpetrators to account:

Aluthgama/Dharga Town 2014

On 15th June 2015, mob violence erupted in the area after an inflammatory speech made by the Buddhist hardline monk, Gnanasara Thero of the BBS. Considering the possibility of violence, Muslim civil society had requested security before the speech and protest. Reports indicate that stone-pelting started the violence. Subsequently, a curfew was imposed as a

4 United Nations Human Rights Office of the High Commissioner, Sri Lanka on alarming path towards recurrence of grave human rights violations – UN report' (UN Human Rights Office of the High Commissioner, 27 January 2021) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26695&LangID=E> accessed 6 September 2021.

5 Joanna Slater and Piyumi Fonseka, 'In Sri Lanka, a unique pandemic trauma: Forced cremations', *The Washington Post* (12 February 2021) <https://www.washingtonpost.com/world/asia_pacific/sri-lanka-cremations-covid/2021/02/12/b97719a6-6562-11eb-bab8-707f8769d785_story.html> accessed 6 September 2021.

6 Bhavani Fonseka and Uvin Dissanayake, *Sri Lanka's Vistas of Prosperity & Splendour: A Critique of Promises Made & Present Trends* (CPA July 2021).

result. Despite the curfew, violence continued in the areas with eyewitnesses stating that mobs were armed and organised. Curfew continued for several days with the STF and Army deployed.[7]

The violence resulted in deaths, injuries, and the destruction of property. Eyewitness testimony spoke of the inaction by the police despite requests for security and evidence of the mob moving into the area. Documentation of the incidents before the violence raises several questions around the events before the violence erupted, including why a procession was allowed despite appeals made to law and order authorities and the inaction. Despite initial arrests, there is no publicly known case where perpetrators were prosecuted.

Ampara 2018

Violence in this instance is directly linked to the rumours of the presence of sterilisation pills found in a food outlet owned by a Muslim shop owner.[8] The allegations were subsequently countered with explanations that the white substance was linked to flour, but these attempts did not prevent the rumours from spreading. The fear resulting from this baseless rumour saw violence erupting and targeting the Muslim community. Notable here was the silence from the health authorities, who did not make an official comment to dispel the rumours.

As seen with other instances, rumours, misinformation, and misconceptions contribute to fears among the majority community which propelled incitement and violence. The inaction and silence from officials, including health officials in this instance to dispel rumours, exacerbated fears and had an impact on the violence.

Kandy 2018

The violence is linked to a road accident between a Sinhalese driver and four Muslim youth in February 2018 with the four youth arrested for the accident and assault. The driver subsequently succumbed to his injuries on 3 March 2018. Till then, there were no reports of violence in the area. On 4th March, Gnanasara Thero, Ampitiya Samitha Thero from Batticaloa and several others identified with nationalist groups had visited the funeral home. It has been reported that mobs had arrived in several buses from outside the districts and the attacks had commenced within a few hours. In a matter of hours, a mob had gathered and attacked Muslim-owned properties and places of religious worship in several areas in

7 Amantha Perera, 'Anti-Muslim Violence Reaches New Heights in Sri Lanka', (19 June 2014), Inter Press Service News Agency <http://www.ipsnews.net/2014/06/anti-muslim-violence-reaches-new-heights-in-sri-lanka/> accessed 6 September 2021.

8 Maneshka Borham and Dimuthu Attanayake, 'Tension in Ampara after fake 'sterilization pills' controversy' Sunday Observer, (4 March 2018) <http://www.sundayobserver.lk/2018/03/04/news/tension-ampara-after-fake-'sterilization-pills'-controversy> accessed 6 September 2021.

Kandy.[9] One Muslim youth died of smoke inhalation in Digana and several residences, business properties, and mosques were destroyed.

Several claimed that the inaction by the police contributed to the spread of violence. This, when police and STF were present on the ground during the initial days but were unable to contain the violence. Further, a state of emergency was imposed with the Telecommunication and Regulatory Commission imposing restrictions on the internet in the Kandy area to control the circulation of posts on social media platforms.

I was in Kandy on 7th March and witnessed first-hand the violence spread in Akurana and other areas where armed Sinhalese mobs were roaming freely and attacking Muslim owned properties. Despite a curfew, mobs were able to travel freely and were not stopped or arrested by the police. I met several who were directly affected by the attacks, with many scared of the violence escalating and also spreading to other areas. Several within the community spoke of how the attacks occurred, how Muslim owned properties were targeted, with no genuine efforts taken by the authorities to stop the violence. What I personally witnessed and testimonies by victims raised questions as to how violence spread despite the apparent curfew and the role of the state in this cycle of violence. Amidst the inaction and inability to prevent the violence, many in the area raised concerns about whether the delays by the authorities to respond were deliberate. Several also raised the troubling question as to how the attacks seemed pre-planned, with perpetrators knowing which properties were owned by Muslims and not harming adjacent buildings owned by the majority community. The combination of the targeted nature of attacks, the mob violence and the inaction by authorities instilled new fears among the Muslim community, reminding them of past cycles of violence and the role of the state in such incidents.

The violence was finally brought under control after the military was called in, several days after the first reports of mob violence occurred. Some individuals allegedly involved in the attacks were also arrested.[10] Despite several arrests, this is yet another case where, to date, no one has been prosecuted for incitement and violence. Further, documentation demonstrates the build-up to the violence and early warning signs with inaction on the part of the officials.

The silence of several leading Buddhist clergy was also notable, especially the Malwatta and Asgiriya Chapters in whose areas the violence occurred. This silence from Buddhist clergy, their inability to condemn the violence and to urge calm, speaks to the apathy among many in the face of discrimination and violence faced by minorities in Sri Lanka. In this particular instance, evidence showed the involvement of a hardline Buddhist clergy in the incitement that contributed to the subsequent days of violence. Despite this, there was silence among

9 Law and Society Trust, *Fact-finding Report on the Anti-Muslim Violence in the Kandy District* (Law and Society Trust March 2018).

10 Ranga Srilal, 'Sri Lanka arrests 10 for anti-Muslim violence as towns smoulder', Reuters, (8 March 2018) <https://www.reuters.com/article/uk-sri-lanka-clashes-idUKKCN1GK0FD> accessed 6 September 2021.

the clergy. Such inaction in the face of violence and in their backyard was not only hugely disappointing but also a reminder of the inaction and complacency by some in times of peril.

Easter Sunday Attacks and Resulting Violence

Post-war Sri Lanka's worst terrorist attack was witnessed with the Easter Sunday attacks in 2019, which saw attacks against several churches in Colombo, Negombo, Batticaloa and hotels in Colombo.[11] Subsequent investigations highlighted multiple failures of governance and intelligence. It was also highlighted that the Muslim community had warned the authorities of increasing levels of extremism that were ignored, indicating that the community had made efforts to warn of the potential dangers of extremist groups.[12]

The Parliamentary Select Committee that inquired into the attacks also made some worrying revelations of the role of politicians, intelligence, and others and their inaction. They also noted the timing of the attacks and their impact. "*The Easter Sunday attacks and subsequent communal violence in parts of Sri Lanka witnessed new levels of fear among the public and criticism towards the political leadership and security establishment. It was also a time when calls emanated for a change of regime. These cannot be taken as coincidental and must be investigated further. It is also paramount to question the role of some sections in the intelligence apparatus and their attempts to shape security, the electoral process, political landscape, and the future of Sri Lanka*".[13] Soon after the attacks, and amidst heightened levels of fear and hate, the call for a strong leader emerged and was soon followed by candidate Gotabaya Rajapaksa claiming he was ready to contest the Presidential elections in November 2019.

Despite the numerous investigations, questions persist as to the reasons for the attacks and who was to gain from such violence. These questions have been raised by some of the present government's supporters. Cardinal Malcolm Ranjith has questioned the delays with accountability around the attacks and claimed that the "*Easter Sunday attack was not a result of a craze over religion but an attempt to capture and safeguard power*".[14] This was further

11 'Sri Lanka attacks: What we know about the Easter bombings', *BBC,* (28 April 2019) <https://www.bbc.com/news/world-asia-48010697> accessed 18 September 2021.

12 'Before Sri Lanka's Easter Attacks, Muslims' Warnings About Terrorism Went Unheeded', *npr*, (12 December 2019) <https://www.npr.org/2019/12/12/786639735/before-sri-lankas-easter-attacks-muslims-warnings-about-terrorism-went-unheeded> accessed 18 September 2021.

13 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 (Parliament of Sri Lanka) <https://www.parliament.lk/featured-on-the-sri-lanka-parliament/1715-sc-report-april-attacks> accessed 6 September 2021.

14 Yohan Perera, 'Easter Sunday attacks a result of political extremism, not religious extremism - Cardinal', *Daily Mirror,* (19 April 2021) <https://www.dailymirror.lk/front_page/Easter-Sunday-attacks-a-result-of-political-extremism-not-religious-extremism-Cardinal/238-210123> accessed 6 September 2021.

compounded by the outgoing Attorney General who spoke of the 'grand conspiracy' surrounding the attack, raising questions about the motives behind the attacks.[15]

The deadly attacks resulted in hundreds of deaths and many more injured and immeasurable devastation. The violence that soon erupted was equally devastating. Following the attacks, with increasing fears that the Muslim community will be targeted, many appealed for peace and for steps to be taken to mitigate any ethno-religious violence. Within days of the attacks and despite Sri Lanka being in a state of emergency, mob violence commenced in several parts of Sri Lanka.[16] Reports also indicated to mobs arriving in buses, demonstrating an organised nature to the attacks.[17] Much of this occurred when areas were under curfew and with heavy police and military presence. The violence resulted in death, displacement of many Muslim families, and destruction of property belonging to the community and places of religious worship. As with previous incidents, the circulation of video clips and other posts on social media contributed to the violence.

Documentation from these incidents demonstrates the organised nature of attacks and the fast mobilisation of groups perpetrating violence. It must also be noted that the mob violence was one-sided, with sections in the majority community targeting a defenceless community. Similar to previous incidents, there were delays in taking action to prevent the violence. There were also reports of political interference in the criminal justice process and inaction with arrests.

These incidents also occurred amidst racist rhetoric. For example, a senior Buddhist clergy called for the stoning to death of Muslims and alleged that sterilisation medicine was found in Muslim-owned restaurants that were meant to reduce the Sinhala Buddhist population.[18] Such incitement and false information by a senior Buddhist clergy could have had serious repercussions against the backdrop of the Easter Sunday attacks and violence and hate targeting the Muslim community. Despite calls to investigate this statement, no known action was taken against the clergy. This is one among several instances where Buddhist clergy have been held unaccountable for incitement of violence, creating a perception that Buddhist clergy and others with the right connections are above the law.

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15 'Sri Lanka Attorney General claims "grand conspiracy" behind Easter attack: report Cardinal', *EconomyNext,* (18 May 2021) <https://economynext.com/sri-lanka-attorney-general-claims-grand-conspiracy-behind-easter-attack-report-82074/#> accessed 6 September 2021.

16 'CPA Press Statement on Incidents of Communal Violence in May 2019' (Centre for Policy Alternatives, 13 May 2019) <https://www.cpalanka.org/cpa-press-statement-on-incidents-of-communal-violence-in-may-2019/> accessed 6 September 2021.

17 Meera Srinivasan, 'Dozens arrested after anti-Muslim violence in Sri Lanka', *The Hindu,* (14 May 2019) <https://www.thehindu.com/news/international/one-killed-in-anti-muslim-riots-in-sri-lanka/article27123889.ece> accessed 6 September 2021.

18 'Sri Lanka: Muslims Face Threats, Attacks; Authorities Should Act Against Incitement by Buddhist Nationalists', *Human Rights Watch,* (3 July 2019) <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> accessed 6 September 2021.

Equally worrying is that the incitement and violence targeting the Muslim community occurred amidst the dominant narrative propagated by extremist majoritarian forces. Despite evidence in the public domain and several complaints made to authorities to investigate, there is no information in the public domain to indicate whether there was any action taken to investigate statements made by leading Buddhist clergy and others that amount to incitement. Silence and inaction on several fronts in this regard speak to the special status enjoyed by religious leaders and others and the impunity that goes with it.

Weaponising the Law and Targeting Individuals

Recent years have also witnessed multiple cases with individuals targeted, arrested, and detained based on various allegations. Several of these cases have also seen the misuse of laws such as the Prevention of Terrorism Action (PTA) and the International Covenant on Civil and Political Rights (ICCPR) Act to arrest and detain individuals, with questions raised over due process and whether such cases are politically and racially motivated. This is also in a context where the PTA has been used for decades to target minorities and critics, with many languishing for years without charge. Although repeated calls were made to repeal the PTA, successive governments have continued to use it. The recent introduction of regulations titled 'De-radicalization from holding violent extremist religious ideology' under the PTA raises further concerns as it is couched in vague language, removes safeguards, and can be used to detain a person for up to two years.[19]

Since 2019, the PTA, ICCPR, and other laws have been used to arrest and detain hundreds of Muslims. Many were arrested soon after the Easter Sunday attacks under the guise of national security. Other high-profile arrests such as Dr. Shegu Shihabdeen Mohamed (Dr. Shafi) raise questions about whether the arrests were politically motivated. In this case, Dr. Shafi was arrested soon after a news report in a Sinhala nationalist paper alleged the sterilisation of women after performing Caesarean deliveries. His arrests sparked much publicity and debates, including the involvement of nationalist groups and Buddhist clergy who promoted conspiracies of population control targeting the majority community. Following investigations by the CID, it was revealed the allegations were baseless but also highlighted larger forces at play to target Dr. Shafi.[20]

19 'Concerns Relating to the Recent Regulations Issued Under the Prevention of Terrorism Act' (Centre for Policy Alternatives, 18 March 2021) <https://www.cpalanka.org/concerns-relating-to-the-recent-regulations-issued-under-the-prevention-of-terrorism-act/> accessed 6 September 2021; United Nations Human Rights Office of the High Commissioner (9 August 2021) <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26575> accessed 6 September 2021.

20 'Sri Lanka police uncover criminal conspiracy over sterilization claims', *EconomyNext,* (10 August 2019) <https://economynext.com/sri-lanka-police-uncover-criminal-conspiracy-over-sterilization-claims-15068/> accessed 6 September 2021.

More recently, several other individuals have been arrested and detained using the PTA, ICCPR, and other laws. One of the most high-profile cases is of lawyer Hejaaz Hizbullah who was arrested in April 2020 for alleged links to the Easter Sunday attacks.[21] The case has been shrouded with questions and anomalies in due process safeguards. Another was the arrest of Ramzy Razeek who was arrested under the ICCPR Act for a post he wrote on Facebook for an "ideological Jihad" to stop organised anti-Muslim propaganda.[22] After several months of detention, he was released on bail. Another case where the PTA has been used is in the case of poet Ahnaf Jazeem with him languishing in detention for over a year with no charges yet filed against him.[23]

These and other cases demonstrate how the law is used to target individuals with little to no safeguards in place. In some of these cases, questions remain with the allegations made and the nature of evidence used to detain individuals. Dr. Shafi's case stands out as an exception as the CID investigations unearthed collusion between health officials and the law and order officials in Kurunegala and exposed the false allegations made against him. Others have not been as fortunate with many detained for over a year, others more.

These cases demonstrate the weaponizing of the law to target the Muslim community, and with it creating fear and helplessness. The suspicion created in the aftermath of the Easter Sunday attacks and the rhetoric of national security have provided sufficient grounds to continue this campaign of targeting a community. Yet, these are not new. Such practices go back to earlier years when state-sanctioned racist campaigns and support to extremist groups facilitated a conducive environment to vilify and make Muslims the new enemy in Sri Lanka.

Concerns for the Future

The targeting of minorities is not new in Sri Lanka, with successive governments resorting to ethno majoritarian policies. Despite the end of the war in 2009, post-war Sri Lanka has continued to see new conflicts and the targeting of a new enemy. With the propaganda campaign in full swing, the demonising of the Muslim community is moving forward unabated with no genuine efforts taken to prevent the vitriol and violence.

21 'On Hejaaz Hizbullah: The latest victim of Sri Lanka's draconian Prevention of Terrorism Act' (Amnesty International, 15 July 2020) < https://www.amnesty.org/en/latest/news/2020/07/sri-lanka-on-hejaaz-hizbullah-and-the-prevention-of-terrorism-act/> accessed 6 September 2021.

22 'Ramzy Razeek released on bail after 5 months of Sri Lankan detention', *Daily Express,* (19 September 2020) <https://dailyexpress.lk/glocal/2183/> accessed 6 September 2021.

23 'Poetic injustice: Another writer languishes in prison under PTA', *The Daily FT* ,(14 December 2020) <https://www.ft.lk/news/Poetic-injustice-Another-writer-languishes-in-prison-under-PTA/56-710172> accessed 6 September 2021.

Some of the incidents discussed in this article highlight the organised nature of campaigns, state support or complicity, and inaction when complaints were made to hold perpetrators to account. The spate of attacks in recent years has contributed to further marginalising a community and its youth. New regulations issued under the PTA in March 2021 raise further fears as to whether minorities, as well as political opponents and critics of the government, can be targeted. This, in a context where the rhetoric of extremism and deradicalisation has received new traction post the Easter Sunday attacks and is used to further demonise the Muslim community.

Further, despite the existence of relevant laws to prosecute for incitement and violence, no information is available in the public domain as to whether perpetrators linked with attacks against the Muslim community were held to account. Instead, the law has been weaponised to target some in the community.

This also is in the context of increasing divisions within the Muslim community. Despite targeting the community, sections of the community have over the years chosen to engage with successive governments in the hope such engagement may provide protection. As evidenced by subsequent incidents, such an approach did not provide the desired protection. Further, the inability of the Muslim political leadership to take a stand in the face of violence and authoritarianism has impacted their standing and ability to put pressure on the authorities. Moreover, the recent instances such as the support by some Muslim members of parliament to enact the Twentieth Amendment to the Constitution in 2020 raises serious doubts regarding the priorities and integrity of the Muslim political leadership.

Considering the present challenges, a collective and uncompromising position is needed from the Muslim leadership and community that prioritises the rights of the community and ensures justice is served. It is also key that such positions are devoid of political compromises and economic incentives. As long as perpetrators remain free, with some even enjoying protection from being arrested and prosecuted, the Muslim community as a whole will continue to face the possibility of incitement and violence. Inability to make justice a priority will also embolden racist campaigns, and further marginalise the community.

Moreover, this is a moment for the majority community to reflect and learn from our past. We witnessed violence perpetrated against the Tamil community and did little to prevent it. Such inaction emboldened the perpetrators and normalised violence in Sri Lanka. Our silence and inaction over the decades perpetuated ethno majoritarian practices, strengthened authoritarianism and set Sri Lanka back in aspiring to be a stable and peaceful Asian leader. Despite an opportunity to correct past wrongs, post-war years are seeing further setbacks where we reproduce conflicts, exacerbate militarisation and authoritarian rule and entrench impunity. This, in a context of unprecedented health and economic crisis which has witnessed new levels of incitement and repression.

We have previously ignored warnings but will we finally take a stand? Will we find moral courage and call out those who perpetrate violence? Will we stand in solidarity with those under attack? Will we demand for accountability? Too many opportunities were squandered

in the past and it is time the majority community takes a stand against all forms of racism and violence and demands for justice. Inability or unwillingness to step up now will carry irreversible consequences.

In Sri Lanka, We Speak Luxuriously of 'Peace'

Amalini De Sayrah

For a populace that experienced a protracted war over several decades, the current situation of no bomb explosions is indeed a relief, more so for those who were displaced, injured or lost loved ones to the carnage and destruction.

Significantly the concept of violence — the absence of it is gauged by the fact there is no combat.

To the contrary, the passivity of the soldier watching on as a mob burns a house to ashes is violence in practice. The display of print material that bars certain forms of your personal attire in an establishment would be perceived violence. A directive that states you must burn your loved one's body against the belief of your faith, is a less apparent but no less haunting form of violence.

Much of what I know about recent Sri Lankan history, I gained from witnessing and listening. Witnessing the inner sufferings of the people who call it their home, both in a physical sense and emotionally. I hear the voices that carry that toll of suffering, even if they choose not to speak about it all the time.

As 12 years pass since the end of the active combat of war, this piece aims to provide context to the incidents of violence against the Muslim community which had a span of under half of that time.

I offer them from the perspective of a writer who made contact with these places and people while the violence unfolded. In those moments, the bigger political picture seemed to fade away, and it was the experience of those in immediate despair that took prominence. It was only days, or sometimes weeks, after meeting these people — after processing the grief they had been carrying or made to carry — that a wider view emerged.

It becomes most apparent as I endeavour to link all incidents together to write this piece; how these moments of despair are intertwined to form a chain of larger violence and cruelty.

We often hear the words 'cycles of violence' thrown around in reference to Sri Lanka's post-independence history. Perhaps because nothing quite as well captures how violence remains — is made to remain, actively — and to reoccur. It may be true that violence had taken different forms over the years but nonetheless keeps resurfacing.

Watching these events unfold — and knowing that they make up just a fraction of the spectrum of injustice that minority communities in Sri Lanka are made to suffer — it is clear to me that cycles of violence are ones that are constantly triggered and, not as passively recurring as we'd like to think.

2017

In the grounds of a mosque in Dharga Town, a man is squeezing grated coconut, a stream of its milk running into a pot at his feet. A metre away, another man stirs a huge vat of *kanji (rice porridge)* over an open flame. It is before noon, and they've been preparing the *kanji* for *ifthar*[1] from around 8 am that morning. Many families in the area rely on the *kanji* the mosque distributes for free, as it relieves them of the heavy cost of cooking their own meal. The interiors of the mosque are gleaming new.

It was the security forces who were entrusted the task to rebuild the mosque damaged in the riots. It was hardly reassuring as the people narrated fact that it was the very same security personnel who had both passively allowed the violence to rage and had even actively participated in the riots. The residents whose houses were reconstructed, who had been hiding in back rooms as the violence raged, said they approached their homes with no comforting assurances as sadness still haunted their rebuilt doorways.

At a house further down the lane, a teacher explained that her house was the last of the Muslim houses on that lane — everything after it was a 'Sinhala area'. Crossing that invisible line, she said, required a lot of strength, and the very presence of that area caused her a lot of anxiety.

She told us how they left home when they first heard the rally was to be held, the rally where Gnanasara Thero's hateful and violent speech would be the 'tipping point' for those looking to attack the surrounding Muslim areas.

Three years later, they had their bags packed when a warrant was issued for Gnanasara's arrest. Why? they feared retaliation. I thought about them on the day he was pardoned by the President, and I wonder now how they feel, as he is set to take a seat in Parliament.

Violence towards minority communities — inciting it, facilitating it, inaction as it happens — now forms such a key part of the political machine that no one bats an eyelid when it occurs. Where it should draw outrage, it instead brings state-level appointments, service medals, election victories, and seats in the highest chambers of power in the country.

2018

The road curves on the bend of the 4th mile post at Akurana, a small bridge running over a rocky stream. At the bend is a low building, painted white on the outside, yet hollow — in many ways — on the inside. Dark smoke stains the walls and the ceiling, the floor is a carpet of broken glass, plaster and wood, all dark shade of grey.

[1] Ifthar of iftar is the meal taken by Muslims during sundown to break their day's fast during the holy month of Ramadan.

Kilometres away in Pallekele, a small mosque by the main road looks the same way. Even in the glaring noon sunlight, the smoke on the walls leaves it feeling dark and eerie. Empty windows, shards of glass and chunks of plaster litter its floor.

The men who walked me through these places carefully step over the debris in their open slippers. The story of how they came to be this way is the same. People they thought were neighbours and acquaintances turning on them. Those who were supposed to protect them took action far too late. They remained both hopeful and skeptical that things would ever go back to what they were — physically and otherwise.

Walking through those structures, reduced in part to rubble, you notice that the world outside is carrying on as it usually would. I see the man moving fallen wires away from the *mihrab*[2] of the destroyed mosque, so that even in this state of ruin the place remains somewhat sacred. I see the other man shifting some glass of the shop he spent his lifetime building up. In those moments, I am distraught; I can hear the weight of the sorrow in their words. It hangs heavy in the air, heavier than the darkness the smoke has left. I feel that weight somewhere inside my chest, sitting heavy at the intersection of reason and emotion. I went there as a reporter, eventually to put together a long story on how politics, people and pain came together in Kandy that year. But in that moment, or years later as I write this, I can better describe to you how one man's gaze clouded over as he explained to us the fire that night, or the tension on the other's face when he said people still avoid his shop.

Reading reports of the anti-Muslim riots that spread across the Kandy district that year, and eventually reporting on them too, illustrated the 'cycles of violence' for me in resounding clarity. Reading the headlines that flew around on the internet felt like re-reading headlines from archived old newspapers about Black July of 1983, or from those reporting through the media blackout in Aluthgama a few years ahead.

There is one violent act that gives way to and is seen to legitimise violence disproportionate to its size. Mobs begin to group, taking well-defined roads that they are clearly not charting on the go, alluding to planning and information. Authorities put in place to protect the innocent are seen to be actively helping the mob, or passively not doing any 'protecting'. People are made to feel unsafe in their own homes, just for being who they are.

Seeing the years of near-identical news reports that mark how the cycle repeatedly turns invokes two questions that I only have fragments of answers for.

How have we not learned from our past?
Because we choose not to.

For how long more will we keep failing?
For as long as division and suffering benefits somebody.

2 A *mihrab* is a prayer niche in the wall of a mosque, placed facing the direction of Mecca (the direction at which the congregation at a mosque prays towards).

What was perhaps more upsetting than the destruction in the aftermath was revisiting the same location a year later to find that very little had been done in terms of reconstruction. The men, their businesses slowly shuttering as their customers stayed away. The mosque, still strewn with debris because of the bureaucratic frenzy to approve building.

These cycles then, are ones that we devise ourselves. We allow them to turn, or we stick something in the spokes that keep it from ever working properly. The oppression leads to violence, which is met by paltry reparations that offer little relief. Most importantly, an underlying tension that is never allowed to dissipate.

2019

An elderly man in a white t-shirt is arranging flowers and candles at a statue down the road from St. Anthony's Church Kochchikade. Less than 24 hours before that he had been arranging bodies, and pieces of bodies, in protective bags in a line, waiting for ambulances to pick them up. I could feel my chest tighten as he explained the damage done to those bodies by the bomb detonated that Easter Sunday. The shards of glass outside the iconic shrine did not compare to the destruction inside.

Some 20 kilometres away, women mourn over the body of a young girl. One moment some are praying *janazah*[3] over her, and minutes later, some are reciting the rosary as she lay in her coffin. So restful, she almost looked like she was sleeping. She is borne on the shoulders of the crowd to her final resting place. Woven into her body were complex identities — Christian mother, Muslim father — and traces of violence that did not discriminate.

The hours after the news first broke of the bombings were passed in frenzied numbness — so much to do yet still unable to process anything properly. Everyone said heading to some of the sites the day after was a bad idea, but something carried us there that I couldn't put into words. White flags fluttered from lamp posts, and mourning crowds walked house to house, and still, others peered in from all possible vantage points to assess the damage done to the barricaded churches. In that moment it came down to the weight of how many we had lost — a number that is still growing — and the violence innocents had been subject to.

I did not attend church that Easter Sunday. I am Christian, and Catholic if one wants to get technical, and am not a regular church-goer, but had hoped to attend a later service. Hearing the news break and experiencing everything in the aftermath filled me with a sense of guilt. Not only for not having attended mass that morning, but because the incident — and particularly, the destruction at the churches — had shaken me deeply, in a way that to this day I can't explain. Every time I am overwhelmed with those emotions, a little part of me asks

3 *Janazah* translates to Muslim funeral rites (prayer and/or burial). In Sri Lanka, the term is also used to respectfully refer to a deceased body.

if there are any who would consider me not a good enough practicing Christian to be experiencing this grief. I know it seems like an irrational, incorrect worry, but it haunts me.

I feel it when I hear prayers at the memorials declaring all those who died in Kochchikade and Katuwapitiya 'martyrs' for their faith. This unsettles me because I feel, with little doubt, that everyone who went to church that day didn't want to or choose to die. This is evident in the meals half-prepared at homes, in the families who had waited to see loved ones for celebrations later that day. Maybe I'm missing any deeper theological reason for calling them anything but just innocents. Innocents who fell victim to a tragedy that they couldn't have known about, that state entities knew about but did nothing to prevent.

I feel this also because I firmly believe that any retelling of that Easter is not complete without accounting for the widespread Islamophobia in society and the state that came after it. Violence as barbaric as the bombings legitimizes violence even further — not my statement, but an observation.

Christians and Catholics pride themselves now, on not having 'responded violently' to the bombings. Though there was no physical retaliation, and a flurry of public posts about 'coming together as a nation', there were also the WhatsApp forwards, cryptic prayers and hissed rumours that sometimes border on, but are quite often fully-fledged Islamophobic. This type of messaging spread island-wide and turned to violence in the attacks in Minuwangoda as well. To this day, it pains me to see the kind of hatred that 'but you saw what they did to our churches' has legitimised.

The measures the state took to 'respond' to the crisis seemed to be constructed knowing that there would be no questions about them, and they were correct. *Hijabi* (person wearing the *hijab*, a head scarf) women walking on the road were refused tuk-tuk rides. Young men carrying backpacks whose usernames were distinctly Muslim were profiled and reported by the ride-share cab drivers they hired. Owning a copy of the book most holy to your faith was cause for arrest.

"The CID 4th Floor seems like the inside of a mosque now.[4] So many Muslim men, calling each other to prayer and during Ramazan to breakfast," said the relative of a detainee, one of hundreds languishing without charge.

To this day, after the time we've hopefully had to reflect on what led to the tragedy and how we responded to it, people and leaders continue to single out the Muslim community for accountability. Muslims must be vigilant of possible extremism in their community, Muslims must denounce what is passed off as 'religion' by these groups, Muslims must condemn extremist acts to show their countrymen that they care for peace.

4 CID refers to the Criminal Investigation Department (CID). It is the primary investigative arm of the Sri Lankan Police.

Probably the most heart breaking message I received in the aftermath of that April said 'I'm sorry for everything that happened, my community failed you' — it was from a Muslim woman who I had connected with over the internet. That the entire community was made to feel they needed to apologize for the actions of seven people, even when they were the first to raise alarms about Zahran Hashim's activity years ago, should be a shame to us all.[5]

2020

After months of staring at only screens, we are finally able to sit in the community of wise and wonderful women. Resilient, strong, and all other adjectives that are usually used to speak of women who've had no choice but to be so, owing to the social, political and economic realities they've been made to face.

As we speak, I am feeling a sense of shame that it has taken me this long and the occasion of a landmark 'anniversary' to visit these women. They are Northern Muslims who, evicted from their homes in 1990 by the Liberation Tigers of Tamil Eelam (LTTE), have either returned to their lands or set down roots in new places.

We are sipping tea and eating *vadai* (savoury fried snack) in a home in Mullaitivu when the *azaan* (Islamic call to prayer) of the closest mosque can be heard. What the women have said hangs heavy as the voice in the loudspeakers reverberates in the confines of the small house. They tell us of leaving with the clothes on their back and a small shopping bag filled with precious items, much of which was confiscated. Of years spent living in camps, depending on the generosity of others.

The Stories Go Two Ways from Here

There are those who returned to the place they called home, only to find it had changed without leaving space for them. Though they spoke the same language, many still feel a barrier —strengthened by their history and the current local administration —between them and the Tamil people. In Jaffna, though the *azaan* rings from the mosques in the small lanes and the small shopfronts are filled with short eats throughout the day, we walked past empty homes or the traces of their foundations on overgrown land. Houses where wild plants grow to fill their spaces, vines reaching out of their windows, claiming home in a place that has long stood empty.

So, they are 'back home' but not really, especially as they note the many who have not returned.

Then there are those who, now rooted in their place of displacement, for whom a return would be a second upheaval. Rooted, but not always securely, for they remain 'different'

5 Zaharan Hashim was one of the suicide bombers of the Easter Sunday attacks.

Muslims to those around them. This difference is cause for yet another barrier. Seeking these stories in Puttalam, we spoke to one of the most courageous and committed women activists I know. She recalled her overnight displacement in tears and rebuilding a life with her family over three decades. So, she said, they remain in a state of suspension almost, between two 'homes', that both aren't as safe as a home should ideally feel.

Their existing sense of not belonging is layered now with the scrutiny placed on all Muslims after the Easter bombings, with the fear (based on lies) that Muslims spread COVID-19. Each of these another turn of the cycle, till their oppressions are as compound as their identity.

Twelve years of discussions, books, reports, fact-finding missions, conferences about 'transitional justice' after the war, and these women feel their community has been left out at every turn. Do you see us mentioned in any action plans about going forward, one asks — truth be told, no.

Where is there reconciliation for us, they ask, a word that with time has come to mean so little, a word that feels that much emptier to them.

I did not know this history of my family till very recently, a young woman's lament spills outside the confines of a small message box. The story of the Northern Muslims joins the many others that remain untold widely in Sri Lanka, because telling all our stories would require confronting and understanding — things we never seem ready to do, things that could possibly break the cycle.

2021

The baby's mother left the room as her husband, the father, pulled out a plastic box filled with baby items — combs, powder, lotion, cologne, soft cloth — from the bottom of a packed cupboard. He flipped open its lid as he spoke to us, as if what little soul and memory was left of their baby was preserved in this little compartmented box of transparent pink plastic. The child was a blessing that they waited six years for, and he was taken away from them all too soon.

The young girl is folding a long dress that has blue flowers on it. Her mother, who would have prepared her and walked with her to school, now lives on in her memory, and these objects that remain. Forced to grow up too early, she worries that she might not be able to continue school as she has to take care of the family.

The man whose voice shook as much as his hands did, as he held onto a small passport-sized photo. His mother, who he bathed and fed, and combed her hair without knowing it would be the last time he would see her. Between the bureaucracy and the general haphazard procedure of the hospital she was at, the next time he heard of her was when they called to inform him of her death.

To be Sri Lankan during the pandemic meant wanting to be safe and not catch COVID-19.

To be a Sri Lankan Muslim at the time meant a fervent wish that you would not die for as long as the gazette mandating cremations — defying science, reason and empathy — was in place.

I use the word empathy here very intentionally because it takes a special lack of empathy to expect people to perform 'last rites' for their loved ones that directly oppose the rites dictated by their faith. The thought that prompted that gazette, its signing and publication, in this case acting as another turn in the cycle of hurt that keeps turning.

Along the outer fence at the *kanatte (cemetery)* in Borella, white pieces of cloth flutter in the wind. They are the few that remain from the many tied there by a small but strong group of people months back, in solidarity and mourning that turned to defiance.

The idea for the cloths on the gate of the cemetery had come from someone whose name I do not know yet. The simple act had become defiant when the cloths were removed by security personnel in civilian clothing, no doubt on the bidding of someone powerful yet threatened by a few white cloths.

I remember vividly the feeling of anxiety as young people — mostly Muslim — called and sent messages to say they had been stopped and questioned by Police when they went to tie a cloth in solidarity. The state's apparent fear at something as simple as a piece of white cloth maybe indicated that the cloths were in fact, more than simple, that they wielded a power we underestimated. A few days later, we went with a group to tie cloths again. The defiance grew, as photos emerged of these white flags tied on door handles, gates and Christmas trees. They were tied on the fences of administration offices by small groups of protestors around the country.

All of us engaging in these actions were well aware that we were minute in comparison to those who believed — for racist and other reasons — that cremations were the only possible way. We were minute in comparison with their numbers and also given how many in power endorsed this discriminatory policy too.

More often than not, these are the ratios; what feels like a whole universe that needs improvement, and a small group seeking justice. However, if we were to calculate these ratios and commit only to causes where we can foresee change immediately with our demands, we'd probably never commit to a cause at all. Ideally, we should be taking a stand because it is right and important to do so, not only because we see guaranteed 'victory'.

And the issue of cremations seemed a world away from that. Month after month, even after these actions, promises from leaders continued to ring hollow, and their statements backtracked on and contradicted each other by the day.

It was a few months after these incidents — but after close to a year in total — that mandatory cremation was reversed, and burial allowed. Reversed as part of a larger geopolitical game, and not in response to the multiple voices that, for the entire 11 months

prior, had been calling out in grief and hope that this strain on them and their community would be lifted.

Burials, though permitted, were not made easy. Any family — or specifically, two members of each family — wishing to do so must make a 200 km journey to the opposite coast of the island to pray and inter their loved one's body. In the pandemic situation, that sometimes meant families spending hours frantically searching for vehicles to transport their loved one's *janazah* from where they are being treated, to the Colombo morgue, from where it would be dispatched to the burial site. Adding hassle to grief, as if the hurt wasn't enough.

Undercurrent

What remains under these layers of hurt? Or, more accurately, this one layer of hurt in the many that plague minorities and vulnerable people in this country. Along with the political games that maintain tension, the violent speech in media and elsewhere is another element that remains constant across the stories from these years.

Knowing, without a sense of doubt, that 'home' does not want them here.

We have a bag packed and our documents ready — the teacher in Aluthgama was the first person who told me this. After Digana, after the Easter Sunday attacks and during the period of forced cremations, I would hear this again in many varying forms. Hushed voices at a gathering, or WhatsApp messages that somehow managed to transmit the very heaviness of the words. Muslims I knew or families I met while reporting had this plan ready to enact if needed.

Many say that Sri Lanka moved from being hostile towards Tamils to now hostile towards Muslims. I feel as if it was an addition and not just a shift in 'target'. Tamils remain wary of the situation here in Lanka, and by no means has any government since the war's end truly given most Tamils a reason to feel fully welcome here. The Muslims now join them in feeling this insecurity.

For all we know, many families who had their documents prepared have already left the island's shores. I can only hope that the lands they left to, welcomed them and are treating them better than Sri Lanka did.

Even if they aren't, maybe that's a gamble some take — where any place is better than the 'home' in which one feels like a stranger.

I'm not sure if all Sri Lankans, even those of us who pride ourselves in being 'aware' and 'engaged', fully understand what it means to be put in a position where you need to cross oceans just to feel safe, what it means that the place that shaped you and that you gave you energy to, now no longer wants you.

This sounds dramatically poetic in an abstract sense, and it is important that I don't leave it just at that. It is the combination of political agendas and years of polarizing in society that makes minority communities feel unwelcome here.

Knowing these realities, knowing that successive governments have placed or maintained targets on the back of their own citizens, many still question the 'loyalty' of people from these communities when they express their desire to reside elsewhere.

What exactly do they need to be loyal to?

Solidarity

I was asked to specifically reflect on solidarity for this piece, what it means for someone Christian/Catholic to regularly amplify issues faced by minority communities. There is simultaneously a lot and very little to unpack here.

Christians have also been at the receiving end of discriminatory policies and practices by the Sri Lankan state. Even a week before the Easter Sunday bombings, a group attacked a small Evangelical church. In the years after the war, these churches have been subject to pressures from legal means — exhaustive protocols were put in place before new churches could be established — and attacks against the pastors of these small churches have also been documented extensively. These incidents are regular enough that they should concern us but because they have been relegated to the rank of 'low intensity' incidents, they are not given wide attention in media and other conversation spaces.

Catholics who claim they are discriminated against for their faith must bear in mind the relative privilege we have. The proximity to and favour with those in power that the leader of the church occupies shields the community from the weight that other Christian denominations face, to the point that the said leader downplays the violence that small evangelical churches are subject to. These details were evident in the reconstruction after Easter Sunday. The two Catholic churches — St. Anthony's Kochchikade and St. Sebastian's Katuwapitiya — were refurbished within two and three months of the tragic incident respectively.

However, three months after the bombing, I stood at the gates of the evangelical Zion Church Batticaloa — the debris had just been cleared out. One year later, it still looked the same, pictures indicating that reconstruction had halted. To this day, the reconstruction of the original church, that the government undertakes via the security forces, remains incomplete. In addition to these, I can't confidently say that Christians actively worked to dispel the hatred directed at the Muslim community at their expense by the wider society, but may have added to it themselves.

For the year that we joined our Muslim comrades in calling for the reversal of the mandatory cremations policy, people asked me "The rest of the Christians don't have an issue, the Catholic church doesn't have an issue, what's your problem?".

Within a year, my family lost two grandparents. One was buried, and the other was cremated. Knowing that this is an option even outside of pandemic times, a method not directly conflicting with everything we believe in, made me more conscious of what was being asked of Muslims at this time already laden with grief.

As these past incidents have unfolded, another message that I've received a lot is that many Muslims feel that not many people speak on their behalf, especially in terms of non-Muslims. It is gut-wrenching to hear from so many that they feel their friends from other communities either don't really care, or justify the oppression, or don't want to be seen speaking up publicly.

I take strength in seeing and knowing several members of the Christian clergy who actively take a stance against injustice and exploitation of vulnerable people. They attend protests, but also work quietly in their parishes behind the scenes to build better lives for the people in their localities, whatever faith they may be. These individuals in their daily lives practice the kind of radical love that distant institutions only preach.

I don't want to, and shouldn't have to, list reasons of all the things that the Muslim community has given us in terms of culture, or that individual Muslims have given us in terms of friendship, as a plea to those who would rather stay silent. Our solidarity and care shouldn't be a transaction. This is why I say it's very simple, or seemingly at least.

When I — among others, I am by no means the only one — speak out about discrimination against Muslims, many friends from the community ask 'where do you get the courage?' To be completely honest and straightforward, courage is not something one aims for when taking a stand. You say things because they need to be said, because power needs to be held to account. It's only when prompted with this question, or when someone tells you that you've been courageous, does it register in hindsight. In the moment, it's very much about standing with those who need your solidarity and support.

In the years since the end of the war, how much has been shifted by those of us who seek to record its layers of truth and experiences? Our climate — indicated in the legal, political, social and other methods we've responded to during these more recent events — remains in many ways different but also similar to what we live through today. When I 'look back' at these incidents — or look around, considering how pervasive their effects are — I wonder what I've actually brought to the table in talking about them or writing about them.

I don't think any of us who do this work have any illusion of the influence and impact that we have. We are well aware of the forces we are up against — the power, the money, the willingness to sacrifice people's humanity for those things, and the complicity and complacency that allows them to happen.

Maybe it's spending time listening to people who either felt they have not been listened to before, or who feel their words are misinterpreted by others to serve their agendas. Listening and observing more than just the facts of the stories but for the humanity that underpins

them — the faltering whisper, the defiant voice, the hands clasped together and the quiet smiles laden with hope.

Maybe it's in putting on record the things that the state and society are capable of — violence and hatred that we'd prefer to distance from, that we'd rather go unwritten or written about in a watered-down manner. In a country where political will for justice is so scarce, we can't even be assured that recording this will inform any change, but we must record it nonetheless.

Maybe it's the simple act of letting people who say they are facing injustice know that you hear them and that you will not accept this as well. It's in asking questions that dissect decisions and realities that would otherwise go unquestioned.

People use the term 'activism' to indicate the portion of this work that is actually visible — posts on social media or participation in a protest. So much of it actually hinges on the time spent with people, and that they know their voices are heard. As the situation worsens for Muslims in Sri Lanka, I think often of the people whose stories are narrated here and can only hope that they know their stories have not gone untold.

We do the most that we can — even though it may seem small in the overwhelming and difficult reality that — in the hopes of building something better.

When Hate Goes Viral: An Exploration into COVID-19 related Online Anti-Muslim Speech in Sri Lanka

Hashtag Generation[1]

Senel Wanniarachchi, Prihesh Ratnayake and Harindrini Corea

Background

Internet penetration in Sri Lanka has continued to grow in recent years. Social media platforms, such as Facebook, have established themselves as key platforms for the circulation of news, analysis and opinions in Sri Lanka's public sphere. Social media dominates as a source of news online with Facebook and YouTube being the most popular social media platforms in Sri Lanka.[2] As such, in this age of hyperconnectivity enabled by social media, the speed at which false and hateful messages, including rumours and conspiracy theories about minority communities and slurs that dehumanise particular individuals and communities, spread and circulate has accelerated to an unprecedented degree.[3] The ease of access of these platforms, aided by the ability to remain anonymous, have facilitated the reach of such messages transcending national boundaries and international borders.

Hate speech — in mainstream media and social media[4] — has triggered real-life violence against minority communities in Sri Lanka including and especially the Muslim community blurring the lines between the online and the offline worlds. In the island, online spaces have been used to mobilise rioters to attack minority communities including in their spaces of

1 Hashtag Generation is an organisation led and run by a group of young tech-savvy Sri Lankans advocating for meaningful civic and political participation of youth, especially young women and youth from minority groups. The group adopts a non-partisan approach and works with the strong conviction that decision-making at all levels should remain transparent and inclusive in order to remain sustainable and build lasting peace in Sri Lanka. We mobilise social and new media tools to raise awareness and catalyse dialogue on important social issues. Our work has ranged from advocating for youth participation in decision-making, strengthening women's civic and political engagement, advocacy for the rights of ethnic, religious and sexual minorities and raising awareness on the importance of cyber security and countering misinformation and online hate speech. Hashtag Generation also has an ongoing social media monitoring exercise where online harmful speech, including hate speech, disinformation, harassment and organised advocacy of violence are flagged, archived and analysed. This submission is informed by (among other things) the findings of this monitoring exercise.

2 Nalaka Gunawardene, *Sri Lanka Media Audience Study 2019: Consuming News in Turbulent Times*, (IMS 2020).

3 Cathering Blaya, 'Cyberhate: A review and content analysis of intervention strategies', (2019) 45 Aggression and Violent Behavior 163-172.

4 While we have distinguished between 'mainstream' and social media here for analytical purposes, we have argued elsewhere that such a binary does not exist.

worship, residence and enterprise. This was seen in Digana, Ampara and Aluthgama, where Facebook was used as a platform to convene individuals and incite groups of people into committing violence on the ground.[5]

The COVID-19 pandemic influenced social and digital media consumption in Sri Lanka, as was the case globally. With the spread of the coronavirus which overburdened healthcare systems, a wave of hate speech and disinformation campaigns also began to circulate, within the body politic. Some of these campaigns also led to the increased stigmatisation of minority groups and in some cases, led to the legitimisation of harassment and violence on the ground.

We have termed this kind of speech, *COVID-19 related hate speech*, i.e. speech that encompasses a broad range of statements against certain individuals and groups that has emerged or been aggravated as a result of the new coronavirus outbreak. These include, but are not limited to, scapegoating, stereotyping, stigmatisation and the use of derogatory, misogynistic, racist, xenophobic language including and especially anti-Muslim language.

