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# The Chronic and the Entrenched: Ethno-Religious Violence in Sri Lanka



Gehan Gunatilleke



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**International Centre for Ethnic Studies  
&  
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## Preface

The democratic transition of January 2015 promised an end to ethno-religious violence in Sri Lanka. Up until this moment, Sri Lanka's post-war state had enabled such violence by supporting militant groups that perpetrated violence with impunity. Thus the election of Maithripala Sirisena – and importantly, the defeat of Mahinda Rajapaksa – was characterised as a watershed moment in post-war inter-communal relations in the country. Sirisena's ascendancy was facilitated by a coalition of anti-Rajapaksa forces, which included religious minorities. However, more than three years later, the promise of ending ethno-religious violence is yet to be realised.

In the 2015 study, *The Chronic and the Acute: Post-War Religious Violence in Sri Lanka*,<sup>1</sup> this author classified ethno-religious violence along a spectrum of intensity: (1) chronic violence, which involves continuous, low-intensity attacks, and (2) acute violence, which involves episodes of high-intensity violence. These categories help us understand the extent to which ethno-religious violence persists in contemporary Sri Lanka. On the one hand, there is general consensus that incidents of acute violence have reduced since Sirisena took office. On the other, chronic violence has continued throughout the country. This phenomenon prompts further reflection on what drives chronic violence in Sri Lanka. It points to the possibility that some forms of violence stem from deep-seated prejudices and beliefs that are not dependent on governmental support, and cannot be transformed through democratic transitions alone; it points to the potentially *entrenched* nature of ethno-religious violence in Sri Lanka.

Identity politics play a pivotal role in the persistence of violence in Sri Lanka. Sri Lankans identify themselves principally along ethnic and religious lines. Yet scholars including Rajesh Venugopal<sup>2</sup> and David Smock<sup>3</sup> observe that the line between ethnicity and religion is often blurred in Sri Lanka because ethnicity and

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1 Gehan Gunatilleke, *The Chronic and the Acute: Post-War Religious Violence in Sri Lanka* (Equitas and ICES 2015).

2 Frances Stewart, 'Religion versus Ethnicity as a Source of Mobilisation: are there differences?' *CRISE Working Paper No. 70* (July 2009), at 8, citing Rajesh Venugopal.

3 David Smock, 'Religion in World Affairs: Its Role in Conflict and Peace', *United States Institute of Peace Special Report 201* (February 2008), at 2.

religion closely overlap.<sup>4</sup> In this context, a conception of ‘ethno-religious’ identity has emerged in Sri Lanka as distinct from purely ‘ethnic’ or ‘religious’ identity. These identity groups include ‘Sinhala-Buddhists’, ‘Muslims’ (mostly composed of Moors who adhere to Islam) and ‘Hindus’ (mostly composed of ethnic Tamils).<sup>5</sup> Moreover, Christians – comprising Roman Catholics, Protestants and other denominations – invariably hold ‘ethno-religious’ identities; ethnically speaking, Christians usually belong to the Sinhalese, Tamil and Burgher communities. The demographic intricacies of these various groups point to the underlying complexity of communal violence in Sri Lanka. The entrenched nature of such violence may be better understood when the governing identity politics behind such violence is conceptualised as ‘ethno-religious’ rather than merely ‘religious’. It is noted that ethnicity is more entrenched as an identity marker than religion is. Thus understanding how ethnicity and religion come together to create a complex, entrenched identity on ethno-religious lines is important to deconstructing the causes of contemporary communal violence in Sri Lanka.

This study delves into the post-January 2015 context in Sri Lanka and examines how ethno-religious violence has persisted, particularly in its chronic form. The study aims to ask two questions: What are the root causes of ethno-religious violence in Sri Lanka? What interventions are needed to address such causes?

The study is presented in four chapters. The first discusses ‘ethno-religious’ identity in Sri Lanka, and relates this conception of identity to the main findings in the author’s previous work. The second analyses the current state of ethno-religious violence in Sri Lanka. It examines the latest statistics on violence based on data gathered by non-governmental organisations such as the National Christian Evangelical Alliance of Sri Lanka (NCEASL) and the Secretariat for Muslims. The chapter then analyses localised fault lines based on research carried out in identified locations in the country. The third chapter analyses the features of ethno-religious violence in Sri Lanka, and offers a hypothesis on why such violence has persisted despite the democratic transition of January 2015. It argues that democratic

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4 Stewart, *op. cit.* at 8.

5 Sinhalese make up 74.9% of the population. Tamils constitute 15.2% (including 4% termed as ‘Tamils of Indian origin’ based in the estate sector) and Moors constitute 9.2% of the population. Over 70% of the population is Buddhist. Hindus, Muslims (i.e. adherents of Islam) and Christians respectively constitute 12.6%, 9.7% and 7.4% of the population. See Department of Census and Statistics, *Census of Population and Housing of Sri Lanka* (2012).

transitions alone cannot prevent ethno-religious violence in Sri Lanka due to at least three drivers that entrench such violence: the entitlement complex of the Sinhala-Buddhist majority, the existential fears of the Sinhala-Buddhist majority, and the exceptionalism afforded to the Buddhist clergy. The final chapter of this study discusses intervention strategies. It assesses the impact of recent strategies to combat ethno-religious violence, and the effectiveness of peace-building and human rights education initiatives. The chapter concludes by reflecting on whether the drivers of ethno-religious violence in Sri Lanka could be confronted through a process of cultural transformation.

## **Research Method and Approach**

This study undertakes to answer two research questions:

1. What are the main drivers of ethno-religious violence in Sri Lanka?
2. What interventions are needed to neutralise the drivers of ethno-religious violence in Sri Lanka?

In answering the first question, the study examines the socio-cultural, economic, and political fault lines that underlie the ethno-religious violence that has continued since the new government was installed in 2015. The study focuses on both pre-existing fault lines and new developments relating to such violence. In answering the second question, the study evaluates interventions that have been recommended in the past, and assesses the need for more radical interventions to deal with the root causes of ethno-religious violence in Sri Lanka.

This study adopts a mixed methodological approach with quantitative and qualitative components. At the quantitative level, it cites and analyses data on ethno-religious violence collected by non-governmental organisations such as NCEASL and the Secretariat for Muslims. It also examines voting patterns and demographic data to draw connections between the political and demographic compositions of particular locations and the occurrence of ethno-religious violence. This analysis builds on the author's previous work in *The Chronic and the Acute*.

At the qualitative level, the study sets out to gather and analyse information on the causes of ethno-religious violence. It relies on published literature, new reportage, and stakeholder perspectives to analyse these causes. The author conducted interviews with residents and civil society representatives from Kalmunai and Sainthamaruthu (in the Ampara district), Kattankudy and Batticaloa town (in the Batticaloa district), Jaffna and Kuragala. The author also participated in a limited number of focus group discussions in Batticaloa, Kalmunai, and Sainthamaruthu. Each of these locations was identified on the basis of several factors relevant to contemporary ethno-religious relations. The first factor related to intra-Muslim factionalism. Areas such as Kattankudy, Kalmunai and Batticaloa were selected with the aim of better understanding some of the emerging tensions and grievances within the Muslim community. Second, Kalmunai and Batticaloa were relevant to understanding inter-communal competition for resources – one of the key drivers of ethno-religious conflict. Third, Jaffna was selected with the aim of engaging key observers on the question of Tamil-Hinduism – a phenomenon that could potentially produce fresh communal tensions in the future. Finally, Kuragala was selected due to its unique localised conflict over a sacred site. It served as a case study in which an ethno-religious conflict between Sinhala-Buddhist militant groups and Muslim worshippers may be examined.

Through these quantitative and qualitative analyses, this study sets out to establish the following hypothesis: ethno-religious violence in Sri Lanka is ‘entrenched’ within cultural, socio-political and state structures, and requires radical interventions to overcome. This hypothesis aims to lay the groundwork for a fresh set of recommendations on combating ethno-religious violence in Sri Lanka. Such recommendations seek not only to *contain* violence, but also to *transform* discourses for the sustainable prevention of chronic and acute violence in the future.

# Chapter 1

## Background and New Developments

### 1.1 Defining ethno-religious violence

Willem de Haan observes that defining violence is ‘notoriously difficult’ due to its ‘multi-faceted’ nature.<sup>6</sup> Two typological axes may be useful to understanding the nature of violence in Sri Lanka. On the one hand, violence may be classified by its intensity along a spectrum that ranges from ‘chronic’ to ‘acute’. The study *The Chronic and the Acute* defined ‘chronic violence’ as continuous, low-intensity attacks. Such violence includes hate campaigns and propaganda, threats, intimidation, coercion, minor destruction of property and occasional physical violence.<sup>7</sup> By contrast, ‘acute violence’ was defined as high intensity, episodic violence, which can include widespread physical assault, destruction of property and a general breakdown in law and order.<sup>8</sup> On the other hand, violence can be classified in terms of its form: physical, non-physical and structural. These first two forms are included in conventional definitions of violence such as the definition offered by the World Health Organisation: ‘the intentional use of physical force or power, threatened or actual, against oneself, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.’<sup>9</sup> A holistic definition of violence ought to also include structural forms of violence. Johan Galtung observes that social structures or social institutions that harm individuals by preventing them from meeting their basic needs inflict what he calls ‘structural violence’.<sup>10</sup> Discriminatory practices that do not fall within the scope of physical or non-physical violence can fall within the scope of structural violence.

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6 Willem de Haan, ‘Violence as an Essentially Contested Concept’ in Sophie Body-Gendrot and Pieter Spierenburg (eds.), *Violence in Europe: Historical and Contemporary Perspectives* (Springer 2008), at 28.

7 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 33-34.

8 *Ibid.*

9 World Health Organisation, *Global Status Report on Violence Prevention 2014* (2015), at 2.

10 Johan Galtung, ‘Violence, Peace, and Peace Research’ (1969) 6(3) *Journal of Peace Research* 167-191; also see R.E.S. Tanner, *Violence and Religion: Cross-cultural Opinions and Consequences* (Concept Publishing Co 2007), at 5.

This study adopts a broad definition of violence, which includes physical, non-physical and structural forms. A broad definition is important to understanding ethno-religious violence in Sri Lanka due to its entrenched structural roots. The study thus includes within the definition of violence a wide range of acts: (1) physical assault; (2) destruction of property; (3) intimidation, threats or coercion; (4) hate campaigns or propaganda; and (5) discriminatory practices.<sup>11</sup>

The present study deviates from the previous study *The Chronic and the Acute* by describing the violence under consideration as ‘ethno-religious’ violence as opposed to merely ‘religious’ violence.<sup>12</sup> This terminological deviation is meant to characterise the type of violence encountered by minority communities as distinctly emanating from the perpetrator’s ‘ethno-religious’ as opposed to purely ‘religious’ – identity. Several reasons may be cited in support of this characterisation.

First, communal identity in Sri Lanka is complex and cannot be distilled down to ethnicity or religion independently of one another. As noted by Stephen Warner, ethno-religious identities are particularly complex, and are not adequately understood in most ethnographic studies.<sup>13</sup> Frances Stewart meanwhile quotes Rajesh Venugopal in an incisive description of the overlap between ethnicity and religion in Sri Lankan identity.<sup>14</sup> Venugopal observes: ‘Religion closely overlaps with ethnicity in Sri Lanka, and to some extent, religious identity forms the core of ethnic identity.’<sup>15</sup> Keerthisiri Fernando makes a similar observation with respect to identity formation of Sri Lankan immigrants in the United Kingdom.<sup>16</sup> This overlap has blurred the lines between ethnicity and religion, thereby establishing ‘ethno-religious’ identity strands.

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11 A similar categorisation was first offered in a 2014 report published by One Text Initiative. See Sri Lanka Muslim Congress, *Religious Violence in Sri Lanka: January 2013 – December 2013* (2014). It has since been used as a standard categorisation in a number of studies on religious violence. See for example, Verité Research and NCEASL, *Silent Suppression: Restrictions on Religious Freedoms of Christians, 1994-2014* (2016).

12 The interaction between violence and ‘the sacred’ has been thoroughly interrogated by René Girard. His work is important to understanding how religious cultures can engage in ‘scapegoating’ the ‘other’ in a subconscious bid to preserve social order within the dominant community. Religious violence often takes place in this context. See René Girard, *Violence and the Sacred* (A&C Black 1988), at 43. Also see Dominic Arcamone, *Religion and Violence: A Dialectical Engagement through the Insights of Bernard Lonergan* (James Clarke & Co 2016), at 18. The present study, however, adopts the terminology of ‘ethno-religious’ violence in an attempt to capture the complex interactions between violence and identity – specifically ethno-religious identity.

13 See Stephen Warner, *New Immigrant Religion: An Update and Appraisal*, Inaugural Lecture for Gateway Cities Project, New School University (October 12, 1999).

14 Stewart, *op. cit.* at 8.

15 *Ibid.*

16 See Keerthisiri Fernando, *Religion and Identity: Comparing Sinhala Buddhists and Christians in and Around London* (Godage International Publishers 2009).

For many Sinhala-Buddhists, the ‘Sinhalese’ and ‘Buddhist’ identity markers are equally important facets of a single identity strand that distinguishes them from Sinhalese professing other religions such as Christianity, or Buddhists (elsewhere in the world) who are not Sinhalese.<sup>17</sup> This ethno-religious identity is at the core of the nationalist belief that Sri Lanka is a ‘Sinhala-Buddhist’ country. This conception of belonging is distinct from the claim that the country is both a Sinhalese and a Buddhist country. It is *not* an aggregate or amalgam of Sinhalese and Buddhist entitlements, which by ethnic implication could include Sinhalese who are not Buddhists – and theoretically, Buddhists who are not Sinhalese. This conception is instead a reference to the overlapping space where ethnicity meets religion to form a discrete ethno-religious identity strand: the ‘Sinhala-Buddhist’. Such identity formation is of course not exclusive to Sinhala-Buddhists. Muslims may also be described as an ethno-religious community, and have leveraged ‘their religious identity over their ethnic identity and *vice versa* at different points in time according to certain material, social and political benefits they required.’<sup>18</sup> As observed by Farzana Haniffa ‘Muslim religious identity works on the register of ethnicity as well.’<sup>19</sup> She explains that, despite the fact that most Muslims speak Tamil, the term ‘Tamil Muslim’ is a ‘highly contested political claim’ in the Sri Lankan context, and is not a meaningful identity marker.<sup>20</sup> By contrast, until recently, Tamil-Hinduism has remained a largely dormant identity strand due to specific historical developments that this study will delve into. Thus, historically speaking, Tamil nationalism has more or less remained within ethno-linguistic bounds, and cannot be easily described as an ‘ethno-religious’ struggle.

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17 Sinhala-Buddhist identity has been formed over history in ‘oppositional’ terms as a way of distinguishing between those who followed the teachings of the Buddha – essentially the *Sinhalese*, and those who did not, such as the *Veddas*, and between Sinhalese and Tamils during times of war. See Gananath Obeyesekere, ‘Buddhism, Ethnicity, and Identity: A Problem of Buddhist History’ (2003) 10 *Journal of Buddhist Ethics* 192-242.

18 Mohamed Faslan and Nadine Vanniasinkam, *Fracturing Community: Intra-group Relations among the Muslims of Sri Lanka* (ICES 2015), at 17.

19 Farzana Haniffa, ‘Piety as Politics amongst Muslim Women in Contemporary Sri Lanka’ (2008) 42(2/3) *Modern Asian Studies* 347–75, at 351. Also see Ameer Ali, ‘The Quest for Cultural Identity and Material Advancement: Parallels and Contrasts Muslim Minority Experience in Secular India and Buddhist Sri Lanka’ (1992) 13(1) *Journal Institute of Muslim Minority Affairs* 33-58, and Dennis B. McGilvray, ‘Arabs Moors and Muslims: Sri Lankan Muslim Ethnicity in Regional Perspective’ (1998) 32(2) *Contributions to Indian Sociology* 433-483.

20 Haniffa, ‘Piety as Politics’, *op. cit.* Also see M.A. Nuhman, *Understanding Sri Lankan Muslim Identity, ICES Ethnicity Course Series 4* (ICES 2002).

Second, post-war communal politics in Sri Lanka have evolved to include a stronger religious dimension. Dhammika Herath and Harshana Rambukwella rightly observe: ‘If ethnicity was the determinant factor pre-2009, religion, a charged and often confusing term in the Sri Lankan context, began to emerge as a new defining force in the post-2009 Sri Lankan polity.’<sup>21</sup> This religious dimension has not replaced the ethnic dimension. Yet its tendency to fuse with the ethnic dimension to produce a more complex and discrete ‘ethno-religious’ dimension is perhaps more pronounced in the post-war era. Even during the final years of the war, scholars such as Neil DeVotta and Jason Stone observed the rise of ethno-religious identity politics, which ‘complicated’ efforts to negotiate a peace settlement.<sup>22</sup> In this context, the post-war violence perpetrated by militant groups both at the national and local levels is best described as ‘ethno-religious’, as perpetrators often self-identify along discrete ethno-religious lines.

Thus the present study examines post-war communal violence through an ethno-religious lens. It aims to deconstruct the essential features of ethnic and religious conflicts to hypothesise that post-war communal violence in Sri Lanka contains features of both types of conflicts. It is for this reason that policymakers and practitioners need to revisit some of the fundamental assumptions made about conflict transformation in Sri Lanka. Ethno-religious violence could very well be a hybrid form of violence that is incredibly difficult to prevent or mitigate: an *entrenched* form of violence that requires a radical transformation in society to overcome.

## **1.2 Past findings and recommendations**

The present study essentially aims to build on the body of work undertaken in *The Chronic and the Acute*. In this context, the main findings of that study are worth reiterating.<sup>23</sup>

First, the study examined certain socio-cultural, economic and political fault lines that underlie communal violence in Sri Lanka. At the socio-cultural level, Mahāvamsian historical narratives disseminated through formal and informal

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21 Dhammika Herath and Harshana Rambukwella, *Self, Religion, Identity and Politics: Buddhist and Muslim Encounters in Contemporary Sri Lanka* (ICES 2015), at 2.

22 Neil DeVotta and Jason Stone, ‘Jathika Hela Urumaya and Ethno-Religious Politics in Sri Lanka’ (2008) 81 (1) *Pacific Affairs* 31-51, at 32.

23 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 50-52.

education channels have entrenched the Sinhala-Buddhist sense of entitlement as the ‘hosts’ of the country. These narratives are used to ‘other’ minority groups and characterise them as ‘guests’.<sup>24</sup> Perceptions of Muslim population growth and economic expansion, and Christian propagation aims, can disrupt this ‘host-guest’ dynamic, and can contribute towards the creation and exacerbation of communal fault lines.<sup>25</sup> At the economic level, market reforms that undermined political patronage structures,<sup>26</sup> and the non-realisation of post-war economic dividends, have increased antagonisms between Sinhala-Buddhists and minority groups. In the post-war context, Muslims in particular have been perceived as monopolising economic gains, and militant groups have accordingly sought to make Muslims the scapegoats of economic recession.<sup>27</sup> At the political level, the emergence of ethno-religious and nationalist political parties such as *Jathika Hela Urumaya* (JHU) has facilitated the politicisation of religion, and has led to the galvanising of voter bases on ethno-religious lines.<sup>28</sup> The popularity of such parties has prompted mainstream parties such as the Sri Lanka Freedom Party (SLFP) to compete by adopting increasingly nationalist rhetoric, and to enter into coalitions with ultra-nationalist parties. Meanwhile, militant ethno-religious groups such as *Bodu Bala Sena* (BBS), *Sinhala Ravaya* and *Ravana Balaya* have thrived with impunity in this political context, and have enjoyed the direct and indirect patronage of the state.

Chronic violence against religious minorities often takes place when contextual factors converge to produce a ‘host-intruder’ dynamic within a particular location. Moreover, as seen in examples from 2013 and 2014, such as the Grandpass incident and the Aluthgama riots, a particular local context, combined with a ‘trigger event’, often explains the escalation of chronic violence into acute violence. The study

24 *Ibid.* at 50. Also see Verité Research, *The Media Analysis*, Vol. 3 Issue No.4 (4 to 10 February 2013).

25 See Sasanka Perera, *The Ethnic Conflict in Sri Lanka: A Historical and Sociopolitical Outline* (World Bank 2001); R.A.L.H. Gunawardana, ‘The People of the Lion: The Sinhala Identity and Ideology in History and Historiography’ (1979) 5(1) & (2) *The Sri Lanka Journal of the Humanities* 1-36; Richard Gombrich and Gananath Obeyesekere, *Buddhism Transformed: Religious Change in Sri Lanka* (Princeton University Press 1988).

26 See Newton Gunasinghe, ‘The Open Economy and its Impact on Ethnic Relations in Sri Lanka’ in Michael D. Woost (ed.), *Economy, Culture, and Civil War in Sri Lanka* (Indiana University Press 2004), 99-108.

27 See Ahilan Kadirgamar, ‘The Political Economy of Anti-Muslim Attacks’, *The Island*, 2 March 2013, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=73829](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=73829) [last retrieved 29 August 2017]; Sumudhu Jayasinghe, *Mapping among the Minority-Majority: Understanding the Context and Identifying Strategies* (Regional Centre for Strategic Studies 2016), at 6. Also see Farzana Haniffa, *Competing for Victimhood Status: Northern Muslims and the Ironies of Post-War Reconciliation, Justice and Development*, ICES Research Paper No.13 (ICES 2014), at 24.

28 See Mahinda Deegalle, ‘Politics of the Jathika Hela Urumaya Monks: Buddhism and Ethnicity in Contemporary Sri Lanka’ (2004) 5(2) *Contemporary Buddhism* 83-103.

accordingly found that particular localised contexts contributed more heavily towards incidents of acute violence than the overarching socio-cultural, economic or political contexts. It thus concluded that responding to this complex contextual milieu requires an approach that extends beyond law enforcement and institutional reform; it is crucial that these local contexts are delved into and solutions are ultimately discovered and implemented at the community level.

Second, the study found that Sri Lanka's legal and policy framework on protecting and promoting religious freedom and preventing communal violence is reasonably sound. The overarching constitutional and statutory framework is adequate in scope to prevent violence, protect vulnerable communities, and bring perpetrators to justice. The study found that the fundamental problem faced in Sri Lanka is one of law enforcement. Thus the continuation of chronic violence, and the general impunity of perpetrators, may be attributed to the inaction of the state and the reluctance of law enforcement authorities to implement laws. According to the study, a classic example of this apathy is the non-implementation of the International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007. Section 3(1) of the Act prohibits advocacy of 'national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,' and vests the High Court with the jurisdiction to try offences. Not a single perpetrator has been convicted under this provision, despite the widespread occurrence of hate speech during the post-war era. The study accordingly argued that prosecuting offenders under the ICCPR Act is crucial to removing at least one of the ingredients of acute religious violence: the instigation of violence. Thus the study concluded that preventing communal violence is contingent on stricter enforcement of laws, and robust institutional reform whereby law enforcement authorities function more effectively.

Finally, the study found that social media is instrumental to maintaining the democratic space necessary to counter religious hatred and violence. While social media can be a channel through which hate speech is transmitted, it is a crucial platform for resisting state control over the mainstream media. The study explained how social media became the only unrestricted channel through which state-sponsored violence was documented and reported. Moreover, the study argued that social media platforms are crucial for the purpose of 'counter-messaging', which can

defuse hate speech in the public domain.<sup>29</sup> It accordingly concluded that maintaining a free social media space is worth the risks of its abuse, as ultimately, social media remains one of the only reliable means of resisting state-sponsored violence.

Based on its findings, *The Chronic and the Acute* recommended several interventions. First, it recommended stricter enforcement of laws on hate speech in order to prevent militant groups from instigating violence. Second, it recommended strengthening institutions – particularly those tasked with law enforcement – to ensure that they more effectively respond to violence and promote religious freedom. Third, it recommended longer-term interventions such as community-based early warning systems, peace-building initiatives and human rights education in order to defuse religious tensions and prevent the eruption of violence. Finally, the study emphasises the importance of protecting the realm of social media from unwarranted state control, as social media remains a vital source of resistance against state-sponsored violence, and counter-messaging against hate speech.

These main findings and recommendations constitute the research memory of the present study. It accordingly aims to build on these findings and recommendations, and offer new perspectives on the contemporary state of ethno-religious violence in Sri Lanka.

### 1.3 New developments

More than two years have passed since *The Chronic and the Acute* was published and disseminated in Sri Lanka. Though the study focused on the post-war period in general, it only briefly captured developments that took place following the democratic transition of January 2015.

Maithripala Sirisena's election manifesto expressed a commitment to deal with ethno-religious violence in the country. According to the manifesto, 'religious disturbances' were due to the activities of 'extremist religious sects'.<sup>30</sup> It claimed

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<sup>29</sup> Shilpa Samaratunge and Sanjana Hattotuwa, *Liking violence: A study of hate speech on Facebook in Sri Lanka* (Centre for Policy Alternatives 2014), at 63.

<sup>30</sup> *A Compassionate Maithri Governance – A Stable Country*, Manifesto of the New Democratic Front (November 2014), at 25.

that ‘extremist groups mutually nourish one another’.<sup>31</sup> The reference to ‘sects’ was somewhat peculiar, as organisations such as BBS cannot be conceived as ‘sects’; they can more reasonably be categorised as ‘groups’. In this context, the reference to ‘sects’ could be a reference to Muslim religious sects, and ‘groups’ a reference to militant groups such as BBS. In any event, President Sirisena pledged to end violence and restore inter-religious coexistence. In this context, religious minorities consistently voted in favour of Sirisena at the January 2015 presidential election.

In *The Chronic and the Acute*, the present author identified Divisional Secretariat (D.S.) Divisions with ‘high concentrations of religious minorities’ i.e. where religious minorities constitute more than two-thirds of the population.<sup>32</sup> Seventy-six such D.S. Divisions may be identified based on available demographic data. These D.S. Divisions may then be mapped onto 31 specific polling divisions.<sup>33</sup> The polling results in these divisions are significant: Sirisena won comfortably in 30 out of 31 polling divisions; the only outlier was Wennappuwa (Puttalam district), where despite a Roman Catholic majority population (78%),<sup>34</sup> Mahinda Rajapaksa received 4,305 more votes than Sirisena. The table below demonstrates the extent of Sirisena’s electoral dominance in these polling divisions.

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<sup>31</sup> *Ibid.*

<sup>32</sup> Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 30.

<sup>33</sup> The author relied on the open online resource <http://www.opendemarcations.lk/> as well as manual cross checking with census data to identify polling divisions with high concentrations of religious minorities. He is grateful to Janeen Fernando for his thoughts and insights on this subject.

<sup>34</sup> Department of Census and Statistics, *op. cit.*. See chapter on the North Western Province, Puttalam District: Table A4: Population by divisional secretariat division, religion and sex.

**Table 1: 2015 presidential election results in polling divisions with high concentrations of religious minorities<sup>35</sup>**

Polling Division	Valid votes	Votes received by Sirisena	%	Votes received by Rajapaksa	%	Difference
Colombo North	68,649	51,537	75.07	16,423	23.92	<b>35,114.00</b>
Colombo Central	101,497	82,495	81.28	17,779	17.52	<b>64,716.00</b>
Wattala	95,311	56,541	59.32	38,001	39.87	<b>18,540.00</b>
Negombo	79,482	53,331	67.10	25,432	32.00	<b>27,899.00</b>
Ja-Ela	112,797	58,669	52.01	53,481	47.41	<b>5,188.00</b>
Mahanuwara	30,715	20,316	66.14	10,200	33.21	<b>10,116.00</b>
N Eliya/ Maskeliya	234,996	171,578	73.01	57,718	24.56	<b>113,860.00</b>
Kayts	14,678	8,144	55.48	5,959	40.60	<b>2,185.00</b>
Vaddukodai	29,997	20,873	69.58	7,791	25.97	<b>13,082.00</b>
Kankesanthurai	25,616	18,729	73.11	5,705	22.27	<b>13,024.00</b>
Manipay	35,627	26,958	75.67	7,225	20.28	<b>19,733.00</b>
Kopay	35,074	27,161	77.44	6,211	17.71	<b>20,950.00</b>
Udupiddy	23,052	18,137	78.68	3,937	17.08	<b>14,200.00</b>
Point Pedro	22,320	17,388	77.90	4,213	18.88	<b>13,175.00</b>
Chavakachcheri	30,456	23,520	77.23	5,599	18.38	<b>17,921.00</b>
Nallur	31,212	24,929	79.87	5,405	17.32	<b>19,524.00</b>
Jaffna	23,096	17,994	77.91	4,502	19.49	<b>13,492.00</b>
Kilinochchi	53,886	38,856	72.11	13,300	24.68	<b>25,556.00</b>
Mannar	53,500	45,543	85.13	6,824	12.76	<b>38,719.00</b>
Vavuniya	74,080	55,683	75.17	16,678	22.51	<b>39,005.00</b>
Mullaitivu	44,889	35,441	78.95	7,935	17.68	<b>27,506.00</b>
Kalkudah	72,075	60,342	83.72	10,337	14.34	<b>50,005.00</b>
Batticaloa	121,637	97,779	80.39	21,473	17.65	<b>76,306.00</b>
Paddiruppu	54,412	44,485	81.76	8,216	15.10	<b>36,269.00</b>
Sammanthurai	55,333	46,827	84.63	7,797	14.09	<b>39,030.00</b>
Kalmunai	50,561	45,411	89.81	4,683	9.26	<b>40,728.00</b>
Pottuvil	105,148	81,547	77.55	22,425	21.33	<b>59,122.00</b>
Trincomalee	62,759	49,650	79.11	12,056	19.21	<b>37,594.00</b>
Mutur	65,719	57,532	87.54	7,132	10.85	<b>50,400.00</b>
Puttalam	84,277	58,844	69.82	24,235	28.76	<b>34,609.00</b>
Wennappuwa	75,339	35,218	46.75	39,523	52.46	<b>-4,305.00</b>
<b>Total</b>	<b>1,968,190.00</b>	<b>1,451,458.00</b>	<b>73.75</b>	<b>478,195.00</b>	<b>24.30</b>	<b>973,263.00</b>

35 Election Commission of Sri Lanka, *Presidential Elections 2015: Districts Results by Polling Division and All Island Results* (2015).

