

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on freedom of religion or belief

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 28/9, 34/6, 34/35 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **attacks perpetrated against Muslims by Sinhalese groups between 5 and 8 March 2018 in several locations in Kandy district and the destruction of Muslim owned businesses and houses as well as Muslim places of worship.**

In this context, reference is made also to the joint urgent appeal (LKA 3/2017) by the Special Rapporteur on minority issues, the Special Rapporteur in the field of cultural rights and the Special Rapporteur on freedom of religion or belief, of 13 June 2017, which raised concerns over a series of attacks perpetrated against the Muslim community in different parts of Sri Lanka, between April and June 2017, which resulted in the destruction of Muslim owned businesses, houses, as well as Muslim places of worship. We would like to thank your Excellency's Government for the response of 15 June 2017 informing us about the Government's public condemnation of these attacks and its commitment to launch investigations and to sanction those responsible for them. Nevertheless, we regret the absence of your Excellency's Government response to our specific questions about the outcome of investigations, the measures undertaken to curb racial and religious hatred and incitement to violence, as well as to ensure the right to freedom of religion or belief and the right to take part in cultural life without discrimination of all people in Sri Lanka.

According to the information received:

Between 5 and 8 March 2018, a number of attacks against Muslims by groups of Sinhalese individuals occurred in several locations in Kandy district (Central Province), in particular in Digana, Pallekele, Kengalle, Ambatenna, Alawathugoda, Welekada, Uguressapitiya, Menikhinna, Madawala, Wategama, Kotagama, Muruthalawa, and Pologolla.

It was reported that these violent incidents were originally triggered by a personal dispute between a group of four Muslim youngsters and a Sinhalese man that occurred on 22 February, on the A26 road, near the town of Teldiniya, over a minor traffic accident that turned into a violent fight. The fight provoked serious injuries to the Sinhalese man, who as a result died at the Kandy General Hospital on Saturday 3 March. The aggressors, from Ambagahalanda, Digana, were arrested by the police. Reportedly, there were efforts by local religious leaders and authorities, at a local level, to prevent the incident escalating into communal tension. The situation remained calm during 3 and 4 March.

On the evening of 4 March, a number of prominent Buddhist activists and leaders of extremist groups came to Kandy to express their condolences to the family and to attend the funeral of the deceased Sinhalese man. Amongst them were the leader of Bodu Bala Sena, monk Gnanasara Thero, the leader of the Mahasohon Balakaya group, Amith Weerasinghe, monk Ampitiye Sumana from Batticaloa and activist Dan Priyasad. It is reported that some of these leaders, and in particular Amith Weerasinghe, used social media platforms following this incident to propagate inflammatory statements against the Muslim minority, to incite hatred and to call for violent actions.

The first set of violent incidents began on the day of the funeral, on Monday 5 March. A number of Sinhala-Buddhists congregated in the centre of Teldeniya on that day and marched along road A26, direction south, towards Digana and Diyabubula, further South-West through Kengalla and Angatene, and then North-West through Ballagola in the direction of Kandy town. According to witnesses, the total estimated size of the crowd was around 2,000 to 2,500 individuals. However, small groups of a few dozen people split from this main crowd, moving to different areas in the proximity of road A26, attacking Muslim-owned properties, houses, shops and places of worship, including the *Masjidul Lafir Jummah Mosque* in Paleke Bazaar and the *Al Masjidun Noor Mosque* in Kegalla.

On 5 and 6 March, a second set of incidents occurred in Menikhinna (13 km northeast of Kandy), resulting in the damage of the Menikhinna Mosque and few shops and houses. Further escalation was reportedly prevented due to the intervention of the army.

On 7 March, incidents occurred in the outskirts of Ambatenna where reportedly a group of 200-250 individuals attacked and destroyed Muslim-owned businesses, houses as well as the *Welekada Thakkiya Mosque*. According to the information provided, the Sri Lankan Special Task Force, the Police and the Army were present at the time of the events, but did not attempt to stop the rioters.