In Sri Lanka, the political climate of ethno-nationalism and majoritarian triumphalism,[6] that emerged in the aftermath of the end of the civil war in 2009, forms the background to the emergence of anti-Muslim narratives and violence against Muslims.[7] As Nirmal Ranjith Dewasiri says, "During the civil war the LTTE [Liberation Tigers of Tamil Eelam] was perceived as the main threat that overshadowed potential others against Sinhala-Buddhist well being".[8] Consequently, post-war Sri Lanka saw the rise of a new wave of extremist ultra-nationalism that framed the Muslim minority as 'another Other'. Sinhala-Buddhist ethnonationalist groups, such as the *Bodu Bala Sena* (BBS) "turned on the Muslim community and began to see them as demographic and economic threats"[9] to the Sinhala Buddhist nation. Attacks against Muslims escalated in subsequent years. The anti-Muslim movement[10]

5 'Open letter to Facebook: Implement Your Own Community Standards' (Centre for Policy Alternatives, 10 April 2018) <https://www.cpalanka.org/open-letter-to-facebook-implement-your-own-community-standards/> accessed 17 May 2021.

6 Nirupama Subramanian, 'In Sri Lanka's anti-Muslim violence, an echo of post-war Sinhala triumphalism', *The Indian Express* (7 March 2018) <https://indianexpress.com/article/explained/sri-lanka-emergency-s-anti-muslim-violence-an-echo-of-post-war-sinhala-triumphalism-5088617/> accessed 17 May 2021.

7 A Sarjoon, MA Yusoff, N Hussin, 'Anti-Muslim Sentiments and Violence: A Major Threat to Ethnic Reconciliation and Ethnic Harmony in Post-War Sri Lanka', (2016) 7(10) Religions 125.

8 Nirmal Ranjith Dewasiri, *New Buddhist Extremism and the Challenges to Ethno-Religious Coexistence in Sri Lanka*, (International Centre for Ethnic Studies 2016).

9 C. H. Ivarsson, 'Lion's blood: social media, everyday nationalism and anti-Muslim mobilisation among Sinhala-Buddhist youth' (2016) 27(2) Contemporary South Asia. Abingdon: Taylor & Francis.

10 Farzana Haniffa, 'Three attempts at peace in Sri Lanka: A critical Muslim perspective' (2011) 6 (1) Journal of Peacebuilding and Development 49-62.

and the use of the ethnic riot as a political instrument of majoritarianism[11] was reflected in the anti-Muslim riots in 2014 and 2018[12] and in the aftermath of the Easter Sunday attacks of 2019.[13]

Much of these post-war ethno-nationalist mobilisations were aided by social media conspiratorialism. This growth in harmful speech against Muslims has been documented, especially in the aftermath of the Easter Sunday attacks[14] and with relation to the COVID-19 pandemic.[15]

Objectives

The main objective of this article is to investigate the prevalence of harmful speech against the Muslim community and the increasing normalisation of anti-Muslim sentiments and rhetoric in the Sri Lankan COVID-19 pandemic context.

Research Design and Methods

The findings of this study are based on the social media monitoring operation conducted by Hashtag Generation[16] as per outlined in the step-by-step process below:

1. Identification of social media platforms

2. Use of monitoring tools/software

3. Development of a lexicon

4. Development of a repository of 'actors of concern'

11 Premakumara de Silva, Farzana Haniffa and Rohan Bastin, 'Ethnicity and Violence in Sri Lanka: An Ethnohistorical Narrative', (2019) in S. Ratuva (ed.), The Palgrave Handbook of Ethnicity, Palgrave Macmillan, Singapore.

12 Rohana Gunaratna, 'Sinhala-Muslim Riots in Sri Lanka: The Need for Restoring Communal History' (2018) 10(4) Counter Terrorist Trends and Analyses 1-4.

13 Alan Keenan, 'Sri Lanka's Easter Bombings: Peaceful Coexistence Under Attack' International Crisis Group (23 April 2019) <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lankas-easter-bombings-peaceful-coexistence-under-attack> accessed 17 May 2021.

14 Report of the Special Rapporteur on freedom of religion or belief (2020).

15 The International Movement Against All Forms of Discrimination and Racism (IMADR) (2020) Inputs for thematic report on the rise of anti-semitism and other forms of racism, racial discrimination, xenophobia and related intolerance in times of COVID-19.

16 'Hashtag Generation – Promoting Civic Consciousness' (n.d.). Hashtag Generation <https://hashtaggeneration.org/> accessed 1 February 2021.

5. Development of definitions/categories for harmful speech

6. Documentation/archiving of harmful speech in Sinhala, Tamil and English

The process focuses on the identification, collection and analysis of content that would amount to harmful speech, including hate speech and disinformation. The monitoring exercise is conducted by a dedicated team of social media analysts with trilingual capability in Sinhala, Tamil and English. Monitoring via social listening tools is supplemented with searches based on keywords from a comprehensive lexicon (of slurs etc.) as well as proactively monitoring 'actors of concern'.

Facebook and YouTube as the most popular social media platforms in Sri Lanka are monitored regularly. After conducting the monitoring exercise and determining what content constitutes harmful speech, such content is recorded and archived. Finally, the documentation process captures disaggregated demographic data where such information is publicly available. Recording data in this manner enables the compilation of a comprehensive database. It also enables comparative analysis, trend analysis, the identification of perpetrators of harmful speech, and the identification of 'hotspot' locations for harmful speech.

The following analysis presents some of the findings from social media monitoring conducted from April to December 2020.

Findings of Anti-Muslim Hate Speech

The outbreak and spread of the COVID-19 pandemic in Sri Lanka in 2020[17] led to an intensification of anti-Muslim rhetoric online, including hate speech, disinformation and harassment. 25.7 percent of all recorded harmful speech content between March and December 2020 was targeted at the Muslim community. This accounted for 84.7 percent of all content aimed at a particular ethnic/religious group (other content targeted women or various political actors for example). This points to the increasing normalisation of anti-Muslim sentiment as well as the widespread circulation of rumours and conspiracy theories targeting the Muslim community during this period.

17 Dilanthi Ameratunga et al, 'The COVID-19 Outbreak in Sri Lanka: A Synoptic Analysis Focusing on Trends, Impacts, Risks and Science-Policy Interaction Processes,' (2020) 8 Progress in disaster science.

When the first COVID-19 related death in Sri Lanka occurred on the 28th of March 2020[18], there was keen interest among social media users to identify the ethnicity of the victim[19] in the aftermath of the death, demonstrating the deeply entrenched divisions in the country. This also led to an increase in anti-Muslim rhetoric which suggested that Muslims were 'spreading the virus deliberately'.

The decision to impose mandatory cremation for all victims of the disease was taken by the state[20] despite protests from the Muslim community and civil society actors that cremation was a violation of Islamic burial practice. These actors also pointed out that the best practices stipulated by the World Health Organization (WHO) permitted either burials or cremations for those who have died from the coronavirus infection.[21] This mandatory cremation policy[22] has been at the centre of anti-Muslim narratives related to the COVID-19 pandemic. Anti-Muslim narratives which have sustained over the years including paranoia that there is an 'Islamic invasion' in Sri Lanka with the Muslim community seeking to establish a demographic majority within the island through the 'sterilisation' of the 'Sinhala race' and 'invasion' of the Sinhala 'motherland', were intensified with allegations that the Muslim community is 'always asking for special treatment', that the Muslims 'are not willing to make any sacrifices even during a national emergency' and that 'President Gotabaya Rajapaksa has a democratic mandate from 6.9 million Sri Lankans that voted for him during the 2019 Presidential Election to continue the mandatory cremation policy as this is what his constituents want.' Several 'experts' including a doctor, attempted to provide 'scientific legitimacy' to these claims by stating that 'Muslims wanted to bury COVID bodies so that they could later be used as a bio-weapon'.[23]

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18 'Sri Lanka Records First Death Due To Coronavirus,' *The Times of India*, (29 March 2020) <https://timesofindia.indiatimes.com/world/south-asia/sri-lanka-records-first-death-due-to-coronavirus/articleshow/74872037.cms> accessed 17 May 2021.

19 Kshama Ranawana, 'Sri Lanka: Fighting Corona and the Lies in its Wake,' *International Media Support,* (2 April 2020) <https://www.mediasupport.org/fighting-corona-and-the-lies-in-its-wake/> accessed 17 May 2021.

20 'Sri Lanka Makes Cremations Compulsory for Coronavirus Deaths,' *Al Jazeera*, (12 April 2020) <https://www.aljazeera.com/news/2020/4/12/sri-lanka-makes-cremations-compulsory-for-coronavirus-deaths> accessed 17 May 2021.

21 World Health Organization, Infection Prevention and Control for the Safe Management of a Dead Body in the Context of COVID-19, (2020).

22 'Sri Lanka: Compulsory Cremation of COVID-19 Bodies Cannot Continue, say UN Experts', (Office of the High Commissioner for Human Rights, OHCHR 25 January 25 2021) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26686&LangID=E> accessed 17 May 2021.

23 'Small fear whether the dead bodies with the virus can be used as biological weapons - Dr. Channa Perera tells BBC,' *Lanka Leader*, (16 April 2020) <https://english.theleader.lk/news/690-small-fear-whether-the-dead-bodies-with-the-virus-can-be-used-as-biological-weapons-dr-channa-perera-tells-bbc> accessed 17 May 2021.

Anti-Muslim rhetoric reached a peak when the leader of the Sri Lanka Muslim Congress Rauff Hakeem issued a statement against the cremation of the second victim of COVID-19 who was a Muslim.[24] This event triggered a large scale hate campaign and targeted harassment directed at Hakeem in particular and the Muslim community in general.

The behaviour of mainstream media platforms along with the statements[25] made by prominent figures, especially politicians[26] fuelled anti-Muslim sentiments. By the end of the first week of April, there were at least 4800 posts on Facebook around various anti-Muslim sentiments. These includes statements made on the compulsory cremations[27]; some of these statements referred to Muslims as 'bio-terrorists'[28] and 'super spreaders'[29] of the virus. These posts garnered 292,500 interactions in total.

24 Yohan Perera and Ajith Siriwardana, 'Civic Resistance If Govt. Does Not Allow Burial of Muslim COVID-19 Victims: Hakeem', *Daily Mirror*, (23 April 2021) <http://www.dailymirror.lk/breaking_news/Civic-resistance-if-Govt-does-not-allow-burial-of-Muslim-COVID-19-victims-Hakeem/108-201586> accessed 17 May 2021.

25 Omar Suleiman, 'Like India, Sri Lanka is using coronavirus to Stigmatise Muslims,' *Al Jazeera*, (20 May 2020) <https://www.aljazeera.com/opinions/2020/5/20/like-india-sri-lanka-is-using-coronavirus-to-stigmatise-muslims> accessed 17 May 2021.

26 S. Qazi, & A. Thasleem, 'Anguish As Sri Lanka Forces Muslims to Cremate COVID-19 Victims,' *Al Jazeera*, (3 April 2020)< https://www.aljazeera.com/news/2020/4/3/anguish-as-sri-lanka-forces-muslims-to-cremate-covid-19-victims> accessed 17 May 2021.

27 Arjuna Ranawana, 'Hakeem Calls Cremation of Muslim COVID19 Victim "Reprehensible,' *EconomyNext*, (31 March 2020) <https://economynext.com/hakeem-calls-cremation-of-muslim-covid19-victim-reprehensible-63220/> accessed 17 May 2021.

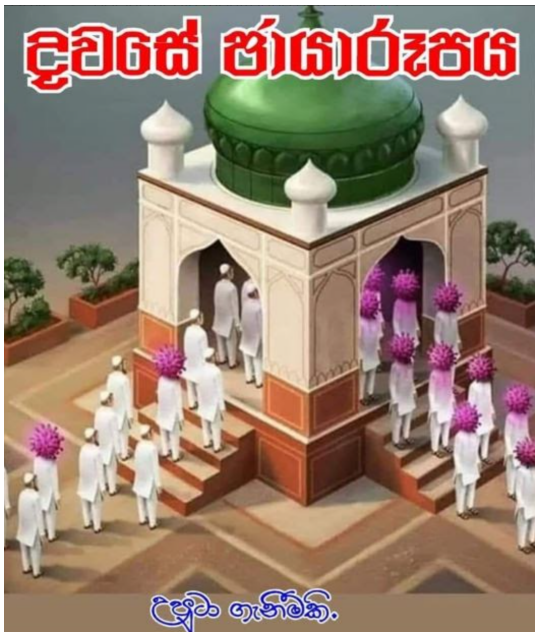
28 'කැකිරාවහිමිනමකබදාගෙනමුණුකැස්සපුද්ගලයාපිළිබඳපොලිසියවිපරමීකරයි', *NewsNow*, (25 April 2020), <https://www.newsnow.lk/%E0%B6%9A%E0%B7%90%E0%B6%9A%E0%B7%92%E0%B6%BB%E0%B7%8F%E0%B7%80-%E0%B7%84%E0%B7%92%E0%B6%B8%E0%B7%92%E0%B6%B1%E0%B6%B8%E0%B6%9A-%E0%B6%B6%E0%B6%AF%E0%B7%8F%E0%B6%9C%E0%B7%99%E0%B6%B1-%E0%B6%B8/> accessed 17 May 2021.

29 Meenakshi Ganguly, 'Sri Lankan Officials Stoke Covid-19 Communal Hate,' *Human Rights Watch*, (19 May 2020), <https://www.hrw.org/news/2020/05/19/sri-lankan-officials-stoke-covid-19-communal-hate> accessed 17 May 2021.

As an example of such a post on Facebook, which states that 'last time *nana* (a derogatory colloquial term for Muslim males) did it, seems like *nana* will do it this time too'.

The 'it' referred to here are the 2019 Easter Sunday attacks and COVID-19 surges, respectively.

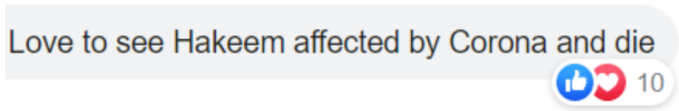
The following posts were shared widely towards the end of the month of March:



These posts inferred that Muslims are 'putting the entire population at risk by spreading coronavirus' while also making references to the Easter attacks which took place in the previous year (2019). The posts insinuate that 'this time too the Muslims have put the country and its people in danger'.

The following posts are from the beginning of April:

This post states, ironically, that 'they should have let Rauff Hakeem, the leader of the main Muslim party, and everyone else who was crying to hug and kiss the body before it was buried'.



The post inquires as to who would like to hear of Rauff Hakeem passing away due to COVID-19. The implication, of course, is wishing COVID-19 infection and death upon Hakeem.

MP Rauff Hakeem was the target of hateful messaging after his remarks about the government's decision against allowing burials for COVID deaths. Many of these messages wished death upon Hakeem. According to Hashtag Generation's data, April recorded the highest amount of Anti-Muslim content and the backlash received by Hakeem was the biggest driver of such speech.

It must be noted that experts from the medico-scientific community including the Sri Lanka Medical Association (SLMA),[30] the College of Community Physicians of Sri Lanka (CCSPL),[31] and an eleven-member Expert Panel appointed by the Ministry of Health[32] subsequently (in January 2021) confirmed that both cremation and burials are acceptable in accordance with the recommendations of the WHO. Furthermore, in response to the mandatory cremation policy and the forcible cremation of a twenty days old infant,[33] against the wishes of the parents, organised expressions of outrage by Muslim Community organisations, their allies and civil society organisations began to emerge.[34] This included a campaign to tie white handkerchiefs at the entrance of the Borella *Kanaththa* (cemetery) crematorium in Colombo.[35] This form of silent protest was also adopted in other parts of the country, by tying a piece of white clothing around the wrists, on gates of residences and at the entrances of some government offices.[36] The hashtag #StopForcedCremations recorded over 2000 posts on Facebook. However, it was also reported that Sri Lanka Police removed the banners and white handkerchiefs/ribbons that were tied by the protestors at the Borella crematorium, violating their right to peaceful protest.

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30 'Sri Lanka Can Bury its Covid Victims,' *Newsfirst*, (3 January 2021) <https://www.newsfirst.lk/2021/01/03/sri-lanka-can-bury-covid-19-victims-slma/> accessed 17 May 2021.

31 'CCPSL Says No Solid Evidence Indicating Burial of Covid-19 Victims Increases Spread of Virus,' *Daily FT*, (1 January 2021) <http://www.ft.lk/news/CCPSL-says-no-solid-evidence-indicating-burial-of-COVID-19-victims-increases-spread-of-virus/56-710986> accessed 17 May 2021.

32 'Cremation Vs. Burial: Expert Panel Revises Recommendation to Include Both Cremation And Burial of Covid-19 Dead Bodies,' *Colombo Telegraph*, (2 January 2021), <https://www.colombotelegraph.com/index.php/cremation-vs-burial-expert-panel-revises-recommendation-to-include-both-cremation-and-burial-of-covid-19-dead-bodies/> accessed 17 May 2021.

33 'Covid-19: Sri Lanka Forcibly Cremates Muslim Baby Sparking Anger,' *BBC*, (26 December 2020), <https://www.bbc.com/news/world-asia-55359285> accessed 17 May 2021.

34 'Sri Lanka: Covid-19 Forced Cremation of Muslims Discriminatory,' *reliefweb*, (18 January 2021), <https://reliefweb.int/report/sri-lanka/sri-lanka-covid-19-forced-cremation-muslims-discriminatory> accessed 17 May 2021.

35 'White Handkerchiefs Tied Around The Gate of Borella Cemetery to Commemorate Forced Cremation Of 20-Day Infant Removed Overnight,' *Asian Mirror*, (14 December 2020) <https://asianmirror.lk/news/item/32647-white-handkerchiefs-tied-around-the-gate-of-borella-cemetery-to-commemorate-forced-cremation-of-20-day-infant-removed-overnight> accessed 17 May 2021.

36 Amalini, 'Photos of a citizens' campaign across the Northern and Eastern Provinces calling on GoSL to respect minority religious rights and #StopForcedCremations', (*Twitter*, 16 December 2020) <https://twitter.com/Amaliniii/status/1339097556702404608> accessed 17 May 2021.

The announcement by Prime Minister Mahinda Rajapaksa in February 2021[37] that burials of COVID-19 victims would be allowed and the subsequent publication of an Extraordinary Gazette notification officially allowing the burial of COVID-19 victims[38] led to further anti-Muslim content which was mainly observed on YouTube. Overall, the revocation of the policy was not positively received by many social media users. While most Muslims welcomed the move, others were observed to be critical of it, citing it a deviation of the government's 'one country one law' concept. Several pages and groups posted satirical posts suggestive of the opposition mocking this decision as a contravention of the government's usual ethnonationalist tone, which only fuelled the ongoing anti-Muslim content.

An incident where it was reported that an individual had visited a temple in Kekirawa and 'coughed so as to spit on the face of the monk' was trending on Facebook in the last week of April 2020. A total of 160 posts amounting to around 14000 interactions referred to this incident. Many observations on the incident suggested that it was a 'bio-terrorist move by a Muslim' who had 'entered the temple by force and subsequently fled the scene'. However, the police have since refuted the claim. Furthermore, the police complaint filed by the Buddhist monk does not specify the ethnic or religious background of the suspect.

Furthermore, the Chairperson of the Public Health Inspectors' (PHI) Union of Sri Lanka, during an interview on a popular media channel in April 2020, suggested that the spread of COVID-19 could be attributed to three individuals from three Muslim majority areas in Sri Lanka (i.e. three Muslims)[39] which attracted significant attention on social media leading to further anti-Muslim conversations.

The resurgence of the COVID-19 pandemic in October 2020 was reported as arising from a cluster of cases in apparel factories belonging to Brandix Apparel Limited[40]. Amidst concerns and criticism regarding the emergence of the 'Brandix Cluster', there was widespread anti-Muslim content on social media which targeted members of the senior management of the company. The content targeted Ashroff Omar, the Chief Executive Officer of Brandix. Some of the content circulated suggested that this 'Muslim company's Senior Management' was 'more evil than Zahran', the alleged leader of the group that perpetrated the Easter Sunday attacks of 2019.

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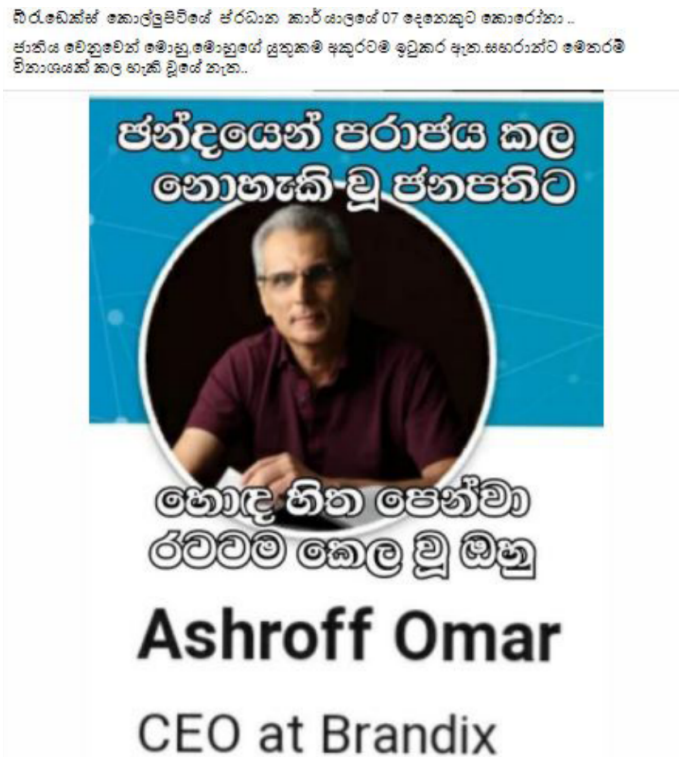
37 'Sri Lanka to Allow COVID Burials for Muslims after Outcry,' *Al Jazeera*, (10 February 2021), <https://www.aljazeera.com/news/2021/2/10/sri-lanka-allows-first-covid-burial> accessed 17 May 2021.

38 'Gazette Published Allowing Burial of Covid-19 Victims,' *Ada Derana*, (25 February 2021) <http://www.adaderana.lk/news/71873/gazette-published-allowing-burial-of-covid-19-victims> accessed 17 May 2021.

39Ayesha Zuhair, 'Disinformation Is Damaging Sri Lanka's COVID-19 Response', *Daily FT*, April 13 2020, <http://www.ft.lk/columns/Disinformation-is-damaging-Sri-Lanka-s-COVID-19-response/4-698822> accessed 17 May 2021.

40 'Brandix Cluster Passes 1,000 Confirmed Cases In Sri Lanka's Biggest COVID-19 Outbreak Yet,' *EconomyNext*, (7 October 7 2020) <https://economynext.com/brandix-cluster-passes-1000-confirmed-cases-in-sri-lankas-biggest-covid-19-outbreak-yet-74514/> accessed 17 May 2021.



This image contains a photo of Brandix chief operating officer Ashroff Omar. The accompanying text states that Omar has managed to 'manipulate the President who could not be defeated in the election, and had heaped misery on the entire country', referring to the COVID-19 outbreak at a Brandix plant in Minuwangoda. The caption states that 'even Zaharan was unable to cause this much harm'.

Interaction Between Harmful Speech and Disinformation

In Sri Lanka, a vast majority of anti-Muslim harmful speech online is often found in the forms of disinformation. These include assertions that Muslims are sterilising women of the majority Sinhala community through food served at Muslim-owned restaurants[41] or clothing items sold at Muslim-owned businesses.[42] There is also a narrative that there has been a

41 'When The Uneducated Are.... Nourished on A Diet of Myths And 'Infertility Pills,' *Daily Mirror*, (23 March 2018) <http://www.dailymirror.lk/expose/When-the-uneducated-are-Nourished-on-a-diet-of-myths-and-infertility-pills/333-147668> accessed 17 May 2021.

42 'Women's Bodies, Masculinities and Economic Insecurities,' *Daily FT*, (22 March 2018) <http://www.ft.lk/columns/Women-s-bodies--masculinities-and-economic-insecurities/4-651751> accessed 17 May 2021.

growth in the Muslim population in recent years to intentionally outnumber the Sinhalese.[43] Such an enmeshment of disinformation and hate speech is not a new phenomenon in Sri Lanka. In a 2019 report, Hashtag Generation noted[44] that "the combination of misleading information and hate speech within ethno-nationalist pages...potentially endangers social cohesion in Sri Lanka."

A notable incident where the boundaries of hate speech and disinformation were blurred was the accusation directed at Doctor Shafi Shihabdeen — a Muslim physician who practiced at the Kurunagala government hospital — that he 'sterilised 4,000 Sinhalese women'. In 2019 Dr. Shafi was arrested under the Prevention of Terrorism Act on suspicion of illegally gained wealth. However, after two month's detention, Shafi was released on bail as national police investigators told the court that they had not found evidence for any of the charges against Dr. Shafi and accused local police, the magistrate and hospital officials of falsifying documents.[45]

Similarly, in April 2020, many local news sites, especially 'gossip pages' reported that the Governor of the Emirate of Sharjah, in the United Arab Emirates (UAE) has 'banned burials of those who die of COVID-19'. This 'news' was shared widely along with captions suggesting that Sri Lankan Muslims are making 'unreasonable' demands to bury their dead when even 'Muslim countries' are being more 'accommodating'. However, the Embassy of the UAE in Colombo soon issued a statement clarifying that the restriction on burials was only imposed on a specific area of the city 'due to the lack of space' but no such city-wide ban had been imposed.[46]

Several anti-Muslim disinformation narratives surrounding the issue of cremation received widespread circulation. For instance, in November 2020, a letter, signed by the Secretary of Muslim community organisation Ceylon Thowheed Jamath (CTJ) and published on their official Facebook page, thanking the government for approving burial for Muslims who succumb to COVID-19, received widespread views online. The conversation also drew large volumes of ethnonationalist responses. Pages aligned with opposition political parties in particular capitalised on narratives such as those around the CTJ letter attempting to suggest

43 Srinivas Mazumdaru, 'anti-Muslim Narratives' Inflame Sri Lanka Communal Tensions,' *Deutsche Welle (DW)*, (7 March 7 2018) <https://www.dw.com/en/anti-Muslim-narratives-inflame-sri-lanka-communal-tensions/a-42868563> accessed 17 May 2021.

44 Democracy Reporting International, 'Social Media Analysis What Facebook Tells Us About Social Cohesion In Sri Lanka,' (February 2019) Briefing Paper 97.

45 'Sri Lanka magistrate grants bail to illegally detained Muslim doctor,' *EconomyNext*, (25 July 2019); 'Dr. Shafi to file damages against 'witch-hunters'', *The Sunday Observer*, (4 August 2019). Sri Lanka's top obstetricians have cast doubt on the accusations against Dr. Shafi. 'Delving into 'Sterilisation Story', Daily Mirror, (7 June 2019).

46 'UAE Embassy Denies Reports of Banning the Burial of COVID-19 Victims,' *The Morning*, (6 April 2020) <https://www.themorning.lk/uae-embassy-denies-reports-of-banning-the-burial-of-covid-19-victims/> accessed 17 May 2021.

that the government which ran their election campaign on a mandate to 'promote Buddhism' has 'given in' to the pleas of the Muslim minority.

In the same vein, in January 2021, a video featuring a popular biology tuition teacher named Tissa Jananayake received widespread traction. In the video, Jananayake discusses 'the COVID-19 virus's potential to transmit itself via dead bodies'. Jananayake is a well-known figure with a large social media following, particularly among young people — as of January 31st 2021, his Facebook page had 576,937 likes and his YouTube channel had 486,000 subscribers. By the end of the month of January, the video in question had recorded over 370,700 views on Facebook and 216,824 views on YouTube. Of the reactions the video garnered on Facebook, the vast majority were positive with over 13,000 'likes' and 2,000 'heart reactions'. His status as a teacher provides him with what many see as an authoritative voice.

Bale, J. M. suggests that conspiracy theories fulfil certain important psychological needs by making 'complex patterns of cause and effect in human affairs more comprehensible through means of reductionism and oversimplification'.[47] The word conspiracy is derived from the Latin word conspire which means 'to breathe together' and 'need not suggest anything more sinister than people getting together to hold a private meeting'. Within anti-Muslim rhetoric, false information is often presented as self-evident facts, with no need for further explanation.

Online and Offline Dynamics of Harmful Speech

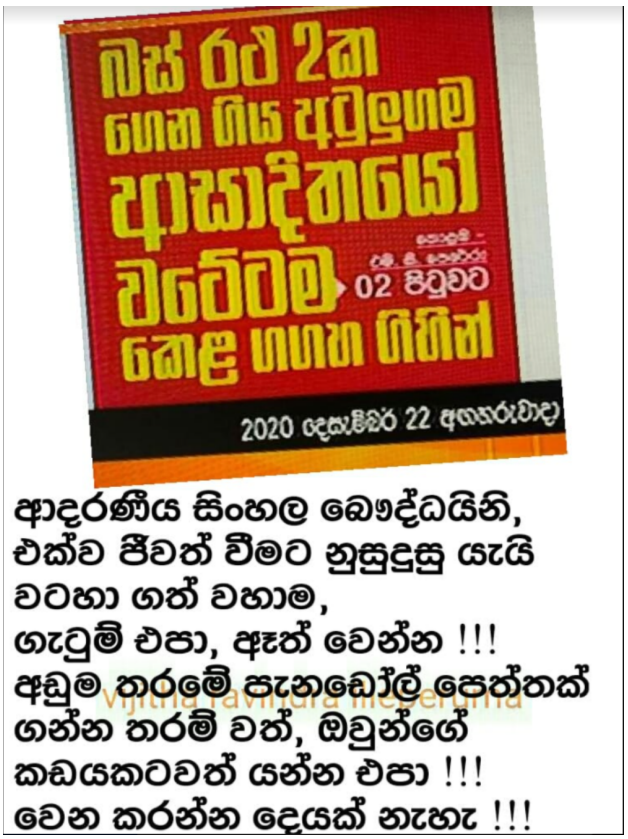
The case study discussed below, on a village named Atalugama from the Kalutara District, demonstrates how harmful speech emerges and proliferates online as a reaction to news reports from mainstream media platforms, a development which was observed throughout 2020.

Atalugama emerged as a 'hotspot' for online harmful speech in 2020. For instance, in March 2020, media reports on Atalugama highlighted that the village had been put under lockdown after family members of a COVID-19 patient from the area had shown symptoms of contracting the virus, drawing a violent reaction online. Similarly, media reports emerged in May that a group of journalists covering Eid (festival celebrated by Muslims) celebrations in Atalugama were assaulted by some residents of the area, drawing responses that included dangerous speech. Furthermore, in October, media reports stated that a group of residents from the area attacked some police officers that were on duty, drawing a similar reaction. In December, more hate speech content was observed when reports emerged that the residents of Atalugama were 'not cooperating' with the decisions taken by the government to regulate COVID-19. These reports included a statement by a public health inspector that he was 'spat

47 J. M. Bale, 'Political paranoia v. political realism: on distinguishing between bogus conspiracy theories and genuine conspiratorial politics', (2007) 41(1) In Patterns of Prejudice.

on' by a resident of the village. Other posts stated that a group of COVID-19 positive residents from the area were 'spitting while en route to a quarantine facility'. Area residents have denied these reports.

These posts feature mainstream media reports of the Atalugama spitting incidents, the accompanying text include a variation of anti-Muslim sentiment. There is reference to the mandatory cremation policy as one post states that Muslims 'don't care to prevent COVID, they're only concerned about what happens to the dead body', while another urges 'Sinhala Buddhists' to distance themselves from Muslims, that there is 'nothing left to do but boycott Muslim businesses'.



This post states that two busloads of COVID infected Muslims from Atalugama had deliberately spat in the surroundings. They should be cremated alive, which is also a reference to the mandatory cremations policy.

In each of these cases, it was media reports by mainstream news outlets that led to the generation of hate speech online. Such a repetition of a series of such incidents from the same village is a cause for concern. As such, the area was designated by Hashtag Generation as a 'hotspot' for the emergence of online harmful speech in 2020.

In the months that followed, more allegations were made against Muslims in relation to alleged land encroachment of the Pottuvil Muhudu Maha Viharaya and there were instances when Muslims were not permitted to enter a bank and a supermarket. The underlying tone of these allegations were to indicate that Muslims are responsible for the rapid spread of the virus and their 'lack of discipline is putting everyone at threat'.

Co-ordinated Inauthentic Behaviour

Coordinated inauthentic behaviour, is where several pages are seen to be amplifying a single narrative. It was observed that certain pages and groups published the same or related posts at or around the same time span, amplifying each other's content. The content is focused on key political issues and such targeted and well-coordinated campaigns which amplify and spread inauthentic content can severely distort public perceptions; for example, by increasing antagonism against the Muslim community.

In addition to coordinated posts, bots (applications that perform automated tasks) and inauthentic (fake) accounts were also used to fuel ethnic tensions. For instance, accounts created with Muslim names which were most probably a mix of bots and fake accounts were seen making 'haha' reactions to news items of national significance (such as the crash of a Sri Lanka Air Force aircraft in one particular instance) suggesting that these accounts were 'making fun of a serious topic'. The screenshots of these reactions are then shared on several pages, insinuating that 'Muslims' are treating nationally important issues lightly. Needless to say, such posts draw violent, hateful responses.

While the majority of anti-Muslim harmful speech was directed at the Muslim community in general, Minister of Justice President's Counsel Ali Sabry was the main individual target of anti-Muslim harmful speech, as part of a pattern of coordinated inauthentic behaviour. Since his appointment, the Minister has been portrayed as an 'advocate' for only the interests of the Muslim community within the government.

For example, on the 12th of January 2021, a number of Facebook pages, including 'Thambapanni', which has close to 60,000 followers and is administered from Sri Lanka, Australia and the UAE began circulating an image alleging that Minister Sabry is beginning a 'Jihad police' in Sri Lanka. Within hours, several individual Facebook profiles began to reshare this image on Facebook groups with a large number of members. Later, the same day many ethnonationalist pages including 'Jana' (41,000 followers and managed by administrators based in Italy and Sri Lanka) and 'Sinha Handa' (62,000 followers and administered from Sri Lanka) also reshared the same image. This is just one example of such coordinated harassment faced by Minister Sabry.

Conclusion

Whilst being collectively blamed for the Easter Sunday attacks of 2019 and being at the receiving end of the violence that unfolded in its aftermath such as attacks on mosques, Muslim-owned businesses, and homes, the Muslim community is now facing hatred across social media platforms during the COVID-19 pandemic. Conspiracy theories that Muslims are 'constantly seeking to impose their ideas on the rest of society' and that the community bends rules to their convenience and disobeys the law are now normalised in society. Online platforms have played a key role in such a normalisation. A fear, hatred, and hostility toward Islam and Muslims that is perpetuated by negative stereotypes, resulting in discrimination, has consolidated the offline marginalisation and exclusion of Muslims from social, political, and civic life.

The mandatory cremation policy and the consequent intensification of hate speech and disinformation reveal that the propagation of a large amount of hate speech could be attributed to actors who tend to support the ethnonationalist decisions of the government. This is exacerbated by the lack of government action to oppose such hate speech.

The permissibility of hate speech strengthens existing discrimination, consolidates historical prejudices and can make the path towards social cohesion more challenging. A fatal virus such as COVID-19 provides an enabling environment for uncertainty and mistrust between communities to deepen. In such a context, social media becomes a vehicle for such hatred and doubt especially since there is minimal accountability. As such, the article demonstrates that the circulation of such divisive and dangerous rhetoric intensified during the COVID-19 pandemic period suggesting that such narratives can affect healthy debate, skew public opinion and damage social cohesion and co-existence between different communities in Sri Lanka.

**Images used have been taken from social media as shared publicly.*
Names of individual accounts have been removed from the above images.

#JusticeForIshalini:
When Hate Speech Dominates Powerful Calls for Justice

Sakeena Razick and Hashtag Generation[1]

In July 2021, the death of a young domestic worker led to loud demands of justice and accountability. The series of events uncovered after — from the confines of the young worker's room to the intricacies of an employer's household — further renewed the public's call for change. However, the incident soon gave way to an increase in hate speech on social media that overpowered all other online discourse.

Sixteen-year-old Ishalini Jude Kumar passed away while receiving treatment for burn injuries.[2] According to initial investigation reports, Ishalini was seen running across the house on fire that persons in the house doused.[3] She was then taken to the Colombo National Hospital, and after several days of medical treatment, succumbed to her injuries. The severity of her burn wounds raised initial concern and a necessary investigation. A subsequent post-mortem confirmed long-term sexual abuse.[4]

Ishalini's distraught family travelled from their hometown in the Nuwara Eliya district to endure a loss as well as an investigation under extreme public scrutiny. At the time, Ishalini had been employed at Member of Parliament (MP) Rishad Bathiudeen's residence. MP Bathiudeen is the leader of the political party All Ceylon Makkal Congress and was previously a member of the Sri Lanka Muslim Congress. He has been tied to some controversial cases in the country and is also noted for his representation as a Muslim politician in parliament. In

1 This is a case study accompanying the previous article 'When Hate Goes Viral: An Exploration into COVID-19 related Online Anti-Muslim Speech in Sri Lanka'. It is a deeper look into harmful speech on social media around one incident. See previous article for more on Hashtag Generation.

2 Death of 16-year-old girl at MP Rishad's house: Postmortem reveals girl sexually exploited', Newswire, (19 July 2021) <https://www.newswire.lk/2021/07/19/death-of-16-year-old-girl-at-mp-rishads-house-postmortem-reveals-girl-sexually-exploited/> accessed 6 August 2021

3 Imesh Ranasinghe, 'Death of teen domestic aide: Sri Lanka MP's family members to be produced in court', *EconomyNext*, (26 July 2021) <https://economynext.com/death-of-teen-domestic-aide-sri-lanka-mps-family-members-to-be-produced-in-court-84299/> accessed 6 August 2021.

4 'Civil Society statement calling on an end to impunity on child labour, trafficking, and sexual exploitation', (Centre for Policy Alternatives 23 July 2021) <https://www.cpalanka.org/statement-calling-on-an-end-to-impunity-on-child-labour-trafficking-and-sexual-exploitation/> accessed 6 August 2021; 'Death of 16-year-old girl at MP Rishad's house: Postmortem reveals girl sexually exploited', *Newswire*, (19 July 2021) < https://www.newswire.lk/2021/07/19/death-of-16-year-old-girl-at-mp-rishads-house-postmortem-reveals-girl-sexually-exploited/> accessed 6 August 2021; and Manjula Fernando, 'Second post-mortem on Ishalini's body', *Sunday Observer*, (1 August 2021) <https://www.sundayobserver.lk/2021/08/01/second-post-mortem-ishalini%E2%80%99s-body> accessed 6 August 2021.

April 2021, he was detained under Sri Lanka's Prevention of Terrorism Act (PTA) for alleged links to the 2019 Easter Sunday attacks.[5]

During the early weeks following Ishalini's death, MP Bathiudeen's wife, father-in-law, brother-in-law, and the broker involved in bringing Ishalini for employment in Colombo were arrested and remanded.[6] In late August, MP Bathiudeen (while in remand) was named as a fifth suspect.[7]

Meanwhile, reports by law enforcement authorities and local media highlighted discrepancies in the preceding events. Some news reports suggested an unexplained time lapse between the initial time of the burning and when Ishalini was finally admitted to the hospital.[8] In July, the Police Spokesperson confirmed that Ishalini's room wall held written words implying suicide, although the prosecution has since ruled this out as the only possible cause of death.[9] The conditions of Ishalini's work and living quarters too were debated (in reports and online) — ranging from small dark quarters with no electricity to MP Bathiudeen's wife's lawyer denying any mistreatment.[10] Mid-investigation, two former domestic workers (at separate instances) came forward with reports that they had been sexually abused by Bathiudeen's brother-in-law.[11]

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5 Meera Srinivasan, 'MP held over Sri Lanka Easter attacks', The Hindu, (24 April 2021) <https://www.thehindu.com/news/international/mp-held-over-sri-lanka-easter-attacks/article34402733.ece> accessed 6 August 2021. MP Bathiudeen was arrested in April 2021, an arrest Bathiudeen claims is politically motivated. He has previously been involved in controversies such as on 'Wilpattu deforestation'.

6 'Four including Rishad's wife to be produced before Court', *Daily News*, (26 July 2021) <https://www.dailynews.lk/2021/07/26/law-order/254907/four-including-rishad%E2%80%99s-wife-be-produced-court> accessed 6 August 2021.

7 'Rishad's wife, three others remanded till August 9', *Daily News*, (27 July 2021) <http://www.dailynews.lk/2021/07/27/local/255001/rishad%E2%80%99s-wife-three-others-remanded-till-august-9> accessed 6 August 2021; L. Sooriyagoda, 'Rishad made fifth suspect over death of girl at his house', *Daily Mirror*, (24 August 2021) <https://www.dailymirror.lk/print/front_page/Rishad-made-fifth-suspect-over-death-of-girl-at-his-house/238-218874> accessed 6 August 2021.

8 'Rishad's wife, three others remanded till August 9', *Daily News*, (27 July 2021) <http://www.dailynews.lk/2021/07/27/local/255001/rishad%E2%80%99s-wife-three-others-remanded-till-august-9> accessed 6 August 2021.

9 Zulfick Farzan, 'The Cause For My Death' – Detectives discover words written on the wall of Ishalini's room,' *Newsfirst*, (7 March 2018) <https://www.newsfirst.lk/2021/08/03/the-cause-for-my-death-detectives-discover-words-written-on-the-wall-of-ishalinis-room/> accessed 6 August 2021.

10 Kris Thomas and Pallavi Pundir, 'How a Death Exposed a History of Sexual Assault at a Rich Politician's Home', *Vice World News*, (12 August 2021) <https://www.vice.com/en/article/7kvqaa/death-domestic-worker-sexual-assault-srilanka-bathiudeen> accessed 6 August 2021.

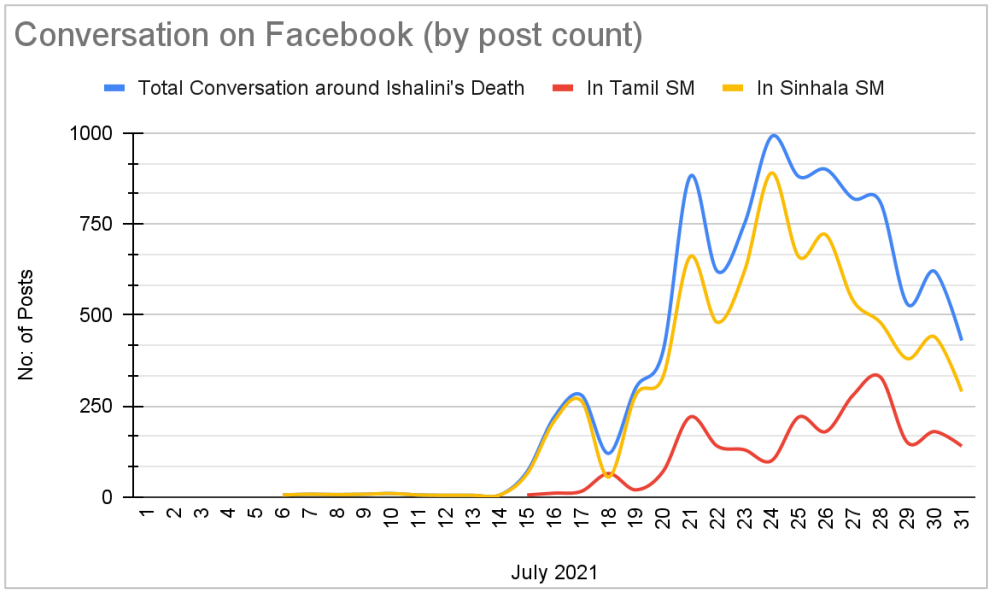
11 ibid.; and 'Rishad's Brother-in-Law arrested', *Daily News*, (24 July 2021) <https://www.dailynews.lk/2021/07/24/law-order/254774/rishad%E2%80%99s-brother-law-arrested> accessed 6 August 2021.

The nature of the details disclosed sparked public conversation online. In addition, the politician and his family's association added another dimension to the reports of Ishalini's death. Among the rallying cries online and offline for justice was an underlying sentiment of more — an overwhelming intolerance for the 'Bathiudeen's' of the country and an increasing hatred towards the overall Muslim community.

The Keywords that Missed the Mark

According to data captured by Hashtag Generation, social media conversation (including misinformation and disinformation) increased after Ishalini's death on 15 July, all through to the end of the month.

Although online conversation began with concern and anger over Ishalini's death, the conversation continued to 'trend' primarily due to MP Bathiudeen's involvement. For instance, data between 1 July to 31 July captured the top ten Sinhala keywords used by social media users. In Sinhala, these keywords included දැරිය (girl), මෙහෙකාර (worker), and සේවය (service), as well as රිෂාඩ් (Rishad), බදියුදීන්ගේ (Bathiudeen's) and බදියුදීන් (Bathiudeen). While well over 20 percent of Sinhala social media posts around this issue made reference to the politician, Ishalini's name was not the main entryway into online discussion, and only emerged later during the month. Across Tamil online media and social media ஹிஷாலினி (Hishalini) and இஷாலினி (Ishalini), both variants of Ishalini's name, featured prominently but was once again overpowered by the many keywords associated with Bathiudeen.



The first post related to the incident was reported on social media (SM) on 6 July, three days after Ishalini was admitted for hospital care, mainly among Sinhala SM users. Until 15 July 2021, there were less than 50 posts around this issue with very little traction online.

Note: Sinhala SM users account for Sri Lanka's largest proportion of SM users and therefore contribute to higher numbers in posts and engagement. Also note, Tamil SM users in the country are diverse and spread across geographies and communities. The largest SM voices from this community, around this incident, stemmed from the Hill Country Tamil community (that Ishalini belonged to). The Hill Country Tamil community makes up a considerably smaller part of the total Tamil speaking community in Sri Lanka.

Most social media posts criticised MP Bathiudeen, his 'character', and his work in politics. Users did not hold back in bringing up his alleged links to the Easter Sunday attacks and terrorists. Some comments asked the 'public' to 'burn all of the people in the Bathiudeen household', while others directed hate speech towards Muslims in general. Online comments generalised the incident to claim that all 'people who follow Islam are always like this' and that the 'religion harasses women'. The anti-Muslim harmful speech framed all Muslims as 'womanisers' and insinuated a connection between Muslims and sexual harassment as 'they [Muslims] 'can have four wives', 'abuse maids' and 'detonate themselves for their desire to sleep with 72 virgins'.[12]

The post states in stand-alone sentences and some slang: 'a religion that allows men to marry four women; abuses workers that come home; and not enough, in their desire to sleep with 72 virgins they detonate bombs and kill others. Do you not have another world other than women?'. This post was shared by a minimum of 305 accounts on Facebook.