Sirisena received 973,263 more votes than Rajapaksa in the 31 polling divisions with high concentrations of religious minorities. Of course, these areas have traditionally voted against Rajapaksa. In the 2010 presidential election, Rajapaksa's opponent Sarath Fonseka won 27 out of these 31 polling divisions. Yet the overall margin by which Fonseka won these divisions was only 385,936 votes. Thus compared to 2010, Rajapaksa's opponent in 2015 increased his voter base in these specific polling divisions by 587,327 votes – many of which are likely to have been cast by newly registered voters.<sup>36</sup> It is also significant that Sirisena won the entire election by just 449,072 votes. His overall win can therefore be attributed – among other factors – to the notable increase in anti-Rajapaksa votes in the polling divisions with high concentrations of religious minorities. It is possible to surmise that the association between the Rajapaksa administration and ethno-religious violence shaped the decision-making of some voters.<sup>37</sup>

Sirisena's promise to end ethno-religious violence renewed hope among religious minorities that the state would bring perpetrators to justice, and introduce effective preventive measures. The general ethos in the country immediately following the transition largely reflected this sense of hope. However, while a decline in acute ethno-religious violence was observed,<sup>38</sup> the levels of chronic violence have largely remained unchanged. Thus the new political context in Sri Lanka has not delivered a major transformation in terms of religious freedom. Instead, only a marginal improvement in the containment of ethno-religious violence may be observed. Meanwhile, three new developments warrant careful consideration, as they have either created new communal fault lines or have exacerbated existing ones. Each of these developments produces fresh challenges in terms of combating ethno-religious violence in Sri Lanka.

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36 These polling divisions recorded 533,652 more valid votes in 2015 than in 2010. A large number of such votes are likely to have been cast by newly registered voters, although an increase in voter turn out and fewer invalid votes also contributed towards this increase.

37 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 49. Also see Gehan Gunatilleke, 'Two Faces of Sri Lankan Media: Censorship and Resistance' in Sahana Udupa and Stephen D. McDowell (eds.), *Media as Politics in South Asia* (Routledge 2017).

38 See United States Department of State – Bureau of Democracy, Human Rights, and Labor, 'Sri Lanka 2015 International Religious Freedom Report' in *International Religious Freedom Report for 2015* (2016).

### 1.3.1 Mainstreaming of Sinhala-Buddhist militant groups

The precise membership numbers of Sinhala-Buddhist militant groups such as BBS, *Sinhala Ravaya* and *Ravana Balaya* are not publicly available. However, two approaches may be useful to gain a basic understanding of the extent of their influence. First, the social media following of these groups may provide an approximate indication of their support base. For instance, BBS has a Facebook following of approximately 73,000 users as at November 2017.<sup>39</sup> Meanwhile, *Sinhala Ravaya* and *Ravana Balaya* have Facebook followings of approximately 8,500 and 1,800 users respectively. These figures clearly reflect the dominance of BBS among the Sinhala-Buddhist militant groups operating in Sri Lanka today.

Second, electoral statistics also provide some insight into the support bases of Sinhala-Buddhist militant groups. For instance, BBS contested the 2015 parliamentary elections as the *Bodu Jana Peramuna* (BJP) and secured 20,370 votes.<sup>40</sup> Table 2 provides a breakdown of the votes received by the BJP by district.

**Table 2: Votes received by BJP by District<sup>41</sup>**

District	Number of Votes
1. Colombo	2,137
2. Gampaha	1,664
3. Kalutara	5,727
4. Kandy	2,305
5. Matale	402
6. Nuwara Eliya	313
7. Galle	3,041
8. Matara	0
9. Hambantota	419
10. Jaffna	0
11. Vanni	0
12. Batticaloa	0
13. Digamadulla	64
14. Trincomalee	0
15. Kurunegala	788

<sup>39</sup> It is noted that some of BBS's Facebook followers may follow the group out of curiosity or for the purpose of monitoring content, rather than ideological alignment.

<sup>40</sup> Election Commission of Sri Lanka, *Parliamentary Elections 2015 Districts Results by Polling Division and All Island Results* (2015).

<sup>41</sup> *Ibid.*

16. Puttalam	441
17. Anuradhapura	285
18. Polonnaruwa	160
19. Badulla	688
20. Monaragala	0
21. Ratnapura	413
22. Kegalle	1,530
<b>Total</b>	<b>20,370</b>

Though the BJP failed to receive sufficient votes to secure a seat in Parliament, it succeeded in demonstrating a small voter base – in excess of 20,000 voters. Given the track record of BBS in 2013 and 2014 in being at the forefront of ethno-religious violence, this number of supporters – though electorally insignificant – remains concerning. It is particularly alarming that the BJP recorded its highest number of votes in the Kalutara district, where the Aluthgama riots took place in 2014. Of all the polling divisions in the country, the BJP recorded its highest number of votes (2,119) in Beruwala – the very polling division in which Aluthgama is located. The election result corroborates the claim made by victims of the Aluthgama riots that the perpetrators of the violence were in fact residents of the area.<sup>42</sup> These statistics thus reflect a disturbing nexus between violence against religious minorities and the popularity of BBS in a particular location. Table 3 depicts the eight polling divisions in which the BJP received the highest number of votes. It is unsurprising that many of these locations recorded ethno-religious violence – particularly against Muslims – in 2013 and 2014.

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<sup>42</sup> 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 2015), at 24.

**Table 3: Divisions with the highest number of votes received by BJP<sup>43</sup>**

Polling Division	Number of Votes
Beruwala	2,119
Ambalangoda	1,236
Mathugama	953
Balapitiya	867
Karandeniya	803
Kalutara	652
Mawanella	623
Panadura	520

BBS's entry into politics as the BJP signalled the intention of the movement to consolidate itself as electoral representatives of ultra-nationalist voters. In fact, the role of 'peacemaker' facetiously played by BBS General Secretary Galagoda Aththe Gnanasara Thera in the immediate aftermath of violence in Gintota in November 2017 reflects a concerted attempt by the BBS to rehabilitate its image.<sup>44</sup> If left unchecked, the movement's organisational machinery is likely to develop, and it may well increase its voter base over time.

The gradual reinvention of BBS as a viable electoral option is dangerous for two reasons. First, the accommodation of violent militant groups in electoral politics could legitimise their agendas, and embolden them. Groups such as BBS could leverage the fact that they represent the grievances of a sizable population in order to gain legitimacy among political leaders. It is perhaps in this context that BBS secured an unlikely audience with President Sirisena on 18 January 2016,<sup>45</sup> and met with the then Minister of Justice Wijeyadasa Rajapakse in November 2016.<sup>46</sup> Second, the accommodation of militant groups in mainstream politics is likely to radicalise mainstream politics to some degree. Parties contesting for ultra-nationalist votes will aim to 'outbid' each other to attract those votes. Neil DeVotta defines this phenomenon as an 'auction-like process wherein politicians create platforms and

43 Election Commission of Sri Lanka, *Parliamentary Elections 2015*, *op. cit.*

44 Dharisha Bastians, 'Gintota and the shadows of extremism', *DailyFT*, 23 November 2017, <http://www.ft.lk/opinion/Gintota-and-the-shadows-of-extremism/14-643843> [last retrieved 29 November 2017].

45 'President meets BBS leaders', *Ceylon Today*, 19 January 2016.

46 See Rasika Jayakody, 'Justice Minister's statement earns ire of Muslim Ministers', *The Sunday Observer*, 27 November 2016, at <http://www.sundayobserver.lk/2016/11/27/justice-minister%E2%80%99s-statement-earns-ire-muslim-ministers> [last retrieved 29 August 2017].

programmes to “outbid” their opponents on the anti-minority stance adopted.’<sup>47</sup> He explains that such outbidding has been a practice in Sri Lanka since independence. In the 1950s, what started as the *swabasha* (self language) movement to replace English with Sinhala and Tamil, soon evolved into a majoritarian politics of outbidding;<sup>48</sup> realising that Sinhalese constituted three-fourths of the population, the two main Sinhalese political parties (the United National Party and the Sri Lanka Freedom Party) strived to ‘outbid each other on who could provide the better deal for the Sinhalese community.’<sup>49</sup> Over the decades, outbidding by Sinhalese political parties has extended beyond linguistic nationalism.<sup>50</sup> According to DeVotta, political parties in Sri Lanka ‘have continued outbidding each other on various issues’ causing the practice to be ‘embedded in the island’s political culture.’<sup>51</sup>

The presence of BBS in the electoral mix may push other nationalist parties, such as the JHU and the faction of the SLFP that supports Mahinda Rajapaksa, to adopt increasingly ultra-nationalist positions to outbid each other. Journalist and political commentator Rasika Jayakody observes: ‘There were strong parallels between the campaigns of BBS and that of former President Rajapaksa in the run up to the parliamentary elections of 2015.’<sup>52</sup> Jayakody argues that the two campaigns relied heavily on ultra-nationalist rhetoric, and that BBS’s actual support base may be much larger than the votes it received, as many BBS supporters may have strategically voted for the Rajapaksa faction of the SLFP.<sup>53</sup>

Meanwhile, BBS has expanded its agenda, ostensibly to expand its appeal to a wider support base. During 2013 and 2014, BBS focused on driving an anti-Muslim sentiment. In the period following the January 2015 transition, it expanded its agenda to oppose accountability measures against military personnel. An example of this expansion was BBS’s disruption of court proceedings in the case concerning the disappearance of journalist Prageeth Eknaligoda. The General Secretary of BBS,

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47 Neil DeVotta, ‘From Ethnic Outbidding to Ethnic Conflict: The Institutional Bases for Sri Lanka’s Separatist War’ (2005) 11(1) *Nations and Nationalism* 141-159, at 141-144. The author explains that four conditions facilitate ‘ethnic outbidding’: political structure, bad leaders, socio-economic grievances and territoriality. Also see Neil DeVotta, *Blowback: Linguistic Nationalism, Institutional Decay, and Ethnic Conflict in Sri Lanka* (Stanford University Press 2004).

48 DeVotta, ‘From Ethnic Outbidding to Ethnic Conflict’, at 142.

49 *Ibid.*

50 *Ibid.*

51 *Ibid.* at 143. Also see Neil DeVotta, ‘Sri Lanka’s Political Decay: Analysing the October 2000 and December 2001 Parliamentary Elections’ (2003) 41(2) *Commonwealth and Comparative Politics* 115-142.

52 Jayakody, *op. cit.*

53 *Ibid.*

Gnanasara Thera, stormed the Homagama Magistrate's Court on 25 January 2016 and verbally abused the witnesses and state counsel involved in the case.<sup>54</sup> He claimed that military personnel were wrongly accused in the case. The bizarre intervention later led to contempt of court charges being levelled against him. This expansion of BBS's agenda corresponds to the new government's stated commitment to deliver accountability for wartime and post-war human rights abuses. While accountability measures have seen very limited progress,<sup>55</sup> BBS has sought to capitalise on possible anti-accountability sentiments held among Sinhala-Buddhist communities in the South – particularly those with links to the military. The move could accordingly increase BBS's legitimacy in voicing the grievances of some Sinhala-Buddhists.

### **1.3.2 Muslim factionalism**

One of the possible shortcomings of examining communal violence in Sri Lanka through an ethno-religious lens is that it could conceal intra-communal factionalism. This complexity is particularly evident within the Muslim community, which is often incorrectly understood as a 'singular religious-cum-ethnic bloc'.<sup>56</sup> This section attempts to deal with this shortcoming to an extent by examining the relationship between some intra-communal conflicts and broader trends in ethno-religious violence.

There is growing evidence of intra-communal conflict and radicalisation within the Muslim community in Sri Lanka.<sup>57</sup> Such a development could produce new sources of ethno-religious tension and violence. Dennis McGilvray makes an incisive observation on the relationship between intra-religious disputes and general ethno-religious violence.<sup>58</sup> He argues that 'sharp internal conflicts' regarding the practice of Islam is often manifested through symbolic 'Islamisation' in the form of Arabic

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54 'Punish those who disrupt Court hearing of Eknaligoda abduction case: FMM', *The Daily FT*, 28 January 2016, at <http://www.ft.lk/article/521594/Punish-those-who-disrupt-Court-hearing-of-Eknaligoda-abduction-case--FMM> [last retrieved 29 August 2017].

55 See Verité Research, *Sri Lanka: Resolution 30/1 Implementation Monitor – Statistical and Analytical Review No. 2* (March 2017).

56 Benjamin Schonthal, 'Environments of Law': Islam, Buddhism, and the State in Contemporary Sri Lanka' (2016) 75(1) *The Journal of Asian Studies* 137-156, at 144. Also see Qadri Ismail, 'Unmooring Identity: The Antinomies of Elite Muslim Self-Representation in Modern Sri Lanka' in Pradeep Jeganathan and Qadri Ismail (eds.), *Unmaking the Nation: The Politics of Identity and History in Modern Sri Lanka* (ICES 1995), at 55-105.

57 The term 'Muslim' is generally used to denote the Sri Lankan Moorish community that practices Islam. Apart from Moors, other communities including Malays, Bohras and Memons also practice Islam.

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

dress, public theological disputes and the erection of new places of worship.<sup>59</sup> This Islamisation is a relatively new phenomenon, as ‘external manifestations of the affirmation of the faith were largely absent’ throughout most of Islam’s history in Sri Lanka.<sup>60</sup> These external manifestations of internal conflicts increase the ‘visibility’ of the Muslim community as a whole. Such visibility can – where there are pre-existing ethno-religious fault lines – exacerbate fear and suspicion among other communities.

Lorna Dewaraja’s seminal work on Muslims in Sri Lanka offers an important insight into Muslim identity formation over history.<sup>61</sup> Dewaraja notes that a Muslim revivalist movement coincided with Buddhist and Hindu revivalism in the late nineteenth century.<sup>62</sup> This movement under the early leadership of reformists such as Orabi Pasha – an exiled Egyptian – resulted in the establishment of Muslim educational institutions and the dissemination of Muslim newspapers.<sup>63</sup> It prompted Muslim self-awareness and claims to the right of representation.<sup>64</sup> Yet Muslim factionalism emerged as an intra-community dynamic only in the mid-twentieth century. According to Mohamed Faslan and Nadine Vanniasinkam, ‘the increase in different groups and sub-groups within the Muslim community since the 1950s...resulted in the splintering of the Muslim community.’<sup>65</sup> Two factors may have contributed to this phenomenon. First, as noted by Faslan and Vanniasinkam, economic liberalisation in the late 1970s enabled Islamic scholars in Sri Lanka to interact more freely with global Islam.<sup>66</sup> This interaction, over time, prompted a purist or ‘fundamentalist’ Islamic movement, which criticised local Muslim practices as having Sinhalese, Tamil and Indian Sufi cultural influences. Muslim reformists accordingly began to focus on establishing authority based on piety and textual knowledge rather than relying on traditional religious leaders.<sup>67</sup> This shift made centralised authority over adherents increasingly difficult, and facilitated the formation of diverse Islamic

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59 *Ibid.* McGilvray’s observation is cited in Faslan and Vanniasinkam, *op. cit.*, at 2.

60 Vijaya Samaraweera, ‘The Muslim Revivalist Movement, 1880-1915’ in Michael Roberts (ed.), *Sri Lanka: Collective Identities Revisited, Vol. 1* (Marga Institute 1997), at 296.

61 Lorna Dewaraja, *The Muslims of Sri Lanka: One Thousand Years of Ethnic Harmony, 900-1915* (Lanka Islamic Foundation 1994).

62 *Ibid.* at 153.

63 *Ibid.* at 153-154.

64 *Ibid.* at 154.

65 Faslan and Vanniasinkam, *op. cit.*, at 3.

66 *Ibid.* at 13.

67 Benjamin Schonthal, ‘Environments of Law’, *op. cit.* at 146, citing Haniffa, ‘Piety as Politics’, *op. cit.*

groups.<sup>68</sup> Bart Klem accordingly notes that Muslims – particularly in the Eastern Province – eventually emerged as ‘heterogeneous and divergent.’<sup>69</sup> In this context, groups with South Asian fundamentalist influences, such as *Jamatee Islami* and the *Thablighi Jamaat*, initially spearheaded the so-called purification of Islam in Sri Lanka. These groups clashed with Sufi ideological groups such as the Abdur Rauf Group, and were at times described as ‘hostile’ – though this characterisation is disputed.<sup>70</sup> Second, global developments, such as the rise of Saudi Arabian oil wealth, enabled large-scale funding of Islamic resurgence.<sup>71</sup> According to Islamic scholar Ash-Sheik Muneer Mulafer, since the late 1970s, militant strands of Islam have reached Sri Lanka through increased scholarly interaction between local Muslim groups and Saudi Arabian thinkers.<sup>72</sup> For example, groups such as *Thawheed Jamaat* have strong Saudi Arabian Wahabi influences. In contrast to South Asian fundamentalist groups, these relatively new Wahabi groups have routinely provoked violence among Muslims in Sri Lanka.<sup>73</sup> The *Thawheed Jamaat* has over time splintered into multiple sub-groups. These sub-groups include Colombo-based sub-groups such as *Dharus Salaf*, All Ceylon Thawheed Jamaat (ACTJ) and the Sri Lanka Thawheed Jamaat (SLTJ), the Batticaloa-based *Dharul Adhar*, and the Kattankudy-based National Thawheed Jamaat (NTJ).<sup>74</sup> The NTJ is possibly the most militant of the *Thawheed Jamaat* groups. Violent evictions of the Abdur Rauf group from Kattankudy in 2000 and 2006 are attributed to those who eventually formed the NTJ.<sup>75</sup> Meanwhile, orthodox Sufi groups are represented to some extent within national politics and within the All Ceylon Jamiyyathul Ulama (ACJU) – an institution that identifies itself as the apex body on Islamic theology.<sup>76</sup>

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68 *Ibid.*

69 Bart Klem, ‘Islam, Politics and Violence in Eastern Sri Lanka’ (2011) 70(3) *Journal of South Asian Studies* 730-753, cited in Faslan and Vanniasinkam, *op. cit.*, at 3.

70 Faslan and Vanniasinkam, *op. cit.*, at 13-14.

71 Gilles Kepel, *Jihad: on the Trail of Political Islam* (Belknap Press of Harvard University Press 2002), at 69-75.

72 Lecture delivered by Ash-Sheik Muneer Mulafer, Committee Member of the Coexistence National Shooraa Council, on 18 September 2017 at a conference titled ‘Religious Freedom in Sri Lanka: Confrontation or Cooperation’ organised by the National Christian Council of Sri Lanka held in Negombo from 18 to 20 September 2017.

73 Faslan and Vanniasinkam, *op. cit.*, at 14.

74 *Ibid.* 15.

75 *Ibid.* 15-16.

76 See website of the All Ceylon Jamiyyathul Ulama, at <http://www.acju.lk/en/about-us> [last retrieved 29 August 2017]. Also see Schonthal, ‘Environments of Law’, *op. cit.* at 147 (see note 15). The author notes: ‘The ACJU consists of ten distinct subcommittees, including an education committee, a publication committee, a propaganda committee (dedicated to proselytizing, *da’wa*), an Islamic banking advisory committee, a *halal*-certification committee, and a thirty-five-member *fatwa* committee that has issued 160 *fatwas* over the last eight years.’

The Sufi – Wahabi conflict escalated dramatically in 2009. In February 2009, members of *Thawheed Jamaat* reportedly destroyed a 150-year old shrine in Ukuwela.<sup>77</sup> In July 2009, violence broke out in Beruwala between *Thawheed Jamaat* and the Qadiri Sufi order. The incident led to two deaths, injuries to more than 40 people, and 132 arrests.<sup>78</sup> The clash took place due to claims by Qadiri devotees that adherents at a Wahhabi mosque in the area – the Masjidur Rahman – were characterising them as ‘disbelievers’. The Beruwala incident prompted introspection within some quarters of the Muslim community – including the ACJU – on the need for Muslim unification while maintaining space for diversity.<sup>79</sup>

Muslim factionalism has led to two contrasting outcomes in terms of the overall state of ethno-religious violence in the country. On the one hand, intra-Muslim conflict has incentivised assertions of identity and has increased the visibility of certain Islamic practices. Observers in the Eastern Province claim that, such intra-Muslim conflict, coupled with relatively high levels of unemployment, has drawn Muslim youth into working full time in *madrasas*, i.e. schools of Islamic instruction, with a view to propagating conservative Islamic values.<sup>80</sup> The outward manifestation of these values can be observed in the wearing of white *jubbās* and the growing of beards. Moreover, Muslim women are expected to wear *hijāb* (various forms of head covering) in public. Scholars such as M.A. Nuhman argue that the *hijāb* is a classic ‘symbol of Muslim identity.’<sup>81</sup> Thus these religious manifestations ought to be understood as assertions of identity. Muslim factionalism tends to incentivise such assertions and serves to increase the visibility of conservative Muslim practices, as Muslim groups have competed to outbid each other to demonstrate strict observance of *Shari’a*. Economic factors further compound these incentives. For example, observers in Batticaloa claimed that rival Wahabi groups in the area often attempted to outbid each other to attract Saudi Arabian funding.<sup>82</sup> Such funding is usually attached to the strictest observance of *Shari’a* and the adoption of conservative Wahabi practices. A good example of this phenomenon is the expectation placed on

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77 See Stephen Schwartz and Irfan Al-Alawi, ‘The Wahhabi Invasion of Sri Lanka’, *Colombo Telegraph*, 27 March 2013, at <https://www.colombotelegraph.com/index.php/the-wahhabi-invasion-of-sri-lanka/> [last retrieved 29 August 2017].

78 *Ibid.*

79 Faslan and Vanniasinkam, *op. cit.* 20.

80 Focus group discussion with the Kalmunai Traders Association on 31 March 2017.

81 M.A. Nuhman, *Sri Lankan Muslims: Ethnic Identity within Cultural Diversity* (ICES 2007) at 205.

82 Interview with a member of the Batticaloa Civil Society Forum on 30 March 2017.

women in Kattankudy to wear the *niqāb* i.e. a cloth that covers the face of a woman wearing *hijāb*. Thus Muslim factionalism has also perpetuated patriarchal attitudes, and has undermined gender equality in some Muslim-dominated areas.

These contentious manifestations of the Islamic faith have meanwhile attracted the attention of Sinhala-Buddhist militant groups such as BBS, which have called for the banning of the *niqāb*.<sup>83</sup> These groups argue that the *niqāb* poses a security threat, as it conceals the identity of the wearer. The argument reinforces Islamophobic characterisations of Muslims as threats to peace and security. Moreover, recent conflict mapping studies reveal a general misconception among the Sinhala-Buddhist community that Muslims are inclined to segregate themselves from other communities and refuse to interact.<sup>84</sup> Thus Muslim factionalism has placed Islamic practices under increased scrutiny, and has inadvertently contributed towards the momentum of anti-Muslim sentiments in Sri Lanka.

On the other hand, Muslim factionalism has prompted introspection, and has created some ‘checks and balances’ within the Muslim community.<sup>85</sup> Conflicts between Muslim groups have in certain cases compelled Muslim leaders to call for solidarity, moderation and the tolerance of diverse theological views.<sup>86</sup> It is important to avoid a discourse of ‘victim blaming’ wherein Muslims as a community are blamed for the grave prejudices they routinely face. Yet such introspection may be important in terms of defusing deeply held misconceptions regarding Muslim insularity, and suspicions around Islamic practices. Defusing such misconceptions and suspicions among sections of the Sinhala-Buddhist community is key to restoring Sinhala-Buddhist – Muslim relations in the future. Thus Muslim factionalism has had a complex and somewhat paradoxical impact on ethno-religious relations in the country.

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83 Megara Tegal, ‘BBS calls for ban on Niqab’, *The Sunday Leader*, 23 June 2013, <http://www.thesundayleader.lk/2013/06/23/bbs-calls-for-ban-on-niqab/> [last retrieved 29 August 2017].

84 Jayasinghe, *op. cit.* at 11.

85 Faslan and Vanniasinkam, *op. cit.* at 25.

86 *Ibid.*

### 1.3.3 Emergence of Tamil-Hinduism

Tamil-Hinduism appears to have recently re-emerged as a distinct strand within the Tamil nationalist struggle. It is a strand that has some historical roots, but remained essentially dormant for nearly a century. According to A.J. Wilson, the Hindu revivalist movement began well before the Buddhist revivalist movement.<sup>87</sup> Arumuka Navalar was principally responsible for this revival through his work to protect and propagate Saivaite (Hindu followers of the God Siva) Hinduism during the latter half of the nineteenth century. His main focus was on countering Christian proselytism.<sup>88</sup> Wilson argues that Tamil political elites supported Navalar's agenda due to the fact that 'he did not deviate in his recognition of [Tamil Vellalas'] primacy in the Saivaite Hindu caste structure.'<sup>89</sup> Wilson, however, maintains that Navalar did not specifically link Hinduism to Tamil politics. Thus this Hindu revivalist project may not have directly engendered an ideology of Tamil-Hinduism. Yet according to Murugar Gunasingam, the Hindu revivalist movement spurred 'Tamil self-consciousness', and laid the foundation for a Tamil nationalist movement.<sup>90</sup>

A dominant Hindu identity, however, did not manifest within Tamil nationalist politics, which remained largely secular. At least two historical developments may explain such secularism. First, post-independence leadership in Tamil politics passed to Christians, who enjoyed the support of Tamil Hindus regardless of religious difference. This support may have stemmed from the perception that early Hindu leaders, such as Ponnambalam Ramanathan, opposed universal franchise in the 1930s. Wilson maintains that the reasons for such opposition was to safeguard the interests of the Tamil community against the numerical advantage of the Sinhalese should universal franchise be introduced.<sup>91</sup> Yet others including author Ananda

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87 A. Jeyaratnam Wilson, *Sri Lankan Tamil Nationalism: Its Origins and Development in the Nineteenth and Twentieth Centuries* (UBC Press 2000), at 53. The Sinhala-Buddhist revivalist movement is discussed in some depth in Gombrich and Obeyesekere, *op. cit.* at 202-238. Also see K. Kailasapathy, 'Cultural and Linguistic Consciousness of the Tamil Community' in Social Scientists' Association, *Ethnicity and Social Change in Sri Lanka* (Social Scientists' Association 1984).

88 *Ibid.* Also see Radhika Coomaraswamy and Nimanthi Perera-Rajasingham, 'Being Tamil in a Different Way: A Feminist Critique of the Tamil Nation' in R. Cheran (ed.), *Pathways of Dissent: Tamil Nationalism in Sri Lanka* (SAGE Publications 2009) at 113-114.

89 *Ibid.* at 53-54.

90 See Murugar Gunasingam, *Sri Lankan Tamil Nationalism: A Study of its Origins* (MV Publications 1999).

91 A. Jeyaratnam Wilson, *The Break-up of Sri Lanka: The Sinhalese-Tamil Conflict* (C. Hurst & Co. Publishers 1988), at 9-11. Also see K.M. de Silva, 'The Construction of a Democratic Electoral System' in Dushyantha Mendis (ed.), *Electoral Processes and Governance in South Asia* (SAGE Publications 2007), at 135.

