

Responses to Questionnaire for Report on Anti-Muslim Hatred and Discrimination
Submitted by the University Of Minnesota Law School Human Rights Clinic on Behalf of A
Collective of Sri Lankan Women¹

1. Islamophobia and anti-Muslim hatred in Sri Lanka

“Islamophobia” and anti-Muslim hatred are used interchangeably in Sri Lanka. Accusations of Muslims being connected to extremist elements of Wahabism and Saudi Arabia have been made by some extremist Buddhist monks; attacks have included branding all Muslims as having an extremist ideology and being part of the “jihad.” These allegations are part of an Islamophobic campaign that escalated after the end of 2009. After the violent end of the civil war, some government officials escalated anti-Muslim attacks with the result of inciting extremist Buddhist’ hostility towards Muslims with charges of “Wahabism” and bringing in foreign (Middle Eastern) culture. Following the 2019 Easter suicide bomber attacks that killed hundreds, this Islamophobic hatred reached a different level with charges that all Muslims were connected with international terror and extremism and claims that Islam was a violent religion.

More generally, the definition of Islamophobia should also include an examination of internal tensions and attacks within the Muslim community. For example, certain groups of Muslims disown other groups as lacking piety and violently attack them.

2. Discrimination in law and practice

The structural reasons for unequal treatment of religions in Sri Lanka addressed earlier by this Mandate continue.²

A recent example of discrimination against Muslims enacted into law are recent guidelines mandating cremation as the only option for victims of the COVID-19 pandemic. The World Health Organization and other public health experts have issued guidance that burials can be undertaken safely to eliminate risks of spreading the disease.³ Other countries have been able to safely implement burial practices. Muslims in Sri Lanka experience this legislation as the latest step in a pattern of discrimination by the majority Sinhalese population.⁴ Some families were not even notified of the cremation of a loved one’s body and have not been able to access medical records.⁵

¹ The Sri Lankan women submitting information for these responses remain anonymous due to security concerns. This report does not repeat background information included in previous reports on Sri Lanka by the Special Rapporteur on Freedom of Religion and Belief in August 2019 and August 2020.

² Special Rapporteur on freedom of religion or belief, Preliminary Findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief, (Aug. 26, 2019), https://spinternet.ohchr.org/SP/CountryVisits/Shared%20Documents/LKA/INT_CV_ESS_LKA_16289_Final_E.pdf (August 2019 Report).

³ WHO Guidance, <https://www.who.int/publications/i/item/infection-prevention-and-control-for-the-safe-management-of-a-dead-body-in-the-context-of-covid-19-interim-guidance>.

⁴ BBC, <https://www.bbc.com/news/world-asia-53295551>.

⁵ Shreen Abdul Saroor, *Scapegoating the Muslims: From Aluthgama to Post-Easter Sunday to COVID-19*, ECONOMY NEXT (14 May 2020), <https://economynext.com/scapegoating-the-muslims-from-aluthgama-to-post-easter-sunday-to-covid-19-69929/>.

At least one victim was cremated despite having tested negative for the virus, as confirmed by health ministry personnel.⁶ Other Muslims have reported that their family members were cremated even though the deceased were not included in the national list of COVID casualties.

The Supreme Court dismissed a Fundamental Rights case challenging the mandatory cremation policy and did not grant leave to proceed. The Court did not consider the Constitutional and religious freedom arguments and dismissed without answering evidence of the practices of 189 countries allowing burial, the findings of the World Health Organization and scientific studies that concluded that burial does not present a health risk.⁷

The Sri Lankan government has continued to target Muslims with disproportionate arrests and denials of due process. In April 2020, authorities arrested activist Ramzy Razeek, known for his advocacy of inter-faith harmony, for posting pro-Muslim opinions on Facebook.⁸ He was held without bail, hearings, or access to a lawyer for months, until he was finally released on bail on September 18, 2020.