Other attacks took place in Alawathugoda (4 km north of Kandy) and several other locations, resulting again in the destruction of Muslim-owned shops and houses.

Allegedly, two individuals lost their lives – a 27-years-old Muslim man, after a group attacked and burned down his house in Pallekele, and a Sinhalese man who was reportedly killed by a hand grenade explosion in a location north of Welekada in circumstances that have not been clearly explained.

In addition, in Kandy district only, a total of 423 incidents have been reported between 5 and 8 March, including many that caused damage to Muslim-owned property, such as businesses and houses. Another 22 incidents have been reported taking place in areas outside the Kandy Police Division jurisdiction.

Police imposed an initial curfew in Kandy district from 8:00 p.m. on 6 March to 6:00 a.m. on 7 March, and re-imposed it hours later after the discovery of the person killed in the house fire in Pallekele.

Reportedly, law enforcement have arrested over 280 individuals following the violent incidents in Kandy, 178 in Kandy district and 102 in other areas. It is reported that one of the arrestees is the leader of the Mahasohon Balakaya group, Amith Weerasinghe, who is at the time of this communication in detention. Of those arrested, around 95 have been released on bail and more than 50 have been remanded.

The incidents of Kandy district took place only one week after another mob attack in Ampara (Eastern Province), where four shops, a mosque and a number of vehicles were damaged after a group of young Sinhalese accused a Muslim restaurant owner of adding sterilization drugs to food served to Sinhalese.

On 5 March 2018, in a public statement, the Director General of Government Information Department, Sudarshana Gunawardhana, strongly condemned the violent incidents in Ampara and Kandy districts as well as the “hate and mischievous misinformation campaigns” against the Muslim minority, in particular through social media, aiming at “creating disharmony among communities and inciting violence.”

On 6 March, the President Maithripala Sirisena declared a State of Emergency for up to 10 days. Restrictions on access to social media and messaging have been imposed. In addition, the Prime Minister, Ranil Wickremesinghe, expressed in a public statement his commitment to launch investigations into alleged irregularities on the part of law enforcement during the violent incidents.

While we do not wish to prejudge the accuracy of the information received, we express serious concern over the recent attacks against the Muslim minority in the Kandy district and the destruction of Muslim-owned properties, including businesses and houses, as well as Muslim religious sites and over the alleged rise of hate speech and incitement to violence against Muslims by Sinhala extremist groups in the country. We note with concern that violent incidents against the Muslim minority of the type described above have occurred in several occasions during the last years, motivated by inflammatory anti-Muslim rhetoric propagated within extremist groups and on social media. In addition, we note with concern that between 5 and 8 March this year, a number of violent incidents in Kandy district took place in the presence of the army and the police force, without them taking appropriate measures to protect those attacked and their properties.

We welcome the public statements by the Government representatives condemning the attacks, hate speech and incitement to violence, and the Government's expressed commitment to launch an investigation into the incidents as well as possible failure on the part of law enforcement to fulfill their duty. We also take note of the declaration of the State of Emergency by the President with the view to addressing the rising tensions. However, we are concerned at the alleged absence of prompt and effective measures to prevent further escalation and the occurrence of other violent incidents during the two days that followed the declaration of the State of Emergency.

The above allegations appear to be in contravention with the rights of every individual to life, liberty and security of person, physical integrity, freedom of religion or belief, freedom of expression, right to take part in cultural life and non-discrimination enshrined in articles 3, 5, 7, 9, 18, 19 and 27 of the Universal Declaration of Human Rights (UDHR), in articles 2, 6, 7, 9, 10, 18, 19, 20, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR), and in articles 2 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the latter two to which Sri Lanka is party since 11 June 1980. They also are in contravention of the relevant provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Sri Lanka is party since 18 February 1982, in particular articles 2, 4, 5, 6 and 7, as well as with the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55).