Guruge have insinuated that Ramanathan's motivations for opposing universal franchise were based on Hindu religious objections to granting voting rights to women and non-Vellala castes.<sup>92</sup> Regardless of the veracity of this claim, it is possible that a secular struggle appealed to a broader cross-section of Tamils living in the North and East. Thus post-independence leaders such as S.J.V. Chelvanayagam, the leader of the Federal Party, were accepted as leaders in Hindu majority areas in the North and East regardless of their Christian identity. Chelvanayagam won his parliamentary seat in Kankesanthurai – a Hindu majority area – in 1947, 1956, 1960, 1965, 1970 and 1975.<sup>93</sup> D.B.S. Jeyaraj accordingly observes that '[t]he political struggle for Tamil equality in [Sri Lanka] has been on ethno-linguistic lines alone,'<sup>94</sup> as opposed to ethno-religious lines.<sup>95</sup>

Second, Tamil politics under the LTTE was distinctively secular. The LTTE leadership resisted pressure from Hindu militants to embrace a Hindu identity to secure greater support from India. The LTTE leadership maintained that the movement enjoyed the support of Tamil Catholic clergymen and Protestant Christians, and could not afford to lose such support.<sup>96</sup> Thus any temptation to cultivate a Tamil-Hindu identity was resisted in favour of a homogenous Tamil ethno-linguistic identity during the LTTE's *de facto* rule. This approach negated any effort to introduce Tamil-Hinduism as a dominant ideology.

The post-LTTE political dispensation in the North and East does not contain major constraints to introducing Tamil-Hinduism as a dominant ideology. In this context, a nascent Tamil-Hindu movement has emerged in recent times; it may be premature to comment on the precise potency of this movement with any real certainty.<sup>97</sup> Yet an organisation called *Siva Senai* was recently formed under the leadership of Maravanpulavu Sachithanathan, and has secured the support of

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92 Ananda Guruge, *Peace at Last in Paradise* (AuthorHouse Publishing 2011) at 217 and 259.

93 D.B.S. Jeyaraj, 'Tamil "Extremists" target Sampanthan and Sumanthiran of the TNA as "Traitors"', *Daily Mirror*, 27 February 2015, at <http://www.dailymirror.lk/65029/tamil-extremists-target-sampanthan-and-sumanthiran-of-the-tna-as-traitors#sthash.9dHXTLuh.dpuf> [last retrieved 29 August 2017].

94 *Ibid.*

95 The author is grateful to attorney-at-law Niran Anketell for sharing his insights on the historical context of secularism within the Tamil nationalist movement.

96 S. Ratnajeewan H. Hoole, 'The Ethnic Conflict in Sri Lanka: The Christian Response and the Nationalist Threat' (1996) 2(2) *Dharma Deepika* 122-150, at 125.

97 The author is grateful to K. Guruparan, Research Director of Adayaalam Centre for Policy Research, for his reflections and insights on this subject.

more established ethno-religious ideological groups in India such as *Shiv Sena*.<sup>98</sup> According to Sachithanathan, the objective of *Siva Senai* is to ‘protect Hindus from threats from other religious groups.’<sup>99</sup> He claims that Hindus in the North and East face existential threats due to Buddhist colonisation and Christian conversion.<sup>100</sup> He also alleges that Muslims and Christians receive foreign funding for the propagation of their religions.<sup>101</sup>

The emergence of Tamil-Hinduism and organisations such as *Siva Senai* could be detrimental to ethno-religious relations in Sri Lanka for two reasons. First, antagonisms between communities are likely to escalate due to the discourse generated by organisations of this nature. Tamil-Hinduism could be perceived as diametrically opposed to Sinhala-Buddhism.<sup>102</sup> Thus radical Tamil-Hindu groups such as *Siva Senai* will become hostile counterparts to Sinhala-Buddhist militant groups such as BBS. The prospects of chronic violence – and even acute violence – taking place between such groups cannot be discounted. Second, organisations such as *Siva Senai* have vowed to campaign for the prohibition of ‘forcible conversions’. On this front, Tamil-Hindu groups are likely to complement Sinhala-Buddhist groups and mainstream churches such as the Roman Catholic Church,<sup>103</sup> in suppressing the propagation of Christianity by smaller Christian groups. It is noted that *both* Sinhala-Buddhist nationalist parties, such as JHU, and the Hindu religious establishment, championed the original Prohibition of Forcible Conversion of Religion Bill in 2004. Thus the *Siva Senai*’s objective to revive the debate on ‘forcible conversion’ will undoubtedly draw on the historical involvement of Hindu groups in promoting

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98 ‘Siva Senai in Sri Lanka gets Shiv Sena support’, *The Island*, 14 October 2016, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=153748](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=153748) [last retrieved 29 August 2017].

99 ‘Now, a ‘Siva Senai’ group in Sri Lanka’, *The Hindu*, 13 October 2016, <http://www.thehindu.com/news/international/south-asia/Now-a-%E2%80%98Siva-Senai%E2%80%99-group-in-Sri-Lanka/article16070094.ece> [last retrieved 29 August 2017]. According to a recent study on ethno-religious relations in the Eastern Province, focus group discussions conducted in Batticaloa revealed that there was support among the Tamil-Hindu community for the *Siva Senai* group. See International Centre for Ethnic Studies, *Community Perceptions of Religious Tolerance and Religious Tensions in Batticaloa and Trincomalee* (forthcoming).

100 *Ibid.*

101 *Ibid.*

102 There is no clear historical evidence of antagonism between Sinhala-Buddhism and Tamil-Hinduism, as the latter ideology emerged mostly in opposition to British colonialism rather than Sinhala-Buddhist hegemony. However, such antagonism is more likely to arise in the current context, particularly if Tamil-Hinduism is adopted as an ideological vehicle by Tamil nationalists opposing Sinhala-Buddhist hegemony.

103 See Ajith Alahakoon, ‘Cardinal calls for new laws to ban forcible conversion’, *The Island*, 29 March 2017, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=162777%C2%A0%C2%A0%20%C2%A0%20](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=162777%C2%A0%C2%A0%20%C2%A0%20) [last retrieved 29 August 2017].

laws that prohibit ‘unethical conversion’.<sup>104</sup> Notably, there have been calls in the past for Hindus and Buddhists to cooperate to introduce legislation on ‘unethical conversion’.<sup>105</sup> Reintroduction of such laws could facilitate structural violence against Christians; such laws will invariably have a disparate and discriminatory impact on Christians who seek to manifest their religious beliefs by engaging in its propagation.

The developments discussed in this section infuse new complexities into contemporary ethno-religious relations in Sri Lanka. As discussed in the third chapter of this study, such complexities feed into and feed off deeply rooted factors that characterise the Sinhala-Buddhist majority, such as their entitlement complex and existential fears. These factors serve to entrench physical, non-physical and structural forms of ethno-religious violence in Sri Lanka.

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<sup>104</sup> For example, the Hindu-Buddhist Committee, which enjoyed the support of a number of Hindu organisations such as the All Ceylon Hindu Congress (ACHC), the All Ceylon Young Men’s Hindu Association and the Hindu Council of Sri Lanka, was instrumental in the preparation of a Bill titled Freedom of Religion Act in 2003. The Bill sought to prohibit ‘unethical conversions’. The Bill was presented in Parliament by then Minister of Buddha Sasana, Ratnasiri Wickramanayake, but was never taken up by Parliament. See Michael Hertzberg, *The Anti-Conversion Bill: Political Buddhism, Unethical Conversions, and Religious Freedom in Sri Lanka*, Dissertation for the degree of *philosophiae doctor* (PhD) at the University of Bergen (2016), at 242-244.

<sup>105</sup> Hertzberg, *op. cit.* at 244. The author notes that the periodical *The Buddhist Times* allotted a series to the topic ‘Buddhism and Hinduism under Assault’ in September 2003, and called for cooperation between Buddhists and Hindus in responding to the issue of ‘unethical conversion’.

## Chapter 2

### Contemporary Ethno-Religious Violence

This chapter examines the state of ethno-religious violence in Sri Lanka following the transition of government on 9 January 2015. It focuses on statistical information and incident reports on ethno-religious violence against Muslims and Christians gathered by non-governmental organisations. It also identifies new or evolved socio-cultural, economic, political and local contextual fault lines that underlie chronic and potential acute violence in the period following the January 2015 transition. The chapter aims to illustrate the fact that ethno-religious violence, and the fault lines that underlie them, have persisted despite democratic transitions in Sri Lanka.

#### 2.1 Violence against minority groups

##### 2.1.1 Violence against Muslims

In 2013, over 200 incidents of physical, non-physical and structural violence reportedly took place against Muslims.<sup>106</sup> Meanwhile, approximately 200 incidents against Muslims were also recorded in 2014.<sup>107</sup> The perpetration of violence against the Muslim community during 2013 and 2014 was largely state-enabled. This enabling came directly, such as through state patronage of BBS, and indirectly, such as through state acquiescence or inaction during violent incidents. In 2015, it was expected that the decrease in direct state support towards perpetrators of violence would lead to a decrease in violence against Muslims.

On the one hand, incidents of acute violence against the Muslim community decreased following the January 2015 governmental transition. It is reiterated that acute violence involves widespread physical assaults, destruction of property and a general breakdown in law and order. During the period between January 2015 and November 2017, no incident similar to the Aluthgama riots or the Grandpass incident was reported.<sup>108</sup> On the other hand, chronic violence against Muslims

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<sup>106</sup> See Gunatilleke, *Chronic and the Acute*, *op. cit.* at 21. It is noted that the same incident may involve more than one type of violence. Thus the number of incidents does not equal the aggregate of the number of acts of violence.

<sup>107</sup> *Ibid.* at 24.

<sup>108</sup> See United States Department of State, *op. cit.*

continued during the period following the January 2015 transition. For example, between January and end-September 2015, the Secretariat for Muslims recorded 82 incidents of 'hate speech, acts of discrimination, attempts to desecrate or destroy Muslim religious edifices, and verbal insults or use of physical force to impede Muslim cultural practices and rituals.'<sup>109</sup> These incidents fall within the category of chronic violence, as they are continuous and low-intensity in nature.

One of the most prominent sites of chronic violence is the Dafthar Jailani Mosque in Kuragala located in the Sabaragamuwa Province. It is claimed that an ancient Buddhist monastery exists on the site.<sup>110</sup> Thus the Department of Archaeology has begun excavations under the Antiquities Ordinance, No. 9 of 1940. Muslims in turn have claimed that the remains of Sheikh Mohiyadeen Abdul Qadir Gilani, a Sufi Islamic saint, are found on this site, and that the shrine has religious significance for the Muslim community.<sup>111</sup>

During an interview in March 2017, the assistant trustee of the Mosque observed that the Sufi shrine at the Mosque attracts pilgrims throughout the year.<sup>112</sup> The annual Kandoori Festival is the main event of the year, and attracts thousands of pilgrims. Dennis McGilvray paints a vivid picture of a typical Kandoori Festival at the Mosque:

During both the inaugural flag raising ceremony and the concluding feast day, the pilgrim shelters are packed...Tea stalls and eating establishments are crowded, souvenir boutiques cater to pilgrims with children...The crowd is patient and good-natured; kinship groups remain surprisingly relaxed as they sit jammed together shoulder-to-shoulder.<sup>113</sup>

According to the assistant trustee of the Mosque, all communities in the vicinity have historically benefited from the festival and the visits of the pilgrims. For example,

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<sup>109</sup> *Ibid.* at 6.

<sup>110</sup> Camelia Nathaniel, 'Kuragala: Buddhist Sacred Site or Sufi Shrine?' *The Sunday Leader*, 2 June 2013, at <http://www.thesundayleader.lk/2013/06/02/kuragala-buddhist-sacred-site-or-sufi-shrine/> [last retrieved 29 August 2017].

<sup>111</sup> *Ibid.* Also see Dennis B. McGilvray, 'Jailani: A Sufi Shrine in Sri Lanka' in Imtiaz Ahmad and Helmut Reifeld (eds.), *Lived Islam in South Asia: Adaptation, Accommodation and Conflict* (Social Science Press 2004), at 273-289.

<sup>112</sup> Interview dated 31 March 2017.

<sup>113</sup> McGilvray, 'Jailani: A Sufi Shrine in Sri Lanka', *op. cit.* at 277.

Sinhalese traders set up stalls to sell food and merchandise to the travellers. He also claimed that the Sinhalese villagers and the Muslim traders and devotees have historically coexisted. Thus ethno-religious tensions relating to the Mosque do not appear to emanate from local sources. Others have also observed that the chief monk of the local Buddhist temple in the area ‘does not appear to be part of or involved with the Sinhala-Buddhist groups that are agitating for the removal of the mosque.’<sup>114</sup> It has also been observed that the Sinhalese and Muslims of the area enjoyed a ‘good relationship’.<sup>115</sup>

Despite the historical coexistence and good relations between Sinhalese and Muslims in Kuragala, Sinhala-Buddhist militant groups have campaigned for the removal of the Dafthar Jailani Mosque. This campaign dates back to the period prior to the January 2015 election; groups such as BBS, *Sinhala Ravaya* and *Ravana Balaya* began their campaigns for the demolition of the Mosque in 2013.<sup>116</sup> In April 2013, then Defence Secretary Gotabaya Rajapaksa visited the site and directed the state authorities to remove all ‘illegal’ structures including shops surrounding the Mosque.<sup>117</sup> The structures were eventually removed, although the Mosque itself was retained.

The period following the January 2015 election did not witness an end to chronic violence against the Muslim trustees and devotees of the Dafthar Jailani Mosque. On 13 January 2015, *Ravana Balaya* attacked the site, damaging gravesites and a building belonging to the Department of Archaeology.<sup>118</sup> During a media briefing on 10 February 2015, the General Secretary of BBS, Gnanasara Thera announced that BBS would campaign for the removal of the Mosque and proclaimed that his organisation will not permit ‘infidel Muslims to run riot in Kurugala.’<sup>119</sup> Then on 5 April 2015, *Sinhala Ravaya* staged a demonstration at Kuragala calling for the removal of the Mosque. The police obtained a court order preventing the staging of such protests. Thus several persons, including the Chairman of *Sinhala Ravaya* Akmeemana Dayarathana Thero, were produced before the Balangoda Magistrate

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114 Secretariat for Muslims, *Of Sacred Sites and Profane Politics: Tensions over Religious Sites and Ethnic Relations – Volume I Kuragala/Jailani and Devanagala* (June 2015), at 41.

115 *Ibid.*

116 *Ibid.* at 6.

117 *Ibid.*

118 *Ibid.*

119 United States Department of State, *op. cit.* at 7.

for violating the court order.<sup>120</sup> The suspects were later released on bail. Thus, even after the governmental transition of January 2015, the Dafthar Jailani Mosque has remained a site of ethno-religious tension. While on the one hand the state has taken some measures to prevent chronic violence from escalating to acute violence, it has on the other hand, enabled such chronic violence through misinformation and inaction. For instance, on 23 April 2015, State Minister of Cultural Affairs Nandimithra Ekanayake announced that the government had decided to relocate the Mosque following consultations with the Muslim community.<sup>121</sup> However, Roshan Aboosally, the Trustee of the Mosque, reportedly counter-claimed that no such decision to relocate the Mosque had been made.<sup>122</sup>

Sporadic incidents involving physical violence against the Muslim community were also recorded during this initial period in 2015. For example, a Muslim-owned business in Dehiwela was stoned on 1 February 2015 following an altercation between a customer and the management the previous day.<sup>123</sup> The customer had verbally abused a female customer for wearing the Islamic headscarf, and had then threatened the management.<sup>124</sup> Incidents involving structural violence – particularly targeting Muslim women – were also recorded during this period. For instance, in March 2015, the Seruwila Divisional Secretary issued instructions to staff prohibiting them from wearing the *abhaya* (a long cloak over everyday clothes) to office.<sup>125</sup> Staff members who were unwilling to adhere to the instructions were asked to refrain from attending work. In a similar incident, female Muslim students of the Badulla Technical College were barred from entering the college in *hijāb*.<sup>126</sup> The matter was eventually settled, and the students resumed their studies following the intervention of the Badulla District Muslim Council President.

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120 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume I, op. cit.* at 46.

121 Deepal Warnakulasuriya, 'Minister affirms relocation of Kuragala mosque', *The Nation*, 2 May 2015, at <http://www.nation.lk/edition/news-online/item/40494-ministeraffirms-%20relocation-of-kuragala-mosque.html> [last retrieved 29 August 2017].

122 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume I, op. cit.* at 46.

123 See incident reports collected by the Secretariat for Muslims: 'Anti Muslim Sentiment in Sri Lanka: Hate Incidents – January To April 2015', *Colombo Telegraph*, 19 June 2015, at <https://www.colombotelegraph.com/index.php/anti-muslim-sentiment-in-sri-lanka-hate-incidents-january-to-april-2015/> [last retrieved 29 August 2017].

124 *Ibid.*

125 *Ibid.*

126 *Ibid.*

According to Minority Rights Group International (MRG), 64 incidents of violence against Muslims were recorded during the period November 2015 to June 2016.<sup>127</sup> Nearly 75% of incidents were chronic and non-physical in nature; they involved either hate speech (52%) or threats and intimidation (20%).<sup>128</sup>

The most significant hate campaign during this period was the ‘Sinha Le’ movement. ‘Sinha Le’ is a reference to ‘Lion’s blood’ or Sinhalese blood, as it is believed that Sinhalese are descendents of Sinha Bahu, who was conceived through a union between a woman and a lion.<sup>129</sup> The campaign connoted an idea of ‘blood purity’ and was part of a ‘Sinhala-Buddhist nationalist ideology [that] translated into acts of hate speech and aggression targeting the Muslim community.’<sup>130</sup> For example, the words ‘Sinha Le’ were spray-painted on the walls and gates of several Muslim homes in January 2016.<sup>131</sup> Moreover, there was a proliferation of ‘Sinha Le’ bumper stickers and graffiti across Colombo and its suburbs.<sup>132</sup> The campaign coincided with other symbolic campaigns such as the hoisting of the national flag sans the green and orange stripes, which denote the minority communities in the country. For example, such a flag was hoisted by protestors outside the Commission to Investigate Allegations of Bribery and Corruption when Gotabaya Rajapaksa was summoned to record a statement.<sup>133</sup>

One of the stark features of post-war ethno-religious violence in Sri Lanka is the impunity with which it has been perpetrated. Even though the extent of state patronage of militant groups has decreased following the January 2015 election, the failure to bring perpetrators to justice has reinforced this climate of impunity. This impunity may have reached a tipping point in 2017.

A spike in incidents of ethno-religious violence against the Muslim community was recorded during a five-week period in April and May 2017. Twenty incidents – many of them involving the destruction of property – were reported. For example, four Muslim-owned shops were reportedly attacked with petrol bombs in Godapitiya,

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

128 *Ibid.* at 16.

129 Gananath Obeyesekere, *The Work of Culture: Symbolic Transformation in Psychoanalysis and Anthropology* (University of Chicago Press 1990), at 145-146.

130 Wickremesinhe, *op. cit.* at 15.

131 *Ibid.*

132 *Ibid.*

133 Colombo Telegraph, 19 June 2015, *op. cit.*

Porruva on 16 April 2017.<sup>134</sup> Then a series of attacks on mosques and Muslim-owned homes and businesses were reportedly carried out throughout the country between 15 and 22 May 2017: militant groups were suspected of setting fire to the Panadura Mosque on 15 May 2017; several unidentified men reportedly attacked the Kohilawatta Ibrahim Jumma Mosque on 15 and 16 May 2017 causing damage to the property; approximately 200 persons were reported to have entered Selva Nagar in Thoppur, Trincomalee with clubs and swords, and damaged sixteen houses and businesses owned by Muslims on 16 May 2017; two Muslim-owned shops were reportedly attacked in Panadura causing significant damage on 17 May 2017; a Muslim-owned electrical showroom in Wennappuwa was burnt to the ground on 18 May 2017; six petrol bombs were reportedly hurled at the Mallawapitiya Mosque causing damage to the building following a BBS procession on 21 May 2017; a cosmetics shop owned by Muslims in Elpitiya was set on fire on 21 May 2017 causing extensive damage; and a Muslim-owned leather store in Wijerama, Maharagama was set alight on 22 May 2017.<sup>135</sup>

This trend in violent incidents involving the destruction of property reflects a sharp change in the tactics of militant groups in 2017. The non-physical chronic violence that was largely tolerated during the preceding two years had escalated into physical acts of violence. Though still ‘chronic’ in nature, these attacks often act as precursors to a much more violent event of the ‘acute’ type. That violent event came on 17 November 2017 in Gintota in the Galle District. A traffic accident a week earlier had created communal tensions in the area;<sup>136</sup> these tensions were exacerbated by news of an attack on Sinhalese residents by a group led by a local Muslim politician on 16 November 2017.<sup>137</sup> Widespread, organised violence ensued the next day resulting in injuries to several individuals and the destruction of ‘dozens of Muslim homes and businesses.’<sup>138</sup> According to journalist Dharisha Bastians, some observers pointed to Ambalangoda Sumedhananda Thera as one of the main instigators of the

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134 Hilmy Ahmed, ‘Escalating Violence: Renewed Assaults on the Muslim Community’, *Groundviews*, 22 May 2017, at <http://groundviews.org/2017/05/22/escalating-violence-renewed-assaults-on-the-muslim-community/> [last retrieved 29 August 2017].

135 *Ibid.*

136 Bastians, *op. cit.*

137 *Ibid.*

138 *Ibid.* Also see Jehan Perera, ‘Government needs to close the space for hate speech’, *The Island*, 20 November 2017, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=175315](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=175315) [last retrieved 5 December 2017].

violence.<sup>139</sup> Sumedhananda Thera is the chief monk of the Thuparamaya Temple, which reportedly hosted a public meeting prior to the eruption of the violence.<sup>140</sup> While the ultimate cost to life and property did not match the scale of violence witnessed in Aluthgama in 2014, the Gintota incident reflects a stark reality: the state's failure to combat impunity and advance accountability in the post-January 2015 period has emboldened militant groups. These groups now have the confidence not only to sustain their hate speech and intimidation, but also to carry out bolder acts of violence against the Muslim community – reminiscent of the post-war ethno-religious violence witnessed under the Rajapaksa administration.

### **2.1.2 Violence against Christians**

Over 60 incidents of violence against Christians were reported in 2013,<sup>141</sup> and over 80 such incidents were reported in 2014.<sup>142</sup> Structural violence such as discrimination against Christians increased in 2014, mainly due to the reported enforcement of a 2008 Circular that requires religious places of worship to be registered with the government.<sup>143</sup> The trend in state-perpetrated discrimination against Christians may be contrasted with the types of violence faced by the Muslim community. Militant groups and political actors perpetrated much of the violence against Muslims. In the case of Christians, local authorities and law enforcement agencies were more directly involved, as much of the reported structural violence involved orders to discontinue religious worship or close down 'unregistered' places of worship.<sup>144</sup>

The trends in chronic violence against the Christian community have remained largely unchanged following the governmental transition of January 2015. According to one report, NCEASL recorded 87 incidents of violence against Christians in 2015.<sup>145</sup> A statement released in May 2017 by NCEASL states that '190 incidents of religious violence against churches, clergy, and Christians have been recorded' since the new

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139 Bastians, *op. cit.*

140 *Ibid.* Also see Ratnasiri Malalagama and Nandana Nanneththi, 'Sri Lanka: Racist attack on Muslims in Gintota', *World Socialist Website*, 21 November 2017, at <https://www.wsws.org/en/articles/2017/11/21/gint-n21.html> [last retrieved 5 December 2017].

141 See Gunatilleke, *Chronic and the Acute*, *op. cit.* at 22.

142 *Ibid.* at 25. It is noted that the same incident may involve more than one type of violence. Thus the number of incidents does not equal the aggregate of the number of acts of violence.

143 Ministry of Religious Affairs and Moral Upliftment, *Circular on Construction of New Places of Worship* (16 October 2008). See Verité Research and NCEASL, *op. cit.* at 17-18.

144 Verité Research and NCEASL, *op. cit.* at 18.

145 United States Department of State, *op. cit.* at 6.

government was installed in 2015.<sup>146</sup> The statement also observes an ‘increase in the intensity of incidents and the active involvement of local government officials’ in violence against Christians in 2017.<sup>147</sup>

Disaggregated data on violence against Christians during the period following the January 2015 transition is not easily available. However, data pertaining to specific periods within this overall period may be analysed to understand trends in violence. For example, MRG analysed 47 reported incidents of violence during the period between November 2015 and September 2016.<sup>148</sup> According to this analysis, a large proportion (81%) of the violence was of a chronic, non-physical nature i.e. threats, intimidation, coercion, and propaganda.<sup>149</sup> Disturbingly, 35% of the reported incidents involved acts by state officials. This trend is consistent with NCEASL’s later observation on the involvement of local government officials in incidents of violence against Christians. Meanwhile, according to MRG, 11% of reported incidents during this period involved physical violence, and 8% of incidents involved some form of structural violence (i.e. discrimination). It is likely that some of the incidents involving state action or inaction also involved discrimination. Thus MRG’s report may in fact underestimate structural violence against Christians.<sup>150</sup> The report also provides information on alleged perpetrators. Apart from recording high levels of state involvement, it also notes the alleged involvement of religious leaders (29% of incidents) – most often Buddhist monks.<sup>151</sup> The report meanwhile offers an important insight into the nature of state involvement in reported incidents of violence against Christians. According to MRG, the state responded ‘negatively’ to more than half (60%) of the incidents.<sup>152</sup> Such negative interventions included discriminatory acts

146 National Christian Evangelical Alliance of Sri Lanka, ‘Increase in Attacks on Religious Minorities in Sri Lanka’, Press Release dated 27 May 2017, <http://mailchi.mp/of02c4911569/press-release-increase-in-attacks-on-religious-minorities-in-sri-lanka-1208153> [last retrieved 29 August 2017]. The author consulted the Head of Legal and Advocacy (Religious Liberty Commission) of NCEASL to understand the methodology used to generate statistics on violence against Christians. The officer stated that all incident reports received by NCEASL through its network of churches are verified by NCEASL, and published only upon verification.

147 *Ibid.* For an in-depth description of each of these incidents see <https://slchurchattacks.crowdmap.com/reports> [last retrieved 29 August 2017].

148 Minority Rights Group, *op. cit.* at 9.

149 *Ibid.* at 10.

150 *Ibid.* at 14. MRG’s figure of 8% amounts to just four incidents of discrimination. However, the report itself states that fourteen incidents recorded during the period of review concerned the enforcement of the 2008 Circular. Each such incident would have invariably involved some form of discrimination. Moreover, NCEASL records at least eleven incidents of discrimination during the period November 2015 to July 2016. See NCEASL, *Incident Reports 2015-2016*, at <http://nceasl.org/category/incident-reports/> [last retrieved 29 August 2017].

151 Minority Rights Group, *op. cit.* at 12.

152 *Ibid.*

against the victims concerned, inaction including the refusal to record complaints, and the condoning of illegal acts.<sup>153</sup>

High levels of discrimination against Christians can be observed through a fresh analysis of NCEASL data.<sup>154</sup> A sample of NCEASL data on post-January 2015 violence against Christians can be extracted from its incident reports between January 2015 and July 2016. Seventy-five incidents of violence against Christians were reported during this eighteen-month period. Structural violence appears to have taken place throughout the entire period. In fact, 28 reported incidents (36%) involved discrimination by state officials who routinely invoked the 2008 Circular.

The state was allegedly involved in nearly 40% of all recorded incidents between January 2015 and July 2016; it was allegedly involved directly through discriminatory acts, and indirectly through inaction and acquiescence when private actors committed acts of violence. This trend appears to be largely consistent with the trends recorded in 2014. At the heart of many of these incidents is the enforcement of the 2008 Circular by both police and local government officials. Apart from state involvement, mobs of unidentified persons – often led by local Buddhist monks – were reportedly responsible for a large portion (nearly 30%) of the incidents.

Incidents of violence against Christians during the period between January 2015 and July 2016 were geographically dispersed. In fact, eighteen out of twenty-five administrative districts in Sri Lanka recorded such incidents, with Kegalle recording the highest number of incidents.

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<sup>153</sup> *Ibid.* The report cites an example from May 2016, in which a mob attacked a church in Veyangoda. The police not only failed to intervene or arrest the attackers, it also instructed the pastor in charge of the church to halt the service and produce documentary proof of the church's legitimacy. The police's intervention amounted to 'endorsing the stance of the assailants that the Christian gathering was potentially illegal.'

<sup>154</sup> NCEASL, *Incident Reports 2015-2016*, at <http://nceasl.org/category/incident-reports/> [last retrieved 29 August 2017].

**Table 4: Number of incidents by district – January 2015 to July 2016<sup>155</sup>**

<b>District</b>	<b>Number of Incidents</b>
Kegalle	13
Puttalam	8
Batticaloa	7
Gampaha	7
Kalutara	6
Colombo	5
Kurunegala	5
Galle	4
Kandy	4
Ratnapura	3
Ampara	2
Mannar	2
Matara	2
Polonnaruwa	2
Trincomalee	2
Hambantota	1
Jaffna	1
Vavuniya	1
<b>Total</b>	<b>75</b>

Several specific incidents during this period warrant mention. These incidents may be presented according to their contextual features. First, the prolific use of the 2008 Circular is exemplified by an incident on 9 September 2015. Four officers from the Religious Affairs Branch of the Divisional Secretariat in Kegalle reportedly visited the residence of the pastor of the Good Shepherd Gospel Centre.<sup>156</sup> The officers instructed the pastor to register the Centre under the 2008 Circular, and threatened to seal the premises if he refused.<sup>157</sup> Second, the widespread use of physical violence against Christians is evidenced by reported incidents such as the abduction and abuse of a pastor in Sapugaskanda, Gampaha on 24 May 2015, the stoning of a pastor's home in Gampola, Kandy on 9 April 2016, and the stoning of a church in Moragahahena,

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<sup>155</sup> *Ibid.*

<sup>156</sup> United States Department of State, *op. cit.* at 5.