Under Sri Lanka's repressive Prevention of Terrorism Act (PTA), prominent human rights lawyer Hejaaz Hizbullah is still in detention after his arrest on April 14, 2020.⁹ In December 2019 and January 2020, the deaths of two young Muslim male inmates (one in Welikada prison and another in Batticaloa prison) were reported to the national Human Rights Commission (SLHRC). There are other inmates detained under the PTA and some are seriously ill, but families are afraid to report the detentions and conditions of their loved ones.

There are ongoing concerns that arbitrary arrests and detention occur disproportionately for Tamils and Muslims, in some cases for reasons that are discriminatory, and there is impunity for the use of prolonged detention. Since the April 2019 bombings, such reasons for arrest and detention included simply "having the holy Qur'an or other Arabic literature."¹⁰ Of the 423 arrested on the suspicion of involvement in the bombings, 358 were Muslim men, women and teenagers.¹¹ Around 100 remain in custody without any trial. In the aftermath of the Easter attack, Muslim women were arrested and detained simply for wearing a niqab (a face veil).

The Muslim community has been the target of attacks from multiple fronts by certain monks and other groups within a system that is subtly fueling religious tension and hatred in the guise of protecting itself from Islamic extremists' influence. In the eastern town of Kathankudi (Batticaloa), the last two weeks have seen many arrests of Muslim women (one with a 10-month-old baby) who

⁶ *Id.*

⁷ *Sri Lanka Supreme Court rejects petition against cremation of coronavirus dead* (Dec 1, 2020), colombopage.com/archive_20B/Dec01_1606845455CH.php.

⁸ See Amnesty International Report: <https://www.amnesty.org/en/documents/asa37/2357/2020/en/>.

⁹ See Amnesty International Report: <https://www.amnesty.org/en/latest/news/2020/10/sri-lanka-prominent-human-rights-lawyer-arbitrarily-detained-for-six-months-must-be-released/>.

¹⁰ Human Rights Watch, *Sri Lanka: Muslims Face Threats, Attacks* (July 2, 2019), <https://www.hrw.org/news/2019/07/04/sri-lanka-muslims-face-threats-attacks>.

¹¹ Sri Lanka Brief, *Muslims Targeted with Arbitrary Arrests' After Easter Massacre in Sri Lanka*, (June 16, 2019), <https://srilankabrief.org/2019/06/muslims-targeted-with-arbitrary-arrests-after-easter-massacre-in-sri-lanka/>.

belong to the family of suspected associates of the Easter bomber. To date seven such arrests have been reported the SLHRC.

There is also a lack of Muslim representation in government institutions. While Muslims make up approximately one-tenth of the population and one-third of the Eastern Province, the ethnicization of politics, combined with the Sinhala-only language in State institutions, has created an atmosphere of intense exclusion for Muslim Sri Lankans from areas of decision-making and power structures. In a 2017 report, the Special Rapporteur on minority issues urged the Sri Lankan Government to pay particular attention to effective participation for Muslims in decision-making and creating institutional practices that accommodate ethnic, linguistic, and religious diversity to open access to Muslim participation.¹² However, after the April 2019 bombings, Muslims who were in political power faced new attacks by the Sinhala Buddhist majority members, resulting in the mass resignation of at least two Muslim governors and nine Ministers in Sri Lanka.¹³ Although many of them were re-elected, they lack access to top decision makers, especially with the recent passage of the 20th amendment to the Constitution that has resulted in an unprecedented growth of unchecked executive power, and the weakening of Parliament. Even though the Justice Minister is a Muslim, he seems to have no power to bring justice for minorities.

Finally, the government of Sri Lanka has tried to emphasize the cultural heritage of the Sinhalese Buddhist population in Sri Lanka while ignoring the contributions of Muslims. For example, in June 2020, the government formed a Presidential Task Force for Archaeological Heritage Management which is tasked with identifying and preserving sites of archaeological and cultural importance in the Eastern Province of Sri Lanka, the population of which is two-thirds Muslim and Tamil.¹⁴ However, the pan Sinhala Task Force comprises mostly military officers and Buddhist clergy.