[12] Islamic law (*sharia*) practiced in Sri Lanka and most other countries allows males to marry up to four women, under certain conditions.

Social media users also directed misogynistic comments and hate speech at MP Bathiudeen's wife, Ayesha Rishad.[13] Hashtag Generation's analysis has revealed a trend across social media: in any key incident taking place, women and LGBTQI+ persons involved receive an added layer of targeted sexual and gender-based violence. As a result, Ayesha Rishad was the target of dehumanising slurs and comments that demanded that she be 'raped' for her 'role in Ishalini's death'. Some users shared pictures of her and likened her to an animal and stated that 'she is looking in a way that she needs seven men'. Other comments referred to the wife, MP Bathiudeen's sisters, as well as all Muslim women as 'prostitutes'. However, gender-specific hate speech was not limited to MP Bathiudeen's family. On social media, some criticised Ishalini and her mother by calling them 'loose women' and delved into discussions around the mother's second marriage. Certain pages that have a wider Muslim audience accused Ishalini and her mother and speculated that the sexual abuse may have occurred before Ishalini moved to Colombo. These pages spread disinformation and claimed that the entire case was a conspiracy and 'political revenge' against politician Rishad Bathiudeen.

Offline, derogatory and hateful comments made by certain local politicians incited further harmful speech online. At a press conference, former Colombo Municipal Council (CMC) Member Nadarajah Ravikumar made hateful comments against Muslim women. Advocating Sri Lanka's recent decision to ban the wearing of the *burqa* in public, Ravikumar claimed that the *burqa*, although meant for religious purposes, is not used as so.[14] He added that while 10 percent of Muslim women wear the *burqa* for its stated purpose, 90 percent do so to transport drugs and engage in prostitution.[15] The local politician's statements were shared widely and quickly across social media and other media channels until (after reports by some users) Facebook removed the original post. In response, several Muslim users condemned the local politicians and his statements for 'damaging unity across ethnicities'.[16]

In a similar incident, harmful speech against Muslims specifically targeting the community's revered Prophet Muhammad was circulated online. The content, attributed to a local politician from the Ampara district, violently criticised Prophet Muhammad and labelled him

13 Bathiudeen's wife is also referred to as Sihabdeen/Shiyabdeen Ayesha across local media. In a previous letter, her full name is identified as 'Ayesha Rishad'. See Rishad Bathiudeen, 'Letter sent by Ayesha Rishad', (*Twitter*, 3 May 2021) <https://twitter.com/rbathiudeen/status/1389154039523287043?lang=en> accessed 10 September 2021.

14 'Sri Lanka cabinet approves proposed ban on burqas in public', *Al Jazeera*, (28 April 2021) <https://www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public> accessed 7 August 2021.

15 Dinitha Rathnayake, 'Alleged anti-Muslim statements by LG politicos: CMC Muslim Forum complains to WP SDIG', *The Sunday Morning*, (5 August 2018) <https://www.themorning.lk/alleged-anti-muslim-statements-by-lg-politicos-cmc-muslim-forum-complains-to-wp-sdig/> accessed 7 August 2021.

16 IrfanVlogs, (*Facebook* August 1 2021) <https://www.facebook.com/Irfanvlogs199/posts/348851196909661> accessed 7 August 2021.

as a 'child molester'. However, in response, the politician denied involvement in the said statement and claimed that the incident was a 'plot' by the Sri Lankan Government.

Meanwhile, nationalist and pro-government social media pages shared harmful speech against civil society activists and politicians belonging to minority ethnoreligious communities for their apparent 'lack of outrage' over Ishalini's sexual abuse and death. The conversation around the investigations continued to be diluted by diverse strands of harmful speech, all within a context of a worsening COVID-19 pandemic.

A Lost Story

On the streets, protests for truth and accountability were held. Residents living in Ishalini's hometown and elsewhere demanded a formal inquiry and arrests of those responsible.[17] Socialist and women's rights movements and groups held protests outside the National Child Protection Authority. At merely 16 years of age, Ishalini was a minor employed as a domestic worker, one of the few occupations that have little place in Sri Lanka's 'robust' labour law framework.[18] Domestic workers and domestic worker unions too protested, demanding justice and an effective legal framework for domestic work.[19] While most online users were receptive to the outcry and demonstrations, some social media users highlighted that the protests seemed to have strayed away from the main incident.

Suddenly, Ishalini had become the poster child for a mix of calls: the employment of underage workers, the lack of a legal framework that supports domestic worker rights, the plight of *Malaiyaha* Tamils (Hill Country Tamils) bound to the tea estates with a history of disenfranchisement and socio-economic challenges; the culture of silence around sexual abuse; as well a gateway to justify the hate speech against Muslims.

Ishalini grew up on the tea plantations in central Sri Lanka which consists primarily of *Malaiyaha* Tamils who have historically worked as a permanent plantation labour force. Their origins span back to immigrants from India, and their history includes a loss of Sri

17 Pragas Gnanapragasam, 'Protest staged in Hatton', (*Twitter*, 18 July 2021) <https://twitter.com/PragasGnanam/status/1416729504572010500?s=20> accessed 7 August 2021; and Dinasena Ratugamage, 'Jaffna protesters urge govt. to expedite probe into Ishalini's death', *The Island*, (29 July 2021) <https://island.lk/jaffna-protesters-urge-govt-to-expedite-probe-into-ishalinis-death/> accessed 7 August 2021.

18 Shany Sadanandan and Anju Mary Paul, 'Invisible under the law: The consistent neglect of domestic workers in Sri Lanka,' *The Sunday Times*, (13 June 2021) <https://www.sundaytimes.lk/210613/sunday-times-2/invisible-under-the-law-the-consistent-neglect-of-domestic-workers-in-sri-lanka-446321.html> accessed 7 August 2021; and Sabrina Esufally, Sri Lanka: Domestic Workers, An Analysis of The Legal and Policy Framework, (Verité Research March 2015).

19 'In pictures: Domestic workers fight for their rights', *The Sunday Times*, (2 August 2021) <https://www.timesonline.lk/news-online/In-pictures-Domestic-workers-fight-for-their-rights/2-1134451> accessed 8 August 2021.

Lankan citizenship until 2003.[20] The *Malaiyaha* Tamils continue to face consequences from decades of denial of basic state care, and remain one of the most economically, socially, and politically marginalised communities in the country.[21] To date, there is a system of trafficking and 'selling' of underage workers generally from the tea estate region, as well as numerous cases of gender-based violence that are undocumented or scarcely addressed.[22]

Ishalini's story is one scattered among the many that barely make headlines. Reports and cases of rape and trafficking struggle to see through the end of a long and winding state system, with little to no justice afforded to the young survivors or their families.[23] Also in July, news reports revealed that a 15-year-old minor has been trafficked and sexually exploited. The young girl had been 'advertised' on websites and social media and had been 'sold' to third parties over a period of three-four months.[24] While this incident received significant attention, Sinhala social media conversation on Ishalini's case was almost twice more. Such vivid attention afforded to Ishalini's death suggests that it was more than simply about a public's indignation over a young girl's sexual abuse.

Throughout July, both Sinhala and Tamil social media users discussing the events surrounding Ishalini's death followed similar patterns. These users focused primarily on the investigation and subsequent arrests. However, one of the key areas where conversation diverged was on the dissatisfaction over the 'politicisation of Ishalini's death'. Tamil social media users picked up such statements made by MP Shanakiyan Rasamanickam and State Minister Jeevan Thondaman. Speaking at Parliament on 3 August, MP Rasamanickam said that the Sri Lankan Government is using this incident to create a rift between the minority Muslim and Tamil communities, while State Minister Thondaman claimed that 'some' are trying to politicise the issue.[25]

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20 Verité Research and Institute on Statelessness and Inclusion, *Hill Country Tamils of Sri Lanka Towards Meaningful Citizenship*, (August 2019).

21 ibid.; and Yasmin Gunaratnam, 'Soap and solace scarce as Sri Lanka's tea pickers toil on amid lockdown,' *The Guardian*, (24 April 2020) <https://www.theguardian.com/global-development/2020/apr/24/soap-and-solace-scarce-as-sri-lankas-tea-pickers-toil-on-amid-lockdown> accessed 6 August 2021.

22 Department of State, USA, *Trafficking in Persons Report 2020*, 20 Edition (June 2020), 463.

23 Piyumi Fonseka, 'Child sexual abuse crisis in Sri Lanka', *Daily Mirror*, (21 August 2020) <https://www.dailymirror.lk/recomended-news/Child-sexual-abuse-crisis-in-Sri-Lanka/277-194218> accessed 7 August 2021.

24 Pavani Hapuarachchi, '17 arrested in Mt. Lavinia Child sex trafficking ring,' *Newsfirst*, (30 June 2020) <https://www.newsfirst.lk/2021/06/30/17-arrested-in-mt-lavinia-child-sex-trafficking-ring/> accessed 7 August 2021.

25 ''Govt. using Hishalini's death to incite Tamil-Muslim hatred..' – MP Rasamanickam (Video)', Newshub.lk, (4 August 2021) <https://newshub.lk/en/2021/08/04/govt-using-hishalinis-death-to-incite-tamil-muslim-hatred-mp-rasamanickam-video/> accessed 7 August 2021; and ''Investigations into the death of Hishalini satisfactory…' – Jeevan Thondaman'', *Newshub.lk*, (26 July 2021) <https://newshub.lk/en/2021/07/26/investigations-into-the-death-of-hishalini-satisfactory-jeevan-thondaman/> accessed 7 August 2021.

Sri Lanka is no stranger to anti-minority sentiment, and over the last decade, the primary target of harmful speech has been the Muslim population. The country witnessed anti-Muslim mob riots in bursts fuelled by disinformation and hate speech on social media.[26] Facebook was identified as having played a role in some of the riots of 2014 (Aluthgama), 2017 (Gintota), and 2018 (Ampara, Digana, and Teldeniya).[27] Following this, the 2019 Easter Sunday attacks were a major catalyst to existing anti-Muslim hate.[28] Add to this a culture of impunity for instigators of anti-Muslim speech and the continuing wide circulation of such speech — distrust towards the Muslim community has only worsened.

Hashtag Generation's data has confirmed that Muslims are currently the most targeted ethnoreligious group in Sri Lanka, across social media platforms. In just the last year, several events in the country have been overshadowed by anti-Muslim sentiment. A large portion of online conversation that took place during the first half of Sri Lanka's COVID-19 pandemic centred around the cremation-only policy that marginalised the wishes of the Muslim community.[29] Similarly, steps to curtail Muslim traditional clothing and regulate Islamic schooling has seen quicker progress than accountability and justice for the victims of the Easter Sunday attacks.[30]

Once again, calls for change are overshadowed by minority-majority politics and a fragmentation of the main issue, amidst a backdrop of worsening anti-Muslim feelings. Ishalini's story is set within a broader framework of class-based and gender-based hierarchies and violence. While her circumstances around employment and sexual exploitation have led to a much-needed call for action, it has also revealed the complexities of positioning these demands on the still-ongoing case[31] of one young girl. It has revealed an undercurrent of harmful speech, online and offline, that is eager to take over and change the

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26 Rohan Gunaratna, 'Sinhala-Muslim Riots in Sri Lanka: The Need for Restoring Communal History', (2018) 10(4) Counter Terrorist Trends and Analyses.

27 'Sri Lanka: Facebook apologises for role in 2018 anti-Muslim riots,' *Al Jazeera*, (13 May 2020) <https://www.aljazeera.com/news/2020/5/13/sri-lanka-facebook-apologises-for-role-in-2018-anti-muslim-riots> accessed 6 August 2021.

28 Anbarasan Ethirajan, 'Sri Lanka's Muslims 'demonised' after Easter bombings,' *BBC*, (13 August 2019) <https://www.bbc.com/news/world-asia-49249146> accessed 6 August 2021.

29 Omar Suleiman, 'Like India, Sri Lanka is using coronavirus to Stigmatise Muslims,' *Al Jazeera*, (20 May 2020) <https://www.aljazeera.com/opinions/2020/5/20/like-india-sri-lanka-is-using-coronavirus-to-stigmatise-muslims> accessed 6 August 2021.

30 Tasnim Nazeer, 'Sri Lanka's Burqa Ban Is More About Islamophobia Than National Security,' *The Diplomat*, (17 March 2021) <https://thediplomat.com/2021/03/sri-lankas-burqa-ban-is-more-about-islamophobia-than-national-security/> accessed 6 August 2021.

31 As at 17 September 2021, MP Bathiudeen's wife, father-in-law, brother-in-law, and the broker were released on bail. MP Rishad Bathiudeen was further remanded. 'Ishalini case: Rishad's wife & father-in-law granted bail', *Newswire*, (17 September 2021) <https://www.newswire.lk/2021/09/17/ishalini-case-rishads-wife-father-in-law-granted-bail/> accessed 20 September 2021.

course of public conversation. The original ‘story’ has lost its place in broader politically motivated prejudices.

In this very incident, the deep-rooted anti-Muslim sentiments come out clearer than the demands for change. As threats to Sri Lanka’s unstable ethnoreligious community relationships continue, #JusticeForIshalini?

That is yet to be achieved.

**Images used have been taken from social media as shared publicly.*
Names of individual accounts have been removed.

Terrorising Minorities through 'Counterterrorism'

Shreen Abdul Saroor and Mytili Bala

In Sri Lanka, history repeats. Before it was Tamils and the Janatha Vimukthi Peramuna (JVP) who bore the brunt of the counterterrorism efforts; now it is Muslims, dissenters, and minority rights activists. Harnessing the Prevention of Terrorism Act of 1979 (PTA), the state has rounded up hundreds of ordinary Muslims for prolonged detention while shielding monks who spread communal strife and dragging its feet in prosecuting actual perpetrators of the Easter attacks. The global COVID-19 pandemic has added fuel to the fire, with the government ramping up militarisation and disregarding religious sentiments of minorities, particularly of Muslims, under the guise of public health efforts. Now, taking cues from China's treatment of Uyghurs and Myanmar's post-coup military rule, Sri Lanka seems keen to strengthen the draconian PTA through deradicalization regulations that coerce 'rehabilitation'. Only after the European Union (EU) Parliament recommended withdrawal of preferential trade status (GSP+) in June did the government make overtures purporting to reform the PTA. But its actions betray its words.

In this piece, we provide an overview of where Muslims, dissenters, and minority rights activists stand today, two years after the Easter attacks. **Section I** describes how the state has applied draconian counterterrorism laws to place collective blame on the entire Muslim community for the Easter attacks. **Section II** describes how conditions have worsened during the COVID-19 pandemic, and how increasing militarisation of civil functions further threatens minority rights. **Section III** discusses proposed deradicalization regulations that take a cue from China's Uyghur playbook in further strengthening the PTA. Similarly, **Section IV** highlights how state efforts to proscribe certain Muslim groups by far overreach any legitimate security concern and hurt an already vulnerable community at large. Drawing these themes together, **Section V** concludes by evaluating current overtures toward reforming the PTA amidst state actions failing to protect minority communities. As we explain, what is needed is not PTA *reform* but wholesale *repeal* of repressive laws to restore minority rights and democratic governance, lives and communities are hanging precariously in the balance.

I. Easter Sunday and its Aftermath

On Easter Sunday 2019, Islamic State (IS)-inspired terrorists murdered 269 Catholic and Christian worshippers and tourists in a horrific spate of suicide bombings. In the two years since, the state has done next to nothing to deliver justice to victims of the attacks. To date, Batticaloa's Zion Evangelical Church, where fourteen children were killed, remains locked

with a notice on the gate claiming it an 'army construction site'.[1] With the state doing so little, many victim families have taken it on themselves to rebuild places of worship and commemorate their dead.

Instead of rebuilding, the state has cynically leveraged the Easter attacks to deepen ethnic strife. Having ignored warnings from international intelligence agencies[2] and local Muslims[3] before the attacks, it overnight branded an entire Muslim community — almost 10 percent of Sri Lanka's population — as terrorists. Emergency rule from April to August 2019 facilitated widespread discrimination. A ban on face coverings uniquely targeted *niqab*[4]-wearing Muslim women, resulting in rampant harassment and intimidation of those who veiled.[5] Vigilante mobs raided Muslim villages, destroying homes, businesses, schools, *madrasas* (Islamic teaching school) and mosques while police and intelligence officials stood by. Pakistani and Afghani refugees and asylum seekers were evicted and left with no place to go. Newspapers propagated baseless rumors, including one that a Muslim government doctor had sterilised thousands of Sinhala women. Extremist Buddhist monks urged boycotts of Muslim restaurants, spreading rumours that they would poison Sinhalese customers. They also forced the mass resignation of Muslim members of parliament (MPs).[6]

Throughout emergency rule, the state arrested hundreds of ordinary Muslims on flimsy or fabricated charges.[7] Some were arrested for possessing writings in Arabic script; one woman was detained on the mistaken belief that she wore a dress depicting the Buddhist

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1 [See author's photos accompanying article] Shreen Saroor, 'New de-radicalisation regulations will further dehumanise Muslims', *The Morning*, (21 April 2019) <https://www.themorning.lk/new-de-radicalisation-regulations-will-further-dehumanise-muslims/> accessed 12th August 2021.

2 Jeffrey Gettleman & Dharisha Bastians, 'Sri Lanka Authorities Were Warned, in Detail, 12 Days Before Attack', *NY Times,* (29 April 2019) <https://www.nytimes.com/2019/04/29/world/asia/sri-lanka-attack-warning.html> accessed 21st August 2021

3 'Lauren Frayer, Before Sri Lanka's Easter Attacks, Muslims' Warnings About Terrorism Went Unheeded', *NPR News,* (12 December 2019) <https://www.npr.org/2019/12/12/786639735/before-sri-lankas-easter-attacks-muslims-warnings-about-terrorism-went-unheeded> accessed 21st August 2021

4 *Niqab* is a face veil worn by Muslim women, usually covering all of the face except the eyes.

5 Hilary Margolis, 'Sri Lanka's Face-Covering Ban a Wrongheaded Response to Easter Bombings', *Human Rights Watch,* (2 May 2019) <https://www.hrw.org/news/2019/05/02/sri-lankas-face-covering-ban-wrongheaded-response-easter-bombings#> accessed 12th August 2021.

6 International Crisis Group, After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence, *International Crisis Group,* (27 September 2019)<https://www.crisisgroup.org/asia/south-asia/sri-lanka/302-after-sri-lankas-easter-bombings-reducing-risks-future-violence> accessed 12th August 2021 (hereafter "ICG Report").

7 Lawyers reported that at least 500 Muslims were detained in the immediate aftermath of the attacks. See Marisa de Silva, 'PTA: Terrorising Sri Lanka for 42 years', *Colombo Telegraph,* (17 November 2020) <https://www.colombotelegraph.com/index.php/pta-terrorising-sri-lanka-for-42-years/> accessed 12th August 2021. The International Crisis Group placed that figure at 1,800. See ICG Report, 22.

dharmachakra.[8]Over two hundred individuals arrested after the Easter attacks remain in detention two years later, many in overcrowded facilities with no access to counsel.[9] Meanwhile, mass arrests have continued unabated in the post-emergency context. In Kattankudy alone, about 78 men, women and teenage boys have been lumped under a single Easter bombing investigation. By lumping these individuals together under one case (B427/2019), authorities have not only derailed bail for those mistakenly held but also complicated the appeal process. Many in this group have been locked up without charge for over 18 months, which is the maximum period allowed under the PTA.

For decades, the state has used the PTA to detain Tamils, political opponents, journalists, and human rights activists. The PTA's overbroad provisions allow suspects to be held up to 18 months without charge, permit the Ministry of Defence to restrict freedom of expression and association without means for legal redress, and incorporate evidentiary rules that incentivise the police to obtain coerced confessions through torture.[10] Just as the PTA was once used against thousands of Tamils suspected of having ties to the militancy, it is now being used to arrest hundreds of ordinary Muslims.

Hand-in-hand with the PTA, authorities are also increasingly detaining people under the International Covenant on Civil and Political Rights (ICCPR Act of 2007. The stated purpose of the ICCPR Act is to protect persons from speech that incites discrimination, hostility, or violence against a national, racial, or religious group. The original aim, drawn from the International Covenant of Civil and Political Rights, was to protect vulnerable minority groups from violence and discrimination.[11] Instead, the state uses the ICCPR Act solely as a tool of repression, arresting minorities on grounds that their speech or petitioning activity disrupts 'communal harmony'. As lawyer Gehan Gunatilleke puts it, the ICCPR Act is no more

8 ICG Report, 22; see also 'Sri Lanka: Muslims Face Threats, Attacks', *Human Rights Watch,* (3 July 2019) <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> accessed 12th August 2021; 'Sri Lanka: Respect Human Rights in the Aftermath of the Easter Attacks', *Amnesty Int'l,* (3 May 2019) <https://www.amnesty.org/en/documents/asa37/0297/2019/en/> 12th August 2021; Anbarasan Ethirajan, 'Sri Lanka's Muslims 'demonised' after Easter Bombings', *BBC News*, (13 August 2019) <https://www.bbc.com/news/world-asia-49249146> accessed 12th August 2021.

9 Sarath Weerasekara, the Minister of Public Security, held a press briefing on 6 April 2021 at which he indicated that 75 individuals suspected of ties to the Easter attacks are currently being held under detention orders, while 211 are under remand custody. 'Ringleaders behind Easter attacks identified: Sarath Weerasekara', *Ada Derana*, (6 April 2021) <http://www.adaderana.lk/news/72860/ringleaders-behind-easter-attacks-identified-sarath-weerasekara> accessed 12th August 2021.

10 Ermiza Tegal, *Understanding Rule of Law, Human Security and Prevention of Terrorism in Sri Lanka*, (Law & Society Trust 2021) 16-20, 24-25.

11 Gehan Gunatilleke, 'Sri Lanka's ICCPR Act: Broken Shield and Weapon of Choice', *The Morning*, (23 June 2019) <https://epaper.themorning.lk/Home/ShareArticle?OrgId=9985a873&imageview=1> accessed 12th August 2021.

than "a weapon wielded by majoritarian power to suppress those who offend majoritarian sensibilities".[12] Similar to the PTA, it permits extended detention without bail.[13]

Some have been detained under the PTA and ICCPR Act for their writings, which arresting officers woefully misconstrued. In May 2020, twenty-six-year-old Muslim poet Ahnaf Jazeem was arrested in Mannar under the PTA for 'promoting extremism'. To date he has not been produced before a magistrate. He was arrested for publishing a photograph of a person in a Taliban-style dress beside one of his poems, but the poem itself (which the police evidently did not read) *denounced* Islamic terrorism.[14] Similarly, before his release on bail last September, Ramzy Razeek was detained under the ICCPR Act for a Facebook post advocating 'ideological jihad' — as in 'struggle' —to fight racism 'using the pen and keyboard as weapons'.[15]

Many Muslims have been detained for happenstance contact with one of the suicide bombers or for having listened to a sermon of the now-banned National Thowheeth Jamaath (NTJ) group.[16] A working-class man named Mohamed Irfan was arrested in Kattankudy based on the allegation that he had once delivered food in his tuk-tuk to one of the main suicide bombers. Similarly, a computer teacher was arrested because his company was paid, back in 2015, to create a web page for a charity managed by an NTJ mosque.[17] Fifty-five-year-old Jufaithiya was arrested because she listened to a banned NTJ sermon on a single occasion. A cancer patient, she has been denied treatment while being held at the Tangalle Navy camp.

In general, women suffer disproportionately from arbitrary detention. When they are not themselves detained, they stand at the forefront struggling to get their spouses and children released. They visit their kith and kin in far off detention centres and, with household

12 'Misuse of the ICCPR Act and Judicial System to Stifle Freedom of Expression in Sri Lanka', *Civicus*, (May 17, 2019) <https://monitor.civicus.org/updates/2019/07/05/iccpr-act-and-judicial-system-being-misused-stifle-freedom-expression-sri-lanka/> accessed 12th August 2021; 'Sri Lanka abusing UN law to make arrests: Rights group', Times of India (Jun. 17, 2019), <http://timesofindia.indiatimes.com/articleshow/69825080.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 12th August 2021.

13 ICG Report, supra, 22, fn. 109.

14 'Poetic injustice: Another writer languishes in prison under the PTA', *Daily FT,* (14 December 2020) <http://www.ft.lk/news/Poetic-injustice-Another-writer-languishes-in-prison-under-PTA/56-710172> accessed 12th August 2021.

15 'Sri Lanka: Due Process Concerns in Arrests of Muslims', *Human Rights Watch*, (23 April 2020), <https://www.hrw.org/news/2020/04/23/sri-lanka-due-process-concerns-arrests-muslims> accessed 12th August 2021.

16 The NJT is a local group identified as being behind the Easter Sunday attacks.

17 Marisa de Silva, 'PTA: Terrorising Sri Lanka for 42 years', *Colombo Telegraph*, (17 Nov. 2020) <https://www.colombotelegraph.com/index.php/pta-terrorising-sri-lanka-for-42-years/> accessed 12th August 2021.

breadwinners behind bars, must find new ways to earn to make ends meet and secure release for their loved ones.

Prominent lawyers and politicians have not been shielded from indiscriminate arrest. After he gave a critical media interview, former Colombo Deputy Mayor Azath Salley was arrested and detained for over a month under the ICCPR Act and PTA.[18] MP Rishad Bathiudeen and his brother were arrested in the middle of the night on 23 April 2021 and ordered to be detained for three months under the PTA.[19] Leading opposition MP Harin Fernando faced possible arrest for a parliamentary speech given on 21 April.[20] Lawyer Hejaaz Hizbullah, a well-known advocate for the rule of law and minority rights, was ultimately charged in March 2021 under the PTA and ICCPR Act after nearly a year in detention during which the state propagated a media narrative connecting him to the Easter attacks.[21]

As anti-terror laws are weaponised against minorities and dissenters, extremist Buddhist monks and media channels foment strife with impunity.[22] In 2014, *Bodu Bala Sena* leader

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18 'Azath Salley arrested and detained under PTA and ICCPR – AG's Dept.', *EconomyNext*, (16 March 2021) <https://economynext.com/azath-salley-arrested-and-detained-under-pta-and-iccpr-ags-dept-79827/> accessed 12th August 2021; 'Norman Palihawadane, Salley arrested under the PTA', The Island, (17 March 2021) https://island.lk/salley-arrested-under-pta/ accessed 12th August 2021.

19 'Sri Lanka arrests Muslim leader over 2019 Easter Sunday attacks', *Al Jazeera*, (24 April 2021), <https://www.aljazeera.com/news/2021/4/24/sri-lanka-arrests-muslim-leader-over-easter-attacks> accessed 12th August 2021; 'Former Lankan minister arrested for aiding bombers responsible for Easter Sunday attacks', *The Week*, (24 April 2021), <https://www.theweek.in/news/world/2021/04/24/former-lankan-minister-arrested-for-aiding-bombers-responsible-for-easter-sunday-attacks.html> accessed 12th August 2021; 'Zulfick Farzan, D/O obtained to interrogate Rishad & brother for 90 days', *Newsfirst,* (27 April 2021), <https://www.newsfirst.lk/2021/04/27/d-o-obtained-to-interrogate-rishad-brother-for-90-days/> accessed 12th August 2021.

20 Harin, 'Manusha Rock Parliament With Exposes: Who Did Easter Sunday Bombers Call 'Sonic-Sonic' And 'The Boss'?', *Colombo Telegraph*, (21 April 2021), <https://www.colombotelegraph.com/index.php/harin-manusha-rock-parliament-with-exposes-who-did-easter-sunday-bombers-call-sonic-sonic-and-the-boss/> accessed 12th August 2021.

21 'Amnesty Int'l Public Statement, Increased Marginalization, Discrimination and Targeting of Sri Lanka's Muslim Community, *Amnesty International*, '(19 March 2021) < https://www.amnesty.org/en/documents/asa37/3866/2021/en/> accessed 12th August 2021; 'Hizbullah's Family Decries "Vicious" Media Campaign After Confidential Statements Provided to Judge Leaked!', *Colombo Telegraph,* (14 May 2020), <https://www.colombotelegraph.com/index.php/hizbullahs-family-decries-vicious-media-campaign-after-confidential-statements-provided-to-judge-leaked/> accessed 12th August 2021. See also Urgent Action, Amnesty Int'l, Sri Lanka: Concerns Mount for Detained Lawyer: Hejaaz Hizbullah, ASA 37/2221/2020 (Apr. 27, 2020), <https://www.amnesty.org/en/documents/ASA37/2221/2020/en/> accessed 12th August 2021; 'Sri Lanka: ICJ Raises Concerns About the Arbitrary Arrest and Detention of Lawyer Hejaaz Hizbullah', Int'l Comm'n of Jurists, (21 April 2020) <https://www.icj.org/sri-lanka-icj-raises-concerns-about-the-arbitrary-arrest-and-detention-of-lawyer-hejaaz-hizbullah-calls-for-repeal-and-replacement-of-the-prevention-of-terrorism-act/> accessed 12th August 2021.

22 Visit to Sri Lanka: Report of the U.N. Special Rapporteur on freedom of religion or belief, U.N. Doc. A/HRC/43/48/Add.2 (Aug. 25, 2020), paragraphs 23-27. See also 'Misleading claim circulates that Muslims ignored COVID-19 curfew at Sri Lankan mosque', *AFP Fact Check* (8 April,

Gnanasara Thero signed a pact with Ashin Wirathu, the leader of Myanmar's 969 movement who once called himself 'the Burmese bin Laden'. The two vowed to build anti-Islamic networks within hardline Buddhist groups.[23] Thereafter Sri Lanka erupted in spates of violence inspired by racist monks against Muslims. No one was prosecuted under the ICCPR Act for attacks in 2014, 2017, 2018, and 2019. Gnanasara was briefly jailed for witness intimidation of anti-disappearance activist Sandya Eknaligoda but later pardoned.[24] Defying a magistrate's order in September 2019, he cremated a deceased Buddhist monk on Hindu temple grounds in Mullaitivu while police stood by idly.[25] No charges have been brought against him for contempt of court, while Tamils and journalists who protested against the incident have faced harassment. Incredibly, the Presidential Commission of Inquiry on the Easter Sunday attacks recommended that Gnanasara be investigated for his role in past anti-Muslim violence; yet only Rishad Bathiudeen, against whom the Commission deemed allegations unfounded, remains in custody under the PTA.[26]

The state has shielded not only racist 'monks' but the very Islamic terrorists linked to the Easter attacks. In January 2021, three men were charged *in the United States* with aiding and abetting the Easter attacks and conspiring to provide material support to ISIS: Mohamed Naufar, Mohamed Riskan and Ahamed Milhan.[27] Although the three have long been in Sri

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2020) <https://factcheck.afp.com/misleading-claim-circulates-muslims-ignored-covid-19-curfew-sri-lankan-mosque> accessed 12th August 2021; 'China Spearheads Anti-Muslim Propaganda Campaign In Sri Lanka Amid Coronavirus Fears', *Colombo Telegraph*, (30 April 2020) <https://www.colombotelegraph.com/index.php/china-spearheads-anti-muslim-propaganda-campaign-in-sri-lanka-amid-coronavirus-fears/> accessed 12th August 2021.

23 Ranga Srilal, 'Hardline Buddhists in Myanmar, Sri Lanka strike anti-Islamic pact', *Reuters* (30 Sept. 2014) <https://www.reuters.com/article/us-sri-lanka-buddhism-myanmar/hardline-buddhists-in-myanmar-sri-lanka-strike-anti-islamist-pact-idUSKCN0HP1RE20140930> accessed 12th August 2021; Charles Haviland, 'The darker side of Buddhism', *BBC News*, (30 May 2015) <https://www.bbc.com/news/magazine-32929855> accessed 12th August 2021.

24 'Sri Lanka hardline monk Gnanasara jailed for intimidation', *BBC News*, (14 June 2018) <https://www.bbc.com/news/world-asia-44479610> accessed 12th August 2021; 'Sri Lanka president pardons hardline Buddhist monk', *Reuters*, (22 May 22 2019) <https://www.reuters.com/article/uk-sri-lanka-monk-pardon/sri-lanka-president-pardons-hardline-buddhist-monk-idUKKCN1SS23V> accessed 12th August 2021.

25 Meera Srinivasan, 'Where the saffron robe has the final say', *The Hindu*, (28 September 2019), <https://www.thehindu.com/news/international/when-the-saffron-robe-has-the-final-say/article29543715.ece> accessed 12th August 2021.

26 'Rishad's wife questions failure to arrest Gnanasara Thero', *Colombo Gazette*, (3 May 2021), <https://colombogazette.com/2021/05/03/rishads-wife-questions-failure-to-arrest-gnanasara-thero/> accessed 12th August 2021; Faizer Shaheid, 'Role of varios leaders in the Easter attacks PCoI report', *The Morning*, (31 March 2021) <https://www.themorning.lk/role-of-various-leaders-in-easter-attacks-pcoi-report/#> accessed 12th August 2021.

27 'Three Foreign Nationals Charged with Conspiring to Provide Material Support to ISIS', *U.S. Department of Justice Press Release*, (8 January 2021) <https://www.justice.gov/opa/pr/three-foreign-nationals-charged-conspiring-provide-material-support-isis> accessed 12th August 2021.

Lankan custody, the state dragged its feet in charging them.[28] None appeared on a terrorism financing list updated by the Ministry of Defence in February 2021.[29] The Presidential Commission Report investigating the Easter attacks has yet to be publicly released, and only recently did the President launch an investigation into intelligence links of the suicide bombers.[30] With pressure mounting, on 11 August 2021, the Attorney General's Department finally filed an indictment charging 25 individuals under the PTA with conspiracy and aiding and abetting the Easter attacks.[31]

In short, after the horrific Easter Sunday attacks, the state has largely failed to investigate or prosecute those actually responsible, or heal the lasting scars borne by families of the dead. It has instead harnessed the PTA and ICCPR Act to target the Muslim community at large through discriminatory policies and mass arrests. The numbers are striking — of 7,600 emergency regulation, PTA and ICCPR arrests since April 2019, the state has investigated only about 300 for links to the Easter attacks, of which 32 are suspected of actual involvement.[32] For the scores targeted without any reasonable basis, the state has offered neither an apology nor respite from discriminatory treatment.

II. Pandemic Response and Increasing Militarisation

Almost a year after the Easter attacks, the global COVID-19 pandemic hit. Through its pandemic response, the Sri Lankan government has exacerbated conditions for Muslims, dissenters, and minority rights activists. Early on, media reports blamed Muslims for

28 Naufar has been labeled as the "mastermind" of the attacks, but the Attorney General stated at a May 15, 2021 press conference that charges could not be filed against him or other conspirators until the CID's investigation had concluded. See 'Sri Lanka Attorney General claims "grand conspiracy" behind Easter attack: report', *Economy Next,* (18 May 2021) <https://economynext.com/sri-lanka-attorney-general-claims-grand-conspiracy-behind-easter-attack-report-82074/> accessed 12th August 2021; Asiri Fernando, 'MP Weerasekara calls for CID report following AG's claims regarding Easter Sunday Bombings investigation', *Daily FT*, (17 May 2021) <https://www.ft.lk/news/MP-Weerasekara-calls-for-CID-report-following-AG-s-claims-regarding-Easter-Sunday-Bombings-investigation/56-717910> accessed 12th August 2021.

29 Gazette Extraordinary No. 2216/37. 25 February 2021.

30 'Easter bombings: Sri Lanka probes charges against spy agencies', *Al Jazeera*, (16 July 2021) <https://www.aljazeera.com/news/2021/7/16/easter-sunday-bombings-sri-lanka-probe-spy-agencies> accessed 12th August 2021.

31 'Easter Sunday Attacks case: AG's Dept Files Principal Indictment Against 25 Suspects', *Ceylon Today,* (11 August 2021) <https://ceylontoday.lk/news/easter-sunday-attacks-case-ag-s-dept-files-principal-indictment-against-25-suspects> accessed 12th August 2021; Krishan Francis, 'Sri Lanka files charges against 25 Easter bombing suspects', *Washington Post*, (12 August 2021) <https://www.washingtonpost.com/world/sri-lanka-files-charges-against-25-easter-bombing-suspects/2021/08/11/18c6d75a-fa98-11eb-911c-524bc8b68f17_story.html> accessed 12th August 2021.

32 'Relevant documents on cases against 32 Easter Sunday attack suspects sent to the Attorney General', *ColomboPage*, (9 March 2021) <http://www.colombopage.com/archive_21A/Mar09_1615273035CH.php.> accessed 12th August 2021.

spreading the virus, while a social media campaign urged boycotts of Muslim-owned businesses claiming 'deliberate' spread of COVID-19 at Muslim establishments. Authorities did nothing to challenge the rampant baseless conspiracy theories scapegoating Muslims.[33]

Worse, state policy directly targeted religious minorities. In a controversial move, the government issued an order prohibiting burial and mandating cremation of actual or suspected COVID-19 deceased. The forced cremation policy elicited fierce criticism from United Nations officials and rights groups, who noted that it flouted World Health Organization (WHO) and public health guidelines.[34] Nevertheless, the government refused to budge for nearly a year, particularly scarring the collective psyche of the Muslim community for whom cremation constitutes desecration of the dead. Sri Lanka was the only country to ban burials, and the forced cremation policy had the perverse effect of making nearly 10 percent of Sri Lanka's population fear seeking treatment in the midst of a public health crisis. When the policy was finally lifted in February 2021, the state initially chose a remote island for burials in Tamil lands, as if intent to pit minorities against each other in a war-affected region.[35]

For those detained under the PTA and ICCPR Act, the pandemic has exacerbated conditions of confinement, with the state flouting rules in the name of pandemic response. Due to the pandemic, many detainees were not physically brought before a magistrate within the required 14 days. Families of detainees have faced duress, unable to visit their loved ones and granted only a five-minute weekly phone call. Some families have learnt that their loved ones have contracted COVID in prisons and detention sites. A 17-year-old who has been detained for over two years without charge since the Easter attacks has suffered a mental breakdown but receives neither mental health treatment nor parental visits. It took ten months and multiple letters to authorities for poet Ahnaf Jazeem to gain access to legal counsel.[36] His private meetings with counsel were illegally recorded, and he has languished in appalling prison conditions where rats have bitten him. Attorney Hejaaz Hizbullah was not produced before a magistrate within the 90 days required by his detention order.[37]

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33 'Open Wounds and Mounting Dangers: Blocking Accountability for Grave Abuses in Sri Lanka', *Human Rights Watch*, (1 February 2021) <https://www.hrw.org/news/2021/02/01/sri-lanka-justice-under-attack> accessed 12th August 2021 (hereafter "HRW Report").

34 'Sri Lanka: 'Forced' cremation of COVID victims' bodies must stop - UN rights experts', UN News, (25 January 2021) <https://news.un.org/en/story/2021/01/1082882> accessed 12th August 2021; Joanna Slater & Piyumi Fonseka, 'In Sri Lanka, a unique pandemic trauma: forced cremations', *Washington Post,* (12 February 2021) <https://www.washingtonpost.com/world/asia_pacific/sri-lanka-cremations-covid/2021/02/12/b97719a6-6562-11eb-bab8-707f8769d785_story.html> accessed 12th August 2021.

35 'Covid-19: Sri Lanka chooses remote island for burials', *BBC News,* (2 March 2021) <https://www.bbc.com/news/world-asia-56249805> accessed 12th August 2021.

36 Meera Srinivasan, 'Year-long detention of lawyer, poet sparks concern in Sri Lanka', *The Hindu,* (6 May 2021) <https://www.thehindu.com/news/international/year-long-detention-of-lawyer-poet-sparks-concern-in-sri-lanka/article34501745.ece> accessed 12th August 2021.

37 HRW Report, supra, 22.

During his time in a congested facility, he contracted COVID-19.[38] As all these examples suggest, the state has used the pandemic to deny all judicial oversight and protection to detainees who have *yet to be charged* with any offense.[39] A recent Extraordinary Gazette authorising detention of PTA detainees at Colombo's Counterterrorism Investigation Unit — a notorious torture site — forebodes worse mistreatment.[40]

Beyond these examples, the COVID-19 pandemic has facilitated increasing militarisation, which in turn will further diminish minority rights. Military control over numerous aspects of civilian life is reflected in the policing of public health, education, and food distribution and the Ministry of Defence oversees telecommunications, immigration, and non-governmental organisations (NGOs).[41] Military officers, some of whom are credibly accused of war crimes and other abuses, simultaneously occupy powerful civilian and military roles.

For instance, the government consolidated its pandemic response under the military. Army Commander Shavendra Silva, who is alleged to be responsible for war crimes, heads the National Operation Centre for Prevention of COVID-19 Outbreak (NOCPCO). He makes public health policies for NOCPCO with neither public discussion nor judicial or parliamentary oversight. Several military personnel serve on the Presidential Task Force on COVID-19 response led by the current Finance Minister Basil Rajapaksa.[42] The military oversees quarantine centres, which are concentrated in the already militarised Tamil and Muslim areas in the North and East. It is the military that enforces curfews, runs checkpoints, and makes curfew-related arrests.[43] The military is also engaged in transporting and overseeing

38 ibid.

39 Treatment also remains abhorrent for those indicted under the PTA and awaiting trial. A riot in the Mahara high security prison last November killed 11 and injured at least 100. Fearing the virus, inmates begged guards for testing access and proper quarantining procedures. Guards responded by opening fire, prompting the President to release small numbers of detainees on bail to relieve congestion. See, Meera Srinivasan, 'Following deadly riot, spotlight on Sri Lanka's prison conditions', *The Hindu*, (10 December 2020) <https://www.thehindu.com/news/international/following-deadly-riot-spotlight-on-sri-lankas-prison-conditions/article33302053.ece> accessed 12th August 2021.

40 Gazette Extraordinary No. 2230/15, 4 June 2021.

41 See generally, Thusiyan Nandakumar, 'Myanmar and Sri Lanka: Bound by Travails', *The Diplomat,* (27 February 2021) <https://thediplomat.com/2021/02/myanmar-and-sri-lanka-bound-by-travails/> accessed 12th August 2021.

42 'Statement on the Presidential Task Forces', (Centre for Policy Alternatives 15 June 2020), <https://www.cpalanka.org/statement-on-the-presidential-task-forces/> accessed 12th August 2021.

43 Boram Jang, 'Sri Lanka: vulnerable groups pay the price for militarization of COVID-19 response', *ICJ*, (27 October 2020) <https://www.icj.org/sri-lanka-vulnerable-groups-pay-the-price-for-militarization-of-covid-19-response/> accessed 12th August 2021; Thusiyan Nandakumar, 'Sri Lanka's militarized coronavirus containment has grave consequences', *MedAct.org*, (16 October 2020) <https://www.medact.org/2020/blogs/sri-lanka-coronavirus/> accessed 12th August 2021; 'A Complaint logged against General Shavendra Silva for cruel, inhumane & degrading treatment in quarantining FTZ workers', *Sri Lanka Brief*, (19 October 2020) <https://srilankabrief.org/sri-lanka-a-complaint-logged-against-

the burial of the COVID-deceased, coordinating vaccination efforts, and (more recently) managing COVID patients in government hospitals.

In a purported attempt to combat misinformation about COVID-19, the police announced in April 2020 that those criticising the state's pandemic response would face arrest.[44] Within a month, at least 17 were arrested for allegedly sharing 'fake news'," including a university student whose Facebook post criticised Basil Rajapaksa's appointment to the COVID-19 task force, and a youth whose Facebook post critiqued a divisional secretariat's quarantine policies.[45] Seven Tamil youth were arrested in Trincomalee by a *military officer*, whose name is mentioned in court filings, for posting about the destruction of a war memorial — which suggests the military is now involved in monitoring social media activity. In recent months, there have been numerous arrests of Tamils and Muslims who 'like,' 'thumbs up', or 'forward' pictures or videos on social media expressing frustration or countering fake news or anti-minority posts on Facebook, WhatsApp, Instagram, and Tik Tok. Court-filed B reports for these detainees allege that they propagated war under the ICCPR Act and/or revamped LTTE (Liberation Tigers of Tamil Eelam) terrorism under the PTA.

Civil society activism has likewise been quelled in the name of pandemic response. Authorities have selectively shut down protests over the forced cremation policy and the global Black Lives Matter movement.[46] Teachers union and student union leaders have been arrested for protesting proposed education policies.[47] Police attempt to silence these leaders by forcing them to undergo military quarantine in the Mullaitivu Air Force base.[48] All the

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general-shavendra-silva-for-cruel-inhumane-degrading-treatment-in-quarantining-ftz-workers/> accessed 12th August 2021.

44 'Asia: Bachelet alarmed by clampdown on freedom of expression during COVID-19', UN OHCHR Statement, (3 June 2020) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25920&LangID=E> accessed 12th August 2021; Meenakshi Ganguly, 'Sri Lanka Uses Pandemic to Curb Free Expression', *Human Rights Watch*, (3 April 2020) <https://www.hrw.org/news/2020/04/03/sri-lanka-uses-pandemic-curtail-free-expression> accessed 12th August 2021; 'Old Ghosts in New Garb: Sri Lanka's Return to Fear', *Amnesty International,* (17 February 2021) <https://www.amnesty.org/en/documents/asa37/3659/2021/en/> accessed 12th August 2021 (hereafter "Amnesty Report").

45 Amnesty Report, supra, 8, 25-26.

46 Amnesty Report, supra, 26-29; Kalani Kumarasinghe, 'Sri Lanka cracks down on Black Lives Matter Solidarity Protest', *The Diplomat*, (11 June 2020) <https://thediplomat.com/2020/06/sri-lanka-cracks-down-on-black-lives-matter-solidarity-protest/> accessed 12th August 2021.

47 Aazam Ameen, 'IUSF Convener and several others arrested', *The Morning,* (6 August 2021) <https://www.themorning.lk/iusf-convener-and-several-others-arrested/> accessed 12th August 2021.