<sup>157</sup> *Ibid.*

Kalutara on 26 June 2016.<sup>158</sup> Third, the large-scale intimidation of Christians by unidentified mobs led by Buddhist monks is evidenced in reported incidents such as the protest in Devinuwara, Matara on 18 May 2017. Approximately 30 Buddhist monks and a mob comprising an estimated 2,000 people reportedly participated in the protest against a Christian place of worship.<sup>159</sup> Finally, examples of violence against Christians in Hindu-majority areas include an alleged mob attack against a pastor's residence in Chenkaladi, Batticaloa on 11 February 2015,<sup>160</sup> the obstruction of the burial of a Christian in Santhively, Batticaloa on 16 October 2015,<sup>161</sup> and the denial of burial rites and the alleged harassment of a pastor in Mandur, Batticaloa on 16 March 2016.<sup>162</sup> The present study examines incidents concerning burial rites in greater detail in the section on socio-cultural fault lines.

Two observations may be made in response to the available statistics on violence against Christians during the post-January 2015 period. First, the governmental transition does not appear to have had any real impact on the nature and prevalence of violence against Christians in Sri Lanka.<sup>163</sup> Moreover, the breakdown of violence in terms of its nature remained essentially static. Non-physical forms of violence such as threats, intimidation and coercion, and structural forms of violence such as discrimination, remained the most prevalent forms of violence both before and after the transition of January 2015. State actors at the local level meanwhile remained the most prolific perpetrators of violence throughout the two periods. Thus it is reasonable to conclude that the governmental change of January 2015 has not resulted in a decrease in violence against Christians in Sri Lanka.

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158 NCEASL, 'Pastor Abducted and Harassed in Sapugaskanda' in *Incident Reports 2015-2016*, 5 June 2015 at <http://nceasl.org/pastor-abducted-and-harassed-in-sapugaskanda/> [last retrieved 29 August 2017]; NCEASL, 'Pastor's Home in Gampola Stoned' in *Incident Reports 2015-2016*, 4 July 2016, at <http://nceasl.org/pastors-home-in-gampola-stoned/> [last retrieved 29 August 2017]; NCEASL, 'Unidentified Group Pelts Stones at Church' in *Incident Reports 2015-2016*, 18 August 2016, at <http://nceasl.org/unidentified-group-pelts-stones-at-church/> [last retrieved 29 August 2017].

159 NCEASL, *Press Release dated 27 May 2017, op. cit.*

160 NCEASL, 'Mob Attack Pastors Premises in Chenkaladi, Batticaloa Again' in *Incident Reports 2015-2016*, 2 April 2015, at <http://nceasl.org/mob-attack-pastors-premises-in-chenkaladi-batticaloa-again/> [last retrieved 29 August 2017].

161 NCEASL, 'Mob Obstructs Burial of Deceased Christian' in *Incident Reports 2015-2016*, 22 December 2015, at <http://nceasl.org/mob-obstructs-burial-of-deceased-christian/> [last retrieved 29 August 2017].

162 NCEASL, 'Burial Rites Denied; Pastor Harassed at Christian Funeral' in *Incident Reports 2015-2016*, 6 July 2016, at <http://nceasl.org/burial-rites-denied-pastor-harassed-at-christian-funeral-2/> [last retrieved 29 August 2017].

163 Also see Janeen Fernando and Shamara Wettimuny, 'Religious Violence in Sri Lanka: A New Perspective on an Old Problem' *The Daily FT*, 26 May 2017, at <http://www.ft.lk/article/617872/Religious-violence-in-Sri-Lanka:-A-new-perspective-on-an-old-problem> [last retrieved 29 August 2017].

Second, violence against the Christian community in Sri Lanka appears to be consistently 'localised'. In fact, all 75 reported incidents during the period between January 2015 and July 2016 contained a local dimension, with little to no evidence of national level political actors being directly involved. The perpetrators, when identifiable, were clergymen, villagers and state officials from the locality. It is noted, however, that broader national trends in impunity invariably embolden local actors. Thus the inaction of national level actors to prosecute perpetrators of violence, and national level political rhetoric targeting minorities, serve to enable and encourage local level actors to act with impunity. As discussed in the third chapter of this study, the 'exceptionalism' of the Buddhist clergy is central to this trend in impunity. The reluctance of law enforcement agencies to prosecute members of the clergy has provided cover for many of the perpetrators of violence, and has directly perpetuated the culture of impunity at the local level.

## **2.2 Fault lines**

*The Chronic and the Acute* identified several key socio-cultural, economic and political fault lines that underlie communal violence in post-war Sri Lanka. The study also argued that specific local contexts and dynamics contribute heavily towards the occurrence and escalation of violence. These fault lines continue to prevail today, and provide the context for much of the current ethno-religious violence in the country. Yet developments following the democratic transition of January 2015 have added new dimensions to these pre-existing fault lines. This section attempts to build on the analysis undertaken in *The Chronic and the Acute*, and examines some of these dimensions.

### **2.2.1 Socio-cultural fault lines**

The socio-cultural dimensions identified in this section are not necessarily new; they are instead exacerbated versions of pre-existing tensions, which have now emerged prominently in the period following the January 2015 transition. Three such dimensions may be identified: first, gender-based dimensions; second, tensions over burial rites; and third, disputes over sacred and archaeological sites.

## Gender

The gender dimensions of ethno-religious violence are complex, and warrant a deeper examination than what this study offers.<sup>164</sup> Yet it is important to note that gender featured significantly in the interviews and discussions conducted in the field. The permeation of patriarchal values into all avenues of life and inter-communal interaction was evident. This subsection discusses two gender-based dimensions that produce particular fault lines related to ethno-religious violence.

First, a longstanding discussion on reforming Muslim personal law has emerged as a source of ethno-religious tension. Personal laws are laws that apply exclusively to certain communities, usually in spheres of private life, such as marriage and inheritance. Among the personal laws under consideration for reform is the Muslim Marriage and Divorce Act, No. 13 of 1951 (MMDA). The most contentious provisions of the Act concern the age of marriage and consent to marriage. Section 23 of the Act implies that there is no minimum age of marriage for women under the Act, as even a girl under the age of twelve years could be married with the authorisation of the quazi – a judicial officer appointed under the Act. Thus girls belonging to the Muslim community face the risk of child marriage. Moreover, section 18 of the Act dispenses with the requirement for a woman to formally consent to the marriage. It only requires the male party to the marriage and the *wali* (the woman's guardian) to formally consent to the marriage at the point of registration.<sup>165</sup> Thus women and girls in the Muslim community are vulnerable to forced or coerced marriage. These provisions have been the subject of severe criticism, particularly from

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164 For a sound analysis of the implications of ethno-religious nationalism on gender, see Smriti Daniel, Zainab Ibrahim, Darshi Thoradeniya, Edna Malkanthi and Evangeline de Silva, *Ethno-Religious Nationalism and Sexual and Reproductive Health and Rights in Sri Lanka: A Social Media, Print Media and Policy Review* (Women and Media Collective and Asian-Pacific Resource and Research Centre for Women 2016).

165 The woman concerned is only expected to sign the *wali's* declaration prior to registration of the marriage if he is someone other than her father or paternal grandfather. Also see sections 47(2) and (3) of the Act, which provide for exceptions to the formal requirement of the *wali's* consent to a marriage. A quazi is empowered under these provisions to authorise a marriage where the *wali* unreasonably withholds consent, or where the woman has no *wali*.

women's rights groups<sup>166</sup> and international human rights bodies.<sup>167</sup> They facilitate discrimination of individuals on the basis of their sex and ethno-religious identity, and thus constitute a serious form of structural violence against Muslim women. Moreover, the current Sri Lankan Constitution specifically protects all written and unwritten law that existed prior to 1978, notwithstanding any inconsistency with the fundamental rights chapter of the Constitution.<sup>168</sup> Thus successfully challenging the application of the MMDA on the basis of non-discrimination provisions in the Constitution remains unlikely.

Reform of the MMDA has been under consideration since the 1950s.<sup>169</sup> However, it was in 2009 that the government demonstrated some intent in initiating a reform process. Then Minister of Justice Milinda Moragoda appointed a Muslim Personal Law Reforms Committee to study the Act and recommend reforms. However, the Committee is yet to publish its report, mainly due to pressure from Islamic organisations. For instance, in November 2016, the SLTJ organised a protest against the proposed reforms to the MMDA. The General Secretary of the SLTJ, Abdul Razeek, was reported to have claimed that conditions already found in the MMDA – including the consent of the *wali* – were sufficient, and that the age of the woman contracting the marriage was inconsequential.<sup>170</sup> Meanwhile, in 2017, Rizwe Mufthi, the president of the ACJU and a member of the Muslim Personal Law Reforms Committee, remarked that the MMDA is 'perfect in its present state'.<sup>171</sup> Thus reforms

166 See Women and Media Collective, *Sri Lanka: Collective Oral Statement to CEDAW Committee* (2017), at <http://womenandmedia.org/sri-lanka-collective-oral-statement-to-cedaw-committee/> [last retrieved 13 October 2017]; 'Statement: We demand accountability on MMDA reforms', at <https://mplreforms.com/2017/04/04/statementactnow/#more-858> [last retrieved 13 October 2017]; Women and Media Collective, *Sri Lanka Shadow Report* (2017), at <http://womenandmedia.org/wp-content/uploads/2017/02/SHADOW-REPORT-TO-CEDAW-ALL-ISSUES.pdf> [last retrieved 13 October 2017].

167 See Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Eighth Periodic Report of Sri Lanka* (2017), at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fLKA%2fCO%2f8&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fLKA%2fCO%2f8&Lang=en) [last retrieved 13 October 2017].

168 Although article 12(2) of the Sri Lankan Constitution protects all persons from discrimination on the grounds *inter alia* of race, religion or sex, article 16(1) of the Constitution provides: 'All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the preceding provisions of [the fundamental rights] Chapter.' Thus the MMDA remains valid and operative notwithstanding any inconsistency with article 12(2).

169 'FAQs about MMDA', at: <https://mplreforms.com/aboutmmda> [last retrieved 13 October 2017].

170 'Marriage and Divorce Laws: Muslims protest against proposed changes', *Ceylon Today*, at <http://www.ceylontoday.lk/print20160701CT20161030.php?id=8622> [last retrieved 13 October 2017].

171 'ACJU and the MMDA – A statement of clarification', at <http://www.acju.lk/en/news/acju-news/item/1108-acju-and-the-mmda-a-statement-of-clarification> [last retrieved 13 October 2017]. The ACJU clarified that Mufthi's statement did not preclude reform of the administration of the quazi court system. Also see 'ACJU 'strongly opposes' changes to Muslim Personal Law', *adaderana.lk*, 11 November 2016, at <http://www.adaderana.lk/news/37807/acju-strongly-opposes-changes-to-muslim-personal-law> [last retrieved 1 September 2017].

with respect to patently discriminatory provisions in the Muslim personal law have been strongly resisted by conservative Islamic organisations, thereby perpetuating structural violence against Muslim women.

Second, women's attire has become an issue of sharp contention both within and outside the Muslim community. From within the community, the practice of wearing *hijāb* including the *niqāb*, and the *abhaya* has come to be associated with religious patriarchal control of women's attire. As observers in the Eastern Province have noted, the practice appears to be increasing.<sup>172</sup> These practices are likely associated to what Farzana Haniffa refers to as 'piety' movements,<sup>173</sup> which seek to advance personal practices demonstrative of religious devotion, and have often had a disparate impact on women. Haniffa, however, rightly notes the complexities associated with the practice. She observes:

Muslim women across class and region, unconnected to any piety group, now wear the *hijāb* and even the *abhaya*. Today, this dress has become a marker of cultural difference; more a sign of Muslimness in a multiethnic polity and less of a newly and consciously embraced personal piety. Therefore the selfhood embraced is Muslim, but not always radically religious.<sup>174</sup>

Thus characterising Muslim practices concerning women's attire purely as 'regressive' risks the concealment of complexities associated with how contemporary Muslim women convey identity and build community relationships.<sup>175</sup> Yet these practices have invariably attracted such a characterisation, and have been a source of ethno-religious tension.

Muslim personal law and practices concerning attire have provided Sinhala-Buddhist militant groups such as BBS an opportunity to further demonise the Muslim community. These issues have also shaped local level perceptions of Muslims. For instance, focus group discussions recently held in the Eastern Province revealed that other communities, (Sinhala-Buddhists, Sinhala and Tamil Christians, and Tamil-Hindus) often held the view that Muslim men routinely oppressed

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172 Focus group discussion with the Kalmunai Traders Association on 31 March 2017.

173 Haniffa, 'Piety as Politics', *op. cit.* at 347.

174 *Ibid.* at 357.

175 *Ibid.* at 357-358

women. These views underscore the negative stereotypes held with respect to the Muslim community. Thus the anti-Muslim rhetoric adopted by militant groups often resonates with local level preconceptions and suspicions, thereby creating the conditions for ethno-religious tensions, and potentially violence.<sup>176</sup>

### *Burial rites*

As mentioned in the previous sub-section, a number of incidents of ethno-religious violence involved burial rites. At least five reported incidents of violence against Christians involved disputes over the burial of Christian deceased.<sup>177</sup> On 8 June 2015, a mob of approximately 50 Sinhala-Buddhist villagers in Karuwalagasweva, Puttalam reportedly interrupted a funeral service of a local church and verbally abused the pastor conducting the service.<sup>178</sup> On 31 January 2016, a group of Tamil-Hindu villagers in Trincomalee interrupted a Christian burial and insisted that it should be carried out according to the traditions of the majority religion in the village, i.e. Hinduism.<sup>179</sup> In many of these incidents, including the incidents in Batticaloa on 16 October 2015 and 16 March 2016, the victims were compelled to either conduct burial rites according to the majority religion of the area, or to simply relocate to another cemetery.<sup>180</sup>

These incidents reflect the socio-cultural realities that underlie ethno-religious violence in certain local contexts. The question of Christian proselytism remains at the heart of these realities; members of the dominant religion in a particular area often oppose funeral ceremonies where the deceased had converted to Christianity. Such resistance has been prevalent in Sinhala-Buddhist dominated areas for many years. In fact, on 20 December 2005, in Lunugala in the Uva Province, a group of

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176 International Centre for Ethnic Studies, *Community Perceptions of Religious Tolerance and Religious Tensions in Batticaloa and Trincomalee* (forthcoming), at 31.

177 NCEASL, *Incident Reports 2015-2016*, at <http://nceasl.org/category/incident-reports/> [last retrieved 29 August 2017].

178 NCEASL, 'Villagers Disrupt Christian Burial Service in Karuwalagasweva' in *Incident Reports 2015-2016*, 21 July 2015, at <http://nceasl.org/villagers-disrupt-christian-burial-service-in-karuwalagasweva/> [last retrieved 29 August 2017].

179 NCEASL, 'Burial Rites Denied; Pastor Harassed at Christian Funeral' in *Incident Reports 2015-2016*, 1 March 2016, at <http://nceasl.org/burial-rites-denied-pastor-harassed-at-christian-funeral/> [last retrieved 29 August 2017].

180 Also see MRG, *op. cit.* at 10-11. For example, in January 2016, a Christian funeral service in Serukele was interrupted by local villagers. The police eventually instructed the pastor of the Church concerned to move the burial to another village.

Sinhala-Buddhist residents objected to the burial of a Christian deceased in the local cemetery.<sup>181</sup> Moreover, in 2008, Rev. Rohan Ekanayake of the National Christian Fellowship reportedly claimed that Buddhist clergymen were preventing Christian burials of Buddhists converted to Christianity, and that ‘corpses are forcibly taken and buried according to Buddhist rites against the will of the family.’<sup>182</sup> Similarly, as detailed in the preceding sub-section, residents of Hindu-dominated areas have objected to the performance of Christian burial rites. A common denominator across both Buddhist and Hindu majority areas is the hostility towards proselytism. In fact, both Buddhist and Hindu groups have supported the regulation of religious conversion due to anxieties over such proselytism.<sup>183</sup>

Michael Hertzberg explains that Buddhist resistance to conversion is actually logical in light of ‘the religious market model’.<sup>184</sup> He argues that ‘[w]hen religion is intertwined with the sentiments of national identity, acts of conversion connote different levels of betrayal, both along the axes of the religious and the national.’<sup>185</sup> This is precisely why conversion – and the resistance it encounters – is an ‘ethno-religious’ as opposed to a purely ‘religious’ matter. Parallel notions of regional or even local majoritarian identity may motivate Hindu resistance to proselytism. Thus conversion is often associated with dissent, and prompts some of the most ‘incendiary’ conflicts concerning religion.<sup>186</sup> As argued by Gauri Viswanathan, conversion, particularly to a minority religion, is perceived as an expression of dissent because it undoes the ‘concept of fixed, unalterable identities’ and ‘unsettles the boundaries by which selfhood, citizenship, nationhood, and community are defined, exposing these as permeable borders.’<sup>187</sup>

The motivations behind the denial of burial rites may be related to two connected factors. On the one hand, resistance to Christian burials may be motivated by political considerations. The high visibility of Christian funeral services or burial

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181 See United States Department of State – Bureau of Democracy, Human Rights, and Labour, ‘Sri Lanka 2005 International Religious Freedom Report’ in *International Religious Freedom Report for 2005* (2006), at <https://www.state.gov/j/drl/rls/irf/2006/71444.htm> [last retrieved 29 August 2017].

182 Sonali Samarasinghe, ‘And then they came for me...’, *The Sunday Leader*, 17 August 2008, at <http://www.thesundayleader.lk/archive/20080817/spotlight.htm> [last retrieved 29 August 2017].

183 See Hertzberg, *op. cit.* at 242-244.

184 *Ibid.* at 172.

185 *Ibid.*

186 Benjamin Schonthal, *Buddhism, Politics and the Limits of Law: The Pyrrhic Constitutionalism of Sri Lanka* (Cambridge University Press 2016), at 217.

187 Gauri Viswanathan, *Outside the Fold: Conversion, Modernity and Belief* (Princeton University Press 1998), at 16.

rites (which often bear the highly recognisable Christian symbol of a cross) within the community could undermine the dominance of the majority religion concerned. The burial site also remains a site of remembrance, and serves as a reminder of Christian influence within the community – particularly its success in conversion. Thus taking custody of corpses and forcibly holding funeral rites according to the majority religion of the area can serve to undo the ‘conversion’ to Christianity, and erase the history of the converted individual. The act is thus meant to restore the *status quo* prior to conversion – thereby reinforcing the dominance of the majority religion concerned.

On the other hand, there may be a spiritual motivation to preventing Christian burials. In contemporary Buddhist and Hindu practice, the deceased are cremated as opposed to buried. Both these belief systems include the idea of reincarnation or rebirth – essentially in a new body. Thus scholars have argued that the complete destruction of the body through cremation is often preferred over burial, as it enables the ‘transformation of the deceased.’<sup>188</sup> By contrast, Christian preference for burial is based on a belief that the bodies of adherents will be resurrected during the second coming of Christ.<sup>189</sup> The resistance to Christian burials may stem from this essential difference, as the majority community in the area may perceive the burial of a Christian convert as a direct affront to the transformation envisaged in Buddhist or Hindu cremation. In this context, disputes and tensions over burial rites can become sources of chronic violence at the local level.

### *Sacred and archaeological sites*

In 2015, the Secretariat for Muslims produced a two-volume series titled *Of Sacred Sites and Profane Politics: Tensions over Religious Sites and Ethnic Relations*, which included four case studies on ethno-religious violence over sacred and archaeological

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188 Stacey Ward and Nancy Tayles, ‘Cremation in Mainland Southeast Asia’ in Marc Oxenham and Hallie Buckley (eds.), *The Routledge Handbook of Bioarchaeology in Southeast Asia and the Pacific Islands* (Routledge 2015), at 241.

189 See for example, ‘Vatican issues new document on Christian burial and cremation’, *Vatican Radio*, 25 October 2016, [http://en.radiovaticana.va/news/2016/10/25/vatican\\_issues\\_new\\_document\\_on\\_christian\\_burial\\_cremation/1267621](http://en.radiovaticana.va/news/2016/10/25/vatican_issues_new_document_on_christian_burial_cremation/1267621) [last retrieved 29 August 2017]. For a more in-depth discussion on the Christian preference for burial over cremation, see Thomas N. McInnis, *The Christian Burial Case: An Introduction to Criminal and Judicial Procedure* (Greenwood Publishing Group 2001). Also see Stephen Prothero, *Purified by Fire: A History of Cremation in America* (University of California Press 2001).

sites. The first volume deals with disputes in Kuragala and Devanagala,<sup>190</sup> while the second volume delves into disputes in Deegavapi and Dambulla.<sup>191</sup> In each case, Sinhala-Buddhist militant groups have sought to portray a particular area as ‘sacred’ to Buddhism. In some cases, the Muslim community have presented counter-claims in terms of the Islamic significance of a site. For example, as examined in the previous section, the dispute over the mosque in Kuragala involves competing claims by Sinhala-Buddhist and Muslim groups that the site is of sacred and archaeological significance to their respective communities. Similarly, the Devanagala Rock in Kegalle has been the site of conflict between Sinhala-Buddhists and Muslims. Sinhala-Buddhists claim that the rock contains buildings and artefacts of historical importance to them.<sup>192</sup> The dispute arises due to the claim that King Wimaladharmasuriya donated land to Ven. Rathnalankara Thero, a Buddhist monk from a neighbouring village called Ruwandeniya.<sup>193</sup> An inscription on the Rock reportedly records this donation. Militant groups such as BBS and *Sinhala Ravaya* claim that the donated land is located within a Muslim settlement near the Rock, and have campaigned for the eviction of Muslims from Devanagala.<sup>194</sup> These groups have engaged in hate speech and propaganda against the Muslim residents of the area – claiming that they usurped the archaeological site and settled on the ‘sacred’ land.<sup>195</sup> The Muslims have meanwhile denied these claims and have maintained that they possess a right to remain on the land. Community groups such as the Mawanella Friendship Forum (MFF) and the Devanagala Friendship Forum (DFF) have since attempted to inquire into the competing claims and reach an amicable solution. The MFF in fact reported in 2014 that the 72 acres of land donated by King Wimaladharmasuriya appeared to be located in the neighbouring village of Ruwandeniya, and not in the vicinity of the Rock.<sup>196</sup> However, both the MFF and DFF have been threatened and harassed by groups campaigning for the eviction of the Muslim residents.<sup>197</sup>

190 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume I, op. cit.*

191 Secretariat for Muslims, *Of Sacred Sites and Profane Politics: Tensions over Religious Sites and Ethnic Relations – Volume II Deegavapi and Dambulla* (October 2015).

192 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume I, op. cit.* at 5.

193 *Ibid.* at 5.

194 *Ibid.*

195 See Kalinga Tudor Silva, Afrah Niwas and W.M.K.B. Wickramasinghe, *Religious Interface and Contestations between Buddhists and Muslims in Sri Lanka: A Study of Recent Developments in Selected Multi-Religious and Cross-Cultural Sites* (ICES 2016), at 10-12.

196 See Philip Friedrich, ‘Adjudicating Antipathy: The Politics of Historical Confrontation at Devanagala, Sri Lanka’ in John Clifford Holt (ed.), *Buddhist Extremists and Muslim Minorities: Religious Conflict in Contemporary Sri Lanka* (Oxford University Press 2016), at 157.

197 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume I, op. cit.* at 13.

Disputes over other sites such as Deegavapi and Dambulla also contain familiar claims of ‘sacredness’ and archaeological significance. Buddhist monks such as the late Gangodawila Soma Thera have asserted that the ‘sacred area’ in Deegavapi belongs exclusively to Buddhists.<sup>198</sup> Similarly, the ‘sacred’ status of the Dambulla Temple has underscored mob violence against the Masjid-ul-Khairiya Mosque (and the later demolition of the Bhadrakali Kovil) located in close proximity to the Temple.<sup>199</sup>

Major incidents against Muslim places of worship in so-called ‘sacred’ sites appear to have diminished since the transition of January 2015. Yet there remains a risk that the unresolved tensions over these sites could escalate into violence in the future. Thus the transition of January 2015 does not guarantee the prevention of violence. In fact, incidents of violence in Kuragala, even after the transition, reflect this serious risk.

### **2.2.2 Economic fault lines**

The broad contours of the economic fault lines that lie beneath ethno-religious violence in Sri Lanka were examined in some detail in *The Chronic and the Acute*. Within this broad context, localised economic disputes over land, resettlement and state services have persisted in the period following the January 2015 transition.

#### *Land and resettlement*

Land remains a crucial resource and a domain of intense ethno-religious competition in Sri Lanka. It forms the centrepiece of the Tamil-speaking community’s struggle for autonomy in the Northern and Eastern Provinces. Meanwhile, disputes over land have underscored ethno-religious violence in the post-war era, and have remained a constant source of tension even after the transition of January 2015.

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198 See for example, Nilika de Silva and Faraza Farook, ‘Dighavapi: Digging Deeper’, *The Sunday Times*, 10 October 1999, available at <http://www.sundaytimes.lk/991010/spec.html> [last retrieved 29 August 2017].

199 Secretariat for Muslims, *Of Sacred Sites and Profane Politics – Volume II*, *op. cit.* at 5.

The scarcity of land has provided the backdrop to communal tensions in a number of locations in the Eastern Province. For example, Muslim civil society representatives in Batticaloa referred to disputes over land previously owned by Muslims in the area of Paduvankarai. It was claimed that the land was abandoned during the war, and that secondary occupants from the Tamil community, who now possess the land, are preventing the original Muslim owners from returning.<sup>200</sup> Meanwhile, the state has also contributed to land-related ethno-religious tensions. Two recent examples illustrate this phenomenon.

First, the state applied an ethnic ratio to determining the beneficiaries of 500 Saudi-funded houses in Akkaraipattu and Deegavapi in the Ampara district – initially built for Muslim victims of the 2004 Tsunami. Some commentators perceived the application of an ethnic ratio as a deliberate manoeuvre by the state to deprive Muslims of housing.<sup>201</sup>

Second, the state has exacerbated tensions over a Muslim settlement close to the Wilpattu forest reserve. The dispute in Wilpattu is connected to the LTTE's expulsion of Muslims from the Northern Province in 1990, which resulted in the long-term displacement of over 75,000 Muslims.<sup>202</sup> Following the conclusion of the war, some of the families from Musali South in Mannar returned to their original lands located in areas such as Karadikkuli and Marichakatti, adjacent to the Wilpattu forest reserve.<sup>203</sup> However, militant groups such as BBS have claimed that the Muslim settlements are located inside the forest reserve and have called for the expulsion of the Muslim returnees. The highly polarised conflict has also featured calls for preventing the encroachment of Wilpattu on environmental grounds.<sup>204</sup> Shahul Hasbullah – a professor of Geography – has, however, reportedly argued that the Muslim settlement does not overlap with the forest reserve.<sup>205</sup> Yet the environmental

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200 Interview with a member of the Batticaloa Civil Society Forum on 30 March 2017. The interviewee's claims are largely consistent with the observations offered by Ameer Ali in a speech delivered in 2002. See 'Muslim predicament in a future solution', *The Island*, 22 March 2002, <http://www.island.lk/2002/03/22/featur01.html> [last retrieved 29 August 2017].

201 Interview with a Muslim civil society activist from Akkaraipattu on 31 March 2017.

202 See Gehan Gunatilleke, *Confronting the Complexity of Loss: Perspectives on Truth, Memory and Justice in Sri Lanka* (Law & Society Trust 2015), at 26.

203 See Mohamed Shareef Asees, 'Resettlement of Muslim IDPs and Issues of Wilpattu', *Daily FT*, 6 January 2017, at <http://www.ft.lk/article/589620/ft> [last retrieved 29 August 2017].

204 *Ibid.* Sumathy Sivamohan, 'Territorializing the Environment: The Political Question of Land and the Future of the Displaced in Musali South', *The Island*, 2 July 2015, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=127573](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=127573) [last retrieved 29 August 2017].