3. Social attitude, hate speech, attacks and violence against Muslims

Discrimination is institutionalized through the lack of constitutional and other legal protections for Muslims described above as well as inconsistent enforcement of minority rights, and inadequate state response to mob violence and online hatemongering mostly by extremist Buddhist monks and Sinhala extremist groups. There is a lack of legal accountability for those who have committed past human rights violations against Muslim communities. Muslims who counter hate speech are also arrested or visited and threatened by government intelligence units.

In the most recent ICCPR Concluding Observations, the Human Rights Committee expressed concerns about “restrictions and conditions placed on the enjoyment of cultural, linguistic and religious freedom of minorities in Sri Lanka.”¹⁵ The Committee specifically named Muslims as a

¹² UN Human Rights Council, Report of the Special Rapporteur on minority issues on her mission to Sri Lanka, Rita Izsák-Ndiaye, ¶ 13, 29, U.N. Doc. A/HRC/34/53/Add.3 (Jan. 31, 2017).

¹³ *The Healing Touch: On Muslim Ministers Resigning in Sri Lanka*, Sri Lanka Brief (June 6, 2019), <https://srilankabrief.org/2019/06/the-healing-touch-on-muslim-ministers-resigning-in-sri-lanka/>.

¹⁴ See DailyFT article: http://www.ft.lk/news/Why-the-Presidential-Task-Force-on-archaeology-in-the-Eastern-Province-has-no-Muslims-or-Tamils/56-701188?fbclid=IwAR1XtHOn0Hh8RQIXvZHnqJfnJHwUeYwE6i-X_KUCBXXZuNYV-NSmIqeFWU.

¹⁵ UN Human Rights Committee, Concluding observations on the fifth periodic report of Sri Lanka, (Nov. 21, 2014),

group that has been subject to harassment and attack. The previous Sri Lankan government acknowledged that freedom of religion has been an issue during its post-war period because of “allegations of inter-religious tensions” in the country.¹⁶ As this Mandate has recognized, state counterterrorism efforts have been reported to be fueling an increase in hate speech and violence against the Muslim community, particularly after the April 2019 bombings.¹⁷

Mob violence targeting Muslims erupted in different parts of Sri Lanka in March 2018 and after the 2019 Easter Attacks in North Western Province. On May 15, 2019, Gnanasara Thero, a hardline Buddhist monk, called for the stoning to death of Muslims, and propagated an unfounded allegation that Muslim-owned restaurants put “sterilization medicine” in their food to suppress the majority Sinhalese Buddhist birthrate. A week after he made those statements, Gnanasara Thero, who had been previously convicted of contempt of court, was pardoned by then President Sirisena without any stated reason.¹⁸

Despite over 80 arrests following the 2018 anti-Muslim violence in Central Province, no prosecutions were ever made. Following the 2019 mob violence, leaders of the Sinhalese nationalist groups were among those arrested, including Amith Weerasinghe of Mahason Balakaya, Dan Priyasad of New Sinha Le, and Namal Kumara of the “Anti-Corruption Front.” All were subsequently released. Weerasinghe was arrested following both the 2018 and 2019 incidents. One Muslim man was killed in the 2019 anti-Muslim violence.¹⁹

The government’s failure to protect Muslims from discrimination and attacks identified in the Mandate’s August 2019 and 2020 reports has continued. During the November 16, 2019 presidential election, evicted Muslims were targeted and attacked while traveling from Puttalam to Mannar and Mullaitheevu to vote.²⁰ Sinhala mobs, who were supporters of the SLPP²¹ and the Rajapaksa brothers, shot and threw stones at their buses to and from the polling locations. A year after the Presidential elections, former minister Rishard Bathiudeen was arrested for chartering these

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPPRiCAqhKb7yhsrw%2B3KEAFqUx9WCYsjqQZ0KRa6xm48AXwgE4ZijutO%2F%2FqDB2usGzDH8jCdGApre8%2BLTMQ5BrT3AtTU7ib4rlc8vovg2n4JopHu24uYZPrQ8i>

¹⁶ UN Human Rights Committee, Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant (ICCPR), due in 2017, received Feb. 22, 2019, at ¶ 27 (Apr. 25, 2019), <https://digitallibrary.un.org/record/3823094>.