48 'Trade unionists stage protest at quarantine facility', *Newsfirst,* (11 July 2021) <https://www.newsfirst.lk/2021/07/11/trade-unionists-stage-protest-at-quarantine-facility/> accessed 12th August 2021; Rathindra Kuruwita, 'Stalin accuses Minister Weerasekera of lying', *The Island,* (10 July 2021) <https://island.lk/stalin-accuses-minister-weerasekera-of-lying/> accessed 12th August 2021.

while, the state allowed other large gatherings to proceed to commemorate 'National Heroes' Day', MP Basil Rajapaksa's ministerial appointment, and a cabinet minister's funeral.[49]

Sri Lanka's militarised pandemic response reflects broader currents underway. Last year, President Rajapaksa announced a task force designed to create a 'Secure Country, Disciplined, Virtuous and Lawful Society'.[50] Headed by Secretary to the Ministry of Defence Ret. Major General Kamal Gunaratne, who is also alleged to be responsible for war crimes, the task force consists entirely of army, navy, air force, police, and intelligence personnel.[51] It has a sweeping mandate 'to curb the illegal activities of social groups which are violating the law which is emerging as harmful to the free and peaceful existence of society'.[52] 'Anti-social activities' in turn are left undefined, empowering state officials to target those who engage in protected political speech. We can infer from arrests of Tamil and Muslim activists and the Terrorist Investigation Department's harassment of 34 local minority rights NGOs that the state will seek to expand its powers to crush engagement on minority rights.[53] Similar concerns are motivating ongoing protests against a proposed bill promoting civilian enrollment at the Kotelawala National Defense University and military entry to Sri Lankan higher educational system.[54] Given broader trends of militarisation, it should perhaps surprise no one that Sri Lanka has taken a weak stance on Myanmar post-coup and invited the foreign minister of Myanmar's military junta to a meeting of Asian foreign ministers.[55]

In short, what began pre-pandemic has only been exacerbated. The government has at times used the pandemic as a basis to strip Muslims, dissenters and minority rights activists of their fundamental rights. By increasingly turning to the military — not only in its pandemic response but also in policing, health, and education policy — the state is paving the way for

49 Amnesty Report, supra, 26-29; 'In Pictures: 12th National War Heroes' Day commemorated in Sri Lanka', *ColomboPage*, (20 May 2021) <http://www.colombopage.com/archive_21A/May20_1621450818CH.php> accessed 12th August 2021.

50 'Two separate Presidential Task Forces to ensure a Secure Country & for Archaeological Heritage Management', GoSL Presidential Secretariat, (3 June 2020) <https://www.presidentsoffice.gov.lk/index.php/2020/06/03/two-separate-presidential-task-forces-to-ensure-a-secure-country-for-archaeological-heritage-management/> accessed 12th August 2021.

51 ibid.

52 ibid.

53 'Sri Lanka: Newly constituted Presidential Task Force threatens rule of law', *International Commission of Jurists,* (5 June 2020) <https://www.icj.org/sri-lanka-newly-constituted-presidential-task-force-threatens-rule-of-law/> accessed 12th August 2021.

54 Dinesha Samararatne, 'The KNDU Bill', *DailyFT,* (3 August 2021) <https://www.ft.lk/columns/The-KNDU-Bill/4-721232> accessed 12th August 2021.

55 Waruna Karunatilake & Poppy McPherson, 'Sri Lanka invites Myanmar junta rep to meeting, denies endorsing coup', *Reuters,* (10 March 2021) <https://www.reuters.com/article/myanmar-politics-sri-lanka/sri-lanka-invites-myanmar-junta-rep-to-meeting-denies-endorsing-coup-idUSL1N2L81EM> accessed 12th August 2021.

militarisation of civilian functions. This will in turn not only lead to dictatorship but a further degradation of minority rights.

III. Deradicalization Regulations

Activists have long shown that the PTA facilitates torture, enforced disappearance, and other grave human rights abuses. In January 2021, UN High Commissioner for Human Rights Michelle Bachelet criticised Sri Lanka for continuing PTA detentions 'despite repeated calls over many years by United Nations human rights mechanisms to repeal it'.[56] Rather than repeal the PTA, the Rajapaksa administration now seeks to strengthen it by taking a cue from China.

In recent years, China has detained a million of its Uyghurs, Kazakhs, and other Muslims in secret 'reeducation centers', which have been described as the largest mass-scale internment of ethnic and religious minorities since World War Two.[57] Chinese officials have claimed that a third of Xinjian's Uyghurs are 'polluted by religious extremist forces' and need to be cleansed of their ideology and not merely punished for their actions.[58] The United States (US) and other countries have labelled Chinese policies of forced internment, travel restrictions, religious suppression, and sterilisation as genocide.[59] The US, EU, United Kingdom, and Canada have sanctioned the Chinese Communist Party officials who developed these policies and barred certain imports from Xinjian.[60]

56 Report of the Office of the High Commissioner for Human Rights to the U.N. Human Rights Council, A/HRC/46/20, paragraph 36 (27 January 2021) <https://undocs.org/A/HRC/46/20> accessed 12th August 2021.

57 Ben Mauk, 'Inside Xinjiang's Prison State', *New Yorker*, (26 February 2001) <https://www.newyorker.com/news/a-reporter-at-large/china-xinjiang-prison-state-uighur-detention-camps-prisoner-testimony> accessed 12th August 2021.

58 Raffi Khatchadourian, 'Surviving the Crackdown in Xinjiang', *New Yorker*, (5 April 2021) <https://www.newyorker.com/magazine/2021/04/12/surviving-the-crackdown-in-xinjiang>

59 [United States] John Hudson, 'As tensions with China grow, Biden administration formalizes genocide declaration against Beijing', *Washington Post*, (30 March 2021) <https://www.washingtonpost.com/national-security/china-genocide-human-rights-report/2021/03/30/b2fa8312-9193-11eb-9af7-fd0822ae4398_story.html> accessed 12th August 2021; [Netherlands] 'Dutch parliament: China's treatment of Uighurs is genocide', *Reuters*, (25 February 2021) <https://www.reuters.com/article/us-netherlands-china-uighurs-idUSKBN2AP2CI> accessed 12th August 2021; [Canada] Ryan Patrick Jones, 'MPs vote to label China's persecution of Uighurs a genocide', *CBC News*, (22 February 2021) <https://www.cbc.ca/news/politics/uighur-genocide-motion-vote-1.5922711> accessed 12th August 2021.

60 Khatchadourian, 'Surviving the Crackdown in Xinjiang', supra note 3.

Sri Lankan officials have taken the opposite view, publicly defending China's policies and modelling proposed new PTA regulations after them.[61] On 12 March 2021, President Rajapaksa unveiled new regulations under the PTA by Extraordinary Gazette. Entitled *De-radicalization from holding violent extremist religious ideology*, they permit the Defense Ministry to create 'reintegration centres' designed to rehabilitate those who cause or intend to cause 'acts of violence or religious, racial or communal disharmony or feelings of ill will or hostility between different communities or racial or religious groups'.[62] As with China's 'reeducation centres,' these camps go beyond punishing overt acts to criminalise thoughts and deeds that are far removed from terrorism, on the asserted basis that the state can *predict* whether an individual will commit an act of terrorism.[63]

The proposed deradicalization regulations are vague in what they prohibit and open to subjective enforcement, facilitating overbroad application and denial of fundamental rights.[64] As precarious as things are for minorities now under the existing PTA, new deradicalization regulations will make matters worse if allowed to take effect. The regulations would permit prolonged detention for rehabilitation on nothing more than an official's subjective interpretation of a detainee's words or actions. These fears are not speculative: Commissioner General of Rehabilitation Maj. Gen. Dharshana Hettiarachchi informed the press that those with "no direct links to the 2019 April attacks will be rehabilitated," implying that the large swathes of Muslims arbitrarily detained will now face rehabilitation.[65] Beyond who they target, the deradicalization regulations are silent as to what "rehabilitation" means and what procedures will be adopted to achieve it.

In several respects, the proposed regulations remove even the inadequate safeguards that exist under the PTA. If enacted, police officers may commence an investigation *after* arresting a person, without providing the reason for arrest. Whereas the PTA only allows police officers to make arrests, enter premises, conduct searches and seize material, the new regulations if passed will allow 'any police officer, *or any member of the armed forces*' to arrest and detain.[66] Any person other than a police officer has 24 hours to hand over the arrested individual to the police, potentially facilitating torture and enforced

61 'Lanka defends China's treatment of Muslims in Xinjiang at UN Human Rights Council', *Daily FT*, (8 March 2021) <http://www.ft.lk/news/Lanka-defends-China-s-treatment-of-Muslims-in-Xinjiang-at-UN-Human-Rights-Council/56-714376> accessed 12th August 2021.

62 Gazette Extraordinary No. 2218/68, 12 March 2021.

63 Ambika Satkunanathan, 'Reradicalisation through 'deradicalisation'?', *The Morning*, (28 March 2021) <https://www.themorning.lk/radicalisation-through-deradicalisation/> accessed 12th August 2021.

64 ibid.

65 Zulfick Farzan, 'Rehab for detainees not related to April 21st Attacks', *Newsfirst*, (23 March 2021) <https://www.newsfirst.lk/2021/03/23/rehab-for-detainees-not-related-to-april-21st-attacks/> accessed 12th August 2021.

66 Extraordinary Gazette No. 2218/68, supra, at para. 3.

disappearance.[67] Detainees may be deprived access to counsel or the right to receive evidence to be used against them. If the Attorney General's Department believes the person suitable for rehabilitation, that person may be detained for a year (with possible extensions of another year) without judicial scrutiny.[68] Whereas the existing PTA limits pre-charge detention to 18 months and requires magistrate judges to issue detention orders, the deradicalization regulations turn judges into rubber-stampers by allowing two years of detention with no meaningful oversight of a person who has never been found guilty by a court of law.[69]

Sri Lanka has a troubled past when it comes to rehabilitation. Anyone who had been a member of the LTTE for even a day — forcibly recruited or otherwise — was required to submit to rehabilitation at the war's end in 2009 pursuant to emergency regulations then in place.[70] By codifying rehabilitation procedures under the PTA, the government now seeks to formalise abuses that were previously possible only under *emergency* rule.

In October 2009, 15,000 'ex-combatants' were placed in state-run rehabilitation camps.[71] Several disappeared.[72] Tamil mother Jeyakumari Balendran identified her missing teenage son in a photograph depicting state rehabilitation of former LTTE cadres. She demanded answers, noting her son was in state custody, and met with then-UN High Commissioner for Human Rights Navi Pillay. The government silenced Jeyakumari by ordering her arrest on unsupported allegations that she had harboured a criminal suspect.[73] She spent a year in prison while her teenage daughter was sent to an orphanage. As her experience shows, 'rehabilitation' can be a euphemism for disappearance, and families who demand answers face compounding injustice.

The Tamil experience with rehabilitation also reveals a cost for those who safely make it out. Women's groups and community activists worked closely with rehabilitated women cadres

67 Id. at para. 5 (1).

68 Id. at paras. 5(4) & 7(2)(b).

69 Ambika Satkunanathan, 'Reradicalisation through 'deradicalisation'?', *The Morning*, (28 March 2021) <https://www.themorning.lk/radicalisation-through-deradicalisation/> accessed 12th August 2021.

70 The rehabilitation camps housed those who surrendered at the end of the war. Roughly 68 Tamil prisoners were thereafter detained under the PTA. Some 16 were pardoned by President Rajapaksa in July 2021. The others either remain detained without charge or face surveillance if released on bail.

71 Ermiza Tegal, *Understanding Rule of Law, Human Security and Prevention of Terrorism in Sri Lanka,* (Law & Society Trust 2021), 26.

72 Report of the OHCHR Investigation on Sri Lanka, A/HRC/30/CRP.2, at paragraphs 341, 360-367, 429-437; Jayashika Padmasiri, 'Surrendering and Disappearing – where are they now?', *Groundviews*, (5 May 2012) <https://groundviews.org/2012/05/05/surrendering-and-disappearing-where-are-they-now/> accessed 12th August 2021.

73 Misconceptions on detention of Balendran Jayekumari, Government of Sri Lanka Ministry of Defence (18 March 2014), on file with authors.

in the North and the East from 2010 to 2019, helping them rebuild their lives after the war. For many women, particularly the war-disabled, conservative Tamil society left them no place to return to. Having chosen a path that challenged traditional gender norms, these women were shunned by the community and struggled to marry, raise children, and negotiate culturally accepted women's work. Rehabilitation policies only exacerbated their challenges. With former LTTE women cadres visited at odd hours by young military men, the Tamil community ostracised these women for their perceived promiscuity, or avoided them to not invite further surveillance upon themselves.[74] The badge of being 'rehabilitated' sows mistrust and division within already marginalised communities, further breaking down family and community ties.

Yesterday Tamils were the target; today it is mainly Muslims. In China, Uyghur Anar Sabit described how her family was labelled as 'focus personnel' to be watched while she was detained in Chinese reeducation camps. Her relatives had to entertain officials with alcohol (to show departure from Muslim norms) and attend weekly flag-raising ceremonies (to prove their patriotism). After Sabit was released, former friends and relatives kept their distance, fearing that any association with her would only land them there too.[75] Similar patterns are already emerging in Sri Lanka, with the Muslim community shunning PTA detainees for their perceived ties to religious extremism or avoiding them to ward off unwanted Criminal Investigation Department (CID) attention. For example, in Mawanella (in the Kegalle district), around a hundred Muslims have been detained under the PTA. Families there are suffering in silence and isolation. Community members do not want to talk about them or show their homes to anyone who wants to gather information or assist them. In this way rehabilitation camps break down not only a detainee but also his or her broader community. And with prolonged detention facilitating disappearance, some families will forever be torn apart.

Human rights activists have filed fundamental rights petitions challenging the deradicalization regulations on several grounds before the Sri Lankan Supreme Court.[76] On 5 August 2021, a three-judge panel of the Supreme Court issued a temporary order suspending the deradicalization regulations pending a court hearing.[77] Until the Supreme

74 Women's Action Network, *Women's Access to Justice in the North and East of Sri Lanka—CEDAW Shadow Report,* (August 2016), 17-18.

75 Khatchadourian, Surviving the Crackdown in Xinjiang, supra note 3.

76 Aazam Ameen, 'FR filed before SC challenging deradicalisation regulations', *The Morning*, (10 April 2021) <https://www.themorning.lk/fr-filed-before-sc-challenging-deradicalisation-regulations/> accessed 12th August 2021.

77 Aazam Ameen, 'SC issues interim order suspending application of de-radicalization regulations', *The Morning*, (5 August 2021) <https://www.themorning.lk/sc-issues-interim-order-suspending-application-of-de-radicalization-regulations/> accessed 12th August 2021. The interim order suspended the deradicalization regulations until the next hearing date, set for August 24, 2021. However, the case was not called on August 24th due to new pandemic restrictions.

Court issues its ruling, the regulations will not take effect. But they have already had a chilling effect. Civil society activists are beginning to self-censor and curtail their activism to avoid being framed for terror financing or other violations and forced into rehabilitation. Government officials have reportedly suggested to families of current PTA detainees that they should convince their loved ones to 'voluntarily' opt for rehabilitation. Some PTA inmates have also been told that rehabilitation is a better option than pursuing appeals in higher courts. For the approximately 300 detainees held in connection with the Easter attacks in appalling conditions with dim prospects of court oversight during the pandemic, rehabilitation is being dangled as a chance to get away.[78] For the government, rehabilitation offers a chance to dismiss as moot dozens of fundamental rights cases and avoid visits to detention facilities by the International Committee of the Red Cross or Human Rights Commission of Sri Lanka. In this manner, individuals who have yet to be *charged* or presented before a magistrate can be stripped of their liberty with coerced consent.

In short, the PTA and ICCPR Act are already being weaponised against Muslims, Tamils, dissenters, and minority rights activists. If the proposed new deradicalization regulations take effect, they will make an already dangerous environment far worse.

IV. Regulations Banning 11 Muslim Groups

Proposed deradicalization regulations are only part of the emerging counterterrorism landscape. On 13 April 2021, the President announced new PTA regulations banning 11 organizations on national security grounds.[79] In addition to ISIS and Al-Qaeda, various Thowheedh Jamma'ath groups and charities supposedly linked to the Easter attacks were banned. Some of these groups may indeed have links to terrorism, and these links should be properly and lawfully investigated. However, with the banning of 11 Muslim organisations, there is an imminent threat that many followers of these groups (*jama'ath*) will be sent for rehabilitation. To put international terror organisations like Al Qaeda and ISIS in the same basket as local faith groups is a tactic for this government to deflect Western concern over growing Islamophobia in Sri Lanka.

Further, past experience shows that the composition of the list can change at whim. In 2014, the administration of former President Mahinda Rajapaksa banned 16 Tamil diaspora organisations and 424 individuals on grounds of 'financing terrorism'.[80] Several names were

78 Here again, there are parallels with government rehabilitation of ex-LTTE combatants. During a 2017 visit, the UN Working Group on arbitrary detention was informed that ex-combatants agreed to undergo one to two years of military rehabilitation only to escape prolonged pre-trial detention under the PTA. UN Working group on arbitrary detention: preliminary findings from its visit to Sri Lanka (4 to 15 December 2017) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22541&LangID=E> accessed 12th August 2021.

79 Gazette Extraordinary No. 2223/3, 13 April 2021.

80 Gazette Extraordinary No. 1854/41, 21 March 2014.

de-listed by the subsequent government, only to be relisted again this year, with a recently surfaced document adding over 50 Muslim names for the first time.[81] Upon proscription, individuals have few means of challenging their ban, denying their membership of the listed groups, or questioning whether the group indeed has terrorist links. Their rights of free movement and association are restricted with no judicial oversight, on little more than the government's assertion that banning them furthers national security.

The government has a poor track record in labelling terrorist groups. When peace activists Ruki Fernando and Father Praveen inquired about Jeyakumari's arrest in 2014, they were themselves detained under the PTA, with then Defense Secretary Gotabaya Rajapaksa spuriously claiming the peace activists had 'Tiger Links'.[82] Former High Commissioner Navi Pillay was maligned as the 'Tamil Tigress in the UN'.[83] Today, with journalists choosing between exile and self-censorship and investigators and judges under attack,[84] it seems foreseeable that broad proscription powers will be used to further stifle dissent. With no mechanism to challenge a group's proscription, or alleged membership in a proscribed group, recent regulations invite a sweeping abuse of power and diminishment of basic civil rights.

V. Reform the PTA?

While the state appears impervious to domestic pressure, international pressure is a different story. In 2017, the EU reinstated preferential trade status to Sri Lanka (which had been stripped in 2010 on human rights grounds) on the express condition that it repeal and replace the PTA.[85] With the current government instead moving to strengthen the PTA

81 Easwaran Rutnam, 'Tamil diaspora groups banned', *Daily Mirror,* (29 March 2021) <http://www.dailymirror.lk/breaking_news/Tamil-diaspora-groups-banned/108-208756> accessed 12th August 2021; Gazette Extraordinary No. 2216/37, 25 February 2021.

82 'Gota ordered to delete the libelous statement on activists', *Sri Lanka Guardian*, (19 March 2014) <http://www.srilankaguardian.org/2014/03/oops-gota-ordered-to-delete-libelous.html> accessed 12th August 2021.

83 'Opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Sri Lanka Colombo', *OHCHR*, (31 August 2013) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673> accessed 12th August 2021.

84 'Elise Baker and Nushin Sarkarati, Escalating Attacks on Journalists in Sri Lanka Demand New Tack from Human Rights Council', *Just Security*, (17 February 2021) <https://www.justsecurity.org/74759/escalating-attacks-on-journalists-in-sri-lanka-demand-new-tack-from-human-rights-council/> accessed 12th August 2021.

85 European Union, EU Annual Report on Human Rights & Democracy in the World: 2019 Country Updates, (2019) 227.; Paneetha Ameresekere, 'Repealing PTA, regaining GSP+, connected-EU', *Ceylon Today*, (22 June 2020) <https://ceylontoday.lk/news/repealing-pta-regaining-gsp-connected-eu> accessed 12th August 2021.

through proposed deradicalization regulations, the EU Parliament passed a measure on 10 June 2021 urging suspension of Sri Lanka's GSP+ status (meaning billions in annual trade). The strongly worded resolution proclaimed that the PTA 'breaches human rights, democracy, and the rule of law' and described how its overreach and application violated international standards.[86]

The potential loss of GSP+ seems to have caught the administration's attention. A commission created by President Rajapaksa to investigate recent human rights abuses issued an interim report recommending that the PTA be reformed (but not repealed) to bring it in line with laws in place in other countries, including the UK.[87] Justice Minister Ali Sabry announced in June that a panel of experts would assess ways to reform the PTA.[88] Among other things, he suggested that under revised legislation, magistrates would be required to visit police stations and other detention centres to ascertain that the detainees are being properly treated, and heftier fines would be levied for torture under the Convention against Torture Act of 1994 (CAT). On 25 August 2021, President Rajapaksa appointed an Advisory Board to advise him on investigation, release, and bail of those imprisoned and detained in connection with alleged terrorism.[89]

But few in Sri Lanka believe these reforms to be anything more than a face-saving measure. Tamil National Alliance (TNA) MP M.A. Sumanthiran described the Justice Ministry's proposed amendments to the PTA and CAT as mere 'window dressing'.[90] Exceedingly few prosecutions exist under existing laws despite rampant and well-documented incidents of torture. Magistrates are already required to visit prisons under the Prison Ordinance; it simply never occurs. The proposed PTA amendments have no mechanism to ensure these visits, nor open access to detention facilities. Offering presidential pardons is a meagre response to a broken system, and those who receive a pardon or complete rehabilitation will forever be labelled and treated as terrorists without ever having a day in court. In short,

86 'European Parliament resolution of 10 June 2021 on the situation in Sri Lanka, in particular the arrests under the Prevention of Terrorism Act (2021/2748(RSP))', *European Parliament*, (10 June 2021) <https://www.europarl.europa.eu/doceo/document/TA-9-2021-0290_EN.html> accessed 12th August 2021.

87 'PTA: PCOI wants it brought in line with laws in other countries, including UK', *The Island*, (22 July 2021) <https://island.lk/pta-pcoi-wants-it-brought-in-line-with-laws-in-other-countries-including-uk/> accessed 12th August 2021.

88 'Mohammad Rasooldeen, Sri Lanka mulls changes to controversial anti-terror law as EU, UN step up pressure', *Arab News*, (24 June 2021) <https://www.arabnews.com/node/1882226/world> accessed 12th August 2021; Pamodi Waravita, 'PTA to be reformed: Sabry', *The Morning*, (23 June 2021) <https://www.themorning.lk/pta-to-be-reformed-sabry/> accessed 24th August 2021.

89 'Advisory Board appointed to make recommendations on suspects detained under PTA', *Daily Mirror*, (25 August 2021) <https://www.dailymirror.lk/latest_news/Advisory-Board-appointed-to-make-recommendations-on-suspects-detained-under-PTA/342-218999> accessed 12th August 2021.

90 M.A. Sumanthiran, 'Amending Torture Act: Minister Of Justice, This Is Window Dressing For The EU!', *Colombo Telegraph*, (9 July 2021) <https://www.colombotelegraph.com/index.php/amending-torture-act-minister-of-justice-this-is-window-dressing-for-the-eu/> accessed 12th August 2021.

given the absence of a commitment to changing current ground realities that perpetuate abuse, proposals for reform or band-aid pardons merely serve to placate the international community while maintaining status quo.

Sri Lanka has tried reforming the PTA before, with the previous government putting forth a draft Counter Terrorism Act (CTA) to replace the PTA. Although this bill never moved forward, the draft language is illuminative. The proposed CTA provided better safeguards against admitting coerced confessions as evidence, shifting the burden of proving that any confession was voluntary from the suspect to the state. But in other ways, it fell short. **It continued to allow prolonged detention without charge**, the very condition facilitating chronic abuse.[91] It likewise gave the military the power to arrest and set no time limit in which detainees had to be produced before a magistrate, meaning a detainee could be brought before *any* magistrate after some undefined period of time, rather than brought immediately before the magistrate in the jurisdiction of arrest.

We know from history that any proposed reform effort that permits prolonged detention and narrows judicial oversight will lead to human rights abuses. Sri Lanka's experience with 'counterterrorism' is one of torture and enforced disappearance at the hands of the state. Because of this reality, confessions made to the police cannot be admissible; preventative detention can only occur for short periods with judicial oversight; and detainees must receive prompt and periodic hearings before magistrate's courts sitting in the jurisdiction of arrest. Moreover, in the Sri Lankan context, we must ask whether Western counterterrorism frameworks are worth emulating. With draconian laws being abused throughout Sri Lanka's post-colonial history to target Tamils, Muslims, and civil society activists of all communities, any counterterrorism law that grants sweeping detention powers will hugely harm minority communities. And Sri Lanka will seek to tap into global Islamophobia to gain approval for its 'reforms', claiming to the UN and the world that its counterterrorism laws are no different to the West's.

As human rights activists, we abhor all violence and terrorism. But a regime of counterterrorism laws that allow an increasingly militarised ethnonationalist state to inflict terror on its minorities offers no answer. Sri Lanka is on a draconian path, seeking to emulate Myanmar's militarisation and China's forced internment to persecute Muslims, Tamils, dissenters, and minority rights activists.

Repealing the PTA is a small but essential step to change the tide. Sri Lanka may be feeling the EU's heat, afraid to lose GSP+ with its economy in tatters. But its actions indicate that any reform efforts now underway are nothing but a ploy to placate the international community.

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91 'Locked Up Without Evidence: Abuses under Sri Lanka's Prevention of Terrorism Act', *Human Rights Watch,* (29 January 2018) <https://www.hrw.org/report/2018/01/29/locked-without-evidence/abuses-under-sri-lankas-prevention-terrorism-act> accessed 12th August 2021; 'Countering Terrorism at the Expense of Human Rights', *Amnesty International,* (31 January 2019) https://www.amnesty.org/en/documents/asa37/9770/2019/en/ accessed 12th August 2021.

Meanwhile, it is Sri Lanka's minorities — particularly Muslims and Tamils — who are made to suffer and sacrifice their basic civil liberties.

Shifting between Desperation and Rejection:

Sri Lankan Muslims' Relationship with Demands for Justice and Accountability

Dr. Farah Mihlar

Muslims in Sri Lanka, as a religious and ethnic minority group, have demonstrated a cautious and complex relationship to human rights based approaches, especially regarding claims for justice and accountability for gross violations they have suffered. This is not because, as this publication aims to prove that they have not been victims of such violations and atrocities; a perspective sometimes associated with the group and based on the historical misconception that Muslims were not affected by the country's three decade old armed conflict. On the contrary, throughout the war and in its aftermath, Muslims at various different levels have faced organised and systematic human rights violations and everyday discrimination. Yet, they remain on the margins of negotiations, discussions and analysis in justice and accountability processes. Moreover, justice and accountability rarely feature as dominant demands among Muslims whose response to violations and attacks by the state has been largely placid and reconciliatory.

This article will assess the relationship between Muslims in Sri Lanka and recent demands for justice and accountability for conflict related and other human rights violations. Justice and accountability here are not necessarily limited to judicial processes or criminal prosecution, but rather encapsulate a broader framework of recognising and accounting for violations and crimes by investigating and holding perpetrators to account, through legal and other means, and seeking redress primarily through a human rights approach. The analysis of this relationship is constructed in three phases: justice for violations suffered during the armed conflict, particularly focusing on the forced eviction of Muslims from the North; engagement with the state-run 2015 transitional justice process; and justice and accountability for religious attacks and programmes against Muslims since 2009. It argues that the heterogeneity of the Muslim 'community,' their precarious group identity, their historical political culture of pandering to the majority and their broader deprioritising of human rights approach has shaped this relationship with justice.

The contentions of Muslim identity and male dominance of the community, unfortunately, remain at the core of political and religious development and thereby must form the starting point of this article. That Muslim group identity, especially as the Moor ethnic community, was exclusivist, fraught, gendered and weakly established by elite Muslims in response to growing Tamil nationalism has been well established by Muslim scholars.[1] The

1 M.A. Nuhman, *Sri Lanka Muslims: Ethnic Identity within Cultural Diversity*, (Colombo: International Centre for Ethnic Studies 2007); Farzana Haniffa, 'Piety as Politics amongst Muslim Women in Contemporary Sri Lanka' (2008) 42(2-3) Modern Asian Studies 347-375; Qadri Ismail, 'Unmooring Identity: The Antinomies of Elite

reverberations of this problematic identity have haunted Muslims for decades by placing them uncomfortably as the third largest ethnic group behind the Sinhalese and Tamils who have been locked in conflict for most part of Sri Lanka's post-independence history. Scholars have also demonstrated how, straddled with this unconvincing distinction as an ethnic group and uncomfortably placed vis-à-vis two conflicting nationalisms, Sinhalese and Tamil, this identity has shaped and affected Muslim politics and religion.[2] Gender is also critical to the framing of this article. Muslim community leadership structures, unfortunately, remain heavily male dominant and the relationship to justice reviewed in this article is largely confined to men, as Muslim women have engaged with and used human rights and justice approaches through a number of different processes. The article refrains from using the term 'leaders' as many of the men in powerful positions in the Muslim community hardly display qualities of leadership nor are they necessarily selected to these positions, borrowing from Ismail (1995) they are thereby described as elites. It repetitively refers to a core base of 'southern' Muslim community and religious elites, who are most often Colombo-based, but such categories can be problematic and therefore must be read as a positional standpoint as much as an individual mass.[3] Understanding this historical and contemporary context must precede any analysis of the group's relationship with justice and accountability.

Muslim Positioning in the Armed Conflict

Muslims living in Sri Lanka's North and East were severely and differently affected by the armed conflict. In the early stages of the war Muslims were sympathetic and at times supportive of Tamil militancy. This position changed in the 1980s, mainly in the East as their allegiance, cooperation and support became divided between the Sri Lankan military and Tamil Tigers, which led to increased tension between Tamil and Muslim communities and neighbourhoods and culminated in inter-ethnic attacks of each other's villages.[4] The turning point for Muslims came in 1990 when the Liberation Tigers of Tamil Eelam (LTTE) ethnically cleansed the North, forcibly evicting its entire Muslim population. Over 75,000 Muslims were forced into displacement across the country, with a majority taking temporary shelter in the

Muslim Self-Representation in Modern Sri Lanka,' in *Unmaking the Nation: The Politics of identity and history in Modern Sri Lanka*, (Colombo: Social Scientists' Association 1995).

2 Dennis McGilvray and Mirak Raheem, *Muslim perspectives on the Sri Lankan conflict*, (Washington DC: East-West Center Washington 2007) and Farah Mihlar, 'Religious change in a minority context: transforming Islam in Sri Lanka' (2019) 40(12) Third World Quarterly.

3 This point cuts across the article. There have, for instance, been groups of Muslims across the country, especially in the East who have pursued justice claims for violations, including on land issues. The critique in the article refers more generally to Muslim male elite positionality.

4 This was partly due to the policies of the government to arm and create home guard units among Muslims in the East. For accounts on Muslims experience of armed conflict in the North and East see International Crisis Group, *Sri Lanka's Muslims: Caught in the Crossfire*, Asia Report No. 134. (Colombo and Brussels: International Crisis Group 2007) and Farah Mihlar, *Coming out of the margins: Justice and reconciliation for conflict affected Muslims in Sri Lanka* (ICES 2018).

north-western town of Puttalam. This year also saw two other mass atrocities; the killing of 103 worshippers in a mosque in Kattankudy and the slaughter of 130 villages in Eravur. Following these events, relations between both groups reached a nadir and Muslims in the East also became targets of LTTE attacks and atrocities resulting in frequent cases of enforced disappearance, abduction, land acquisition and extortion.

Though frequently framed only as victims[5] few Muslims, particularly in the East, were also responsible for violence and attacks against Tamils that contributed to this situation. In the early years of the war, some Muslim youth were involved with groups such as the Eelam Peoples Revolutionary Liberation Front (EPRLF) and Peoples Liberation Organisation of Tamil Eelam (PLOTE) which were involved in attacks against the LTTE and Tamil civilians, including contributing to displacement of Tamil communities.[6] Tamil villagers in border areas of the conflict zone have also reported of attacks by Muslim villagers which contributed to tensions between communities and were repeatedly exploited by national political leaders.[7]

The general lack of concern demonstrated by Colombo based Muslim political elites[8] regarding the armed conflict had inspired, in the 1980s, the creation of the Sri Lanka Muslim Congress (SLMC), which maintained some focus on the situation of north east Muslims, though this too was limited from a justice and accountability approach.[9] The wider 'community' response to the violations faced by Muslims was based on development, peacebuilding and political inclusion approaches rather than human rights and/or justice. One of the long-standing and entrenched grievances of northern Muslims, whose very name embodies its predicament,[10] has been their neglect and exclusion in conflict related political and humanitarian responses. Successive governments and international aid and donor

5 Farzana Haniffa, Competing for Victim Status: Northern Muslims and the Ironies of Sri Lanka's Post-conflict Transition, (Stability: International Journal of Security & Development 2015).

6 Rajan Hoole, Daya Somasundaram, K. Sritharan and Rajani Thiranagama, *The Broken Palmyra – The Tamil Crisis in Sri Lanka: An Inside Account*, (Sri Lanka Studies Inst 1992); and University Teachers for Human Rights (Jaffna), 'The plight of child conscripts, social degradation and anti-Muslim frenzy', (July 2002) Special Report No: 14.

7 ibid and Marisa De Silva, Nilshan Fonseka Farah Mihlar, The forgotten victims of war: a border villages study, (Colombo: NTT 2019).

8 This article makes a repetitive distinction between Muslims living in the North and East and those in other parts of the country at times referred to as 'southern Muslims.' These are not fixed groups, they have among them much interconnectivity through marriage, business, religious affiliation, etc. Geography is not the only dividing factor for Muslims, they are also diverse in religious positioning, forms of livelihood, income and education levels.

9 Dennis McGilvray and Mirak Raheem, *Muslim perspectives on the Sri Lankan conflict* (Washington DC: East-West Center Washington 2007) provides a good analysis on the political divide between southern and north eastern Muslim political elites and the formation of the SLMC.

10 Sharika Thiranagama, *In my mother's house: Civil war in Sri Lanka* (Philadelphia: University of Pennsylvania Press 2011).

agencies provided piecemeal support to northern Muslims but there was never a comprehensive programme aimed at investigating or redressing the injustices they suffered. Colombo based Muslim community elites and politicians in the two main political parties showed no significant interest in demanding a state level response to this atrocity, not even in efforts to return or resettle the displaced. Maintaining apparent neutrality and independence from the armed conflict was convenient for these Muslims elites as it served their economic interests[11], provided a safety net with the state, and affirmed their distinction as a separate ethnic entity; one that was not only different from Tamils but was in fact being targeted by Tamil militants. The dire economic reality of the northern Muslims, who had few income generation and livelihood opportunities and faced tensions when competing for them with the locals in Puttalam, partly influenced the developmental approach taken by the SLMC and civil society activists and groups from the North and Colombo. Many of the activities of civil society organisations such as the Vavuniya based Rural Development Foundation (RDF also based in Puttalam and Mannar) and Puttalam based Community Trust Fund (CTF), were focused on meeting shelter, sanitation, educational and livelihood needs of the evicted community, with consequently less emphasis on human rights or justice claims

During the course of the armed conflict, one of the most significant steps taken towards accountability for northern Muslims was the acknowledgement and a purported apology from the LTTE during the 2002 peace process. Having not been named as a party to the conflict and thereby sidelined in peace talks, the Norwegians who were facilitating the process arranged a meeting with a Muslim delegation led by Rauf Hakeem, head of the SLMC, and the LTTE, led by Velupillai Prabhakaran. The meeting was significant for Muslim politics as it provided some recognition to the SLMC and noted the adverse impact of the conflict on the community. At the time the LTTE's main ideologue Anton Balasingham publicly stated that he 'made an apology' to Hakeem, but his subsequent comment "Let us forget and forgive the mistakes made in the past" arguably undermined the seriousness of the crimes committed against Muslims, especially considering ethnic cleansing and forcible deportation are serious crimes in international law.[12] Prior to this, in an interview with the BBC in 1994, LTTE leader, V Prabhakaran, too expressed 'regret' and acknowledged that Jaffna is also the homeland of Muslims. However, expressing regret is not an apology.[13]

11 There is a dearth of published information on the economic position of Muslims in Sri Lanka but it is generally well known within and outside the country that Colombo Muslims yield significant economic prowess as they own and lead some of the biggest companies contributing to Gross Domestic Product (GDP).

12 For definitions of ethnic cleansing see the UN Commission of Experts appointed to look into violations of international law in former Yugoslavia, http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf; forcible deportation is considered a crime against humanity under the Rome Statute, see https://www.icc-cpi.int/resourcelibrary/official-journal/rome-statute.aspx.

13 'Muslims in Jaffna mark 28 years since expulsion', *Tamil Guardian,* (31 October 2018). <https://www.tamilguardian.com/content/muslims-jaffna-mark-28-years-expulsion> accessed 1 July 2021.

Hakeem, though careful in his language, was quick to forgive without advancing any major claim for justice, accountability or criminal liability. The latter could have been a strong possibility in the International Criminal Court (ICC) or any other future international/hybrid tribunal. "We have told them unequivocally that we are prepared to forgive and not forget (the past)... We have bitter memories of the past. But it is time we contended with the ground realities. That would mean that the LTTE also has to look at Muslims and their separate political identity as something that has become quite pronounced over a period of time."[14]

Ground realities have always been a mitigating factor in the pursuit of accountability. Muslims live scattered across the country, side by side with Sinhalese and Tamil villages, which in conjunction with their political culture of pleasing the dominant-other, results in them prioritising co-existence and peacebuilding over other factors. This is notable in Hakeem's position, together with the community's resolute seeking of a distinct identity, political recognition and inclusiveness on the basis of the former.

Beyond these themes though, we see very little effort by the SLMC to articulate the violations Muslims suffered through a human rights framework and/or claim criminal justice, reparation (not just compensation), memorialisation, commemoration, etc. It is noteworthy that the SLMC's position was taken during a peace process where pressure to maintain a cease-fire, build peace and ensure a political solution acceptable to Muslims trumped demands for justice and accountability. More importantly, for the purposes of the arguments in this article, this limited position was championed by conflict affected Muslims and groups representing them, with little interest shown on the part of Colombo based or southern elites.

2015 Transitional Justice Process

In 2009 the Government of Mahinda Rajapaksa declared the country's three decade war was over after militarily crushing the LTTE, with allegations of war crimes and crimes against humanity attached to the military campaign. The ensuing months were marked by devastation, displacement, dispossession, suffering and trauma among hundreds of thousands of Tamils who had family members killed and/or disappeared and were trapped in the last stages of fighting.

Muslims were again divided at the end of the war in 2009. Many Muslims, particularly those living in the North and East, were relieved by the defeat of the LTTE, but the triumphalist and majoritarian framing of the 'victory' was cause for concern. In the subsequent years majoritarian, Buddhist, nationalist, extremist forces began to systematically target Muslims,

14 'Muslims in Jaffna mark 28 years since expulsion', *Tamil Guardian,* (31 October 2018). <https://www.tamilguardian.com/content/muslims-jaffna-mark-28-years-expulsion> accessed 1 July 2021.

which slowly led to a shift in the response of southern elites. Prior to discussing this, I want to consider the role of Muslims in the 2015 transitional justice process.

In the post-war years, the rule of Mahinda Rajapaksa and his family grew ever more authoritarian and repressive with increasing violations taking place coerced by state impunity and disregard to the rule of law. The government staunchly denied any violations. The failure to investigate wartime atrocities coupled with the worsening human rights context led to two United Nations (UN) investigations that were heavily critical of the Rajapaksa administration. The investigations found credible evidence of violations of international humanitarian and human rights laws, including war crimes.[15] The surprise change in government in 2015 immediately reflected a shift in policy as the new government co-sponsored a United Nations Human Rights Council (UNHRC) Resolution which promised a range of transitional justice mechanisms to deal with the country's legacy of human rights violations.[16] These included, as part of truth seeking, a truth and reconciliation commission (TRC); an Office on Missing Persons (a judicial mechanism with prosecutorial powers to ensure justice); an Office of Reparations; and a series of reform procedures, constitutional, institutional and security sector to guarantee non-repetition.[17] Sri Lanka's transitional justice process was brought to life, not in response to victim demands but as part of a UN process, and though ambitious and comprehensive in design, it immediately received criticism for having isolated victims in its conception. The government responded by appointing a civil society Consultation Task Force (CTF) that, through a community led mechanism consisting of Zonal Task Forces (ZTF), began an extensive process of raising awareness of transitional justice and consulting war victims and survivors on the proposed mechanisms. Despite a number of limitations, the ZTF has been internationally and nationally acclaimed as a landmark community framework that provided an opportunity for effective and empowering victim participation in the country's transitional justice process. This mechanism had strong Muslim representation in the form of well-known and respected community activists who had legitimacy and credibility with local communities. Through these activists a considerable amount of work was done to create the space for discussion on concepts of truth seeking, justice, accountability, redress and non-repetition among conflict affected Muslims, to raise their awareness on the proposed national mechanisms and other international models and seek their views on their own justice and accountability claims.

15 Report of the UN Secretary General's Panel of Experts on Accountability in Sri Lanka (New York: United Nations 2011); UN Office of the High Commissioner for Human Rights (OHCHR), *Report on the OHCHR Investigation on Sri Lanka* (Geneva 2015); *War crimes in Sri Lanka*, Asia Report No 191 (Brussels: International Crisis Group 2010). The UN Human Rights Council also passed resolutions calling for accountability against Sri Lanka in 2012, 2013 and 2014.

16 Resolution adopted by the Human Rights Council on 1 October 2015, 30/1 Promoting reconciliation, accountability and human rights in Sri Lanka, (October 2015) UNHRC Thirtieth Session.

17 For details on the state transitional justice process see the introduction in Bhavani Fonseka, *Transitional Justice in Sri Lanka: lessons so far and the long road ahead,* (CPA: Colombo 2017).

Quite early into the process, ZTF's Muslim members reported that conflict affected members of the Muslim community were unaware of the process and were disengaged with it. They asked for increased funding, resources and time to do more targeted work among Muslims, but with the CTF working to a tight deadline and declining government interest in the process; this proposal was not realised. Whilst Muslim voices, through the ZTF process made it into the CTF report where their unique position on justice and accountability was clearly noted,[18] the community's involvement and engagement with the formal process and with the language of justice and accountability was poor.

In my own research, I found that most Muslims I interviewed in the North and East were unaware of the formal process and were disinterested in it, though some of them had well developed ideas of justice, accountability and redress.[19] Due to space limitations I will limit my analysis here to findings from only the northern Muslim community, who, to summarise, demanded truth seeking mainly to ensure that their narrative of the conflict became part of the mainstream and to investigate cases of disappearances as well as redress neglect and marginalisation by the state during and after their eviction. Even though the LTTE had been defeated they considered it necessary to hold accountable through a judicial process the remaining leadership, including those working with the government.[20] The need for reparations, mostly compensation, was strongly articulated, particularly recognising the significant dip in economic and educational status faced by northern Muslims. Memorialisation, commemoration and non-repetition, the latter through reforms in education, were also strong demands. Despite the fervent efforts of a small number of activists, the northern Muslims were unable to advance these positions effectively within the framework, and compared to Tamils in the North and East, they were considerably less organised, with minimal victim support groups and social movements for justice and hardly any capacity to articulate their grievances and claims through a human rights framework. Muslim voices reached the UN and other international investigative and advocacy reports through the work of a few national level activists, but on the ground, Muslims struggled to be part of the transitional justice process.

There were a number of reasons for this that must be viewed in the larger context, noting that the state run transitional justice process was not victim centred, had very little public buy in, ownership or appeal. Ground reality and Muslims positioning vis-à-vis the dominant other was once again a factor. After the war many northern Muslims wanted to return to their original lands in the North, but considerable area had been taken over by Tamils and

18 *Final Report of the Consultation Task Force on Reconciliation Mechanisms* (17 November 2016) <http://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf> accessed 8 September 2021.

19 Farah Mihlar, *Coming out of the margins: Justice and reconciliation for conflict affected Muslims in Sri Lanka* (ICES 2018).

20 The LTTE's former Easter Commander Vinayagamoorthy Muralitharan, or Colonel Karuna, was a government minister at the time.

an entire generation of Tamils had grown up unaware that Muslims had lived in the North. Therefore Muslims were under pressure to balance relationships with Tamils. Little efforts were made by northern Tamil political and community leaders to welcome Muslims back to the North or to enable their collective return. Muslims' justice claims were also in tension with Tamils; for the Muslims the main perpetrator was the LTTE, who the Tamils were defensive of, while at the same time Tamils wanted to hold the military accountable for the serious crimes the latter continues to deny. Few Muslims were sympathetic to the Tamil position but struggled with their resistance at the everyday level to acknowledge the criminality of the LTTE and failure to recognise Muslims as victims.[21] Acceptance, inclusion by Tamils and having to co-exist with them were prioritised by many over pursuing an elusive justice that the government did not seem committed to.

The poor technical capacity of northern Muslims, their leaders and civil society, in human rights approaches was also apparent in this context. During the course of the transitional justice process the northern Muslim community elites and activists began to organise themselves better to form umbrella representational bodies such as the Northern Muslim Civil Society (NMCS) and Northern Muslim Forum (NMF), but remained lagging in the technical knowledge and experience to engage with the human rights legal framework.

Muslim political representatives were actively involved in constitutional and electoral reform but showed no interest in the transitional justice process. "Transitional Justice is very much part of our agenda, since the Geneva resolution we have been speaking and thinking about it," Hakeem stated in an interview, but the SLMC had no formal policy on transitional justice and did not engage with the CTF.[22] Rishad Bathiudeen, from the northern Muslim community and who then held a cabinet position in the government, was controversially seen to champion Muslim rights often in tension with northern Tamils, but did not use the formal process to press for justice and accountability for northern Muslims. Both Hakeem and Bathiudeen were part of the government team that in 2012 advocated in Geneva against the UNHRC resolution calling for justice and accountability. Their repeated preference, for personal and political reasons, was to stand by both the Rajapaksa and the Sirisena governments, which (as explained below) became impossible to do so. Even Muslim political elites who were concerned by the effect of the conflict were more focused on articulating grievance through needs rather than rights, and on ensuring Muslims' political distinction was maintained through constitutional and electoral reform over justice and accountability for victims.

21 See Farzana Haniffa, 'Competing for Victim Status: Northern Muslims and the Ironies of Sri Lanka's Post-conflict Transition', (2015) 4(1) Stability: International Journal of Security & Development and Farah Mihlar, Coming out of the margins: Justice and reconciliation for conflict affected Muslims in Sri Lanka (ICES 2018), for accounts of this.