205 *Ibid.*

community does not appear to support this claim.<sup>206</sup> Muslim political leaders, such as Vanni District MP Rishad Bathiudeen, have meanwhile argued vehemently against the expulsion of Muslim returnees. Despite these competing claims, President Maithripala Sirisena, in his capacity as Minister of Environment, issued a Gazette notification on 24 March 2017 declaring several of the areas inhabited by Muslim families, including Karadikkuli and Marichakatti as part of the Wilpattu forest reserve.<sup>207</sup> The move signalled the state's intention to characterise the Muslim settlements as encroachments into forest reserves; in some respects, the move by the highest executive in the country served to legitimise the campaigns of militant groups. In the meantime, Bathiudeen has vowed to campaign for the withdrawal of the Gazette notification.<sup>208</sup> Thus disputes over land and resettlement in areas such as Wilpattu remain sources of ethno-religious tensions with the potential to produce chronic violence against Muslims in the future.

#### *Access to state services and livelihood opportunities*

Conversations with residents of Batticaloa town and Kattankudy revealed that the provision of state services, such as the disposal of waste, was a major source of ethno-religious tension between Muslims and Tamils.<sup>209</sup> Muslims in areas such as Kattankudy traditionally build homes in close proximity to each other. The practice has contributed towards congestion and at times overcrowding. It has also reduced space for the proper disposal of waste. As a result, serious challenges have emerged with respect to the allocation of land for waste disposal sites, and the collection of waste. In this context, the Kattankudy Urban Council has struggled to collect a large portion of the waste. Communities then resort to dumping their waste in neighbouring sites outside the town limits.<sup>210</sup> The alternative sites are often located in Tamil-dominated areas, such as Arayamapathi. The scenario has led to heightened tensions between Muslims and Tamils, and according to some observers, has led to

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<sup>206</sup> *Ibid.*

<sup>207</sup> See Gazette notification No. 2011/34 dated 24 March 2017.

<sup>208</sup> Ashanthi Warunasuriya, 'Muslims Up in Arms over Gazette on Wilpattu', *The Sunday Leader*, 2 April 2017, at <http://www.thesundayleader.lk/2017/04/02/muslims-up-in-arms-over-gazette-on-wilpattu/> [last retrieved 29 August 2017].

<sup>209</sup> Interview with a representative of the St. John's Ambulance Association, Batticaloa District on 30 March 2017.

<sup>210</sup> *Ibid.* Also see International Centre for Ethnic Studies, *Community Perceptions of Religious Tolerance and Religious Tensions in Batticaloa and Trincomalee* (forthcoming), at 25.

altercations between the communities over waste disposal rights.<sup>211</sup> As congestion in urban areas increases, these inter-communal tensions are likely to grow, thereby heightening the risk of violence.

The re-emergence of Tamil-Hinduism in the Northern Province was also observed in the Batticaloa district in the Eastern Province. Moreover, criticism of the Muslim community has been one of the rhetorical devices used by the new Tamil-Hindu nationalist group *Siva Senai*.<sup>212</sup> This group claims that Hindus in the Eastern Province face an existential threat from Muslims.<sup>213</sup> Thus there is a serious risk of violence if regional anti-Muslim discourses converge with local contextual tensions over state services, such as the disposal of waste.

### **2.2.3 Political fault lines**

Longstanding political fault lines such as disagreement over the merger of the Northern and Eastern Provinces underlie tensions between the Tamil and Muslim communities. Moreover, Sinhala-Buddhist cultural imposition in specific areas dominated by minority communities has strained the relationship between Sinhala-Buddhists and minority communities. Thus political fault lines relating to the merger of the North and East, and cultural impositions in those areas, remain sources of contemporary ethno-religious tension and violence.

#### *North and East merger*

The debate on whether or not to merge the Northern and Eastern provinces has resurfaced due to the government's new constitutional reform agenda.<sup>214</sup> The two

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211 *Ibid.* This observation was corroborated during focus group discussions with the Batticaloa Civil Society Forum on 30 March 2017, and the Kalmunai Traders Association on 31 March 2017.

212 'Now, a 'Siva Senai' group in Sri Lanka', *The Hindu*, 13 October 2016, <http://www.thehindu.com/news/international/south-asia/Now-a-%E2%80%98Siva-Senai%E2%80%99-group-in-Sri-Lanka/article16070094.ece> [last retrieved 29 August 2017].

213 P.K. Balachandran, 'Siva Senai Formed in Sri Lanka to Enable Hindus to Face Threats from Other Religions', *The New Indian Express*, 12 October 2016, <http://www.newindianexpress.com/world/2016/oct/12/siva-senai-formed-in-sri-lanka-to-enable-hindus-to-face-threats-from-other-religions-1527283.html> [last retrieved 29 August 2017].

214 On 9 January 2016, a Resolution enabling Parliament to sit as a Constitutional Assembly was moved by Prime Minister Ranil Wickremesinghe. This Resolution was unanimously adopted by Parliament – subject to certain amendments – on 9 March 2016. At the first sitting of the Constitutional Assembly held on 5 April 2016, a 21-member Steering Committee chaired by the Prime Minister was appointed. The Steering Committee is mandated to prepare proposals for a new constitution, which the Constitutional Assembly will subsequently deliberate upon.

provinces were merged following the Indo-Lanka Accord of 1987 and the enactment of the Thirteenth Amendment to the Constitution, but were later de-merged following a Supreme Court ruling in 2006.<sup>215</sup>

On the one hand, Tamils have identified the Northern and Eastern provinces as part of their traditional homeland, and have called for the merger of the two provinces. According to a recent study undertaken by Verité Research and The Asia Foundation, Tamils in the East do not consider the current provincial demarcations favourable to them.<sup>216</sup> They instead see themselves as ‘marginalised by a Sinhala – Muslim majoritarian combination.’<sup>217</sup> Thus, according to the study, the only workable solution for Tamils in the East is merging the Northern and Eastern Provinces into a single unit in which they would gain majority status.<sup>218</sup>

On the other hand, the Muslim community has been wary of a merged North-Eastern Province – mainly due to the fact that Muslims would become a regional minority in such a merged province. Muslims currently form the majority community in many D.S. Divisions of the Eastern Province. According to Verité Research and The Asia Foundation: ‘For the Muslims, the only way to prevent them from becoming ‘guests’ in a Tamil-majority land is by maintaining the status quo of de-merged Northern and Eastern Provinces.’<sup>219</sup>

Tamil – Muslim contestation over the merger has filtered down to the local level, and has sustained ethno-religious tensions. These tensions were particularly evident during discussions with stakeholders in Kalmunai.<sup>220</sup> Muslim political representation in the Kalmunai Municipal Council is larger than Tamil representation – a fact that has engendered claims of Tamil marginalisation and discrimination in terms of accessing state services.<sup>221</sup> It has also increased distrust between the two communities. This predicament has prompted frustration among both communities, and has resulted in the loss of faith in their respective local political representatives

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215 Verité Research and The Asia Foundation, *Sri Lanka Strategic Assessment 2016* (2016), at 24. In 2006, the Supreme Court of Sri Lanka ruled that the merger of the Northern and Eastern Provinces was unconstitutional. The single North-Eastern Province was accordingly de-merged into separate Northern and Eastern Provinces in January 2007.

216 *Ibid.*

217 *Ibid.*

218 *Ibid.*

219 *Ibid.*

220 Focus group discussion with the Kalmunai Traders Association on 31 March 2017.

221 Verité Research and The Asia Foundation, *op. cit.* at 25.

and national level leaders.<sup>222</sup> Such frustration has accordingly heightened the risk of ethno-religious violence between communal groups competing to access state resources and services.

The failure of state institutions in delivering services in an equal and non-discriminatory manner has led to political patronage structures that exacerbate communal tensions. As noted by a number of commentators in the Eastern Province, much of the ethno-religious tensions in the province are ‘manufactured’ for political gains.<sup>223</sup> A conflict mapping study undertaken in 2016 corroborates these sentiments.<sup>224</sup> Political representatives have thus polarised communities and have resorted to identity politics, thereby entrenching the view that supporters of one group will access resources and services at the expense of the other. Such politics have galvanised voter bases at the expense of ethno-religious cooperation.

### *Cultural imposition*

Scholars and political actors have observed state initiatives to settle Sinhala-Buddhist communities in areas within the Northern and Eastern provinces, ostensibly to change the demographic composition of those areas. Writing in 2012, Gananath Obeyesekere noted the ‘looming threat of the cultural and political colonisation of the north by the Sinhala-Buddhist majority.’<sup>225</sup> On 8 August 2013, R. Sampanthan, leader of the Tamil National Alliance, placed before Parliament extensive evidence of such practices and initiatives, and called on the government of the time to end ‘Sinhalisation’ projects. His evidence related to two distinct problems.

First, it was claimed that the government was ‘arbitrarily taking over substantial extents of lands’ to dispossess Tamil communities and settle persons from the majority community ‘without resort to due process and in a manner that is discriminatory and lacking in transparency.’<sup>226</sup> Locations in the Trincomalee District

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<sup>222</sup> Focus group discussion with the Kalmunai Traders Association on 31 March 2017.

<sup>223</sup> Focus group discussions with the Batticaloa Civil Society Forum on 30 March 2017, the Kalmunai Traders Association on 31 March 2017, and the Multi-purpose Cooperative Society, Sainthamaruthu on 31 March 2017; Interview with a member of the St. John’s Ambulance Association Batticaloa District. Also see Verité Research and The Asia Foundation, *op. cit.* at 25.

<sup>224</sup> Jayasinghe, *op. cit.* at 9-10.

<sup>225</sup> Gananath Obeyesekere, ‘Book Review: Biased and Prejudiced Collection on Sri Lanka’ (2012) Vol. XLVII No. 4 *Economic & Political Weekly* 29-31, at 31.

<sup>226</sup> Parliamentary Debates (Hansard) Official Report, Thursday, 8 August 2013, at 327.

such as Thiriyai, Sembimalai, Illanthaikulam, Kuchchavelli, Uppural Illangathurai, Muhathuvaram and Verugal were cited in this regard.

Second, it was claimed that religious and cultural places of importance to the Tamil-Hindu people were being defiled and desecrated in an 'attempt to obliterate by destruction, evidence of the existence of such religious and cultural places...'<sup>227</sup> The Agasthyar Sithamparam Sivan Temple in Kanguvelli, Muthur and the Kinniya Hot Wells in Trincomalee were cited as examples of this phenomenon.

Sampanthan's indictment of the government was not only predicated on the government's inaction, but on what he claimed was a deliberate state policy. He asserted that this policy was 'clearly indicative of a design to alter the cultural and linguistic identity of the North and East to further change the demographic composition of the said areas.'<sup>228</sup> This policy was largely associated with the Rajapaksa administration, which in addition to land grabs in the Eastern Province, was accused of orchestrating large-scale military occupation of land in the Northern Province.<sup>229</sup> However, concerns regarding policies designed to undermine the religious and cultural identities of the North and East continue even after the democratic transition of January 2015. Observers in the Eastern Province point to concerted attempts by government actors and politicians to introduce Sinhala-Buddhist statues, icons and symbols in areas in which religious minorities reside.<sup>230</sup> For example, they claimed that Buddhist shrines are being constructed in Muslim-majority areas such as Irakkaman with the support of government minister, Daya Gamage. While there is no conclusive evidence to support the claim that any government minister is directly involved in the construction, newspaper reports corroborate the fact that Buddhist shrines are being built in these areas. According to one report, the construction of Buddhist shrines in Muslim villages was characterised by Mohamed Manzoor, a Muslim deputy minister, as a possible threat to reconciliation.<sup>231</sup>

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227 *Ibid.*

228 *Ibid.* at 328.

229 For a more in-depth account of post-war military occupation of land in the Northern Province, see Centre for Policy Alternatives, *Occupation of Land in the Northern Province* (March 2016).

230 Focus group discussions with the Kalmunai Traders Association and the Mohideen Jumma Grand Mosque Trustees, Sainthamaruthu on 31 March 2017.

231 See for example, 'Chinese donation for Buddhist temples for North and East', *Sri Lanka Mirror*, 10 November 2016, at <http://srilankamirror.com/news/410-chinese-donation-for-buddhist-temples-in-north-east> [last retrieved 13 October 2017]. The article reports that a Buddhist statue was built in a Muslim village near the Digavapi area, and that Minister Daya Gamage spoke in favour of retaining the statue, citing the 'constitutional precedence to Buddhism'.

Sinhala-Buddhist cultural imposition thus remains a source of ethno-religious tension even after the transition of January 2015. Such imposition has been perceived as a political project designed to undermine the ethno-religious identity of minority groups in the North and East. A previous conflict mapping study has also identified ‘politicisation’ of ethno-religious relations as a major factor that has contributed to the escalation of communal tensions at the local level.<sup>232</sup> Thus politicised cultural imposition gives rise to a very serious fault line that underlies ethno-religious tensions in Sri Lanka.

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<sup>232</sup> Jayasinghe, *op. cit.* at 9-10.

## Chapter 3

### The Entrenchment of Ethno-Religious Violence

#### 3.1 State and minority relations

The preceding chapter discussed the continuing phenomenon of ethno-religious violence in Sri Lanka even after the transition of January 2015, and the major fault lines that underlie such violence. What emerges from this discussion is the disturbing reality that ethno-religious violence in Sri Lanka is rooted in factors that go beyond a particular government's policy choices. It is precisely for this reason that the governmental transition of 2015 failed to produce the expected outcome of ending ethno-religious violence in the country. Despite extensive support from religious minorities, and despite a relatively more liberal outlook compared to the Rajapaksa administration, the present government has failed to prevent violence against religious minorities. Minorities are thus left with two possible explanations for this failure. On the one hand, the failure could be due to the government's lack of capacity – and indeed fortitude – to overcome the major drivers of ethno-religious violence in the country. On the other hand, the failure could be due to the fact that the present government – or at least certain quarters within government – actually buy into and support these major drivers of ethno-religious violence. In any event, it is clear that these drivers serve to entrench ethno-religious violence within the cultural and socio-political fabric of the country. Three such drivers will be discussed in the next section.

Non-state actors perpetrate much of the violence against religious minorities in Sri Lanka. In this context, the nature of the state's obligations with respect to ethno-religious violence needs to be examined closely. Heiner Bielefeldt, Nazila Ghanea and Michael Wiener deconstruct these obligations by analysing the relationship between the state and non-state actors in the context of religious freedom.<sup>233</sup> They explain that, for at least three reasons, the role of the state and non-state actors cannot be strictly separated. First, the state is largely responsible for the environment

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<sup>233</sup> Heiner Bielefeldt, Nazila Ghanea and Michael Wiener, *Freedom of Religion or Belief: An International Law Commentary* (Oxford University Press 2016), at 320.

that either facilitates or hinders the enjoyment of religious freedom. They argue that this environment ‘sets the tone’ for interreligious relationships, and consequently majority-minority relations.<sup>234</sup> Second, state and non-state actors often collaborate to produce a ‘persistent pattern of discrimination’ against religious minorities.<sup>235</sup> In such instances, the state becomes more directly involved in structural forms of violence. Third, the state often fails in its positive obligations to overturn ‘entrenched discrimination’, which manifests as ‘social hostility rather than state exclusion.’<sup>236</sup> The state’s involvement in such instances is more indirect. Yet it bears some measure of responsibility for the perpetuation of structural violence against religious minorities.

These obligations may also be framed in terms of the state’s core human rights obligations: to respect, protect and fulfil the freedom of religion and the right to non-discrimination. ‘Respecting’ these rights entails refraining from directly violating them. ‘Protecting’ these rights involves law enforcement approaches including arresting, investigating and prosecuting perpetrators, and protecting victims. Such law enforcement and prosecutorial responses are crucial to avoid a culture of impunity, which can emerge when perpetrators are not held accountable. These responses convey the state’s intolerance of such violence, and to some extent, deter potential perpetrators. Finally, ‘fulfilling’ these rights entails the creation of necessary conditions for their advancement, such as strong institutions, education programmes, and a culture of coexistence.

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. The distinction between the Rajapaksa administration and the present one is ultimately a matter of degree. Only the more viscerally acute forms of violence have reduced with the transition of government. The chronic violence faced by religious minorities including Muslims and Christians has persisted. Hindus – who have endured significant indignities aimed at eroding

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<sup>234</sup> *Ibid.*

<sup>235</sup> *Ibid.*

<sup>236</sup> *Ibid.*

their religious and cultural identities – continue to endure those same threats under the new administration.

Sri Lanka's legal system is replete with legal remedies relevant to ethno-religious violence. The Penal Code, No. 2 of 1883, for instance, includes a range of offences dealing with physical and verbal attacks on religious communities.<sup>237</sup> The Police Ordinance, No. 16 of 1865 also criminalises certain types of attacks on religious groups, including breach of peace, physical attacks, threats and intimidation.<sup>238</sup> Section 3(1) of the ICCPR Act, No. 56 of 2007 provides: 'no person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.' The provision effectively incorporates article 20(2) of the ICCPR. The High Court has exclusive jurisdiction over the offence, and trials involving the offence are given the highest priority.<sup>239</sup>

Apart from extensive penal provisions that deal with physical and non-physical forms of violence, Sri Lanka's formal constitutional framework offers remedies for structural forms of violence. The fundamental rights jurisdiction of the Supreme Court covers violations of the right to freedom of thought, conscience and religion under article 10 of the Constitution, and the freedom to manifest religion or belief under article 14(1) (e). This jurisdiction can also be a means of redress for discrimination on the grounds of religion. Article 12(2) of the Constitution provides: 'No citizen shall be discriminated against on the grounds of...religion.' Moreover, article 12(3) provides: 'No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.' Thus it is clear that Sri Lanka's formal constitutional and statutory framework provides adequate legal remedies to deal with physical, non-physical and structural forms of violence. Yet the availability of these remedies has not translated into genuine measures to combat ethno-religious violence.

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<sup>237</sup> Section 290 of the Code criminalises 'Injuring or defiling a place of worship with intent to insult the religion of any class.' Section 290B criminalises 'acts in relation to places of worship with intent to insult the religion of any class.' Sections 291, 291A and 291B respectively criminalise 'disturbing a religious assembly,' 'uttering words with deliberate intent to wound religious feelings' and 'deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.'

<sup>238</sup> Section 79(2) provides: 'Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour which is intended to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence under this section.'

<sup>239</sup> Section 3(5) of the ICCPR Act provides: 'A trial in the High Court against any person for the commission of an offence under this section shall be taken up before any other business of that Court and shall be held on a day-to-day basis and shall not be postponed, unless due to any unavoidable circumstances, which shall be recorded.'

Sabrina Esufally, in a study on judicial responses to violence against the Christian community, makes several important observations.<sup>240</sup> First, she examines cases in magistrates' courts, and concludes that 'notwithstanding a legal and policy framework that guarantees the freedom of religion...lower courts have seldom endeavoured to protect minorities from religious violence.'<sup>241</sup> Second, she notes that appellate courts have occasionally upheld the rights of religious minorities. For instance, in *The Church of the Foursquare Gospel in Sri Lanka & Rev. D.G.W. Jayalath v. Kelaniya Pradeshiya Sabha & others*,<sup>242</sup> the Court of Appeal issued a writ of *certiorari* against the Urban Development Authority for cancelling a construction permit. The Court held that the cancellation was *ultra vires*, as it 'was based on an objection to the religious activities occurring within the premises and not on a specific violation of the Petitioner's construction permit.'<sup>243</sup> Thus unlike the lower courts' conservative approach to criminal justice in the context of religious violence, appellate courts have occasionally struck down illegal acts of the state. Yet, these interventions have been extremely rare. Moreover, as Esufally rightly concludes, the general approach of the appellate courts has been to focus on the legality of the state's action rather than on the need to advance religious freedom or non-discrimination on the grounds of religion.<sup>244</sup>

This conservative approach was clearly evident in the recent judgment of the Supreme Court in *Faril & others v. Bandaragama Pradeshiya Sabha & others*.<sup>245</sup> The case involved the construction of a Muslim madrasa (also referred to as a 'dhamma' school) in Bandaragama. Local Buddhist monks and villagers protested the construction claiming that a Mosque was being constructed instead of a school. Following the protests, the police and local government officials ordered the suspension of the construction on the basis that necessary approvals had not been obtained from the relevant ministry in charge of religious affairs.<sup>246</sup> The petitioners thus filed a fundamental rights application before the Supreme Court complaining that their rights to equality and non-discrimination had been

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240 Sabrina Esufally, *Judicial Responses to Religious Freedom: A Case Analysis* (Verité Research and NCEASL 2015).

241 *Ibid.* at 8.

242 CA Writ Application 781/2008 [2009].

243 Esufally, *op. cit.* at 9.

244 *Ibid.*

245 S.C (FR) Application No.92/2016.

246 The respondents in this case claimed that the construction of a dhamma school required prior permission from the Ministry of Religious Affairs under Circular No. MBRA/2-SAD/10/Con.Gen/2013.

violated. The Court upheld the decision of the police and local government officials on the basis that 'due consideration' had to be given to the protests to 'avoid a crisis situation.'<sup>247</sup> It accordingly dismissed the petition, and held that the stand taken by the authorities was lawful, as no prior approval for the construction had been sought from the relevant ministry.<sup>248</sup> Thus judicial responses to ethno-religious violence have remained conservative, and have ultimately failed to combat the culture of impunity pervading Sri Lanka.

Apart from the judiciary, the law enforcement and prosecutorial systems in Sri Lanka have also failed to advance justice and accountability for acts of violence against religious minorities. A startling illustration of this inaction is the fact that no person has been convicted under section 3(1) of the ICCPR Act in the ten years since its enactment. For instance, no persons have been convicted for the instigation of violence in the Aluthgama riots of 2014. Yet the government did in fact invoke the ICCPR Act to frame charges against 22 persons allegedly involved in the Gintota incident of November 2017.<sup>249</sup> The indictments are the first of their kind, and may reflect some degree of governmental willingness to enforce existing laws in the future.

On occasion, the new government has focused on legal reform rather than on enforcing existing law. It has in the recent past somewhat facetiously claimed that the current law is inadequate to deal with the advocacy of racial or religious hatred, and has proposed amendments to the current criminal law. In December 2015, the then Minister of Justice tabled two bills to respectively amend the Penal Code and the Code of Criminal Procedure Act. The amendment bills sought to introduce a new offence concerning the advocacy of hatred. Yet, on closer inspection, it transpired that the bills merely replicated section 2(1)(h) of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (PTA), which reads:

[Any persons who] by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between

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<sup>247</sup> S.C (FR) Application No.92/2016, per Goonaratne J., at 11.

<sup>248</sup> *Ibid.* at 13-14.

<sup>249</sup> Shamindra Ferdinando, 'Suspects charged under Int'l Covenant on Civil and Political Rights Act Gintota violence', *The Island*, 3 December 2017, [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=176019](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=176019) [last retrieved 5 December 2017].

different communities or racial or religious groups [commits an offence].

Two serious problems emerged from the government's initiative. First, the section itself was substantively problematic, as the corresponding PTA provision has a history of abuse. The provision has been used specifically to harass and punish outspoken journalists and political actors from minority communities. In 2009, Tamil journalist J.S. Tissainayagam was convicted under this provision for accusing the Sri Lankan armed forces of committing war crimes against Tamil civilians in the Eastern Province.<sup>250</sup> In 2013, the same provision was used to arrest and detain Azath Salley, a Muslim politician who criticised the then government for its failure to prosecute those involved in the attack on the Dambulla Mosque.<sup>251</sup> Thus one of the main contentions of the opponents of these two new bills was that they would be used to suppress dissent and deny media freedom – much in the same way section 2(1)(h) of the PTA was used in the past. Second, the two new bills would have perpetuated rather than combated impunity. The introduction of new laws on the advocacy of racial or religious hatred would have created the impression that such advocacy was not a criminal offence under Sri Lankan law at the time – despite the provisions of the ICCPR Act. Article 13(6) of the Sri Lankan Constitution specifically prohibits the retroactive application of criminal laws.<sup>252</sup> Thus any new laws criminalising advocacy of hatred can be applied only prospectively, thereby impeding the prosecution of past offenders. For example, the incendiary speech by Gnanasara Thera in the moments preceding the Aluthgama riots in June 2014 would not fall within the ambit of any new law. The two amendment bills were subsequently withdrawn following a challenge in the Supreme Court,<sup>253</sup> civil society opposition<sup>254</sup> and a strong response

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<sup>250</sup> See Kishali Pinto-Jayawardena, Jayantha de Almeida Gunaratne and Gehan Gunatilleke, *The Judicial Mind: Responding to the Protection of Minority Rights* (Law & Society Trust 2014), at 243-244. The authors claim: 'The fundamental contention of the prosecution was that an article written by a Tamil journalist accusing a predominantly Sinhalese Army [of war crimes against Tamil civilians] would incite the commission of acts of violence by Sinhalese readers against Tamils, or lead to racial or communal disharmony.' Also see *The Democratic Socialist Republic of Sri Lanka v. J.S. Tissainayagam*, H.C. 4425/2008, judgment of Deepali Wijesundara J.

<sup>251</sup> Pinto-Jayawardena *et al.*, *op. cit.*, at 262.

<sup>252</sup> See Gehan Gunatilleke, 'Hate Speech in Sri Lanka: How a New Ban Could Perpetuate Impunity' *Oxford Human Rights Hub Blog*, 11 January 2016, at <http://ohrh.law.ox.ac.uk/hate-speech-in-sri-lanka-how-a-new-ban-could-perpetuate-impunity> [last retrieved 13 October 2017].

<sup>253</sup> 'Two Petitions in SC against Govt. Amendments to Penal Code on Hate Speech', *The Daily FT*, 16 December 2015, at <http://www.ft.lk/article/509053/Two-petitions-in-SC-against-Govt-amendments-to-Penal-Code-on-hate-speech> [last retrieved 29 August 2017].

<sup>254</sup> 'Civil Society urges Govt. to Withdraw Bills Criminalizing Hate Speech', *Colombo Telegraph*, 15 December 2015, at <https://www.colombotelegraph.com/index.php/civil-society-urges-govt-to-withdraw-bills-criminalizing-hate-speech> [last retrieved 29 August 2017].

from the Human Rights Commission of Sri Lanka.<sup>255</sup> The episode, however, reflected a disturbing feature of the new government – its willingness to let repressive interests infiltrate and drive the lawmaking process.

The impunity enjoyed by perpetrators of ethno-religious violence during the Rajapaksa administration in large part has continued under the new government. This impunity reached a tipping point in 2017. Two years into the tenure of the new administration, militant groups appear to have realised that the present government is not serious about accountability. Perhaps emboldened by this realisation, groups such as BBS have begun to intensify their activities. Its leaders began to openly defy the state's law enforcement machinery. A perfect illustration of this defiance – and the government's ostensible acquiescence, if not support for these groups – is the state's failure to arrest Gnanasara Thera despite two open warrants for his arrest. Criminal cases were filed against the General Secretary of BBS for storming the Homagama Magistrate's Court on 25 January 2016, and for defaming the Quran and disrupting a *Jathika Bala Sena* media conference in 2014.<sup>256</sup> While initial attempts to arrest him in Kurunegala were prevented by supporters of BBS,<sup>257</sup> Gnanasara Thera ultimately surrendered himself to the Colombo Fort Magistrate's Court on 21 June 2017 before being released on bail.<sup>258</sup>

Meanwhile, certain government actors have been directly involved in threatening and intimidating human rights defenders. In one particularly egregious incident, then Minister of Justice, Wijeyadasa Rajapakshe threatened to take legal action to disbar human rights lawyer Lakshan Dias due to his claim on national television that over 190 incidents of violence against Christians had taken place since the democratic transition of January 2015.<sup>259</sup> Rajapakshe's actions reflect the deeply embedded

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255 Human Rights Commission of Sri Lanka, Letter to the Prime Minister dated 15 December 2015, at [http://hrcls.lk/english/wp-content/uploads/2015/12/Proposed\\_-\\_amendment\\_to\\_the\\_Penal\\_code\\_on\\_Hate\\_Speech.pdf](http://hrcls.lk/english/wp-content/uploads/2015/12/Proposed_-_amendment_to_the_Penal_code_on_Hate_Speech.pdf) [last retrieved 29 August 2017].

256 'Arrest warrant on Gnanasara Thera', *Daily Mirror*, 15 June 2017, at <http://www.dailymirror.lk/130948/Arrest-warrant-on-Gnanasara-Thera> [last retrieved 29 August 2017].

257 'BBS clash with Police in Kurunegala', *Daily News*, 22 May 2017, at <http://dailynews.lk/2017/05/22/local/116578/bbs-clash-police-kurunegala> [last retrieved 29 August 2017]. According to subsequent news reports, the government decided to withdraw the case concerning Gnanasara Thera's alleged attack on the Quran.

258 'Gnanasara Thera surrenders to court', *The Sunday Times*, 21 June 2017, at <http://www.sundaytimes.lk/article/1023973/gnanasara-thera-surrenders-to-court> [last retrieved 29 August 2017]; 'Gnanasara Thera gets bail twice in two days', *Daily News*, 22 June 2017, at <http://www.dailynews.lk/2017/06/22/law-order/119728/gnanasara-thera-gets-bail-twice-day> [last retrieved 29 August 2017].