¹⁷ August 2019 Report.

¹⁸ *Sri Lanka President Pardons Hardline Buddhist Monk*, AL JAZEERA (22 May 2019), <https://www.aljazeera.com/news/2019/5/22/sri-lanka-president-pardons-hardline-buddhist-monk>.

¹⁹ *Sri Lanka Anti-Muslim Riots Kill One Despite Curfew*, THE HINDU (14 May 2019), <https://www.thehindu.com/news/international/sri-lanka-anti-muslim-riots-kill-one-despite-curfew/article27123419.ece>.

²⁰ *Muslim Voters Attacked in Sri Lanka Presidential Election*, THE PUBLIC’S RADIO (Nov. 16, 2019), <https://thepublicsradio.org/article/muslim-voters-attacked-as-sri-lanka-elects-president>; *Sri Lankan Presidential Election: Buses Carrying Muslim Voters Attacked*, THE GUARDIAN (Nov. 16, 2019), <https://www.theguardian.com/world/2019/nov/16/sri-lanka-presidential-election-gunmen-fire-on-buses-carrying-muslim-voters>.

²¹ Sri Lanka Podujana Peramuna (SLPP) (Sri Lanka People’s Front) led by former president and current minister prime Mahinda Rajapaksa.

buses, accused of misappropriating public property for the purpose.²² Seven others were arrested for allegedly assisting Bathiudeen to evade arrest.²³ They are on bail now.

The COVID-19 pandemic has also given rise to misinformation spread by social media and government actors targeting the Muslim community, including false allegations that Muslim businesses were intentionally spreading the disease, and calling for boycotts. According to the Alliance of Independent Professionals, a group of 22 Sri Lankan academics and professionals, the stigmatization of Muslims was apparent in the Kalutara District where those quarantined due to COVID-19 were referred to as “Beruwela People.” The district is generally regarded as predominantly Muslim and Derana TV presenter Chatura Alwis mentioned that two patients from Beruwala had “deprived Sri Lanka of enjoying Sinhala New Year.”²⁴ The Ministry of Health’s consultant pathologist stated that behind the mandatory cremation policy was a fear that dead bodies would be used as biological weapons.²⁵ An initial report from the Government Medical Officers’ Association listed the Muslim population of districts as a factor to be considered in the country’s COVID-19 exit strategy.²⁶

Politicians in Sri Lanka also spread harmful and inciting rhetoric against Muslims during the 2020 Parliamentary Election campaigns. In June, Ape Jana Bala Pakshaya (Our People’s Party) candidate Ambale Ratana Thero commented, during a campaign meeting that Muslims and Tamils are conquering the country while depriving Sinhalese of their freedom of movement around the country. In July, SLPP Vanni district candidate Janaka Nanda Kumara made comments at an event that Tamil and Sinhala people were suffering because the district was controlled by Muslim politicians who were only providing benefits to Muslims, and that it was not suitable for the district to be ruled by Muslim politicians.²⁷

Social media companies have a central role to play by building capacity to more effectively manage social media content in Sri Lanka. Facebook and other social media platforms should invest in resources and expertise in all local languages and vernacular so as to protect against content inciting hate and also, make a commitment to responding quickly to hate speech. External monitors and companies must be independent from the government. They should engage with local communities to ensure that control of hate speech does not result in a backlash and an increase in repression.

²² Arjuna Ranawana, *Rishad Bathiudeen Arrested in Dehiwela Early This Morning*, ECONOMY NEXT (19 Oct. 2020) <https://economynext.com/rishad-bathiudeen-arrested-in-dehiwela-early-this-morning-74884/>.