In its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

In its 2016 concluding observations on Sri Lanka, the Committee on the Elimination of Racial Discrimination (CERD) expressed its concern inter alia over the difficulties faced by ethnic and ethno-religious minority groups, including the Muslim ethno-religious minority, to freely practice their right to freedom of religion and over the reported cases of desecration of places of worship and disruption of religious services (CERD/C/LKA/CO/10-17, paragraph 18).

Furthermore, the CERD, in its General Recommendation No. 35 on combating racist hate speech, underlined “the role of racist hate speech in processes leading to mass violations of human rights and genocide” (para. 3), and urged States parties “to include measures against racist hate speech in national plans of action against racism, integration strategies and national human rights plans and programmes” (para. 47).

In addition, the Durban Declaration and Programme of Action, recalling article 4 (b) of ICERD, reiterates that States are obliged to “be vigilant and proceed against organizations that disseminate ideas based on racial superiority or hatred, acts of violence or incitement to such acts” (para. 87).

As stated by the Special Rapporteur in the field of cultural rights, Governments must ensure there is a counterweight to fundamentalist and extremist discourses by publicly challenging them (A/HRC/34/56, para.24). The Special Rapporteur also stressed that States must respect, protect and fulfil human rights, in particular cultural rights, meaning that they must: (a) stop supporting directly or indirectly fundamentalist ideologies; (b) protect all persons from any act of fundamentalist or extremist groups aimed at coercing them into specific identities, beliefs or practices; and (c) design programmes aimed at creating conditions allowing all people to access, participate in and contribute to cultural life, without discrimination. Noting that fundamentalist and extremist assaults on minorities and their cultural sites and practices have become widespread around the world, she also recommended that States develop plans of action that are fully gender sensitive to protect religious, ethnic and sexual minorities and women from extremism and fundamentalism, and implement urgent action policies when such groups are the targets of fundamentalist and extremist threats or violence (A/HRC/34/56, para. 97k).

Recognizing that above-mentioned violations have been perpetrated against the Muslim minority in Sri Lanka, we would like to bring to your Excellency’s Government’s attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

In 2016, during a country visit to Sri Lanka, the Special Rapporteur on Minority Issues received information about the absence of effective prosecution in the cases of violent crimes motivated by religious intolerance due to, inter alia, the alleged political patronage of religious leaders or politicians, and expressed concerns over the rising hate speech that continues to plague Sri Lankan society (A/HRC/34/53/Add.3, paragraphs 31, 32 and 33).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations and concerns.
2. Please provide the details, and where available the results, of any investigation and/or inquiry undertaken on the violent incidents of 5 to 8 March 2018 in Kandy district, including judicial inquiry(-ies) on the conduct of law enforcement during these incidents. If no investigation has been initiated, please explain why.
3. In connection with the previous communication on violent attacks against Muslims between April and June 2017 (LKA 3/2017), please indicate whether any investigation and/or inquiry was carried out, the findings of such an investigation and/or inquiry, as well as whether any assistance, including compensation, was afforded to the victims.
4. Please indicate the measures undertaken to curb ethno-religious hate speech against the Muslim minority and to ensure the prompt, thorough and impartial investigation of violent crimes motivated by religious intolerance. How do you ensure perpetrators are brought to justice more effectively?
5. Please provide information on the measures undertaken to ensure that all those affected by these violent incidents will be provided with access to effective remedy and adequate compensation.

6. Please provide detailed information on the measures taken to ensure the right to take part in cultural life without discrimination of all people in Sri Lanka, as part of the full enjoyment of all other rights, in line with the country's international human rights obligations.
7. Please provide information on the measures taken to build the capacity of local police and/or authorities to respond effectively to incidents motivated by ethno-religious hate speech. What are the measures taken or plans put in place to prevent escalation or recurrence of such incidents that may eventually lead to further conflict between different ethnic and religious groups in Sri Lanka.
8. Please indicate any reconciliatory initiatives taken by the Government in ensuring inter-ethnic and inter-religious harmony in the country.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations documented above, including against the Muslim minority, and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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