22 Farah Mihlar, *Coming out of the margins: Justice and reconciliation for conflict affected Muslims in Sri Lanka* (ICES 2018).

The Turning Point

The area where national male Muslims elites, especially from the south, did engage with the transitional justice process and the international human rights framework has been in response to Buddhist, nationalist, and violent extremist attacks against Muslims. Having defeated the Tamils, triumphalist militant majoritarianism needed a new enemy and they turned on the Muslims. From 2010 targeted attacks against Muslim religious and business establishments, including mob and arson attacks, began to be recorded systematically across the country. This was combined with a well organised hate campaign targeting Muslims making false claims regarding population growth and religious extremism.[23] I have argued elsewhere that Muslims' initial response was passive and submissive; rather than challenging and calling out the attacks and hate campaigns they turned inwards and began to scrutinise and change their behaviour, aspiring to further their position as the 'good minority.'[24] However, as the attacks increased, intensified and were evidently supported by the state, Muslim southern civil society elites slowly began to show interest in the human rights and justice framework, seeking international attention and action. Importantly, apart from a brief reprieve between 2015 and early 2017, Buddhist nationalist extremist religious violence against Muslims was enabled and encouraged by two different governments, including while the coalition government was pursuing an accountability and reconciliation process. The 2019 Easter Sunday attacks, when nine suicide bombers targeted Christian worshippers and Colombo hotels killing more than 250 people, was a watershed moment for Muslim political, religious, cultural and legal existence. Though Muslim community activists, especially in the east of Sri Lanka, had warned the country's security establishment about the growing levels of violent extremism, including reporting the leader of the attacks, the Muslim community as a whole paid a heavy price for the abject governmental and security failure that led to the attacks.[25] Almost overnight Muslim educational, cultural and religious practices and institutions were targeted, including by legal means, for attack and closure; racism and discrimination against Muslims became overt as the entire community was labelled extremist and transgressive.[26] The then government enabled and supported

23 See Mohamed Faslan and Nadine Vanniasinkam, *Fracturing Community: Intra-group relations among the Muslims of Sri Lanka* (International Centre for Ethnic Studies 2015); Ayesha Zuhair, *Dynamics of Sinhala Buddhist Ethno-nationalism in Post-war Sri Lanka* (Centre for Policy Alternatives April 2016); and A.R.M. Imtiyaz and Amjad Mohamed-Saleem, 'Muslims in post-conflict Sri Lanka: understanding Sinhala-Buddhist mobilisation against them,' (2015) 16:2 Asian Ethnicity 186-202.

24 Farah Mihlar, 'Religious change in a minority context: transforming Islam in Sri Lanka' (2019) 40(12) Third World Quarterly.

25 See the Parliamentary Select Committee report on the Easter Sunday attacks that identifies the security failures; Sri Lanka Parliament, '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', (October 2019) <https://www.colombotelegraph.com/wp-content/uploads/2019/10/Easter-Sunday-attacka-PSC-report-en.pdf> accessed 5 August 2021.

26 Ambika Satkunanathan, 'Sri Lanka: Minority Rights within Shrinking Civic Space' in South Asia State of Minorities Report (South Asia Collective 2020).

Buddhist nationalist extremist hate campaigns that soon culminated in the worst case of religious violence the country has ever witnessed. Mobs attacked and destroyed hundreds of Muslim neighbourhoods across north western and central Sri Lanka while state forces offered virtually no protection to Muslims.[27]

Unlike when Muslims in the North and East were attacked, the religious violence in the other parts of the country saw greater mobilisation by Colombo-based Muslim community representatives for some form of justice. Here too though the positioning was fragmented. Institutionally and formally the main organisations, under the umbrella of the Sri Lanka Muslim Council, attempted to work with the government, even in the face of clear evidence of the latter's sponsorship and support to the violence. Southern Muslim lawyers took up cases in local courts, sought justice for some crimes and attempted to gain redress, at least through compensation.[28] As a body the Council itself prioritised engagement with the state; they avoided criticism in order to keep communication channels open and negotiate government responses to the attacks. They claim some successes including organising the initial meeting that subsequently led to the resignation of all Muslim cabinet ministers in 2019. This joint resignation was in response to the scapegoating by the government of two Muslim politicians for the Easter attacks and the government's lack of response to the widespread and serious threat from Buddhist extremists to Muslims across the country.[29] Amidst this broader policy, a few Colombo male civil society elites and media commentators, including from the Muslim Council, began to publicly critique and attack the government in media comments and articles, which provided some contrast to the previous soft-peddling approach.

Ironically the very forces that the then government unleashed (including through pardoning and freeing the notoriously hardline anti-Muslim Buddhist monk, Gnanasara Thero, in the hope of gaining them some credibility among the majority population ensured their defeat and the return of the Rajapaksa family. The victory of Gotabaya Rajapaksa in the 2019 Presidential election and the subsequent appointment of former President Mahinda Rajapaksa as Prime Minister in 2020, saw a return to autocratisation, the closure of the formal transitional justice window and the acute threatening of human and minority rights. Muslims were inextricably linked to this obscurantist political development; having constructed Muslims as a threat, the Rajapaksas and the Sri Lankan military were deemed essential to defeat, control and manage them. They validated this by, among other things,

27 ibid.

28 One such lawyer Hejaaz Hizbullah was arrested and detained by the government without charges for over a year; 'A Year On: Hejaaz Hizbullah Still Imprisoned' (Sri Lanka Campaign for Peace and Justice, 14 April 2021) <https://www.srilankacampaign.org/a-year-on-hejaaz-hizbullah-still-imprisoned/> accessed 8 September 2021.

29 Dharisha Bastians and Mujib Mashal, 'All 9 of Sri Lanka's Muslim Ministers Resign, as Bombing Backlash Intensifies', *The New York Times*, (3 June 2019) <https://www.nytimes.com/2019/06/03/world/asia/sri-lanka-muslim-ministers-resign.html> accessed 8 September 2021.

exploiting the global pandemic to enforce a policy of forcibly cremating Muslims who contracted COVID-19 or were suspected of having the virus.

The forcible cremation policy, more than any other discriminatory policy, mobilised the Muslim community towards seeking a human rights approach.[30] Colombo based community elites who had previously mocked and disassociated from the Geneva based international human rights framework sought to desperately lobby institutions and actors demanding international action against the government. Yet, having neglected this arena for decades they lacked the necessary expertise and contacts to successfully engage, leaving the advocacy to a few seasoned international and national human rights activists. Nevertheless, at the national level, through a justice and human rights framing, pressure was concerted, sustained, and multiple across all different social classes. This national effort combined with forceful international critique, including from the Secretary General of the Organisation of Islamic Cooperation (OIC) resulted, ten months later, in a policy change.

The forcible cremation policy struck at the heart of Muslim cultural and religious belief as burial is a non-negotiable rite for the religious group and therefore the government's decision was seen as a symbolic act of state terror as it terrorised Muslims who were petrified of facing cremation. It also posed a very real public health crisis as many Muslims became afraid of testing or seeking medical treatment for the virus. Previous state sponsored attacks, threats and discriminatory policies, including those targeted at religious freedom such as banning the *niqab* (face veil worn by some Muslim women) or closure of religious institutions, did not affect Muslim community elites as much the forcible cremation policy did. Arguably, the shift occurred only when an uncontroversial, fundamental religious right where the entire community, not part of it, was targeted. This suggests that justice and human rights approaches remain the last resort for southern Muslim community elites who prefer other methods of dealing with grievance and violations.

This appeal for human rights still remains selective. Muslim national religious and community elites are principally against campaigns by Muslim women activists to fully reform the Muslim Marriage and Divorce Act (MMDA).[31] They continue to quote archaic cultural interpretations in the name of religion and hold on to practices such as polygamy,

30 For arguments on the racist and discriminatory nature of this policy see Farah Mihlar, 'Forcible cremation is not about public health, it is racial discrimination', *The Daily FT*, (15 January 2021) <http://www.ft.lk/columns/Forcible-cremation-is-not-about-public-health-it-is-racial-discrimination/4-711633> accessed 5 February 2021. For details on the effects of the policy on Muslims see Shreen Saroor, 'Dead body politics and racism: a prayer for 2021', *Groundviews*, (31 December 2021) <https://groundviews.org/2020/12/31/dead-body-politics-and-racism-a-prayer-for-2021> accessed 25 January 2021.

31 The All Ceylon Jamiyyathul Ulama (ACJU) who claims to be the highest religious body among Muslims continues to object to aspects of reform of the Muslim marriage laws such as reforms on polygamy. These objections have been rebuked by Muslim women campaigners, see 'What is the Muslim and Marriage Divorce Act (MMDA) 1951' (Muslim Personal Law Reform Action Group) <https://mplreforms.com/aboutmmda/> accessed 8 September 2021.

which feminist groups have effectively dispelled through Islamic interpretations and examples from other Muslim countries. Similarly, campaigns against racism rarely account for the experience of northern and eastern Tamils who have a history of facing racism and discrimination from some Tamils. The increased focus of anti-racist arguments by Muslims is shaped by a southern perspective, where this is seen as a new phenomenon and is blamed entirely on Buddhist nationalist extremism.

What appears to be a turn towards pursuing human rights and justice by Muslim male community elites could be a significant one if it is sustained and becomes inclusive of all segments of the community.

Conclusion

This article traces the changing relationship between Muslim national community elites, including political and religious ones, to human rights, justice and accountability, through three particular phases. It explains how, for various different reasons including being weighed down by a dominant political culture of pleasing or appeasing the ethnic other, most often Sinhalese, Muslim elites have hesitated to pursue justice and accountability and have preferred to steer the community towards development, political inclusion and peacebuilding. Their geographical and class disparities have not helped; throughout the conflict southern Muslims did little to fight for the rights of conflict affected Muslims. Overall, as much as the community is cautious about taking such an approach, they are also less equipped to do so with limited understanding and technical capacity on human rights.

The return to power of the Rajapaksas and with them, the power of the military as an appendage presents a worrying future for Sri Lanka, one that has little space for principles of fairness, equality, respect, rule of law; where impunity, corruption and nepotism reign. Even if this is not a lasting phenomenon, the embedding of militarisation, racism and authoritarianism will take many decades to dislocate and dismantle. Human rights protection then becomes critically important. Applying its frameworks will be essential for all Sri Lankans, even those who are not in agreement with the politics of international human rights. For Muslims, now established as the 'new enemy' this will be imperative.

Discarding parochial leadership structures, moving beyond the geographic and class distinctions, maintaining our distinct identity constructively, and challenging our historical political culture are urgently necessary.

This article began with a qualifier that the arguments in it almost entirely pertain to men as women remain on the margins of Muslim community leadership. Its critical focus has been the dominant standpoint taken by religious, political and community male elites. There are a number of men, at the national and community level who have and continue to campaign on human rights. Irrespective of the male leadership position there are also several Muslim women, often facing internal and external barriers, who through a human rights perspective have fought for equality and justice for the community. Some have reached international

acclaim for doing this. This article does not undermine their efforts, but intends to analyse and challenge the dominant standpoint within the community, which is elite male driven and persistently attempts to subjugate Muslim women.

This is undoubtedly the major barrier that hinders the advancement of human rights protection within the community and to the overall wellbeing of Muslims. Reforming the patriarchal order and structures within the Muslim community also becomes imperative to secure human rights and meet the new and demanding challenges of being a minority in the post-war predominant Sinhala majority state of Sri Lanka.

Walking on a Tightrope

Fathima Nabeela Iqbal

This article is an account of a young Muslim woman's volunteering experience in Sri Lanka. Even if the narratives appear selective, they reflect on the travails of working within a conservative minority community group.

These stories are important to dispel the common misconceptions that Muslim women are 'not as engaging' or 'backward' in social work, because the ingrained structural and cultural barriers are needed to be taken into consideration when understanding these realities. Muslim women carry more than a religious identity, they are important stakeholders in our society. We ought to address the question of if we have failed to create spaces to invite them into engagement. Have we been using them merely as tokens in our work or do they feel isolated because they are constrained from being identified in this space?

Is Change Making a Trend

The current youth 'advocacy' landscape is full of young people mainly from Colombo who are able to use their resources for public good. This is not always real advocacy or activism; the issue is that there is a rewarding system put in place by colleges, universities and institutions that recognise one-off actions of 'change' by young people to gain entrance.

So, community dialogues become projects, grassroots service become just visits to the 'underprivileged' and taking accountability becomes 'corporate social responsibility' (CSR) initiatives. This is all misleading and does not give a chance for young people to connect with diverse communities and create friendships and meaningful leadership.

A young person doing leading work in their community from outside Colombo will not have the same access to funding opportunities or benefits. Many organizations don't spend time fundraising or organising funds and overwork their volunteers because they will work for free with the aim of gaining experience.

What is unhelpful in the current youth landscape in change making is the lowering of the age criteria for groups across the world when it comes to funding or accessing capacity building. Young people in Sri Lanka take more time to engage in community work as gaining experience to achieve credibility becomes more time consuming due to, for example, the education system's delays. Consequently, although the Sri Lankan activists still do remain young, they will be competing against teenage activists from elsewhere for the same funding opportunities. This raises the question, is the development sector far more concerned to tick the boxes in the checklist over the ultimate objective of steering the change?

Using Social Media in Activism to Influence

In today's age, it is difficult to underestimate the impact that social media tends to make. I started blogging very randomly on make-up tutorials, tea drinking, and comedy sketches for a small audience. Over a period of three years this audience grew close to 11,000 regular users. Even though this following was not large when compared to other 'influencers' in the field, it was very substantial. With confidence, I was able to share my volunteering experiences with my audience and give them a glimpse into what Sri Lankan youth go through and the different realities they face. This has helped me tell my side of the story and create an interactive narrative with my audience of followers.

The experience can be a mix of emotions because there is both support and disagreement. In 2020 when Sri Lanka banned the singing of the national anthem in Tamil, I spoke about this in a short video, giving a brief history and importance of the bilingual anthem. This did not go well with 'nationalists' and 'patriots' and there were a lot of misogynistic, sexist, and racist remarks hurled at me. Even with the discussion on the Muslim Marriage and Divorce Act (MMDA)[1] reforms on my profile, many Muslim men and women personally attacked me online because they believed I was painting a negative image of the faith.

Having a public social media account like this is difficult because sometimes I cannot share the credit of a movement with all the real players behind it for privacy reasons. Even though I can manage to get by with less scratches, mentioning another's name will not help them publicly. At the same time, it also places my personal life at risk and in the spotlight; especially being a young Muslim girl in her mid-twenties. There are expectations that relatives place on me, some who would invariably be unhappy with me talking about such causes or advocating change.

Often most of the young women we work with prefer not going 'public' because their families are looking for prospective grooms through marriage proposals. Being accessible online can be equaled to notoriety and can reduce your chances of being seen as 'respected' in the religiously conservative eyes.

It is also important to note that the Muslim community is very tight knit. We know everyone from everywhere and look out for each other, be it for the good or the bad. An example of this is when my uncle received video clips and photos of our campaign against forced cremations through his school WhatsApp group and was able to identify me through the pictures. I received messages of encouragement from Sri Lankan Muslim families residing in the United Kingdom, where they were able to access these images and easily identify me. This has its pros and cons, but I like to think that these tight connections help our activism, because messages can find solidarity fast.

How does our community respond to the use of social media for awareness? If the subject is gender based or on women's rights, then it is not always appreciated. When speaking about

1 Muslim Marriage and Divorce Act, No. 13 of 1951.

MMDA reforms, suddenly I am 'not Muslim enough' to carry this conversation with others. However, if it is the issue of forced cremations, then it is the question of 'why am I not amplifying this message as a Muslim with a platform?' The same people who belittle you and try to silence you for messages based on equal rights, appreciate the work you do when it comes to a more conservative topic. There is an element of policing by the community itself when it comes to the content we create.

Using social media also has its benefits because international groups and organisations can see your work and the impact it is creating on the ground. This brings in the credibility and support we need to keep our work going. Although activists in other countries receive much more benefits from being online, such as having verified accounts and better privacy management tools, etc., we operate with a bare minimum of these resources and still we do get more work done.

Even though social media is a powerful tool, it is also heavily monitored by the State. I used to think that humour was the perfect mode to drive an idea through to an audience. But will this be seen as a joke or be an insult to someone else? Regardless of the intention many content creators have, the impact of their content can always be misinterpreted or controlled. Activists must prioritise their safety when their main form of engagement is via social media.

Muslim Men and Women

Sri Lankan Muslim men and women are two different classes of citizens in the country. Culturally and socially different rules are applied to them, let alone the systemic discrimination. The youth landscape of the Muslim community has more representation of men. This is quite different from youth movements in the Christian faith where both genders work together in the planning and execution of social work.

Back in 2019, a friend of mine received an invitation organised by a 'Muslim youth organisation' for a conference event for volunteers. For background context, she is non-Muslim and her organisation also works predominantly with Sinhala Buddhist ethnicities. She asked why young Muslim women in this space were not invited to events like this, especially when the event is represented by members of the Muslim community. A short peek into the social media accounts of organisations like this will give you the answer. The websites and links will all direct you to organisational structures composed of all male members. If women are involved, they are in secretarial positions working for a man. Similar organisations like this seen in university groups and such will have women's images blurred or shown as anonymous while the young men all have photographs highlighted with their organisation titles.

So, who are these women and what about their identities? One might argue that women themselves request for this anonymity, which is understandable. However, can it be the decision of all Muslim women? Some argue that the culture of universities is so toxic that it

is an advantage to be hidden from plain view in the organization. Do women get to make these decisions? Why are we not worried about the way learned young male undergraduates are misogynistic to their own female colleagues? In the issue of universities specifically, there is more representation of Muslim women than men pursuing higher education. However, this is not reflected in their leadership as women are barely encouraged to take part.

This pattern of erasing our identities is applied to unveiling Muslim women too; the *niqab* ban was never discussed in consultation with Muslim women who wear it.[2] Why are we as a society obsessed with what women can and cannot wear and justify this with a link to our overall security? If politicians like to expose us and Muslim influential leaders like to hide us, the media chooses a different route. When we come home at the end of the day and switch on the local news channels, Muslim women are either a threat with their appearance or oppressed damsels in distress. How they see us eventually becomes how we see ourselves. True, our community in more than one way has failed us, but we are not powerless beings whose only purpose in life is to be saved or protected.

How We Created a Young Muslim Women's Organisation Using the Internet

In 2019, I saw a flyer for an event organised by a Muslim youth organization for young people. The flyer showed panelists who were all male, and especially from the Muslim representatives, there were no female speakers present at the event. The event in question was hosted in the name of 'inclusivity', 'representation', and 'youth.' How can you achieve any of that when young Muslim women cannot be seen as equal participants at an event? I had been struggling with this issue for a long time with my colleagues and friends from work and university, where nobody wanted to actually engage Muslim women in equal participation. Especially Muslim young men from influential spaces have shown a particular disinterest in including us in the conversation. If I brought this to attention, the response would always be:

"Aiyo you don't have to worry about this, the men will figure it out."

"The resource person was surprised to find out that you were a Muslim girl. He told us in confidence that a girl was really interested in creating interfaith opportunities. It never occurred to him that you were also a Muslim because you didn't look like one. Please don't feel bad about this."

So, when I saw this flyer, it felt like the straw on the camel's back — I had a moment of weakness (or strength, I am not sure) and spoke about this on my social media account. I

2 In April 2021, Sri Lanka's Cabinet approved a ban on the wearing of the niqab (full-face veils) in public. 'Sri Lanka cabinet approves proposed ban on burqas in public', *Al Jazeera,* (28 April 2021) <https://www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public> accessed 4 September 2021.

spoke about how the present Muslim community lives in a bubble and likes to stay sheltered from connections that we are encouraged to have in our religion, with other Muslims who are different from us and communities belonging to other faiths. This was not a smear campaign to say that our community does not face racial discrimination or negative stereotyping, but a wake-up call to really understand that we can do more.

The video got mixed reviews. Many questioned why I did not have a *hijab* (head scarf) on before I criticised people of my same faith. Others agreed and mentioned that they were also in the dark about many things in our community. One of the most prevalent themes in the social media video was the question of family law reforms and why we are allowing Muslim women to be treated as second-class citizens of Sri Lanka. Many women themselves complained that they did not know about the discriminatory provisions in the MMDA and said that they would like to learn more.

My inbox started filling up with mixed responses. I realised that most Muslim men did not understand their place of privilege. They had questions as to why it was necessary to 'shout' about this or make such a fuss instead of having a diplomatic discussion about it. The crux of all these issues to us is that women do not have a seat at the table, let alone in diplomatic discussions. Then we most probably must create a space of our own.

Most women responded differently; I got many messages asking whether they could meet me or my colleagues to learn and understand more about issues women face in the community. They all kept asking for a safe space for dialogue to learn more.

After going back and forth about organising a meeting, my friends and I finally made time, sat down, created a forum, and finally created a database comprising nearly 100 Muslim women. Muslim women who were already engaged in this sector, whether it was in charity/social services or as volunteers helped mobilise more young women from Colombo towards this meeting. A friend offered to host this gathering for an evening discussion of coffee and short eats. Close to 30 (Muslim and non-Muslim) women attended and luckily, we also had an activist joining in and she was able to share with the group the meaning behind the MMDA provisions and how they harm women in the country.

The women also discussed their experience as volunteers and what sort of barriers and challenges they have to face in their own communities when being in this space. Most of them had supportive parents willing to overlook relatives who spoke badly of them, saying that, 'this will not help them get married young' or 'she will turn out loose like the others'. One participant shared her experience as a facilitator carrying out all-island workshops on peace and reconciliation for school students. Her parents joined her on the tour bus along with the other young facilitators, just so they can keep her company and have a 'mahram' close to her. In the Sri Lankan Muslim community, a 'mahram' is a close family member or relative allowed to escort an unmarried woman if she does not have a husband to do this for her. Girls are seen as 'provocative' if they travel alone without one or 'in danger and at risk' if they do not have an escort. The Muslim girl is in constant need of being saved or protected by the community.

One of the attendees was a Muslim lady who started her own non-profit organisation working to protect the rights of adoptees and orphans. The story of her career included the obstacles of delaying the traditional custom of marrying early by lying to her family about her job for years. She worked in a non-profit capacity while falsely telling her parents that she worked at a business. Fortunately, by the time the truth came to light, she had met a supportive partner and was married with the blessings of her family. For every successful story among Muslim women, whether in family life or career, there is a theme of someone being 'supportive' in her life. We are not unaware of the women who do not get this advantage and what their lives look like.

When we ended this first meeting, I personally thought that we would all just go home and create a WhatsApp group to sustain this network and connect ourselves to volunteering opportunities. But surprisingly, that is not what happened. The women asked for an organization — a group where they can have more of these discussions. After the success of the Colombo meeting, what happened next was that through social media, young women and girls from the Kandy district wanted the same exact discussion replicated. Former students from a reputed Muslim girls' school in Kandy spoke to their school Principal and arranged their school hall for us.

A team of girls travelled to Kandy and spoke to nearly 40 participants and facilitated discussions on menstrual hygiene, community taboos, career challenges, and what being identified as a Sri Lankan Muslim woman means to us. These meetings were hosted before the pandemic, so we were able to engage more closely and empathise with each other. Once this event concluded we made plans to visit known grassroots networks in Matale, Sainthamaruthu, and Galle. Unfortunately, the pandemic broke out and we had to cover our work online. Many of the ladies who attended our Kandy workshop reached back to us for advice on domestic violence and divorce issues. Many Muslim women, regardless of their level of privilege, were unaware of their basic rights or the lack thereof. For example, even in 2020, many of them did not know that there was no minimum age of marriage for Muslims under the MMDA or that the bride's signature or formal consent was not required. It is difficult to moderate conversations within the community because the Muslim community is so diverse. There are pre-constructed judgements before they attend these sessions, and they leave the venue with a better level of understanding about each other. This is the story of how Sisterhood Initiative was born; A young Muslim women's network with the participation of non-Muslim allies working towards creating safe spaces for discussion and learning.

Cyberbullying and Social Media Pressure

The downside to social media is the online hate and bullying. There is no way around it and especially speaking up for minority communities brings out an added backlash from racist and supremacist groups. The other factor being female means I become an easy target as well. For many hate groups, my gender is the easiest target to pick on, because other men

who have these same conversations are never policed. The gender-based harassment my colleagues and I face online becomes so normalised that eventually we are numb to it.

The online space has no rules, anyone can say anything with no consequences. After the Easter Attacks in 2019, our own names on our National Identity Card (NIC) became a liability. While other youth groups can discuss meetings and events around different themes, we must be cautious. Especially as an unregistered group, we need to take special measures to maintain transparency even though we carry out work for social good.

If your posting is mostly on women's rights or issues faced by minorities, there will be pressure to also speak up for other issues (mostly because they are blamed on Muslims). For example, in the last couple of years, the month of April has been very scary. There will be hate messages asking why there is not enough work done to bring justice to victims of Easter Attacks, because 'the bombing was committed by the Muslim people.' In another context, when you protest against forced cremations, the comeback will be,

"These Muslims only talk about their rights, but do not care about their role in the Easter Attacks…"

It is a difficult path to tread on, because you will always be disappointing someone.

On a growing online space such as Instagram or TikTok, a new account can be opened with just a username and a password. This means anyone can create a fake account to stay anonymous and abuse your online space, with absolutely no consequences. Most of the time these are carried out by either Islamophobes, racists, or extremists trying to police your online activity.

During the MMDA reform campaigns carried out online, we used TikTok videos to show the absurdity of the current law: such as the bride being unable to sign her own marriage contract, women not being able to be appointed as *Quazi* judges, etc. This was to experiment how the online space would react to such an accessible social media tool being used to portray something as controversial as these reforms. The results were effective, creating more than 17,000 impressions in less than 24 hours. The backlash was also serious, as it angered certain groups for 'giving the Muslim community a bad name' or 'encouraging racist conversation' and 'disrespecting Islamic law' and so on. There was also evidence of ignorance in the community on these issues and a misunderstanding between the accurate interpretation of the religion against harmful narratives. A young woman once told me,

"Sister, I really want to fight for human rights, but if it comes against Islam, then I cannot do that."

It is worrying that the very faith that was built on the principles of justice is not understood as it should be. We spend a lot of time arguing that one is culture and the other is Islam, the religion. However, it is not religion against culture, because culture is supposed to beautify religion. According to Yaqeen Institute that works to demystify religious stereotypes,

religion serves as a filter and whatever is purified is an important body of lived knowledge that enriches the global Muslim community.

As easy as it is to create content to increase awareness, it is also easy to use these channels to discredit the content creators and cause conflict. The approach was successful because it was able to reach many Muslim women who felt discriminated against during their marriage registration and men who were unaware of the gravity of these issues.

Being present online as a Muslim comes at a cost. Your privacy will be disturbed to find fault with the way you behave with friends or family. There are unattainable expectations put on to be appropriate, if not, your actions will be corrected, and those mistakes made public. When this pressure is continuous, it causes severe mental exhaustion and harm to your emotional wellbeing.

Getting 'Cancelled' from the Community

Pressure from racist groups is tough, however, this is not all; the Muslim community itself is keeping watch and will try to attack an online account by discrediting the person behind the profile. I have been called a *kafir* (non-believer), a daughter whose father did not raise her well, *harami* (slang for engaging in non-permissible things in Islam) and many other insults.

The pattern is very simple — it is to make it seem like a religious duty for other online accounts to discredit or slander the account in which I use to amplify messages of the marginalised and oppressed in activism. Because I do not wear a *hijab* my messages are immediately not heard by mainstream communities because it is highly probable that I am a 'bad Muslim' and following my advice would be the downfall to the community. The worst kind of bullying is when they actually acknowledge that I do help people, but the narrative is that, regardless of my actions, my faith is not up to their standard, hence I must be 'cancelled', treated as an outcast.

This is an example of a public tweet that was posted online:

"Just because a sister helps other people in the community does not mean she's a good Muslim. Who cares? She doesn't wear a hijab."

In 2020 amidst the pandemic, there was a campaign of hate messages against me on Twitter. In one specific event, an anonymous user created a virtual poll where other users could submit hate messages against me by mentioning what they dislike about me the most. There was no surprise that a lot of these accounts belonged to Muslim men, but it was also unsurprising that there were many women who felt the same. One of the reasons to publicly discredit another female's profile is to gain the attention and praise of other misogynistic men. The whole premise for this is to stop a Muslim personality from leading other users astray in the name of religion.

As much as it is easy for anyone to profile and spew hate comments on a profile, it is equally difficult to challenge this and report this behaviour. Hate speech in these specific scenarios is not easily recognised by monitoring groups due to the slang and language preferences. Muslim policing groups will use Arabic added to their English texts and sometimes have bad spelling while racist groups will use curse words typed in Sinhala font etc.

Audiences in large groups can make or break your messaging. It is important to think about functioning in a system where sometimes your credibility depends on what people perceive of you online. It is hard when even influential scholars will try to use their platforms to show your work in a bad light. I still do not know the complete answer to this, but people need to feel like allies or part of a movement for this to work. It is usually a level of understanding between groups that will help to close this distance.

Intra-faith Discussions within the Muslim Community

As a country, we like to boast about ourselves as a multi-ethnic society. The 'interfaith dialogue' trend that is in evidence at many discussions, completely negates the fact that our faiths are diverse in themselves. The Muslim community has many races within it; Malay, Moor, Bohra, Memon, etc. From province to district each community speaks Tamil differently, prepares rice porridge (kanji) differently and even prays Friday prayers differently. There are cultures we have created for ourselves on this island. For instance, when my nephew was born our family recited *'Thalai Fatiha'*.[3] It is proof that our history in this country is so diverse and complex, as opposed to the stereotypical *wattalappan* (traditional jaggery pudding) sharing neighbour that the media likes to portray.

In the aftermath of the civil war, a youth movement was created in hopes of reconciliation across the island. I was also a member of this group and we toured all provinces with a group of diverse young people from different parts of the island to schools to conduct workshops and host assemblies. Something I noticed when we were in the Eastern Province is that clothing is symbolic. My team was kicked out of a Muslim school by the staff because I was wearing the organisation T-shirt and jeans along with a *hijab*. I was asked, "are you a boy? Why are you dressed like that?" while Muslim women in Colombo can wrap their *hijabs* as turbans and wear jeans, women in the Eastern Province wear a *shalwar* and cover their pants with a long tunic. A similarity was seen in Badulla when we were at a Buddhist school where we were advised to wear long skirts instead of pants. Of course, these examples are misogynistic because it's all about a male principal policing women's attire, but it also shows how even in the same community, people behave and live differently.

This is why it is so important for communities themselves to reflect inwards and have intra-faith conversations. We need to be able to talk to each other while and before we talk to other

3 *Thalai Fatiha* is a compilation of verses written in Arabic script, but the language of the verses is Tamil. It is a characteristic recitation used by Muslim families from down South, where Tamil verses are written in Arabic and recited with a unique rhythm.

groups. This lack of understanding between members of the same faith is the reason we cannot come to a consensus on anything.

Picking Battles

Being able to carry out activism solely on the cause that impacts you is a privilege. We have to be mindful of our labels before we start any community work. When the public has heard too much of 'one law, one country' it is difficult to bring out issues in the MMDA that affect Muslim women, because then it becomes a challenge to answer 'why Muslims have a separate family law'. This results in radio silence on Muslim women's issues for a long period of time if the community has to fight other targeted issues. During the mandatory cremations policy enforced in the country, it was many of the women activists who usually engage in women's rights including MMDA reforms that were also bearing the flag for families of victims that had to undergo cremations. This also creates a severe burnout on the community leaders when they do not get a rest period in between campaigns. They have to literally pick issues where they could deploy their energies most effectively and save their time for what needs the most attention. This was seen during the pandemic when activists did not have time to engage in MMDA reforms because it was more important to make sure underprivileged communities with high COVID-19 risk received dry rations and other resources during the lockdown. Also, they found any such reform related campaign or activism can be counterproductive to an already severely suffering community.

The campaigns created within communities against the mandatory forced cremations also brought the Muslim community closer together. In my personal experience, men who had given us a hard time when we spoke on MMDA reforms, later on, followed our work and amplified them. It allowed them to see the spectrum of work that is included in Muslim women's activism in Sri Lanka. That it is not just 'women's issues' that we fight for, but community issues, done with the support of all Sri Lankans. There is a sense of solidarity that women are able to bring about which was evident in the #stopforcedcremations campaigns during the pandemic. It forced community leaders with different opinions to work together and created space for respect.

Awareness is Overwhelming

In the network of young women that I work with, a lot of them are new and engaging in activism for the first time. Preparing ourselves for new knowledge on the topics we are engaged in can sometimes be overwhelming. For example, since we work in a majority Muslim women community, many volunteers wanted to learn about female genital cutting (FGC) that takes place in the country. This awareness felt very private, and at the time, a feeling shared by everyone else. It felt good to know that we were not alone and at the same time awkward that each of us felt this betrayal. One thing was for sure, it was that activism is going to get personal to each volunteer. It was no longer about speaking up about topics

that were shielded from us because of privilege, this all became about making sure no other girl child will go through what some of us had to endure. This created a way for members in our team to go through training in gender and sexual and reproductive health and rights related subjects. This way there is a structured path for them to influence another on these matters.

Especially when it comes to sensitive issues like FGC, the body will still remember the trauma, even though you might not have a memory of it in your head. There is a feeling of being violated and betrayed by your own community based on the misguided interpretations of your own faith.

In the year 2020, I was part of a youth collective requesting grant funding through a government ministry working towards adolescent health and wellbeing. FGC was one of the topics we wanted to work on by creating conversations with women at the grassroots. The panel we had to impress were all qualified medical experts and practicing doctors at national hospitals. The level of awareness and understanding among them on this particular issue was very disappointing, however, they were eager to be part of the solution. Many of them were cynical at first, worried that it would appear racist if they only supported a project with a target audience of Muslim women. But we were able to convince them of the importance and the unique position this issue brings to these women. At the end of my presentation, I was asked, "Was this done to you?" It made sense that they were not aware of the sensitivities; these are not topics we speak about openly, and hopefully, with time this should be able to change.

A team member from our group shared with me that when it was time for her niece's hair shaving ritual, she refused to allow anyone to carry out the 'cutting' on her niece.[4] For her it was an emotional event but breaking this chain of ugly traditions made her feel it was going to be much better for the community. Working in this field and having these conversations every day of the week makes you thick skinned, but still vulnerable. Awareness starts with us and because this is overwhelming, it is important to create boundaries for ourselves.

The Reality of the Pandemic

The visible networks that were created before the pandemic went underground with the lockdown. The only persons we were able to connect with were online, through phone calls and text messages. The number of forced and underage marriages increased, and it became increasingly difficult to track or connect the affected young women to resources for help. The services that were able to penetrate into these communities were not women's rights friendly and often tried to reconcile the abused back with the abuser in the name of religion. In the month of September in 2020 during the lockdown, we were notified of a girl who was

4 In some Muslim communities, young babies go through a hair shaving ritual 40 days after being born. Sometimes, FGC is undertaken during this time.

forcibly married at sunset. She was only told about her own registration at 4 pm; just two hours in advance of one of the biggest moments of her life. The time we were alerted to this through her friends, we had only 30 minutes to speak to her and tell her to file a police report the next day or ask the police to intervene because it was taking place without her consent. Unfortunately, she was also put in touch with a counselling service run by a faith group known for a more spiritual and traditional approach to solving issues rather than by holistic means. As a result, we never heard back from her and her phone connection was cut. Is this the reality of a young Muslim girl without the usual privileges of class or money with the added challenges the pandemic has brought into the system?

One of our volunteers who also works at a women's shelter mentioned how the emergency team is unaware of loopholes in the MMDA, and when they receive a female Muslim client, they will send her back to the police or *Quazi* court because they do not know how to help her. The increasing racism and ignorance when it comes to the Muslim community negatively impact the way Muslim women are treated by social workers and most of the time discourage these women from getting the help they need.

So, whose job is it to help the Muslim woman? Muslim women themselves will argue that these hardships are not felt by them and therefore do not exist. That if women were more pious and virtuous these issues will not befall them. That it surely must be the woman's fault for something to have gone wrong in the marriage or family in the first place.

The pandemic was able to reveal these issues and yet keep them in the dark. Forced marriages, child marriages, FGC and domestic abuse kept happening and arguably increased. But these incidents also went underground and unmonitored.

Privilege

Humans in general do not acknowledge privilege because it is associated with shame. Regardless of wearing the tags of a young Muslim woman from a minority community, not being from Colombo, I still benefit from lots of privileges. This is very noticeable in our activism when we connect with groups nationally in campaigns. The backlash we have to bear is rarely physical, mostly emotional. Even in the case of surveillance, it is easier to access safety and assistance, but this is not the same for all our colleagues across the spectrum. Navigating this is also hard because when we use our voice we cannot put others in danger. Most of the time, we take every precaution we can think of, but still, make inadvertent errors. This is not to say that even moderately privileged activists are immune to challenges; the challenges are still there, but their effects are different.

Back to the Tightrope

In my family, I have a cousin sister of the same age. The only difference is that she grew up in the United States of America while my family and I stayed here. She wears a *hijab*, follows

the faith much better than I do, and was taught the interpretations of Islam in a more holistic sense. In university, she was able to join Muslim youth movements which meet in the local mosque and have sessions on social justice and work to break down negative stereotypes within the community. She will be able to sign her marriage contract the day she decides to do so and will not have to worry about protecting future daughters from harmful FGC practices.

However, as a Sri Lankan Muslim woman, to me, her life is a luxury and something I will not be able to have for myself or my fellow sisters. Here, the Mosque only opens the women's wing for prayer during religious festivals and mostly the men in my family will get the opportunity to engage in discussions with the community and make decisions about me.

Muslim women are the stereotype of second-class citizens in this country, the scapegoat when situations in the community become tough and, if at all, the last to be consulted on decisions concerning our own lives. Whether it is about our bodies, attire, marriage or career, there is always someone else calling the shots.

The media likes to portray us as oppressed and backward, Muslim men want to own our agency, politicians decide on our clothing with the aim of 'national security', the list is endless. All these stakeholders need us in society, but not as equal beings. We are here, but not heard, like props in a play. The challenges we face within our communities are met with racism and sexism in everyday life, so we need to navigate all this to carry out our work.

To end this collection of events, I want to quote Malcolm X where he was able to explain the tension he felt when working in his community,

"For the Muslims, I'm too worldly. For other groups, I'm too religious. For militants, I'm too moderate, for moderates I'm too militant. I feel like I'm on a tightrope."

That is exactly how I feel. We have to personally and professionally wear many hats, labels and identities while our values remain the same. There is a tug of war even with your colleagues because they do not face the same realities you confront when doing the same work. Therefore, it is important to live every moment as an opportunity to self-reflect and bring communities together to do the same.

Muslim Marriage and Divorce Act: The Struggle for Reform

Ameer Faaiz

"No struggle can ever succeed without women participating side by side with men.

There are two powers in the world; one is the sword and the other is the pen.

There is a third power stronger than both, that of women."

— Malala Yousafzai

1. Introduction: The Muslim Community and Law in Sri Lanka

The presence of the Muslim community in Sri Lanka can be traced back to the pre-colonial era. According to archaeological evidence found in various parts of the island, Sinhala and Tamil communities in Sri Lanka engaged in trade with Muslims from Middle Eastern countries. During the colonial period, Sri Lanka served as both the conduit for trade as well as the source of trade at the intersection of mercantile activity in Asia. Sri Lanka thus became home to a significant number of Muslim communities[1]. Merchants constituted a significant segment of the Muslim population at that time.

This provides the backdrop to an understanding of the crucial role played by the Muslim community in international trade involving Sri Lanka, thereby making commercial activity in the country prosper and thrive. During the Portuguese period, however, Muslim merchants were severely affected by restrictive and discriminatory economic policies and conditions adopted by the imperial powers. The circumstances became worse when the Dutch took over economic activity through the Dutch East India Company (the VOC). This period saw the Muslim community maintain its existence in Sri Lanka as an integrated community despite constraints placed upon their pursuit of trade. Even as they faced odds in their socio-economic life, they adhered to their cultural and religious ethos and practised their religious beliefs within family and community life.

An important development that took place during this period was the introduction of the New Statutes of Batavia of 1766 in 1770 which encompassed rules on Muslim marriage, divorce, and other related matters.[2] By the time the British took control of the Maritime Provinces of Sri Lanka, the Muslims were an integrated community and were able to negotiate terms with the British government. Consequently, formal acceptance and statutory

1 M. M. M Maharoof, 'Islamic law in Sri Lanka: The formal and informal aspects' (1990) 29(1) Islamic studies 77-90.

2 Hon. Justice Saleem Marsoof PC et al, *Report of the Committee appointed to consider amendments to the Muslim Marriage and Divorce Act*, (January 2018).

formulation of Muslim law in Sri Lanka was given under the British.[3] The governor's decree was subsequently called, "The Mohammedan Code of 1806".

Introduction of the Muslim Marriage and Divorce Law

The Mohammedan Code of 1806 made a considerable contribution to the Muslim and Marriage and Divorce Act. Although the Code was a compilation of the Muslim law and practice of Java and other islands, it is also believed the Code included a set of rules practised by the Muslims of Colombo.[4] The Code also dealt with inheritance and other related matters, Muslim marriage and divorce procedures and their consequences.

In post-independent Sri Lanka, The Mohammedan Code of 1806 remained the main source of Muslim marriage and divorce law. The Code was amended under the Muslim Marriage, Divorce Registration Ordinance 1929 but the precepts of the Code were retained until the Muslim Marriage and Divorce Act (MMDA) was drafted by a group of men and passed by the legislature in 1951 and became operative in August 1954.[5]

2. Personal Laws in Sri Lanka

Sri Lanka has in its legal regime a few personal laws that deal with issues relating to different communities. They usually deal with matters involving marriage, divorce, maintenance of spouse and children, properties, places of worship and properties belonging to them and their administration.

Currently, Sri Lanka has Kandyan law, Thesawalamai law and Muslim law that apply to Kandyans, Jaffna Tamils and all Muslims respectively. These personal laws have allowed different communities to retain their distinct norms, customs, and religious practices.

Kandyan law mainly encompasses laws and customs that were in force under the Sinhalese kings in the Kandyan Kingdom since about the 16th century. It is identified as a territorial law by some experts as it also applies to Hindus and Europeans domiciled in the Kandyan territory. Kandyan law contains an ancient set of regulations pertaining to marriage, divorce,

3 Maharoof, 'Islamic law in Sri Lanka: The formal and informal aspects' (1990) 8.

4 ibid.

5 Hon. Justice Saleem Marsoof PC et al, Report of the Committee appointed to consider amendments to the Muslim Marriage and Divorce Act, (January 2018).

succession, and custody. Certain practices such as polygamy and polyandry recognised by Kandyan law have since been prohibited.[6]

Thesawalamai law that applies to the Malabari inhabitants of the province of Jaffna is a codification of the customary law that governed intestate succession, property inheritance and certain proprietary rights. Thesawalamai law has been recognised as a personal law in Sri Lanka that applies to any Jaffna Tamil domiciled in any part of the island.

Muslim personal laws in Sri Lanka are in the statutes of the Muslim Marriage and Divorce Act (No. 13 of 1951), Muslim Intestate Succession Ordinance (No. 10 of 1931) and Muslim Mosques and Charitable Trusts or Wakfs Act (No. 51 of 1956). Of these three statutes, the Muslim Marriage and Divorce Act has been subjected to greater attention and debate for being both discriminatory and inconsistent with fundamental rights enshrined in the Constitution.

3. Controversial Features of the MMDA

Almost since the inception of its implementation, the MMDA has courted controversy on a range of issues over which it had jurisdiction.

Marriage

The MMDA provides for the registration of Muslim marriages. Section 17 of the Act bestows the duty of registering marriages under the Act on the bridegroom, the *wali* (guardian of marriage) of the bride or the person conducting the *nikah* (wedding) ceremony. However, it does not make registration mandatory for a marriage to be valid (section 16). Consent of the bride is not a requirement for a valid Muslim marriage. Section 18 of the MMDA provides that even the bride's presence at the time of the registration is not required as the interest of the bride is represented by the *wali*.

This has resulted in many marriages not being registered. There are instances of girls being married off without their consent. The requirement of *wali* being entrusted to the 'sect' to which the bride belongs, entitles a distant male relative to adorn that mantle in the absence of the father or brother at the expense of the mother who would have toiled hard in bringing up the child. This has resulted in many cases of abuse. The non-compulsory nature of the marriage registration has subjected spouses and children to much abuse and injustice, particularly in polygamous marriages.

6 M. H. M. Firdous, 'Sri Lankan personal laws between justice and freedom – A value based perspective', *Groundviews*, (12 January 2016) <https://groundviews.org/2016/12/01/sri-lankan-personal-laws-between-justice-and-freedom-a-value-based-perspective/> accessed 20 August 2021.

Minimum age

Unlike the general law on marriage which requires that the couple be at least eighteen years of age for a marriage to be valid, the MMDA does not recognise the concept of minimum age. This allows Muslim marriages to be contracted between minors (who cannot consent to marriage), subject to the approval of the *Quazi* in the case of girls who have not attained the age of twelve (section 23).

The benefit of this paucity is often reaped by Muslim men who marry women who have not attained the age of capacity to marry. Consequently, many Muslim girls and young adults are deprived of education and their right to a normal childhood. It has also been discovered that in many instances young Muslim brides are abandoned, divorced, or compelled into polygamous relationships after being married as minors.[7] Further, at the time of *nikah*, the accuracy of the bride's age is not verified. The registrar accepts the word of the *wali* which leaves room for error.

In 2014, 14 percent of all registered Muslim marriages in Kattankudy were with a bride below 18 years of age. In the following year, the figure increased significantly to 22 percent.[8] In research conducted by the United Nations Children's Fund (UNICEF) in the year 2018, it was revealed that at least 12 percent of the girls in Sri Lanka are married before the age of 18 and 2 percent among them are married by the age of 15. In an article submitted by the Atlas Corps in furtherance of this research, the MMDA of Sri Lanka has been identified as one of the main reasons for this high number of underage marriages.[9]

Polygamy

The MMDA provides for polygamy, allowing a man to contract four valid marriages concurrently provided that he has the financial means and capability to fulfil matrimonial obligations equally to all four spouses (section 24). There has not been a mechanism to verify either the said capacity or the number of marriages already contracted. The non-compulsoriness of the registration is abused to contract more than four polygamous marriages at a given time and to abandon spouses. This has also resulted in difficulties in obtaining birth certificates for children of such marriages. This in turn can present a serious obstacle to gaining admissions to schools. In most cases, the husbands are unable to provide adequate maintenance and *Quazis* do not order sufficient maintenance due to perceived

7 Sabra Zahid and Hyshyama Hamin, 'Long Overdue: Breaking down the minimum age of marriage in Sri Lanka', *Groundviews,* (15 July 2019) <https://groundviews.org/2019/07/15/long-overdue-breaking-down-the-minimum-age-of-marriage-in-sri-lanka/> accessed 20 August 2021.