²³ Zulfick Farzan, *07 People Arrested for Assisting Rishad Bathiudeen to Evade Arrest*, NEWS 1ST (19 Oct. 2020), <https://www.newsfirst.lk/2020/10/19/07-people-arrested-for-assisting-rishad-bathiudeen-to-evade-arrest/>

²⁴ Dula Kotte, *Sri Lanka Accused of Racism and Increased Militarization Post Pandemic*, JOURNALISTS FOR DEMOCRACY IN SRI LANKA (5 May 2020), <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/945-sri-lanka-accused-of-racism-and-increased-militarisation-amidst-pandemic>.

²⁵ *Small Fear Whether the Dead Bodies with the Virus Can Be Used as Biological Weapons – Dr. Channa Perera Tells BBC*, THE LEADER (16 Apr. 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>.

²⁶ *GMOA Makes Overnight Changes to Its COVID-19 Exit Strategy After Coming Under Fire for Its Racist Stance*, DAILY POST LK (18 Apr. 2020), <https://www.dailypost.lk/under-fire-gmoa-makes-quick-turnaround/>.

²⁷ Centre for Monitoring Election Violence, *Hate Speech and Divisive Language During the Parliamentary General Election 2020* (July 27, 2020), <https://cmev.org/2020/07/27/hate-speech-and-divisive-language-during-the-parliamentary-general-election-2020/>.

4. Multiple discrimination and hatred suffered by Muslims in vulnerable situations

The Muslim Marriage and Divorce Act (MMDA) of 1951²⁸²⁹ restricts the rights of Muslim women and girls. The law results in forced marriages because the MMDA has no minimum age of marriage and allows male guardians to give permission for marriage. It allows a ‘right’ of men to polygamy and prohibits women from becoming judges or jurors in Quazi courts, where women face many barriers to obtaining a divorce. For example, women seeking a fasah (fault) divorce often struggle to testify about emotional, physical, and sexual abuse before an all-male panel that lacks the requisite legal training or gender sensitivity.

Muslim women activists have worked for over 30 years for reform of the MMDA. However the current Government is threatening to abolish the MMDA, which Muslim women’s rights activists see as a move to “one country and one law” as an effort to deny religious rights, multiculturalism and diversity.³⁰ Since anti-Muslim COVID-related attacks escalated, the MMDA reformists have stopped their active lobby fearing the repeal of MMDA altogether under the one country and one law policy.

Muslim refugees in Sri Lanka are also subject to discrimination. A disproportionate number of Muslim Sri Lankans were forcibly evicted at gunpoint by Tamil Tigers in 1990 in Sri Lanka.³¹ Muslims in Sri Lanka have expressed frustration that there is a lack of transparency about the resettlement process. Concerns have also been raised that land allocation by the Government has included settling Sinhalese on previously Muslim lands to the disadvantage of shrinking Muslim minorities in such communities. State-sponsored programs that transfer Sinhalese into the North and East, such as Gal Oya and Weli Oya/Manal Aru, are viewed by the local Tamil and Muslim populations as particularly contentious.³² For example, the majority-Muslim-and-Hindu, Tamil-speaking towns of Pulmoaddai and Kokkilai, which both border the Northern and Eastern provinces, have gone through well-documented changes throughout military occupation, such as the creation of military outposts, Sinhalese settlements, and the building of military-controlled Buddhist

²⁸ Marriage and Divorce (Muslim) Act, Ch. 134 (Aug. 1, 1954), http://www.commonlii.org/lk/legis/consol_act/mad134294.pdf operates under Article 16 of the Constitution, which allows all laws that existed before the adoption of the Sri Lankan Constitution in 1978 to remain in force. These laws remain in force “notwithstanding any inconsistency with the preceding provisions” of the Constitution, including guarantees of equality (Article 12(1)) and non-discrimination (Article 12(2)).

