

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
Accountability and Human Rights in Sri Lanka

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Virtual via Cisco WebEx

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The vilification of ethnic minority groups during Sri Lanka's armed conflict has continued into a post-war setting, with the added dimension of ethnoreligious minorities now becoming targets. A culture of impunity during and after the war ensures that perpetrators of violations escape accountability. Unsettled human rights issues stemming from the conflict such as arbitrary arrests and detention under the Prevention of Terrorism Act (PTA) and custodial torture have continued rampant under successive governments and contribute to the continuum of violence faced by minorities at present. In addition to the PTA, the International Covenant on Civil and Political Rights Act No. 56 of 2007 (ICCPR Act) has been weaponised to target the very minorities it was enacted to protect.

We have witnessed multiple episodes of mass-scale violence and campaigns of hatred, targeting religious minorities particularly Muslims. Since the end of the war in 2009, violent rhetoric was unleashed against Halal certification, the attire of Muslim women, Muslim houses, businesses, properties, places of worship and Muslim religious education. These episodes were primarily led by organisations and alliances of ethnoreligious nationalists seeking to establish Sri Lanka as an exclusive homeland of Sinhalese Buddhists. Led by hard-line Buddhist monks, these ethnonationalist groups have captured the imagination of the Sinhala-Buddhist majority, particularly the youth, and have engaged in hate-mongering and mass-scale events of physical violence and property damage, triggering states of emergency.

With the election of the new president in 2019, targeted structural discrimination, marginalisation, and violence against minorities have become commonplace. While in the past, non-state actors have received implicit support from the state when perpetrating violence against religious minorities, the current administration has engaged in deliberate structural discrimination including through the adoption of official laws and policies designed to marginalise religious minorities. For instance, the government's 2020 mandatory cremation policy saw the forced cremation of over 300 Muslims who died or were suspected to have died of COVID-19.

Although the forcible cremation policy was reversed in a limited manner due to heightened international pressure, including by UNHRC, OIC, and Special Mandate holders, the discrimination and manifestation of hate persist. To date, the burial of those who died of COVID-19 are permitted only in one designated burial ground (nearly 300km away from Capital and that too under a careful watch of the military, and severe restrictions in terms of family members' participation and rituals).

Minority religious places of worship and charitable organisations have been subject to increasing surveillance. This trend was observed following the Easter attacks in 2019 and increased further

since the pandemic. Law enforcement and intelligence officials have visited several churches across the country asking for information such as the names and contact details of the pastors, church committee members, congregants, financial details, their registration with any state institution while Muslims are questioned by intelligence officials for distributing *zakat* funds—a religious obligation for Muslim—to charitable organisations. The state seems to view zakat donations as contributions to radicalise and mobilise Islamists.

Most recent development with regards to the structural persecution of Muslims were the proposed ban on burqa to which the Cabinet of Ministers have granted approval¹ and the De radicalization Regulations No. 01 of 2021 which provide for the detention of any person suspected of causing ‘religious, racial, or communal disharmony’ for a period of up to two years without trial. This regulation if passed will further strengthens the controversial PTA.

The appointment of the new Presidential Taskforce for One Country, One Law chaired by Gnanasara a rabid mong (who heads BBS) is yet another hurdle to the full realisation of the rights of religious minorities. The concept of ‘One Country, One Law’ was hypocritical from its inception, especially in light of the impunity with which the powerful individuals—including figures such as Gnanasara himself—continue to operate. His appointment to chair a task force that is claimed to ensure the equal treatment and status of all citizens calls into serious question of this government and its policies. The appointment of this task force and the presidential taskforce on Eastern Archaeological and Heritage are an abuse of executive powers and has been viewed by many as overt attempts by the President to establish a Sinhala-Buddhist hegemony.

Asks:

1. Accountability pillar is an important part of any transformation towards peace in Sri Lanka and the US government joining the UNHRC to co-chair Sri Lankan resolution is a good move. US should set aside adequate resource for the evidence gathering process (Operational paragraph 5 of 46/1).
2. Pay more close attention to heavy militarization of everyday life and ensure that the US disengages with the Sri Lankan military, specially training and providing military equipment. US should also advocate for travel embargo on military officials who have credibly been alleged of war crime and to bring forward a strict vetting process for Sri Lankan military personnel serving in UN peace keeping missions.
3. Prevail upon the government to repeal the draconian PTA which has historically been used as a tool to suppress ethnic and religious minorities and bring into force anti-terror legislation in line with international standards and based on community consultation and expert input. Until such repeal and or reform is introduced an immediate moratorium to be applied in respect of the PTA. Expedite investigations in respect of those who have been held in custody for long period under PTA without being charged and either charge them or release them.
4. Currently the government is talking about Constitutional reform and already the 13th amendment to constitution that provides for a limited devolved power to the provinces is at stake due to presidential appointments of ‘Task Forces’ and the Provincial Governors. Ensure that a political settlement is achieved through a reformed constitution that would

¹ Aljazeera, *Sri Lanka cabinet approves proposed ban on burqas in public*, 28 April 2021: <https://www.aljazeera.com/news/2021/4/28/sri-lanka-cabinet-approves-proposed-ban-on-burqas-in-public>

guarantee including meaningful power-sharing and non-recurrence of structural violence and discrimination in the constitution.

5. Muslim and others who want to bury their Covid deceased should be given an option to bury their loved ones, at least in every province and allowed to visit the burial site. The gazetted regulation that proscribed burial should forthwith be rescinded.