8 Hyshyama Hamin & Hasanah Cegu Isadeen, *Unequal Citizens: Muslim women's struggle for justice and equality,* (The Observatory on the Universality of Rights October 2016).

9 Gayathri Rajeevan, 'Child Marriage in Sri Lanka', (Atlascorps, 30 May 2018) <https://atlascorps.org/child-marriages-srilanka/> accessed 20 August 2021.

obligations of polygamous marriages and the resulting numbers of children. There is abundant evidence of how detrimental this practice has been to many Muslim women and children, young ones at that, within the Sri Lankan Muslim community. Further, anyone who claims that the permitted practice of polygamy has eradicated or prevented adulterous and extra-marital relationships or that there are no concubines is surely out of touch with reality.

Polygamy is not mandatory in Islam. Nor is it a preferred option. There are differences of opinion, even amongst jurists, as to the permissibility, acceptability, and applicability. Muslims claim that Islam restricted polygamy nearly 1440 years ago when there was no limit on the number. Hence, it befits the Muslims to apply *ijithihad* (independent/intellectual reasoning) and act in the public interest and/or general good *(maslahah mursalah)* — both principles are integral parts of Islamic jurisprudence.

Divorce

The MMDA provides four main grounds of divorce. Namely, *mubarat* (divorce on mutual consent of both parties), *talaq*, *fasah* and *khula. Talaq* permits the husband of an existing marriage to divorce his wife by simply pronouncing it without a permissible reason. In practice, often, this happens behind the back of the wife. In contrast, where the wife of a subsisting marriage desires to obtain a divorce from her husband, she is required to follow a complicated procedure provided in the third schedule of the MMDA including providing corroboration of the alleged fault by two male witnesses. If she intends to effect divorce on the ground of *kulah* (unhappiness in marriage) she will be compelled to pay compensation.

Quazis (judges)

A *Quazi* is a quasi-judicial officer appointed for a specific geographical area vested with the jurisdiction to administer the MMDA. This office was established under the Divorce Registration Ordinance 1929.[10] Section 12 of the MMDA recognises it. *Quazis* were initially appointed by the Minister of Home Affairs but after an amendment in 1965, they are appointed by the Judicial Service Commission. The eligibility criterion for a *Quazi* is somewhat unconventional. Section 12(1) of the MMDA only requires the candidate to be a Muslim male and of good character. In addition, five Sri Lankan Muslim males of good character and suitable attainment are appointed to the Board of *Quazis*. The majority of *Quazis* have proven to be anything but men of good character.

Quazis exercise a wide range of authority over Muslims in Sri Lanka, including authorising an underage female child for marriage to decide on child maintenance. Decisions of the *Quazis* are often not recorded or made public. Lack of competence, absence of legal

10 Justice Saleem Marsoof, 'The Quazi Court System in Sri Lanka and its Impact on Muslim Women', (2011) Muslim Women's Research and Action Forum (MWRAF).

representation and oversight has allowed *Quazis* to deliver discriminatory, capricious, and wrong decisions.[11] Throughout history, women have been subjected to discrimination through this system.

The *Quazi* system itself has been acknowledged to be the fountain of all ills for long. It has been a graveyard for justice. There are ample statistics, case references, research findings and testimonies to substantiate this. In fact, many Muslims agree that the *Quazi* system is beyond redemption. The system is rotten to the core. It violates the fundamentals of Islam: equality and fair treatment. It has become the antithesis of Islam.

The institution of the *Quazi* has stood outside the mainstream of the administration of justice. It has no proper infrastructure, physical or administrative. The *Quazi* and the Board of *Quazi*, function only on Saturdays. Yet this institution is the exclusive repository of the vast jurisdiction of all Muslim marriages, divorces, and maintenance. The system has not been upgraded. Worse, the state has been a silent observer, facilitator, and funder of this discriminatory system, arguably in violation of equality provisions and directive principles of the Constitution. The state has shown no remorse in sustaining such a discriminatory structure with taxpayers' money.

4. Analysis of the Problems

Muslims want Sri Lanka to be a pluralist state that respects democracy and diversity. Muslims now claim that theirs is no longer the trading community that it was before. The community has now diversified and reached into every spectrum of the society including professions, corporate sector, business, trade, agriculture, manufacturing, and public service. We want to be treated as equal citizens. That is fair and right. Yet we want to enjoy unequal or more than equal privileges too. In that context, should not Muslims proactively promote some issues that could show their community in a better light and promote pluralism as opposed to indulging in arm twisting and subtle intimidation?

Progressive reform of the law is possible within the very framework of the *shariah* owing to the dynamic nature of Islamic *fiqh,* meaning *'deep understanding' or 'full comprehension'* and the methodology of *ijtihad*, which is known as *usul al-fiqh*. They certainly do not oppress and/or discriminate against women.

Justice Weeramantry[12], in his seminal treatise 'Islamic Jurisprudence: An International Perspective', has traced the Islamic fundamental tenets as the founding base for the Universal Declaration of Human Rights. The declaration remains at the core of all other treaties including in particular the International Convention on the Rights of the Child. Justice Weeramantry goes on to trace how Islam paved the way for, and ensured the

11 Safana Gul Begum, 'Is equal justice possible?', (2015).

12 C.G.Weeramantry, *Islamic Jurisprudence: an international perspective*, (Palgrave Macmillan UK 1988).

protection of, equal rights between men and women at a time women and children had virtually no rights. He quotes verses from the Quran extensively in drawing attention to directives that ensure that men and women are equal. Justice Weeramantry is not the only jurist to have reiterated that Islamic jurisprudence is the predecessor and the forerunner to the current internationally accepted human rights norms. Nisrine Abiad[13], in her treatise 'Sharia Muslim States and International Human Rights Treaty Obligation', outlines several areas where Islam brought positive changes, contributing to the improvement of human rights.

Many Muslim majority countries have raised the minimum age of marriage. This is generally true of most rich Gulf Islamic states and includes Algeria, Afghanistan, Pakistan, Bangladesh, Egypt, and Morocco. Women are appointed as judges and *Quazis* in Indonesia, Malaysia, Afghanistan, Bangladesh, Pakistan, Tunisia, Egypt, Sudan, and Morocco. Similarly, in keeping with the Quranic injunctions, Malaysia has imposed stringent preconditions in the case of polygamous marriage and further in progressively interpreting the Quran, Turkey criminalised polygamy in 1926 and Tunisia banned it in 1956, both predominantly Muslim states.

However, within Sri Lanka, there has been a claim by a section of the community that it is time the community looked inward, particularly after the Easter Sunday carnage in April 2019 to address issues of exclusivism and isolationism and promote coexistence and integration as a part of the Sri Lankan mosaic. Even MMDA reform was looked at in that perspective.

In contrast, those campaigning in secrecy, mobilising support against reform are seeking the endorsement of the claim that the *Quazi* system, polygamy, and marriage exclusively under the MMDA without any other option are the preserve of the 'Muslim identity' and that the community must rally round to protect them. To even suggest that these patriarchal embodiments are integral to the 'Muslim identity' is not only to defy logic but is also an insult to the intelligence of the society at large.

When confronted by majoritarian bullies and/or when it suits them the community elites and the so-called *mullahs* (religious leaders) readily compromise, negotiate, and give up. They agreed to reform the *madrasa* (religious teaching school) system, compromised on *halal* (permissible) certification, requested women to remove face cover and change from black into coloured *abayas* (a long dress/robe worn by some Muslims), and compromised on the fundamental right to bury the dead. But they have no compunction when it comes to the rights of their own women and children.

The presence of an exclusive system to administer justice has also had additional negative impacts. The state let the MMDA continue with the system of *Quazis* with hardly a demand on the Exchequer compared to the administration of justice overall. Bureaucrats and law

13 Nisrine Abiad, *Sharia Muslim States and International Human Rights Treaty Obligation: A Comparative Study*, (BIICL 2008).

enforcement authorities are willing to discourage Muslims from accessing the regular justice system. A case in point is the usual reluctance on the part of the police to act when Muslims wish to seek redress under the Domestic Violence Act. Instead of accepting the complaint and prosecuting they discourage the complainant and advise them to have recourse to the *Quazi*.[14]

Had the women's call for reforms been heeded prudently in time both the law and system could have been brought up to reasonable speed to be a just and equitable system that may have withstood the test of time. What is needed now is a complete overhaul of the system together with reforms compatible with today's societal needs, forward-looking, able to withstand future challenges and constitutionally compliant.

5. The Socio-Economic Fallout

The ill-effects of the MMDA include directly marginalising women and children. Early marriages and childbearing cost them their education, employability, financial independence, and access to livelihood. Many such women are later abused and abandoned. They and their children become destitute. Cumulatively these contribute to strengthening the vicious cycle of abject poverty. Many of the poverty-stricken children seek solace by enrolling in *madrasas* that can provide food, shelter, and teach only the Quran. It is conservatively estimated that nearly a thousand young adults pass out of these *madrasas* annually facing the challenge of finding employment. The lack of such opportunities for employment, as well as poverty and social ostracisation, ensures frustration. These conditions can provide a fertile ground for radicalisation, the last thing that the community wants.

6. Past Attempts at Reforms

As with any law, when adverse impacts were felt by the implementation of the MMDA demands for reform started emanating from several quarters, particularly from Muslim women. In acknowledgement that the MMDA needed reform, governments of the day set up different committees in 1956[15], 1984[16], 1990[17] and 2009[18] to propose reforms. To this must be added two independent initiatives. These are the Muslim Law Research Committee headed by retired Registrar-General Dr. H. M. Z. Farouque, appointed in 1972 and the

14 Shreen Abdul Saroor, *Our Struggles, Our Stories*, (2014) 208.

15 Marriage and Divorce Commission headed by Mr. A.R.H. Canakeratne.

16 Muslim Personal Law Reforms Committee chaired by Justice Wanasundera.

17 Muslim Personal Law Reforms Committee chaired by Dr. A.M.M. Shahabdeen.

18 Committee Appointed to Consider Amendments to the MMDA chaired by Justice Saleem Marsoof.

Independent Committee for Muslim Personal Law Reforms initiated by the Muslim Women's Research and Action Forum (MWRAF). All these committees deliberated, consulted stakeholders, and made recommendations. Some of their recommendations were known publicly, but none taken to their natural fruition. Although a few amendments to address some of the procedural shortcomings were introduced, the last one being in 1975, no substantive reform has been made to the MMDA.

Muslim women's demand for reform of the MMDA

Individuals and groups that were calling for reforms in the MMDA were brought together in the early 1980s by the MWRAF which since then pioneered the advocacy for the reform of MMDA for a long time. MWRAF attempted to reach out to women in the peripheries in their effort to bring out the issues. It even managed to get its nominees in a couple of committees that were appointed to propose recommendations[19] for reform, in addition to launching their own independent initiative. The MWRAF believed that its research, findings, publications, and advocacy would convince the so-called *ulamas (religious scholars)* and influential men in the community to reform the MMDA. But it is those very same men who have continued to fail them and the community.

Since about 2014/5 Muslim women have broadened their advocacy. Affected women, victims of systemic abuses by *Quazis* were mobilised by a few committed and senior activists and women activist groups and organisations that work directly with and support women on the ground and grassroots. These included the Muslim Women's Development Trust (MWDT), Islamic Women's Association for Research and Empowerment (IWARE) and Women's Action Network (WAN). In 2016 they made series of representations to the Constitutional Assembly appointed Public Representations Committee on Constitutional Reforms headed by Lal Wijenayake. They pointed out the adverse effects of article 16 of the Constitution and called for its repeal.[20] This was in addition to the demand for a complete reform of the MMDA.

These women's rights activists and affected women also made a series of representations to the chair and several members of the JSM Committee, to senior Muslim Politicians, the All Ceylon Jamiyyathul Ulama (ACJU) and the Prime Minister's Office. They also made several individual and group submissions to the Sub-committee on Fundamental Rights established under the auspices of the Constitutional Assembly which held consultations and made recommendations for necessary amendments to the Constitution. In later years a couple of activists from the Muslim Personal Law Reform Action Group (MPLRAG) worked with these women rights' activists and provided some advocacy support. Additionally, some young

19 *Women Claiming Rights and Spaces: Activism to Reform Muslim Personal Laws in Sri Lanka*, Edited by Faizun Zackariya & Chulani Kodikara, (Muslim Women's Research and Action Forum 2014).

20 Lal Wijenayake et al, *Report on Public Representations on Constitutional Reform*, (May 2016) 95-96.

activists effectively brought out some important issues hitherto unspoken for public discourse and debate in several social media platforms that helped broaden awareness on the need for reform of the MMDA.

The above collective, particularly the affected women leading the advocacy efforts, brought the MMDA issues to public attention and drew solidarity from fellow citizens. In their representations and submissions, these groups brought to public attention first-hand testimonies and other evidence of the lived realities and experiences of unfairness, discrimination, marginalisation, arbitrariness, abuse, indignity, abandonment, and violence caused by the ill effects of the provisions of the MMDA. They called for immediate reforms that would rectify these injurious provisions. These details shocked the conscience of all — with the exception of the Muslim males who had the authority to make such decisions.

Article 16: a charter of servitude for women?

Article 16 of the Constitution of Sri Lanka protects any written and unwritten law passed by the legislature despite its inconsistency with the fundamental rights chapter. It also provides the legislature with an opportunity to bring discriminatory provisions in such laws into compliance with the Constitution gradually. No attempt has been made by the Muslim community or its representatives to do that. In contrast to the MMDA, the Kandyan Marriage and Divorce Act No. 44 of 1952 (KMDA) has been subjected to amendments to make it consistent with the general law on marriage and the Constitution. Many discriminatory, unethical practices recognised by the KMDA were further amended through the 1995 Amendment Act. However, attempts to rectify the anomaly posed by article 16 during constitutional reform processes have been resisted by Muslim representatives.[21]

The call for the repeal of article 16 in the Constitution is the culmination of the longstanding frustration over the failure to make right the wrongs meted out to women and children. Those who are bent on perpetuating discriminatory practices, taking cover behind article 16, argue that the government is seeking to change the law in order to evoke religious feelings amongst the Muslims. They are trying to make it look that the call for the repeal of article 16 is intended to repeal the entire Muslim personal law, not just the discriminatory parts of it.

Justice Saleem Marsoof's Committee appointed in 2009 (JSM Committee)

Compelled by the demand from within the community and in acknowledgement of the imperative need for an urgent review, a committee was appointed in July 2009 by the then-Justice Minister Milinda Moragoda to consider and propose reforms to the MMDA. This

21 Constitutional Assembly of Sri Lanka, Report of the Sub-committee on Fundamental Rights, (24 August 2016), 4, 11 and 17.

committee was initially comprised of 17 members chaired by Justice Saleem Marsoof. [22] The committee held wide-ranging consultations with diverse segments and stakeholders of the community and received submissions. It finalised its report in 2018.

The committee considered recommendations that included enhancing the status of the *Quazis* by bringing them into the mainstream of the Sri Lankan judicial system, appointing attorneys-at-law as *Quazis*, ensuring adequate representation for men and women as *Quazis* by removing the disqualification of females from holding office, minimising intersectional disparities, fixing a minimum age of marriage for Muslims, making registration mandatory for a marriage to be valid, incorporating stringent rules on polygamy in compliance to the stipulations in the Quran to the MMDA, empowering *Quazis* and introducing a compensation mechanism for wives unjustly divorced by the husbands and permitting legal representation by choice. It further proposed that if reforms were not adopted, Muslims should have the option of registering marriages under the Marriage Registration Ordinance.[23]

The committee was not unanimous. Those wanting to stymie reforms opposed all these proposals in a dissenting opinion. This division put paid to any hope of reforming the MMDA.

Muslim women's advocacy post-2019

Undaunted, women continued their advocacy demanding that the MMDA be fully reformed. Several women's groups met the current Minister of Justice. Their demands for reform were premised on the state's responsibility to ensure equality, non-discrimination, and justice for all, including Muslim women. As those most affected, women should be given an opportunity to represent their interests in reform committees and play a key role in reform initiatives. Furthermore, they argued, the diversity (heterogeneity) among Muslims should be respected. There are several sects of Muslims living in Sri Lanka. The laws stipulated in the MMDA affect them differently. Thus, the interests and peculiarities of all such sects should be recognised and respected in reforming the law. Ensuring equality for women and upholding Islamic values are not essentially antonymous to each other. Islamic jurisprudence should be understood, applied, and propagated in its proper sense.

A Collective of Muslim civil society organisations working in the North, North-West and East continued their MMDA reform advocacy. In a memorandum submitted to the Minister of Justice in 2020 by several MMDA reform activist groups including MWDT, IWARE, Eastern Social Development Foundation (ESDF) and Human Elevation Organisation (HEO) and WAN, stressed the necessity to overhaul the *Quazi* system. They argued that it should be replaced with a professionalised family court structure, that the law should allow women to exercise

22 Hon. Justice Saleem Marsoof PC et al, Report of the committee appointed to consider amendments to the Muslim Marriage and Divorce Act, (January 2018) Annexure A.

23 Hon. Justice Saleem Marsoof PC et al, Report of the Committee appointed to consider amendments to the Muslim Marriage and Divorce Act, (January 2018) 30-52.

their autonomy in marriage, that there should be minimum professional qualifications for *Quazis* (who should be made accountable through an oversight), that polygamy should be regulated and permissible only under exceptional circumstances and with specific conditions including financial capacity, the consent of present spouses and court authorisation prior to contracting a subsequent marriage. They also argued that where prenuptial contracts contained wishes for monogamous marriages, polygamy should be a ground for divorce and that there should be stringent conditions and reasonable grounds to enable *talaq* and *fasah* divorces.[24]

Principal drivers against reform

The demands of Muslim women have often been neglected, misinterpreted, or misunderstood by misogynist men who consider themselves superior to women.

The ACJU, founded in 1924, which claims to be the umbrella body of Muslim theologians in Sri Lanka, is the main (in)visible hand behind the campaign against reforming the MMDA. It falsely alleges that the MMDA is *shariah* and thus cannot be amended. The head of the ACJU stated in 2017 while serving on the JSM committee, that the MMDA is perfect in its present state. His statement caused such an uproar he was compelled to backtrack.[25] Even when the Muslim parliamentarians, after long and arduous persuasion agreed to a further watered-down reform that of what was proposed by Justice Marsoof, they later succumbed to ACJU pressure and further watered them down.[26] Thus, despite many a committee, to date, these men have ensured that no meaningful reform is made to the MMDA.

Private Members' Bills

It must be acknowledged that Muslim politicians during the past three decades on all sides simply did not want to go ahead with the reform. They used their political leverage purely for patronage and not to advance the rights of citizens. It is time that Muslim politicians and so-called religious leaders joined fellow citizens to work to improve democracy, rule of law and equality collectively without being exclusivist and parochial. They should avoid aiding and abetting the condemnation of the community to the abyss of darkness and backwardness.

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24 Women's Action Network et al, *Consolidated recommendations for MMDA reform from Muslim civil society groups working on the ground*, (August 2020).

25 'ACJU and the MMDA – A statement of clarification', (ACJU April 2017) <https://acju.lk/en/news/acju-news/item/1108-acju-and-the-mmda-a-statement-of-clarification> accessed 20 August 2021.

26 Shreen Abdul Saroor, 'The Reform of the MMDA & the Role of the Ulamas', *Colombo Telegraph*, (2 August 2019) <https://www.colombotelegraph.com/index.php/the-reform-of-the-mmda-the-role-of-the-ulamas/> accessed 20 August 2021.

Having witnessed first-hand the sufferings of Muslim women throughout the island, persuaded by them and realising that meaningful reform of the MMDA is a non-starter, former parliamentarian, and medical practitioner Dr. (Mrs) Thusitha Wijemanne, in December 2019, presented three separate private member's Bills to set a common minimum age for marriage, to allow Muslims the choice to marry under the Marriage Registration Ordinance (MRO) and the choice of the district courts or the *Quazi* to have recourse to dissolve a marriage. Those Bills could not be passed into law owing to the early dissolution of the then parliament. In the current parliament, member for Matale Mr. Premitha Bandara Tennakoon while acknowledging the earlier attempt by Dr. Thusitha Wijemanne submitted similar private member's Bills to achieve the same objectives. Their first reading took place in December 2020[27] and none of these Bills, past and present were challenged in the Supreme Court by any defender of the current MMDA. They could be passed into law as appropriately. The content, ambit, and scope of these types of Bills are such that their passage into law cannot be objected to or blocked by any parliamentarian be it a Muslim or otherwise. The community elite's continued obstinacy not to reform the MMDA had afforded opportunities to not so savoury elements to attempt to abolish it altogether through a private member's Bill.

7. Reforms Agreed and the Efforts to Thwart Them

The Advisory Committee, appointed in December 2020 by the current Minister of Justice, handed over its recommendations on the 21st of June 2021. In a statement, the committee stated that, in April 2021, the cabinet of ministers had approved reforms to MMDA. The reforms will make 18 years the minimum age for lawful marriage, mandate the bride to place her signature on the marriage registration certificate, ban polygamy and abolish the *Quazi* system. [28]

The earlier committees including the JSM Committee carried out extensive consultations with broad sections of the community and received representations prior to finalising their reports. Against that backdrop, the current claim by those men spearheading anti-reform propaganda, that any reform must come from within and after due consultation with the community, is solely to stall possible reform. The reality is that for years, demand for reform has come from within the community and not from outside. Further, for these men, 'community' means men only. They conveniently and maliciously block women — who

27 Parliament.lk, Parliamentary Debates (Hansard), (December 2020), <https://www.parliament.lk/uploads/documents/hansard/1608718318030320.pdf> see columns 1559 & 1560.

28 Mohammed Rasooldeen,'Advisory Committee on Muslim Law Reforms submits MMDA report', *Daily News,* (29 June 2021) <http://www.dailynews.lk/2021/06/29/local/252678/advisory-committee-muslim-law-reforms-submits-mmda-report> accessed 20 August 2021.

constitute more than 50 percent of the community — from participating in community consultations.

These unrelenting anti-reform champions are misleading the unsuspecting masses under the guise of mystic beliefs. They also have no remorse in unconscionably declaring openly that they are against allowing Muslims to exercise their fundamental human right of choice under which law one wants to marry. Thus, demonstrating a mindset that desires subjugation as opposed to informed and judicious decision making. That also manifests the extent to which the unethical and immoral pursuit and determination of elements with vested interests could go to retain the stranglehold and oppression of the Muslim community. There could absolutely be no community interest at heart. Additionally, this is an admission on their part that given the option, many Muslims would choose to register their marriages under the MRO if the MMDA is not adequately reformed.

8. Opting out of the MMDA is a Fundamental Right

The Sri Lankan state has not only aided and abetted the perpetuation of the discriminatory *Quazi* system, but also proactively discriminated Muslims from being treated equally to their counterparts. Muslims were not permitted to marry and/or divorce under the General Marriage Registration Ordinance nor could they have recourse to regular courts for matrimonial actions. To date Muslims of Sri Lanka, should they choose to marry, are compelled to marry only in terms of the MMDA.

This has caused embarrassment and placed the government in awkward situations. Responding to a query related to MMDA at a UNHRC-Treaty Body session in 2016, the government, perhaps unwittingly and to wriggle out of a humiliating situation, misstated facts thus: *"…*Their application was not automatic, but rather a personal choice by the concerned individuals…."[29]. Therefore, the government, should without further delay bring in amendments to general laws, remove the bar that does not permit Muslims to marry under the Marriage Registration Ordinance and afford that choice to Muslims as those governed by Kandyan law are entitled to.

As citizens of Sri Lanka, any Muslim has an inherent and a constitutional right to opt-out of the MMDA if s/he chooses to do so. No one, not even the state, could deny that. It is the state's duty to undo the discrimination perpetrated hitherto and ensure equal protection.

29 'Committee on the Elimination of Racial Discrimination considers report of Sri Lanka', (OHCHR 2016) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20381&LangID=E> accessed 20 August 2021.

9. Conclusion

The Muslim women's call is premised on the state's duty to ensure equal treatment and protection of its citizens. Any call for preferential treatment could dilute that. Bearing this in mind it behoves all Muslims to subscribe to the proposal to do away with the *Quazi* system and ensure that a reformed MMDA is administered through the mainstream judiciary, namely the district courts. That is the surest way to sustain and safeguard personal laws.

Further abolition of the *Quazi* system is not an end in itself nor is it going to cause any harm to the Muslim community. We have witnessed fair administration of justice in matters of succession, custody of children, all civil transactions barring those related to marriage and divorce, financial transactions and disputes, and criminal jurisdiction. All of these are administered through our normal courts. In some areas, Muslim specific statutes and principles are applied. The abolition of the *Quazi* system will also immediately restore a certain degree of dignity and respect of the litigants and spaces where justice is administered but also provide much more decorum and a safer and neutral space for Muslim women seeking justice.

It could be argued that proceedings in district courts could take longer. It is not that *Quazis* dispensed justice expeditiously to all. The 'laws delay' is a national issue. It is time that Muslims too joined the larger society in collectively advancing law reforms, including personal laws, democratic governance, and the rule of law and better, expedited, and easier access to justice.

The goal is to get the state to elevate the jurisdiction of Muslim marriage and divorce so that it is brought into the mainstream of the administration of justice, thus providing a more secure, dignified and level playing field. This is long overdue. It is needed to ensure equal and dignified treatment for all, professional adjudication for every citizen, and accountability by the state.

The claim for reform of the MMDA dates as far back as 1956, long before equality provisions came into our Constitution in 1972. We need to own up our lapses in not making progress to bring discriminatory provisions up to speed with our Constitution if we are to claim that we are a law-abiding, quintessential set of citizens contributing to the welfare and social advancement of the country in which we live. Nobody should be allowed to scuttle or undermine this national responsibility.

The current Minister of Justice has taken the initiative to bring in the long-overdue reforms to the MMDA. It must be lauded and supported. The government and the cabinet should stand firm. They must not compromise justice for political expediency. These reforms must enter into law as soon as possible. They will emancipate the Muslims and provide equal access to justice for all.

Of Continuing Injustices and Continuing Conversations: Women's Collective Support Across Ethnicities in Batticaloa

Aneesa Firthous, Sarala Emmanuel and Ponni Arasu

Sharing dark humour is a key element in working in contexts where discrimination, violation of rights and violence are commonplace. Such humour however is shared only among trusted friends. Towards the end of our interview, for this article, with Aneesa Firthous, founder director of Islamic Women's Association for Research and Empowerment (IWARE), a women's organisation based in Kattankudy, we — Aneesa, Sarala and Ponni — a Muslim woman and two non-Muslim women who were all friends, shared such a moment.

Two days after the Easter bombs Aneesa told us of her visit to an organisation in Batticaloa town with regard to a domestic violence case she was dealing with. As she walked in one of their staff members, a Tamil woman, hurriedly left the building. While Aneesa had lived through it, the two of us felt exhaustion, frustration and rage at such racism. But I, Ponni said "Did you take a backpack Aneesa?", referring to the bombers who walked into churches with backpacks. We shared a chuckle and went on to say how side shoulder bags are better anyway!

This moment to us is defining of the trust between us, built over some years of working together and more recently from not shying away from connecting with one another, immediately after the Easter attacks. During a time when the communities of this area spewed hatred towards one another openly and consistently, we countered this hatred with conversation, sharing of one another's pain and the occasional dark jokes!

Aneesa began our conversation that day with a beautiful story.

Last week, a group of monks came to visit Kattankudy and they met her and others on their trip. Among them was the brother of Ven. Athuraliye Rathana Thera.[1] Aneesa had related the story of her friendship with Shantha Nandha and Vijitha Nandha, Bikkunies based in Panadura, to this group.

"We visited during the Sinhala/Tamil New Year and spent time with the children from Rama Krishna Mission who had come for the new year festival to the temple in Panadura. Shantha Nandha and I became fast friends. She said she wanted to visit me in Kattankudy. I immediately wondered where I could book for her to stay. She made it clear however that she would stay with me in my house. This filled me with a feeling of deep and honest warmth and friendship. She passed away of dengue before she could visit me. Vijitha Nandha and I are still in touch".

1 Ven. Athuraliye Rathana Thera is a parliamentarian, presidential advisor and prominent nationalist monk.

Later Ven. Rathana Thera's brother told her that both Bikkunies were his students.

This is a typical story for Aneesa. Her warmth, friendship, and desire to engage with all people with integrity comes through in this story. This too is an integral part of the foundations of our relationships.

IWARE: The Beginnings and History

We began to trace the history of IWARE. For her [Aneesa] it all began when she got her first appointment as a teacher in a school in the economically marginalised area of Kattankudy in 1997. She observed that the school lacked structure and discipline as many of its students were from homes where the mothers had gone abroad. Married women in this community had begun going abroad to earn a living as migrant domestic workers in the 1980s. The girl children they left behind at home, had to, from a very young age, be responsible for, or help a lot with running the household. These conditions also meant that their nutritional intake was far from ideal. As a whole they came from conditions that were not conducive to their education.

Aneesa began to take interest in these children and through them got to know the community. Even though informally Aneesa's community work began at this time, the first formal IWARE women's group was formed in a coastal village in Kattankudy in 1999. This was a group of women from the fisher community who were under immense socio-economic hardship. Women in this community were, however, did not go abroad for work.

During this period, IWARE, without any major funding, began to become familiar with, and organise groups in different parts of the Kattankudy. Another such group was the women who had lost male family members in the mosque massacre of 1990.[2] Even though they were under enormous economic duress, they were deeply focused on asking for justice at that time.

"We worked with them to help them feed their families through small entrepreneurial activities while also continuing their movement for justice. We held a memorial every year on the day of the massacre. This was the first of its kind as the men held the memorial in the mosque as part of the prayers, which women could not attend. This then was the first remembrance for the women, by the women," Aneesa said.

Meanwhile in the school, she continued to focus on nutrition and health.

IWARE saw numerous cases of brutal domestic violence. The prevailing matrilineal system in Kattankudy society, just as with many communities in eastern Sri Lanka meant that

2 University Teachers for Human Rights (Jaffna), Report No. (7), *The Clash of Ideologies and the Continuing Tragedy in the Batticaloa and Amparai Districts* (8 May 1991).

grooms came to the bride's home.[3] The home that was often given by the bride's family as dowry was their place of residence. Even women from wealthy families, felt deep resentment at being disrespected, mistreated and harmed physically and sexually after having given so much to the groom as dowry. All this while living in their own house.[4]

Many Shades of Islamic Education in Kattankudy

While travel to the Middle Eastern countries for work from Kattankudy had already begun with working class women in 1980s, a new route of travel began in the 1990s. Men went with scholarships to be educated in international *madrasas* (Islamic teaching schools). Earlier there were only two main *madrasas* in Kattankudy, one among them was for women. They were mostly following the version of Islamic education that emerged from South Asian Islamic schools. These *madrasas* were not focused on a critical learning and engagement on social and religious issues. Women were particularly taught how to be good housewives and bring up children within Islamic principles.

The new *madrasas* set up by the foreign-*madrasa* educated men were different. Some of these institutions provided religious education along with other education due to which they produced an *alim* (Islamic scholar) who was also a lawyer or an engineer. They were more professional institutions and attractive to parents and young people alike. Largely they exposed the Muslims of Kattankudy to Islamic thought and education at the international level and they remained largely 'progressive' in their thinking. They encouraged religious education to enable the creation of a good moral fibre among the young in society.[5]

However, there were splits among these groups in Kattankudy and that led to the formation of more and more *madrasas* affiliated with different mosques.[6] However, all of them mostly taught tolerance of differences and diversity — of ideas and of practices. They taught their own beliefs but did not claim that those were the ONLY way to live.[7]

3 Sitralega Maunaguru and Sarala Emmanuel, *Penkalin nilam: a study on women's land rights in the post-Tsunami resettlement process in Batticaloa* (Batticaloa: Suriya Women's Development Centre 2010).

4 Abdul Raheem Jesmil, *Kaaththankudiyin Varalaarum Panpaadum; Mathath Thooimaivaathathin Pinpulam* (Kumaran Publishers, Colombo/Chennai 2020).

5 ibid.

6 ibid.

7 Interview with Aneesa Firthous by Sarala Emmanuel and Ponni Arasu, IWARE Office, Kattankudy, (July 2021).

The Emergence of Zaharan, His Views on Women in Society and Confrontations with IWARE

M. C. M. Zaharan emerged from one such institution around 2013/14. He had not completed his education and had changed schools many times. He preyed upon existing dislikes and disagreements, already prevalent in Kattankudy society, like that against the *Sufi* mosques and its leaders. He began pointing out their practices and that of others as 'mistakes' and that they were all 'straying away from Islam'. His campaign gained footing on social media, and he gained followers among the youth in the community.[8]

Interestingly, he provided space for women and what he claimed to be a space for women's rights. He made provisions for women's Islamic education, urged husbands to publicly return the dowry as he declared dowry to be *haram* (forbidden) and he didn't encourage face covering among his followers. He mediated in family disputes and found 'solutions'. All this however had one underlying condition — women MUST always be under the control of their husbands. Zaharan's meetings and gatherings invited women to join with their husbands. His speeches circulated as CDs. He declared gold, ear piercing etc., to be *haram*, and women publicly donated their gold to the mosque.[9]

As they gave away the gold that they had direct access to, the husbands returning their dowry meant that they gained control of the family unit. For example, there were many restrictions on women going to work. They couldn't work where there were other men in the work place. Schools were finding it hard to maintain discipline as per rules laid out by the schools for themselves. For instance, in public speeches students were told not to stand up to greet teachers and growing a beard was encouraged. This impinged on the autonomy of schools to run their institution as they saw fit.

Meanwhile, women, including among those who were married to Zaharan's followers, without taking dowry, had to face family disputes. Some of these women came to IWARE for assistance. Further, at IWARE all women were welcomed independently to speak with other women about their issues. Zaharan's response to IWARE was nothing seriously noticeable

8 Sri Lanka Parliament, 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, Parliamentary Series No. 183 <https://www.parliament.lk/uploads/comreports/sc-april-attacks-report-en.pdf> accessed 10/08/2021; Tom Lasseter and Shri Navaratnam, "'Black sheep': The Mastermind of Sri Lanka Easter Sunday Bombs", *Reuters,* (26 April 2019) <https://www.reuters.com/article/us-sri-lanka-blasts-mastermind-insight-idUSKCN1S21S8> accessed 10/08/2021; International Crisis Group, *After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence, Report No. 302/ Asia*, (27 September 2019); DBS Jeyaraj, 'Leader of Nation of Tawheed Jamaat Zahran Hashim Alias "Abu Ubaida"', *Daily Mirror,* (27 April 2019) <https://www.dailymirror.lk/opinion/Leader-of-Nation-of-Tawheed-Jamaat--Zahran-Hashim--alias--%E2%80%98Abu-Ubaida%E2%80%99/172-166048> accessed 10/08/2021.

9 Interview with Aneesa Firthous 2021. IWARE office Kattankudy.

even though it included many hurtful barbs on Facebook against IWARE and Aneesa personally, and sometimes her family.

Aneesa clearly states that *"If he wanted to attack us he could have gathered the mob".*[10]

Among other things, let's not forget, Aneesa was a teacher to many in Kattankudy. As an educator in her community, Aneesa viewed Zaharan and young men like him, to simply be engaged in making themselves known in society. She didn't read much else into his activities beyond this perception. In 2016 however, IWARE released a statement against outside intervention in school functions when Zahran and his group attacked a dance show by 5th grade girl students at the school. His 'pure Islam' made dancing and singing *haram*. Even standing up for the national anthem was *haram*. He publicly criticised the girls in the secondary level for their participation in sports and musical programmes. IWARE opposed this and made a public statement in response as they felt that this was a propagation of a version of fundamentalist Islam that was blind to the laws, traditions, practices and everyday lives in Kattankudy.[11]

This led to many such altercations with IWARE and with Aneesa's school. One of the main attackers on Facebook was Niyas, a member of Zaharan's group. During this time IWARE was trying to conduct research on experiences and opinions among the community on reforming the Muslim Marriages and Divorces Act.[12] Some of those involved in Zaharan's group started attacking this work on social media saying that this was against Islam. They had even posted the questionnaire that was used for the research online. They wrote long articles criticising the reform process and individually attacking the staff at IWARE.[13] Government officials at the divisional level felt pressured and urged that the research be stopped. Finally, IWARE was only able to continue to work with the approval of the government agent.[14] This lead IWARE to make a formal police complaint which resulted in a court case in 2016. The case continued in the Magistrate's Court of Batticaloa for six months, and finally the judge warned Niyas and told him to sign a bond for two years to not write anything about IWARE on social media.[15]

In September 2017, this same Mohamed Niyas launched another campaign attacking a woman lawyer from Kattankudy working for Suriya Women's Development Center, a

10 ibid.

11 ibid.

12 Unpublished Report, IWARE 2016.

13 IWARE, '"நியாஸின் குற்றச்சாட்டுக்கள் பொய்யானவை மாத்திரமின்றி விஷமத்தனமானவையுமாகும்" IWARE பெண்கள் அமைப்பின் பகிரங்க விளக்கம்' (Your Kattankudy, 22 July 2016) <https://yourkattankudy.com/2016/07/22/iware/> accessed 10/08/2021.

14 Interview with Aneesa Firthous 2021, IWARE office Kattankudy.

15 Magistrate Court Batticaloa 40719/MISC/2016.

feminist organisation in Batticaloa (Sarala was heading Suriya during this time). He made baseless accusations with regards to her work-related activities. She attended a South Asian training programme on women's rights. The accusation was that she was travelling to such a programme without her husband and that the training programme itself was immoral. The posts were relentless and were posted on 11th, 12th and 16th of September 2017. His posts that attacked both the lawyer individually, and Suriya Women's Development Center — the institution, unleashed more abusive and threatening comments targeting both.

Suriya made a Police complaint at the Batticaloa Police station and the case was taken up at the Magistrate's Court[16], referred to the Criminal Investigation Department (CID) and after some months discharged by stating there was no specific evidence and witnesses to file a case against Mohamed Niyas.

This period of attacks coincided with an increase in Zaharan's declarations of violence as the means to take forward his ideas.[17] As these calls increased, women began to back away from his group and he surrounded himself with thug-like persons who felt comfort with violence rather than an average person who may have attended his meetings earlier but wasn't as comfortable with all this talk of violence. In 2017, Zaharan disappeared completely from the public sphere in Kattankudy.[18]

Aneesa and her colleagues meanwhile continued to work in Kattankudy in line with a wish they included in their public response to the attacks on them:

"By the grace of God, may our work continue till the day that the rights and protections bestowed by Islam brings a new dawn to the lives of women! *Inshah Allah".*[19]

Older Feminist Solidarities, their Reemergence as a Collective Support Structure

In the evening of 21st April 2019, Aneesa and several other women activists met in the house of one of the Tamil activists in Batticaloa town. The meeting was called to talk about the horror of what had happened and what we could do as a response. This led to the issuing of an important statement by the group of feminists, including Aneesa. This was one among

16 Magistrate's Court Batticaloa B/1271/17.

17 On 10th March, 2017 there was an attack on followers of the Sufi cleric Abdul Rauff Zain by members of the National Tawhid Jamaat, which was founded by Zaharan. International Crisis Group, *After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence,* Report No. 302/ Asia, (27 September 2019).

18 ibid.

19 IWARE, '"நியாஸின் குற்றச்சாட்டுக்கள் பொய்யானவை மாத்திரமின்றி விஷமத்தனமானவையுமாகும்" IWARE பெண்கள் அமைப்பின் பகிரங்க விளக்கம்' (Your Kattankudy, 22 July 2016) <https://yourkattankudy.com/2016/07/22/iware/> accessed 12th August 2021.

very few statements that came out from the East signed by those from both communities and all faiths.

This statement noted that -

"Whatever our ethnic identity might be, we can all understand and deeply empathise with the devastated hearts of all those who have lost their children, brothers, sisters and parents. We know the history of the blood that has flowed on the East Coast since the 1980s. Because of this long-standing experience, we have no reason to invest our faith in anti-terror laws that propagate violence and repression as a solution to such brutality. We strongly believe that the lasting solution to such hatred are our fundamental human relationships and support that has withstood the brutalities of war for decades. It is all our responsibility to work together to make sure that there is no room for the re-emergence of ethnic conflict, disruptions to everyday life and loss of peace and harmony in the East.

Towards this end, we would like to place before you the following demands:

- To remember and express our deepest condolences to those who have lost their lives or were injured in the bombings in the South and the East.

- To commit to providing unwavering support to the families of those affected by this brutal violence.

- To commit to building inter-ethnic relations and to come together to fiercely protect our longstanding tradition of deep human relationships across different communities."

— WCDM 23rd April 2019[20]

Following this, as part of our long-standing work among Muslim and Tamil communities, we started visiting some of the families who lost loved ones and who were injured in the bomb blast. We tried to connect over the phone and sometimes in person with community level Muslim women's rights activists who were devastated by what had happened and were finding it hard to even speak. We tried to explain to children in our lives, what had happened and why, in gentle ways. We wrote in public, individually and collectively.[21] As more and more sweeping arrests were taking place in Kattankudy we tried to reach out to support the families of those who were being taken, as we knew from experience that the Prevention of Terrorism Act (PTA) was a draconian law. We knew that in practice, with actions taken under

20 '"Let us Share our Anguish and Come Together to Ensure Strong Relationships among Communities", Statement of Women's Coalition for Disaster Management – Batticaloa', (South Asia Citizens Web 21 April 2019) <http://sacw.net/article14080.html> accessed 14/08/2021.

21 Sarala Emmanuel, 'Reflections in the Aftermath of the Easter Sunday Attacks' (November 2019) 28 Pravahini Newsletter, Women's Education and Research Center; Ellipses, 'Who is to Blame for the Serial Blasts in Sri Lanka and Where to From Here', *Sri Lanka Brief*, (2 May 2019) <https://srilankabrief.org/who-is-to-blame-for-the-serial-blasts-in-sri-lanka-and-where-to-from-here-ellipses/> accessed 12/08/2021.

this law, torture was inevitable and enforced disappearance was possible.[22] In the initial months we couldn't get ourselves to tell women that it was going to be years before they would see their loved ones again. We were also trying to hold on to shreds of hope that those taken under the PTA will be released sooner this time, especially those against whom there was little to no evidence of any crime under this or any other law. We tried to convince ourselves of this about the young boy who was still in school and was taken along with his older brother; about the man who had bought a motor cycle from one of the key persons in the bombings as he was a dealer in second hand motor cycles; of the man who sold a bus ticket to one of the group members who did the bombing; of those who were called for a *shramadana* at the mosque and ended up in a group photo.[23]

Meanwhile, many Tamil women in our group also struggled with the overwhelming racist rhetoric that was being spewed and was easy to hold on to while grieving such horrific loss. Meetings involved navigating complex emotions and parsing through facts and rumours (rumours which became the main vehicle of hatred). Meetings also meant honest sharing of moments where Tamil women had given into racism of varying degrees and also other moments where they supported a Muslim woman as she faced everyday racism in the public sphere. We moved through pain of difficult conversations the best we could while sharing tears, fears and a lot of silence. Our meetings became the only place, for all women across ethnicities, to express themselves honestly when they couldn't with most people both of their own and the other ethnic community.

In the initial months we also tried to share our experiences from the war years of supporting so many Tamil women whose loved ones were taken under the PTA. These conversations were heart breaking as really there was no good news to share. Often Muslim women would say, *"but our loved ones are completely innocent! Why don't they finish the investigations quickly and release them?"* We couldn't always say that the use of the PTA was mostly driven by 'suspicion' based on racism and revenge and has always been. We didn't have the heart to divulge that often it was through confessions under torture that the cases under this law

22 Human Rights Commission of Sri Lanka, Prison Study by the Human Rights Commission of Sri Lanka, (2020); Ermiza Tegal, *Understanding Rule of Law, Human Security and Prevention of Terrorism in Sri Lanka*, (Law and Society Trust, Colombo 2021); Marisa De Silva, *PTA: Terrorising Sri Lanka for 42 years: Socio-economic and psychological impact on families of PTA detainees following the Easter Sunday Attacks*, (Law and Society Trust, Colombo 2020); WATCHDOG, 'PTA detainees: Ignored under Yahapalanaya?', *Groundviews*, (09 May 2015) <https://groundviews.org/2015/09/05/pta-detainees-ignored-under-yahapalanaya/> accessed 12/08/2021; Ambika Satkunanathan, 'False Promises: The Myth of Security and the Prevention of Terrorism Act', *Groundviews*, (2021) <https://groundviews.org/2021/07/14/false-promises-the-myth-of-security-and-the-prevention-of-terrorism-act/> accessed 13/08/2021; Human Rights Watch, 'Locked Up Without Evidence: Abuses under Sri Lanka's Prevention of Terrorism Act', *Human Rights Watch*, (29 January 2018) <https://www.hrw.org/report/2018/01/29/locked-without-evidence/abuses-under-sri-lankas-prevention-terrorism-act> accessed 12/08/2021.

23 Stories that were shared with us when supporting women who were struggling to manage their lives and navigate the legal process, after their loved ones who had been arrested.

were upheld. Or that it had often been used, primarily, to instil collective fear and punishment on all who held the ethnic identity that was being targeted.[24]

We focused on practical aspects, such as prison visits, getting access to medicines, sometimes even schoolbooks. We helped women to put in order their documents and write down their own story of the arrests and its aftermath. We did this because we knew from experience that as time went by, family members forgot the important details. It was important to write them down. We made sure they had a written copy of their stories, and we submitted a copy to the Human Rights Commission of Sri Lanka for safe keeping.

For some of the women, it was the first time they had even left their hometown, Kattankudy. They were coming every week to the courts, to the prison and to the Human Rights Commission. They had to learn legal language really fast to understand what was happening to their loved ones. They were not allowed into the court and often just stood outside the gate, waiting for the prison bus to pass to catch a glimpse of their loved one. Some women had to pay lawyers really high rates, and slowly got into debt as the months passed by.