259 Human Rights Watch, *Sri Lanka: Minister Threatens Defender of Minority Rights*, 19 June 2017, <https://www.hrw.org/news/2017/06/19/sri-lanka-minister-threatens-defender-minority-rights> [last retrieved 29 August 2017].

prejudices within the current administration, and the level to which state structures accommodate anti-minority stances regardless of the government in power.

Neil DeVotta's compelling explanation of 'institutional decay' sheds some light on why state institutions in Sri Lanka have simply failed to address ethno-religious violence in any meaningful way. According to DeVotta, '[i]nstitutions provide the requisite networks for individuals to negotiate and interact with the state, demarcating parameters for strategic behaviour for/between elites and masses, promoting convergent expectations between the state and polity...and generating predictability.'<sup>260</sup> He observes that institutional decay sets in when 'the state's rule-making, applying, adjudicating and enforcing institutions shower preferential treatment on a particular group while disregarding the legitimate grievances of other groups.'<sup>261</sup> In Sri Lanka's case, the galvanising of an ethno-religious identity strand that corresponds to more than two-thirds of the population has incentivised and sustained precisely this kind of institutional decay. As argued in the concluding chapter of this study, it may not be possible to reverse this decay without an authentic and meaningful process of cultural transformation.

### **3.2 Drivers of entrenched violence**

The foregoing analysis reveals that the change of government in January 2015 has had only a marginal effect on the state of ethno-religious violence in Sri Lanka. While the space for militant groups has narrowed in some respects, it is apparent that the state is hesitant to hold these groups accountable. This predicament has led to the entrenchment of ethno-religious violence in the country. It is important to deconstruct the factors that drive such entrenchment. Three drivers of entrenchment may be identified: (1) the entitlement complex of Sinhala-Buddhists; (2) the existential fears of Sinhala-Buddhists; and (3) the exceptionalism associated with the Buddhist clergy.

Prior to delving into each of these drivers, it may be important to briefly reiterate the comparative complexity of ethno-religious violence. David Smock discusses this complexity in some depth, and explains precisely how the intertwining of both ethnic and religious dimensions make ethno-religious conflicts particularly

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<sup>260</sup> DeVotta, 'From ethnic outbidding to ethnic conflict', *op. cit.* at 146.

<sup>261</sup> *Ibid.*

difficult to resolve.<sup>262</sup> Seth Kaplan meanwhile observes that countries such as Israel/Palestine, Bosnia, Nigeria and indeed Sri Lanka have had both ethnic and religious dimensions to conflict.<sup>263</sup> On the one hand, these conflicts have featured strong ethnic dimensions, particularly during their early stages. On the other, these ethnic conflicts have grown to incorporate religious dimensions, thereby morphing into ethno-religious conflict. As Kaplan observes, 'religion can become a tool for leaders or extremists seeking to advance an exclusionary agenda'; religious identity and belief can be used to mobilise fighters in a way that ethnic sentiments cannot.<sup>264</sup> Thus leaders – particularly those of what Kaplan describes as 'fragile' states – tend to 'opportunistically use religion' alongside other identity markers such as ethnicity 'to gain, maintain, and project power.'<sup>265</sup>

Religious conflicts can be differentiated from ethnic conflicts. According to Kaplan, 'religious actors tend to draw on a deeper infrastructure and a more developed belief system than ethnic actors.'<sup>266</sup> Thus compromise in religious conflicts can become very difficult. Meanwhile, religious conflicts tend to be more influenced by global discourses than ethnic conflicts, which are more localised.<sup>267</sup> Yet ethnic relationships tend to be more permanent than religious relationships. Thus such conflicts may be harder to end.<sup>268</sup> If both these types of conflicts have unique features that make them particularly difficult to resolve, their combined complexities make ethno-religious conflicts even more difficult to resolve. For instance, David Little points to the intractability of conflicts such as those in Lebanon, Syria, Iraq, and Northern Ireland, where religion has been 'ethnicised', making social divisions more permanent.<sup>269</sup> Thus conflicts that take on the attributes of both ethnic and religious conflict 'prove very hard to end'.<sup>270</sup>

A parallel may be drawn between ethno-religious violence and the concept of intersectionality. Individuals who find themselves at the intersection of both religious

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262 *Ibid.*

263 Seth Kaplan, 'Religion, Development, and Fragile States' in Emma Tomalin (ed.), *The Routledge Handbook of Religions and Global Development* (Routledge 2015), at 422.

264 *Ibid.*

265 *Ibid.* The author observes that Nigeria and Sudan are two examples of 'how religion became interwoven with longstanding grievances among identity groups.'

266 *Ibid.*

267 *Ibid.*

268 *Ibid.*

269 David Little, 'Religion, Nationalism, and Intolerance', in T. Sisk (ed.), *Between Terror and Tolerance: Religious Leaders, Conflict, and Peacemaking* (Georgetown University Press 2011), 9-28.

270 Kaplan, *op. cit.* at 423.

and ethnic minority statuses encounter a type of violence that is more than just the sum of religious and ethnic violence taken separately. The cumulative impact of such violence is unique in its complexity and intractability. Former Special Rapporteur on Freedom of Religion or Belief, Abdelfattah Amor makes a crucial observation in this regard:

When the right to freedom of religion and the right to belong to an ethnic group or to a minority are infringed in the case of a single person or group of persons, the violation is not just a superimposition or ordinary addition of offences or discriminations. It is not just a question of multiple offences. The combination of the two offences creates a new, more serious, offence – an aggravated discrimination – which, while of varying intensity, is by its very nature a separate concept.<sup>271</sup>

Sri Lanka has witnessed conflicts between the Sinhala-Buddhist majority and the Tamil minority (essentially along ethnic lines), and the Muslim and Christian minorities (essentially along religious lines). Yet these conflicts are often understood as distinct; they are seldom described as strands within a single ethno-religious conflict. However, as discussed in the following subsections of this chapter, these conflicts share common features and appear to be driven by at least three common drivers. It is hence worth considering a new framing of conflict between the majority and minority communities in Sri Lanka: a single ethno-religious conflict between a Sinhala-Buddhist majority and several minority groups defined along ethnic and religious lines.<sup>272</sup>

### **3.2.1 Entitlement complex**

Mahāvamsian ideas of Sinhala-Buddhist dominance prior to colonisation have contributed towards a distinct socialisation of the Sinhala-Buddhist community in

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<sup>271</sup> Heiner Bielefeldt, Nazila Ghanea and Michael Wiener, *op. cit.* at 320-321. See United Nations General Assembly, *Interim Report by the Special Rapporteur of the Commission on Human Rights on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief*, 8 September 2000, A/55/280, at para.111.

<sup>272</sup> This characterisation essentially captures conflict between Sri Lanka's national majority community – Sinhala-Buddhists – and various ethno-religious minority communities. It does not imply that such a conflict is the *only* conflict or even the *only communal* conflict in Sri Lanka. For example, conflicts between Tamils and Muslims or between Hindus and Christians are not captured within this paradigm. Moreover, class conflicts between elites and the proletariat are also not captured in this paradigm; such conflicts can take place within and across ethno-religious identity strands.

Sri Lanka. The Mahāvamsa, or ‘Great Chronicle’, is proclaimed to be a historical narration of Buddhism’s ascendance in Sri Lanka.<sup>273</sup> While it is likely that a majority of Sinhala-Buddhists have never read the Mahāvamsa, the text ‘occupies...a central place in their collective *raison d’être*’;<sup>274</sup> many accordingly possess a sense of entitlement to the country. This entitlement complex is rooted in origin myths tracing back to the arrival of Prince Vijaya – believed to be the Sinhalese progenitor<sup>275</sup> – in Lanka around 2,500 years ago.<sup>276</sup> In fact, Sinhala-Buddhist nationalism relies on the Mahāvamsian passage regarding the consecration of Vijaya by the Buddha, and the specific reference to ‘Lanka’ as the place in which Buddhism will be established. The relevant passage in which the Buddha addresses Sakka, king of the gods, reads:

Vijaya, son of king Sihabahu, [has] come to Lanka from the country of Lala, together with seven hundred followers. In Lanka, O lord of gods, will my religion be established, therefore carefully protect him with his followers and Lanka.<sup>277</sup>

The passage characterises Sri Lanka as a Buddhist land, and ties such characterisation to the divine protection of Vijaya, the first Sinhalese king in Sri Lanka, and his followers. Thus the passage forms a strong mythological basis for believing that Sri Lanka is a Buddhist country, and that Sinhala-Buddhists are divinely protected at the request of the Buddha himself. This mythological narrative has remained largely unchallenged in the Sinhala-Buddhist imagination. Gananath Obeyesekere rightly observes that ‘myths that centrally define the origin and ethnic identity of a group permit little debate, unless people face problems pertaining to their origin and identity as a consequence of historical vicissitudes.’<sup>278</sup> These myths have accordingly come to be accepted as ‘indisputable history’<sup>279</sup> and have laid the foundation for the Sinhala-Buddhist entitlement complex.

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273 Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka* (East-West Center Washington 2007), at 5.

274 *Ibid.*

275 *Ibid.* at 6.

276 For an interesting exposition on Sri Lanka’s origin myths, see Alan Strathern, ‘The Vijaya origin myth of Sri Lanka and the strangeness of kingship’ (2009) 203 *Past and Present* 3–28. Also see Alan Strathern, ‘Vijaya and Romulus: Interpreting the Origin Myths of Sri Lanka and Rome’ (2014) 24(1) *Journal of the Royal Asiatic Society* 51–57.

277 Wilhelm Geiger, *The Mahavamsa or the Great Chronicle of Ceylon: Translated into English* (1950), chapter VII, verse 4. Also see Gunawardana, *op. cit.* at 5; John Holt, *The Sri Lanka Reader: History, Culture, Politics* (Duke University Press 2011), at 21.

278 Gananath Obeyesekere, ‘Myth models of the parricide: Oedipus in Sri Lanka’ in *The Work of Culture: Symbolic Transformation in Psychoanalysis and Anthropology* (1990), at 147.

279 Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 6.

More recent historical roots of this entitlement complex can be traced to the Buddhist revivalist movement of the nineteenth century and early twentieth century.<sup>280</sup> The movement had distinct champions such as Hikkaduwe Sri Sumangala Thera,<sup>281</sup> Anagarika Dharmapala and Piyadasa Sirisena. The movement relied on the popularising of Mahāvamsian ideas of Sinhala-Buddhist dominance in the country prior to colonisation. A typical narrative in this regard concerned the myth of the ‘glorious’ military victory of Sinhala-Buddhist King Dutugemunu over Tamil ‘foreign ruler’ Elara to ‘protect Buddhism and the Sinhalese nation’.<sup>282</sup> The Rajapaksa administration relied heavily on this narrative to frame the military campaign against the LTTE as a ‘patriotic war’, and succeeded in mobilising support from Sinhala-Buddhist groups on this basis.<sup>283</sup>

R.A.L.H. Gunawardana disputes this characterisation of history. He argues that these historical campaigns were more likely to be aimed at capturing territory, rather than advancing a Sinhala-Buddhist cause.<sup>284</sup> Yet, from the political stage to the classroom,<sup>285</sup> the idea that the country has historically belonged to Sinhala-Buddhists has been mainstreamed – to the point that a process of ‘socialisation’ within the Sinhala-Buddhist psyche has taken place.<sup>286</sup> Writers such as Gunadasa Amarasekera and Nalin De Silva have conceptualised this idea as the *Jathika Chinthanaya* (national thought or ideology) of the Sinhala-Buddhist majority spanning over 2,000 years.<sup>287</sup> They argue that pre-colonial Sri Lanka contained a ‘single, overarching Sinhala-Buddhist culture’ wherein minorities were respected, provided they accepted ‘the norms of the dominant culture as their own’.<sup>288</sup> This idea

280 Gombrich and Obeyesekere, *op. cit.* at 202-238.

281 See Anne M. Blackburn, *Locations of Buddhism: Colonialism and Modernity in Sri Lanka* (The University of Chicago Press 2010) for an in-depth discussion on the work of early revivalists such as Hikkadu we Sri Sumangala Thera.

282 Sasanka Perera, *The Ethnic Conflict in Sri Lanka: A Historical and Sociopolitical Outline* (World Bank 2001), at 4.

283 Sunil Bastian, ‘The Political Economy of Post-War Sri Lanka’ *ICES Research Papers*, Research Paper No. 7 (May 2013), at 9.

284 Gunawardana, *op. cit.* at 15.

285 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 35-36. The author notes: ‘History textbooks draw heavily and uncritically from the Mahāvamsa.’ For example, Chapter 6 of the Grade 6 History Textbook contains an account of Dutugemunu, a Sinhalese ruler, defeating Elara, a Tamil ruler described as ‘foreign’. According to the account, the Sinhalese ruler aimed to ‘liberate the country from foreign rule’, ‘reunite the country’ and ‘protect Buddhism’.

286 Perera, *op. cit.* at 8.

287 Ayesha Zuhair, *Dynamics of Sinhala Buddhist Ethno-Nationalism in Post-War Sri Lanka* (Centre for Policy Alternatives 2016), at 13. Also see Kalana Senaratne, ‘Jathika Chinthanaya and the Executive Presidency’ in Asanga Welikala (ed.), *Reforming Sri Lankan Presidentialism: Provenance, Problems and Prospects*, (Centre for Policy Alternatives 2015), at 208.

288 Zuhair, *op. cit.* at 13.

has engendered and sustained a Sinhala-Buddhist entitlement complex in Sri Lanka. This complex is now part of both the actual and imagined (by other communities) socialisation of many Sinhala-Buddhists, and is reflected in some ethnographic studies. For instance, a recent study of community relations in the Eastern Province revealed that religious minority groups, including Christians, Hindus and Muslims, perceived Sinhala-Buddhists as genuinely believing that ‘the country belonged to them.’<sup>289</sup>

The entitlement complex of Sinhala-Buddhists has penetrated much of Sri Lanka’s post-independence constitutional thought. The 1947 Sri Lankan Constitution (framed by the British-appointed Soulbury Commission) did not afford Buddhism special constitutional status. But as Benjamin Schonthal notes, its failure to formally protect the interests of Buddhism was one of the major bases on which this early constitutional text was criticised.<sup>290</sup> Post-colonial Sinhala-Buddhist nationalism gained momentum thereafter, and was reflected in a series of legal, institutional and constitutional measures. First, the government of S.W.R.D. Bandaranaike enacted the Official Language Act, No. 33 of 1956, which made Sinhala the official language of administration. The policy was largely designed to increase the employment of Sinhala-speakers in the public and professional services, which at the time appeared to contain a high representation of Tamils due to their better command of English.<sup>291</sup> Stanley Tambiah recalls that the Act ‘served to deepen the Sinhalese-Tamil rift...and make collective adversaries out of Sinhalese and Tamils.’<sup>292</sup>

Second, the government adopted a ‘standardisation’ policy in the 1970s, which replaced a merit-based system of determining university admission. The new system was designed to benefit Sinhalese candidates, as university admissions were made proportionate to the language in which examinations were taken. Thus regardless of the overall examination results, the number of places available to Sinhalese and

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289 International Centre for Ethnic Studies, *Community Perceptions of Religious Tolerance and Religious Tensions in Batticaloa and Trincomalee* (forthcoming).

290 Benjamin Schonthal, ‘Buddhism and the Constitution: The Historiography and Postcolonial Politics of Section 6’ in Asanga Welikala (ed.), *The Sri Lankan Republic at 40: Reflections on Constitutional History, Theory and Practice* (Centre for Policy Alternatives 2012), at 213.

291 Perera, *op. cit.* at 11. The author notes: ‘By independence, Tamils accounted for over 30% of government services admissions, a share larger than their proportion in the general population – i.e., Sri Lankan and Indian Tamils have never totalled more than 25%. By 1956, it is estimated that Tamils constituted 50% of the clerical personnel of the railway, postal and customs services, 60% of all doctors, engineers and lawyers, and 40% of other labour forces.’

292 Stanley J. Tambiah, *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy* (1986), at 75.

Tamil candidates were allocated in proportion to the number of candidates who sat examinations in Sinhala and Tamil.

Third, the first Republican Constitution of 1972 formally recognised Sinhala as the national language and afforded the ‘foremost’ place to Buddhism.<sup>293</sup> The proposal to formally grant special constitutional status to Buddhism was advanced by the Sri Lanka Freedom Party (SLFP) during the 1960s, and was eventually featured in the manifesto of the United Front in 1970.<sup>294</sup> Subsequent to its electoral success in 1970, the SLFP ensured that the following clause was included as section 6 of the 1972 Constitution:

The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster Buddhism while assuring to all religions the rights granted by section 18(1)(d).

These provisions were replicated in article 9 of the 1978 Constitution.<sup>295</sup> The new Constitution also retained Sinhala as the national language, although Tamil was later recognised as a national language following the enactment of the Thirteenth Amendment to the Constitution.

The ‘foremost place’ occupied by Buddhism remains central to Sri Lanka’s constitutional jurisprudence on religious freedom.<sup>296</sup> In *Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka (Incorporation)*<sup>297</sup> the Supreme Court of Sri Lanka considered the constitutionality of a bill to incorporate a religious institution with the stated purpose of spreading ‘knowledge of the Catholic religion’.<sup>298</sup> The institution’s mandate included providing shelter to orphans, children and the elderly. The Supreme Court struck down the bill

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293 See sections 6 and 7 of the 1972 Constitution of Sri Lanka.

294 Schonthal, ‘Buddhism and the Constitution’, *op. cit.* at 213. Also see Benjamin Schonthal and Asanga Welikala, ‘Buddhism and the Regulation of Religion in the New Constitution: Past Debates, Present Challenges, and Future Options’, *CPA Working Papers on Constitutional Reform*, Working Paper No. 3 (July 2016), at 6.

295 Article 9 provides: ‘The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha *Sasana*, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).’ The only material distinction between section 6 of the 1972 Constitution and article 9 of the 1978 Constitution is the replacement of the term ‘Buddhism’ with the term ‘Buddha *Sasana*’ in the latter text.

296 For a comprehensive discussion on the subject, see Schonthal and Welikala, *op. cit.* 14-20.

297 S.C. Special Determination No. 19/2003.

298 *Ibid.* at 2.

on the basis that it violated article 9 of the present Constitution, which guarantees the ‘foremost place’ to Buddhism. It held that article 9 restricted individuals of other religions from ‘propagating’ their faith through the provision of material benefits to those outside their religion.<sup>299</sup> The Court concluded that ‘propagation and spreading Christianity [through the provision of material benefits] would not be permissible, as it would impair the very existence of Buddhism or the *Buddha Sasana*.<sup>300</sup>

Notably, article 9 of the 1978 Constitution refers to the protection and fostering of the ‘*Buddha Sasana*’ and not only ‘Buddhism’ as in the 1972 text. Benjamin Schonthal and Asanga Welikala observe that this textual variance reflects an aim to ‘broaden the ambit of state protections for the majority religion.’<sup>301</sup> The term *sasana* is usually taken to mean the teachings of the Buddha.<sup>302</sup> However, as posited by Obeyesekere, the term has two intertwined meanings in the Sri Lankan context; in a ‘universal’ sense, it is a reference to the broader Buddhist ‘church’ or ‘community’, and in a ‘particular’ sense, it is a historical reference to Sri Lanka as the ‘physical bounds of the land consecrated by the Buddha.’<sup>303</sup> He thus argues that, since the Sinhala lexicon had no term equivalent to the term ‘nation’, the term *sasana* must be understood as belonging to the same ‘polythetic class’ as ‘nation’.<sup>304</sup> Justice Wanasundara endorses a version of this interpretation in his dissenting opinion in the *Thirteenth Amendment Bill Determination* case.<sup>305</sup> As noted by Schonthal and Welikala, Justice Wanasundara’s observations regarding ‘the spatial and “compendious” nature’ of the term ‘*Buddha sasana*’ has become influential.<sup>306</sup> They argue that, although Wanasundara’s opinion was the minority view in that particular case, it ‘has become something of a *de facto* jurisprudential doctrine in Sri Lanka and is regularly quoted in court submissions and judgments.’<sup>307</sup> Thus Sri Lanka’s constitutional framework and jurisprudence bestows on the Sinhala-Buddhist nation a special status, which has perpetuated the entitlement complex of Sinhala-Buddhists.

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299 *Ibid.* at 7.

300 *Ibid.* Also see Esufally, *op. cit.* at 10.

301 Schonthal and Welikala, *op. cit.* at 17.

302 See Carol Anderson, *Pain and its Ending: The Four Noble Truths in the Theravada Buddhist Canon* (Routledge 2013), at 33; Damien Keown, *A Dictionary of Buddhism* (Oxford University Press 2004), at 45.

303 Obeyesekere, ‘Buddhism, Ethnicity and Identity’, *op. cit.* at 207.

304 *Ibid.*

305 *In the Matter of the Thirteenth Amendment to the Constitution and Provincial Councils Bill* (1987) 2 Sri. L.R. 333.

306 Schonthal and Welikala, *op. cit.* at 17.

307 *Ibid.*

Conceptions of Sinhala-Buddhist entitlement both reflect and supersede the formal text of Sri Lanka's Constitution of 1978. On the one hand, these conceptions are reflected in the text of article 9 of the Constitution, which grants Buddhism the foremost place. On the other hand, Sinhala-Buddhist entitlement forms what one may refer to as Sri Lanka's 'political constitution', which transcends the formal text of the 1978 Constitution and exists through socio-political practice. Asanga Welikala rightly observes that this 'political constitution derived from the mytho-historical worldview of Sinhala-Buddhist nativism' constantly supersedes 'legal modernity as reflected in the text of the legal constitution.'<sup>308</sup>

The question then arises as to how this entitlement complex drives the entrenchment of ethno-religious violence. The complex first establishes a 'host-guest' dynamic within the country, whereby Sinhala-Buddhists consider themselves the 'hosts' and all other groups are considered 'guests'. The 'host' is entitled to be recognised as such, and is often inclined to treat the 'guests' with respect and tolerance. This dynamic has been observed even during pre-modern times, and 'usually operated within the framework of one hegemonic religion.'<sup>309</sup> Diverse religious practices were more or less 'tolerated', provided they did not challenge existing power structures. In fact, such tolerance may be observed in ancient Buddhist civilizations. For example, the Buddhist King Ashoka is claimed to have practised 'far-reaching' tolerance of other religious practices.<sup>310</sup> The obvious limits to the notion of tolerance within a 'host-guest' dynamic surfaces whenever the 'guest' demands an alteration to the dynamic – as in the case of the Tamil demand for more autonomy – or undermines the dominance of the 'host' – as in the cases of Muslim commercial success or Christian proselytism. In such instances, the 'host-guest' dynamic transforms into a 'host-intruder' dynamic. It is at this point of transformation that violent means of re-establishing the socio-political order are deployed. The justification for such violence in Sri Lanka appears to have mytho-historical roots. DeVotta observes that the Dutugemunu myth 'not only provides a context, no matter how dubious, for thinking that the Sinhalese and Tamils have been nemeses for two millennia, but also justifies dehumanizing non-Sinhalese, if doing so is necessary to preserve,

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308 Asanga Welikala, 'Ethnocracy or Republic? Paradigms and Choices for Constitutional Reform and Renewal in Sri Lanka' (2015) 4(1) *The South Asianist* 1–24, at 10.

309 Heiner Bielefeldt, Nazila Ghanea and Michael Wiener, *op. cit.* at 5.

310 *Ibid.*

protect [and] propagate the *dhamma* (Buddhist doctrine).'<sup>311</sup>

An early example of such violence is the anti-Muslim riots of 1915. Michael Roberts observes that in the early twentieth century, Moors were perceived by Sinhala-Buddhists as 'a cunning, economically rapacious people who were extracting wealth' that the Sinhala-Buddhists were entitled to.<sup>312</sup> He clarifies that the forces behind the riots identified not only as Buddhists but also as Sinhalese, thereby adopting an ethno-religious identity.<sup>313</sup> Meanwhile, M.A. Nuhman notes that British colonial policies designed to win Muslim loyalty, such as the abolition of the poll tax previously imposed by the Dutch, enabled Muslims to acquire wealth.<sup>314</sup> He argues that the emergence of Muslims as a successful business community prompted Sinhala-Buddhist nationalists, 'who had a strong support of the Sinhala mercantile capitalists', to start agitating against Muslims.<sup>315</sup> For example, in 1915, Sinhala-Buddhist revivalist leader Anagarika Dharmapala wrote:

The Mohammedan, an alien people by Shylockian method, became prosperous like the Jews. The Sinhalese sons of soil, whose ancestors for 2358 years had shed rivers of blood to keep the country free from alien invaders...are in the eyes of the British only vagabonds. The alien South Indian Mohammedan comes to Ceylon sees the neglected villager without any experience in trade...and the result is that the Mohammedan thrives and the son of the soil goes to the wall.<sup>316</sup>

Against this backdrop of inter-communal tensions, anti-Muslim riots broke out in 1915 following a dispute over a Buddhist procession.<sup>317</sup> The Muslims insisted that Buddhist processions must cease 'noise worship' when passing by mosques. The

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311 DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 8. The author notes the Mahāvamsian story of King Dutugemunu, which records the King lamenting the slaughter of 'millions' during his military campaign against Elara. A group of Buddhist monks then console him, claiming: 'Only one and a half human beings have been slain here.'

312 Michael Roberts, 'Teaching Lessons, Removing Evil: Strands of Moral Puritanism in Sinhala Nationalist Practice' (1996) 19 *South Asia: Journal of South Asian Studies* (Special Issue) 205-220, at 207.

313 *Ibid.* at 208.

314 M.A. Nuhman, 'Sinhala Buddhist Nationalism and Muslim Identity: One Hundred Years of Conflict and Coexistence' in John Clifford Holt (ed.), *Buddhist Extremists and Muslim Minorities: Religious Conflict* (Oxford University Press 2016), at 27.

315 *Ibid.* at 28.

316 *Ibid.* at 29 citing Ananda Guruge (ed.), *Return to Righteousness: A Collection of Speeches, Essays and Letters of Anagarika Dharmapala* (Department of Government Printing 1965).

317 See Kumari Jayawardena, 'Economic and Political Factors in the 1915 Riots' (1970) 29(2) *The Journal of Asian Studies* 223-233.

Sinhala-Buddhists considered the demand inflexible and unjust. Roberts explains that the perceived Muslim threat to Buddhism's dominant status as 'the religion of the land' was combined with the 'litany of [Sinhalese] grievances' against the Muslim community, thereby creating the conditions for communal violence.<sup>318</sup> The 1915 riots thus remain an early example of how the disruption of the 'host-guest' dynamic between Sinhala-Buddhists and a minority group eventuated in ethno-religious violence.

Michael Ignatieff's latest work on 'ordinary virtues' offers some insight into how and why these 'host-guest' dynamics emerge in a society. Ignatieff argues that individuals do not easily possess 'Universalist' moral instincts; they have a strong sense of the rights of the 'self' but not necessarily of the 'other'.<sup>319</sup> Hence identity markers relating to ethnicity and religion can quickly evolve into claims of belonging and entitlement whereby communities outside those markers are 'othered'. Wherever 'host-guest' dynamics emerge – such as in the case of Sri Lanka – identity-based contestations over resources, political space, or socio-cultural practices could escalate into violence.

It may be worth noting that the 'non-violent' attributes of the philosophy of Buddhism are hardly sufficient to deter violence. To the contrary, scholars such as Richard Gombrich and Gananath Obeyesekere argue that the ideology of Sinhala-Buddhist nationalism has caused 'violence [to take] root at the heart of the Buddhist establishment.'<sup>320</sup> Obeyesekere in fact observes that the very *question* of how Buddhists can perpetrate ethno-religious violence is incongruous.<sup>321</sup> He explains: 'Buddhism can no more than any other world religion remain immune to the larger social and economic woes that beset a nation.'<sup>322</sup> Jayadeva Uyangoda also maintains that Sinhala-Buddhism has made 'no significant contribution to the evolution of a non-violent social ideology.'<sup>323</sup> He argues that, on the contrary, Sinhala-Buddhist 'historiographical tradition and ideology inherent in it supports ethnic political

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318 Roberts, *op. cit.* at 208. Also see Michael Roberts, *Exploring Confrontation – Sri Lanka: Politics, Culture and History* (Harwood Academic Publishers 1994) at 158.

319 Michael Ignatieff, *The Ordinary Virtues: Moral Order in a Divided World* (Harvard University Press 2017). The present author had the benefit of hearing Michael Ignatieff speak on this new publication during a lecture titled 'Human Rights, Global Ethics and the Ordinary Virtues' on 27 October 2016 at Merton College, University of Oxford. Also see Michael Ignatieff, 'Human Rights, Global Ethics and the Ordinary Virtues' (2017) 31(1) *Ethics & International Affairs* 3-16, at 7.