²⁹ *Id.*

³⁰ *Two Private Member’s Bills Presented by Ven. Rathana Thera*, DAILY NEWS (Dec. 28, 2019), <https://www.dailynews.lk/2019/12/28/local/206835/two-private-member%E2%80%99s-bills-presented-ven-rathana-thera>.

³¹ UN Human Rights Council, Report of the Special Rapporteur on minority issues on her mission to Sri Lanka, Rita Izsák-Ndiaye, ¶ 13, 29, U.N. Doc. A/HRC/34/53/Add.3 (Jan. 31, 2017).

³² Human Rights Watch, “*Why Can’t We Go Home?: Military Occupation in Sri Lanka*” 18 (Oct. 2018), <https://www.hrw.org/report/2018/10/09/why-cant-we-go-home/military-occupation-land-sri-lanka>.

sites in the occupied areas.³³ Displaced Muslims trying to vote at their prior residence were attacked, and a minister facilitating the ability of Muslims to vote in these areas was arrested.

Muslim children lack equal access to education and resources, and there is ongoing school segregation based on religious identity in Sri Lanka that further disadvantages Muslim children. The unfair quota system described by the August 2019 Report³⁴ continues as do regional disparities in education.³⁵ There is concern among Sri Lankans that such disparities are actually fostering a new generation of anti-Muslim sentiments by excluding Muslim students.³⁶

Muslim girls are frequently discriminated against within education institutions.³⁷ Muslim girls attending non-Muslim schools are frequently given the ultimatum of removing their shawl or pants to enter the school or to leave and enroll into a Muslim-specific school. To this date, there are incidents reported that Muslim students are harassed for wearing hijabs when they sit for public exams.

5. Good practice in identifying and tackling anti-Muslim hatred

Sri Lankan civil society has a long history of cooperation across religious divides.

Women's groups are working within the Muslim community to look at oppression within the community and continue to struggle for various reforms, including legal reform. Community organizations have worked to document and report on anti-Muslim attacks systematically. Muslims have been resisting the current compulsory cremation prohibition as one voice. Civil society has also worked to build bridges across other communities and work collectively on minority rights.

Communities have come together after escalation of religious attacks, to oppose all forms of extremism, and on other common issues including sexual and gender-based violence, and post-conflict transitional justice measures and in the identification of early warning systems to prevent future conflict. Specific programs have included trainings, community meetings, monitoring and reporting on social media practices, as well as joint advocacy for reform on the above-mentioned issues.

³³ *Sinhalization of the North East: Kokkilai*, PEARL (Sept. 21, 2019), <https://pearlaction.org/2019/09/21/sinhalization-of-kokkilai/>; Pulmoaddai, PEARL (Mar. 11, 2019), <https://pearlaction.org/2019/03/11/sinhalization-of-pulmoaddai/>.

³⁴ August 2019 Report.

³⁵ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Sri Lanka (ICESCR), U.N. Doc. E/C.12/LKA/CO/5 (4 Aug. 2017).

³⁶ *Sri Lanka: Students Ridiculed in Sri Lanka for Using Brand Targeted in Anti-Muslim Boycott: Official*, Sri Lanka Brief (May 7, 2019), <https://srilankabrief.org/2019/07/sri-lanka-students-ridiculed-in-sri-lanka-for-using-brand-targeted-in-anti-muslim-boycott-official/>.

³⁷ Imukthi Fernando, *Muslims Face Continued Harassment in Wake of Terror Fears*, SUNDAY OBSERVER (Jan. 5, 2020), <http://www.sundayobserver.lk/2019/06/02/news-features/muslims-face-continued-harassment-wake-terror-fears>; Chandni Doulatramani, *Sri Lanka's Veil Ban Is Fueling Hate*, FOREIGN POLICY (May 23, 2019), <https://foreignpolicy.com/2019/05/23/sri-lankas-veil-ban-is-fueling-hate/>.