Economically and financially, women became dependent on other family members overnight. This was in the context where family members didn't want to be in touch or be seen with those arrested, as there was so much fear in the community that there will be more arrests on suspicion. Military presence became the everyday reality in the town. Intelligence officers and military persons with heavy weapons would regularly visit these houses and question the women again and again.

One woman shared with us about how she asked the men who came to her home to take her husband: "*Where are you taking him? Why are you taking him?".* She told them he was a chronically ill man and that they shouldn't physically assault him too much. She herself wondered aloud to us about where she got the courage to speak up, with so many armed, Sinhala speaking, uniformed men in her small home that she had barely left for most of her life. We asked all those whom we met about the receipt — that they had the right to ask for the receipt which stated who was taking them. Unlike the war years, this time receipts had been given, even though often enough the date on the receipt was later than the date when the man was taken.

As the months went by women had to start earning, and many struggled for their food and to support the education of the children. One elderly woman had started begging to support her daughter and grandchildren. Some had to sell their assets. Many were pushed into daily paid work and home-based work such as making fishing nets. Needless to say, the pandemic exacerbated all of this, which requires its own article and analysis to fully capture.

As trust was built with regular meetings, women shared experiences of sexual harassment by known men, by men in uniform, men who called themselves intelligence officers and unknown voices over the phone. What gave them strength and support was that they could

24 Ref. footnote 22.

at least meet as women in a safe space, once in a while, such as in the IWARE office. Women could talk about the legal cases, problems at home, with children and the stigma they were facing within the community. There was a creation of spaces of support outside of the strong normative family unit for women, by women. Sometimes these safe spaces were among women who were from different ethnic communities — Tamil and Muslim. Each one gave courage and strength to the other, as women.

One day we visited a home of a woman, who was living with her young daughter and son. She was happy to see us, and she said no one would visit her or talk to her as the military was regularly coming to her house. Her daughter was in grade 9 and there were science notes pasted all over the wall. She softly shared with us about her older daughter, who was now dead. She was killed in the blast in Sainthamaruthu in April 2019.[25] Her mother was too afraid to even whisper her daughter's name. This young woman was married off to a member of the group responsible for the bombings. She may even have been possibly involved in the attack. Nevertheless, the fact that her death and the death of her little child, could not even be mourned by her own mother was deeply saddening for us. She didn't have a photo of her daughter, as photos were *haram* in the religious group she was affiliated to. She did have one photo of her grandchild which she showed to us. She couldn't perform any funeral rites and never saw the bodies. Many months later she too was arrested and taken away. We wondered about her other daughter — the 15-year-old and her science notes on the wall. Is she still able to continue her schooling? How is she and her little brother dealing with all this loss?

In our conversations for this article, we noted that the socio-cultural contexts for women living in the East, and particularly in Kattankudy have changed. Even though there was still bitter distrust among the Tamils and Muslims in the East, the collective of women activists has continued to meet, challenge and support each other. Women across ethnicity are participating in the vibrant debates that are taking place on the reforms proposed to the General Marriage and Registration Ordinance and the Muslim Marriage and Divorce Act. These laws touch women's intimate lives and other spheres which are often ones of everyday struggle for women. Small groups of cross-ethnic women survivors have come together for several years now, to remember the massacres in Tamil and Muslim communities in the 1990s. These groups are now gathering to collectively remember the Easter bombings as well. These processes, even if quieter, have been much more consistent than meetings of mainstream society and male members across ethnic communities. This year, for instance, was the first time that male religious leaders from different faiths gathered at the Kattankudy

25 Alasdair Pal and Shri Navaratnam, 'Father, two brothers of suspected Sri Lanka bombings mastermind killed in gun battle', *Reuters*, (28 April 2019) <https://www.reuters.com/article/us-sri-lanka-blasts-bomber-idUSKCN1S405L> accessed 14/08/2021; and '15 bodies including children found at blast site in Sainthamaruthu', *Ada Derana*, (27 April 27 2019) <http://www.adaderana.lk/news/54693/15-bodies-including-children-found-at-blast-site-in-sainthamaruthu> accessed 15/08/2021.

mosque, for the remembrance of the massacre that took place there in 1990. While they have just begun, we have done this at least for the past 3-5 years in homes and small public spaces.

Towards the end of the conversation for this article, Sarala asked Aneesa, "*Do you think we should or could be coming together as women and more explicitly connecting and stating the similarities in our experiences under the PTA? The shared histories of violence as a dominant marker of our identities within our communities? The state repression that stigmatises and brutalises the entire community in the name of 'punishing' these violent groups? The stories have much in common, no?*"

"*Yes. They do. I don't know if we have had such conversations yet Sarala. Perhaps we must*," Aneesa replied.

A thoughtful quiet followed. There is a long way to go for justice and to secure a different world and future for ourselves and our children. However, women, who often bear the brunt of decisions and actions of state and non-state hegemons, will keep talking to one another across differences. We will share our pain and the occasional joy. We will share the labour of that which needs to be done immediately to fulfil fundamental needs, our own and that of our children. We will build trust even during times when it is the hardest thing to do. We will have hard conversations with vulnerability and strength. We will hold each other's hands and hearts with all the strength we can muster. We know we will because we always have. This isn't the easy path, but it has been ours and will remain so.

"They did nothing": Muslims and a Hostile and Violent State

Ambika Satkunanathan

"Police and HQI came but they did nothing".[1]

"The army was present but they did nothing".

"They arrested no one."

"The curfew is only for Muslims."

"I saw the police create a path for the mob to attack the hotel".

Muslims in the North Western Province, 14 May 2019

Ethno-religious violence is not new to Sri Lanka. Violence against Muslims is also not new. Yet, when the *yahapalanaya* (good governance) regime was elected, there was some hope that minorities would not have to live in fear of violence. This was proven wrong by various spouts of violence, which were incited by Sinhala Buddhist nationalist groups. The government's failure to take preventive action, failure to take adequate action while violence was ongoing and failure to take action post-violence to hold those responsible accountable, entrenched impunity and validated the belief that anti-minority bigotry and violence would be tolerated.

The election of Gotabaya Rajapaksa, who campaigned on a Sinhala Buddhist nationalist platform, as President in November 2019 created a climate of fear and an environment conducive to discrimination against and harassment of Muslims.

The Continuum of Discrimination

Following the end of the armed conflict in 2009, Sri Lanka has experienced increasing Sinhala-Buddhist majoritarianism, both explicitly and implicitly supported by the state. This coupled with the militarisation of civilian administration in the former conflict-affected areas and the encroachment of the military into state activities and commercial enterprises in other parts of the country, have undermined democratic institutions and restricted political freedoms.

In 2013, religious intolerance fuelled by a group of mostly militant Buddhists referring to themselves as the *Bodu Bala Sena* (Buddhist Power Army- BBS), the *Sinhala Ravaya* and *Ravana Balaya* was targeted against Muslims. These groups based their anti-Muslim rhetoric

1 HQI refers to Headquarters Inspector.

on the supposedly rapid growth of the birth rates of Muslims. The BBS became visible via their protest against the results of the law entrance examination in early February 2013 at which the majority of applicants who became eligible to gain entrance to Law College were Muslim. At the time, the then Secretary of Defence Gotabaya Rajapaksa gave assurances to Muslim theologians who had reportedly expressed their alarm at the situation. However, despite his assurances, the outcome was that the Law College reduced the cut-off mark of the law entrance examination, thereby increasing the intake to 551 from 309.

The BBS used social media, such as Twitter and Facebook, which at the time had even fewer controls than they do now, to spread intolerance and instil a fear psychosis among the Sinhala population. In mid-February 2013 during the launch of their campaign to end the process of *halal* certification, which they claimed was an example of growing Islamification, the BBS alleged that the All Ceylon Jamiyyathul Ulama (ACJU) was engaged in separatist campaigning to divide religious communities in the island. Gnansara Thero, the Secretary of the BBS, is quoted saying, "The Bodu Bala Sena will go from strength to strength; we have the social capital to do that. And whether they are in the government or the opposition, all those who attack the Sinhalese and Buddhists will be grouped together and defeated." The government did not curtail the activities of BBS.

The BBS also called for Sri Lankan laws to be changed to permit a Sinhala man to wed five women to propagate the Sinhala race. The fear psychosis with regard to Muslims overpowering Sinhalese in numbers, reportedly led to a government communiqué being issued to government hospitals preventing all forms of consensual irreversible family planning methods from being administered unless it was done for medical purposes. Non-governmental organisations working in the areas of contraception, sexual health and family planning reported being instructed by the government to cease their outreach work in this regard.

In the context of historical rights violations and organised state violence against both Tamil and Muslim communities in Sri Lanka, for which perpetrators have rarely been held accountable, the *yahapalanaya* government's failure to hold those responsible for even recent incidents of anti-Muslim violence, such as riots in Digana and Aluthgama, accountable, entrenched and normalised impunity. This further encouraged continued harassment, discrimination, and the use of violence against Muslims, such as during the period after the Easter attacks on 21 April 2019.[2]

The terror attacks on Easter Sunday that took place in six locations in the country on 21 April 2019 caused a considerable shift in the socio-political context, both in terms of civic space and the rights of minorities. The attacks created an atmosphere for the state to take action

2 'Sri Lanka: Muslims Face Threats, Attacks', *Human Rights Watch,* (July 3 2019) <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> accessed 23 February 2021.

that restricted civic space, such as declaring a state of emergency, and also for the state and society to engage in and justify anti-Muslim acts.

The declaration of a state of emergency by President Sirisena on 22 April 2019[3] after the Easter attacks and the promulgation of emergency regulations under the Public Security Ordinance impacted the rights of minorities adversely. Although the declaration of a state of emergency for a short period due to the Easter attacks could be said to be justified, the promulgation of emergency regulations that clearly and disproportionately impinged on civic rights signalled a reversion to creating a climate in which the executive overreach and curbs on civic rights were normalised.

The *yahapalanaya* government not only failed to be proactive in identifying and addressing the root causes of anti-minority rhetoric but also through its action, such as the *niqab*[4] ban, as well as inaction in countering anti-minority sentiment and action, made discrimination against Muslims to be perceived as publicly acceptable. This consequently created a sense of impunity and emboldened sections of the public to openly engage in bigoted behaviour. The outcome was the undermining of the rights of the minorities and increased and virulent anti-minority action by both state and non-state actors.

The Elephant in the Room: The Everyday Manifestations of Bigotry

Anti-Muslim attacks are not new, as the propagation of hate and incitement to violence, by both state and non-state actors, has occurred throughout the history of Sri Lanka.

In Sri Lanka misinformation and disinformation were spread and even repeated by certain religious leaders and political actors to portray Muslims as the 'other', a community that does not align itself with the rest of the Sri Lankan population but rather pledges allegiance to the global Muslim community. The notion that the Muslim community behaves and dresses differently and follows a different set of rules and legal regulations under the Sharia law[5] instead of conforming to the beliefs and behavioural practices that are deemed to be 'Sri Lankan' by the Sinhalese community has been used to question their patriotism and connection to the country. This ultimately has the effect of demonising the Muslim community by insinuating they have ulterior motives and an agenda to 'takeover' a predominantly Sinhalese nation by mainstreaming Islamic beliefs and practices via Sharia law.

Such propaganda indicates the existence of deep-seated communal sentiment and prejudice, within state structures and society, which remain unacknowledged. Instead, violence is discussed and understood as an aberration or as the work of a 'few bad apples'. The failure

3 Gazette Extraordinary Gazette No. 2120/5 of 22 April 2019.

4 A garb worn to cover the whole face, with or without the eyes concealed, in public spaces.

5 Islamic law/legal system.

to accept the deep-rooted systemic nature of anti-minority sentiment has resulted in the failure to deal with it in a meaningful way. The failure to deal with it indicates to the public that the political leadership will tolerate bigotry and even violence against minorities.

The deep-seated social prejudice is illustrated by the reactions of various social groups following the Easter attacks, whereby the acts of individuals were posited as a crime committed by the Muslim community, for which there was backlash against the community. Examples include lawyers refusing to represent persons who were arrested after the Easter attacks as they were not deemed deserving of legal representation.

In some Bars lawyers also attempted to intimidate other lawyers appearing for detainees in an attempt to prevent them from representing detainees, such as at the Marawila Bar.[6] Although the Human Rights Commission of Sri Lanka (HRCSL) wrote to the Bar Association of Sri Lanka (BASL) based on credible and verified reports it had received from the families of detainees and lawyers who appeared for the detainees, the BASL responded that there have been 'no formal resolutions by any identified regional branch resolving to refrain from representing suspects arrested in relation to the terror attacks on 21st April'[7] and did not initiate a formal inquiry into the matter. The BASL's response illustrates a lack of understanding of anti-Muslim sentiments prevailing at the time, as well as of the manner in which informal social practices impact legal rights and the ability of detainees to enjoy their due process rights, especially to a fair trial.

Senior state officials posted anti-Muslim messages on their Facebook accounts while others circulated WhatsApp messages calling upon people to boycott Muslim businesses. On 24 April 2019, the Puttalam Additional Divisional Secretary (ADS), who supposedly had always spoken of the need to ban the *abaya*[8] and had a habit of writing racist posts on Facebook, said that if 400 of 'their people' died then 1000 Muslims should be killed. When persons who hold positions of power and responsibility in many state and private institutions openly express and practice bigotry, bigotry will be taught, either intentionally, or through speech and action to children in these families and through them spread to other social spaces.

Private commercial entities, such as banks, also engaged in discriminatory action, such as refusing to allow women wearing an *abaya* or *hijab* (head covering) to enter their premises, prompting the HRCSL to write to the Federation of Chambers of Commerce and Industry [9] reiterating the need to ensure non-discrimination.

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6 'Letter from the Chairperson of the Human Rights Commission of Sri Lanka, Dr. Deepika Udagama, to the President of the Bar Association of Sri Lanka Mr. Kalinga Indatissa (PC),' Human Rights Commission of Sri Lanka, (25 July 2019) <http://www.hrcsl.lk/wp-content/uploads/2020/02/HRCSL-Response-to-Bar-Association-of-Sri-Lanka.pdf> on file with author.

7 ibid.

8 A robe that covers the woman's entire body.

9 'Letter from the Chairperson of the Human Rights Commission of Sri Lanka, Dr. Deepika Udagama, to The Federation of Chambers of Commerce and lndustry of Sri Lanka, The Ceylon Chamber of Commerce, and The

Anti-Muslim sentiment regarding the success of Muslims in entrepreneurship is also not new. It has existed for decades. I recall complaints of Muslims in Kurunegala, more than fifteen years ago, that their success was resented by Sinhalese, as a result of which they experienced indirect forms of discrimination. For instance, they found it difficult to rent premises for their businesses. Such indirect action evolved into open bigotry overnight after the Easter attacks as described by many businessmen I met during my visits to the North Western Province in the months following the anti-Muslim violence in May 2019. These businesspeople had to close their businesses due to various forms of discrimination, harassment and intimidation.

In Wennapuwa the head of the traders' association, who was also the head of the Pradeshiya Sabha (local government authority) and a member of the Sri Lanka Podujana Peramuna (SLPP) instructed Muslim shop owners — 14 shops in all — not to open their shops and told them to leave in three months. Building owners were instructed not to rent to Muslims, although some Muslims had shops for around forty years in the locality. Two important elements should be noted; the involvement of politicians in business after they are elected to public office and the influence they exert on the business community as a result of it. Secondly, the ethno-national politics of the SLPP that is founded on anti-minority sentiment and bigotry which permeates all spheres of life.

The fear that 'something would happen' if Muslims continued to engage in business in the locality was created with the aim of preventing the public from frequenting Muslim businesses. This was validated by the Wennapuwa police who informed traders that shops had to be checked before re-opening, and after checking, although nothing untoward or illegal was found, they were told they could not open the shops yet as the 'time was not right'. Businesspeople said they had not been able to conduct their business properly since 21 April 2019 and had to gradually open their shops by negotiating with the traders' association. For instance, at first, they were allowed to open for half a day on a Saturday.

Certain businesspeople said they were not allowed to become members of traders' associations, such as in Katuneriya. Those in Wennapuwa had similar experiences and said while the traders' association had no qualms asking them for donations for common causes, they were not allowed to become members and hence felt 'Sinhala Traders Association' would be a more appropriate term for the association. In Madampe, there was a public campaign against Muslim shops, whereby people were threatened not to buy from Muslim shops and were told that they would be monitored to ensure they adhered to the boycott.

National Chamber of Commerce,' Human Rights Commission of Sri Lanka, (21 May 2019) <https://www.hrcsl.lk/wp-content/uploads/2020/02/HRCSL-writes-to-Chambers-of-Commerce.pdf> on file with author.

The Violent State and its Foot Soldiers: Anti-Muslim Violence on 13 May 2019

"They knew the Muslim houses"

Three weeks after the Easter attacks, anti-Muslim riots occurred on 13 May 2019 in certain Muslim-majority towns, mainly in the North Western Province and in some areas in the Western Province. This resulted in damage to property and the death of an individual, Fouzul Ameer, a carpenter, who was hacked to death at his doorstep.[10]

Persons from areas, such as Kottaramullai and Thummodara in the North Western Province, said they had heard of rumours of a possible attack the previous night and had contacted the police and state authorities numerous times requesting protection, which never materialised.[11] An interviewee showed a WhatsApp message he had received on 12 May from a Sinhala friend telling him to take care because they were expecting trouble on 13 May. There were those who said the day prior to the riot they saw Sinhalese young men in a celebratory mood in their village shouting, *'api ogolanta hondata dei'*, i.e. they were going to 'give it to them', which is understood in colloquial terms to mean hitting/assaulting.

An important point has to be made regarding reports of swords or knives found in mosques and used as justification to arrest persons. People said they had knives to sacrifice cows during Haj[12], and swords for protection due to the increasing insecurity and fear of violence against Muslims. Since the Easter attacks, due to concerns this was being used as an excuse to make arbitrary arrests of Muslims, many Muslims deposited their knives and swords at the local mosque for safekeeping on the assumption it would not be thought of as untoward if it was kept at the mosque.

Maikulam

On 14 May while the curfew was still in place, I set out to the North Western Province. We first went to Moor Street Jummah mosque in Maikulam, one of the many mosques that were attacked in the Province. Those cleaning the debris at the mosque stated that the previous night large crowds had gathered at the local *pansala* (temple) at Maikulam. Given the prevailing anti-Muslim sentiment and tensions at the time, Muslims feared the gathering could turn to violence against the local Muslims. Hence, they had called 119 but their call was not answered. Thereafter, they called the Officer-In-Charge of the local police station who said he would 'look into it'. They saw a police jeep drive by the *pansala* but it did not stop

10 'Police stood by while mobs rampaged: HRCSL', *Sunday Observer*, (26 May 26 2019) <http://www.sundayobserver.lk/2019/05/26/news/police-stood-while-mobs-rampaged-hrcsl> accessed 28 May 2021.

11 Randev, 'HRCSL provides guidelines to acting IGP', *The Morning*, (28 May 2019) < https://www.themorning.lk/hrcsl-provides-guidelines-to-acting-igp/> accessed 1 June 2021.

12 Haj is the religious pilgrimage performed by Muslims every year. During this period, Muslims also sacrifice an animal as part of their rites.

and ask why the people were gathered at the *pansala* during curfew. Around twenty minutes past midnight, sixteen vehicles left the *pansala*.

The following day (Sunday) the mosque and the shop next to it were attacked. At around 12.45 pm around 100 persons were seen roaming around the area attacking Muslim properties. Around fifteen persons came to the mosque and first threw stones at the mosque. The attackers then entered the premises and threw flower pots through windows. The upstairs windows and two CCTV cameras were also damaged. The Muslim villagers phoned 119 when they heard about the incident, but the police came only twenty minutes after the incident. The incident was recorded on the CCTV cameras that escaped damage.

The people believe those who attacked the mosque and shop are from the locality and not persons from another locality. They felt that since the group was moving from location to location carrying out attacks the police could have stopped them. The shop next to the mosque was not insured and the owner said it would cost him Rs. 150 000 to repair and re-stock. Despite the damage, heartbreakingly, people repeatedly said they were glad no one was hurt.

Kottaramulla

Many from Kottaramulla said they believed the violence was perpetrated by people from outside who were guided by local Sinhalese. Around 5.30/5.45 pm 150 men on motorbikes, with two persons on each bike with swords tucked into their trousers were seen on the main road. People said the police and the army were present along their route and the group passed them on their way to Kottaramulla. The first shop in Kottaramulla was attacked around 6.30 pm while the army and police were present in the area. The shop owners reportedly approached the police and army and pleaded for help but were chased away. At the same time, the police took no action to prevent the attacks or apprehend the attackers; they are said to have only told the men who were attacking to leave saying, *'yanda malli'* (go brother).

The people in Pahala Kottaramulla too said they had an indication of impending violence when on 13 May, in Nattandiya, around 50 persons shouted at Muslims to close their shops around 4.15 pm. At the time there were only two policemen in the area and a while later two more arrived with guns. However, instead of telling the men intimidating the Muslims to leave the area, the police instructed the Muslims to leave. The people of the area believe the same people carried out the attacks in Thummodara.

According to people in Ihala Kottaramulla, the men on bicycles first went to Morokale and left their bikes at the local *pansala* and travelled on foot to the Muslim houses. The men were said to have had petrol and petrol bombs and knew which houses were inhabited by Muslims. On Morokale road people said they requested the police and army to allow them to douse the fires in many houses but were not allowed to do so. When narrating with emotional anguish the loss of personal documentation in the fires, all those with whom I

spoke were particularly upset about children's medical documents and educational certificates being destroyed.

We drove into Fouzul Ameer's house just as the magistrate was leaving. A community leader met us at his house, which was close to Ameer's house and had also been attacked but had not sustained much damage. There were many people milling about the area who gathered around to describe their experiences of hiding to escape the violence the previous night.

We were thereafter taken to Ameer's house; there was a pool of dried blood at the gate where he had been attacked and through the gate we could see the efforts of his beautiful carpentry work, which was in the workroom attached to the house.

Ameer and his family had been hiding behind the house of the community leader. When they thought the attackers had left, Ameer had left his place of hiding, walked to his house and called out to his wife. At that point he was hacked to death at his own gate. Although Ameer's vehicle was set on fire, the community leader had doused the fire and driven him to hospital in the vehicle. On the way, the vehicle had caught fire again, but he drove it without dousing the fire all the way to Marawila as he had been desperate to save Ameer's life.

Thummodara

The violence in Thummodara is of a pattern similar to the violence in Kottaramulla. Locals said around 300 persons wearing helmets attacked homes and the mosque for one and a half hours. In Thummodara too there was a feeling the Sinhalese did not protect the village but instead either helped identify Muslim houses or participated in the violence.

One family said they hid in the house of a Sinhalese whose son they felt participated in the violence. The Muslim woman said that when she came out of the room in which they were hiding, she saw the wife of the Sinhalese family phoning her son and pleading with him to return and 'not get involved'. They heard the son going out of the house and returning several times and reassuring the mother he was nearby. The mother continued crying and phoning her son and pleading with him to return. The father stood outside and shouted to the attackers not to attack the houses because they belonged to Sinhalese.

Another resident described his family's experience as follows. The gates of their houses were closed. Around 7 pm they heard loud noises and realised it was persons breaking the gate. The eight members of his family hid in another house but he returned to the house to check what was happening. While hiding in the garden he saw the attackers breaking the front door after switching the lights on in the house. He saw around fifteen men breaking things in the house as they switched the lights on. The men were inside the house for twenty-five minutes. When he tried to run back to the house where his wife and children were hiding, he was seen by three men, one of whom chased him with a sword. He jumped over the wall and managed to escape. He then saw them light the house on fire and leave. He said the mob, in addition to having petrol, also had swords and knives. He said he saw no police or army. The navy arrived after the violence ended around 8 pm and left in the evening on 17 May 2019.

Another man who had arrived home from Colombo on the day of the riot said they sent his mother to his elder brother's house because he heard people were coming to attack the village. He heard a commotion and came out of the house and saw people attacking the mosque. The men had weapons. He went to the rear of the house when the mob began attacking his house but eight men who wore helmets came into the kitchen and four persons carried him outside to the road and hit him with a pole. He was dealt around five or six blows on his head, back and legs. When he pushed them and ran, they gave chase and hit him, but he pushed them again and managed to escape. He hid in the forest and returned only when the mob had left.

Many Muslims, such as a man who was in the army and whose wife lived alone with their child, said they no longer have faith in their Sinhalese neighbours. The man said that prior to the riot his wife lived alone while he was away, although his house was in the midst of Sinhalese houses in the village, because they felt secure. However, since the Easter attacks the Sinhalese stopped speaking with them as they think all Muslims are 'ISIS'.[13] He felt perhaps his house was not attacked because he is in the military.

There was deep disappointment and anger that local inter-faith efforts had failed because the mosque trustees had reportedly asked the Buddhist monk to protect the village when they had heard of violence in other areas. Although, at the time, he had assured them he would work to prevent violence, they felt he did nothing.

Niqab Ban: the Gateway to Discrimination

Emergency Regulation 32A banned 'any garment, clothing or such other material concealing the full face which will in any manner cause any hindrance to the identification of a person' from being worn in a public place. Since the Regulation meant that Muslim women could not wear the *niqab*[14], the result of the Regulation was to curb the right of Muslim women since they are the sole demographic group to practice face-covering in public at all times as a matter of choice.

Various factions of the majority ethnic community argued that such a ban was necessary in light of the state of emergency, despite the counter argument that none of the people who were involved in the Easter attacks had been wearing a *niqab* or even the *hijab*. As anti-Muslim sentiment, fanned by mainstream and social media, increased within society, the Regulation only served to exacerbate the harassment faced by Muslim women wearing the

13 Islamic State of Iraq and Syria (ISIS)

14 Hillary Margolis, 'Sri Lanka's Face-Covering Ban a Wrongheaded Response to Easter Bombings', *Human Rights Watch,* (2 May 2019) <https://www.hrw.org/news/2019/05/02/sri-lankas-face-covering-ban-wrongheaded-response-easter-bombings> accessed 20 May 2021.

hijab with often no distinction being made between the *niqab* and the *hijab* by citizens or even state officials.

This acted as a gateway to discrimination, harassment and intimidation of women wearing the *hijab* or *abaya*. For instance, on 3 May 2019, the Karuwalagaswewa Additional Government Agent (AGA) called a meeting at lunchtime to announce the issuance of the circular and said he was happy it had been issued. Indicating he knew what he was saying was unacceptable, he asked everyone to place their phones on his table so they would not be able to record what he was saying. At the meeting, the Sinhala staff reportedly said they should thank Zahran[15] since they had achieved this 'victory' because of him. At the same time, the Pradeshiya Sabha Chairman who was also invited to speak said Karuwalagaswewa was sacred Buddhist ground and people living there should adhere to Sri Lankan culture.

As a result of the Regulation, Muslim women became the targets of gender specific harassment and discrimination in public and semi-private spaces. For instance, women who wore the *hijab*, i.e., only covering their heads, were refused entry or asked to remove their *hijab* and even show the security at the entrance that there was nothing hidden under their *hijab* at public as well as private establishments. In Karuwaralagaswewa only women wearing *abayas* were body checked by civil security officers.

There were numerous complaints of hospitals refusing to treat women and turning them away if they wore a *hijab* or *abaya*. Women said they were insulted and forced to remove their head scarves at the Wanathuvil police checkpoint. The Marawila hospital supposedly refused to treat women who wore *abayas*. The same is reported to have happened in Madampe where women were told not to wear an *abaya*, or were told to wear coloured and not black *abayas*. Senanayake hospital in Madampe refused to vaccinate children if women did not wear coloured *abayas*. At the Puttalam hospital the support staff was said to have referred to Muslim babies as 'ISIS'.

Women reported that they were subjected to discriminatory treatment even by colleagues, neighbours, and acquaintances, who insisted they remove the *hijab* and *abaya*.[16] In many places in the North Western Province, such as Kalptitiya, Puttalam, Mundal, Karuwalagaswewa, district and divisional secretariats, officials used derogatory language and treated women disrespectfully. One woman said, "they can't seem to stand the head cover" when narrating an incident of a state official telling Muslim women that if they came to work in *abayas* he would come dressed in only his underwear. Another woman said when she went to the Kalpitiya Divisional Secretariat office and asked the Divisional Secretary (DS)

15 Zahran Hashim is reportedly the mastermind of the suicide bombers of the Easter Sunday attacks.

16 Amra Ismail, 'Harassed Muslim women complain to HRC', *Daily Mirror,* (14 May 2019) < https://www.dailymirror.lk/Front-Page/Harassed-Muslim-women-complain-to-HRC/238-167044> accessed 21 May 2021.

for a service letter for an interview for teachers she had to attend the following Saturday the DS refused to give the letter due to the fact she was wearing an *abay*a.

Staff of the Puttalam DS office posted offensive, anti-Muslim posts on Facebook. Although the District Secretary/GA reportedly tried to prevent such behaviour it was said that the divisional secretaries did not abide by his instructions. Many women feared they would be attacked for wearing the *hijab* or *abaya* and were emotionally distressed that persons they knew and had worked with for years treated them in a discriminatory and demeaning manner overnight.

At a meeting I had with around forty women from five DS offices in the North Western Province, they detailed many instances of discrimination, harassment, use of abusive language by senior officers and being marginalised by colleagues with whom they have worked for many years. They stated that they were told to wear a *saree* and the other staff protested that they would come to work dressed in skirt and blouse if Muslim women wore *abayas*. On 18 May 2019 the Puttalam DS office had announced via the public address system that all staff had to wear *sarees*. Sinhala staff also convened pocket meetings and incited other staff against Muslim women wearing the *abaya*. In Kalpitiya, the Additional Divisional Secretary (ADS) summoned everyone to a meeting, instructed them to wear *saree* and said that he 'has the pen in his hand' and hence could do anything (to their job).

The harassment and fear of being arrested for wearing *hijab* resulted in Muslim women refraining from leaving their homes, which violated their freedom of movement, made them prisoners in their homes, and dependent on their male relatives for all their needs.[17] Although the ban was lifted after four months when the state of emergency was lifted, scrutiny and harassment of Muslim women who resumed wearing the *niqab* continued, indicating deeply ingrained societal prejudices that were openly expressed when people felt the law validated their prejudicial actions.[18]

17 "On May 15, 17-year-old Zavahir Rimasha went to have her photograph taken for her national identity card. She was wearing a *hijab*, which covered her hair. Zavahir Rimasha was eight-months pregnant with her first child, and while she was at the studio she was reportedly overcome by a moment of nausea. When she covered her face with her handkerchief, another customer complained that she had covered her face, and then called the police. She was arrested under the Emergency Regulations and held in custody for over three weeks until June 7, when she was granted bail." 'Sri Lanka: Muslims Face Threats, Attacks', *Human Rights Watch*, (3 July 2019) <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> accessed 21 May 2021.

18 'Locals confront a Muslim woman wearing a Burqa (video)', *NewsHub,* (21 September 2019) <https://newshub.lk/en/2019/09/21/locals-confront-a-muslim-couple-wearing-a-burqa-video/> accessed 21 May 2021; '"Why Are You Covering Your Face?" | Muslim Woman In Niqab Confronted By Extremist In Sri Lanka', *DOA Muslims*, Uploaded on February 6 2020, YouTube, 3:15 min <https://www.youtube.com/watch?v=MJJtegEwfzg> accessed 21 May 2021.

Enabling Bigotry and Discrimination: Individual and Institutional Complicity

As stated at the beginning of this chapter, bigotry, discrimination and violence against minorities are not new in Sri Lanka and national security has been historically used to justify such discrimination and violence, particularly via emergency regulations and the Prevention of Terrorism Act (PTA). The judiciary too has most often deferred to the executive in cases involving national security. The response, or lack of it, of state institutions and the public following the Easter attacks is a continuation of this pattern. An example is the Human Rights Commission's acceptance of Emergency Regulation 32A banning the *burqa*, which acted as a gateway to discrimination against and harassment of Muslim women.

The failure of the state to take action following the violence of 13 May 2019 to hold those accountable is another illustration of state entities failing to protect the rights of Muslims. Although more than 70 persons[19] were arrested for the violence, there were allegations that many who were responsible, especially those from within the community who participated in the violence in Kottaramullai and Thummodara, were not arrested. I witnessed this first hand when a senior police officer I met during visits to the North Western Province told me that they were waiting for the situation to 'calm down' before they made arrests. Police are reported to have said there would be reprisals and attacks again on Muslim villagers if they arrested persons involved in the violence.

Those who were arrested were not detained under the ICCPR Act for incitement to violence, which would have prevented them from being granted bail in the Magistrate Court, but under the Penal Code and were granted bail within a few weeks of arrest. While bail should be the norm and not the exception, this example is being used to illustrate that the ethnic and religious identities of persons seem to be a key determinant of who the state arrests and under which law it detains them. This leads to discriminatory and arbitrary outcomes. For example, a seventeen-year-old pregnant Muslim woman wearing a *hijab* was arrested for allegedly covering her face when she covered her mouth with a handkerchief while experiencing a moment of nausea, and was not given bail for nearly two months.

To date, there is no known case of prosecution of perpetrators of the May 2019 anti-Muslim violence. The aforementioned inaction and action of various state entities raise questions about their impartiality and *prima facie* point to possible anti-Muslim prejudices embedded within these institutions. Such state inaction has created a sense of impunity amongst the public and, thereby, emboldened people to engage in anti-Muslim acts.

19 'Sri Lanka extends nationwide curfew after anti-Muslim riots', *BBC Asia*, (15 May, 2019) <https://www.bbc.com/news/world-asia-48269240> accessed 21 May 2021.

Conclusion

"We have to look after our own safety — to whom do we tell?"

Many Muslims said they feel abandoned by the state, which they view as an aggressor and possible violator of their rights and not as a protector of their rights. This, along with the narratives of many Muslims in this chapter, also illustrate there is increasingly default mutual mistrust between not only Muslims and the state but also Sinhalese and Muslims, which has been exacerbated by the abuse of political power and lack of respect for the rule of law, which in turn have led to the erosion of political trust.

In its rhetoric, policy and action, the government is giving importance to religious ideology in mapping pathways to radicalisation and devising strategies to prevent and counter, what it terms 'violent extremism'. Yet, this is likely to have limited success because it is being done at the expense of addressing the root causes that could drive persons to hold extremist views. It should be noted that research has shown there is a lack of empirical data to support the assumption that religious ideology leads to terrorism. Instead, studies reveal that experience or perception of abuse and violations by government authorities are determining factors that contribute to a level of vulnerability, to violent extremism, or resilience thereto.

Living Realities of Sri Lankan Muslim Women

To Cover or Not? The Gendered Islamophobia in the Aftermath of 21/04

Muqaddasa Wahid

Context

It was nearly a decade since the last bomb went off, nearly a decade since the country was declared free from the scourge of terrorism. When the Easter Sunday attacks occurred, it had been a decade since the last act of terrorism happened. Therefore, it was no surprise that the entire country was in shock when it happened. The 21st of April 2019 was not only a festive Sunday, but it was also a week after the Sinhala and Tamil New Year. This meant it was the last day of holidays for most of the school-going children. While most Christians and Catholics went to churches to pray, many others decided to spend their Sundays at the Easter buffets at hotels.

The series of bomb blasts that went off in various churches across Sri Lanka and high-end hotels in the heart of Colombo claimed scores of lives and injured many. It was late evening when the identity of the perpetrators was revealed, but most Sri Lankans had already suspected that the perpetrator belonged to the Muslim community and the hate speech on social media against Muslims had already begun even before the revelation of the name.

While Islamophobia was a simmering issue in Sri Lanka which has had a history of anti-Muslim violence, the most recent at the time being the 2018 anti-Muslim riots in the Ampara and Kandy districts, it was not until the Easter Sunday attacks that there was a nation-wide outpour of anti-Muslim sentiments.

The Ban on Face Covering

On 29 April 2019, under Regulation 32A of Gazette Extraordinary No. 2121/1, the government banned wearing any garment that concealed the full face, including the ears, in any public place.[1]

"32A. (1) (a) No person shall wear in any public place any garment, clothing or such other material concealing the full face which will in any manner cause any hindrance to the identification of a person.

1 'Covering face banned by President Sirisena', *Colombo Gazette*, (28 April 2019) <https://colombogazette.com/2019/04/28/covering-face-banned-by-president-sirisena/> accessed 9 September 2021.

(b) For the purpose of this paragraph - "public place" includes any public road, any building, any enclosed or open area, any vehicle or any other mode of transportation; "full face" means the whole face of a person including the ears; "public road" includes any roadway over a public bridge, any pavement, drain, embankment or ditch belonging or appertaining to a public road." (Gazette Extraordinary 2121/1)

While the ban seemed to not specifically mention the *niqab* (face veil leaving eyes uncovered) or *burqa* (a long garment covering from head to feet, including the face and a mesh over the eyes), it did mean that Muslim women who were practicing the face veil had to stop wearing it. If my memory serves me right, the male Muslim religious leaders appeared on television asking Muslim women to not wear the face veil and wear coloured *abaya*s (long loose dress Muslim women wear, usually in black) for 'security reasons'.

However, the suggestion about coloured *abayas* has been discussed in the Muslim community years prior to the Easter Sunday attacks.

In an article, weeks after the attacks, Latheef Farook wrote about how the non-Muslim community perceived the black *abaya* as a threat.[2] An excerpt:

'As early as September 2006 during a meeting organized by Bakeer Markar Centre for Communal Harmony, Aluthgama District Medical Officer Dr. Kanchana Munasinghe told me that the growing trend of Muslim women wearing black abaya was causing concern among non-Muslims who feel isolated. She said that this black cloth is not suitable to tropical climates like Sri Lanka as it could cause skin diseases.

Several leading Sinhalese intellectuals who are interested in communal harmony told me that the black abaya and face cover cause friction between communities and kindly get your people to stop as they are not part of Islam. '

Perhaps, as a response to this fear, the Muslim Council of Sri Lanka sent such an email in 2014. Below is an excerpt:

'One of the main causes for the attack on hijab and niqab has to do with the high visibility of the BLACK abhayas — thereby attracting undue attention to themselves. There is also a concern among some that this is an import of an alien culture. We need to encourage our Muslim women to reduce their visibility in public places by wearing colored (non-black) abhayas and head coverings etc., and our commitment to maintaining our Sri Lankan identity would also be emphasized.

We should encourage those who use public transport like buses and trains and three-wheelers to avoid wearing black abhayas.'

2 Latheef Farook, 'Controversial ACJU and Deviated Tableegh Brought This Humiliation', *Daily Mirror*, (4 May 2019) <https://www.dailymirror.lk/Opinion/Controversial-ACJU-and-deviated-Tableegh-brought-this-humiliation/172-166461> accessed 8 September 2021.

While it was Muslim women who wore these black *abayas* and *niqabs*; non-Muslims and Muslim men alike felt that it was their duty to tell Muslim women what to wear and what not to. They did not, for once, think to consult Muslim women for their opinion on this matter.

In response to the face covering ban, the All Ceylon Jamiyyathul Ulama (ACJU), the apex Muslim scholarly body in Sri Lanka, released a statement on 25 April 2019.[3] Following is an excerpt:

'In particular, we strongly appeal to our sisters to be mindful of the critical emergency situation now prevalent in our country and the difficulties faced by the security officers in performing their functions in situations where the identity of a person cannot be ascertained. Hence, we advise that in the prevailing situation our sisters should not hinder the security forces in their efforts to maintain national security by wearing the face cover (niqab)'

Surprisingly, long prior to the attacks, M.I.M. Rizwe (President of the ACJU) once stated that the face covering is compulsory (*wajib*) in an interview with a newspaper, *Navamani*.[4] But after the attacks, the stance of the ACJU had changed, as evident in their statement above.

Not surprisingly, the opinion of Muslim females was not sought in the matter despite the fact that many Muslim females were in policy-making roles. In this article, I will explore their views and different experiences in the post-Easter Sunday attacks context, while men continue to define and debate about a Muslim woman's dress code, and how much she should cover and uncover.

"No one cared about my choice"

Zaheeda*, who was 17 years of age at the time, had started wearing the *niqab* at 13. Even though her mother only wore the *hijab* (covering of the head, worn by Muslim women), Zaheeda was inspired by her aunt who also wore the face veil. When the ban on face coverings was announced, she was angry. "Did the terrorists wear face coverings when they bombed these places? Didn't they wear normal casual clothes? What's the necessity of the ban?" she questioned.

While she questioned the reasoning behind the ban and kept stressing the importance of choice on her social media account, Zaheeda was flooded with messages from her Muslim peers who told her to "just remove her face veil and not make a big deal about it." "They told me to do it for security reasons. But what security reasons? Sometime back during the war,

3 'Important Message with Regard to Face Cover of Muslim Women' (All Ceylon Jamiyyathul Ulama, 1 September 2019) <https://acju.lk/en/news/acju-news/item/1739-important-message-with-regard-to-face-cover-of-muslim-women> accessed 8 September 2021.

4 Latheef Farook, 'Controversial ACJU and Deviated Tableegh Brought This Humiliation', *Daily Mirror,* (4 May 2019) <https://www.dailymirror.lk/Opinion/Controversial-ACJU-and-deviated-Tableegh-brought-this-humiliation/172-166461> accessed 8 September 2021.

there were women who were suicide bombers but then the dress code was not at the centre of the national security debate," she recalled. Zaheeda felt disappointed, she felt that people within the Muslim community did not understand that it was a woman's choice to cover or not and wanted women to uncover. While Zaheeda stopped wearing the *niqab*, she didn't feel comfortable stepping out without it.

She also recalled that when she was doing her advanced level (A/L) examinations in May-June 2019, there was rigorous security checking as expected, but when it came to Muslim females clad in *hijab*, the security officers asked them to remove their *hijab* and then patted them all over, looking suspiciously. While the security checks had also been in place during her previous ordinary level (O/L) examinations, they had not asked the students to remove the *hijab*.

While Zaheeda has quit wearing the *niqab* now because she was worried about another ban coming up, she hopes that she can wear it someday in the future without worrying whether she would have to take it off again.

She also shared that some of her friends stopped going to the bank because even after the ban was lifted, banks did not allow people with the face veil to come in.

"Discriminated for being visibly Muslim"

Noora* was 19 at the time of the attacks and had started wearing the *niqab* when she was 15. Noora was someone who was sociable and used to go out alone, and this didn't change even after the attacks. She reluctantly took off her *niqab* due to the ban but continued wearing her *hijab* and *abaya*. She recalled an incident that occurred in her A/L classes. "The receptionist had called one of my friends and told her to tell me that I couldn't come to class. I informed my class tutor and he told me to attend class. I went. He managed to sort things out but the formerly friendly receptionist kept giving me unkind looks," she noted.

Noora faced humiliation for wearing a *niqab* even before the Easter Sunday attacks. Once on the bus, a man had come up to her and tried to misbehave with her. He had asked her what she was wearing, told her to take it off, and tried to invade her personal space. "I felt very uncomfortable. People around me were pretending not to notice, they didn't even step up to help. A small boy next to me gave a pitying look but that was all," Noora remembered crying after the incident and since then she had avoided going in those small air-conditioned buses.

As she hails from Kandy, she had also experienced the anti-Muslim riots in Digana. She shared that a few months after the riots, she was worried about going out looking visibly Muslim, and therefore she did not step out for a while.

Noora has again started wearing the *niqab* and does go out on her own. "I feel a bit scared but I know I am covering to please Allah and I trust Him to keep me protected and safe," she said adding that she was tired and annoyed that Muslim women's clothing choices are being used as pawns of patriarchy and Islamophobia.

“Had to get my husband to accompany me everywhere”

Jazila* a software engineer who dons the *hijab* with casual clothing used to drive alone and go out alone to do her shopping, but after the attacks, she had to get her husband to accompany her. “I went to this leading supermarket store in Colombo and they did not let me come in saying I had to remove my *hijab*. I said the *hijab* was not banned and only the *niqab* was. I even tried to show them the difference by showing pictures on my phone, but the security and some of the store staff did not let me in. My husband was in the car, I told him the issue and he came with me — then surprisingly they let me in. I faced this behaviour whenever I went grocery shopping. I had to take either my husband everywhere or my uncovered teenage daughter or a friend along (who did not wear the *hijab*, *niqab* or *abaya*) — only then would they let me in.”

Jazila remarked that it was a hassle to take someone along all the time and try to coordinate their schedules. This also meant she had to plan her shopping and couldn’t just go to the store for an emergency if she was alone. This had continued for a few months after the attacks.

“I used to always wonder that if this happened to me as a mere *hijabi (person who wears a hijab)*, those who were covered more than me would have faced worse. It’s sad that Muslim women’s clothing choices are being used to discriminate against them,” she stated.

“I felt ashamed!”

Sakina, a Muslim woman of the minority Bohra Muslim community in Sri Lanka wears the *Rida*, which is a part of the Bohra’s traditional attire for females. In the Bohra community, it is a sign of modesty. Wearing the *Rida* and going out after the attacks, she said she felt ashamed. “Even though I was not guilty, it felt like people were looking at me with silent accusation. Therefore, I felt ashamed.”

She also noted that the constant talks of a *niqab/burqa* ban are constant efforts to aggravate a situation. “Islamophobia is so real and they are really just out at the *niqab/burqa* because it is an easy target and a sensitive issue for the ones practicing,” she said.

“Even those who accompanied me felt unsafe”

Ayesha*, an undergraduate at the time, faced an unpleasant incident when a Buddhist monk banged on the car she was travelling in and threatened her. “Even when my family members accompanied me, they felt unsafe and threatened because I was visibly a Muslim woman.” In the beginning, Ayesha did not step out of her house out of fear and discomfort of not wearing a *niqab*. She also had to depend on the male members of her family as she was unable to work. The *niqab* ban hindered her freedom to travel freely, study and work. It also took away her economic independence.

While Ayesha wore the *niqab* after the ban was lifted, she remarked that had the ban still been in place, her freedom and independence would still be restricted.

"I had to stop my studies"

Nehla* did not feel comfortable taking off her *niqab* to go out, because for her the *niqab* is a part of her identity. An A/L student at the time, Nehla quit mixed gender classes of her own will and stopped going out.