320 Gombrich and Obeyesekere, *op. cit.* at x.

321 Obeyesekere, 'Buddhism, Ethnicity and Identity', *op. cit.* at 192.

322 *Ibid.*

323 Jayadeva Uyangoda, 'Militarisation, Violent State, Violent Society: Sri Lanka; in Kumar Rupesinghe and Khawar Mumtaz (eds.), *Internal Conflicts in South Asia* (SAGE Publications 1996), at 129.

violence.<sup>324</sup> Thus those who identify as Buddhists can and often do perpetrate ethno-religious violence.

In this overarching context, the entitlement complex of many Sinhala-Buddhists, and the advancement of a nationalist ideology rooted in such entitlement, have served to entrench ethno-religious violence as a means of maintaining political power. Thus overcoming ethno-religious violence in Sri Lanka requires acknowledging and confronting notions of Sinhala-Buddhist entitlement.

### **3.2.2 Existential fears**

Stanley Tambiah describes the Sinhala-Buddhist community as a ‘majority with a minority complex.’<sup>325</sup> This description points to deeply-felt existential fears among many Sinhala-Buddhists that other communities in Sri Lanka – Tamils, Muslims and Christians – are in reality *global* communities, making Sinhala-Buddhists the real minority. He explains that these fears may be due to ‘Sri Lanka’s miniscule size, both territorially and demographically, and the nature of the exchanges with India, especially South India, that have been interpreted in certain (tendentious) ways.’<sup>326</sup>

Three factors may be identified as sources for Sinhala-Buddhist existential fears. It is noted that these fears are intrinsically related to the entitlement complex discussed in the preceding subsection. Invariably, these factors serve to undermine Sinhala-Buddhist entitlement, thus materialising in existential fears. First, the Tamil nationalist struggle for autonomy has been interpreted as an existential threat to the Sinhala-Buddhist community. The large population of Tamils living in South India, alongside sizeable Tamil Diaspora communities, has contributed towards fears that Tamil autonomy is a ‘slippery slope’ to the total loss of Sinhala-Buddhist domination in Sri Lanka.<sup>327</sup> Scholars tend to agree that Tamil nationalism is a ‘reactive phenomenon’ – a reaction to ‘ethnocentric policies embraced by successive

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324 *Ibid.*

325 Tambiah, *Sri Lanka: Ethnic Fratricide*, *op. cit.* at 92-93.

326 *Ibid.*

327 For an in-depth discussion of this issue, see Rajan Hoole, ‘The Tamil Secessionist Movement in Sri Lanka (Ceylon): A Case of Secession by Default?’ in Metta Spencer (ed.), *Separatism: Democracy and Disintegration* (Rowman & Littlefield 1998).

Sri Lankan governments.<sup>328</sup> Yet the militant manifestation of Tamil nationalism has contributed to the further entrenchment of Sinhala-Buddhist existential fears. Notably, the LTTE killed 146 people including monks and worshippers in Anuradhapura in May 1985; killed 33 young Buddhist monks and their mentor Hegoda Indrasara Thera in Arantalawa, Ampara in June 1987; and bombed the Temple of the Tooth in Kandy in January 1998.<sup>329</sup> As observed by Neil DeVotta, Sinhala-Buddhist resistance to power sharing was ‘solidified thanks to the LTTE attacks on some of Buddhism’s most sacred symbols.’<sup>330</sup>

Second, the apparent growth of the Muslim population in Sri Lanka has been identified as a threat to the numerical majority of Sinhala-Buddhists. Statistically speaking, there has been an increase in the overall population share of Sri Lankan Moors between 1981 and 2012 – from 7% to 9.3% of the total population.<sup>331</sup> Coupled with this apparent growth are perceptions that the Muslim community ‘controls trade’ in Sri Lanka. Conflict mapping studies that aim to understand tensions between the Sinhala-Buddhist and Muslim communities often point to trade rivalries and competition as underscoring such tensions.<sup>332</sup> These perceptions and tensions make Muslims easy scapegoats for the state’s failure to deliver post-war economic prosperity to the majority population.<sup>333</sup> As discussed in the first chapter of this study, the increased visibility of Muslim cultural practices – particularly in Muslim-majority areas – has meanwhile exacerbated these fears. For example, ‘a sense of fear regarding losing their identity’ was observed among Sinhalese in Ampara – where Sinhala-Buddhists remain a numerical minority in most parts of the district.<sup>334</sup> Moreover, areas such as Kattankudy have witnessed an increase in conservative practices, such as women wearing the *niqāb*.<sup>335</sup> As rightly observed

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328 DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 37. Also see Robert N. Kearney, *Communalism and Language in the Politics of Ceylon* (Duke University Press 1967), Tambiah, *Sri Lanka: Ethnic Fratricide*, *op. cit.*; Nigel Harris, *National Liberation* (I.B. Tauris 1990); M. R. Narayan Swamy, *Tigers of Lanka: From Boys to Guerrillas* (South Asia Books 1995).

329 DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 38.

330 *Ibid.* Also see Bastian, *op. cit.* at 9. Bastian observes that the defeat of the LTTE in 2009 and ‘the consolidation of the centralised state’ strengthened the supremacy of Sinhala-Buddhist nationalism.

331 Gunatilleke, *Confronting the Complexity of Loss*, *op. cit.* at 17.

332 Jayasinghe, *op. cit.* at 5-6.

333 See Ahilan Kadirgamar, ‘The Political Economy of Anti-Muslim Attacks’, *The Island*, 2 March 2013, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=73829](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=73829) [last retrieved 13 October 2017]; Jayasinghe, *op. cit.* at 6.

334 Jayasinghe, *op. cit.* at 3.

335 An observation made during the focus group discussion with the Mohideen Jumma Grand Mosque Trustees, Sainthamaruthu on 31 March 2017.

by Mohamed Faslan and Nadine Vanniasinkam, such visible identity markers have ‘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 and its “repressive” culture.’<sup>336</sup> Moreover, these practices are incentivised by the competition to attract funding and support from Saudi Arabian donors seeking the promotion of Wahabism in Sri Lanka.<sup>337</sup> Accordingly, highly visible intra-Muslim conflicts and Muslim factionalism have been associated with radical Islam, and have contributed towards Sinhala-Buddhist suspicion towards the Muslim community as posing a genuine existential threat. Conflict mapping studies in locations including Ampara, Colombo and Galle have observed this suspicion.<sup>338</sup>

Third, Christian proselytism has posed a threat to the numerical and cultural dominance of Sinhala-Buddhists in Sri Lanka. This threat has historical roots, as the propagation of Christianity is often associated with colonial missionary projects through which significant numbers of Buddhists converted to Christianity.<sup>339</sup> It also evokes historical memories of physical, non-physical and structural violence by colonial administrations against Buddhism.<sup>340</sup> K.M de Silva, for instance, makes reference to the confiscation and vandalism of Buddhist temple property under the Portuguese administration.<sup>341</sup> He argues that the establishment of Roman Catholicism under the Portuguese was achieved through the infliction of ‘tremendous suffering and humiliation’ on the adherents of traditional religions including Buddhism.<sup>342</sup> Buddhists encountered violence under the British as well. For instance, there is evidence to suggest that the British plundered Buddhist and Hindu temples in the period immediately following the signing of the Kandyan Convention of 1815.<sup>343</sup>

While proselytism among the mainline churches including the Roman Catholic Church and the Church of Ceylon remains rare today,<sup>344</sup> smaller churches continue

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336 Faslan and Vanniasinkam, *op. cit.*, at 1.

337 *Ibid.* at 22.

338 Jayasinghe, *op. cit.* at 7.

339 Benjamin Schonthal, *Buddhism, Politics and the Limits of Law, op. cit.* at 224.

340 *Ibid.*

341 K.M. de Silva, *A History of Sri Lanka* (Penguin Books India 2005), at 258.

342 *Ibid.* at 128.

343 Sujit Sivasundaram, ‘Cosmopolitanism and Indigeneity in Four Violent Years: The Fall of the Kingdom of Kandy and the Great Rebellion Revisited’ in Zoltan Biedermann and Alan Strathern (eds.), *Sri Lanka at the Crossroads of History*, at 199.

344 See Nirmal Ranjith Dewasiri, *New Buddhist Extremism and the Challenges to Ethno-Religious Coexistence in Sri Lanka* (ICES 2016), at 16. The author argues: ‘Although there is a history behind the tension between Buddhism and Christianity in Sri Lanka, the two religious establishments have come to a tacit agreement not to penetrate each other’s sphere of influence in recent decades. As a result of this tacit agreement, no major conflicts occurred between mainstream Christians and Buddhists.’

to pose this ‘existential threat’.<sup>345</sup> In fact, the prolific proselytism of non-mainline Christian groups threatens not only the Sinhala-Buddhist majority, but also mainline Christian churches, such as the Roman Catholic Church. Thus the leadership of the Roman Catholic Church In Sri Lanka has often remained unsympathetic when smaller Christian groups encounter violence.<sup>346</sup>

These factors have converged to create broad fears among the Sinhala-Buddhist majority that their access to power, their numerical advantage and their cultural dominance are under serious threat from minority groups. For decades, these fears have legitimised state-sponsored violence against Tamils under the pretext of combating terrorism and protecting national security.<sup>347</sup> In the post-war era, these fears underscore ethno-religious violence against Muslims and Christians. Thus militant groups and Sinhala-Buddhist nationalist ideologues have capitalised on existential fears to justify and instigate violence against religious minorities. Numerous hate campaigns, such as the campaign against *halal* certification,<sup>348</sup> the call for banning the *niqāb*, and the campaign to prohibit ‘unethical conversion’, are carefully designed to resonate with the existential fears of many Sinhala-Buddhists. Moreover, the propaganda of such militant groups, such as the misinformation campaign on how Muslim-manufactured products are causing Sinhala-Buddhist women to become sterile, also play on these existential fears.<sup>349</sup> These campaigns and fears have culminated in widespread physical and non-physical violence against Muslim businesses and places of worship, and Christian pastors and churches. Discriminatory policies, such as the systematic enforcement of the 2008 Circular against Christian places of worship, are also driven by such fears. Thus some among the Sinhala-Buddhist community constantly confront the temptation to adopt violence as a means of assuaging their existential fears. As contended by Nirmal

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345 *Ibid.* at 6.

346 See for example a television interview with Cardinal Malcolm Ranjith on 17 June 2017 in which the Archbishop of Colombo opines that violence against some Christian groups may be due to the fact that these groups build churches in areas where Christians do not reside. See ‘No such attacks on churches - Cardinal Ranjith’, *adaderana.lk*, 17 June 2017, at <http://www.adaderana.lk/news/41372/no-such-attacks-on-churches-cardinal-ranjith> [last retrieved 13 October 2017].

347 See Pinto-Jayawardena *et al*, *op. cit.* at 279-280.

348 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 35. The *halal* certification system required Muslim manufacturers to obtain prior certification for certain products. The certification system was characterised by militant groups such as BBS as a means for Muslims to maintain market monopolies, as the requirement of prior certification could have the effect of discouraging Muslim customers from purchasing products from non-Muslim producers.

349 See Lukman Harees, ‘Un-official Police & Hate Goons Are Back!’, *Colombo Telegraph*, 18 May 2017, at <https://www.colombotelegraph.com/index.php/un-official-police-hate-goons-are-back/> [last retrieved 13 October 2017].

Ranjith Dewasiri, such violence has emerged as ‘a fundamental desire of the Sinhala-Buddhist nationalist imagination.’<sup>350</sup>

### **3.2.3 Buddhist monastic exceptionalism**

The Buddhist clergy in Sri Lanka ‘command enormous respect’,<sup>351</sup> and thus occupy an exceptional position within Sri Lankan society. Neil DeVotta and Jason Stone explain that the actions of Buddhist monks – even ‘wayward’ ones – are tolerated because ‘the saffron robe represents *Buddha* and *dhamma* (doctrine).’<sup>352</sup> They also observe that ‘the historical relationship between Buddhism and the state has ensured that the monks maintain influence.’<sup>353</sup> Thus the socio-political activism of Buddhist monks in either perpetuating or dissipating the entitlement complex and existential fears of Sinhala-Buddhists must be examined in light of such monastic exceptionalism.

The current socio-political activism of the Buddhist clergy is given a sense of historicity through the work of scholar monks such as Walpola Rahula Thera.<sup>354</sup> Rahula Thera emphasised the importance of the clergy’s role in social service and political activity.<sup>355</sup> He prescribed that Buddhist monks should engage in socio-political activism on the basis that the clergy had engaged in such activism since the time of the Buddha.<sup>356</sup> Rahula Thera may not have intended the formation of monastic political parties.<sup>357</sup> Yet the monastic vision he advanced has played a crucial role in the formation of Sinhala-Buddhist nationalist political parties such as JHU, which includes Buddhist monks among the party membership. DeVotta and Stone

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350 Dewasiri, *op. cit.* at 37.

351 DeVotta and Stone, *op. cit.* at 32.

352 *Ibid.*

353 *Ibid.*

354 Zuhair, *op. cit.* 9. Also see Walpola Rahula, *Bhiksuvage Urumaya (The Heritage of the Bhikku)* (1946).

355 *Ibid.*

356 Zuhair, *op. cit.* 9. Also see H. L. Seneviratne, ‘Buddhist Monks and Ethnic Politics’, in Jayadeva Uyangoda, (ed.), *Religion in Context: Buddhism and Socio-Political Change in Sri Lanka* (Social Scientists’ Association 2007), at 88. Also see DeVotta and Stone, *op. cit.* at 35.

357 According to Ven. Galkande Dammananda Thera, the priest-in-charge of the Walpola Rahula Institute, the socio-political activism of Buddhist monks in the 1940s focused on securing free education. However, in the 1950s, such activism turned to a nationalist agenda for political control, and has since never returned to the original Rahulan vision. See Dhaneshi Yatawara, “Respect public opinion” – Ven. Galkande Dhammananda’, *The Daily Mirror*, 20 July 2017, at <http://www.dailymirror.lk/article/-Respect-public-opinion-Ven-Galkande-Dhammananda-133166.html> [last retrieved 5 December 2017].

explain that the monks that Rahula Thera influenced did not consider parliamentary politics a violation of the *vinaya* (i.e. monastic code of law), but ‘instead regard[ed] such activism as a natural extension of their service as monks.’<sup>358</sup>

Juliane Schober notes that the Buddhist clergy see themselves – and are seen by the public – as ‘guardians of the Sri Lankan nation and defenders of the Dharma.’<sup>359</sup> Thus their activism has become synonymous with safeguarding a Sri Lanka in which ‘Buddhism prospered’ and the Sinhala identity remained protected.<sup>360</sup> Moreover, Buddhist monks are believed to have authored the *Mahāvamsa*; the *sangha* is virtually considered a ‘repository’ of Sinhala-Buddhist history.<sup>361</sup> In this context, monastic exceptionalism can extend to, and strengthen, the socio-political activism of monks, particularly when such activism is for the ostensible purpose of protecting Buddhism and the Sinhala identity. Such exceptionalism is also likely to cover ethno-religious violence ‘justified and encouraged’<sup>362</sup> by monks for the same ostensible purpose.

Scholars have noted Buddhist ‘exceptionalism’ in a variety of contexts, including monks entering the political arena<sup>363</sup> and the ‘constitutionally protected exceptionalism’ granted to Buddhism.<sup>364</sup> Yet little has been said of the exceptional status enjoyed by the Buddhist clergy in terms of escaping accountability for violence. Hints of such exceptionalism may be observed as early as 1959 following the assassination of Prime Minister S.W.R.D. Bandaranaike. The Prime Minister was assassinated by a Buddhist monk<sup>365</sup> named Talduwe Somarama Thero, who was later found guilty of murder and sentenced to death. The assassin was allegedly aggrieved

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358 DeVotta and Stone, *op. cit.* at 36.

359 Juliane Schober, ‘Buddhism, Violence and the State in Burma (Myanmar) and Sri Lanka’ in Linell E. Cady and Sheldon W. Simon (eds.), *Religion and Conflict in South and Southeast Asia: Disrupting Violence* (Routledge 2006), at 62.

360 *Ibid.*

361 Tessa J. Bartholomeusz and Chandra Richard De Silva, ‘Buddhist Fundamentalism and Identity in Sri Lanka’ in Tessa J. Bartholomeusz and Chandra Richard De Silva (eds.), *Buddhist Fundamentalism and Minority Identities in Sri Lanka* (SUNY Press 1998), at 7.

362 Neil DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 10.

363 See Iselin Frydenlund, ‘Particularist Goals through Universalist Means’ in Hiroko Kawanami (ed.), *Buddhism and the Political Process* (Springer 2016), at 110. The author explains that, contrary to the Buddhist prescription for monks to remain apolitical, JHU claimed a type of exceptionalism to this prescription and succeeded in justifying their entry into politics.

364 See Matthew J. Walton, ‘Buddhism, Nationalism and Governance’ in Michael Jerryson (ed.), *The Oxford Handbook of Contemporary Buddhism* (Oxford University Press 2016) at 539.

365 Michael Hertzberg, ‘The March of the Monks’ in Camilla Brautaset and Christopher M. Dent (eds.), *The Great Diversity: Trajectories of Asian Development* (Wageningen Academic Publishers 2013) at 111; Charles F. Keyes, ‘Theravada Buddhism and Political Violence’ in James K. Wellman (ed.), *Belief and Bloodshed: Religion and Violence Across Time and Tradition* (Rowman and Littlefield 2007), at 155.

by Bandaranaike's failure to deliver on promises to introduce radical nationalist reforms.<sup>366</sup> The historical narrative constructed around the assassination included the claim that the Prime Minister made a dying declaration that there should be no reprisals against the Buddhist clergy.<sup>367</sup> Bandaranaike himself was a Buddhist convert and was one of the first national leaders to embrace political Buddhism.<sup>368</sup> Ironically, his assassin Somarama Thera converted (or more likely was made to convert) to Christianity just days before his execution.<sup>369</sup> History accordingly does not record the execution of a Buddhist monk for the assassination of Prime Minister Bandaranaike; the person executed for the crime was, ultimately, a Christian convert.

The assassination story of Bandaranaike illustrates the tendency in Sri Lanka to absolve the Buddhist clergy of accountability for violence perpetrated for the ostensible purpose of safeguarding the Sinhala-Buddhist nation. Where such absolution is not possible in the case of specific individuals – such as in the case of Somarama Thera – the individual is stripped of his Buddhist identity prior to holding him accountable. This historical exceptionalism has over time evolved into a culture of impunity, which is reflected in the attitudes towards violence perpetrated or instigated by the Buddhist clergy today.

A good example of the impunity enjoyed by the Buddhist clergy is the case of Ampitiye Sumanarathana Thero, the chief incumbent monk of the Mangalaramaya Temple in Batticaloa. Video footage and photographs of the monk assaulting police officers, destroying public property and verbally abusing state officials – including using racist language – has permeated the media.<sup>370</sup> Yet the monk is still to face any criminal charges for his actions. Meanwhile, BBS General Secretary, Gnanasara Thera evaded arrest for several days, and was promptly granted bail when he finally surrendered to the courts.<sup>371</sup> While the impunity Gnanasara Thera has enjoyed under the new government is notably less than the absolute impunity he enjoyed under

366 D.B.S. Jeyaraj, 'The Assassination of Prime Minister S.W.R.D. Bandaranaike 55 Years Ago', *dbsjeyaraj.com*, 1 October 2014, <http://dbsjeyaraj.com/dbsj/archives/33515> [last retrieved 13 October 2017].

367 See D.B.S. Jeyaraj, *SWRD Bandaranaike: Assassination of a Prime Minister*, 25 September 2009, at <http://dbsjeyaraj.com/dbsj/archives/1101> [last retrieved 13 October 2017].

368 Keyes, *op. cit.* at 155. Also see James Manor, *The Expedient Utopian: Bandaranaike and Ceylon* (Cambridge University Press 1989); Stanley J. Tambiah, *Buddhism Betrayed?: Religion, Politics, and Violence in Sri Lanka* (University of Chicago Press 1992).

369 'Buddhist baptized on eve of execution', *The Times* (London), 5 July 1962, at 10.

370 'Ampitiye Sumanarathana: The Untold Truth', *Frontpage*, 29 November 2016, at <http://www.frontpage.lk/page/Ampitiye-Sumanarathana-The-Untold-Truth/16809> [last retrieved 13 October 2017].

371 'Gnanasara Thera gets bail twice in two days', *Daily News*, 22 June 2017, at <http://www.dailynews.lk/2017/06/22/law-order/119728/gnanasara-thera-gets-bail-twice-day> [last retrieved 13 October 2017].

the Rajapaksa administration, the hesitance of both the police and the judiciary in securing his arrest and detention reinforces Buddhist monastic exceptionalism in Sri Lanka. Section 14(1) of the Bail Act, No. 30 of 1997 sets out clear criteria on which bail should be denied to a person. These include when the court has reason to believe: (a) that the suspect would (i) not appear to stand his inquiry or trial, (ii) interfere with the witnesses or the evidence against him or otherwise obstruct the course of justice, or (iii) commit an offence while on bail; or (b) that the particular gravity of, and public reaction to, the alleged offence may give rise to public disquiet. At least one of these criteria applies to the case of Gnanasara Thero. Thus the continued granting of bail to the monk is peculiar, except for the fact that he too benefits from the extraordinary status granted to the Buddhist clergy in Sri Lanka.

The exceptionalism of the clergy, however, must not be examined in a political vacuum. In reality, this exceptionalism feeds into the decision-making of political actors, and feeds off the patronage of powerful actors within the state.<sup>372</sup> It arises due to the ‘symbiotic’ relationship between the Buddhist clergy and politicians.<sup>373</sup> Such symbiosis is perceived as having deep historical roots. For example, both ‘indigenous’ rulers such as Parākramabāhu I and ‘foreign’ rulers such as Nissanka Malla are historically credited for ‘reviving “Sinhala-Buddhist” polities’.<sup>374</sup> In such context, paying homage to the Buddhist monastic community was a natural means of entrenching a ruler’s legitimacy within the Sinhala-Buddhist polity. Political actors today similarly reinforce the exceptionalism of the Buddhist clergy because such exceptionalism is perceived as being embedded in the psyche of many Sinhala-Buddhist voters. The culture of venerating Buddhist monks is familiar to political elites, particularly those from rural and suburban backgrounds. Thus acts and words that reinforce monastic exceptionalism often amount to expressions of cultural legitimacy among Sinhala-Buddhist voters. Even the more cosmopolitan political elites who lack such cultural legitimacy may opt to tolerate monastic exceptionalism in a bid to appeal to those voters.

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372 The author is particularly indebted to Sarinda Perera for sharing his thoughts and insights on this topic.

373 Zuhair, *op. cit.* at 9, citing Jayadeva Uyangoda ‘Paradoxes of Buddhism’ in Jayadeva Uyangoda, (ed.), *Religion in Context: Buddhism and Socio-Political Change in Sri Lanka* (Social Scientists’ Association 2007), at 1-2.

374 Tambiah, *Sri Lanka: Ethnic Fratricide, op. cit.* at 94.

The failure to initially arrest Gnanasara Thero, and the promptness of his release, reflects this reality. Despite the fact that the Cabinet of Ministers issued a statement on ethno-religious violence expressing a commitment to combat impunity,<sup>375</sup> there was speculation that ministers in the Cabinet were in fact protecting the monk.<sup>376</sup> While the reasons for such protection may be numerous, it is reasonable to assume that the general inclination of the state to appease the Buddhist clergy was among such reasons. As explained by DeVotta, it appears that the high respect the institution of the *sangha* enjoys has resulted in the treatment of even wayward monks with ‘grudging respect’.<sup>377</sup>

A statement by the Mahanayake of the Asgiriya Chapter on 20 June 2017 reaffirms monastic exceptionalism in Sri Lanka – and indeed its application to even rogue monks such as Gnanasara Thero. The statement – though disapproving of Gnanasara Thero’s ‘aggressive’ approach – appeared to legitimise his campaigns. It claimed that Gnanasara Thero’s views ‘cannot be discarded’ without inquiring further into the veracity of the issues raised by him.<sup>378</sup> The statement avoided any condemnation of hate speech or acts of violence perpetrated by BBS. Thus the mainstream Buddhist establishment has been unwilling to endorse, let alone advance, the accountability of Buddhist monks even outside the mainstream. This exceptionalism has contributed to the entrenchment of ethno-religious violence in the country, as a fair proportion of such violence is perpetrated either directly by, or at the instigation of, Buddhist monks such as Gnanasara Thero. With the continued tolerance of such violence comes an invitation for its recurrence, and eventually, its entrenchment.

The entitlement complex and the existential fears of Sinhala-Buddhists alongside Buddhist monastic exceptionalism explain to some extent how and why ethno-religious violence has persisted despite the change of government in 2015. Such violence is deeply embedded within Sri Lankan society, and consequently the Sri Lankan state, and cannot be overcome merely through governmental change. Thus the entrenchment of ethno-religious violence in Sri Lanka can be attributed to the

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375 ‘Statement by Cabinet of Ministers on recent attacks on religious places’ *Official website of the Department of Government Information*, 14 June 2017, at <https://www.dgi.gov.lk/news/latest-news/1271-statement-by-cabinet-of-ministers-on-recent-attacks-on-religious-places> [last retrieved 13 October 2017].

376 Zacki Jabbar, ‘Minister hiding Gnanasara Thera?’, *The Island*, 8 June 2017, [http://island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=166393](http://island.lk/index.php?page_cat=article-details&page=article-details&code_title=166393) [last retrieved 13 October 2017].

377 DeVotta, *Sinhalese Buddhist Nationalist Ideology*, *op. cit.* at 38.

378 ‘Asgiriya chapter issues tough statement’, *Daily Mirror*, 20 June 2017, at <http://www.dailymirror.lk/article/Asgiriya-chapter-issues-tough-statement-131273.html> [last retrieved 13 October 2017].

continued application of these drivers. The same factors that govern the entrenchment of violence by Sinhala-Buddhist actors may manifest similarly in the case of regional or local majorities. Hindus, Muslims and mainline Christians may have entitlement complexes and existential fears whenever they enjoy majority status in specific regional or local contexts. They too may adopt 'dualisms' such as 'self' and 'other' to retain a particular dominant status within a region or locality.<sup>379</sup> For instance, these complexes and fears may explain incidents of violence against Muslims and Christians in Hindu-dominated areas. Moreover, the general call by both Hindu groups and the leadership of the Roman Catholic Church<sup>380</sup> to regulate 'unethical conversions' may stem from such complexes and fears. In this overarching context, future interventions to prevent chronic and acute violence against minorities in Sri Lanka must be designed to neutralise prevailing entitlement complexes, existential fears and exceptionalism. Thus it is clear that a radical transformation is required in the country if ethno-religious violence is to be sustainably overcome.

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379 Bartholomeusz and De Silva, *op. cit.* at 17.

380 See 'Cardinal calls for new laws to ban forcible conversion', *The Island*, 29 March 2017, at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=162777%C2%A0%C2%A0%20%C2%A0%20](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=162777%C2%A0%C2%A0%20%C2%A0%20) [last retrieved 13 October 2017].

## Chapter 4

### **Conclusion: Transforming Ethno-Religious Relations**

The entitlement complexes, existential fears and exceptionalism of majority populations can shape identity politics in intractable ways. They can remain deeply embedded in multicultural societies and underlie violence between communities. In Sri Lanka, these factors have served to entrench ethno-religious violence. The question then arises as to how such violence can be effectively and sustainably overcome. Can a rule of law approach, whereby perpetrators are brought to justice through law enforcement, overcome such violence? The Sri Lankan experience suggests that reliance on such an approach is grossly inadequate, as law enforcement is often inclined to only contain 'acute' forms of violence. It is mostly ineffective in curbing chronic violence. In conjunction with the rule of law approach, can a human rights approach, whereby religious freedom and minority rights are promoted and protected, overcome ethno-religious violence? Scholars including Abdullahi An-Na'im suggest that such an approach too – if framed in state-centric and legalistic terms – will fail. This concluding chapter attempts to understand precisely why An-Na'im might be right in the case of Sri Lanka. It discusses the relationship between the three drivers that underlie ethno-religious violence in Sri Lanka and the potential weaknesses in a state-centric and legalistic human rights approach. The chapter then discusses an alternative approach focused on cultural transformation, and presents intervention strategies that may help achieve such transformation. It explores the theory that overcoming entrenched violence in Sri Lanka requires a more radical, 'generational' project designed to transform ethno-religious relations and establish a culture of religious freedom and equal citizenship.