Khadijah, who wore the *niqab* along with a coloured *hijab* and clothes like long dresses, *kurtha* tops and pants, and the *shalwar kameez*, quit her studying for her degree as she couldn't go to university.[5] She felt uncomfortable when she saw a huge poster in her university saying no *niqabis* (someone who wears the *niqab*) allowed. She was rejected from jobs because she was a *niqabi*. "This hurt me a lot. I didn't step out for some time after the Easter Sunday attacks because my neighbours would look at me angrily like I was a terrorist." Even though Khadijah took off her *niqab*, she carried it around with her. "I felt guilty removing it but I cannot keep removing it and wearing it over and over again. One day, when I am able to practice my religion freely I will wear it. I just want people to respect everyone's freedom of choice to wear what they want."

"My friends and I were called 'Zahran *ge kattiya*'"

Haala who had worn the *niqab* for around six years at the time of the ban felt heartbroken to have had to remove it. "But it was infinitely more heart-breaking to think about people who had lost friends and loved ones to the Easter attacks. With respect to the authorities and as a grieving nation, we fully complied with the ban." However, she received many dirty looks for simply wearing a *hijab*. In certain places, she was not even allowed to wear her black *abaya* "This was not a security breach, but rather an excuse to "punish us further". I was asked if I was hiding bombs in my clothes. I and my fellow *hijabi* friends were called "*Zahran ge Kattiya*" (Zahran's people).[6] I adjusted by gritting my teeth and tolerating it, educating people when and where I could, telling them that Zahran and his group had grossly misinterpreted what my religion actually teaches," she shared.

"The security would ask us if we were on our periods"

Rahmah* who worked in a Divisional Secretariat Office at the time was harassed by her boss over dress code. Her Muslim female colleagues and she were told to wear a saree to work. A

5 Kurtha/kurta/kurti is a type of tunic or long shirt worn over pants. Shalwar kameez is a traditional combination dress worn of pants and a tunic/top.

6 Zaharan Hashim was one of the suicide bombers of the Easter Sunday attacks.

year prior to the attacks, Rahmah was asked by her boss to either wear a *saree* or *abaya* as these two seemed more professional than wearing a *shalwar kameez* with a *hijab*. Rahmah had complied. “When he asked us to change our dress code again, I told him that we cannot keep changing our dress codes as and when he wants. It was on his insistence I wore *abaya* to work and then he wanted us to wear *sarees*, where will this end?” Her non-Muslim colleagues too started pressurising the Muslim female colleagues to wear a *saree* and they started wearing casual attire to work in protest. “They had said that until the Muslims wore *saree*, they would be wearing casual attire. They had also invited the media to the office and gave interviews. We were filmed by media without our consent when we were working,” Rahmah stated.

Then there was a circular that said female public servants should wear sarees. “I remember my boss coming up and telling us that it was an achievement and that now we had no choice but to wear *saree*, but we didn’t back down so easily,” Rahmah said, adding that the District Secretary (DS) was supportive of the choices of Muslim female officers. “Only five DS offices were being racist towards the Muslim female officers and wanted to make *saree* compulsory. The other DS officers were carrying on as usual. Therefore, the District Secretary understood and realised that this was racially motivated,” she revealed. Since the issue was getting out of hand and there were threats thrown at the Muslim females by their colleagues, Rahmah and her other colleagues filed a complaint at the Human Rights Commission of Sri Lanka (HRCSL).

Rahmah recalled that there were instances where her colleagues had planned to throw cow dung at the Muslim female colleagues. “Some of my non-Muslim colleagues supported our stance, but they couldn’t show it outwardly or they would be cornered. But they informed us secretly of the happenings and told us not to come to the office.”

In addition, Muslim female officers had to go through body checks while the rest had only bag checks at the security check-point. “The security would ask us whether we were on our periods if they detected a pad. It was truly uncomfortable. Our cupboards were checked too. We used to keep our prayer mats in the cupboard and these were looked at suspiciously even though we have had them for years.” She noted that the Muslim male colleagues did not face any discrimination “I realised this discrimination was not because we were Muslims, but it was because we were visibly Muslim,” she said hinting at the gendered Islamophobia in her workplace. She also noted that the Muslim male colleagues, though they did not outwardly show their support to the Muslim female colleagues, had supported their stance.

It was only a month after the circular was retracted that things returned to normal, but many of her female colleagues were scarred at the incident and some had left their jobs. Some got transferred. Rahmah got another appointment. “I didn’t want to go but I couldn’t stay here anymore remembering how people were like. How friends turned into enemies just because we were visibly Muslim.”

"Someone thought I was a terrorist and informed the police"

Sarah* another public officer was on her way to Dambulla for a training when the bus she was travelling in was stopped and she was asked to get out for a security check. Her bags were checked thoroughly and she too underwent a body check. In the beginning, Sarah thought that this security check was for all the passengers in the bus because it was a few months after the Easter Sunday attacks, but then she realised she was the only one being checked. When she was questioned, the police told her that someone had informed them that there was a Muslim woman with two bags who looked suspicious and could be a terrorist. While the police apologised to her for the inconvenience, Sarah was hurt at the blatant discrimination and Islamophobia present.

"Just because I was a *hijab*-clad woman which makes me visible as a Muslim, people thought I was a terrorist," she sighed.

A Petition was Filed

Muslim Women Development Trust (MWDT) in Puttalam filed a petition at the HRCSL against the discrimination faced by many women, especially in public service because they couldn't wear *abaya, hijab*, or *niqab*, because some were forced to leave their jobs because they didn't want to wear a *saree* instead of an *abaya,* and some were turned away from obtaining essential public services because of their dress code.

Fathima*, a lawyer, stated that some women wore a *saree* for the sake of protecting their job, but many did not comply and were fired. "Women who wore a *niqab* found it uncomfortable to step out without it, because it is a part of their identity. But while the *niqab* was banned by law, the *hijab* and *abaya* weren't banned. But, the Public Administration Circular No. 13/2019 did not allow Muslim female public officers to wear these. They had to wear *saree* or *osariya* (Kandyan saree). This also extended to women who accessed government services. Thus, women could not wear what they wanted, and were discriminated against," she shared. This led to them signing a petition and handing it over to the HRCSL and meeting the commissioners.

The HRCSL later questioned the circular calling it '*irrational and arbitrary, in violation of equal protection of law guaranteed by Article 12(1) of the Constitution and in violation of sex-based discrimination under Article 12(2) of the Constitution*'.[7] The HRCSL further went on to note that complying with this circular will cause women to incur heavy expenditure and unease. It also pointed out that '*it is not possible to objectively discern how the newly introduced dress code enhances or ensures security in government offices. If indeed the*

7 'Circular Imposing Dress Code Is Irrational, Arbitrary And Violates Constitution: Human Rights Commission Of Sri Lanka', *Colombo Telegraph,* (5 June 2019) <https://www.colombotelegraph.com/index.php/circular-imposing-dress-code-is-irrational-arbitrary-and-violates-constitution-human-rights-commission-of-sri-lanka/> accessed 8 September 2021.

rationale is that baggy and flowy outfits could pose a reasonable threat to security, one of the permitted forms of dress for men could be reasonably argued to be such a form of dress.'

HRCSL later managed to get this circular cancelled. The prime minister's office managed by the current Mayor of Colombo, Rosy Senanayake had stated that Muslim women in the prime minister's office did not have to adhere to this circular. This decision came after vociferous opposition against the circular by various women's rights groups.

Women's Action Network (WAN) in their statement asked for the repeal of the emergency regulations which arbitrarily controlled women's dress.[8]

An excerpt from the WAN statement:

"This ban has given a licence to express hate and puts women at risk…Many schools are compelling Muslim girls to remove their shawls and trousers. Some mothers have been forced to remove their head covers when taking their children to school.

This has led to parents removing their children from these schools and either enrolling them in Muslim schools or forcing young girls to stay at home. Public health experts worry that maternal health could decline as Muslim women forego hospital care and deliver babies at home. As we can already see, the ban will further alienate Muslim women from Sri Lankan society"

Fathima recalled how a pregnant lady who was holding a handkerchief to her face was arrested by the police and detained under the International Covenant on Civil and Political Rights (ICCPR) Act. "She was seven months pregnant, MWDT took her case up to the HRCSL and managed to get her out within three months. A courageous young Muslim female lawyer from Puttalam fought this battle at court with the help of MWDT," she noted, stating that the discriminatory ban further marginalised Muslim women and shunned them.

The Harassment Resulted in Depression

Abdul Aziz Halisa who worked at Lanka Mineral Sands Limited, Pullmodai was the sole breadwinner in her family. She worked at the company immediately following her husband's demise in 2015. He too had worked there at the time of his death. Halisa had always worn the *abaya* and *hijab* to work and in 2018, she had submitted a letter and her *moulavia* certificate to the Head of Personnel. In that, she had stated that since she was a *moulavia*[9]*,* she would be wearing the *abaya* and *hijab*, will not opt to wear the *saree* (which is the uniform of the company), and will not be taking the uniform allowance.

8 'Women's Action Network: Standing in protest and solidarity after the Easter attacks', *Sunday Observer*, (30 June 2019) <http://www.sundayobserver.lk/2019/06/30/women%E2%80%99s-action-network-standing-protest-and-solidarity-after-easter-attacks> accessed 8 September 2021.

9 Muslim religious scholar.

It was around that time that her employers attempted to force her and the other Muslim female employees to wear the *saree* instead of the *abaya*. In December 2019, they tried to reintroduce a 2015 circular that mandated the *saree* be worn by the female employees of the company. Due to the continued harassment, in 2020, Halisa and the other Muslim female employees submitted letters raising concerns to the Workers Union and Muslim Cultural Society. Following this, the Workers Union, Muslim Cultural Society and other employees of the company requested the Deputy General Manager and General Manager to allow Muslim female employees in the office to wear the *abaya*. However, this did not yield any results.

In February, Halisa was sent letters of warning where it was stated she had to comply with the company uniform, or she would be punished. Halisa did not comply, therefore as a punishment, Rs. 500 was deducted from her salary for the month of February. The employers also put in regulations such as females who do not comply and wear the *saree* cannot work overtime on weekends and public holidays. They were also denied various benefits and allowances that were their due, such as not remunerating their overtime work, and denying leave in lieu of work done on weekends or holidays. In March 2020, Halisa along with her other colleagues lodged a petition at the HRCSL, Trincomalee.

Against this backdrop, Halisa fell ill due to the mental and physical stress brought on by the issues. In September 2020, Halisa was denied entry into her office because she was wearing the *abaya*. In her Fundamental Rights (FR) petition, she stated that the Human Resource Manager had said in Sinhala, in the presence of other employees "*There are many of Zahran's people around and I will not allow anyone to enter wearing an abaya. I will strictly enforce these rules."* He had also remarked that she will not be allowed to wear an *abaya* when she reports to work after her medical leave. He had indicated to the Head of Personnel to give Halisa a *saree*.

On the day she had gone to attend to matters pertaining to her medical leave and also intended to give in her resignation, she was subjected to ridicule by the employees. On the same day, the President of the Workers Union brought forward her grievances to the Deputy General Manager but he did not address them. Halisa resigned and left.

In her FR petition, Halisa stated that a month's salary which was due had not been paid to her and that she had reliable information that the *saree* was not mandated for the female employees of the company's head office in Colombo.

Due to the harassment meted out to her, Halisa faced depression, lost her livelihood and found it difficult to support her family. Her FR petition against her employers (SCFRA/140/2021) is currently being heard at the Supreme Court.

The Response of the ACJU

On 1 September 2019, in response to the grievances faced by Muslim women even after the ban was taken off, ACJU released a statement requesting Muslim women to not wear the face veil in public. Below is an excerpt from the statement:[10]

'In this current situation, there seems to be possibilities that the Muslim women who attire the face cover publicly, may face inconveniences. So, at this uncertain political situation, it is our responsibility to ensure all possible means to avoid paving the way to racial elements.

The ACJU requests especially the Muslim women to avoid possible inconveniences that may be caused by attiring the face cover in the public and to act in a responsible and serious manner considering the present situation.'

Opinions of Muslim Men

Rayyan's* mum is a *niqabi* and his sister is a *hijabi*. Rayyan did not face any discrimination while walking out alone, but when he accompanied his mum after the attacks, he was subjected to many dirty looks. "When I stepped out again after that, alone, anyone who had seen me with my mum would give me discriminatory looks." Since he hailed from Batticaloa, he recalled how at police checkpoints when they checked his father's national identity card (which shows the address in Batticaloa), the police would become suspicious and start asking various questions. "Since Zahran was from Batticaloa, I suppose they presumed we could be a threat too."

Regarding the *niqab* ban, he stated he was worried because his mum is a *niqabi* and she would have had to comply with it and remove her face veil which was uncomfortable for her. Therefore, she mostly stayed at home, and only went out when necessary.

Nasar's* mum is a *hijabi,* therefore for him, the *niqab* ban did not mean much. He opined that face covering was an innovation in the religion and that if women wanted to cover their faces, they had to prove their reason. "I feel like many women cover because their husbands tell them to. And the husbands do so because they are insecure. In the religion, there is nothing stated where it says women have to cover their face," he said.

Abdeen* a father of four thought that women should have just complied with the ban. "It was a necessity at the time. The covering of [the] face, hindering of identification was a security threat. I don't see why women made a fuss of it." In his family, no women covered their heads or faces, so Abdeen did not feel discriminated against by this.

10 'Maintenance of National Security' (All Ceylon Jamiyyathul Ulama, 25 April 2019) <https://acju.lk/en/news/acju-news/item/1622-maintenance-of-national-security> accessed 9 September 2021.

Tabith* had to accompany his 17-year-old *hijabi* clad sister to classes. He had just started working part-time along with his final year of university and he was the only male available to accompany his sister as his father was busy at work. In the beginning, Tabith was alright with accompanying his sister but he found it annoying when he had to work his schedule around her classes. "I was frustrated because before the attacks my sister used to go out to classes alone and then when I started accompanying her, at times her class schedule clashed with my work and lectures. Sometimes because I accompanied her, I ran late to my meetings. This frustration became so bad that I burst out at my parents." Somehow after some time, his parents allowed his sister to go out alone, but they continued to be worried.

A Global Outlook

Just a few days prior to the Olympic Games Tokyo, news reports announced that the Luxembourg based European Union Court of Justice had ruled in favour of a German company that fired its employees for wearing the *hijab*. The court ruling had stated that 'a prohibition of wearing any visible form of expression of political, philosophical or religious beliefs in the workplace may be justified by the employer's need to present a neutral image to the customers or prevent a social dispute'.[11] Many non-Muslims supported this ruling stating that Muslim women were forced to cover up and wear the *hijab*. However, when it came to the German gymnastic team at the Olympics wearing long unitards against the 'sexualization of their bodies' instead of bikini-cut leotards, everyone supported the move.[12] When the Norwegian handball team was fined for wearing shorts that were too long instead of the usual shorts, many people criticised the move stating that the athletes should be able to wear what they want.[13]

But when it came to Muslim women who choose to cover up out of their own choice, people call it being forced to cover up and think they need to liberate the Muslim women. The West links Muslim women's attire to oppression, radicalisation and misogyny within the Muslim community. Many refuse to understand that most Muslim women choose to cover up on their own accord.

11 'Top EU court rules hijab can be banned at work', *Al Jazeera*, (15 July 2021) <https://www.aljazeera.com/news/2021/7/15/top-eu-court-rules-hijab-can-be-banned-at-work> accessed 9 September 2021.

12 Claire Galafaro, 'Germany Gymanastics Team Tired Of 'Sexualization', wears Unitards', *Associated Press,* (26 July 2021) < https://apnews.com/article/2020-tokyo-olympics-gymnastics-germany-unitard-7f5adad73b0a75d263b5d3f57c2f9bd0> accessed 9 September 2021.

13 Chris Jewers, 'Norway condemns 'ridiculous' €1,500 fine for their women's beach handball team after punishment for wearing shorts instead of bikini bottoms is confirmed', *Daily Mail,* (20 July 2021). <https://www.dailymail.co.uk/news/article-9806507/Norways-womens-handball-team-fined-1-500-wearing-shorts-instead-bikini-bottoms.html> accessed 9 September 2021.

Unveiling as Liberation

Throughout history, the veiling of Muslim women has been used to justify the invasion and violence in Muslim societies by colonial rulers. In Egypt, 'colonial feminism' took the form of extreme concern over the veiling of Egyptian women but other issues such as women's suffrage, employment and education in the colonial society were ignored. In colonised Algeria, French generals staged a demonstration where Algerian women were unveiled by the French women publicly to symbolise liberation brought to Algeria by France. Even the US-led 'War on Terror' focused on liberating women by unveiling them, as it is evident in how they approach the issues in the countries they have invaded, by touching on the feminist rhetoric of female oppression. [14]

Philosopher Frantz Fanon in 1959 described the frustration of French generals regarding Algerian women who wore the headscarf.[15]

"..the crystallization of an aggressiveness, the strain of a kind of violence before the Algerian woman. Unveiling this woman is revealing her beauty; it is baring her secret, breaking her resistance, making her available for adventure...In a confused way, the European experiences his relation with the Algerian woman at a highly complex level. There is in it the will to bring this woman within his reach, to make her a possible object of possession. This woman who sees without being seen frustrates the colonizer. There is no reciprocity. She does not yield herself, does not offer herself…"

This clearly describes the present-day obsession of states, not only in the West but even in a country like Sri Lanka that wants to unveil the Muslim woman and deprive her right to wear what she wants. And they do it in the guise of national security, oppression, neutrality, secularity and so on.

In the same way, in certain Muslim dominated countries and in Muslim societies, the *hijab* and veil are forced under the guise of religion.

According to Mona Eltahawy, "*Muslim women are caught between a rock — an Islamophobic and racist right wing that is eager to demonize Muslim men, and to that end misuses our words and the way we resist misogyny within our communities — and a hard place: our Muslim communities that are eager to defend Muslim men, and to that end try to silence us and shut down the ways we resist misogyny… Our bodies — what parts of them are covered or uncovered, for example — are proxy battlefields in their endless arguments. It matters little what we*

14 Dr Naved Bakhali and Nour Soubani, Hijab, Gendered Islamophobia and the Lived experiences of Muslim women, (Yaqeen Institute, 17 August 2021) <https://yaqeeninstitute.org/read/paper/hijab-gendered-islamophobia-and-the-lived-experiences-of-muslim-women> accessed 9 September 2021.

15 Frantz Fanon, Haakon Chevalier, and Adolfo Gilly, *A Dying Colonialism* (New York: Grove Press 1967) 43–44.

women think because ultimately, both the rock and the hard place agree on and are enabled by patriarchy."[16]

The Sikh Head Covering - The Turban

Other than Muslims, followers of other religions too have their visible religious expressions such as the Sikhs with their turban and *kara* (steel bracelet).[17] According to the Sikhs, wearing the turban signifies brotherhood and unity among the community as they are visibly identified as Sikh through their turban. They also believe that the skull or the crown of the head is a critical part of the body and covering it is not only a sign of reverence to the area but it the many layers of cloth pressurise and trigger the pressure points in the skull which regulates blood circulation and mental activity. They believe that tying the turban tightly helps the mind stay grounded and they are able to stay focussed. Even Sikh women adopt the turban to foster self-reliance and gender equality.

The Habit: A Sign of God

Another religion that adopts the head covering is Catholicism, where the nuns wear the 'habit' which is a distinct and symbolic religious dress code. According to the Catholic Canon Law, the habit is the dress of the religious and is a sign directly pointing to God. Donning of the habit signifies a new life in Christ. It is believed that a sister in a habit is a representation of God with His people in their lives.[18]

Various religious orders in Catholicism have variations in their habits. The veil is the distinctive difference between the habit of male and female habits. According to the Benedictine order, the veil is the symbol of a nun's consecration. The veil and coif symbolise belonging to God and covers the hair which is stated as an 'adornment' in the Scriptures.[19] It is believed that by wearing the veil, the nun is protected from vanity and is a reminder that she has given herself fully to God. It is also a sign of modesty. However, some societies view the Catholic nun's habit (which includes the veil) as a sign of oppression.[20]

Some Catholic women also wear a thin lace veil when they attend Mass at Church, this is due to the fact that the veil is associated with humility and modesty. It is also linked to the fact

16 Mona Eltahawy, 'Too Loud, Swears Too Much and Goes Too Far in 'It's Not About the Burqa'', (2019) 4-5

17 'Why do Sikhs wear a turban?' (The Sardar Co, 17 April) <https://www.thesardarco.com/blogs/blog/why-do-sikhs-wear-a-turban> accessed 8 September 2021

18 Elizabeth Kuhns, *The habit: a history of the clothing of Catholic nuns* (1st edn, New York : Doubleday 2003)

19 'Each garment a sign, a statement, a reminder' (DenverCatholic, 9 February 2015). <https://denvercatholic.org/garment-sign-statement-reminder/> accessed 8 September 2021.

20 Tran Quyen, 'Should The Catholic Sisters Wear Religious Habit?' (March 29, 2017) Academiaedu.

that Mother Mary was always seen in a veil and Catholic women adopt it as a sign of reverence.[21] Further in the Holy Bible, it has been stated that women should cover their heads while praying and this was also mandated in the Code of Canon Law until it was revised in 1983. The current Code of Law does not mandate women to cover their heads while praying in the church.

Hats — a British Royal Protocol

Every time you see Queen Elizabeth II, the Duchess of Cambridge, or Duchess of Cornwall at a special occasion, you would have noticed that they wear hats. Even when you compare Meghan Markle's wardrobe from her pre-royal days to when she was a working royal and now when she is no more a working royal, you would have observed that when she was a working royal, she would wear hats to special occasions. It is a part of the British royal protocol for a female royal to wear a hat or fascinator for formal events. This stems from a traditional rule where it was seen as improper for women of the upper class and royal families to show their hair in public. The hat is also a status symbol that shows that one belongs to an elite family and is an integral part of British culture.[22]

Conclusion

Even though only face covering was banned, it was seen that women who wore the *hijab* and *abaya* too were discriminated even if they were not covering their face. Being a visibly Muslim woman made Muslim women easy targets for Islamophobia. It was noted that there was a gendered Islamophobia as Muslim men rarely faced it as they could not be visibly identified as Muslim.

While Muslim women realised that the ban was discriminatory and believed that women's clothing should be a choice, not forced on and off — in contrast, most Muslim men were only worried about the ban if any women in their family or close circles were affected. Muslim men did not see the ban as affecting a woman's choice. Some merely saw the ban as a security procedure, especially when no women in their family was affected. The public debate on this was dominated by the all-male ACJU, male Muslim politicians and other civil organisations with zero female participation.

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21 Timson Bernadette, 'Speaking Out: Veil is a sign of reverence' (The Catholic Register, 29 July 2020) <https://www.catholicregister.org/ysn/youthcolumn/item/31919-speaking-out-veil-is-a-sign-of-reverence> accessed 8 September 2021.

22 Cherry Wilson, 'The Royal Family's Dress Code Uncovered', *BBC*, (19 July 2017) <https://www.bbc.com/news/uk-40640634> accessed 8 September 2021

When looking at this unveiling, veiling, forcing it on and off, it can be seen throughout history as a sign of 'liberation' and need for colonisation. Back then and now, the veiling of the face or covering of the head is not seen as purely a Muslim woman's choice.

Recently few months ago, another *burqa* ban was announced — which has not yet been gazetted and Haala echoes the following:

"But that ban has since been lifted, and the movement to ban the niqab once again—this time, permanently—seems to me to be more of a move to deprive us of our religious identity and our right to wear what we want, and it does not seem to be purely, or even remotely, in the interest of national security. Especially not in this era where everyone is wearing face masks anyway.

To those pushing for this ban and justifying it by saying the burqa is limiting to women's freedoms — personally speaking, there is nothing that limits my freedom more than this ban. My burqa has never limited my freedom to do anything or be anything that I've wanted to.

Those who adamantly insist that there is no possible way we could have made the choice to wear the niqab for ourselves, and that we are definitely being forced into it, or brainwashed into it — don't call yourselves champions of women's rights if you cannot fathom that we as women are intelligent enough to take decisions for ourselves."

**Names have been changed to protect identity.*

The Eviction and Return of the Northern Muslims and the Question of Coexistence

Shreen Abdul Saroor and Mahendran Thiruvarangan

In October 1990, some 75,000 Muslims in the Northern Province (about five percent of the province's total population at the time) were forcibly expelled from their homeland by the Liberation Tigers of Tamil Eelam (LTTE). In some places, the rebels gave only about 12 hours for Muslims to leave the province. Beginning in Chavakachcheri on October 15th, Muslims were evicted in their entirety (mass) throughout Mannar, Mullaitheevu, Killinochchi, Jaffna, and certain parts of Vavuniya by the 30th of October. Families were allowed to take only 500 rupees and some clothes; some were forced to flee without any belongings at all. Unable to get transport until they reached towns further south, many walked for upwards of three days. To date this community's sufferings have not been recognised officially and there has been no adequate support for return or reparations. Three decades of neglect and misunderstanding by local residents, government officers, international donors, and southern Muslims have left northern Muslims feeling there is no one they can trust.

The eviction of Muslims caused a serious rupture in the coexistence of Tamils and Muslims in the North. The Tamils in general could not dissociate themselves as a group from this heinous act or condemn it openly when it was unfolding perhaps due to fear of reprisals from the LTTE. Small groups of Tamils, however, pleaded with the LTTE to stop the eviction but their pleas did not move the LTTE. Now when a section of the evicted Muslims is in the process of resettling in Jaffna and have begun to stabilise themselves in socio-economic terms, the doors to a renewed coexistence are slowly opening. A genuine process of coexistence can begin only if the members of the Tamil community are willing to interrogate, even belatedly, their narrow nationalism and their silence in the face of the LTTE's militarism which allowed the LTTE to commit an act of ethnic cleansing. The coexistence of Tamils and Muslims in the North depends largely on how these two communities work together in addressing the challenges the returning Muslims are faced with. This piece is an attempt to reflect upon the question of the return, the social, economic and political challenges the evicted Muslims face in their resettlement and their implications to ethnic coexistence in the North.

Since the civil war's end in May 2009, northern Muslims have started returning in substantial numbers. But many Tamils who remained in the North have not welcomed their return. Political and economic rivalries between Tamil and Muslim communities persist. Northern Muslims are disappointed that government authorities pay little heed to the needs of returning Muslims and give preferential treatment to resettled Tamils. Senior government officers, for instance, are said to under-quote Muslim returnee numbers, which significantly reduces the allocation of resources and the development support required for resettlement. When confronted over this perceived bias, government officers in the North respond that

Muslims are already 'well-settled' in Puttalam, so the government's priority should be on the war-affected Tamils. It is certainly true that the plight of war-affected Tamil civilians remains distressing especially in the Vanni. A decade after the end of the war, many still lack land, housing and other basic needs and continue to struggle for truth and justice in a dangerous, militarised space. These needs are critical, but addressing them should not forestall northern Muslims' right to collective return. The suffering the two communities experienced during the civil war, instead of alienating them from one another, should lead them to empathise with one another and commit themselves to pluralistic coexistence.

On one occasion, when journalists asked Tamil government officers and religious leaders about claims that returning northern Muslims have not received adequate assistance, the leaders responded that the Muslim community had not returned in any significant way and that only a few had returned to engage in trade. In a dismissive, unsympathetic tone, these leaders stated that the Muslims are keeping one foot in Puttalam and one foot in the North. While it is true that some Muslims do not want to return to the North, their desire to maintain their connections in Puttalam reflects the obstacles that impede their resettlement. With their lands overtaken by jungles and made uninhabitable, people cannot be expected to leave completely the places where they have lived for 30 years before new homes and livelihoods can be established. Not only is there no basic infrastructure but they are also not welcomed by government officers or even neighbours. Most of the Tamils, after 30 years of separation, do not recognise their former neighbours. A new generation has grown up amidst the war which has no memories of the coexistences of Tamils and Muslims in the North. The few (mostly in Mannar) who received decent resettlement assistance have been able to return mainly owing to the political patronage of a former minister. For new families that return, accessing their lands and providing decent schooling for their children are daunting enough, leave alone the challenges in accessing livelihood assistance and jobs.

Mistakes Upon Mistakes

Although the LTTE faced heavy criticism for their act of ethnic cleansing, the LTTE leader Velupillai Prabhakaran was conspicuously silent on the issue during the peace negotiations of 2002-2005. At a press conference in 2002 during the peace talks, the late Dr. Anton Balasingham, the political ideologue of the LTTE, with the LTTE leader V. Prabhakaran on his side, stated that the LTTE had already apologised to the Muslims for the eviction. However, Dr. Balasingham's statement sounded hollow and tokenistic at a time when Muslims were facing severe obstacles to their resettlement in the North. Further, none of the parties engaged in talks — including the Norwegian mediators — were willing to recognise the right to collective return of the northern Muslims as one of the primary conditions for establishing normalcy in the North. This was the main reason for the low rate of return of expelled Muslims in comparison with Tamil internally displaced persons (IDPs) who returned during the 2002 peace process.

When international delegations inquire with the government about the plight of northern Muslims, they have been told that the evicted Muslims no longer want to resettle in the North and that their desire to return to the North now stems from business opportunities or a desire to sell their properties. A few non-Muslim religious leaders go so far as to say that if all of the expelled Muslims were now to return to the North, it would alter the ethnic composition of the area. They spuriously suggest that Muslims being outside the war zone and the religious proscriptions among the Muslims against birth control have combined to create a boom in the Muslim population over the last 29 years, thus making a full return an unfair burden on Tamils who remained and suffered through the war. Such claims reeking of chauvinism highlight the extent of the challenge northern Muslims face in seeking justice. They indicate that a section of the Tamil civil society too is actively involved in constructing the 'returning Muslim' as the over-populating, outsider-Other that poses a threat to the existence of the Tamils in the North.

Echoing the government's refrain, international donors commonly claim that displaced Muslims are well integrated in Puttalam, so their return is not a priority. They often rely on a controversial 2004 survey done by the United Nations' (UN) refugee agency, the UN High Commissioner for Refugees (UNHCR), which found that a majority of the displaced Muslims preferred to be integrated into Puttalam rather than return to their original homes. What the international community fails to note is that the LTTE was active at the time the survey was conducted, meaning fears about returning were undoubtedly related to security risks and the possibility of a return to war with yet another eviction looming on the horizon. The LTTE's violence against Tamil dissident activists and the attacks on LTTE-sympathisers by the military and Tamil militant groups associated with the government, which continued despite the ceasefire agreement, created fear among the Muslims and stalled their hopes of returning to the North during the peace talks.

At the start of his first term, in late 2005, President Mahinda Rajapaksa promised to appoint a presidential commission to inquire into the expulsion of the northern Muslims — a promise he never fulfilled. At an event commemorating the end of the war, President Mahinda Rajapaksa stated: "When the innocent Muslims were harassed and forcibly evicted from the North by the LTTE, no one came forward to stop this displacement…Now, with my government putting an end to terrorism, all efforts will be made to resettle the Muslims by May 2010." The speech marked the first occasion when a senior government official made a categorical statement on the plight of the evicted Muslims and affirmed their right to return. However, the former president failed to prioritise northern Muslims' right of return in his rapid, post-war nation-building process. During his second term as president, horrific anti-Muslim violence unfolded in the southern parts of the country. In such a context of increased hatemongering against the Muslims which the government in power did nothing to stop, the northern Muslims lost faith in the southern regimes' promises to resettle them in the North. A decade later, with the Easter Sunday attacks stoking anti-Muslim sentiments and prompting a Rajapaksa return, Muslims question whether there is any point in once again engaging with the government in the hope of gaining support and recognition of their plight.

Government officials and Sinhala nationalist commentators often bring up the plight of northern Muslims when criticising the LTTE or its claims to Tamil Eelam, but few genuinely consider what happened to those forced to flee and what must be done to bring rejuvenation in their lives. Northern Muslims have faced the same hatred as the broader Muslim community in recent years. For 30 years and counting, only northern Muslim politicians consider their plight, while all others ignore it. Today, some southern Muslim politicians are questioning Muslim nationalism and urging Muslims to politically assimilate into the Sinhala majority as we reel from Islamic terror. They criticise the formations of ethnic collectives in the North and East. There is no small irony there. In 1990, many southern Muslims portrayed the expulsion of the Muslims as a punishment for living like Tamils and not being pious enough. These themes were repeated during Friday sermons at some mosques, where *imams* (leader of prayers at a mosque) claimed that Allah was punishing northern IDPs for not being Muslim enough. What they failed to understand was that the Tigers were expelling northern Muslims only on the basis of their religious identity. Northern Muslims not only have a right to practice Islam but also to reclaim the northern heritage that closely linked them to the northern Tamils; no one has the right to force them to choose.

In the transitional justice period from 2015 to 2019, early efforts to redress northern Muslim grievances through the proposed mechanisms were abandoned. The Official Inquiry on Sri Lanka (OISL) Investigation launched by the Office of the High Commissioner for Human Rights, only probed the period from the 2002 February ceasefire until 2011. This meant that earlier crimes, such as the LTTE's ethnic cleansing of Muslims from the North, were ignored. When the Sri Lankan government committed itself to starting transitional justice processes through the UN Human Rights Commission Resolution 30/1 in 2015, it likewise did not commit to addressing earlier events like the eviction of the northern Muslims. Northern Muslims nonetheless took it upon themselves to play an active role in the public hearing led by the Consultation Taskforce on Reconciliation Mechanisms, but to no effect. As a result, the current reparation policy does not specifically recognise northern Muslims' loss in any form. Within the Tamil community, only a few voices emphasised that the transitional justice processes acknowledge the crimes committed against the Muslims and address the grievances of the evicted Muslims. There was hardly any coverage of the submissions made by the evicted Muslims during these sessions in mainstream Tamil media. One Tamil politician who termed the forcible expulsion of the Muslims as an act of ethnic cleansing at a commemoration event held in Jaffna faced vicious vilification from chauvinistic forces within the Tamil community.

Already suffering the effects of 30 years of neglect, northern Muslims have recently faced assaults on their basic democratic rights. During the November 2019 presidential election, northern Muslims who traveled from Puttalam to vote in Mannar came under attack, with their buses fired at on the way to Mannar at Tantirimale early morning on 16th November 2019. After voting they were attacked again that evening by Sinhala mobs in Medawachchiya; many women and children were injured but to date, no inquiry has been held (not even an investigation report was released by the Election Commission). Their

buses were stopped at Chettikulum prior to the attack in Medawachchiya, and the police kept them (detained) in custody for hours. Election Commissioner Prof. Ratnajeevan Hoole visited the police station and instructed the police to send the women and children home with a police escort, but officers refused. Late that evening, as the women and children made their way back to Puttalam, they were again attacked.[1] Many injured voters did not seek medical treatment, fearing reprisals. Based on this violence, the Election Commission agreed to set up cluster voting booths in Puttalam when these voters participated in the 2020 August parliamentary election. Over 6000 Mannar voters cast their ballots in Puttalam at special polling booths. Despite this positive development, the Assistant Elections Commissioner in Mannar has since instructed the district's *grama sevakas* (village officers) to only register voters who are permanently living in Mannar. When questioned by civil society activists, he asserted there could be no 'floating voters': people who live in Puttalam must register and vote in Puttalam. The same assistant commissioner said just before the presidential election, "*Mannar voters who are living in Puttalam are banned to come in hired private buses to cast their votes".* To date, many of such returnees are unable to register not only to vote but also to receive their due share of government assistance in the North due to constant and unnecessary scrutiny, by politically motivated government officers, of their dual living places.

Unlike war-displaced Tamils, who experienced multiple displacements within the Vanni, forcibly evicted Muslims were compelled to live away from the war-torn areas where their homes were located. It is true that the Muslims were spared the massacres and terrible losses that the Tamils of Vanni underwent during the height of the war. But this must not be used to disqualify northern Muslims from returning when it is viable and claiming their rightful properties and other rights related to resettlement. To avoid any further suspicion and distrust growing between northern communities, it is imperative to recognise the just nature of the northern Muslims' right to return alongside other resettlement and development programs that are underway in the North. Already, some Muslims who have returned to the North have found their village boundaries changed, resulting in the loss of their community rights to land. When government officers alter the boundaries of villages, they take away public lands — allocated to build public schools, burial grounds, places of worship, playgrounds or even grazing land for animals — and redistribute them for new settlements. Forced to live away from their land for decades, displaced Muslims have had no say in how these decisions have been made and have suffered additional losses as a result.

In the Musali region of the Mannar district, the evicted Muslims who tried to resettle in their lands and access the lands that they have historically benefitted from for various everyday purposes were falsely accused of destroying the Wilpattu Forest. The late Prof. S. H.

1 'Was The Presidential Election Free And Fair When Colombo Returning Officer Called Sajith Premadasa The Son Of A Donkey, Asks Prof. Hoole', *Colombo Telegraph*, (28 November 2019) <https://www.colombotelegraph.com/index.php/was-the-presidential-election-free-and-fair-when-colombo-returning-officer-called-sajith-premadasa-the-son-of-a-donkey-asks-prof-hoole/> accessed July 2021.

Hasbullah's book *Denying the Right to Return* (2015) exposes the politics behind these spurious allegations and demonstrates that a chauvinistic environmentalist discourse was set in motion to vilify the returning Muslims as a threat to the environment and to deny their right to access their lands and the surrounding eco-systems for their livelihood purposes. This is a new challenge the evicted Muslims have been battling for the past few years without much support from other communities and activists.

What Can Be Done?

Even as a handful of Tamil politicians and few community and diaspora members have been sympathetic to the issue, the Tamil polity as a whole has long kept silent on the 1990 Muslim expulsion. In a September 2009 meeting on minority concerns with then President Rajapaksa, the Tamil National Alliance (TNA) for the first time publicly raised the concerns of the northern Muslims. In a powerful gesture towards reconciliation and renewed coexistence, a group of Tamils, including academics, civil society activists, human rights activists and feminists, put out a statement in 2011 condemning the eviction.[2] The statement stressed the importance of self-introspection on the part of Tamils and called for dialogue between the Tamils and Muslims. This gesture was later reciprocated by a group of Muslim activists and leaders in a statement they released which focused on the atrocities the Tamil community had suffered during the war. Such gestures and the coming together of Muslims and Tamils as collectives like the Jaffna People's Forum for Coexistence keep our faith in inter-ethnic dialogue and reconciliation alive in a context of increasing ethnic polarisation.

When the TNA won the Northern provincial council elections in 2013 it appointed a Muslim to one of their bonus seats as a councillor to demonstrate its positive approach towards the Muslim people of the North. Efforts by a small number of TNA MPs to directly address these issues have been welcomed and were seen as an attempt to secure rights for the country's two largest minorities. In the August parliamentary election, organisations representing the Muslims of Killinochchi and Jaffna openly endorsed a couple of the TNA candidates and voted for the TNA. In February 2020, the P2P march organised by Tamil civil society groups and political parties made a clarion call against the government's decision to cremate the remains of the Muslims who die of the COVID-19 disease.[3] Despite these laudable political moves, most Tamil leaders and intellectuals have yet to demonstrate their solidarity for the cause of the expelled northern Muslims. The idea that the North and East are the traditional homelands of the Tamil people creates a hierarchy of ethnicities within the region and

2 'An appeal to the Tamil Community and its civil and political representatives', *Sri Lanka Brief*, (6 January 2012) <https://srilankabrief.org/an-appeal-to-the-tamil-community-and-its-civil-and-political-representatives/> accessed July 2021.

3 The 'Pothuvil to Polikandy' rally or 'P2P' was a five-day march for justice held across Sri Lanka's north and east. Meera Srinivasan, 'Analysis | A long march in Sri Lanka — to register protest, forge a new alliance', *The Hindu*, (9 February 2021) < https://www.thehindu.com/news/international/a-long-march-in-sri-lanka-to-register-protest-forge-a-new-alliance/article33792547.ece> accessed 22 September 2021.

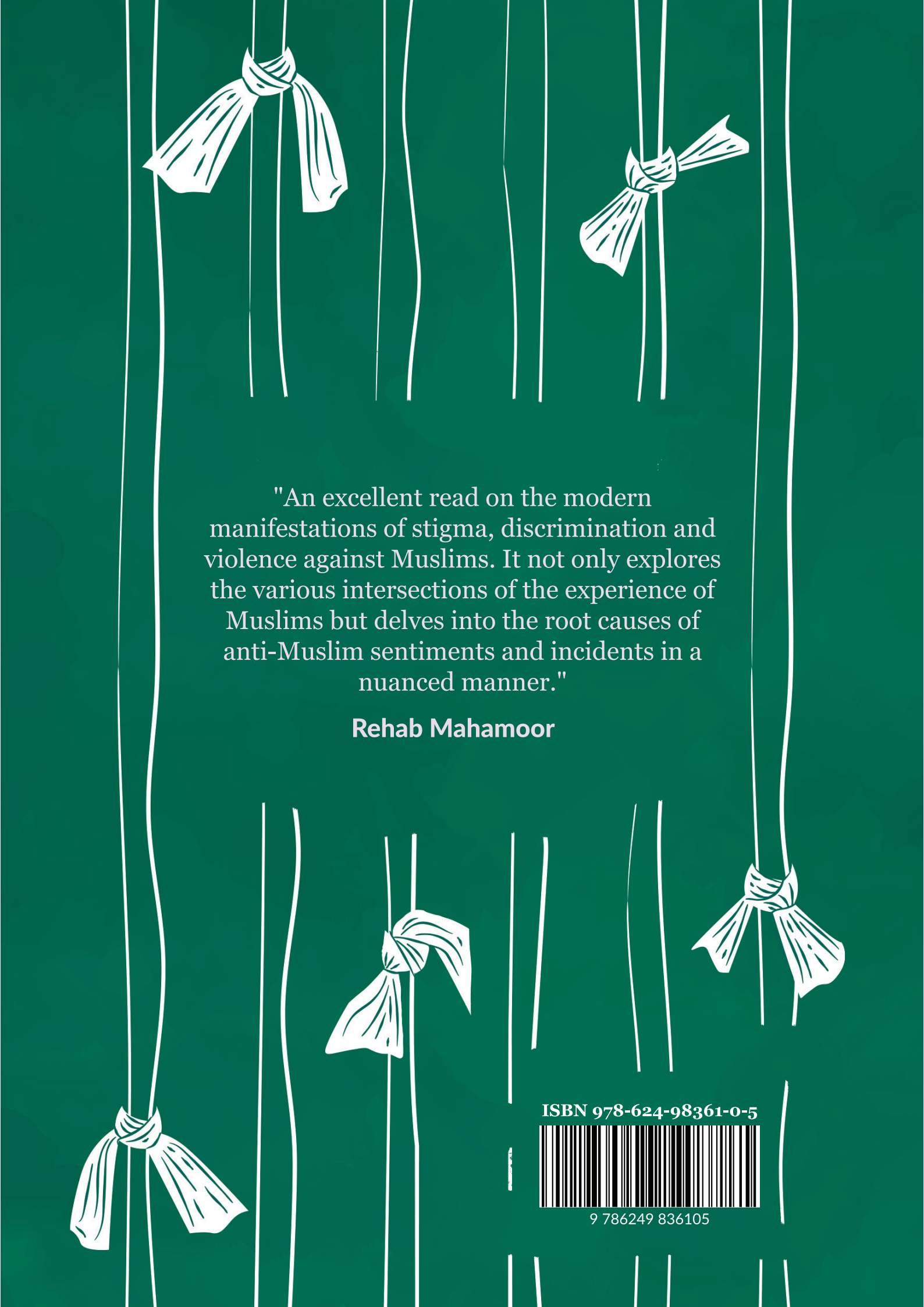
discursively denies the Muslims and Sinhalese who live in the region the full rights of belonging. This process of 'othering' continues as an exclusivist feature of the Tamil self-determination project. Those who call for Tamil nationalist self-determination in the North and East of the island are yet to realise that the eviction of Muslims is a consequence of this dangerous nationalist imagination. In order to build an inclusive future in the North-East, Tamil nationalism should give way to a new discourse of resistance that places the coexistence of multiple communities at its center.

The privations that the Tamil community experienced during the civil war and the intense militarisation, displacement and economic deprivations amidst which the northern Tamils had to live their lives rendered them an oppressed community. Muslim armed groups created by the state in the East to defeat Tamil militancy turned violent against Tamils in the Eastern Province. The Tamils saw these groups as the paramilitary wings of the Sinhala-Buddhist state and caste doubts about the Muslim community's commitment towards the political liberation of the Tamils. However, the situation in the East was more complicated. The massacres of Muslims by the LTTE in Eravur and Kattankudy were totally unwarranted. They led to a severe deterioration in the Tamil-Muslim relations in the East. The scars caused by these massacres and the memories of the involvement of Muslim home guards in some of the massacres that took place in Tamil villages in the East continue to pose a challenge to reconciliation between Tamils and Muslims in the East.

During the post-war years, leading Muslim politicians defended the government in the international arena when the Rajapaksa regime faced allegations of war crimes and genocide from the Tamil community. The political leadership of the Muslim community failed to take a consistent stance against the Sinhala-Buddhist character of the state and thereby alienated the Tamil community. These factors did not allow much political space for the Tamils to reflect upon the plight of the evicted Muslims. There is a need for the Muslim community to understand and empathise with the trials and tribulations that the Tamils went through during the war years and introspect into their relationship with the state and successive Sinhala chauvinist regimes that governed the island. Blaming the Tamil community as a whole for the eviction will not take the Muslims anywhere on their quest for renewed coexistence in the North.

As things stand, Muslims are returning to the North without expecting much from anyone, simply in the hope of restarting their lives from scratch and co-existing once again with their Tamil brothers and sisters. They have advanced few demands, apart from modest ones for equal treatment, access to their lands, basic livelihood activities and swift clearance of their land that has turned into jungles. It is imperative that Tamil government officers and politicians in the North recognise that evicted Muslims have the right to reclaim their properties and livelihood opportunities in their native places, irrespective of whether their families choose to continue to live elsewhere. As trust builds, more northern Muslims will feel safe to return and reclaim their ancestral lands and cultural heritage. At the moment, however, there seems to be resistance to their return. This is a situation that will only lead to further communal strife between the Muslims and Tamils of the North and benefit

majoritarianism, undermining the long-term interests of the Tamils and their long-sought political aspirations. It is in the interest of both communities — with the support of the international community and sympathetic Sinhalese — to prioritise deeper cooperation and a sustained effort to work through their separate — but deeply intertwined — grievances and suffering.



"An excellent read on the modern manifestations of stigma, discrimination and violence against Muslims. It not only explores the various intersections of the experience of Muslims but delves into the root causes of anti-Muslim sentiments and incidents in a nuanced manner."

Rehab Mahamoor

ISBN 978-624-98361-0-5

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