## 4.1 Cultural legitimacy

An-Na'im posits that the international human rights corpus contains two fundamental paradoxes. The first is the paradox of universalism, as the very terminology of the 'universal' incorrectly asserts that human rights norms are supported across cultures. We know this assertion to be untrue simply by considering the multitude of objections to human rights on the basis of cultural relativism.<sup>381</sup> As explained by scholars including Makau Mutua<sup>382</sup> and David Kennedy,<sup>383</sup> even if universal human rights norms may exist in theory, the present articulation of 'universal' human rights norms appear to be heavily influenced by Western liberal thought, and lack what An-Na'im terms 'cultural legitimacy'. An-Na'im compellingly argues that 'the legitimacy of human rights in various cultural traditions is necessary for both the theoretical universality and practical efficacy' of international human rights norms.<sup>384</sup>

The universalism paradox has a particular bearing on religious freedom in Sri Lanka. Despite the fact that the Sri Lankan Constitution recognises and protects religious freedom, this freedom appears to lack cultural legitimacy – particularly at the local level. Two phenomena at the local level may be cited to substantiate this claim. First, chronic violence has persisted at the local level regardless of national level commitments by the government to end ethno-religious violence. The religious freedom of minority communities is thus subject to certain conditions, such as non-intrusion into the dominant space occupied by Buddhism. Any threat to such dominance – such as the propagation of another religion – is often met with violence, which is tolerated by the state. Thus religious freedom is not accepted as a universal norm in practice. Such freedom is instead 'granted' under certain specific conditions designed to maintain the dominance of Buddhism. Second, as demonstrated by Esufally, the lower courts in Sri Lanka have deliberately avoided framing violence against religious minorities in terms of religious freedom. She observes:

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381 Abdullahi An-Na'im, 'Universality of Human Rights: Mediating Paradox to Enhance Practice' in Miodrag A. Jovanovic and Ivana Kristic (eds.), *Human Rights Today - 60 Years of The Universal Declaration* (Eleven International Publishing 2010), at 34-35.

382 Makau Mutua, 'Savages, Victims, and Saviours: The Metaphor of Human Rights' (2001) *Harvard International Law Journal* 201.

383 David Kennedy, 'The International Human Rights Movement: Part of the Problem' (2002) 15 *Harvard Human Rights Journal* 101.

384 An-Na'im, *op. cit.* at 30.

Violence that is often religiously motivated is rarely acknowledged as such by the [lower] courts. This omission results in a trend that punishes offenders for criminal behaviour rather than for *religiously motivated* criminal behaviour; an outcome that has the potential to de-link the violence from the context in which it is perpetrated. This process of de-linking creates a framework where discrimination against minority religious communities becomes permissible, even though the violence perpetrated against them is not.<sup>385</sup>

The jurisprudence of lower courts has undervalued the importance of protecting and promoting the religious freedom of minorities. The jurisprudence only affirms the right to be free from physical violence, rather than the right to freedom of religion. It reflects the fact that the religious freedom of minorities lacks cultural legitimacy, as perpetrators are only held accountable for the ‘means’ adopted in violating the religious freedom of minorities; their ‘end’, i.e. curtailing the religious freedom of minorities, is not questioned in terms of any human rights norm relating to freedom of religion.

The second paradox cited by An-Na’im concerns the self-regulation of the state. He argues that effective protection of human rights as presently conceived requires ‘the mobilization of the maximum possible degree of political will at the local, national and international level[s].’<sup>386</sup> He adds that such political will ‘is unlikely to emerge and be maintained if human rights are perceived to be lacking cultural legitimacy or contextual viability.’<sup>387</sup> These dynamics are particularly true when the state embodies a distinct cultural dispensation. In Sri Lanka, Sinhala-Buddhist entitlement is deeply embedded within the state, and is reflected in constitutional and socio-political structures. If such majoritarianism is the governing reality of the state, expecting the state to protect and promote the religious freedom of minorities as a matter of *rights* exercisable against the majority is both improbable and unsustainable. An-Na’im accordingly explains: ‘too much emphasis has been placed on a narrow, state-centric, legalistic, and reactive approach to international human rights standards.’<sup>388</sup> He clarifies that by ‘state-centric and legalistic’ he means ‘the tendency

385 Esufally, *op. cit.* at 19.

386 An-Na’im, *op. cit.* at 36.

387 *Ibid.* at 36-37.

388 *Ibid.* at 38.

to perceive the legitimacy and authority of human rights standards as founded on the legal obligation of states.<sup>389</sup> Other scholars including Benjamin Schonthal have also proposed a departure from purely legalistic approaches to reform. Schonthal compellingly argues that ‘constitutional mediation’ – by which he means dispute resolution through constitutional litigation – has served to polarise ethno-religious disputes further, making them even more intractable.<sup>390</sup>

Religious freedom advocates have tended to focus on ‘discrete or isolated rights and [to] pursue specific remedies for individual violations through judicial or administrative remedies.’<sup>391</sup> An-Na’im argues that such an approach is unsustainable and is unable to address ‘underlying causes’ of human rights violations. The persistent chronic violence encountered by religious minorities in Sri Lanka is perhaps due to this very weakness in the discourse on religious freedom in the country – it has thus far been unable to address the underlying causes of violence. Ultimately, reliance on the Sri Lankan state to discharge a legal obligation to protect the religious freedom of minorities is futile if such freedom is not accepted as legitimate within the cultural mores that shape the state. Hence a process that redefines those cultural mores is crucial to ending ethno-religious violence in Sri Lanka, and protecting and promoting the religious freedom of minorities.

#### **4.2 Ordinary virtues and cultural transformation**

Rule of law and state-centric human rights approaches have proven to be inadequate in terms of sustainably combating ethno-religious violence in Sri Lanka. These approaches simply fail to confront the realities of Sinhala-Buddhist entitlement and existential fears, and Buddhist monastic exceptionalism – all of which must be understood and addressed to overcome the entrenched nature of ethno-religious violence. In the face of such inadequacy, alternative approaches must be conceived and tested. In *The Chronic and the Acute*, this author discussed several intervention strategies to deal with communal violence in Sri Lanka. These strategies remain relevant to dealing with ethno-religious violence today. Yet they require elaboration to fit the contemporary context in Sri Lanka.

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389 *Ibid.* at 38-39.

390 Benjamin Schonthal, *Buddhism, Politics and the Limits of Law*, *op. cit.* at 219.

391 An-Na’im, *op. cit.* at 39.

The first two intervention strategies – enforcing law and strengthening institutions – relate to a rule of law approach. They remain relevant to preventing and containing acute violence, and to some extent, chronic violence. They are also crucial to dealing with the culture of impunity in which ethno-religious violence is perpetrated. As pointed out by Neil DeVotta, '[g]iven that individuals and groups may seek to maximise accruable benefits, polyethnic societies especially need to design institutions that promote and provide impartial interactions.'<sup>392</sup> Thus some resources must continue to be channelled into enforcing existing laws and strengthening law enforcement and judicial institutions. Yet these strategies must be grounded in the acknowledgement of their inherent limitations. As pointed out by Brian Tamanaha, the law cannot be transplanted to clash with or be distant from 'the social life and understandings of the populace.'<sup>393</sup> A rule of law approach is unlikely to succeed where it has no underlying cultural legitimacy.

A third strategy involving community-based early warning systems was recommended in *The Chronic and the Acute* as a means of preventing violence in ethnically and religiously diverse areas. This strategy also remains relevant today, as the effective protection of vulnerable minority communities may be contingent on such early warning systems. Best practices relating to early warning systems often emphasise the importance of civil society and youth participation.<sup>394</sup> For example, an early warning system set up by Search for Common Ground in Nigeria's Borno State – an area affected by the Boko Haram insurgency – featured 'community forums', which identified youth with the capacity to monitor violence, and compile reports.<sup>395</sup> The system also included a Short Message Service (SMS) system through which community members directly reported concerns to an Advisory Committee, which was trained and equipped to analyse information. Once information was verified, it was presented to the Community Forum, which determined courses of action.<sup>396</sup> Early warning systems of this nature have been recommended by Sri Lanka's Lessons Learnt and Reconciliation Commission.<sup>397</sup> Yet their potential is limited to preventing

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392 DeVotta, 'From ethnic outbidding to ethnic conflict', *op. cit.* at 146.

393 Brian Z. Tamanaha, 'The Primacy of Society and the Failures of Law and Development' (2011) 44(2) *Cornell International Law Journal* 209-248, at 244.

394 Steven Leach, *Preventing Violence: Community-based Approaches to Early Warning and Early Response* (CSS ETH Zurich 2016).

395 *Ibid.* at 21.

396 *Ibid.*

397 Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011), at para.8.274.

the escalation of communal tensions to violent conflict, rather than addressing the underlying drivers of ethno-religious violence.

The fourth intervention strategy presented in *The Chronic and the Acute* related to peace-building, human rights education, and discourse transformation. This strategy entails human rights and peace education programmes, and economic stimulus and cooperation programmes.<sup>398</sup> The study accordingly recommends that national discourses on religious freedom be re-shaped to ‘emphasise the equal status of all religious communities.’<sup>399</sup> It also recommends that the ‘host-guest’ dynamic that exists at the local level be replaced by a ‘climate of coexistence between religious groups with equal status despite numerical disparities.’<sup>400</sup> The current state of ethno-religious violence in Sri Lanka has revealed the importance of this fourth strategy. Discourse transformation is at the heart of any genuine effort to end ethno-religious violence and establish a climate of coexistence and equal citizenship. The precise means of achieving such a transformation requires further thinking and elaboration. For instance, human rights education programmes that rely purely on a legalistic and state-centric human rights approach as a frame of reference are unlikely to succeed in transforming the thinking of the majority community. It is worth noting Tamanaha’s warning that projects designed to build a ‘culture’ that respects the rule of law are bound to fail for the same reasons that institutional reform is likely to fail.<sup>401</sup> He argues that culture and institutions are ‘mutually constitutive’: they emerge at the same time and grow together.<sup>402</sup> Yet Tamanaha’s challenge may to some extent be overcome if the process of cultural transformation is incremental and relies fundamentally on a vocabulary that resonates with the local community that is the subject of transformation.<sup>403</sup> In this context, An-Na’im’s approach to cultural transformation is worth considering as a viable alternative. He argues that rule of law and state-centric human rights language often fail to resonate with local communities. These languages may resonate with victims seeking to advance their rights, but they often fail to appeal to dominant communities that do not need to rely

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398 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 55.

399 *Ibid.*

400 *Ibid.*

401 Tamanaha, *op. cit.* at 214.

402 *Ibid.*

403 An-Na’im, *op. cit.* at 39. Also see Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press 2005), at 219-221. Merry emphasises the importance of the ‘vernacularisation’ of human rights ideas to ensure their sustained resonance with local communities.

on a rights framework to meet their needs. In such a context, An-Na'im argues for the use of 'arguments [that] are likely to be persuasive to the specific community, or able to address their apprehensions and concerns, in relation to whatever frame of reference that is accepted by that community as authoritative or applicable.'<sup>404</sup>

The recent work of Michael Ignatieff appears to support this view. He argues that universal moral recognition of the human rights of 'others' is not well established across cultures. In such a context, he suggests that 'ordinary virtues' be relied upon as a complementary language that could resonate with the specific communities concerned.<sup>405</sup> He therefore advocates for more emphasis to be placed on 'ordinary virtues' such as compassion, tolerance, mutual recognition and forgiveness to convince individuals and communities to recognise and respect the 'other'. In a study carried out across eight countries over three years, Ignatieff found that individuals rarely 'evoked ideas of general obligation to human beings,' but instead frequently 'reasoned in terms of the local, the contingent, the here and now – what they owed those near to them and what they owed themselves.'<sup>406</sup> He clarifies that the language of ordinary virtues ought not to replace rights language, but rather that it be used to complement and strengthen existing rights discourses. For instance, the language of the 'gift' to the stranger was found to have stronger universal appeal than the language of the stranger's 'rights'. Ignatieff accordingly suggests that the language of 'hospitality' be used more frequently when engaging local communities on the human rights of refugees.<sup>407</sup> He recommends that human rights advocates better acquaint themselves with the language of ordinary virtues, as it has greater practical resonance at the local level.

The question then remains as to whether the arguments in favour of religious freedom can be made by 'appealing to more fundamental or widely-held values.'<sup>408</sup> A two-pronged strategy could be adopted to ascertain and mainstream such values in the Sri Lankan context.

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404 *Ibid.*

405 Ignatieff, 'Human Rights, Global Ethics and the Ordinary Virtues', *op. cit.* at 4.

406 *Ibid.* at 10.

407 *Ibid.* at 11. Also see Michael Ignatieff, 'Human Rights, Global Ethics and the Ordinary Virtues' (2017) 13 (1) *Journal of International Law and International Relations* 1-9, at 7.

408 An-Na'im, *op. cit.* at 39.

First, local values that complement religious freedom and equal citizenship must be identified, and promoted as mainstream values held by the Sinhala-Buddhist majority. Gananath Obeyesekere asks a relevant question in this regard:

What can concerned Buddhist lay-folk and monks do to bring about a critique of contemporary life that might in turn have some effect in creating a new vision of society, one better geared to Buddhist doctrinal values, rather than one oriented towards a destructive Sinhala nationalism?<sup>409</sup>

This type of introspective project to advance a vision of society compatible with both Buddhist doctrinal values and religious freedom is crucial. Yet the precise nature and content of ‘widely-held values’ that are compatible with religious freedom remain somewhat unclear. A precise exposition on what those values might be would require empirical research that is beyond the scope of this study. However, it is possible to surmise that such values exist and are discoverable. On the one hand, ordinary virtues such as ‘reciprocity’ and ‘respect’ do exist across communities and could be invoked to justify the recognition of religious freedom and equal citizenship. On the other hand, Buddhist norms such as *mettā* (loving kindness) and *karuṇā* (compassion) may be invoked to foster a culture of coexistence that is not contingent on a paternalistic notion of ‘tolerance’. These virtues and norms must be meaningfully explored and mainstreamed among the Sinhala-Buddhist majority if religious freedom of minorities is to become culturally legitimate. Religious minorities must in turn subscribe to similar or equivalent virtues and norms in order to demonstrate reciprocity and mutual respect. Such a process is certainly not beyond the realm of imagination in Sri Lanka. For instance, community-based projects, such as the International Centre for Ethnic Studies’ ‘Building Resilient Communities’ project, adopt this very approach. Such projects ought to be replicated, as they understand the importance of cultivating inter-communal understanding and empathy, ‘moving beyond the limited paradigm of tolerance.’<sup>410</sup> Moreover, thinkers within the Buddhist monastic community, such as Galkande Dhammananda Thera, have called for a holistic and inclusive approach to the restoration of trust between ethno-religious

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409 Obeyesekere, ‘Buddhism, Ethnicity and Identity’, *op. cit.* at 192.

410 Gunatilleke, *The Chronic and the Acute*, *op. cit.* at 35-36.

communities.<sup>411</sup> Ultimately, ethno-religious coexistence must be achieved through a process of socio-cultural, economic and political negotiation between communities to determine the peaceful terms on which they manifest their religion or belief, access resources, and share power.

Second, belief systems that are fundamentally at odds with religious freedom and equal citizenship need to be addressed through a process of cultural transformation. The extent to which a resonant vocabulary can advance religious freedom and equal citizenship is limited by competing belief systems that promote religious antagonism. In Sri Lanka, entitlement complexes, existential fears and exceptionalism serve to promote inter-communal antagonism and often underlie ethno-religious violence. They fundamentally shape the manner in which majority communities view themselves and assess threats to their existence. Discourses that legitimise and perpetuate these beliefs must be transformed.

Primary and secondary school curricula remain a crucial domain in which the identities and beliefs of individuals are shaped. As observed in *The Chronic and the Acute*, the impressionable minds of children have been continuously subjected to a process of socialisation whereby Sri Lanka is framed as a Sinhala-Buddhist country in which other communities are 'foreign'.<sup>412</sup> A UNESCO Policy Paper published in December 2016 observes:

In Sri Lanka, textbooks long fostered enmity between ethnic groups. Sinhalese textbooks portrayed Sinhala kings as heroes defeating the Tamils, who were depicted as invaders. Sinhalese Buddhists were presented as the only true Sri Lankans. The textbooks present role models that are almost exclusively Sinhalese, such as the kings Vijabahu I and Parakramabahu or prominent Sinhalese politicians. The absence of Tamil or Muslim role models offers pupils from minority communities few figures with whom to identify.<sup>413</sup>

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411 See for example, Galkande Dhammananda Thera, 'How do we build trust between communities?', public lecture organised by the Movement to Protect Democratic Rights, at <https://www.youtube.com/watch?v=v4dqYD4FohE> published in October 2017 [last retrieved 5 December 2017]. Also see Yatawara, *op. cit.*

412 International Centre for Ethnic Studies, *Building Resilient Communities* (Technical Proposal) (2013).

413 UNESCO, 'Textbooks pave the way to sustainable development', *Global Education Monitoring Report – Policy Paper No. 28*, December 2016, at 11-12. Also see M. T. A. L. Cardozo, 'Sri Lanka: In Peace or in Pieces? A Critical Approach to Peace Education in Sri Lanka' (2008) 3(1) *Research in Comparative and International Education* 19-35. The author is particularly grateful to rights activist Puni Selvaratnam for her reflections and insights on this issue.

The UNESCO paper maintains that, while recent reform of the curricula was undertaken to exclude ‘strong explicit stereotypes’ of minorities, textbooks were largely confined to a ‘Sinhalese-centric history of the country.’<sup>414</sup> These textbooks thus fail to recognise ‘alternative interpretations of historical events’ to prompt students to critically reflect on the past.<sup>415</sup> Instead, school curricula in Sri Lanka reinforce the socialisation of Sinhala-Buddhist entitlement. Such a process of socialisation may be difficult to reverse in adulthood. Thus an initial project of vetting and revising the curricula to eliminate discourses that perpetuate ethno-religious superiority, and inter-communal antagonism and ‘mistrust’, must be undertaken.<sup>416</sup> Such initiatives are not altogether alien to current thinking on educational reform. For example, a new subject called ‘Think Equal’ was recently introduced in pilot schools across twelve districts in Sri Lanka.<sup>417</sup> The new subject teaches children between the ages of three and seven years core values including gender sensitivity and equality. On 1 August 2017, the Cabinet of Ministers approved the introduction of this programme in all pre-schools in the country.<sup>418</sup> If implemented in a sustained and effective manner, programmes of this nature may be vital to achieving positive transformation wherein religious freedom and equal citizenship become culturally legitimate ideas among future generations.

Apart from school curricula, official narratives of the state also tend to reinforce the idea of Sinhala-Buddhist entitlement. An example of this tendency can be found in the recent publication *People of Sri Lanka* produced by the Ministry of National Coexistence, Dialogue and Official Languages.<sup>419</sup> In one particular passage, the publication claims that ‘Sinhala-Buddhists, Tamil-Hindus, Sinhalese Christians and Muslims’ coexisted in ‘peace and harmony’, which was a hallmark of the ‘Sinhala nation’ throughout history.<sup>420</sup> In effect, the official narrative of the Sri Lankan state is that the country is and always has been a ‘Sinhala nation’. This narrative perpetuates the entitlement complex of Sinhala-Buddhists, and undermines prospects for a

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414 UNESCO, op. cit. at 11.

415 *Ibid.* at 12.

416 For a useful discussion on this subject, see Shamara Wettimuny, ‘The Danger in Distorted Education: Sri Lanka’s History Curriculum’, *Groundviews*, 29 October 2016, at <http://groundviews.org/2016/10/29/the-danger-in-distorted-education-sri-lankas-history-curriculum/> [last retrieved 26 August 2017].

417 United Nations Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Sri Lanka* (24 August 2017), A/HRC/WG.6/28/LKA/1, at para.29.

418 *Ibid.*

419 Ministry of National Coexistence, Dialogue and Official Languages, *People of Sri Lanka* (2017).

420 *Ibid.* at 14.

meaningful transformation of ethno-religious relations whereby all communities secure a legitimate claim to the country. Official narratives of this nature need to be discontinued and replaced with alternative narratives that establish the historicity of multiculturalism and equal citizenship.

Social media remains another crucial arena in which cultural discourse is generated and transformed. As observed by Shilpa Samaratunge and Sanjana Hattotuwa, social media can become a platform for hate speech against religious minorities.<sup>421</sup> Moreover, militant groups use social media sites to disseminate propaganda that provoke and reinforce notions of communal entitlement and existential fears. Social media can accordingly establish the toxic conditions that precede ethno-religious violence: what Stanley Tambiah (writing before the advent of modern social media) calls ‘the rumour waves of prejudice and demonization.’<sup>422</sup> He observes that distorted perceptions and active physical violence are often ‘parallel and complementary processes.’<sup>423</sup> This sort of rumour generation and dissemination was observed in the Gintota incident of November 2017. According to some reports, the violence was incited via social media through the spreading of rumours that Muslims were planning attacks on Sinhalese in Gintota.<sup>424</sup> Thus critically engaging voices within social media spaces is crucial to the overall project of protecting and promoting religious freedom and equal citizenship.

Yet the temptation to invite excessive state regulation of social media for the purpose of combating the advocacy of racial or religious hatred and protecting national security interests must be resisted. State actors have articulated ambitions to regulate social media on more than one occasion. For instance, in 2014, former Defence Secretary Gotabaya Rajapaksa claimed that ‘the final threat to Sri Lanka's national security is the emergence of new technology-driven media, including social media.’<sup>425</sup> Actors within the present administration, including Prime Minister Ranil

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421 Shilpa Samaratunge and Sanjana Hattotuwa, *op. cit.* at 21.

422 Stanley J. Tambiah, *Leveling Crowds: Ethnonationalist Conflicts and Collective Violence in South Asia* (University of California Press 1997), at 291.

423 *Ibid.*

424 Social Media Rumours Escalate Buddhist-Muslim Violence in Sri Lanka’, *Global Voices*, 23 November 2017, at <https://globalvoices.org/2017/11/23/social-media-rumors-escalate-buddhist-muslim-violence-in-sri-lanka/> [last retrieved 5 December 2017].

425 Gotabaya Rajapaksa, ‘Reconciliation will enhance national security’, *The Sunday Observer*, 31 August 2014, <http://www.sundayobserver.lk/2014/08/31/fea02.asp> [Last retrieved on 26 August 2017].

Wickremasinghe, have also expressed a desire to regulate social media for the purpose of combating ‘extremism’.<sup>426</sup> Moreover, the recent Gintota incident appears to have generated further momentum towards state regulation of social media.<sup>427</sup>

Yet Bielefeldt *et al* caution against such an approach, primarily due to the ambiguity in which ‘extremism’ is framed and interpreted. They argue that inviting state regulation of this nature would ‘substantially increase state control over religious communities.’<sup>428</sup> Such regulation is particularly problematic in the Sri Lankan context, as the state displays a distinct majoritarian dispensation. It could lead to the suppression of perfectly legitimate speech and manifestations of religion by minority communities, rather than prevent violence. A sounder approach would be to strictly enforce laws on the incitement of violence, and to rely on a process of counter-messaging to combat offensive speech on social media.<sup>429</sup> This process of counter-messaging is precisely what instruments such as the Rabat Plan of Action prescribe as an alternative to state regulation of offensive speech.<sup>430</sup> Importantly, the Rabat Plan of Action reinforces the central theses of scholars such as An-Na’im and Ignatieff on the use of resonant vocabularies. It correctly acknowledges that ‘positive traditional values, compatible with internationally recognised human rights norms and standards, can...contribute towards countering incitement to hatred.’<sup>431</sup> Thus countering harmful discourses that permeate social media remains an important part of generating cultural legitimacy for religious freedom and equal citizenship in Sri Lanka.

The slow process of cultural transformation in Sri Lanka depends on the promotion of ordinary virtues and widely-held values that are compatible with religious freedom and equal citizenship. It is also reliant on the elimination of antagonistic discourses and narratives that undermine such freedom and citizenship. The ultimate goal of

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426 Amali Mallawaarachchi, ‘Laws needed to regulate social media: Premier’, *The Daily News* 14 December 2016, at <http://dailynews.lk/2016/12/14/local/101872> [last retrieved 27 August 2017].

427 ‘Gintota situation under control, 19 arrested’, *The Daily Mirror*, 18 November 2017, <http://www.dailymirror.lk/140639/Gintota-situation-under-control-arrested> [last retrieved 5 December 2017].

428 For an in-depth discussion of the issue, see Bielefeldt, Ghanea and Wiener, *op. cit.* at 309-359.

429 For a sound analysis on the regulation of digital spaces, see Nalaka Gunawardene, *Digital Transformation in Sri Lanka: Opportunities and Challenges in Pursuit of Liberal Policies* (Friedrich Naumann Foundation 2017), at 74-78.

430 *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that constitutes Incitement to Discrimination, Hostility or Violence* (Conclusions and recommendations emanating from the four regional expert workshops organised by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012) (2012).

431 *Ibid.* at para.27.

this process of transformation is a society in which violence – in its physical, non-physical and structural forms – ceases to be entrenched.

This study set out to establish the hypothesis that ethno-religious violence in Sri Lanka is ‘entrenched’ within cultural, socio-political and state structures, and requires radical interventions to overcome. It first reflected on the nature of communal violence in Sri Lanka, and invited a recalibration of how we understand such violence. It argued that violence between the Sinhala-Buddhist majority community and minority communities must be understood as part of a single ‘ethno-religious’ conflict, rather than separate ‘ethnic’ and ‘religious’ conflicts. In this context, the conflict in Sri Lanka bears features of both ‘ethnic’ and ‘religious’ conflicts. Moreover, the combined effects of these types of conflicts have produced uniquely intractable and ‘entrenched’ features that make resolving the ethno-religious conflict in Sri Lanka particularly challenging.

The study then highlighted the fact that ethno-religious violence – particularly in its chronic form – has persisted even after the democratic transition of January 2015. Thus governmental change has had a limited impact in terms of ending ethno-religious violence in the country. Meanwhile, new developments in the country including the mainstreaming of Sinhala-Buddhist militant groups, intra-community factionalism within the Muslim community, and the re-emergence of Tamil-Hinduism have complicated and compounded ethno-religious tensions. The current intractable state of ethno-religious violence in Sri Lanka thus leads to the conclusion that it is in fact a deeply embedded part of our cultural and socio-political fabric. In this context, this study invited further reflection on the drivers that underlie the entrenchment of such violence.

Three vital drivers remain at the core of ethno-religious violence in Sri Lanka. First, the Sinhala-Buddhist community has undergone decades of socialisation that has led to a distinct entitlement complex. This complex has prompted many within this community to view themselves as the rightful owners and ‘hosts’ of Sri Lanka. Any serious threat to this hegemonic status by a minority community has been met with sharp resistance and has often led to violence. Second, global identities pertaining to Tamils, Christians and Muslims have engendered a ‘minority complex’ among Sinhala-Buddhists, who essentially see Sri Lanka as their only homeland. Thus

local discourses – such as Tamil demands for autonomy, Christian proselytism, and Islamisation – have created existential fears among the Sinhala-Buddhist community. Such fears explain why the nationalist rhetoric of militant groups often resonates with Sinhala-Buddhists, and how ethno-religious tensions can so easily escalate to violence. Third, the Buddhist clergy remains a powerful socio-political force that state law is often subordinate to. This monastic exceptionalism has led to a culture of impunity, as law enforcement agencies have remained reluctant to hold perpetrators of ethno-religious violence to account – particularly at the local level where such violence is often at the behest of Buddhist monks. These three factors combine to entrench ethno-religious violence within cultural, socio-political and state structures in Sri Lanka.

This study reflected on an alternative approach to overcoming entrenched ethno-religious violence in Sri Lanka. It pointed to the serious limitations of rule of law and state-centric human rights approaches to combating violence. Given that the state itself has embodied a majoritarian agenda, relying on the state alone to end ethno-religious violence is both ineffective and unsustainable. Instead, this study has recommended a process of cultural transformation through which coexistence is promoted at all levels. It also suggested that the vocabulary through which such a project is advanced be ‘resonant’. Thus ‘ordinary virtues’ and ‘widely-held values’ must be relied upon to convince both majority and minority communities of the importance and benefits of coexisting within a framework of religious freedom and equal citizenship. The goal of such a project is to transform the fundamental terms on which communities in Sri Lanka interact – from deep contestation and antagonism to reciprocity and mutual respect.

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# The Chronic and the Entrenched: Ethno-religious Violence in Sri Lanka

**Gehan Gunatilleke**

The democratic transition of January 2015 promised an end to ethno-religious violence in Sri Lanka. Yet, more than two years later, this promise is yet to be realised. Despite the change of government, chronic violence against religious minorities has continued throughout the country. This phenomenon prompts further reflection on what drives ethno-religious violence in Sri Lanka. It points to the possibility that some forms of violence stem from deep-seated prejudices and beliefs that are not dependent on governmental support, and cannot be transformed through democratic transitions alone; it points to the potentially entrenched nature of communal violence in contemporary Sri Lanka.

This study delves into the post-January 2015 context in Sri Lanka and examines how ethno-religious violence has persisted, particularly in its chronic form. It discusses factors that entrench such violence: the Sinhala-Buddhist entitlement complex and existential fears, and the exceptionalism afforded to the Buddhist clergy. Each of these factors fundamentally shapes the nature of the Sri Lankan state, and its capacity and willingness to advance religious freedom. The study also reflects on the inadequacy of current approaches to combating ethno-religious violence in Sri Lanka. It concludes by assessing the need for a process of cultural transformation that confronts the root causes of such violence.

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